

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

DATE: February 15, 2008

TO: Timothy Kotroco, Director
Permits & Development Management

FROM: Linda B. Fliegel
Board of Appeals

SUBJECT: UPPER COURT CLOSED APPEAL CASE FILE

NAME	CASE NUMBER	DECISION OF COURT
OELLA MILL, L.L.P.	02-412-SPH <i>riding with</i> CBA-02-137 (Development Plan	Dec. 4, 2002 Board issued its Opinion/Order <i>GRANTING</i> variance and approving the Development Plan Jan. 6, 2003 Decision of the Board appealed to the Circuit Court and on July 11, 2003 the Circuit Court <i>REVERSED AND REMANDED</i> back to the Board for further consideration. July 23, 2003 Case appealed to Court of Special Appeals. Feb. 18, 2005 – Court of Special Appeals <i>MANDATED</i> that the Board of Appeals decision be <i>AFFIRMED</i>.

******* THIS CASE IS RIDING WITH CASE NO.: CBA-02-137 – DEVELOPMENT PLAN**

March 26, 2002 Petition for Special Hearing filed by Oella Mill, LLP to approve a waiver of the Baltimore County Code to renovate a historic structure and a special hearing for a waiver to permit the addition of wooden steps in a floodplain.

July 9 Zoning Commissioner's Order GRANTING the Special Hearing

August 16 Notice of Appeal received from Office of People's Counsel

August 20 Appeal received BOA

December 4, 2002 Opinion Issued By The Board Of Appeals /Petition for Variance – GRANTED – Decision of Hearing Officer in Case No.: CBA-02-137 – development plan was approved and the Board AFFIRMS.

January 6, 2003 Petition for Judicial Review filed by John V. Murphy, Esquire on behalf of Lydia Temoshok, President, Greater Oella Community Association, Inc., 513 Oella Avenue, Ellicott City, MD 21043; Lydia Temoshok, 513 Oella Avenue, Ellicott City, MD 21043; Henry Berger, 734 Pleasant Hill Road, Ellicott City, MD 21043; Gregg Brown, 709 Pleasant Hill Road, Ellicott City, MD 21043; and Lynette Burns, 715 Race Road, Ellicott City, MD 21043.

1/8 Certificate of Notice filed.

2/26 Record Extract filed

7/11 Judge Patrick Cavanaugh ORDERS that the Baltimore County Board of Appeals Order dated the 4th day of December, 2002, in Case No. CBA-02-137 and Case No.: 02-412-SPHA are hereby REVERSED and REMANDED for further action consistent with OPINION filed herewith.

7/23 Notice of Appeal to the Court of Special Appeals filed by Oella Mill, LLC.

9/9/2004 Unreported In the Court of Special Appeals No. 1079 / September Term, 2003 – Judgment Reversed; Case Remanded to Circuit Court for Baltimore County with instructions to affirm the decision of the board of appeals of Baltimore County.

2/18/2005 Order by Judge Patrick Cavanaugh from the Circuit Court of Baltimore County that the Court as ordered by the Court of Special Appeals the the decision of the Board of Appeals dated December 4, 2002 in Case No.: CBA-02-137 and Case No.: 02-412-SPHA is hereby AFFIRMED.

In the Matter of:
GREATER OELLA COMMUNITY
ASSOCIATION LLP, et al

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No: 03-C-03-00016

* * * * *

ORDER

THIS MATER having been remanded to this Court by Order of the Court of
Special Appeals, it is this 18th day of February, 2005, by the Circuit Court of Baltimore
County,

ORDERED that the Baltimore County Board of Appeals Order dated December
4, 2002, in Case No. CBA-02-137 and Case No. 02-412-SPHA, is hereby AFFIRMED.

RECEIVED
FEB 24 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Patrick Cavanaugh
Judge Patrick Cavanaugh

2/18/05
Date

CLERK TO NOTIFY

True Copy Test
SUZANNE MENSCH, Clerk
Per Suzanne Mensch
Deputy Clerk

FILED FEB 23 2005

9/9/04

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
No. 1079
SEPTEMBER TERM, 2003

OELLA MILL, LLP ET AL.

v.

HENRY BERGER ET AL.

Salmon,
Kenney,
Alpert, Paul E. (Retired
specially assigned),

JJ.

Opinion by Kenney, J.

Filed: September 9, 2004

Oella Mill, LLP, and Forest City Residential Group (collectively referred to as "Developer") appeal the July 17, 2003 decision of the Circuit Court for Baltimore County, reversing the approval by the County Board of Appeals of Baltimore County ("Board") of a development plan and associated variances to convert two existing buildings that comprise the Oella Mill complex into 175 luxury apartments. Appellees are individual residents of the Oella Mill community who oppose the development plan. On appeal, the Developer raises five questions, which we have consolidated and re-worded:¹

1. Did the Board properly affirm the Hearing Officer's approval of the development plan conditioned on resolution of the issue

¹ The Developer posed the following questions:

1. Did the Board act properly when it affirmed the Hearing Officer's approval of the development plan conditioned on resolution of the issue concerning floodplain delineation, given that the Baltimore County Code authorizes conditional approval of a development plan and does not require final resolution of floodplain issues until a later stage of the development process?

2. Did the Board and Hearing Officer properly interpret the Baltimore County APF Ordinance as not requiring 1,000 square feet of open space per dwelling unit in this historic rehabilitation project, when there is no new construction involved in the project and substantial evidence established that the property's size and the structure's historic nature would render compliance impossible?

3. Did the Board and the Hearing Officer properly interpret the Baltimore County Zoning Regulations as not requiring residential transition areas for this project because it is located in a B.M.-C.C.C. (business) zone rather than a D.R. (residential) zone?

4. Did the Board and Hearing Officer properly interpret the Baltimore County Zoning Regulations as not requiring a hearing on the permissibility of alleged "business parking," when, based on undisputed evidence, the parking in question is residential parking?

5. Did substantial evidence support the Board's decision to grant the parking variances on the basis of practical difficulties arising out of the unique design and construction of the historic building containing the parking spaces and other unique site constraints?

concerning floodplain delineation?

2. Did the Board properly affirm the Hearing Officer's approval of the development plan in regard to the following requirements of the Baltimore County Code and/or zoning regulations: open space requirements; residential transition areas; and business parking and residential zones?

3. Did the Board properly grant the requested parking variances?

For the following reasons, we shall reverse the judgment of the circuit court.

FACTUAL AND PROCEDURAL HISTORY

Oella Mill Complex

The Oella Mill complex consists of two historic buildings located on a 5.73 acre parcel of land. The larger building is the old mill and the smaller building is the old mill's power plant. The bulk of the property, approximately 5.5 acres, is zoned B.M.-CCC (Business Major with commercial, community core); the remainder is zoned D.R. 3.5 (permitting a density of three and one half dwellings per acre). The site is listed on both the Maryland Historical Trust's inventory of Historic Properties and on the National Register of Historic Places. In its prime, the Mill was used to process textiles and wool. The mill was closed in 1972, and the property is presently utilized for a blend of commercial and retail operations. Forest City Residential Group, a company specializing in renovating historical properties, now owns the site and proposed the development in question.

Overview of the Development Review and Approval Process

In Baltimore County, a proposed development project is submitted under the Development Review and Approval Process, in accordance with the Baltimore County Code ("BCC") §§ 26-201 - 26-220. The process is initiated by the submission of a concept plan for preliminary review to the Department of Permits and Development Management. *Id.* at § 26-202(e). Within 10 days of receipt of the plan, representatives from the Department of Permits and Development Management and relevant county agencies meet with the developer to review and critique the plan. *Id.* at § 26-202(f). A community input meeting is then scheduled to allow members of the community to comment on the plan. *Id.* at § 26-202(i). The meeting is conducted by a representative of the County, and minutes are taken and kept in the development plan file. *Id.*

The developer then has 12 months to file a finalized development plan with the Department of Public Works. *Id.* at § 26-203(a). The submission includes certain background information, information concerning existing site conditions, and certain development proposal information. *Id.* at 26-203(b-d). The Department of Public Works reviews the plan for "general conformance to the concept plan presented at the community input meeting[,] " files it, and sends copies to the appropriate county agencies for review. *Id.* at § 26-204(a). A public hearing is scheduled, and notice of that hearing is published to the

community. *Id.* at § 26-205(d).

A "public quasi-judicial hearing" is held before the Zoning Commissioner for Baltimore County, sitting as the Hearing Officer. *Id.* at § 26-206. Anyone in attendance may participate by offering testimony or other evidence or cross-examining any witness. *Id.* at § 26-206. Following the hearing, the Hearing Officer issues a final decision on the plan. *Id.* at § 26-206. This decision is then subject to appeal to the Board. *Id.* at § 26-209.

Oella Mill and the Development Review and Approval Process

On January 14, 2002, Developer filed a concept plan with Baltimore County Department of Permits and Development Management. The plan proposed 175 luxury apartments - 169 units located in the main mill building and 6 units located in the power plant. Two hundred sixty-three parking places, located throughout the property were proposed. No new external construction was proposed, only interior modifications of the existing buildings. Two weeks later, Developer participated in a conference with representatives of various county agencies to review the concept plan. On February 19, 2002, a community input meeting was held. Thereafter, on March 26, 2002, Developer filed the finalized development plan and met with various agency representatives on April 17, 2002, to review it. Developer sought variance relief on several issues, including parking and window placement.

In early May, a public hearing was held before the Hearing

Officer. Witnesses for Developer testified that the development plan met all Baltimore County Code requirements and, therefore, should be approved. Appellees' witnesses countered that, as written, the plan could not be approved. Specifically, they raised concerns about the floodplain plan, parking, recreational open spaces, density, traffic, and buffer or "residential transition areas," in addition to the variance request.

On July 8, 2002, the Hearing Officer issued an order and opinion, conditionally approving the development plan and the requested variances. The condition related to a conflict between the FEMA (Federal Emergency Management Agency) floodplain map and the Baltimore County floodplain designation, and required

that the Developer obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and floodplain shown on the plan, prior to the issuance of any permits or the filing of a record plat. Only if that reconciliation is obtained can this project move forward.

In its order, the Hearing Officer addressed and dismissed each of appellees' contentions. We offer a brief summary of the Hearing Officer's findings:

1. Parking- There is nothing in the Zoning Code that prohibits parking on the first level of the apartment complex.
2. Recreational Open Space- The Recreational Open Space provision outlined in BCC § 26-429(g) does not apply because no new external construction is proposed.

3. Density of Apartments- The BM-CCC zoning code designation for this property does not place a limitation on the density of the development.

4. Traffic- Traffic concerns do not pose such an overburden to the existing road network as to warrant a denial of this plan.

5. Parking- No special use permit or hearing is necessary to approve the proposed parking.

6. Residential Transition Area- The Residential Transition Area requirements are not applicable to the proposed plan.

With respect to the proposed variance relief, the Hearing Officer stated, "I believe that the proposal represents an enhancement to the area and I respectfully find that the [appellees'] objections to the project are without merit."

On July 9, 2002, Developer filed a Motion for Reconsideration, requesting that the Hearing Officer grant amended zoning relief with respect to a minimum drive aisle width in the parking lots, which was granted on August 8, 2002.² Thereafter, appellees filed a notice of appeal to the Board.

The Board held public hearings on September 24 and October 3, 2002. It stated that its role in reviewing the case, "giving deference to the Hearing Officer's credibility determinations, is whether or not his decision was supported by competent, material,

² The plan indicated that the drive aisle in the parking lot would be 18'6" feet wide. Later, it was determined that the actual width in some areas was as narrow as 17'7". The Hearing Officer granted Developer's request to modify the submission without a hearing, finding the error to be technical.

and substantive evidence; and that the Hearing Officer did not act in any arbitrary or capricious manner." On December 4, 2002, the Board issued an opinion affirming the decision of the Hearing Officer.³

In its opinion, the Board systematically addressed appellees' contentions, dismissing them as without merit. We offer a brief summary of the relevant portions of the Board's opinion.

1. Density of Apartments - Considering §235A of the Baltimore County Zoning Regulations⁴ ("BCZR") and the testimony of George Gavrelis, a past Director of Planning for Baltimore County, the Board concurred with the analysis of the Hearing Officer, that the BM-CCC zoning code designated for this

³ On December 10, 2002, the Board issued an Amended Opinion and Order, correcting some numerical references it had made in its original order.

⁴ BCZR § 235A states:

Contrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. Districts superimposed upon B.M. Zones (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these zoning regulations.)

235A.1 Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building.

235A.2 No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

235A.3 The specific number of dwelling or density units, as such, shall not be directly limited.

235A.4 The minimum permitted amenity open space ratio shall be 0.2.

235A.5 A brewery, Class 7, is permitted if within the urban rural demarcation line.

property does not place a limitation on the density of the development.

2. Recreational Open Space - This project entailed the renovation of a building, and no new external construction, therefore, the Board concurred with the analysis of the Hearing Officer that the local open space provision does not apply.

3. Parking - The Board agreed with the Hearing Officer that no special hearing was necessary to permit the 11 parking spaces located in the D.R. 3.5 zone to be used for residential parking.

4. Residential Transition Area ("RTA") - In considering the statutory interpretation of the RTA requirements, the Board concluded, as did the Hearing Officer that the regulations are most likely "applicable only to development in the D.R. zone."

5. Floodplain - The Board agreed that the development plan could be conditionally approved, and that Developer would need to obtain a map amendment from FEMA prior to any permits being issued.

6. Parking - The Board determined that because no external parking variances were requested and the safety and adequacy of the roadways had been "thoroughly explored" by the Hearing Officer, it limited the issue to internal building parking. Considering the variances *de novo*, the Board determined that they should be granted.

7. Traffic - The Board refused to hear testimony concerning the traffic considerations, and appellees asked for a reconsideration of that decision, which the Board denied.

On January 2, 2003, appellees filed a petition for judicial review with the circuit court. A hearing was held on June 12,

2003, and, on July 17, 2003, the court reversed and remanded the decision of the Board. In its Memorandum, the court stated that the Board and the Hearing Officer "exceeded their statutory authority in approving this development plan and granting the requested variances." The court made specific findings regarding the plan, which we have summarized:

1. The Board erred as a matter of law in affirming the Hearing Officer's decision to grant conditional approval of the plan because the floodplain was in violation of BCC § 26-276 and there was no evidence that FEMA had approved the plan.⁵
2. The plan does not provide for any of the required recreation space in accordance with BCC § 26-498.⁶
3. The Board and Hearing Officer erred as a matter of law in approving the plan without

⁵ BCC § 26.276, in relevant part, states:

No development in any riverine floodplain shall be permitted, except the establishment of property subdivision lines and the installation of any pond, culvert, bridge, street, utility or drainage facility that the county finds not detrimental to floodplain management programs. If the floodplain is shown on the FIRM [Flood Insurance Rate Map], any increase in the existing base flood elevation shall be limited to one (1) foot maximum, except no encroachment in the floodway causing any increase in the existing base flood elevation shall be permitted. No dredging, filling or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination. It is the purpose of this section to reduce losses to life and property from flooding, to obviate the need for public expenditures for flood protection, and to protect or enhance the environmental quality of watersheds.

⁶ Section 26-498(c)(1) states, in relevant portion, "an applicant shall be required to provide a minimum of 1000 square feet of suitable open space per dwelling unit." The code provides that "[t]his section applies only to residential development." *Id.* at § 26-498(b)(1).

requiring a RTA.⁷

4. The Board erred as a matter of law by not requiring a use permit review hearing to approve business parking in a residential zone.⁸

⁷ In regard to RTAs, the BCZR provides:

a. Definitions and purpose

(1) The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.

(2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.

b. Generation of residential transition area. An RTA is generated if the property to be developed lies adjacent to land zoned D.R.1, D.R. 2, D.R. 3.5, D.R. 5.5, or R.C. which:

(1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; or

(2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.

BCZR at §1B01.1B.

⁸ The BCZR has a specific regulation for business or industrial parking in residential zones. That section states, in relevant portion:

B. Business or industrial parking in residential zones

1. Upon application, the Zoning Commissioner may issue a use permit for the use of land in a residential zone for parking facilities . . . under the following procedure:

a. On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 15 days following the filing of the application.

b. Within the fifteen-day posting period, any interested person may file a formal request for a public hearing with the Zoning Commissioner. . . .

Id. at § 409.8B.

5. The Hearing Officer and Board erred as a matter of law in granting the requested parking variances.⁹

6. The Board erred in refusing to allow appellees to present evidence on traffic and parking concerns.

Appellants noted this timely appeal.¹⁰

STANDARD OF REVIEW

On appeal, we review the decision of the agency, not the decision of the circuit court. *Abbey v. University of Maryland*, 126 Md. App. 46, 53, 727 A.2d 406 (1999); *Ahalt v. Montgomery*

⁹ The requirements for variances are explained in the BCZR and state:

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.

Id. at § 307.1 (footnote omitted).

¹⁰ We initially dismissed the appeal for failure to file an information report, but that dismissal was rescinded on September 10, 2003.

County, 113 Md. App. 14, 20, 686 A.2d 683 (1996). In reviewing the agency's decision, we determine whether it is "in accordance with the law or whether it is arbitrary, illegal, and capricious." *Maryland Dep't of the Env't v. Ives*, 136 Md. App. 581, 585, 766 A.2d 657, cert. denied, *Ives v. Dep't of Env't*, 364 Md. 462, 773 A.2d 514 (2001) (citations omitted). We are "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *Board of Physician Quality Assur. v. Banks*, 354 Md. 59, 67-68, 729 A.2d 376, 380 (1999) (quoting *United Parcel Serv. v. People's Counsel*, 336 Md. 569, 577; 650 A.2d 226, 230 (1994)). In applying the substantial evidence test, we decide "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Banks*, 354 Md. at 68 (quoting *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 512, 390 A.2d 1119 (1978) (citations omitted)). When reviewing the agency's legal conclusions, "we may substitute our judgment for that of the agency if there are erroneous conclusions of law." *Ives*, 136 Md. App. at 585.

We review an agency's decision in the light most favorable to it under the assumption that its decision is *prima facie* correct and presumptively valid. *Marzullo v. Kahl*, 366 Md. 158, 172, 783 A.2d 169 (2001). We recognize that "it is the agency's province

to resolve conflicting evidence' and to draw inferences from that evidence." *CBS Inc. v. Comptroller of Treasury*, 319 Md. 687, 698, 575 A.2d 324 (1990) (quoting *Ramsay, Scarlett & Co. v. Comptroller of Treasury*, 302 Md. 825, 834-35, 490 A.2d 1296 (1985)). Moreover, we "will review an adjudicatory agency decision solely on the grounds relied upon by the agency." *Department of Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123, 771 A.2d 1051 (2001); see also *Brodie v. Motor Vehicle Admin.*, 367 Md. 1, 4, 785 A.2d 747 (2001) (affirming case for the reasons set forth by the agency and declining to address a question not raised before the agency).

When reviewing the agency's legal conclusions, we "must determine whether the agency interpreted and applied the correct principles of law governing the case and no deference is given to a decision based solely on an error of law.'" *Eastern Outdoor Adver. Co. v. Mayor & City Council of Baltimore*, 128 Md. App. 494, 514, 739 A.2d 854 (1999) (quoting *Richmarr Holly Hills, Inc. v. American PCS, L.P.*, 117 Md. App. 607, 652, 701 A.2d 879 (1997)). We give deference, however, to an agency's interpretation of its own rules and regulations, and we give the agency's interpretation and application of a statute it administers considerable weight. *Maryland Division of Labor & Indus. v. Triangle Gen. Contractors, Inc.*, 366 Md. 407, 416, 784 A.2d 534 (2001).

In *Monkton Preservation Association v. Gaylord Brooks Realty Corp.*, 107 Md. App. 573, 581, 669 A.2d 195 (1996), a case

interpreting Baltimore County's zoning ordinances, we explained that, when a case comes to the Board on appeal, the Board is not required to perform a *de novo* hearing, but, rather, "the standard is the traditional one of looking only to whether there is substantial evidence to support the findings. In that examination, the Board does not make independent evaluations, for to do so would require the Board to make credibility decisions without having heard the testimony." On appeal to this Court, we review the decision of the Board, including, where appropriate, the Board's deference to the decisions of the Hearing Officer.¹¹

DISCUSSION

I. Floodplain

The BCC clearly states that development is not permitted in a riverine floodplain:

No development in any riverine floodplain shall be permitted, except the establishment of property subdivision lines and the installation of any pond, culvert, bridge, street, utility or drainage facility that the county finds not detrimental to floodplain management programs. If the floodplain is shown on the FIRM [Flood Insurance Rate Map], any increase in the existing base flood elevation shall be limited to one (1) foot maximum, except no encroachment in the floodway causing any increase in the existing base flood elevation shall be permitted. No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination. It

¹¹ The Board reviewed the variance question *de novo*, thus, it did not give deference to the Hearing Officer on that issue.

is the purpose of this section to reduce losses to life and property from flooding, to obviate the need for public expenditures for flood protection, and to protect or enhance the environmental quality of watersheds.

BCC at § 26-276.

Conflicting evidence was presented before the Hearing Officer about whether the proposed development was located in a floodplain. The floodplain map submitted with the development plan was based on Baltimore County's own studies and showed that the proposed development was not part of the Patapsco River floodplain. The floodplain map promulgated by FEMA, however, showed that a small portion of the buildings were indeed located in the floodplain.

The Hearing Officer approved the development plan with the condition that the Developer obtain a map amendment from FEMA reconciling any conflict in the location of the floodplain. The Board upheld that decision, but the circuit court reversed, stating that the conditional approval conflicted with BCC § 26-276.

On appeal, the Developer contends that the circuit court erred in reversing the conditional approval of the developmental plan. Moreover, because they have since fulfilled the condition by obtaining approval from FEMA conforming the floodplain map, Developer contends that this issue is moot. Appellees counter that a development plan subject to an unfilled condition is not a final development plan. They contend that the BCC does not provide the Hearing Officer with the ability to grant a conditional approval,

and therefore he exceeded his authority in doing so.

BCC § 26-206(b) states, in pertinent part, "The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations . . . provided that the final approval of a plan be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein."

BCC § 26-206(o) states:

In approving a plan, the hearing officer may impose such conditions, as may be deemed necessary or advisable based upon such factual findings as may be supported by evidence for the protection of surrounding and neighboring properties. Such conditions may only be imposed if:

(1) The condition is based upon a comment which was raised or a condition which was proposed or requested by a party;

(2) Without the condition there will be an adverse impact on the health, safety, or welfare of the community;

(3) The condition will alleviate the adverse impact[.]

The development plan was "final" in the sense that the proposed development was shown on the plan in relation to a designated floodplain. Whether the floodplain that was shown on the plan was the correct floodplain was essentially an issue of fact. In other words, was the flood plain correctly depicted on the Baltimore County map or the FEMA map? A representative from the County Department of Public Works ("DPW"), Robert Bowling,

confirmed that DPW had no outstanding issues with the proposed development plan.

Charles Main, the project manager for the Developer, testified before the Hearing Officer that the proposed development plan reflected the location of the floodplain relied upon by Baltimore County. Main explained, however, that the floodplain map relied on by the County differs from the floodplain map issued by FEMA, and therefore, at DPW's request, he had filed a "Letter of Map Amendment" with FEMA, requesting that it revise its map to conform to that of Baltimore County.¹²

Satisfied that the evidence supported compliance with the BCC's required floodplain regulation, the Hearing Officer granted approval of the plan conditioned upon receipt of the "Letter of Amendment." The Board concurred with this decision, opining that it agreed "with the rationale employed by the Hearing Officer in this case." Giving deference to the agency's ability to interpret its own rules and regulations, we read BCC § 26-206(o) as giving the Hearing Officer this authority.

In addition, the BCC states that final resolution of floodplain issues need not occur until the Developer applies for permits or the recording of a subdivision plat. BCC § 26-276(b)

¹² Pursuant to 42 U.S.C. § 4104(e) FEMA will consider any scientific or technical data that negates or contradicts FEMA's map. The agency will then issue a decision on whether it will modify its delineation. On August 28, 2002, FEMA issue a letter of map amendment indicating that the development plan was not located in the floodplain.

states:

In areas where the base flood elevation has not been established, the 100-year floodplain and flood evaluation shall be determined by means of a flood study prepared in accordance with the requirements of the department of public works design manual and sealed by a registered professional engineer prior to the issuance of a permit or the recording of a subdivision plat.

We are persuaded that the Hearing Officer was within its authority in conditioning approval of the development plan upon receipt of the "Letter of Conformance" and that the Board acted appropriately in affirming that decision.

II. Open Space, Residential Transition Areas, and Parking Variance

The Developer contends that the circuit court erred in reversing the Hearing Officer and Board's decisions that: 1) according to BCC §§ 26-491 through 26-500, the open space requirements do not apply to this development plan; 2) pursuant to BCZR § 1B01.1.B, the RTA requirements do not apply to this development plan; and 3) based on the individuality of the plan, the parking variances requested were sufficient.

1. Open Space Requirements

BCC § 26-498(c) (1) requires "1000 square feet of suitable open space per dwelling unit." This requirement, however, only applies to "residential development," which is defined as "the development of property for the construction of dwelling facilities." *Id.* at § 26-492(g). The Hearing Officer determined that the term

"residential development" was ambiguous and looked to extrinsic evidence to resolve the ambiguity.

Jan Cook of the Department of Recreation and Parks testified before the Hearing Officer that his department considered the project to be a "renovation of an existing building." He explained that the decision "was made by the Department of Permits and Development Management" and that there was indeed to be a "renovation of an existing building. There is no additional development; and, therefore, Adequate Public Facilities did not apply." Main concurred, testifying that there was "no new construction" proposed by the development plan. The Hearing Officer determined, and the Board agreed, that this section was not applicable because this project did not entail new external construction.

In general, "[l]ocal ordinances and charters are interpreted under the same canons of construction that apply to the interpretation of statutes." *O'Connor v. Baltimore County*, __Md.__, No. 124 September Term, 2003 (filed July 26, 2004), 2004 WL 1646494. The Court of Appeals "has stated many times 'that the cardinal rule of statutory construction is to ascertain and effectuate legislative intention.'" *State v. Green*, 367 Md. 61, 81, 785 A.2d 1275 (2001) (citations omitted). When we interpret a statute, our starting point is always the text of the statute. *Adamson v. Correctional Medical Services, Inc.*, 359 Md. 238, 251,

753 A.2d 501 (2000). "[I]f the plain meaning of the statutory language is clear and unambiguous, and consistent with both the broad purposes of the legislation, and the specific purpose of the provision being interpreted, our inquiry is at an end." *Breitenbach v. N. B. Handy Co.*, 366 Md. 467, 473, 784 A.2d 569 (2001). The plain meaning rule is "elastic, rather than cast in stone[,] and if "persuasive evidence exists outside the plain text of the statute, we do not turn a blind eye to it." *Adamson*, 359 Md. at 251 (citing *Kaczorowski v. Mayor of Baltimore*, 309 Md. 505, 513-14, 525 A.2d 628 (1987)).

"[I]n determining a statute's meaning, courts may consider the context in which a statute appears, including related statutes and legislative history." *Ridge Heating, Air Conditioning & Plumbing v. Brennan*, 366 Md. 336, 350-51, 783 A.2d 691 (2001). "We may also consider the particular problem or problems the legislature was addressing, and the objective it sought to attain." *Sinai Hosp. of Baltimore v. Dep't of Employment and Training*, 309 Md. 28, 40, 522 A.2d 382 (1987). "This enables us to put the statute in controversy in its proper context and thereby avoid unreasonable or illogical results that defy common sense." *Adamson*, 359 Md. at 252.

Cook testified that application of the local open space provision would have required over 4 acres of open space on the 5.73 acre parcel of land, which was already largely encumbered by

the Mill and the Power Plant. Almost 80% of the property would have to be open space. The Hearing Officer concluded that such an interpretation of the ordinance "stretches the credibility of any reasonable interpretation" and determined that the essential meaning of the word "construction" was "to build or fabricate." Because the structures already existed, the Hearing Officer determined that § 26-498(c)(1) did not apply. The Board concurred with the Hearing Officer's determination stating, "The facts demonstrate that there is to be no change in the building footprint and no new external construction." We are not persuaded that the Board erred in its interpretation of the ordinance.

2. Residential Transition Areas

BCZR § 1B01.1.B requires RTAs or a "buffer area" in D.R. zones. Specifically an RTA is defined as "[a] one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed." BCZR § 1B01.1.B.1.a. The Hearing Officer determined, and the Board agreed, that this regulation does not apply to the project because that portion of the site where the buildings are located is zoned B.M.-CCC, which is a business classification.

The Hearing Officer initially explained that the "RTA regulations are confusing to read and imprecisely worded." Thus, it was not clear whether the regulations were intended to only apply to a development proposal in D.R. classifications.

The Hearing Officer considered the legislative history of the regulation and testimony of Mitchell Kellman, a zoning consultant previously employed in Baltimore County's Department of Permits and Development Management. The regulation in question is placed under a D.R. subtitle. Kellman testified that "the long-standing position of Baltimore County" was that RTA requirements are only applicable to the development of D.R. zoned land. The Hearing Officer explained that the "location of the RTA regulations within that Section governing the D.R. zones is indicative of the Council's intent that the RTA regulations are applicable only to development in the D.R. zone." Therefore, the Hearing Officer concluded that the regulations were not applicable to this project.

The Hearing Officer did indicate, however, that "unquestionably, an RTA would be generated" by development within the .18 acres of the land zoned D.R. 3.5. That parcel, however, contained only parking spaces already in existence, which would have no impact, and therefore, did not trigger the regulations.

The Board recognized that the question of whether the RTA regulations applied to this development was a question of statutory interpretation, "which is important not only in the instant case but future cases to come." The Board also considered the legislative history of the regulations, testimony of Kellman, Zoning Policy Manuals, and a recent case, and concurred with the Hearing Officer that the RTA regulation was inapplicable. The

Board found convincing the definition of RTA in the Zoning Commissioner's Policy Manual which states, "by definition, an RTA only pertains to areas within a D.R. zoning classification." Based on our review of the regulation, giving deference to the Board in its interpretation, we are not persuaded that the Board erred in its determination that the project did not generate an RTA.

3. Business Parking in Residential Zones

Before the Hearing Officer and the Board, appellees argued that BCZR § 409.8 required the Developer to obtain a permit in order to use the 11 parking spaces located in the D.R. 3.5 zone. BCZR § 409.8B1 states:

B. Business or industrial parking in residential zones.

1. Upon application, the Zoning Commissioner may issue a use permit for the use of land in a residential zone for parking facilities to meet the requirements of Section 409.6, under the following procedure:

a. On the property in question, notice of the application for the use permit shall be conspicuously posted for a period of 15 days following the filing of the application.

b. Within the fifteen-day posting period, any interested person may file a formal request for a public hearing with the Zoning Commissioner in accordance with Section 500.7.

c. If a formal request for a public hearing is not filed, the Zoning Commissioner, without a public hearing, may grant a use permit for parking in a residential zone if the proposed use meets all the requirements of Section 409.8.B.2. The use permit may be

issued with such conditions or restrictions as determined appropriate by the Zoning Commissioner to satisfy the provisions of Section 409.8.B.2 below and to ensure that the parking facility will not be detrimental to the health, safety or general welfare of the surrounding community.

d. If a formal request for a public hearing is filed, the Zoning Commissioner shall schedule a date for the public hearing, such hearing to be held not less than 30 days and not more than 90 days from the date of filing of the request for public hearing.

e. Following the public hearing, the Zoning Commissioner may either deny or grant a use permit conditioned upon:

(1) His finding following the public hearing;

(2) The character of the surrounding community and the anticipated impact of the proposed use on that community;

(3) The manner in which the requirements of Section 409.8.B.2 and other applicable requirements are met; and

(4) Any additional requirements as deemed necessary by the Zoning Commissioner in order to ensure that the parking facility will not be detrimental to the health, safety or general welfare of the surrounding community and as are deemed necessary to satisfy the objectives to Section 502.1 of these regulations.

Both the Hearing Officer and the Board concluded that the parking spaces would be utilized for residential purposes and, therefore, under BCZR § 409.6, they were not required to hold a special hearing. The Hearing Officer explained and the Board concurred, "The simple answer to [appellees'] position is that the parking spaces are not serving a business or industrial use."

The BCZR categorizes apartment buildings under a residential

use, not a commercial or industrial use. See § 409.6.1. As testified to by Charles Main, the entire development was "strictly" residential. The parking spaces were to serve the residential use.

Appellees further contend that the Hearing Officer and Board erred because the parking spots do not conform to the current "performance standards" for off-street parking. The record supports a finding that the parking spaces had been established and used prior to the current performance standards and therefore are not subject to them. We perceive no error.

III. Parking Variances

Developer also sought several parking variances under BCZR, two of which remain an issue on appeal: 1) a variance from B.C.Z.R. § 409.4.C to permit drive aisles in the parking area inside the Mill building to have a minimum width of 17'7" in lieu of the minimum required 22 feet, and 2) a variance from B.C.Z.R. § 409.4.B to permit 32 interior or "tandem" parking spaces in the Mill and Power Plant so that those spaces do not have direct access to a driving aisle. The Hearing Officer, and in turn the Board *de novo*, granted the variances, but the circuit court remanded the issues back to the Board to consider "whether the variance may result in any injury to public health, safety and general welfare[.]"

To be granted a variance, B.C.Z.R. §307.1 requires the applicant to show "special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the

variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship." Therefore, the Board must determine if the subject property is so "unique, unusual, or different" that the zoning provision "impact[s] disproportionately upon that property." *Cromwell v. Ward*, 102 Md. App. 691, 694-95, 651 A.2d 424, 426 (1995).

Second, the Board must determine if the "uniqueness" results in "practical difficulty" for the owner to use the property without conflicting with the zoning regulations. *Id.* at 695. The Court of Appeals has previously explained:

"The expression 'practical difficulties or unnecessary hardships' means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are not necessary to carry out the spirit of the ordinance and which are of such a degree of severity that their existence amounts to a substantial and unnecessary injustice to the applicant. Exceptions on the ground of 'practical difficulties or unnecessary hardships' should not be made except where the burden of the general rule upon the individual property would not, because of its unique situation and the singular circumstances, serve the essential legislative policy, and so would constitute an entirely unnecessary and unwarranted invasion of the basic right of private property. (citations omitted)."

McLean v. Soley, 270 Md. 208, 212, 310 A.2d 783 (1983) (quoting *Carney v. City of Baltimore*, 201 Md. 130, 137, 93 A.2d 74 (1952)).

Charles Wagandt, the great grandson of the Mill's owner, testified as to the Mill's history and use. Donald Kann, an expert

in architecture and historic preservation agreed, stating that the "Old Mill is a 'key component' to the Oella National Register Historic District." He explained that there are "very few similar facilities in this country." Kann also testified to the federal government's strict standards in terms of renovations to historical property.

Geoffrey Glazer, architect and principal in charge of the Oella Mill project, testified about the building structure and the unique architectural constraints involved in this project. He explained that existing structural beams, on center every ten feet, are necessary to support the building. He opined that they could not be removed without "major" alterations to the building. Jon Wallenmeyer, a licensed architect, testified about the experience of the Forest City Group in restoration and renovation of property.

Mike Cornelius, an expert traffic engineer, testified that when necessary a decreased driving aisle width and increased parking stall width, as proposed in this project, is a "preferred method of maintaining an overall minimum level of comfort while maximizing user acceptance." He explained that decreased driving aisles is often not as important as the amount of space in the parking spot itself. He concluded that in a "private residence parking" facility "the drive aisle and the parking dimensions do not cause me any concerns[.]" Moreover, he opined that drive aisle as narrow as 17'6" would be acceptable and would provide sufficient

room for vehicles to turn and pull out. Finally, he had no concern about safety and the tandem parking spaces, as it was an analogous situation to many townhouses in the area with single garages and two cars.

The Board concluded that, "consider[ing] the totality of the testimony and evidence offered . . . [the Developer] had overwhelming expert opinion and conclusions concerning the uniqueness and practical difficulties imposed on the Developer." We are persuaded that the evidence supports the Board's finding of both uniqueness, and that strict application of the zoning regulations presented "practical difficulties" justifying the variances.

Appellees argue that they were improperly precluded from presenting testimony to the Board about traffic impact and public safety in the area. Several members of the community testified before the Hearing Officer. They explained their concerns regarding increased traffic, the speed of traffic, traffic patterns, flooding concerns, urban sprawl, and parking limitations. Although considering the issue *de novo*, the Board explained that because they "undertook the case as a development matter and variance issue," it did not believe that any more "than what already has been said and recorded" in terms of the development hearing could be added. The Board continued, "If the Board genuinely believed that anything additional could be added, it

would be in the interest of fairness and justice to order an additional day or two of hearings. However, the truth of the matter is that what has been said . . . has already been said." We do not perceive any error by the Board in limiting testimony to matters directly related to the variance request.

IV. Newly Enacted Legislation

On February 17, 2004, the Baltimore County Council enacted legislation that affirms some of the Hearing Officer's and Board's interpretation of Baltimore County's zoning regulations. Bill No. 7-04 states that the open space requirements of the BCC do not apply to "the renovation or reuse for residential dwelling purposes of an existing structure or site in a commercial or industrial zone identified on the county preliminary or final landmarks list or located within a national register district[.]" Bill No. 8-04 states that a residential transition area is only generated "if the property to be developed is zoned D.R. and lies adjacent to land zoned D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5 or R.C." That Bill continues to state that

[f]or an existing structure in a commercial or industrial zone identified on the county preliminary or final landmarks list or located within a national register district, the width of driveways and aisles with two-way movement in an interior private parking facility may be modified up to 25% of the minimum required width specified in section 409.4.A and 409.4.C. Residential dwelling unit parking spaces that do not have access to aisles are permitted, and these spaces may count towards the minimum number of spaces required under

section 409.6. Any parking spaces without direct access to a drive aisle and the space blocking access to that drive aisle shall be reserved for an individual unit.

Bill No. 8-04.

In Maryland, in the absence of an acquired vested right, "we apply the zoning law existing at the time of the appeal rather than when the case was decided below." *Powell v. Calvert County*, 368 Md. 400, 414, 795 A.2d 96 (2002) (quoting *Luxmanor Citizens Association v. Burkart*, 266 Md. 631, 644, 296 A.2d 403 (1972)). See also *O'Donnell v. Bassler*, 289 Md. 501, 508, 425 A.2d 1003 (1981); *County Council for Prince George's County v. Carl M. Freeman Associates, Inc.*, 281 Md. 70, 76, 376 A.2d 860 (1977); *Rockville Fuel & Feed Co. v. City of Gaithersburg*, 266 Md. 117, 127, 291 A.2d 672 (1972); *Yorkdale v. Powell*, 237 Md. 121, 124, 205 A.2d 269 (1964); *Woman's Club of Chevy Chase v. State Tax Comm'n*, 195 Md. 16, 19, 72 A.2d 742 (1950). In the absence of vested rights or regulation exclusion, the development plan would be subject to the new law, which we presume would favor the plan.

**JUDGMENT REVERSED; CASE REMANDED TO
CIRCUIT COURT FOR BALTIMORE COUNTY
WITH INSTRUCTIONS TO AFFIRM THE
DECISION OF THE BOARD OF APPEALS OF
BALTIMORE COUNTY.**

COSTS TO BE PAID BY APPELLEE.

8/11/03

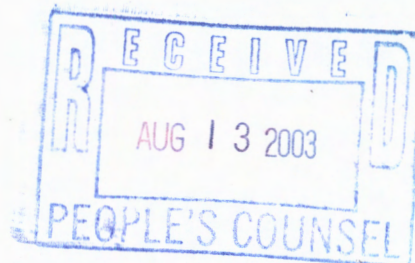
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PNC

LAW OFFICES
MICHAEL P. TANCZYN, P.A.

Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204

Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

August 11, 2003



Clerk
Circuit Court for
Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Case No.: 03-C-03-0016

Dear Madam Clerk:

Enclosed herewith please find Substitution of Counsel for the undersigned, on behalf of the enumerated Appellees.

Thank you for your cooperation and consideration in filing same.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.

Cc: James A. Dunbar, Esquire
Timothy F. McCormack, Esquire
Hope D. Miller, Esquire
Peter Max Zimmerman, Esquire
Lydia Temoshok, Ph.D., President, Greater Oella Community

* IN THE
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* CIRCUIT COURT
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* FOR
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* BALTIMORE COUNTY
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* Civil Action No. 03-C-03-0016
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* FOR

* BALTIMORE COUNTY

* Civil Action No. 03-C-03-0016

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Madam Clerk:

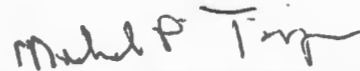
Please strike the appearance of the undersigned as attorneys for the Petitioners/Appellees in the above-captioned matter and enter the appearance of Michael P. Tanczyn as attorney for the Petitioners/Appellees in the above-captioned matter.

John V. Murphy
John V. Murphy, Esquire
Murphy and Murphy, LLC
14 N. Rolling Road
Catonsville, Maryland 21228-4848


Michael P. Tanczyn, Esquire
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823
Attorney for the Petitioners/Appellees

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 11th day of August, 2003, a copy of the foregoing was mailed, first-class mail, postage prepaid to James A. Dunbar, Esquire, Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, P.O. Box 5517, Towson, MD 21285-5517, Attorneys for Oella Mill, LLP and Forest City Residential Group, Timothy F. McCormack, Esquire and Hope D. Miller, Esquire, 223 East Redwood Street, Baltimore, Maryland 21202-3332, Attorneys for Oella Mill, LLP, and to Peter Max Zimmerman, People's Counsel for Baltimore County, Room 48, Old Courthouse, 400 Washington Avenue, Towson, MD 21204.



Michael P. Tanczyn, Esquire
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823
Attorney for the Petitioners/Appellees

7/11/03

PETITION OF GREATER OELLA

v.

IN THE MATTER OF OELLA MILL,
LLP et al., FOR DEVELOPMENT PLAN
APPROVAL AND APPROVAL OF
PETITION FOR VARIANCE
840 Oella Avenue

1st Councilman District
1st Election District

CBA Nos. CBA-02-137/02-412-SPHA
PDM No. I-498

IN THE

CIRCUIT COURT

FOR

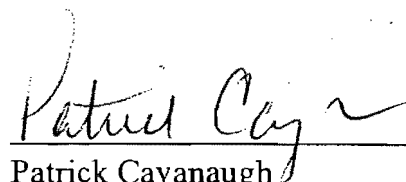
BALTIMORE COUNTY

Civil Action No. 03-C-03-0016

* * * * *

ORDER

It is this 11th day of July, 2003, by the Circuit Court for Baltimore County, **ORDERED** that the Baltimore County Board of Appeals Order dated the 4th day of December, 2002, in Case No. CBA-02-137 and Case No. 02-412-SPHA are hereby **REVERSED** and **REMANDED** for further action consistent with the Opinion filed herewith.


Patrick Cavanaugh
Judge

PC/sc

True Copy Test
SUZANNE MENSCH, Clerk

Per 
Deputy Clerk

PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION INC, et al.,

IN THE
CIRCUIT COURT

v.

FOR
BALTIMORE COUNTY

IN THE MATTER OF OELLA MILL,
LLP et al., FOR DEVELOPMENT PLAN
APPROVAL AND APPROVAL OF
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840 Oella Avenue

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1st Councilman District
1st Election District

CBA Nos. CBA-02-137/02-412-SPHA
PDM No. I-498

* * * * *

MEMORANDUM

This Court finds that the Board of Appeals of Baltimore County (hereinafter referred to as "the Board") and the Hearing and Zoning Commissioner of Baltimore County (hereinafter referred to as the "Hearing Officer") exceeded their statutory authority in approving this development plan and granting the requested variances.

I

As an initial matter, I find that the Board erred as a matter of law in affirming the Hearing Officer's approval of the development plan since part of the development was located within an area clearly shown to be within a 100-year floodplain and subject to possible future approval of the federal government and Federal Emergency Management Agency ("FEMA"). BCC § 26-206 (Development Plan Approval) states that:

- (a) (1) A public quasi-judicial hearing before the hearing officer is required prior to final action on a plan....
- ...
- (3) The hearing officer shall make findings for the record and shall render a decision pursuant to the requirements of this section.
- (b) *The hearing officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations ... provided that the final approval of a plan shall be subject to all appropriate standards, rules, regulations, conditions, and safeguards set forth therein. All final decisions of the hearing officer with respect to such matters shall be subject to appeal to the county board of appeals as provided in section 26-209 below.*

As of the date of the Hearing Officer's hearing it was undisputed that the development plan's proposal to build in the floodplain was in violation of BCC § 26-276,¹ and there was no evidence of any approval from FEMA. Since the development plan violated BCC § 26-276, the hearing officer clearly did not have the authority to grant approval of the development plan because it failed to comply with development regulations and applicable policies, rules and regulations as required under § 206(b).

Moreover, BCC § 206 only authorizes a Hearing Officer to review a final action on a development plan. A review of the "General Notes" section of the Development Plan clearly shows that the Board erred in confirming the Hearing Officer's approval of the plan since it was contingent upon the subsequent permission of the federal government and FEMA. "General Notes" number 13, states that "[a] letter of Map Amendment (LOMA) will be requested to revise the

¹ BCC § 26-276 states that "[n]o dredging, filling or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination. It is the purpose of this section to reduce losses to life and property from flooding, to obviate the need for public

flood plain shown on the Federal Emergency Management Association's (FEMA) Flood Insurance Rate Map (FIRM), Panel # 240010 0370 B, to agree with the 1980 study provided by Baltimore County Department of Public Works." This clearly indicates that the development plan was not final since no application regarding the change in flood plain had ever been requested from FEMA.

"General Notes" number 27 also provides that "[w]ithin the area shown as 'Baltimore County Recreational Greenway Easement', access by Baltimore County, or its assigns, for public safety or maintenance is allowed, subject to approval by the Department of Environmental Protection and Resource Management." This further indicates that this is not a final plan because it is "subject to approval by the Department of Environmental Protection and Resource Management."

Finally, "General Note" number 17 states that "[e]nvironmental variances for continued use of existing structures and proposed improvements in the Forest Buffer will be requested." This further shows that the plan is still not complete and could not have been considered by the Hearing Officer or the Board of Appeals.

II

This is a development plan for a residential apartment building on a property zoned BM-CCC with a small area zoned DR 3.5, in the midst of other properties zoned D.R. 3.5, that fails to provide for any recreational space in

expenditures for flood protection, and to protect or enhance the environmental quality of

accordance with BCC § 26-498. Under § 26-498 (c)(1), “an applicant shall be required to provide a minimum of 1000 square feet of suitable open space per dwelling unit.” BCC § 26-498(b)(1) provides that this requirement applies to “residential development,” which is defined at BCC § 26-492(g) as meaning “the development of property for the construction of dwelling facilities.”

I was amazed to find that the Hearing Officer and Board did not consider the construction of residential apartments to be the construction of dwelling facilities, thus not requiring active open space of 1000 square feet per unit. Instead, the Board confirms the decision of the Hearing officer that this project did not constitute “construction” under BCC § 26-498(b) and BCC § 26-492(g), based on the fact that the development plan involves the renovation of an existing building, “no change in building footprint and no new external construction.”

(See Board Opinion at 18)

A review of Article IX (Adequate Public Facilities) reveals that this is clearly an erroneous basis for excluding the applicant from the recreational space requirements of BCC § 26-498, as well as contrary to the basic intent of the law. It is important to note that “redevelopment” is defined in BCC § 26-492, not excluded under § 26-498(b),² and is, in fact, completely omitted from § 26-498. Moreover, I find that the language and clear intent of § 26-498 requires that a development plan provide inhabitants of residential apartments with the required amount of recreational space, *regardless of whether the apartment complex is newly built or results from the renovation of an existing building.*

III

The next question presented is whether the Hearing Officer and Board erred as a matter of law in approving the development plan without requiring a Residential Transition Area. The Board concurred with the Hearing Officer's determination that a Residential Transition Area was not required because the proposed project was not completely contained within a D.R. zone. In doing so, the Board indicated that the most "persuasive factor" was the location of the RTA regulations within the section governing D.R. zones since it evidenced the "Council's intent that the RTA regulations are applicable only to development in the D.R. zone." (See Board Opinion at 24-25). Based on a review of BCZR § 1B01.1B, I find this was a clearly erroneous basis for finding the RTA inapplicable to this development plan. Under BCZR § 1B01.1B:

1. Residential transformation areas and permitted uses therein.

...

- b. Generation of residential transition area. An RTA is generated if the property to be developed lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R. 5.5. or R.C. which:

(1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary; ...

"In construing statutes, we obviously begin with the language of the statute. If that language, both on its face and in context, is clear and unambiguous, we need go no further. We give the language its plain meaning. We do not add or delete words in order to reflect an intent not evidenced by what

² BCC § 26-498(b)(2) explicitly exempts non-residential development and "minor subdivisions" from the

the legislature actually said and we do not construe statutes with 'forced or subtle interpretations' that limit or extend its application." *Swinson v. Lords Landing Village Condominium*, 360 Md. 462, 478 (2000).

I find that the plain language of BCZR § 1B01.1B(1)(b)(1) clearly indicates that where BM-CCC property is to be developed as residential apartments and a portion of the property is zoned DR 3.5 and is surrounded by other properties zoned DR 3.5, Residential Transition Area Restrictions do apply. Since there is no dispute that: i) D.R. 3.5 zoned land adjoins the Oella Mill property, ii) single-family detached, duplex, and/or semi-detached dwellings are within 150 feet of the tract boundary, and iii) the development plan fails to provide for a RTA buffer, I find that the Board clearly erred as a matter of law in affirming the Hearing Officer's approval of the development plan without an RTA buffer.

IV

The next question presented is whether the Board erred as a matter of law by failing to require a use permit review hearing to allow Business Parking in Residential Zones. There is no dispute that the proposed plan utilizes eleven (11) parking spaces situated in the DR 3.5 portion of the property to support the proposed apartments across Oella Avenue in the BM-CCC portion of the property. Under BCZR § 409.8(B), entitled "Business or industrial parking in residential zones," in order to use parking spaces in a DR zone to support business across a street, a developer is required to apply for a use permit review hearing, residential space requirements.

post the property to notify the public of the proposal and submit to a hearing on the matter. In this instance, the Board simply affirmed the Hearing Officer's determination that "the spaces in question were not serving a business or industrial use, but rather a use that is residential in nature, since tenants of the apartments will reside on site." (See Board Opinion, 12/4/02, p. 19).

While in isolation this ruling might be fairly debatable, it is clearly inconsistent with the Board's findings that this project be exempted from the density and RTA restrictions because it is in a business zone/ district. Because of the Board's inconsistent position and the fact that none of these requirements in § 409.8(B) took place, I find that the Board erred by failing to conduct a hearing regarding the eleven business parking spaces in the DR 3.5 area as proposed by the development plan.

The Board also notes that these parking spaces have been used to support the present business uses across Oella Avenue for years and would be considered "non-conforming." However, in order to find a "non-conforming" use under BCZR § 104, the respondent should have been required to apply for a hearing and prove that the use was a legal use that existed prior to the zoning maps, and the property must be posted to notify the public. Because there was no application for a special hearing, the property was not posted and there was no showing by the respondent that the use was legal, I find that the Board erred as a matter of law in affirming the Hearing Officer's decision to approve the plan since it did not conform to development regulations, and applicable policies, rules and regulations as required by BCC 206(b).

The final question presented is whether the Hearing Officer and Board erred as a matter of law in granting the parking variances requested. Under BCZR 307.1:

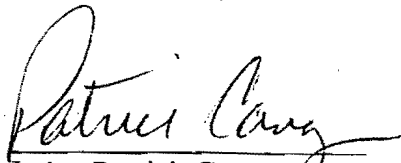
The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. *Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare.* They shall have no power to grant any other variances. Before granting any variances, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the zoning commissioner shall contain a finding of fact setting forth and specifying the reasons for such variance.

Under BCZR § 307.1, the Hearing Officer and Board have the authority to grant variances "only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request *and where strict compliance would result in practical difficulty or unreasonable hardship.*" *Cromwell v. Ward*, 102 Md. App. 691, 698 (1995).

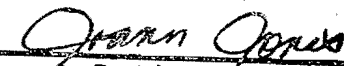
In *McLean v. Soley*, 270 Md. 208, 214-215 (1973), the following criteria for determining whether "practical difficulty" has been established are set forth:

- (1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- (2) Whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- (3) *Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.*

Nothing in the record indicates that the developer has presented any evidence that their proposal would not have an adverse effect upon public safety and welfare or upon traffic safety and congestion in the area. On the other hand, the protestant's were not permitted to present any evidence. Specifically, the Board denied petitioner Lydia Temoshok's request to present a video presentation and other pictorial evidence showing the narrowness and hazards of Oella Avenue and the potential dangers to the community that could result from traffic generated by the proposed apartments on the connecting roadways. Accordingly, this case is remanded to the Board to allow the petitioners to present evidence on the question whether the variance may result in any injury to public health, safety and general welfare, in addition to complying with the other issues set forth in this memorandum.


Judge Patrick Cavanaugh

True Copy Test
SUZANNE MENSCH, Clerk

Per 
Deputy Clerk

5/13/02

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

COPY FOR YOUR INFORMATION

PETITION OF

GREATER OELLA COMMUNITY ASSOCIATION, INC., *
HENRY BERGER, individually *
GREGG BROWN, individually *
LYNETTE BURNS, individually *
LYDIA TEMOSHOK, individually *

Case No. 03-C-03-0016

FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE MATTER OF : OELLA MILL LLC/ PDM I-498 *
Case Nos.: CBA -02-137 and 02-412-SPHA *

* * * * *

REPLY MEMORANDUM OF GREATER OELLA COMMUNITY ASSOCIATION,
AMICUS CURIAE

The Petitioners, the Greater Oella Community Association ("GOCA") by its attorneys, John V. Murphy, Esquire, and Murphy & Murphy, L.L.C., it's attorney, files this Reply Memorandum, Amicus Curiae.

GOCA ADOPTION

GOCA also hereby incorporate the arguments given by the Petitioners in Individual Petitioners' Reply Memorandum.

FLOODPLAIN CONFLICT

There is no dispute that, when the Hearing Officer heard the case, the development encroached on the 100-year floodplain delineated on Federal ("FEMA") maps. This conflicted with Baltimore County law, Code Sec. 26-668, *et seq.* The Zoning Commissioner/Hearing Officer approved the plan contingent on future determination by FEMA that there is no floodplain encroachment. This was legal error because the development plans must comply presently with county law, Code Sec. 26-180, at the time the Hearing Officer makes his decision, *Annapolis v. Parker*, 369 Md. 689 (2002).

The Developer has submitted with its Answering Memorandum an August 28, 2002 letter from FEMA, with a Letter of Map Amendment ("LOMA") document and claims that the floodplain issue is resolved and moot.

The documents do not, however, on their face show that this is true. Moreover, if these documents supported the Developer's position, the Developer should have produced them at the County Board of Appeals hearings, which occurred between September and November of 2002. The Developer may not now submit new evidence before this Court.

PARKING VARIANCES

The decision to develop 175 apartments led to the proposal for an indoor parking facility, in addition to the existing outdoor parking area, which currently serves the Mill's commercial and industrial tenants. This parking facility essentially doubles the number of vehicles and will substantially increase traffic volume. However, it requires variances for aisle width, driveways and indirect aisle access.

GOCA is concerned that the geometric increase in traffic generation will aggravate hazardous driving conditions on narrow, winding and hilly roads laid out many years ago. GOCA is also concerned that the development of 175 apartments is a voluntary business decision to maximize revenue and does not involve any true practical difficulty. A less intensive apartment development would not require the indoor facility, nor does the current reasonable use. See *McLean v. Soley*, 270 Md. 208 (1973).

GOCA is especially disturbed that the County Board of Appeals disallowed and excluded testimony about the traffic hazards and the enormous detrimental impact on the character of the village and neighborhood. The Court of Appeals has long ago said that this is an important issue in a variance case, *Marino v. City of Baltimore*, 215 Md. 206 (1957). Baltimore County Zoning Regulations (BCZR) 307 does not allow a variance which causes "... injury to the public, health, safety, and general welfare".

The County Board of Appeals hearing is a de novo hearing. In wrongly excluding citizen testimony, the Board compounded its error by basing its decision on references by the Zoning Commissioner to traffic testimony in the development case. The development case was a separate case. A de novo variance appeal starts fresh, as if the commissioner's decision did not exist, *Boehm v. Anne Arundel County*, 54 Md. App. 497 (1983).

In other words, the Board allowed the development plan case to substitute for de novo variance review. It based its decision on Developer testimony which was not produced at the variance hearing. It disallowed the

introduction by citizens and GOCA if crucial testimony on this key issue.

DENSITY

The County Board of Appeals made an error of law in allowing unlimited density in the Business Major zone on the premise that the C.C.C. district overrides the usual density restrictions based on the adjoining residential zone limits, here D.R. 3.5 (3.5 units per acre). While the C.C.C. District (BCZR 235A) does not “directly” limit density, it coexists with the indirect limits of the BM Zone, BCZR 230.1, 233.1.

The County has high density apartment zones (R.A.E 1 and R.A.E 2), subject to density limits. By allowing unlimited density here, the Board has turned the C.C.C. District into a new kind of R.A.E. zone in disguise, but without boundaries. This was wrong.

RESIDENTIAL TRANSITION AREA (RTA)

The purpose of the RTA is to have buffers and setbacks for dissimilar residential uses. There is no dispute that if the proposed mill development were in a residential zone, it would have to provide the setbacks and buffers because there are adjacent single family homes.

It is just as important to have RTA protection when apartments are in a business zone as in a residential zone. The County Council recognized this in Bill 2-92 when it eliminated the previous explicit statement that RTA applied only to development in residential zones. This legislative history and current statutory language of BCZR 1B01.1B thus shows that the RTA is no longer limited. This is consistent with the law that business zones allow residential uses based on the “uses permitted and as limited in the residential zone immediately adjoining...” BCZR 230.1, 233.1.

RECREATIONAL OPEN SPACE

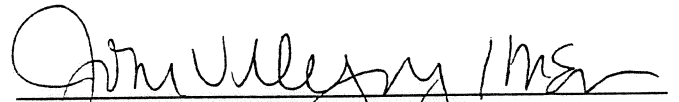
The County Board of Appeals exempted the project from recreational space requirements (Code Sec. 26-298) on the basis that the renovation does not involve “residential development” or “construction.” To say that a major residential redevelopment does not involve such construction is absurd. The site and buildings will undergo major changes with various types of construction.

The recreational space law does include certain exemptions, such as in the C.T. District. But the C.C.C.

district is not exempt.

CONCLUSION

GOCA believes that the proposed high-density apartment redevelopment will cause major and irreversible damage to the community, its lifestyle, the enjoyment of property, and property values. In approving the plan, the Zoning Commissioner/Hearing Officer violated numerous laws which were intended to protect residential neighborhoods.



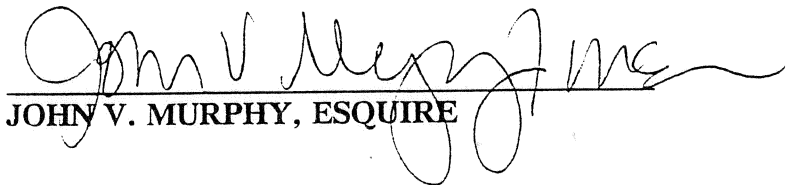
**JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.**

14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967

Attorney for Greater Oella Community Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 2003 a copy of the foregoing Reply Memorandum of Greater Oella Community Association was mailed postage pre-paid to James A. Dunbar, Esq, and Patricia A. Malone, Esq, Venable Baetjer and Howard, LLP, 210 Allegheny Avenue, P.O. Box 5517, Baltimore, Maryland 21285-5517, attorneys for the Respondent.



JOHN V. MURPHY, ESQUIRE

5/13/03

**COPY FOR YOUR
INFORMATION**

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF
GREATER OELLA COMMUNITY ASSOCIATION, INC., *
HENRY BERGER, individually
GREGG BROWN, individually *
LYNETTE BURNS, individually
LYDIA TEMOSHOK, individually *

FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY *

Case No. 03-C-03-0016

IN THE MATTER OF : OELLA MILL LLC/ PDM I-498
Case Nos.: CBA -02-137 and 02-412-SPHA *

* * * * *

INDIVIDUAL PETITIONERS' REPLY MEMORANDUM

The Petitioners, Henry Berger, Gregg Brown, Lynette Burns, Lydia Temoshok, individually, by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, LLC, file this Reply Memorandum in response to Respondent's Answering Memorandum as follows:

JUDICIAL STANDARD OF REVIEW

The Developer's Answering Memorandum erroneously states that this Court's review of the Board of Appeals decision is narrow and that deference should be given to the Board's decision on all issues. The cases cited by the Developer in the first two paragraphs of the "Role of Circuit Court" section refer to this Court's review of factual matters. However, all the issues brought to this Court by the Petitioners are questions of law for which is no deference is afforded to the Board of Appeals. (See Petitioner's Memorandum, pp. 5-7).

LOCAL OPEN SPACE

The Developer argues that gutting the existing mill buildings, constructing two floors of additional parking inside the main mill for 106 vehicles and constructing 175 apartments inside the buildings is not

“residential development” (See Respondent’s Answering Memorandum at pp. 14-15). The reason for this argument is that if this were “residential development” the Developer would have to provide local open space areas for the benefit of the new people living there. Under the Developer’s theory, since these apartments are not “residences,” and the people living in them are not “residents,” and the construction of 175 apartments is not “development,” these new people do not deserve the open space required by Baltimore County Code Section 26-498 (hereinafter the “BCC”). Such reasoning is obviously flawed and absolutely ignores the plain language in the BCC.

The Developer further claims that this massive project is not “residential development” because the footprint of the buildings remains the same and there is no new external construction. Unfortunately for the Developer, there is no such exception in the BCC. However, if there were any doubt as to the intent of Section 26-498, the County Council adopted the Baltimore County Local Open Space Manual (the “Manual”)(adopted on February 22, 2000) to enforce Section 26-498 (See attached copy of pertinent sections of Local Open Space Manual). Section III, A. 1. of the Manual specifies that

1. Residential development plans for properties in all zones, regardless of approval process, except for minor subdivisions, must provide LOS (Local Open Space) parcels, except as provided in Sections III.H and III I (Emphasis Added).

The Section III H and III I exceptions to the Local Open Space requirements are reserved for small lots and subdivisions created by court orders and estates. Neither exception applies in this case. Of significance to this Court is the reference in the quoted section of the Manual that these requirements apply to residential development plans for all zones. Thus, Section III, A.1 of the Manual does not concern footprints or construction inside building. Section III, A.1 has to do with development plans such as the one before the Court.

RESIDENTIAL TRANSITION AREA

The Developer's response on the issue of the need for a Residential Transition Area ("RTA") is that an RTA is not legally required by law even though its development plan is to build 175 apartments on a property surrounded by property zoned Density Residential DR 3.5. As stated in Petitioner's Memorandum, an RTA is required because the property is surrounded by D.R. 3.5 land. The Developer's basis for this position is that under Baltimore County Zoning Regulations ("BCZR") Section 1 B01, the RTA regulations are physically located in a section of the BCZR entitled "Regulations with Respect to DR Zones in General." The Developer concludes that because the County Council located the RTA section under that title in the BCZR, the RTA applies only in DR zones.

The Developer's argument misses the point that while the apartments are to be located in a BM zone, a portion of the property described in the development plan and all the surrounding properties are zoned DR. This is not a situation where the subject property and surrounding properties are zoned something other than DR. "Regulations with Respect to DR Zones in General" surely apply to DR zoned properties. In short, this case involves DR zoned properties.

The Developer contends that, if the County Council had intended for the RTA to apply to apartments built in BM zones, the BCZR would have specifically stated the same. It is the Petitioner's contention that the County Council did exactly that in light of the County Council's stated purpose of RTA was to give buffer protection for DR 3.5 zoned homes adjacent to apartment complexes.

Notwithstanding the clear legislative intent, the County Council in constructing the RTA legislation specifically listed all the exceptions to the general rule that homes in DR zones should be buffered from apartment uses. Baltimore County Code Section 1 B01.1 B 1g lists fifteen (15) exceptions where RTA requirements do not apply as follows:

1. Same type housing (single family etc)
2. Public utility uses
3. Reconstruction of certain buildings destroyed by fire
4. Existing churches
5. Certain new churches
6. Certain other new churches
7. Fishing facilities
8. Trailer parks
9. Existing community buildings
10. New community buildings
11. Child care centers
12. Bed and breakfast inns
13. Reconstruction of certain nursing homes destroyed by fire
14. Transit and rail stations
15. Assisted living facilities

Apartments in business zones (BM) are not among the listed exceptions. While the Developer would like to add a sixteenth (16th) exception to the list, the County Council has not done so.

CONDITIONAL APPROVAL OF DEVELOPMENT PLAN

The Hearing Officer has no authority to issue conditional approvals for development plans. This issue centers on the fact that the flood plain map in effect in this location of Baltimore County when the case came before the Hearing Officer showed the boiler building and adjacent parking areas were within the 100 year flood plain. Building in the flood plain is prohibited and consequently the development plan presented to the Hearing Officer did not meet County regulations and should have been denied. However, the Developer represented that they had applied to the Federal Emergency Management Agency (FEMA) to redefine the location of the flood plain which - if successful - would perhaps have allowed this building. Based on this condition, the Hearing Officer approved the plan subject to FEMA's redefining the location of the flood plain.

In its Answering Memorandum, the Developer now claims that whether or not the proposed development was in the 100 year flood plain is moot. The Developer states that, attached to their

Answering Memorandum, is Exhibit 2 which purports to indicate that the Developer prevailed at the Federal level. Consequently, the Developer states that "Petitioners representations are not supported in the record." The "Letter of Map Amendment" was actually approved in August 2002". The implication is that the August 2002 Letter of Map Amendment was in fact in the record of the case before the Board of Appeals.

To the Petitioner's best information and belief, the Developer's position is misleading. First, the August 2002 Letter of Map Amendment was not placed into the record and is therefore not before this Court. The lack of the same in the record is supported by the Board of Appeals decision in this regard dated December 4, 2002 in which the Board states that the developer's project manager was "currently in the process of seeking map amendment at the time of his testimony" (See p. 26 of Board Opinion).(Testimony October 2002). Consequently the Petitioners are led to believe that the August 2002 letter from FEMA was not in the record and that the Developer is now attempting to introduce new evidence at the appellate level. ;

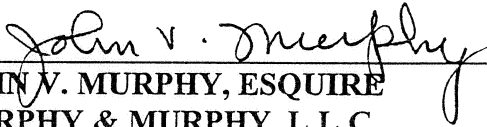
Second, while the Developer's Answer purports to say that the flood plain is now to their liking, the letter itself simply says that "our determination is shown on the attached Letter of Map Amendment "(LOMA)" Determination Document". The LOMA map is not attached to the Answering Memorandum. Moreover, the letter was not subject to cross examination. It is unknown whether the flood plain now crosses the boiler building or perhaps just the parking lot. This unknown is detrimental to the Petitioner's case because there is process that follows the Hearing Officer's hearing which provides the Petitioners an opportunity to understand and Hearing Examiner decide, whether the plan, even with the "new evidence," in fact meets the County regulations. The process which follows the Hearing Officer is the permit process in which the Petitioners have no place to participate. Even the Hearing Officer will never be able to satisfy

himself that the Developer's plan actually meets the County requirements if this Court Decides that such evidence can be submitted at this stage.

CONCLUSION

For the reasons herein set forth and in the Petitioner's Memorandum, the Petitioners respectfully request that:

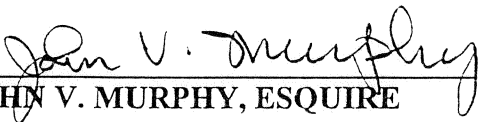
- A) That the Court reverse the Board on issues of law as above;
- B) And for such other and further relief as the nature of their cause may require.



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Petitioners

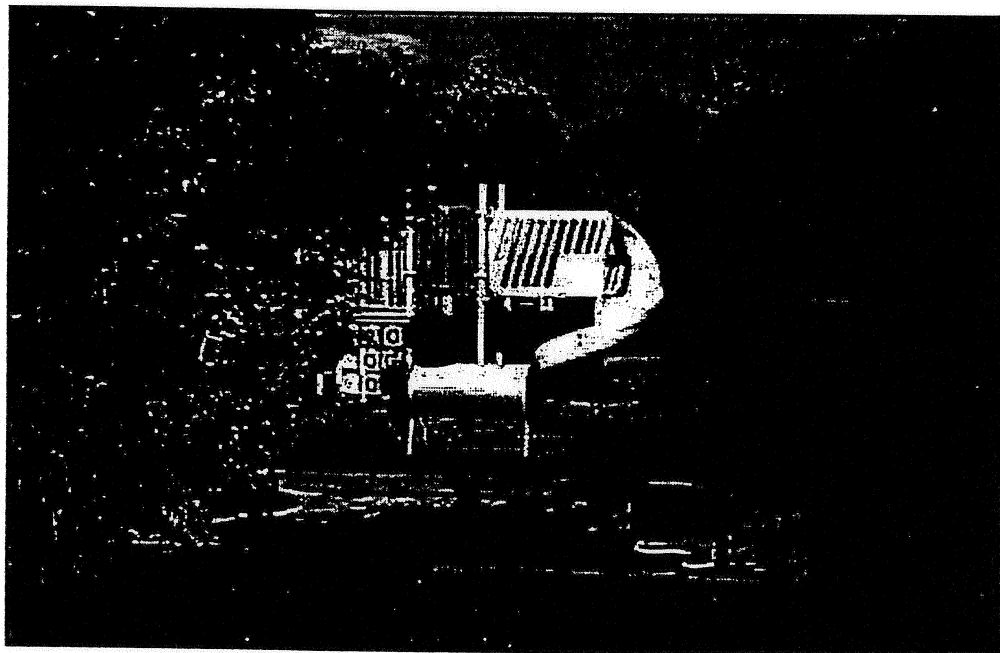
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 2003, a copy of the foregoing Reply Memorandum was mailed postage pre-paid to James A. Dunbar, Esq, and Patricia A. Malone, Esq, Venable Baetjer and Howard, LLP, 210 Allegheny Avenue, P.O. Box 5517, Baltimore, Maryland 21285-5517, attorneys for the Respondent.

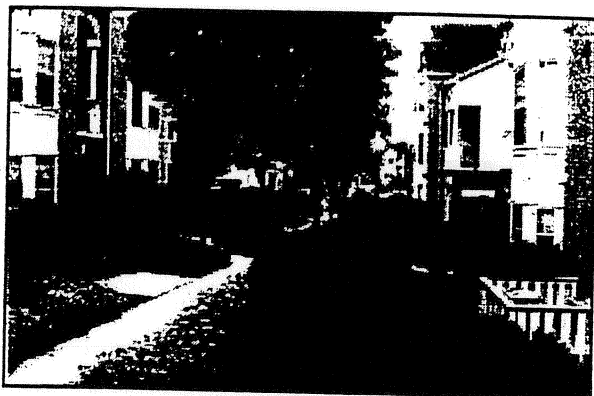


JOHN V. MURPHY, ESQUIRE

BALTIMORE COUNTY LOCAL OPEN SPACE MANUAL



As Adopted by the Baltimore County Council
February 22, 2000



SECTION III

LOCAL OPEN SPACE DEFINITIONS AND STANDARDS

A. LOCAL OPEN SPACE REQUIREMENTS

1. Residential development plans for properties in all zones, regardless of approval process, except for minor subdivisions, must provide LOS parcels, except as provided in Sections III.H and III.I.
2. All development within the Honeygo Overlay District must provide LOS in accordance with the Honeygo Zoning Regulations, BCZR 259.4-259.9 or the requirements of this manual, whichever are more stringent.

B. DEFINITIONS

1. **ACCESSIBLE:** The LOS and access is designed and constructed in accordance with the Americans with Disabilities Act (ADA).
2. **DEPARTMENT:** The Baltimore County Department of Recreation and Parks.
3. **DIRECTOR:** The Director of the Department of Recreation and Parks or a designated representative.
4. **ENVIRONMENTALLY CONSTRAINED AREAS:** Areas that may not be developed because of critical area buffers, forest and stream buffers, forest conservation easements, wildlife habitats, flood plains, wetlands, or contain stormwater management facilities.
5. **GREENWAY:** Corridors of open space that follow streams, rivers, ridge tops or other linear features. Intended purposes of greenways may be recreational or environmental protection, such as conservation or to serve as wildlife corridors.

Areas must be owned and maintained by a homeowners' association or other private entity unless otherwise specified by the Department.

b. Design Standards

LOS improved with amenities should be designed to meet the following design standards:

- (1) All improvements/amenities must meet the existing standards set by the Department and be available for use by the general public.
- (2) Areas should be designed to meet the needs of the projected occupants. For example, tot lots and playgrounds would be appropriate in areas expected to attract families with young children.
- (3) Areas may include separate activity centers such as tot lots, tennis courts, specially designed sitting areas, etc.

- c. A final design, layout, and detailed cost estimate for the improved area must be shown on the development plan, final development plan, and final landscape plan and approved by the Department.

2. Valuation of Improvements/Amenities

The value of proposed on-site improvements or amenities must meet or exceed the value of the open space land requirement that is being waived. (See Section III.H.2.b.)

H. LOCAL OPEN SPACE WAIVER/FEE IN LIEU

1. In such cases where the Department determines that a proposed LOS parcel would not effectively serve the goals and objectives of the open space system, the Department may approve the payment of a fee in lieu. In general, developments that generate an isolated parcel of land less than 20,000 square feet in size are appropriate for providing a fee in lieu of LOS. Developments with 20 or less dwelling units should be considered for a fee in lieu of LOS. A proposal to request the payment of a fee in lieu of open space must be made to the Department prior to or at the time of the concept plan conference.

a. Fee In Lieu

The Department may approve a fee in lieu of LOS parcels where such parcels do not meet the goals of this manual. Such factors as proximity to other open spaces, parks or school-recreation centers, and the need for open space within the community will be considered when making such a decision. The content of any existing neighborhood, community, and/or county plans also may be considered.

b. Waivers may be allowed for the first 650 square feet of on-site active LOS if:

- (1) The development is not adjacent to a county or state park, a school-recreation center or other public open space and contains 20 or fewer units or,
- (2) The development is located within a CT district, a RAE zone or is an elder housing facility as defined in the zoning regulations or is dormitories for not less than 50 students attending an accredited higher education institution, and the Department determines that there is no suitable land to meet the open space requirements.
- (3) In a CT district or a RAE zone, the applicant shall meet the amenity open space requirements and then subtract that area from the local open space required.

c. Waivers for the on-site provision of the remaining 350 square feet of passive open space may be allowed if the Department determines that there is no suitable land to meet the requirements.

2. Procedure for Payment of a Fee in Lieu of LOS

- a. If a waiver of LOS is approved, the applicant shall pay to the county a fee determined by the county administrative officer. The fee shall be credited to a separate and distinct revenue account within the Department's capital budget. Upon appropriation it may be spent only for the acquisition and development of LOS parcels or neighborhood parks as approved by the Director.
- b. The administrative officer shall establish the fees required under this section after consultation with the Department, the Office of Budget and Finance, and the Department of Permits and Development Management (PDM).
 - (1) When establishing these fees, the administrative officer shall consider, at least, establishing the fees based upon the zoning classification, uses of the land and their public purposes.
 - (2) The fees shall be reasonably proportionate to offset the cost to the county to acquire recreational lands.
 - (3) The Baltimore County Council will adopt the fees by resolution.
 - (4) The per acre cost of land for recreational use within the Honeygo Overlay District shall be based upon the mean land values within that district or the above fee, whichever is more. (BCZR Sec. 259.9/E.5.)
- c. Checks shall be made payable to Baltimore County, MD and submitted to the PDM. Payment of the fee is due prior to the recordation of the record plat.

3. Procedure for Filing a Waiver Request

The applicant must submit a standard "Request For Fee in Lieu of LOS" form (a sample of which may be found as Appendix A) with the submission of the development plan. The request must be accompanied by a site plan.

I. LOCAL OPEN SPACE EXEMPTIONS

1. Qualifications for Exemptions

The Director shall grant an exemption from the obligations regarding the reservation of LOS and from payment in lieu of such reservation where land is being subdivided for the following purposes:

- a. Pursuant to the terms of a will.
- b. By court order dividing the estate of an owner after he or she has died intestate.
- c. Between the parties to a divorce settlement approved by court decree.
- d. By an owner, transferring part of a tract of land to said owner's spouse, sibling, parent, child, or child's spouse.

2. Exemption Filing Procedure

To request an exemption in such cases, the applicant and the grantee must file a notarized affidavit with the Department. The affidavit must include:

- a. A description of the property.
- b. The purpose of the subdivision.
- c. Acknowledgment of future applicability of development regulations. (A sample of the required affidavit is included as Appendix B.)

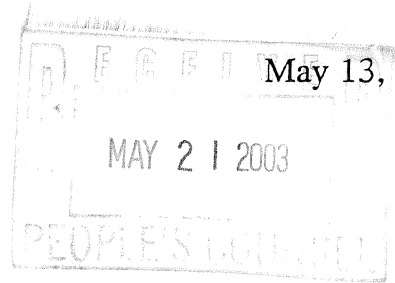
MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

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May 13, 2003

MAY 21 2003



Clerk of the Court
Circuit Court for Baltimore County
P.O. Box 6754
Towson, Maryland 21204

Re: Petition of Greater Oella Community Ass'n.
Case No.: 03-C-03-0016

Dear Sir or Madam:

Enclosed please find and Individual Petitioners' Reply Memorandum and a Reply Memorandum of the Greater Oella Community Association, Amicus Curiae for filing with the Court. Please let me know if you have any questions. Thank you.

Very Truly Yours,

Maureen E. Murphy

Enclosures

MEM:clh

4/28/03

COPY

PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

*

IN THE

*

CIRCUIT COURT

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR DEVELOPMENT
PLAN APPROVAL AND APPROVAL
OF PETITION FOR VARIANCE
840 Oella Avenue

*

FOR

*

BALTIMORE COUNTY

*

CBA Nos. CBA-02-137/02-412-SPHA
PDM No. I-498

*

Civil Action No. 03-C-03-0016

* * * * *

RESPONDENTS' ANSWERING MEMORANDUM

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser,
(hereinafter "Forest City"), by James A. Dunbar and Patricia A. Malone with Venable,
Baetjer and Howard, LLP, their attorneys, file this Answering Memorandum, as follows:

INTRODUCTION

This case involves Forest City's proposal to renovate the historic Oella Mill into
175 luxury apartments. Forest City submitted a development plan for the project to
Baltimore County for approval through the Development Review and Approval Process.
Baltimore County Code ("B.C.C."), Title 26, Article V, Division 2, §§ 26-201 *et seq.*
With its development plan, Forest City simultaneously filed a Petition for Variance, asking
for relief from certain requirements of the Baltimore County Zoning Regulations ("B.C.Z.R.").

Over a series of five days in May and June 2002, the Zoning Commissioner of
Baltimore County, sitting as administrative hearing officer ("Hearing Officer"), held a
public hearing on the Oella Mill development plan and the requested zoning relief. The
hearing record included hundreds of pages of testimony and over sixty exhibits.

Petitioners participated fully in the hearing, along with many other members of the Oella community both in favor of and against the proposed project. The Hearing Officer then reviewed the voluminous evidence and the memoranda filed by the both sides. He approved the development plan and the requested relief in a written decision dated July 8, 2002, as amended on August 8, 2002 (“HO Order” and “HO Amended Order”). From this decision, Petitioners appealed to the County Board of Appeals of Baltimore County (“Board of Appeals”).

Sitting in its capacity as an appellate body, on September 24, 2002, the Board of Appeals heard oral argument relating to the Hearing Officer’s approval of the development plan. Then, over a series of three days in October 2002, the Board conducted a *de novo* public hearing on the requested variances. Forest City presented overwhelming evidence as to the uniqueness of the property and the resulting practical difficulty justifying the variances. Having conducted an exhaustive review of this case, the Board of Appeals affirmed the Hearing Officer’s approval of the development plan and granted each of the variances in an Opinion, dated December 4, 2002, as amended on December 10, 2002 (“Board’s Order”). From the Board’s ruling, Petitioners sought judicial review by the Circuit Court for Baltimore County (“Circuit Court”).

QUESTIONS PRESENTED

- I. Did the Board of Appeals act properly in affirming the Hearing Officer’s decision to approve the development plan, when it determined no legal error had been committed and all factual findings were supported by substantial evidence?
- II. In light of the overwhelming evidence presented by Forest City demonstrating uniqueness and practical difficulty, did the Board of Appeals properly grant the requested variances?

STANDARD OF REVIEW ON APPEAL

The Role of the Board of Appeals

The Board of Appeals' role in reviewing the Hearing Officer's approval of a development plan is defined in B.C.C. Section 26-209. With respect to the development plan issues, the record is established before the Hearing Officer, and it is within his province to judge witnesses' credibility and to make factual determinations based on that record. *Monkton Preservation Ass'n v. Gaylord Brooks Realty Corp.*, 107 Md. App. 573, 580-81, 669 A.2d 195 (1996). In reviewing the factual basis for the Hearing Officer's decision, therefore, the Board does not perform an independent evaluation of the evidence, but, rather, looks to whether there is substantial evidence in the record to support his findings. *Id.* Substantial evidence requires a finding that there is "a little more than a 'scintilla of evidence.'" *Anne Arundel County v. A-PAC, Ltd.*, 67 Md. App. 122, 126, 506 A.2d 671 (1986) (quoting *Floyd v. County Council*, 55 Md. App. 246, 258, 461 A.2d 76 (1983)). See also *Lucas v. People's Counsel for Baltimore County*, 147 Md. 209, 225, 807 A.2d 1176 (2002). The Board, however, does make an "independent evaluation as to whether the decision of the hearing officer exceeded his authority, resulted from unlawful procedure, or was affected by any other error of law." *Monkton*, 107 Md. App. at 581.

With respect to the zoning variances, the Board holds a *de novo* adjudicatory hearing on the requested relief and decides whether or not the applicant has met its burden of proof on the basis of the record produced at the hearing before the Board.

The Role of the Circuit Court

A court's role in reviewing an administrative agency's decision is narrow. *Marzullo v. Kahl*, 366 Md. 158, 177, 783 A.2d 169 (2001); *United Parcel Service, Inc. v. People's Counsel for Baltimore County*, 336 Md. 569, 576, 650 A.2d 226 (1994). "The court's task on review is *not* to substitute its judgment for the expertise of those persons who constitute the administrative agency." *United Parcel Service*, 336 Md. at 576-577 (quoting *Bullock v. Pelham Woods Apts.*, 283 Md. 505, 513, 390 A.2d 1119 (1978)). See also *Jordan Towing, Inc. v. Hebbville Auto Repair, Inc.*, 369 Md. 439, 450, 800 A.2d 768 (2002) The agency's decision is "prima facie correct" and "presumed valid," and, as such, the reviewing court must view the agency's decision "in the light most favorable to it." *Marzullo*, 366 Md. at 172 (quoting *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 67-69, 729 A.2d 376 (1999)).

In reviewing the factual basis for the administrative agency's decision, whether the Hearing Officer's or the Board's, the Circuit Court must limit its review to whether substantial evidence exists in the record as a whole to support the decision. *Marzullo*, 366 Md. at 171-172. If there is substantial evidence to support the administrative agency's decision, it becomes a judgment call, and the Court may not substitute its judgment for that of the agency. *Id.* at 172. The Court must defer to the administrative agency's factual findings and inferences as long as they are supported by the record. *Id.*

While, like the Board of Appeals, the Circuit Court makes an independent evaluation on issues of law, recent cases from the Court of Appeals suggest that, "[e]ven with regard to some legal issues, a degree of deference should often be accorded the

position of the administrative agency.” *Id.* at 172-173 (*quoting Banks*, 354 Md. at 67-69) (emphasis added). As the Court of Appeals articulated, “an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be given *considerable weight* by reviewing courts.” *Id.* (emphasis added). Because of the Board of Appeals’ vast experience in adjudicating and reviewing cases involving the interpretation and application of the Baltimore County Zoning Regulations and the Baltimore County Code, the Circuit Court should take into consideration the Board’s expertise in these areas and afford an appropriate amount of deference to the Board in determining whether or not the Board’s decision is premised upon an erroneous conclusion of law. *Id.* at 173.

STATEMENT OF FACTS

The Oella Mill Site Presents a Unique Challenge

Forest City is proposing an adaptive reuse of the historic Oella Mill site located along the Patapsco River in southwestern Baltimore County. The history of the Oella Mill operation dates back to 1808. It was the site of the first textile company ever chartered by the State of Maryland. In its day, it was the largest cotton mill in the United States. (T., 10/03/02, pp. 24-26) In time, a self-contained village emerged around the Mill with houses for the Mill workers, a church, a community facility, and a company store. (T., 10/03/02, pp. 24-25)

The original old stone Mill building was destroyed in a fire in 1918, and the existing brick Mill building was constructed on the site shortly thereafter. (T., 10/03/02, p. 26) The Mill operated until closing in 1972. (T., 10/03/02, pp. 27-28) After the Mill

was closed, the entire area of Oella, including the Mill and the surrounding village, was designated as a National Register Historic District. (T., 10/03/02, pp. 34-35) *See also* Board Exhibits 2A and 4.¹ Oella is one of the last examples of 19th century industrial mill villages in the United States and is singular because it is largely intact and because of its location along the Patapsco River. (T., 10/03/02, pp. 64-66) The Oella Mill building, undisputedly, is the “key component” of the Oella National Historic District, one of only 17 such districts in Baltimore County. (T. 10/03/02, pp. 31-34, 64-65)

The Mill building itself is listed on the Maryland Historical Trust’s Inventory of Historic Properties as MHT No. BA02375. (T., 10/03/02, p. 55) Because of this designation, Baltimore County requires that the Oella Mill building be “preserved.” B.C.C. §§ 26-203(c)(8), 26-278. (T., 10/03/02, p. 55) In addition to the “preservation” requirement at the local level, in order to participate in a program for tax credits for historic renovation, standards promulgated by the U.S. Department of the Interior must be met for both the interior and exterior renovation of the Oella Mill building. (T., 10/03/02, pp. 56-58) These standards severely limit what alterations may be done to a historic structure, with a particular emphasis on preserving the structure’s historical integrity. (T., 10/03/02, pp. 58-63) Major structural changes are not permitted, and no changes are permitted that affect the character of a building. (T., 10/03/02, p. 62)

The 5.7 acre property is bounded to the south and east by Oella Avenue and on its

¹ Forest City will refer to exhibits introduced in the development plan case before the Hearing Officer as “Developer’s Exhibits,” those introduced before the Board of Appeals in the variance case as “Board Exhibits,” and those attached to this Memorandum as “Memorandum Exhibits.”

entire western side by the Patapsco River. (T., 10/03/02, pp. 83, 108-110) In fact, a portion of the Patapsco River is actually included in that 5.7 acres. The property's close proximity to the river creates related site constraints, such as forest buffers and other development-restricted areas. (T., 10/03/02, pp. 89, 108-109) The site is further constrained by its topography and steep slopes; from one end of the site to the other, not including a 25-30 foot drop to the river, there is an elevation change of approximately 40 feet. (T., 10/03/02, pp. 88-92, 108-110) Development of the site in the early 19th and 20th centuries took place within the parameters of these constraints. As a result, the Mill's height varies from four stories to seven stories depending on the grade. Board Exhibits 6A and 6B. The site also has other unique features, including the presence of an abandoned "mill race" or waterway, in which water was diverted from the river, directed through the site, and used to generate power for the Mill operations. (T., 10/03/02, pp. 92-93)

The Mill building itself, which was constructed in approximately 1919, poses practical constraints. These constraints include the existing cast-iron columns located, on center, every 10 feet throughout the first story, which support the entire building and cannot be removed. (T., 10/03/02, pp. 97-103) The existing columns are much closer together than they would be in any structure built today. (T., 10/03/02, p. 103)

In attempting to adaptively reuse the Mill building, Forest City is compelled with work within, not only the constraints of the site, but also the physical constraints of the building itself and the governmental/regulatory constraints posed by renovating this historic property.

Forest City's Proposal

Forest City proposes 175 total apartment units, with 169 units in the main Mill building and 6 units in the smaller Power Plant building. (T., 10/03/02, pp. 83-89) *See* Developer's Exhibit 7. In conjunction with that use, Forest City proposes 263 parking spaces: 145 of the spaces will be exterior parking spaces and 118 of the spaces will be interior parking – 106 of which will be located inside the Mill building, and 12 inside the Power Plant. Board Exhibit 1. With parking on the exterior of the buildings maximized, Forest City's architect, Geoffrey Glazer, attempted to create a flexible parking plan to take advantage of existing interior space, not suitable for apartments, to maximize the parking provided inside the buildings. (T. 10/03/02, pp. 84, 107)

One way this was accomplished was by designing a two level parking area in the first story of the Mill with a center drive aisle and parking on either side. (T., 10/03/02, pp. 85, 95-96) A mezzanine floor will be added to create a second level of parking. (T., 10/03/02, pp. 95-96) This parking area would be for residents only, and access would be restricted. (T., 10/03/02, p. 85, 98) Cast-iron columns, however, are located every 10 feet (measured from the center of column to the center of column) within this area and cannot be moved or removed. (T., 10/03/02, pp. 96-100, 155-156) The parking spaces and drive aisles had to be designed around these structural supports. (T., 10/03/02, pp. 98-100)

The other way interior parking was maximized was by making use of otherwise unusable space by designing "tandem" or "stacked" spaces in both the Mill and the Power Plant. (T., 10/03/02, pp. 101-108) "Tandem" or "stacked" parking spaces are large

enough to accommodate two automobiles, but only one of those spaces has direct access to the drive aisle. One car is parked directly in front of the other, with the result that the front car cannot pull out into the drive aisle until the second car moves out of the way. This parking arrangement is similar to that of a single-family house or townhouse with a one-car garage and driveway. All tandem spaces would be leased to one unit. (T., 10/03/02, p. 102)

Forest City's design for the proposed parking was also the result of Forest City's attempts to reconcile and address the community's concerns that sufficient parking be provided on site and that the project not include a parking garage or deck that would obstruct views of the Mill and the site. (T., 10/03/02, pp. 170-172). Forest City was able to accommodate those concerns by creating a plan that maximizes interior parking where it is not visible to the public.

ARGUMENT

I. THE BOARD OF APPEALS PROPERLY AFFIRMED THE HEARING OFFICER'S APPROVAL OF THE DEVELOPMENT PLAN.

Petitioners raise certain alleged deficiencies with regard to the Oella Mill development plan and contend that, because of these deficiencies, the decision to approve the development plan was legally incorrect. Petitioners further contend that the Board of Appeals improperly "deferred" to the Hearing Officer on issues of law relating to the development plan.

Forest City disagrees that the Board deferred to the Hearing Officer on any issue unless the issue involved pure factual findings. Rather, as is evident from its 53-page

opinion, the Board obviously fully considered each issue, taking into account the arguments on both sides, the reasoning provided by the Hearing Officer, and the authorities cited in support thereof. The Board then came to its own conclusion on each issue. Simply because the Board “concurred” with the Hearing Officer’s reasoning on a particular issue does not mean that the Board delegated its decision-making authority to him. On the contrary, a careful reading of the Opinion indicates that the Board took its responsibility seriously and properly carried out its duty, under B.C.C. Section 26-209(d), to decide whether the Hearing Officer’s decision to approve the plan was supported by substantial evidence and was legally correct. On each issue, the Board of Appeals found that the decision to approve the plan was proper.

A. Based on the Overwhelming Weight of the Evidence, the Hearing Officer Properly Determined that the Roadways Surrounding the Oella Mill are Adequate and Safe.

In their Memorandum, Petitioners raise many technical issues relating to the Oella Mill development plan approval. One issue they have not raised, however, is whether there was substantial evidence in the record to support the Hearing Officer’s factual determination that the roadways surrounding the Oella Mill are safe and adequate to handle any increase in traffic resulting from the proposed 175 apartments. Rather, Petitioners argue that the Board of Appeals should have allowed them to retry the “traffic safety” issue on a *de novo* basis during the variance case. Petitioners’ Memorandum, pp. 28-30. The Board correctly refused.

While agreeing that “the nature of the road system and traffic congestion are issues important to the community,” the Board determined these factual issues to be “core

issues in any development proceeding.” Board’s Order, p. 12. As discussed in more detail in the Standard of Review section above, in a development plan appeal, the Board of Appeals sits as a appellate board. *See* B.C.C. § 26-209(c). Instead of allowing additional evidence in the development plan case and, essentially, retrying the issue, the Board properly decided to review the entirety of the record produced before the Hearing Officer and to evaluate the Hearing Officer’s findings on the basis of that record.

The Hearing Officer’s findings, in summary, were as follows:

In sum, given the totality of the testimony offered, both expert and lay, I am not persuaded that the proposed development will so overburden or overwhelm the existing road network so as to create unacceptable conditions. Surely, it is acknowledged and admitted that the proposal will bring about additional traffic in this community; however, that fact in and of itself does not justify a denial or restriction of the plan. The testimony of Mr. Cornelius was persuasive that these increases will not bring about an unacceptable situation from a traffic standpoint.

HO Order, p. 13. Applying the appropriate standard of review, the Board then discussed the extensive evidence before the Hearing Officer and determined that these findings were, indeed, supported by substantial evidence and that “the Hearing Officer was correct in his analysis of the external traffic/road/congestion areas.” Board’s Order, pp. 12-14, 46-50.

In its own review of the evidence, the Board indicated that it found “particularly interesting” Petitioners’ own traffic expert’s advice that “traffic should not be considered as a primary cause for objection.” Developer’s Exhibit 16. In short, there is no dispute that, in reviewing the development plan portion of the case, the Hearing Officer evaluated the evidence, which was strong and substantial, and decided that, not only was the proposed redevelopment for apartment use “acceptable” in terms of anticipated traffic

volumes, but such redevelopment was actually “preferable” and would result in less impact on the roadways than would redevelopment for any other use. HO Order, pp. 12-13.²

B. The Board of Appeals Correctly Rejected Petitioners’ Argument that the Oella Mill Property’s Density was Limited to 20 Units.

Petitioners argue that the project’s density (a measure of permitted dwelling use) should be controlled by regulations governing the adjoining density residential zone, which is DR 3.5 (Density Residential, 3.5 dwelling units per acre), and, therefore, should be limited to a density of 3.5 dwelling units per acre or 20 units in total. Petitioners’ Memorandum, p. 21. Both the Hearing Officer and the Board of Appeals correctly rejected this argument, finding instead that the property was zoned BM-CCC³ and was, thus, governed by B.C.Z.R. Section 235A. HO Order, pp. 10-11; Board’s Order, pp. 15-16.

Section 235A.1 permits “apartments” in the CCC district, a use which normally would not be permitted in the BM zone. Section 235A states that “[c]ontrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. Districts superimposed on B.M. zones” and provides that “[t]he specific number

² As additional support for its decision not to take new traffic safety evidence and testimony during the variance case, the Board further explained that it was fully within its discretion to control the conduct of its own proceedings and to limit “repetitious” or “cumulative” evidence. Board’ Order, pp. 49-50. See Rule 7 of the Rules of Practice and Procedure of the County Board of Appeals, attached as Memorandum Exhibit 1. In its written decision, the Board outlined all of the testimony provided below on this issue and commented “[w]hat more could be said, than what already has been said and recorded in those transcripts.” Board’s Order, p. 49. The Board of Appeals properly exercised its discretion, and the Circuit Court should affirm.

³ BM (Business, Major) with a CCC (Commercial, Community Core) overlay district superimposed on it. A small portion of the Oella Mill lot (.18 acres) extends across Oella Avenue and is zoned DR 3.5. This portion of the lot has long been used for parking for the Mill, and no changes to those parking spaces, other than possible repaving, are proposed.

of dwelling units or density units, as such, shall not be directly limited.” B.C.Z.R. §§ 235A and 235A.3 (emphasis added). Because Section 235A specifically deals with both apartment use and density, there is no justification for resort to an examination of either the regulations governing the BM zone generally or to the provisions governing the adjoining DR zone. Having reviewed B.C.Z.R. Section 235A, particularly Section 235A.3, the Hearing Officer and the Board of Appeals both determined that the language of this section is “clear and unambiguous” in its intent that BM-CCC zoned properties, such as the Oella Mill, not be limited to a specific number of dwelling units. HO Order, pp. 10-11; Board’s Order, pp. 15-16.

Petitioners’ argument that density is limited to 20 units is in direct opposition to, not only the plain language of the Zoning Regulations themselves, but also the consistent application of these regulations by Baltimore County for well over twenty years. George Gavrelis,⁴ Director of the Office of Planning and Zoning from 1963 to 1972, explained to the Hearing Officer that the Baltimore County Council intended there to be only *indirect* limitations on density, such as limitations created by a maximum floor area ratio or by a requirement that amenity open space be provided. (T., 5/09/02, pp. 200-222) For example, B.C.Z.R. Section 235.5 limits the maximum floor area ratio (FAR) of most BM zoned properties, including those in the CCC district, to 4.0. With a 4.0 FAR, for every 1

⁴ George Gavrelis was the Director of the Baltimore County Office of Planning and Zoning at the time the CCC district was created, and he testified as an expert land planner for Forest City before the Hearing Officer in the development plan case and the Board of Appeals in the variance case.

square foot of site area, a developer could have no more than 4 square feet of building area. (T., 5/09/02, p. 207) This restriction would limit the size of a building and, consequently, would *indirectly* limit the total number of dwelling units that could be provided on a site. (T., 5/09/02, pp. 206-207)

The Hearing Officer and the Board of Appeals found this testimony to be “credible and persuasive” support for an application of the plain meaning of Section 235A. HO Order, pp. 15-16; Board’s Order, pp. 10-11. This interpretation of the Zoning Regulations is legally correct, and the Circuit Court, owing deference to the “expertise” of the Board of Appeals, should affirm this decision.

C. The Board of Appeals Properly Ruled that the Local Open Space Requirements of the Adequate Public Facilities Law (Bill No. 110-99) do not Apply to this Project.

Petitioners argue that the local open space requirements of the Adequate Public Facilities law (Bill No. 110-99, codified at Section 26-491 through Section 26-500 of the Baltimore County Code) should have been applied to this project. Having reviewed Forest City’s proposal and Bill No. 110-99, the Hearing Officer and the Board of Appeals both properly rejected this argument. HO Order, pp. 8-9; Board’s Order, pp. 17-18.

By its own terms, Bill No. 110-99 applies only to “residential development” defined as “the development of property for the construction of dwelling facilities.” *See* B.C.C. § 26-492(g). As the Board of Appeals articulated, a proper analysis of this issue hinges on whether Forest City is proposing to “build or fabricate” dwelling facilities on site. Board’s Order, p. 18. Because the undisputed facts demonstrated that “there is to be no change in building footprint and no new external construction,” the Hearing Officer

and the Board of Appeals both determined that redevelopment or renovation of the existing buildings would not constitute “construction” of dwelling facilities as required by Bill 110-99. HO Order, p. 9; Board’s Order, p. 18.

This decision is consistent with the determination of Baltimore County’s Department of Recreation and Parks, who administers the local open space program, as was testified to by Mr. Jan Cook on behalf of his department. (T., 5/09/02, pp. 162-199) As Mr. Cook explained, an application of the local open space provisions to this project would require approximately 4 acres of open space on this 5.7 acre parcel of land (1000 square feet of open space per dwelling unit = 175,000 square feet or 4.0 acres of open space). (T., 5/09/02, p. 166) The Oella Mill building (which takes up 1.3 acres), the smaller Power Plant building, the Patapsco River, and the existing steep slopes take up well over 1.7 acres of the 5.7 acre site. Therefore, without removing the Mill itself, the very structure Baltimore County insists must be protected due to its historic significance, Forest City could not provide open space in strict compliance with Bill No. 110-99.

In making its determination, referring back to Mr. Cook’s testimony, the Board found convincing that application of Bill No. 110-99 to this property would “be to require more open space than could possibly be provided,” a result certainly not intended by the Baltimore County Council. Board’s Order, p. 18. The Board’s analysis of Bill No. 110-99 and its application – or, rather, lack of application – to this project is correct and should be affirmed by the Circuit Court.

D. The Board of Appeals Correctly Determined that Use of the Parking Spaces across Oella Avenue was Appropriate.

Petitioners have alleged that the parking spaces across Oella Avenue do not comply with the standards set out in B.C.Z.R. Section 409. First, Petitioners have alleged that a use permit for “business or industrial parking in residential zones” under Section 409.8.B is required for 11 of these spaces to be used in conjunction with the proposed apartments. Secondly, Petitioners argue that none of these spaces can lawfully be located along Oella Avenue under Section 409.8.C.2. Based on the facts presented by Forest City, the Hearing Officer properly rejected Petitioners’ arguments, and the Board of Appeals properly affirmed this decision. HO Order, pp. 13-15; Board’s Order, pp. 18-19.

With regard to the first issue, the Hearing Officer determined that the 11 parking spaces located across Oella Avenue in a DR 3.5 zone would not be considered “business or industrial parking” when used in conjunction with the proposed apartment use, and, therefore, no use permit would be required. Rather, referencing the use classifications contained in B.C.Z.R. §§ 409.6.A.1, A.2, and A.3, he found the proposed use to be “residential in character.” HO Order, p. 14. From the Board’s Order, it is clear that the Board of Appeals conducted an appropriate review of the Hearing Officer’s reasoning in support of this decision and found no error. Board’s Order, pp. 18-19.

The Hearing Officer also properly rejected the Petitioners’ argument with regard to the application of the “performance standards” to these parking spaces. The performance standards to which Petitioners refer were passed in 1988 (Bill No. 26-88). As the Hearing Officer found, these parking spaces have been in existence “for many

years” and have, in fact, been used in conjunction with both the current commercial use of the Mill and the prior industrial use of the Mill without special relief being required. HO Order, p. 15. These spaces were clearly in existence and in use before the passage of new performance standards, and these spaces would, therefore, be considered nonconforming by Baltimore County. (T., 5/15/02, pp. 36-40) The Baltimore County Zoning Regulations define a “nonconforming use” as “a legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such use.” B.C.Z.R. § 101. Such uses are permitted to continue unless abandoned or discontinued. B.C.Z.R. § 104.

As evidentiary support for this finding, the Hearing Officer cited the Site Plan for CRG and Zoning for Oella Mills (PDM # I-226, approved by CRG on September 16, 1988, incorporated into the Hearing Officer’s file in this matter), which clearly showed the parking in existence in this area as of 1988. HO Order, p. 15. The Hearing Officer also noted the absence of any comment by either the Zoning Review office or the Department of Public Works requiring removal of the 29 spaces or requiring Forest City to obtain any additional relief, such as formal confirmation of the nonconforming nature of these spaces. HO Order, p. 15. Having found there to be sufficient support in the record for these factual findings, the Board was not permitted to substitute its judgment for that of the Hearing Officer. Board’s Order, p. 19.

Baltimore County does not, as a general rule, require parking spaces approved under “old” standards to be brought into compliance every time “new” standards are adopted. Nor does Baltimore County require every property owner with parking spaces

that do not precisely comply with the latest standards to come in for a public hearing to confirm that these spaces may still be used, although Forest City would argue that such a public hearing did, in fact, take place before the Hearing Officer, who ruled in favor of Forest City. The Hearing Officer found the use of these spaces to be “appropriate,” and, finding no error, the Board of Appeals properly affirmed. HO Order, p. 15; Board’s Order, p. 19. These decisions are based on substantial evidence in the record and result from a proper application of Baltimore County law. Therefore, the Circuit Court should affirm.

E. The Board of Appeals Properly Ruled that Residential Transition Area Restrictions Do Not Apply to this Property.

Petitioners also argue that the Board of Appeals erred when it held that the residential transition area (“RTA”) restrictions contained in B.C.Z.R. Section 1B01.1.B do not apply to the Oella Mill property. Petitioners argue that RTA requirements apply to any property, regardless of its zoning, with DR zoned property along its tract boundary.

On this issue, Forest City cited the language of the regulations, themselves, which place these restrictions under B.C.Z.R. Section 1B01, entitled “Regulations with Respect to D.R. Zones in General,” and, particularly, under subsection 1B01.1, entitled “General Use Regulations in D.R. Zones.” Mitchell Kellman⁵ also confirmed the long-standing policy in Baltimore County that RTA restrictions apply only to DR zoned properties, as is further indicated by the Comprehensive Manual of Development Policies (Developer’s

⁵ Due to his years of experience working in the Zoning Office of the Department of Permits and Development Management, Mitchell Kellman was accepted by the Hearing Officer as a zoning expert with particular expertise working with the Baltimore County Zoning Regulations. (T., 6/12/02, pp. 219-220, 247)

Exhibit 3, p. 28)⁶, by legislative action by the Baltimore County Council as recently as 1994 specifically incorporating the RTA requirements into the OR-1 and OR-2 zones (Bills 186-94 and 108-94, codified at B.C.Z.R. §§ 205.4, 206.4), and related Final Report by the Planning Board, dated July 22, 1994, wherein the Planning Board clearly articulated that, without further legislation, the RTA did not apply in those zones. If Petitioners' argument had any validity, such action by the County Council would have been unnecessary.

The Hearing Officer and the Board of Appeals properly confirmed that the RTA requirements apply only to D.R. zoned properties and not to this project in the BM-CCC zone. HO Order, pp. 15-19; Board's Order, pp. 19-25. Specifically, as with the Hearing Officer, the Board found convincing "the legislative history of the County Council's legislative enactments, along with a reasonable interpretation of the legislation and its application by Baltimore County zoning authorities" and agreed with the Hearing Officer that "the testimony of respective experts and the position of the County staff charged with the enforcement and interpretation of the B.C.Z.R. are all compelling factors that the RTA does not apply to this site." Board's Order, pp. 23, 24 (*quoting* HO Order, p. 17).

Petitioners criticize the Hearing Officer and the Board of Appeals for their reliance on a Planning Board report and the testimony of Mitchell Kellman, former employee of the Zoning Office, to ascertain the legislative intent of the Baltimore County Council. Petitioner's Memorandum, pp. 17-18. In *Marzullo v. Kahl*, the Court of

⁶ The CMDP was adopted pursuant to B.C.Z.R. Section 504, which requires County Council approval.

Appeals approved of the Board's reliance on similar evidence, a Baltimore County Planning Board report and testimony from a former employee of the Baltimore County Office of Planning and Zoning, to ascertain the "legislative intent" of the Baltimore County Council and to interpret a particular section of the Baltimore County Zoning Regulations. 366 Md. 158, 175-176, 783 A.2d 169 (2001).

The Hearing Officer and the Board of Appeals exhaustively reviewed this issue and properly determined that Petitioners were wrong. The Circuit Court should defer to the administrative agency's interpretation and application of the Zoning Regulations and affirm the ruling that the RTA requirements do not apply to the Oella Mill project.

F. The Board of Appeals Properly Ruled that a Pending Letter of Map Amendment did not Prevent Plan Approval.

Petitioners argue that the Hearing Officer and the Board of Appeals erred in approving the development plan without Forest City having obtained a "Letter of Map Amendment" from the Federal Emergency Management Agency ("FEMA"), approving the location of the floodplain as shown on the development plan and as determined by Baltimore County. In their Memorandum, Petitioners suggest that Forest City's ability to convince FEMA to relocate the floodplain was so speculative as to make development plan approval meaningless. Petitioners' Memorandum, pp. 9-12. Petitioners assert that, "at the time of the Board's decision in December 2002, the developer had not succeeded in selling its idea to FEMA." Petitioners' Memorandum, p. 9.

Petitioners' representations are not supported in the record. The "Letter of Map Amendment" was actually approved in August 2002. *See* Memorandum Exhibit 2. This argument is, therefore, moot.

Even if FEMA's determination did not moot the issue, the Board must still be affirmed. In addressing this issue, the Board of Appeals considered the factual presentation before the Hearing Officer, which included comment from the Department of Public Works and testimony from Charles Main, professional engineer for Forest City, the arguments made by counsel, and the reasoning set forth by the Hearing Officer for his decision on the matter. Board's Order, pp. 25-28. The Board of Appeals then analyzed the relevant code sections.

Specifically, the Board considered B.C.C. Section 26-276, which provides that no development is permitted in a riverine floodplain. B.C.C. § 26-276(a). Section 26-276 further provides that, in areas where the base flood elevation has not been established, "the 100-year floodplain and flood elevation shall be determined by means of a flood study prepared in accordance with the requirements of the department of public works design manual and sealed by a registered professional engineer *prior to the issuance of a permit or the recording of a subdivision plat.*" B.C.C. § 26-276(b) (emphasis added).

This distinction between base flood elevation having been determined or not determined is important to the issue of the time frame for obtaining a Letter of Map Amendment. An examination of FEMA's Flood Insurance Rate Map for the Oella area clearly shows that the Oella Mill property lies within Zone A, which is explained in the Key to Map as "[a]reas of 100-year flood; *base flood elevations and flood hazard factors*

not determined.” Developer’s Exhibit 37 (emphasis added). Without the base flood elevation having been determined, Section 26-276 clearly indicates that a decision regarding the one-hundred-year floodplain and flood elevation “shall be determined by means of a flood study,” such as the one prepared for Baltimore County and relied on by DPW and Mr. Main in this case, and is required only at the building permit or record plat stage.

Ultimately, the Board agreed with the Hearing Officer’s determination that Forest City had properly shown the floodplain “as established and determined by Baltimore County” on the development plan and had presented “accurate information sufficient for plan approval through Phase I of the development review process.” HO Order, p. 21; Board’s Order, pp. 26, 28. Based on its own interpretation of the relevant authorities, the Board agreed that B.C.C. Section 26-276 governed the timing of this matter and, as such, the “Letter of Map Amendment” issue was not required to be resolved until Phase II or before the issuance of permits or the recording of a plat. Board’s Order, pp. 25-28.

Both the Hearing Officer and the Board of Appeals, however, imposed a “condition” requiring Forest City to have the FEMA map amended prior to the filing of a record plat or the issuance of permits. HO Order, pp. 21-22, 25; Board’s Order, pp. 28, 53. According to the analysis of the Hearing Officer and that of the Board, though, this condition does no more than require Forest City to comply, in the future, with existing law: “...the floodplain as established and determined by Baltimore County is properly shown on the plan and...the Developer had presented accurate information sufficient for plan approval through phase one of the development review process.” Board’s Order,

p. 28. The approval of the development plan is not actually contingent upon the fulfillment of this condition, although permits cannot be issued and the plat cannot be recorded until Forest City complies.

Even if considered a condition upon which development plan approval is based, Petitioners' assertion that an administrative agency does not have the authority to impose a "contingent" condition is not supported by Maryland case law. *See Halle Companies v. Crofton Civic Ass'n*, 339 Md. 131, 146-149, 661 A.2d 682 (1995) (holding that, in considering a special exception request, Board of Appeals had the authority to condition approval on applicant providing access through adjacent property even though the applicant did not even own or have any rights in the adjacent property as of the date of approval). Merely because a condition imposed involves an element of "uncertainty," such as having to obtain interest in a third party's property as in the *Halle Companies* case, does not make the approval of a development plan invalid. *Id.* *See also* B.C.C. § 26-206(o), which gives the Hearing Officer the authority to impose "conditions."

The Board of Appeals acted properly in affirming the Hearing Officer's decision to approve the development plan despite the then pending "Letter of Map Amendment." The decision to allow the development plan to proceed forward was appropriate with or without the questioned "condition." The Circuit Court should affirm.

II. THE BOARD'S DECISION TO GRANT THE REQUESTED VARIANCE RELIEF IS BASED ON STRONG AND SUBSTANTIAL EVIDENCE AND SHOULD BE AFFIRMED.

In addition to development plan approval, adaptive reuse of the Oella Mill property for the proposed apartments requires that Forest City obtain variances from the

Baltimore County Zoning Regulations. Specifically, Forest City has sought the following variances:⁷

- (1) a variance from B.C.Z.R. Section 409.4.B to permit 32 interior parking spaces to be located so as not to adjoin or have direct access to an aisle, *i.e.*, tandem or stacked spaces; and
- (2) a variance from B.C.Z.R. Section 409.4.C to permit two-way drive aisles in the interior parking lot to have a minimum width of 17 feet 7 inches in lieu of the minimum required 22 feet.

BURDEN OF PROOF FOR PETITION FOR VARIANCE

On appeal from the Zoning Commissioner, a request for variance relief is heard *de novo* by the Board of Appeals. In Baltimore County, the Board of Appeals may grant a request for a variance “where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.” B.C.Z.R. § 307.1. The proper application of Section 307.1 requires the Board to determine first that the property where a use is proposed is unique and that such uniqueness causes a disproportionate impact in terms of the application of the Zoning Regulations. *Cromwell v. Ward*, 102 Md. App. 691, 694, 651 A.2d 424 (1995). Second, the Board must determine whether those unique circumstances make it practically difficult for the owner to utilize the property for a permitted use without coming into conflict with the Zoning Regulations. *Id.* at 694-695.

⁷ Forest City also requested a variance to permit apartment windows to be as close as 8 feet to a property line in lieu of the 25 foot setback required under B.C.Z.R. Section 235A.2. The windows are existing, and it is simply the change in use to apartments that triggers the need for the variance. In their Memorandum, Petitioners have not contested the grant of this variance.

Proving practical difficulty is *not* intended to be a particularly stringent test, and a petitioner does not have to show that no reasonable use of the property may be made without the variances. Simply put, practical difficulty means that, given the balance of interests of the property owner, neighboring property owners, and the public in general, requiring strict compliance with the zoning regulations would unnecessarily burden the property owner when the owner attempts to use the property for a permitted use. *McLean v. Soley*, 270 Md. 208, 214-215, 310 A.2d 783 (1973). In determining whether a practical difficulty exists, deserving of a variance, the Board of Appeals should consider: whether requiring conformity with the applicable zoning regulations would be unnecessarily burdensome; whether granting the variance would do substantial justice; and whether the requested variance would be consistent with the spirit of the ordinance and the interests of public safety and welfare. *Id.*

At the hearing before the Board, Forest City produced strong and substantial evidence that the requested variance relief is warranted. In their Memorandum, Petitioners do not appear to be contesting that there was sufficient evidence for the Board to have found the required “uniqueness” and “practical difficulty.” Instead, Petitioners focus on three issues: (1) the Board of Appeals’ refusal to allow Petitioners to re-try the “traffic safety” issue; (2) the Hearing Officer’s decision to allow Forest City to modify the requested variance relief relating to drive aisle width; and (3) their argument that Forest City’s own proposal has resulted in a “self-imposed hardship.” Because the traffic safety issue is fully addressed above in Section I.A. of this Memorandum, Forest City will address only the two remaining issues.

A. The Hearing Officer's Decision to Allow a Modification to the Requested Variance Relief was Proper.

Forest City filed a Petition for Variance requesting relief from the strict application of B.C.Z.R. Section 409.4.C, which requires two-way drive aisles to be 22 feet in width. Forest City's Petition for Variance specifically requested that it be permitted to provide a drive aisle with a width of 18 feet 6 inches. This request pertains to the interior parking areas, which areas will be gated and accessible only to future residents of the Mill. The subject property was posted with notice of the hearing twice for a period of approximately thirty days, and a notice of the hearing was published in *The Jeffersonian* newspaper.

At the hearing before the Hearing Officer on June 12, 2002, Geoffrey Glazer, architect for the Oella Mill project, testified that there are cast-iron columns located throughout the first story of the Oella Mill building, where the parking areas will be constructed, which are original structural supports and cannot be moved or removed. (T., 6/12/02, pp. 155-156) These cast-iron columns are located every ten feet, measured "on center." (T., 6/12/02, pp. 155-156) As Mr. Glazer explained, the request for variance to have a drive aisle with a minimum width of 18 feet 6 inches had been based on his measurement of "center line of column to center line of column." (T., 6/12/02, pp. 184-185)

At the hearing, Petitioners complained that this method of measurement was flawed, and, when measured from edge of column to edge of column, the actual drive aisle would be as narrow as 17 feet 7 inches. (T., 6/12/02, pp. 185-190, 301-305) To alleviate any confusion in this regard, Forest City requested that the Hearing Officer

permit it to amend its Petition for Variance to reflect a request for a minimum drive aisle of 17 feet 7 inches within the Oella Mill building. (T., 6/12/02, pp. 407-408) No actual changes were proposed to the parking layout or to the plan itself.

The Hearing Officer indicated that he understood the issues surrounding the measurement of the drive aisle and that, on this fifth day of hearings, he would not require Forest City to complete any additional procedural steps, such as re-posting or re-advertising, in order for him to consider the variance request. (T., 6/12/02, pp. 187-190, 409-413) He noted that everyone with an interest in this proceeding was present at the hearing, and it was unreasonable to argue that others would have attended had they known the drive aisle was to be slightly narrower than expected. (T., 6/12/02, pp. 189-190, 410-412) The parking was, after all, interior to the Mill building and would be accessible only to future residents.⁸

The Hearing Officer acted within his authority and properly allowed this technical amendment without re-posting of the property. Petitioners and others members of the community had sufficient notice of the character of the proceeding, which was a request for a reduced drive aisle width inside the building, and were clearly prepared to address any issues related to the variances. In fact, it was Petitioners who initially questioned the method of measurement. The Hearing Officer's decision to allow Forest City to proceed

⁸ The requested amendment was also the subject of a Motion for Reconsideration filed by Forest City with the Hearing Officer. In the Hearing Officer's Amended Order, the Hearing Officer granted the Motion for Reconsideration and formally permitted the amendment, ruling this amendment to be "of a technical nature." HO Amended Order, pp. 1-2.

is consistent with authority from the Court of Appeals that would indicate that the notification Forest City provided was sufficient:

here is the heart of the requirement of notification in administrative proceedings, the noticee should be apprised clearly of the character of the action proposed and enough of the basis upon which it rests to enable him intelligently to prepare for the hearing. If this minimum requirement is met, the notification is adequate....

Cassidy v. County Board of Appeals of Baltimore County, 218 Md. 418, 424-425, 146 A.2d 896 (1958) (*quoting* 2 Merrill, *Notice*, Sec. 796). In *Cassidy*, the Court of Appeals held that there was substantial compliance with the notice requirements of a zoning ordinance even though the notice referred to a “Petition for Reclassification” rather than a “Petition for Special Exception.”

Certainly, the notice provided by Forest City to Petitioners and to other members of the Oella community that it was seeking relief as to the interior drive aisle was sufficient, and a revision to that request resulted in no prejudice to anyone, especially given the required *de novo* hearing before the Board of Appeals on such relief. Before the Board, Petitioners had an additional three days in which to present any evidence and testimony on the variance relief.

B. The Unique Features of the Oella Mill Property Result in a “Practical Difficulty” for Anyone Seeking to Adaptively Reuse the Mill and are Not Self-Created.

Before the Board of Appeals, Forest City presented a wealth of information on the background and history of the property and on the Oella Mill building itself through its own historical and architectural experts, Donald Kann and Geoffrey Glazer, and through Charles Wagandt, former owner of the entire Oella village. (T., 10/03/02, pp. 19-52, 52-

81, 81-140) Factors addressed through the testimony and evidence include: the presence of the historic Mill building, which pre-dates the Baltimore County Zoning Regulations; the designation as a National Register Historic District with the Mill as the “key component;” the fact that Oella is one of last examples of such mill villages in the United States; the requirement that the Mill building be preserved; and the property’s location along the Patapsco River, which presents significant site constraints, including steep slopes and grade changes, floodplains and forest buffers.

With the overwhelming evidence and testimony provided by Forest City, which was unrebutted by Petitioners, the Board easily concluded “that the site and the Mill itself, along with Power Plant, are ‘unique’ within the meaning and context of ‘uniqueness.’” Board’s Order, pp. 31-33 In fact, the Board found that “uniqueness” had been established “clearly and convincingly.” Board’s Order, p. 33. A review of the Board’s Order and the record indicates that this finding is well-supported.

Forest City also presented strong and substantial evidence and testimony that the “uniqueness” of the Oella Mill property results in a “practical difficulty” for anyone attempting to renovate and reuse the building and the site. As Forest City’s experts explained, a potential developer is compelled to work within, not only the constraints of the site itself, which leave little room for basic site requirements, but also the physical constraints of the building itself and the governmental/regulatory constraints posed by renovating this historic property. Having maximized the exterior parking on site, without constructing a parking garage, Forest City, therefore, sought to utilize what is otherwise

unusable space located on the first story of the Oella Mill building to create two parking levels for resident parking with gated access.

The parking spaces and drive aisles, though, had to be designed around the existing cast-iron structural columns located every 10 feet, resulting in wider parking spaces than required and narrower drive aisles than required. Forest City's expert traffic engineer, Mickey Cornelius, confirmed that, because the parking spaces themselves were actually wider than necessary, having a drive aisle of 17 feet 7 inches would still provide for "safe and efficient movement for motorists" in these parking areas. In fact, as Mr. Cornelius explained, this type of design, with larger spaces and narrower aisles, is actually a "preferred method" of designing parking areas. (T., 10/08/02, pp. 7-14) *See also* Board Exhibits 15, 16.

The Board considered the evidence presented by both sides during the three days of testimony and concluded that Forest City had presented "overwhelming expert opinion and conclusions concerning the uniqueness and practical difficulties imposed on the Developer," while the "testimony and evidence submitted by Protestants was less than compelling." Board's Order, pp. 36-38, The Board specifically articulated its findings with regard to the evidence demonstrating "practical difficulty:"

The Board, in reaching its conclusion that "practical difficulty" issues are present in this case to warrant approval of the variance, considered a number of factors. The testimony of several witnesses for the Developer was clear and convincing, in particular, that of Mr. Glazer relative to his description of the interior of the two buildings, the structure designed in another era for mill work, and the presence of cast iron columns that cannot be removed due to structural concerns.

The general topography of the area has limited the parking available on the exterior of the building. To maximize the space available in the first story of the

building, the architect has created a two-level parking area in the first story of the Mill that calls for a center drive aisle and parking utilized on both sides – and suggested use of unusual or unusable space by designing tandem or stacked spaces in both the Mill and the Power Plant. It is obvious to the Board that the historic posture of both the Mill and the Power Plant, coupled with the constraints imposed by the Department of the Interior in preserving the integrity of the exterior of the structures and limitations imposed by the existing footprint, cause many significant problems in the parking configuration that warrants approval of the variance requested due to practical difficulties presented.

Board's Order, pp. 51-52. These factual findings are based on overwhelming evidence in the record and, essentially, have not been challenged by Petitioners.

Petitioners argue, however, that any hardship experienced by Forest City is "self-created." Petitioners' Memorandum, p. 26. Petitioners would apparently argue that, because Forest City has come up with a plan to renovate and reuse this property, which requires some form of relief from the Baltimore County Zoning Regulations, Forest City has created the resulting hardship and, thus, is not entitled to relief under Maryland law. This argument is flawed. Maryland courts do not define "self-created hardship" in this manner.

Rather, as the Court of Appeals has recently explained, "self-created hardship requires an affirmative action, exclusively by a property owner or his predecessor in title, that is itself the sole reason for the need for the variance." *Stansbury v. Jones*, 372 Md. 172, 198, 812 A.2d 312 (2002). By way of example of the traditional type of self-created hardship, the Court of Appeals cited to *Cromwell v. Ward*, wherein the property owner, after having already constructed a garage in violation of the maximum height requirement, filed an "after the fact" application for a variance; and to *Ad + Soil, Inc. v. County Comm'rs of Queen Anne's County*, wherein the property owner, without prior

approval, constructed a facility that violated the county's zoning ordinance, including the setback requirements, and then sought variance relief. *Stansbury*, 372 Md. at 192 (citing *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995) and *Ad + Soil, Inc. v. County Comm'rs of Queen Anne's County*, 307 Md. 307, 513 A.2d 893 (1986)). Compare *Richard Roeser Professional Builder, Inc. v. Anne Arundel County*, 368 Md. 294, 793 A.2d 545 (2002) (holding that the purchase of property, with notice that the property is subject to area restrictions, is not a self-created hardship that precludes the purchaser from seeking an area variance).

The facts surrounding the Oella Mill project are clearly far removed from the "traditional concept of a self-created hardship." Forest City has taken no affirmative action with regard to the site. It did not build the Oella Mill, and it did not choose the siting or layout of the buildings. Simply proposing potential renovation and reuse of an existing historic building cannot legitimately be characterized as "self-creating" a hardship. Faced with a historic structure from "another era," as the Board described it, and extremely difficult site constraints, Forest City simply proposed a permitted use of the property and, prior to any interior alterations, sought approval for a variance so it could put the property to its best use. The ability to seek a variance would be rendered meaningless if it was the mere filing of such a request that resulted in an impermissible "self-created hardship." Petitioners' argument makes no sense and should be summarily rejected.

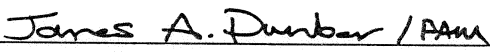
The Board of Appeals, having reviewed the overwhelming evidence from Forest City, properly granted the requested variance relief. Applying the appropriate deferential

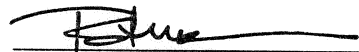
standard of review to the Board's decision to grant of the variances, the Circuit Court should affirm.

CONCLUSION

For all the above-stated reasons, Forest City requests that the Circuit Court affirm the decision of the Board of Appeals in this matter, dated December 4, 2002, as amended on December 10, 2002.

Respectfully submitted,


James A. Dunbar


Patricia A. Malone
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28TH day of April, 2003, a copy of the foregoing RESPONDENTS' ANSWERING MEMORANDUM was mailed to John V. Murphy, Esquire, Murphy & Murphy, LLC, 14 North Rolling Road, Catonsville, Maryland 21228-4848, Attorney for the Petitioners.


Patricia A. Malone

APPENDIX C

RULES OF PRACTICE AND PROCEDURE OF COUNTY BOARD OF APPEALS*

*Editor's note—Printed herein are the rules of practice and procedure of the county board of appeals. History notes show the source of amendments. Except for the correction of obviously misspelled words, the rules are published as found in the 1978 Baltimore County Code, as amended, and all other changes are encased in brackets.

Charter reference—County board of appeals, art. VI.

Cross references—Time limit for appeals to board of appeals, § 1-7; board of appeals, § 2-351 et seq.

Rule 1. *General.*

a. The county board of appeals shall select one of its members to be the chairman of the board, and he shall serve as chairman at the pleasure of the board. The chairman shall preside at all meetings of the county board of appeals, and in his absence he shall designate another member of the board to sit in his place as acting chairman.

b. Meetings of the county board shall be held as determined by the chairman, but never less than weekly; and the board shall meet at such other times as the board may determine.

c. Three (3) members of the board of appeals, as designated by the chairman, shall sit for the purpose of conducting the business of the board; and a majority vote of two (2) members shall be necessary to render a decision, except that, in the event of illness or death of a sitting member, upon agreement of counsel of record or parties of record, two (2) members may continue to sit for purposes of concluding any matter before the board of appeals.

d. All appeals to the board from decisions of the zoning commissioner or deputy zoning commissioner shall be in conformance with the rules of the zoning commissioner of Baltimore County with respect to the form of appeal, and the filing fees shall be as established either by said rules of the zoning commissioner or by the Zoning Regulations of Baltimore County.

Rule 2. *Notice.*

a. No hearing shall be conducted without at least ten (10) days' notice to all parties of record or their counsel of record, unless otherwise agreed to by all such parties or their counsel of record.

b. Postponements and continuances will be granted at the discretion of the board only upon request in writing by an attorney of record, addressed to the board and with a copy of every other attorney of record, or party of record (if not represented by counsel) entitled to receive notice, in accordance with section 500.11 of the Baltimore County Zoning Regulations, setting forth good and sufficient reasons for the requested postponement.

c. No postponement shall be granted within fifteen (15) days next prior to the hearing date except in extraordinary circumstances and for a reason satisfactory to the board, given by the party requesting such postponement indicating that the circumstances requiring the postponement are of any unusual and extraordinary nature.

d. All records and dockets of the board shall be open to the public during normal business hours.

e. In appeals from decisions of the zoning commissioner, formal notice of hearings, continuances and decisions of the board will be provided only to those persons entitled to receive same in accordance with section 500.11 of the Baltimore County Zoning Regulations.

Rule 3. *Appeals.*

a. No appeal shall be entertained by the board of appeals unless the notice of appeal shall state the names and addresses of the persons taking such appeal.

b. An appeal may be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal.

c. Unless otherwise provided for by statute, all appeals to the board of appeals, subject to and limited by statutory authority to hear appeals, shall be made within thirty (30) days from the date of the final action appealed.

Rule 4. *Conduct of hearings.*

a. All hearings held by the county board of appeals shall be open to the public. No hearing shall be private even though all parties agree. The county board of appeals shall have the power to administer oaths, and all witnesses shall testify under oath.

b. The chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.

c. A hearing may be adjourned from time to time for good cause shown and if the time and place of reconvening the hearing is announced at

adjournment, no further notice of reconvening shall be required. If the time and place of reconvening is not announced at adjournment, notice of time and place of reconvening shall be given as required in rule 2a.

d. Depositions shall not be allowed unless by agreement of all parties or their counsel of record.

Rule 5. *Subpoenas.*

a. The county board of appeals shall have the power to compel the attendance of witnesses and to require the production of records and documentary or other tangible evidence.

b. The board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party to any hearing; but subpoenas will not be issued upon application unless such application is in writing and sets forth the persons, records, books, papers or other documents to be produced and a general statement as to the purpose.

Rule 6. *Appearances and practice before the board of appeals.*

a. Any individual who is a party to a proceeding before the board may appear in his own behalf; and member of a partnership may appear as representing said partnership if it is a party; a duly authorized officer of a corporation, trust or an association may appear as representing said body, if it is a party to the proceedings; and a duly authorized officer or an employee of any political subdivision or body or department may represent the same before the board.

b. Any party may be represented in any proceeding by an attorney-at-law admitted to practice before the Court of Appeals of Maryland.

c. No person shall appear before the board in a representative capacity, engage in practice, examine witnesses or otherwise act in a representative capacity except as provided in sections a. and b. above.

d. When an attorney wishes to appear in any proceeding in a representative capacity which involves a hearing before the county board of ap-

peals, he shall file with the board a written notice of such appearance, which shall state his name, address, telephone number, and the names and addresses of the persons on whose behalf he has entered his appearance.

Rule 7. *Evidence.*

a. Any evidence which would be admissible under the general rules of evidence applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may be received; but the board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence, and the number of witnesses may be limited if it appears that their testimony may be merely cumulative.

b. All evidence, including records and documents in the possession of the agency, of which it desires to avail itself, shall be offered and made part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

c. Prepared statements may be read by participants in the hearing if they include factual material and do not include argument, provided copies of said statements have been delivered to the board and opposing counsel at least five (5) days prior to hearing, and their admissibility ruled upon, the same as if the factual content were presented in the usual manner. "Prepared statements" within the meaning of this section shall not include factual reports, written summations, letters, expert opinions of professional expert witnesses and other such similar documents.

d. Except as may otherwise be provided by statute or regulations, the proponent of action to be taken by the board shall have the burden of proof.

e. Any official record or entries therein when admissible for any purpose may be evidenced by an official publication thereof or by a copy at-

tested by the officer having legal custody of the record, and the appearance of the officer will not be required unless demanded by a party to the case and for good cause shown to the board. This rule does not prevent any party from summoning any proper witness to attend any hearing before the board.

f. Records of other proceedings before the board may be offered in evidence by the production of the files containing said records of such other proceedings.

g. In such cases as the board may determine, it may by order require that the direct testimony of all "expert" witnesses be submitted in writing, accompanied by copies of all exhibits to which reference is therein made, unless such are of a voluminous nature or within the files of, or readily available to, the board of appeals, in which case adequate reference shall be made thereto, which testimony shall be submitted by the parties required so to do and under the time and service provisions as contained in said order. Thereafter, said "expert" witnesses shall be personally present at the hearing for affirmation of their written statement and exhibits previously submitted and for cross-examination.

Rule 8. *Special rule pertaining to persons appearing before the board as representatives of civic or improvement associations.*

a. Before any person shall testify on behalf of any civic or improvement association, it shall be shown that the person has accurate knowledge of the number of members in the association and geographical limits of the association.

b. Before any such person shall testify it shall also be shown that the person is authorized to speak for and present the views of the civic or improvement association.

c. Such authorization shall consist of presenting at the hearing or prior thereto a resolution in duplicate duly adopted by the association at its annual meeting or first meeting of each year, signed by the president and attested by the secretary, providing that the responsibility for review and action on all zoning matters be placed in its board of directors or a duly elected zoning committee.

d. Before any such authorized person shall testify, it shall be shown by written affidavit in duplicate, signed by the president of the association and attested by the secretary, that the person is currently a duly elected member of the board of directors or zoning committee of that association, or is a duly designated employee or an authorized representative of that association, or is an attorney-at-law appointed to represent the board of directors or zoning committee.

e. Before any such authorized person shall testify, a resolution stating the position of the association as adopted by the board of directors or zoning committee, signed by the president and attested by the secretary, shall also be produced in duplicate at the hearing.

Rule 9. *Special rule pertaining to original petitions for reclassification, special exception and/or variance.*

a. *Application of Rule:* This rule shall apply only to petitions for reclassification, special exception and/or variance filed with the board pursuant to section 2-58.1 of Article V, "Boards and Commissions," Division 4, "Board of Appeals," Title 2, "Administration," of the Baltimore County Code, as now in force and effect or as hereafter amended. It applies to the filing, processing, advertising and scheduling of hearings on such petitions and is supplemental to such other rules of the board and section 2-58.1 of the Baltimore County Code as now in force and effect or as are hereafter amended or adopted. Once filed and scheduled for hearing under the provisions of this special rule, such petitions shall be heard and decided in accordance with all other rules of the board.

Editor's note—Because of the reorganization of the Code in this publication, the Code references in this section should read as follows:

"... section 2-356 of Article VII, 'Boards and Commissions,' Division 3, 'Board of Appeals,' Title 2, 'Administration,' of the Baltimore County Code ... such other rules of the board and section 2-356 of the Baltimore County Code"

b. *Definition of Petition.* As used herein the term "petition" shall mean:

1. Request for reclassifications of property, including all material filed with said request.
2. Request for special exceptions and/or variances, the granting of which are dependent

upon a reclassification of the property in question, including all material filed therewith.

c. *Filing.*

1. Petitions may be filed in the office of the board of appeals throughout the year, except during the period from April 16, 1979, through October 15, 1980, and all like periods beginning on April 16, 1983, and every fourth year thereafter.
2. Petitions accepted for filing, no later than forty-five (45) days prior to April 16 will be processed during the April–October cycle, and petitions accepted for filing no later than forty-five (45) days prior to October 16 will be processed during the October–April cycle.
3. Notwithstanding paragraphs 1. and 2. above, petitions exempted from the regular cyclical procedure due to public interest or because of emergency may be filed and processed at any time.

d. *Processing and File Maintenance Procedure.*

1. Upon receipt of a petition, the board shall establish a file and promptly transmit it to the zoning commissioner's office for processing and preparation of a written report. Said report shall be prepared by the zoning staff; shall reflect the comments of the zoning plans advisory committee; and shall indicate the petition's compliance, with regard to the zoning laws and regulations, and each reviewing agency's adopted standards or policies.
2. Petitions may be amended prior to the hearing only if said amendment takes place prior to the first public advertisement of the petition.
3. The zoning staff shall maintain possession of said file throughout the zoning review and report processing procedure.
4. Upon completion of the zoning review and report process, including distribution of copies of pertinent material to the planning staff, and the necessary advertising

and posting, the file, complete with the zoning report and planning board recommendations, shall be returned to the board for the hearing.

5. The board shall maintain possession of the file until such time as the case has been completed with all pending appeals satisfied. Thereafter, said file shall be returned to the zoning office for microfilming and retention on behalf of the board.

e. *Scheduling, Posting and Advertising for Public Hearings.*

1. The zoning staff shall schedule and otherwise prepare the necessary newspaper advertisements and arrange for the posting of property in accordance with section 2-58.1 of the Baltimore County Code. However, all hearing dates and times shall be established by the board.
2. All postponed hearings shall be readvertised and the properties posted in accordance with the requirements for final advertising and posting pursuant to section 2-58.1(g) of the Baltimore County Code. The cost of such advertising and posting shall be borne by the party requesting the postponement.

Editor's note—Because of the reorganization of the Code in this publication, section 2-58.1 referred to in this section is now section 2-356 of the Code.

f. *Guide for Preparation of Reclassification Petitions.* Each petition request shall be filed on forms provided by the county board of appeals. As a matter of convenience, the board will make available a guide containing information for use in the preparation of petitions for reclassification.

Rule 10. *Revisory power of the board.*

Within thirty (30) days after the entry of an order, the board shall have revisory power and control over the order in the event of fraud, mistake or irregularity.

Rule 11. *Amendments of rules.*

These rules may be amended from time to time in accordance with section 603 of the Baltimore County Charter.



Federal Emergency Management Agency

Washington, D.C. 20472

August 28, 2002

MR. CHARLIE MAIN
DAFT-MCCUNE-WALKER, INC.
200 EAST PENNSYLVANIA AVENUE
TOWSON, MD 21286

CASE NO.: 02-03-1334A
COMMUNITY: BALTIMORE COUNTY, MARYLAND
(UNINCORPORATED AREAS)
COMMUNITY NO.: 240010

DEAR MR. MAIN:

This is in reference to a request that the Federal Emergency Management Agency (FEMA) determine if the property described in the enclosed document is located within an identified Special Flood Hazard Area, the area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood), on the effective National Flood Insurance Program (NFIP) map. Using the information submitted and the effective NFIP map, our determination is shown on the attached Letter of Map Amendment (LOMA) Determination Document. This determination document provides additional information regarding the effective NFIP map, the legal description of the property and our determination.

Additional documents are enclosed which provide information regarding the subject property and LOMAs. Please see the List of Enclosures below to determine which documents are enclosed. Other attachments specific to this request may be included as referenced in the Determination/Comment document. If you have any questions about this letter or any of the enclosures, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, P.O. Box 2210, Merrifield, VA 22116-2210. Additional information about the NFIP is available on our web site at <http://www.fema.gov/nfip/>.

Sincerely,

Matthew B. Miller

Matthew B. Miller, P.E., Chief
Hazards Study Branch
Federal Insurance and Mitigation Administration

LIST OF ENCLOSURES:

LOMA DETERMINATION DOCUMENT (REMOVAL)

cc: State/Commonwealth NFIP Coordinator
Community Map Repository
Region

**Federal Emergency Management Agency**

Washington, D.C. 20472

**LETTER OF MAP AMENDMENT
DETERMINATION DOCUMENT (REMOVAL)
ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)****LEGAL PROPERTY DESCRIPTION (CONTINUED)**

point situate N70°54'14"W, 5 feet, more or less, measured reversely along the thirteenth line of said deed from the end thereof, thence leaving said line and running through the lands of said deed and binding on the aforementioned easterly line of "Zone A" the six following courses and distances, viz: 1) S24°25'00"W, 49 feet, more or less, thence 2) S19°45'00"W, 61 feet, thence 3) S12°50'00"W, 146 feet, thence 4) S19°25'00"W, 118 feet, thence 5) S21°10'00"W, 43 feet, and thence 6) S23°30'00"W, 188 feet, more or less, to intersect the tenth or N63°43'30"W, 62.60 foot line of the aforementioned deed at the point distance 9.5 feet, more or less, measured along said line from the beginning thereof, thence running with and binding on the remainder of said tenth line and a part of the eleventh line of said deed, the two following courses and distances, viz: (7) N65°48'14"W, 53 feet, more or less, and thence 8) N73°49'14"W, 11.50 feet to the southeasternmost corner of the proposed 100-Year Flood Plain, Drainage and Utility Easement, designed in accordance with the Baltimore County Department of Public Works "Patapsco River Basin Study" dated March 1980, and thence running through the aforesaid lands and binding on said proposed easement the four following courses and distances, viz: 9) N11°25'00"E, 20.00 feet, thence 10) N00°35'00"W, 41.00 feet, thence 11) N20°50'00"E, 6.00 feet, and thence 12) N04°35'00"E, 7.89 feet to intersect a line drawn two feet, more or less, easterly from the western face of an existing retaining wall, thence leaving said easement and running two feet easterly from the western face of said wall, the ten following courses and distances, viz: 13) N21°29'03"E, 24.20 feet, thence 14) N61°54'22"W, 11.23 feet, thence 15) N16°03'27"E, 103.00 feet, thence 16) N18°24'49"E, 151.36 feet, thence 17) S76°45'16"E, 25.74 feet, thence 18) N15°58'59"E, 34.80 feet, thence 19) N52°56'45"E, 3.70 feet, thence 20) N17°31'57"E, 14.88 feet, thence 21) S68°37'31"E, 9.63 feet, and thence 22) N31°49'26"E, 13.42 feet to re-intersect the aforesaid proposed easement, thence binding on said proposed easement, the thirteen following courses and distances, viz: 23) N87°20'00"E, 3.69 feet, thence 24) N53°00'00"E, 26.00 feet, thence 25) N20°35'00"E, 66.00 feet, thence 26) N14°45'00"W, 3.00 feet, thence 27) N85°45'00"E, 4.00 feet, thence 28) N26°40'00"E, 13.00 feet, thence 29) N53°10'00"E, 20.00 feet, thence 30) N26°20'00"E, 9.00 feet, thence 31) N85°35'00"E, 3.00 feet, thence 32) N16°15'00"E, 11.00 feet, thence 33) N22°10'00"E, 17.00 feet; thence 34) N10°15'00"W, 12.00 feet, and thence 35) N29°10'00"E, 5.92 feet to intersect the thirteenth line of the aforementioned deed at the point situate 39.00 feet measured reversely along said line from the end thereof, thence running with and binding on a part of said line, 36) S70°54'14"E, 34 feet, more or less, to the POINT OF BEGINNING; containing 1.13 acres of land, more or less, as now described by Daft-McCune-Walker, Inc. in July 2002.

PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)

This Determination Document has removed the subject of the determination from the Special Flood Hazard Area (SFHA). However, portions of the property may remain in the SFHA. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

ZONE A (This Additional Consideration applies to the preceding 1 Property.)

The NFIP map affecting this property depicts an SFHA that was determined using the best flood hazard data available to FEMA, but without performing a detailed engineering analysis. The flood elevation used to make this determination is based on approximate methods and has not been formalized through the standard process for establishing base flood elevations published in the Flood Insurance Study. This flood elevation is subject to change.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2527 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, P.O. Box 2210, Memfield, VA 22115-2210. Additional information about the NFIP is available on our web site at <http://www.fema.gov/nfip>.

Matthew B. Miller

Matthew B. Miller, P.E., Chief
Hazards Study Branch

Federal Insurance and Mitigation Administration

Version 1.3.3

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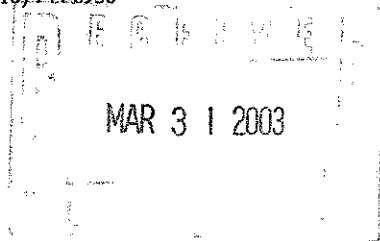
3/26/03

MURPHY & MURPHY, L.L.C.

FILE COPY

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

March 25, 2003



Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204
attn Civil Clerk

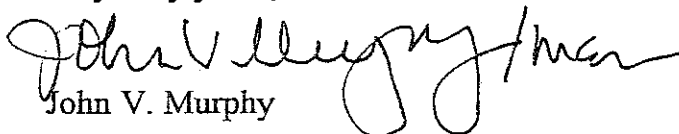
Re: In the Matter of Greater Oella Community
Association, et al Oella Mill Project
Case no. 03-C-03-000016

Dear Madame Clerk:

Enclosed please find the Petitioner's Memorandum in the above reference Judicial Review for filing with the Court. As a convenience for the Court I have also included copies of People's Counsel's Hearing Memorandum, Post Hearing Memorandum and Motion for Reconsideration and Rehearing which are part of the record sent by the Board of Appeals.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

JVM:pam

Enclosures

cc: James A. Dunbar, Esq and Patricia A. Malone, Esq
Peter Zimmerman Esq, Peoples Counsel

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF

GREATER OELLA COMMUNITY ASSOCIATION, INC., *

HENRY BERGER, individually

GREGG BROWN, individually *

LYNETTE BURNS, individually

Case No. 03-C-03-0016

LYDIA TEMOSHOK, individually *

*

**FOR JUDICIAL REVIEW OF THE DECISION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY** *

IN THE MATTER OF : OELLA MILL LLC/ PDM I-498 *

Case Nos.: CBA -02-137 and 02-412-SPHA

*

* * * * *

PETITIONER'S MEMORANDUM

The Petitioners, Greater Oella Community Association, Inc., ("GOCA"), Henry Berger, individually, Gregg Brown, individually, Lynette Burns, individually, Lydia Temoshok, individually, by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., hereby submit their Memorandum in support of Petition for Judicial Review as follows:

STATEMENT OF CASE

This case involves questions of first impression in the area of zoning and development law. It arises from the decision of the Board of Appeals of Baltimore County (hereinafter referred to as the Board") dated December 4, 2002 and the Board's Amended Opinion and Order dated December 10, 2002. This appeal stems from the Board's approval of a development plan and variances for the development project known as "Oella Mill Project" located in historic district of Oella in Baltimore County (hereinafter the "Project"). Prior to the Board's consideration of the Project, the Hearing Examiner and Zoning Commissioner of Baltimore County (Schmidt, L.) in his decision dated July 8, 2002 approved the development plan and variances requested by the Developer.

2003 MAR 27 P 1:08

The appeal from the Hearing Officer/ Zoning Commissioner's decision was filed by the Greater Oella Community Association (herein after "GOCA") and individual persons with property interests nearby the project. Pending before this Court is the issue of whether GOCA is a proper party to participate in this review as was noted by the Respondent in its Motion to Dismiss. As of this date, this issue is not yet resolved although the Court has scheduled a hearing on the Motion to Dismiss.

In short, the questions presented to this Court for review involve the legality of the development plan and the variances requested. Specifically, this Court is to address whether the Board erred as a matter of law in approving the development plan which failed to comply with the Baltimore County Code §26-206 (hereinafter "BCC") and various sections of the Baltimore County Zoning Regulations (hereinafter "BCZR") and whether the Board erred as a matter of law in approving the variances requested.

QUESTIONS PRESENTED

I. Did the Board err as a matter of law in approving the Development Plan upon the condition that the developer obtain approval from the federal government at a later date?

II. Did the Board err as a matter of law in approving the Development Plan which did not meet the following requirements of the BCZR:

- a) a Residential Transition Area designated on the Plan; and
- b) special hearing for business parking in residential zones; and
- c) Local Open Space meeting Baltimore County regulations;
- d) Zoning Density

III. Did the Board err as a matter of law in granting the parking variances requested?

IV. Did the Board err as a matter of law in excluding testimony by the Petitioners regarding traffic safety in the variance case consistent

with a de novo appeal and due process?

STATEMENT OF FACTS

The developer in this case, Forest City Inc. (hereinafter the "Developer"), submitted for final approval by Baltimore County a Development Plan in which an existing mill would be developed into an apartment complex of 175 units. The Plan proposed that 169 of those units were to be constructed in the existing main mill building and 6 units were to be constructed in an outlying building previously used as a power plant for the mill. The site is presently zoned DR 3.5 (Density Residential with 3.5 Dwelling units per acre) and BM - CCC (Business Major with a Commercial Community Center overlay). The existing mill buildings presently house mixed commercial uses such as shops, offices and services including the Bagpipe Museum of Maryland. The site occupies 5.7 acres with the tract boundary crossing and including portions of the adjacent Patapsco River.

According to the Development Plan, the five floors of the main building would be turned into apartments while the first floor, which is nearly 30 feet in height, would be used as a parking lot. A new second tier of parking would use a new floor suspended from the building structure within the first story. This would allow the Developer to house 106 parking spaces inside the mill building, 12 spaces in the power plant building and 145 spaces outside the buildings for a total of 263 parking spaces. The present commercial uses have parking for approximately 123 spaces outside the buildings.

The adjacent properties are zoned DR 3.5. The Petitioners are nearby property owners who are concerned about the substantial impact the project will have on their neighborhood and the historic community. The development proposes an apartment complex which is almost ten (10) times the density of the adjacent properties. If approved, the project will be nearly twice the allowable density of apartment development (DR

16, - 16 dwelling units per acre) in Baltimore County. The project is, in the opinion of the Petitioners, out of all portion to the neighborhood.

The Oella Mill project will be constructed in the historic town of Oella which is a 19th century mill town located on the cliffs adjacent to the Patapsco River and upstream from Ellicott City. The principal roadway leading to the project is Oella Avenue which loops along the cliffs of the river connecting the old town to Frederick Road at Ellicott City and connecting to Frederick Road closer to Catonsville. This roadway is narrow and dangerous reflecting its 19th century heritage. On the north, Oella Avenue contains switch back turns and blind entrances as it climbs from the mill town up the side of the cliff to the plateau above. On the south Oella Avenue is built on the cliff face cut by the Patapsco River and near its Ellicott City terminus, passes through part of the old town so narrow that Baltimore County forbids two way traffic. Oella Avenue is the only practical roadway for the Petitioners and any new residents of the mill project to come to and leave the town. There is one other road, Hollow Road, which connects to Oella Avenue at the mill to the outside world and proceeds up the side of the cliff in so precarious a manner that no practical use may be made of it by new mill residents.

The Petitioners are opposed to the Development Plan because the plan does not conform to the development regulations, applicable policies and rules and regulations of the BCC and BCZR. In addition, the Petitioners are opposed to the request for parking variance because this will allow more parking which will increase the number of residents and vehicles in the project. The Petitioners contend that the project could be scaled down and that any hardship or practical difficulty is self imposed by the developer in order to obtain more apartment units.

STANDARD OF REVIEW

Development Plan Cases

The Board cites the case of *Monkton Preservation Association et. al v Gaylord Brooks Realty Corporation*, 107 Md. App. 573, 669 A. 2. 195, 1966 as authority for its review of the Hearing Officer's decisions on development plans. (See Board Opinion, 12/4/02, p. 2). The Court in *Monkton* cites the BCC § 26-209 (d) which provides that the Board may:

"Reverse or modify the decision if a finding, conclusion or decision of the hearing officer:

- (a) Exceeds the statutory authority or jurisdiction of the hearing officer;
- (b) Results from an unlawful procedure;
- (c) Is affected by any other error of law;
- (d) Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
- (e) Is arbitrary or capricious."

Id. at 581. The *Monkton* Court went on to say :

"The first three of these reasons involve errors of law, and, as to them, no deference is due to the hearing officer. (Emphasis supplied). The Board clearly must make its own independent evaluation. That is also true with respect to paragraph (e) -- whether the hearing officer's decision is arbitrary or capricious. When it comes to reviewing the factual basis for the hearing officer's decision, however, the standard is the traditional one of looking only to whether there is substantial evidence to support the findings. In that examination, the Board does not make independent evaluations, for to do so would require the Board to make credibility decisions without having heard the testimony.

In *People's Counsel for Baltimore County vs. Maryland Marine Manufacturing Co., Inc.* 316 Md. 491, 560 A.2d 32, 1989 Md. LEXIS 103, 1989; the Court of Appeals said :

But a reviewing court is under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law. *See, e.g., Ramsay, Scarlett & Co. v. Comptroller*, 302 Md. 825, 835, 490 A.2d 1296 (1985); *Harford County v. McDonough*, 74 Md. App. 119, 122, 536 A.2d 724 (1988).

The issues involving review of the development plan present purely legal questions, such as the proper interpretation of the BCZR and the BCC. Yet as any fair reading of the Board's Opinion demonstrates repeatedly the Board in discussing a legal issue refers to testimony in the record and then defers to the Hearing Officer's decision. The Board clearly made no independent judgements of law as required by the case the Board cites as authority.

Variance Cases

The scope of review for variance cases is quite different from that of development plans. In variance cases, BCZR §307.1 states, in pertinent part:

The zoning commissioner of Baltimore County and County Board of Appeals, on appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship... only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to the public health, safety, and general welfare. They shall have no power to grant any other variances.

This standard requires proof of the following:

1. That the land or structure is "unique;"
2. That the uniqueness "results" in "practical difficulty" pertinent to zoning compliance;
3. That there is true "practical difficulty;"
4. That there is no injury to the public health, safety, and general welfare; and

5. That any such "practical difficulty" is not self-created.

The first inquiry here is whether the property is peculiar or "unique." If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends there. *Cromwell v. Ward* 102 Md. App. 691(1995); *Umerley v. People's Counsel* 108 Md. App. 497(1996); *Riffin v. People's Counsel* 137 Md. App. 90 (2001). If this threshold is passed, the further question is whether the unique condition results in "practical difficulty." *McLean v. Soley* 270 Md. 208, 213-15 (1973). In *McLean*, the Court identified the criteria for practical difficulty:

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Id. These criteria are interrelated and must be analyzed together.

Peoples Counsel Memorandum

The Petitioners also hereby incorporate the arguments given by Peoples Counsel in People's Counsel's Hearing memorandum, Post-Hearing Memorandum and Motion for Reconsideration and Rehearing. (See Exhibits A, B and C - People's Counsel Memorandums which are attached hereto and incorporated herein by reference).

ARGUMENT

I DID THE BOARD ERR AS A MATTER OF LAW IN APPROVING THE DEVELOPMENT PLAN UPON THE CONDITION THAT THE DEVELOPER OBTAIN APPROVAL OF THE FEDERAL GOVERNMENT AT A LATER DATE?

The first issue with regard to conditional approval of a Development Plan by the Board is a matter of first impression in Maryland. The Board erred as a matter of law in affirming the Zoning Commissioner's approval of the Development Plan upon the condition that the Developer obtain approval of the same development plan from the Federal Emergency Management Agency ("FEMA") at some later date after the Plan was approved. (See Opinion, 12/4/02, pp. 25-28). The Petitioners contend that such approval by FEMA should have been obtained by the Developer prior to the final hearing by the Hearing Officer on the Development Plan pursuant to BCC §26-206.

The Board affirmed the Hearing Officer's decision to approve the development plan upon the condition that the Developer: "Obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and the floodplain shown on Developer's Exhibit 7, prior to issuance of any permits or the filing of a record plat." It is a clear error of law for the Hearing Officer under BCC §26-206 and the Board in affirming the Hearing Officer, to approve a development plan when the plan has not received the appropriate approval of FEMA or other governmental agencies prior to consideration by the Hearing Officer.

There is no dispute of fact that the developer failed to obtain approval of its development plan from FEMA prior to submitting the plan to the Hearing Officer for approval. The developer proposes to construct apartments and parking facilities within the 100 year flood plain delineated on the present Baltimore County floodplain map which map is in turn derived from the applicable FEMA floodplain map. The developer's proposal to build in the floodplain violates BCC §26-276 which states that:

No dredging, filling or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination. It is the purpose of this section to reduce losses to life and property from flooding, to obviate the need for public expenditures for flood protection, and to protect or enhance the environmental quality of watersheds.

The Developer could have chosen to avoid building in the floodplain by reducing the number of apartments it proposed to build. Rather than doing so, the Developer instead proposed to the Hearing Officer that it could get around this problem by changing the FEMA map. To change the FEMA map means that the Developer must convince FEMA that FEMA's floodplain map is not correct. To do this, the Developer must first apply to FEMA; must then proceed through FEMA's extensive administrative procedures in hopes that it will overturn the present map. After proceeding through the FEMA procedures, the new floodplain map would then have to be adopted by Baltimore County Council. In this case, the Developer applied to FEMA for the map change prior to the development plan hearings in May 2002 and at the time of Board decision in December 2002, the developer had not succeeded in selling its idea to FEMA. It would indeed be absurd to suggest that the current law (the floodplain map) does not apply since it might be amended in the future. That argument would, in effect, place an indefinite hold on this development plan while the Developer lobbies the federal agency.

By granting conditional approval subject to changing the FEMA map, the Hearing Officer's approval is not "final" under BCC §26-206 but rather "contingent" on the possibility that some outside event may, in the future, occur. The BCC unambiguously and expressly states that the Hearing Officer's duty in review of a development plan is to review a final action on a plan. Section 26-206 only allows a Hearing Officer to approve a plan that meets "the development regulations and applicable policies, rules and regulations..." Id. A development plan which violates the floodplain map - at the time of the Hearing Officer's hearing - does not

meet the development regulations and applicable policies, rules and regulations.

In fact, the continuous use of the word “final” in §26-206 indicates that the legislative intent of Baltimore County Council was clear in limiting the Hearing Officer to approve final and not contingent plans. Subparagraph (b) of §26-206 provides in pertinent part as follows: “final approval of a plan shall be subject to appropriate standards, and all final decisions of the hearing officer” shall be subject to appeal. (Emphasis Added). Paragraph (g) requires the Hearing Officer to file an opinion upon any final decision. (Emphasis Added).

Moreover, §26-209 entitled “Appeals from final action on a plan” further supports the finality of the plan as set forth in §26-206 by providing procedures for persons feeling aggrieved from the Hearing Officer’s final decision by permitting appeals to the Board. (Emphasis Added). As applied to this case, there can not be an appeal of a “final decision” if the Parties do not know if the apartments and parking in the present flood plain can be constructed. Thus, the Board’s decision violates the express language of BCC §26-206 and the Hearing Officer exceeded his statutory authority.”-

Other than §26-206, there are no further hearings or forums where testimony is taken or which can receive evidence regarding whether the plan meets “all appropriate standards, rules, regulations, conditions and safeguards required by Subparagraph (b). The only exception to the finality of the plan is for minor details as specifically set forth in §26-206(l) including “final grading and sediment control plan, stormwater management plan, landscape plan and record plat....” Yet, it is clear that plans containing that minor detail such as landscaping shall be made “in accordance with the approved development plan.”

The Board, in its decision, relied heavily on §26-206(l) to rationalize the Hearing Officer’s decision. In doing so, the Board cites *Monkton* for the proposition that since the development process is an ongoing process, this Subparagraph (l) permits the conditional approval by the Hearing Officer of a plan that violates

the floodplain map in contradiction to the BCC. The Board's reliance on the Court of Appeals' language in *Monkton* for the analogy that the violations of the floodplain map are similar to detail grading and landscaping plans stretches beyond all legal reasoning. (See Board Opinion, 12/4/02, pp. 27-28).

The Board in its Opinion then cites the case of *Oak Tree Hill Estates* (Case No. 03-C-2-9066 and CBA03-121) which had been before this Court on similar issues prior to being voluntarily dismissed by the Developer. In the *Oak Tree Hill Estates*, the Hearing Officer (Kotroco, T.) dismissed the Developer's plan when it was discovered that the development would hook up to the public sewer system but that such a connection to the public system was prohibited by the Water and Sewer Plan for Baltimore County. (See Board Opinion, 12/4/02, pp. 26-27). The Board in *Oak Tree Hill Estates* agreed with the Hearing Officer and denied the developer's plan because it violated the Baltimore County Water and Sewer Plan at the time of the Hearing Officer's hearing. The Board's conclusion in *Oak Tree Hill Estates* is the exact opposite conclusion as in this case. (See Exhibit D - Oak Tree Hill Estates, (Case Nos. 03-C-2-9066 and CBA03-121) which is attached hereto and incorporated herein by reference).

As in this case, the Developer in *Oak Tree Hill Estates*, argued that it merely needed to apply for and win a change to the Baltimore County Water and Sewer Plan and that therefore the development should be conditionally approved. The process of changing the Water and Sewer Plan, as here, involved applying for the change to the Water and Sewer map with Baltimore County administration; consideration of the change by the Planning Board; and then final acceptance and approval by the County Council. Unlike the instant case, the Developer in *Oak Tree Hill Estates* need only apply to Baltimore County for such changes whereas the Developer here must negotiate successfully with the federal government to overturn that agency's existing flood plain map.

Similar reasoning by the Hearing Officer ended the developer's plan for the *Hilltop Property* (Case No I-485) when the Hearing Officer denied the developer's plan because the proposed development's connection

to public sewer was prohibited by the Baltimore County Water and Sewer Plan. (See Exhibit E - *Hilltop Property* (Case No I-485) which is attached hereto and incorporated herein by reference).

Furthermore, the Board in this case does not even attempt to reconcile the Hearing Officer's decision in *Hilltop* and its own decision *Oak Tree Hill Estates* with its reasoning here. It should not be lost on this Court that the Hearing Officer and the Board in *Oak Tree Estates* recognized that proceeding through the administrative process to revise the County's Water and Sewer Plan in hopes of having the County Council revise the Sewer and Water Plan, was not a "detail" like a landscaping plan under BCC §26-206(l). Similarly, providing a detailed plan for grading is fundamentally different from applying to a Federal agency in hopes of some day overturning their floodplain map for this part of Baltimore County.

The Board has exaggerated the meaning of the word "detail" under Subsection (l). Webster's Dictionary (Second College Ed.) defines "detail" as "a minute account, circumstantial story/ to go into detail" and "any of the small parts that go to make up something/ the details of a plan." Subsection (l) gives examples of the kind of detailed development plans such as "final grading and sediment control plan, storm water management plan and landscape plan." Floodplain maps are not listed in Subsection (l).

If the word "final" in BCC §26-206 is to have any meaning for the Hearing Officer's decision, the Developer must have already had the flood plain issue resolved in its favor before the Hearing Officer's quasi-judicial hearing. To allow such conditional approval would mean that the entire concept of the development plan could be changed depending on what FEMA decides to do. Changing the entire development plan means that it is not a final plan before the Hearing Officer.

As a practical matter, under the Board's interpretation, the quasi-judicial hearing required by §26-206 (a) (1) would occur but a final decision would not be made on the evidence. Instead, the Developer's engineer would simply modify its design for the apartments in the flood plain and certify the new plan is in conformance with the BCC without any review by the community. If the Board's theory is correct, and if that were the

County Council's intent in drafting §26-206, there would be no need for any hearing. The Developer's engineer would simply certify the plan was in conformance with the BCC and the building permit would be issued. Yet, clearly the County Council designed the system to give the community impacted by the development an opportunity to be heard and an adversary hearing on whether the plan actually met Baltimore County's development rules, regulations and applicable policies.

When the County Council intends to establish conditional approval of development, it does so in an express manner. For example, the County Council provided restraints on residential development when impacted schools are overcrowded. See BCC, § 26-493. Moreover, in § 26-499, entitled "Conditional development approval," the County Council specified the process by which the developer could be granted conditional approval by being placed on a waiting list among other relief. No such express or implied language exists in §26-206. Even the broadest interpretation of §26-206(b) makes it clear that approvals of development plans which violate the present 100 year flood plain are prohibited.

Finally, there is no dispute that the issue of whether a Hearing Officer may grant conditional approval is a legal question. Not only did the Board err in allowing such conditional approval of the development plan but the Board also failed to make an independent evaluation of the Hearing Officer's decision as required by *Monkton*. In its Opinion, the Board continues to defer to the Hearing Officer on questions of law in contravention of the reasoning in *Monkton*. The *Monkton* Court cites the BCC §26-209(d) which provides that the Board may:

Reverse or modify the decision if a finding, conclusion or decision of the hearing officer:

- (a) Exceeds the statutory authority or jurisdiction of the hearing officer;
- (b) Results from an unlawful procedure;
- (c) Is affected by any other error of law;

(d) Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or

(e) Is arbitrary or capricious.

The *Monkton* Court made clear that the first three items of §26-209(d) are questions of law. The Court held that, as to questions of law, “no deference is due to the hearing officer.” *Id.* at 581. (Emphasis Added). Under *Monkton*, the Board must make its own independent evaluation. The same is also true with respect to Paragraph (e) -- whether the hearing officer's decision is arbitrary or capricious. *Id.* The Board may only defer to the Hearing Officer regarding questions of fact. In regard to factual examinations by the Board, the Board does not make independent evaluations, for to do so would require the Board to make credibility decisions without having heard the testimony. The Board, as a reviewing court, is under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law. See, e.g., *Ramsay, Scarlett & Co. v. Comptroller*, 302 Md. 825, 835, 490 A.2d 1296 (1985); *Harford County v. McDonough*, 74 Md. App. 119, 122, 536 A.2d 724 (1988).

The issue of whether the development plan meets the requirements of the BCC and BCZR is purely legal questions. Yet, as any fair reading of the Board's Opinion demonstrates repeatedly the Board in discussing a legal issue refers to testimony in the record and then defers to the Hearing Officer's decision for instruction on statutory interpretation. The Board clearly made no independent judgment of law as required by *Monkton* which case the Board cites as its authority.

II. DID THE BOARD ERR AS A MATTER OF LAW IN APPROVING A DEVELOPMENT PLAN WHICH DID NOT MEET THE FOLLOWING REQUIREMENTS OF THE BCZR:

- A) A RESIDENTIAL TRANSITION AREA DESIGNATED ON THE PLAN;**
- B) PROPER HEARING TO ALLOW BUSINESS PARKING IN RESIDENTIAL ZONES;**

**C) LOCAL OPEN SPACE MEET BALTIMORE COUNTY
REQUIREMENTS**

D) ZONING DENSITY

A. The Development does not contain a Residential Transition Area as required by the BCC.

The issue of whether a Residential Transition Area applies in all zones where there is residential development is an issue of first impression in Maryland. As stated by the Board in its Opinion on page 20, a Residential Transition Area (hereinafter "RTA") is a buffer area which controls the impact of dissimilar residential uses on adjoining single-family detached, semi-detached or duplex dwellings in D.R. 1, D.R.2, D.R. 3.5, D.R. 5.5 or R.C. zones within 150 feet of the tract boundary. (See Board Opinion, 12/4/02, p.20).

There is no dispute the development plan in this case fails to provide for an RTA buffer area. The development plan provides that 175 new apartments are to be constructed in the Oella Mill building and its outbuilding. The adjacent land is zoned DR 3.5 and is composed of single family detached and duplex dwellings which are within 150 feet of the tract boundary. As a result, the Petitioners contend that these dwellings trigger a 100 foot RTA buffer along the boundary tract. This 100 foot boundary should contain setbacks and landscaping to separate the apartment and parking uses from the existing single family detached and duplex dwellings which are in the adjacent DR 3.5 zone and within 150 feet of the tract boundary.

RTAs are described in Section 1B01.1B of the BCZR which provides:

B. Dwelling-type and other supplementary use restrictions based on existing subdivision and development characteristics.

1. Residential transition areas and uses permitted therein.

a. Definitions and purpose.

(1) The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.

(2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that

adequate buffers and screening are provided between dissimilar housing types.

b . Generation of residential transition area. An RTA is generated if the property to be developed lies adjacent to land zoned D.R. 1, D.R.2, D.R.3.5, D.R.5.5 or R.C. [Bill No. 2-1992] and

(1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary;

The BCZR are clear, concise and required. The development plan fails to comply with the development regulations and applicable policies contained in the zoning regulations for RTAs, and therefore the Hearing Officer was without authority to approve the development plan. The BCZR do not contain an exception for the RTA for residential development on BM zoned land as the developer would have this Court believe. Section 1B01.1B of the BCZR paragraph e (2) describes the Condition in residential transition areas:

e. (2) Group -house, back to back group houses, multifamily building and parking lots shall be set back from the tract boundary 75 feet and provide a fifty foot buffer.

BCZR definitions "Multifamily Building provides:

A structure containing three or more apartments. A multifamily building includes garden and other apartments.

The description is not in anyway limited to apartments in a residential zone or business zone for that matter.

In spite of the obvious statutory language, the Hearing Officer and the Board labored mightily to find a way to approve the plan. The Board and the Hearing Officer note that the property is zoned DR 3.5 and BM-CCC. The proposed plan shows apartment uses in the BM - CCC zone and parking for the apartment complex in the DR zone. While the Board and the Hearing Officer admit in their decisions that the RTA statute does not provide an exception to the RTA buffer zone for development of apartments in BM zoned land, they nevertheless find that the RTA applies only in DR zones. The decisions of the Hearing Officer and

Board are contradictory as this Development Plan contains residentially zoned land (DR 3.5) which - even under their theory - triggers an RTA buffer.

The Board cites *Swinson v. Lords Village Condominium*, 360 Md. 462, 478, 758 A.2d 1008 (2000) as authority for rules on statutory construction. (See Board Opinion, 12/4/02, p.16). The Swinson Court held that:

In construing statutes, we obviously begin with the language of the statute. If that language, both on its face and in context, is clear and unambiguous, we need go no further. We give the language its plain meaning. We do not add or delete words in order to reflect an intent not evidenced by what the Legislature actually said and we do not construe statutes with “forced or subtle interpretations” that limit or extend its application.

Id. at 478. Despite citing this case, the Board does not give the RTA statute its plain meaning and assumes that RTAs only apply in D.R. zones because the RTA regulations are located in the D.R. section of the BCZRs. The Board and the Hearing Officer, in direct contravention of *Swinson* note that they were “troubled by a clear absence within the RTA regulations stating that they are applica[ble] [sic] only to properties zoned D.R....” (See Board Opinion, 12/4/02. p. 25).

In further support of its legal reasoning, the Board cites a report by the Planning Board of Baltimore County - (a political advisory board to the County Council) regarding the application of RTAs to OR-1 and OR - 2 zones - neither of which have any application to this case. Reference to the Planning Board in determining a legal question is not appropriate. The Board also cites its own decision in *Har Sinai Development Plan* case (PDMIV-518/Case No. CBA 99-111) as precedent. Yet, with regard to the floodplain issue, the Board does not distinguish its own decision in *Oak Tree Hill Estates*.

Finally, as with the floodplain issue, the Board fails to make its own independent evaluation of whether RTA buffer applies to this Development Plan. The Board defers to the Hearing Officer and other quoted

sources within the County as to how to interpret the RTA regulations in violation of the holding *Monkton* which specifies no deference is due to the hearing officer. (Emphasis supplied). It is disturbing that in resolution of this legal question, the Board references the testimony of Mitchell Kellerman for Mr. Kellerman's interpretation of whether the RTA applies to a BM zone. See Board Opinion p. 23. This important legal issue is respectfully, not for Mr. Kellerman to decide.

B. The Board erred in failing to require a hearing to allow Business Parking in Residential Zones.

There is no dispute that the proposed plan utilizes eleven (11) parking spaces situated in the DR portion of the property to support the proposed apartments across Oella Avenue in the BM zoned portion of the property. (See Board Opinion, 12/4/02, pp.18, 19). BCZR, §409.8 B entitled "Business or industrial parking in residential zones," specifies that in order to use parking spaces in a DR zone to support business across a street, the developer must apply for a special permit, must post the property notifying the public of this proposal and submit to a hearing on the matter. There is no dispute that there was no application for a special permit, there was no posting of the property to notify the public and there was no hearing on this matter. As a result, the development plan does not conform to development regulations, and applicable policies, rules and regulations as required by BCC 26-206(b) and should have been denied by the Hearing Officer and the Board.

The Board notes that these parking spaces have been used to support the present business uses across the street for years and therefore are "non-conforming." However, in order to find a non-conforming use under the BCZR, the Developer must apply for a special hearing, the property must be posted to notify the public and the developer must prove that the use was a legal use that existed prior to the zoning maps which ordinarily means 1955. (See BCZR, §104). There was no application for a special hearing, the property was not posted and so the public was not notified, and there was no showing by the developer that the use was legal in 1955. Thus, even applying the reasoning that these parking spaces are non-conforming does not

exempt the Developer from having a special posted hearing to prove the non-conforming use. This was not done in this case.

In approving the Hearing Officer's decision on this issue, the Board once again defers to the Hearing Officer and does not make an independent evaluation of this important legal issue. The Board repeats the Hearing officer's conclusion that "the spaces in question were not serving a business or industrial use but rather a use that is residential in nature." (Emphasis Added). Ironically, the Board finds with regard to the RTA issue, that the use (apartments) is a business and so RTA does not apply. The Board own theories are not consistent.

C. The Board erred in denying the requirement of Local Open Space on this Project.

The issue of whether local open space applies to this project is an issue of first impression in Maryland. BCC § 26-498(c)(1) requires a development plan to provide a minimum of 1000 square feet of suitable open space per dwelling unit. There is no dispute the development plan does not contain local open space as required by the BBC § 26-498. The Petitioner's development plan provides that 175 new apartments are to be constructed in the Oella Mill building and an outbuilding. There is no dispute that people are going to reside in these apartments. BBC § 26-498 (b) (1) further provides:

This section applies only to residential development.

(Emphasis Added).

The Hearing Officer and Board determined that building 175 new apartments on the property was not "residential development." Rather, they conclude that such construction is "redevelopment" and thus excluded the development plan from local open space requirements. Such reasoning directly contradicts the rules on statutory construction in *Swinson*. There is no exception in the BCC for "redevelopment" much less even a definition of the word "redevelopment" in the BCZR. The Board simply created an exception so

that the development plan could be approved.

The Board and Hearing Officer complain that application of the law would result in a nonsensical result. Consequently, they do not apply the applicable law. They conclude that it is nonsensical to require 4 acres of open space for this 5.7 acre parcel. However, this conclusion is based upon the assumption that there has to be 175 apartments. The law requires 1000 sq. ft of local open space for each dwelling unit. If the property were developed at DR 16 density (the density for apartments in Baltimore County), there would be 91 apartment units occupying 3.5 acres. This would leave 2.2 acres for local open space. Since as much of this site is on or over the Patapsco River, complying with local open space requirement with 91 apartment units would not be a problem.

To the contrary, it is “nonsensical” to cram 175 dwelling units onto this property with no local open space especially when the BCC does not provide an express or implied exception for “redevelopment.” It is indeed nonsensical to allow this development plan to be constructed at a dwelling unit density which is almost ten (10) times the density of the surrounding community (DR 3.5) and twice the density of apartments anywhere else in Baltimore County (DR 16).

Interestingly, on the issue of local open space, the Board and the Hearing Officer find that constructing 175 apartments on the property is not residential development triggering local open space required by BCC. On the RTA issue, the Board and Hearing Officer find the construction of 175 apartments on the property is a business use and therefore the RTA buffer required by the BCC is not applicable. On the issue of business parking in residential zones, the Board and Hearing Officer find constructing 175 apartments on the property is a residential use which does not trigger the hearing required by the BCZR. The inconsistency and error in the Board and Hearing Officer’s analysis regarding these three (3) issues is glaring.

D. The Board erred in not requiring the proper zoning density

This project presents questions of public importance concerning the allowable residential density in business zones with a C.C.C. District overlay. The property here occupies 5.73 acres in Oella. The proposal is for 175 units, mainly in a mid-rise building. The property is zoned B.M.-C.C.C. The adjoining property is zoned D.R. 3.5.

Ordinarily, residential use in the main business zones - B.L., B.M., and B.R. - is limited to the "uses" permitted and as limited in the residential zone immediately adjoining..." See BCZR 230.1, 233.1, 236.1. In each of these zones, there is also a special regulation for C.C.C. Districts. These special regulations do not open up the underlying business zones to unlimited density based on a C.C.C. overlay. In the present case, the allowable density is 20 unless viewed as unlimited.

The applicable special regulations for C.C.C. Districts in business zones are BCZR 232A, 235A, and 238A. While BCZR 235A applies to the B.M. zone here, it should be read in context of its companion sections. The original source of these C.C.C. District Special Regulations is Bill 111, 1968. Subsequently, there were significant amendments in Bill 100, 1970. These were explained on Page 7 of a Memorandum by Donald W. Johnson to the Director of Planning on August 13, 1973. The Planning Board Report dated September 4, 1969, Pages viii - ix, show the proposed amendments which led to Bill 100's provisions on the C.C.C. District. The above sources are attached to People's Council Hearing Memorandum attached hereto as Exhibit A. Mr. Johnson's history says this about the C.C.C. District:

Amendments to C.C.C.- District Provisions

In 1968 the Planning Board forwarded to the County Council a final report recommending new, more liberal zoning regulations for development in 'major business centers' - that is community and town centers. The proposals for town centers were accepted and passed by the Council, thus allowing construction of high-density, combined apartment-office buildings in 'C.T.' (Commercial, Town-center) core

zoning districts. But it was decided that the provisions for community-size centers - 'C.C.C.' districts - should not be enacted without further consideration of the County's future development pattern. The proposals were resubmitted, as part of Bill 100, after the preliminary 1980 Guideplan was approved.

The features of these amendments:

Increased floor area ratios. Before, the FAR had been limited to 2.0 in B.R. zones, 3.0 in B.L. zones, and 4.0 in B.M. zones. Under the amendments, the maximum permitted FAR was changed to 4.0, uniformly, for those B.R., B.L., and B.M. zones lying within C.C.C. districts.

Apartments permitted. The amendments permitted apartments in C.C.C. districts. In order to protect the retail potentials of ground-floor space, however, all apartments must be located above the first floor of any building.

Amenity open space required. In C.C.C. districts, the required amenity open space is 0.2 square foot for each square foot of floor area in buildings.

Shared parking. The parking requirement for apartments in C.C.C. districts is 1.25 spaces for each apartment, but up to 50 per cent of the residential spaces provided may be shared with businesses on the same lot. Further reductions in the overall number of required parking spaces could be allowed by the Zoning Commissioner, in accord with standards that the Planning Board is authorized to adopt.

It is important to underline that the purpose of the C.C.C. District is to provide for mixed commercial and residential use in major business centers. It is not a mid-rise or high-rise apartment zone. These are provided for in the R.A.E. 1 and R.A.E. 2 (Elevator Apartment) zones, which allow for the density proposed here. BCZR 200.3D, 201.3D.

Sections 232A.3, 235A.3, and 238A.3 do not intend unlimited residential density. The language provides only that "..... the specific number of dwelling or density units, as such shall not be directly limited." This means that the C.C.C. District special regulation does not itself limit density. But it does not eliminate

the indirect density limits of the underlying zone which otherwise apply. In other words, the C.C.C. special regulations do not directly govern density.

This is reinforced by the observation that BCZR 232A.3 and 238A.3 both refer to limits on floor area ratio in conjunction with the statement that density shall not be directly limited as such. The absence of similar language in BCZR 235A.3 appears to be an errant technical omission. Mr. Johnson's memorandum refers to the intent to place an F.A.R. limit of 4.0 in each of three special regulations, and the 1969 Planning Board report shows this to be the case.

In sum, the underlying business zone controls the density, based on the adjoining residential density. The special C.C.C. District regulations control floor area ratio, which is more typically a limitation on commercial space. If the density were unlimited, the C.C.C. District overlay would transform the business zones into elevator-apartment zones. This does not make sense in light of the specific provisions for R.A.E. zones.

III. DID THE BOARD ERR AS A MATTER OF LAW IN GRANTING THE PARKING VARIANCES REQUESTED?

The Board erred as a matter of law in approving the parking variances requested. Under the authority of BCZR §307.1, the Hearing Officer, applying the two-step test set forth in *Cromwell v. Ward*, 100 Md. App. 691 (1995), has the authority to grant variances from the height, area, parking, and sign regulations.

As mentioned in the Standard for Review above, the first step requires the Developer to prove, to the satisfaction of the Hearing Officer, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.

The second step of the test requires the Developer to demonstrate that strict compliance with the

BCZR would result in either practical difficulty or unreasonable hardship. The Court of Special Appeals in *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App.28, 322 A.2d 220 (1974) discussed “undue hardship” and held that to prove undue hardship for a use variance, the following three criteria must be met:

(1) Applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).

(2) The difficulties or hardship is peculiar to the subject property in contrast with other properties in the zoning district.

(3) Hardship was not the result of applicant’s own actions.

Id. at 19. To provide practical difficulty for an area variance, the following criteria must be met:

(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 the grant would be substantial injustice to applicant, as well as other property owners in district, or whether a lesser realization than that applied for would give substantial relief.

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

Id. at 20.

As applied to this development plan, the law demands that the request for variances be denied. First, the roadway leading to the site is narrow and dangerous. Oella Avenue is the only practical roadway into the out of the site. Even though the variance case is to be tried *de novo*, the Board refused to allow any testimony on the safety issues posed by the connecting roadway. (See Argument IV below). Consequently, the Court

may only examine the Petitioner's photographs and exhibits given in the Hearing Officer's hearings. Any review of this evidence will show the principal roadway leading to the project, Oella Avenue, loops along the cliffs of the river connecting the old town to Frederick Road at Ellicott City and connecting to Frederick Road closer to Catonsville. This roadway is narrow and dangerous reflecting its 19th century heritage. On the north, Oella Avenue contains switch back turns and blind entrances as it climbs from the mill town up the side of the cliff to the plateau above. On the south Oella Avenue is built on the cliff face cut by the Patapsco River and near its Ellicott City terminus, passes through part of the old town so narrow that Baltimore County forbids two way traffic. This is the infamous "Granite Hill" S curve. Oella Avenue is the only practical roadway for the Petitioners and any new residents of the mill project to come to and leave the town. There is one other road, Hollow Road, which connects to Oella Avenue at the mill to the outside world and proceeds up the side of the cliff in so precarious a manner that no practical use may be made of it by new mill residents.

The second reason the Board erred was that the requests for variance are inaccurate. The developer represented in its request for variance to be allowed a width of aisles within the main mill building of 18.5 feet when in fact the Petitioners showed there is only 17 feet 7 inches of room for vehicles to pass one another. This is due to the thickness of the columns supporting the structure above it. The developer also represented that it would meet the BCZR if it was allowed to have 26 double stacked parking spaces in the Oella Mill. In fact, the Protestants pointed out that there were six (6) more spaces in the Boiler Building that were proposed as double stacked for which no variance was initially requested.

Third, the variances lead to unsafe driving conditions. As shown by the Petitioner's expert, the double stacked spaces would pose a real danger to the residents and public who use them as they require unreasonably accurate control of a vehicle when backing up from the inside blocked space to the aisle.

Fourth, the parking plan woefully mis-represents the number of parking spaces actually provided.

Finally, the variances are based simply on the developer's desire to make a better economic package for this development. They are simply self imposed to maximize return on investment. If the variances were denied, the scale of the project would be reduced and the impact on the adjacent community lessened. Mere financial hardship or opportunity to make more money with more apartments is not enough to justify granting the variance. *Anderson* at 19.

The scope of review for variance cases is quite different from that of development plans. In variance cases, BCZR §307.1 states, in pertinent part:

The zoning commissioner of Baltimore County and County Board of Appeals, on appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and **where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship... only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to the public health, safety, and general welfare. They shall have no power to grant any other variances.**

This standard requires proof of the following:

1. That the land or structure is "unique," a zoning term of art;
2. That the uniqueness "results" in "practical difficulty" pertinent to zoning compliance;
3. That there is true "practical difficulty," another zoning term of art;
4. That there is no injury to the public health, safety, and general welfare; and
5. That any such "practical difficulty" is not self-created.

In McLean, the Court identified the criteria for practical difficulty:

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent

the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

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

Id. 213-215.

Applying this criteria, the Board is to weigh off the impact of denying the variance on the developer against the impact of granting the variance against the other property owners in the district. Clearly the Board erred in granting the variances without considering the impact on the surrounding property owners in the district and ignored the overwhelming evidence that Oella Avenue is too narrow and dangerous to handle the additional traffic generated by the development. It should be noted that the number of parking spaces increases in this development plan from the present 123 spaces to 263 spaces. Thus, there will be an additional 140 vehicles that must use Oella Avenue.

Finally, the Developer originally requested a variance for the width of aisle ways inside the Oella Mill building of 18 feet 5 inches in lieu of the 22 feet required by the BCZR § 409.4.C. to reflect the distance between structural poles that support the building. The Petitioners showed that there was only 17 feet 7 inches available for such aisle ways at the Hearing Examiner hearings. The Board in its December 10, 2002 Amended Opinion and Order granted a variance of 17.7 feet (17 feet 8.4 inches) for these aisles. (See Amended Opinion and Order). Obviously, the development plan even with the granted variance does not meet the actual distance between poles.

More importantly, this change to the variance request was not posted as required by the BCC, § 26-127

(a). Contrast this to a similar situation in which the Developers asked for 26 double stacked parking spaces but actually needed 32 spaces as showed by the Petitioners. In the double stacked variance, the Zoning Commissioner stopped the hearing and the new variance request was re-posted as required by the BCC. However the new variance of 17 feet 7 inches was never posted. Consequently, the variance even as granted can not be sustained in violation of the BCC.

IV. DID THE BOARD ERR AS A MATTER OF LAW IN EXCLUDING TESTIMONY BY THE PETITIONERS REGARDING TRAFFIC SAFETY IN THE VARIANCE CASE CONSISTENT WITH (A) DE NOVO APPEAL AND (B) DUE PROCESS?

The Petitioners present in this question two procedural issues.

(A) De Novo Evidence in the Variance Case.

On the third day of hearings before the Board (second day of the variance case), October 30, 2002, Lydia Temoshok, one of the Petitioners, requested that she be permitted to present testimony and evidence concerning dangers to herself and the community she envisioned as the result of the traffic generated by the proposed apartments on the connecting roadways. She had prepared a video presentation and had other pictorial evidence to show the extreme narrowness and hazzards of Oella Avenue. The Board denied her request and in doing so committed reversible error by not allowing such testimony in the de novo appeal. (See Board Opinion, 12/4/02, pp. 28-38). As a result, the case should be remanded to the Board to allow the Petitioners to present their evidence.

In *Monkton*, the Court directs “ that the Baltimore County Charter §§ 603 sets forth the rules of practice and procedure for the Board of Appeals. It states that “all hearings held by the board shall be heard *de novo*, unless otherwise provided by legislative act of the County Council.” The Court further notes in *General Motors Corp. v. Bark*, 79 Md. App. 68, 79, 555 A.2d 542 (1989), that “[a] true trial *de novo*, of course, puts all parties back at ‘square one’ to begin again as if the adjudication appealed from had

never occurred."

BCZR §307 Variances specifies that variances:

shall be granted only if in strict harmony with the spirit and intent of theregulations and **only in such manner as to grant relief without injury to public health, safety and general welfare.**

(Emphasis supplied).

In keeping with BCZR §307, the witnesses should have been able to present evidence and testimony concerning this very real issue. Despite this, the Board ruled that the: "Protestants had ample opportunity to present their respective views on traffic, roadway capacity and safety before the Hearing Examiner and therefore the Board would exclude new evidence and testimony as requested." (See Board Opinion, 12/4/02, p.29). The Board's decision is in error as it was clearly not a *de novo* hearing.

The Board's justifies this exclusion by creating a difference between variances which concern parking inside the project and those outside the project. The Board held that since "no external parking variances were being requested" issues of safety would be limited to internal building parking thus forbidding *de novo* testimony on safety of connecting roadways. This reasoning is in error since all parking variances requested concern parking on property. In other words, one would not expect applicants for variances to ask for this relief down the road and on someone else's property. If the Board's logic were to stand, they would essentially eliminate all new testimony and evidence concerning connecting roadways from variance cases. Clearly this is not the intent of the statute nor the case law.

In *McLean*, the Court of Appeals laid out the tests which any application for variance must survive. Among those listed, the Court identified the criteria for practical difficulty required by BCZR §307 - Variances. The second factor of the test is: "**Whether a grant of the variance would do substantial justice to the applicant as well as the other property owners of the district.**" *Id.* at 214. The Protestants who wished to testify live near and down the street from the proposed development. They also have only Oella Avenue to leave

and return from the town. To determine whether the granting of a variance would do substantial justice to these property owners, requires the Board to weigh the impact on these neighbors after hearing their testimony and considering the evidence of the traffic generated by the project. The Board failed to follow BCZR §307 and the case law applicable to variances. As a result, this issue should at least be remanded to the Board.

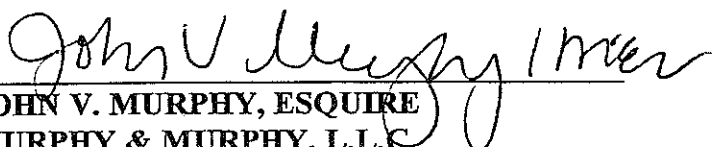
(B) Due Process for the Greater Oella Community Association.

Petitioner Greater Oella Community Association (GOCA) filed its Request for Judicial Review along with several other individual petitioners. The Respondents have filed a Motion to Dismiss GOCA as a Petitioner. The Court has set April 21, 2003 as the hearing date for this Motion, the results of which obviously could effect the status of the Petitioner. Assuming the Court hearing the Motion allows GOCA to remain as a Petitioner, GOCA wishes to present testimony of its President, and in full accord with Rule 8 of the Board of Appeals the position of the Association on this project and the basis for this position at a hearing before the Board. Therefore assuming the Court agrees to allow GOCA to continue should take the testimony of the Association President or at least remand the matter to the Board.

CONCLUSION

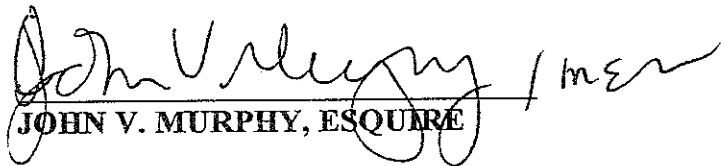
The Petitioners respectfully request that:

- A) That the Court reverse the Board on issues of law as above;
- B) That the Court direct the Board of Appeals to hear GOCA President's testimony and direct the Board to take and consider all Petitioner's testimony and evidence in regard to the request for variance;
- C) in the alternative for this Honorable Court to hear said testimony and take evidence from GOCA's President and Petitioners regarding safety of connecting roadways;
- D) And for such other and further relief as the nature of their cause may require.


JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of March, 2003, a copy of the foregoing Memorandum was mailed postage pre-paid to James A. Dunbar, Esq, and Patricia A. Malone, Esq, Venable Baetjer and Howard, LLP, 210 Allegheny Avenue, P.O. Box 5517, Baltimore, Maryland 21285-5517, attorneys for the Respondent.


JOHN V. MURPHY, ESQUIRE

H:\WPWIN\Clients\OellaComm\Assoc\Circuit Court\memorandum2

EXHIBIT A

2/26/03

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
**GREATER OELLA COMMUNITY
ASSOCIATION, INC.**
513 OELLA AVENUE
ELLCOTT CITY MD 21043

and

HENRY BERGER
734 PLEASANT HILL ROAD
ELLCOTT CITY, MARYLAND 21043

and

GREGG BROWN
709 PLEASANT HILL ROAD
ELLCOTT CITY, MARYLAND 21043

and

LYNETTE BURNS
715 RACE ROAD
ELLCOTT CITY, MARYLAND 21043

and

LYDIA TEMOSHOK
513 OELLA AVENUE
ELLCOTT CITY, MARYLAND 21043

FOR JUDICIAL REVIEW OF THE OPINION OF
THE **COUNTY BOARD OF APPEAL**
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
No. 3-C-03-0016

IN THE MATTER OF THE APPLICATION OF
OELLA MILL LLC /PDM #I-498

1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

CASE NO. CBA-02-137 AND 02-412-SPHA

* * * * *

RECEIVED AND FILED
2003 FEB 26 P 12: 25
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE
BALTIMORE COUNTY DEPARTMENT OF PERMITS & LICENSES
AND THE BOARD APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Department of Permits and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND OFFICE OF
ZONING ADMINISTRATION AND THE DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY:

02-412-SPHA

March 26, 2002	Petition for Special Hearing
April 9	Notice of Zoning Hearing
April 17	Notice of Appearance by People's Counsel
April 25	Certificate of Publication/The Jeffersonian

02-412-SPHA and CBA-02-137

July 8	<u>HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER</u> by Lawrence E. Schmidt, Zoning Commissioner/Hearing Officer that the red-lined development plan for the Oella Mill Property (Developer's Exhibit 7) is APPROVED; Petition for Special Hearing to approve waiver to permit renovation of historic structure is GRANTED; Petition for Variance is GRANTED with restrictions; and Petition for Special Hearing seeking approval of waiver to permit the addition of wood steps in a riverine floodplain, is DISMISSED AS MOOT.
--------	--

July 9	Motion for Reconsideration filed by Robert A. Hoffman and Patricia A. Malone, Venable, Baetjer and Howard, LLP, Attorneys for Developer.
July 17	Protestant's Response To Petitioner's Motion For Reconsideration, filed by John V. Murphy, Esquire, Murphy & Murphy, L.L.C., on behalf of Henry Berger, Kelly Clark, Gregg Brown and The Concerned Citizens of Oella, Protestants.
August 8	<u>HEARING OFFICER'S ORDER ON THE MOTION FOR RECONSIDERATION</u> by Lawrence E. Schmidt, Zoning Commissioner/Hearing Officer that the amended variance relief to permit a minimum drive aisle width of as narrow as 17'7" ilo req'd 22' is GRANTED, and as such, the Motion for Reconsideration is APPROVED.
August 16	Notice of Appeal filed by Peter Max Zimmerman, Office of People's Counsel for Baltimore County.
August 20	Notice of Appeal filed by John V. Murphy, Esquire, Murphy & Murphy, LLC, on behalf of Greater Oella Community Association Inc., Concerned Citizens of Oella and Christen Beed, Henry Berger, Gregory Brown, Dennis Burns, Lynette Burns, and Lydia Temoshok, individually.
September 18	Letter signed by Paul Mandl, Corresponding Secretary, Greater Oella Community Association to Arnold Jablon, Director, PDM, requesting the removal of the Association as Protestants.
September 19	Hearing Memorandum filed by the Office of People's Counsel
September _____ (undated) Received BOA 9/20/02	Supplemental Memorandum to Petition on Appeal filed by John V. Murphy, Esquire, Attorney for Protestants
September 20	Motion to Withdrawal Appearance filed by John V. Murphy, Esquire, Attorney for Protestants
September 24	Order Granting Withdrawal of Appearance signed by Chairman, Board of Appeals.
September 24	Hearing before the Board of Appeals – Day #1

September 26

Received Post-Hearing Day One – Letter from Lydia Temoshok, et al, Greater Oella Community Association requesting that her letter be entered into the record, correcting the letter dated September 18 by Paul Mandl

October 3

Hearing before the Board of Appeals – Day #2

PETITIONER's EXHIBITS

1. Plan to Accompany Petition for Special Hearing and Zoning Variance
2. Charles L. Wagandt – 2 pages
- 2A. A Vignette of Oella History
- 2B. Photograph of Mill
3. Donald R. Kann, AIA, NCARB – 1 page
4. Oella Mill Report dated May 9, 2002
5. Geoffrey H. Glazer, AIA, NCARB – 1 page
- 6A. Building Site Plan
- 6B. Plan - Proposed Exterior Elevations
- 7A – 7E. Photographs
8. Drawing of first story in Power Plant
9. Chart of photographs
10. Oella Homeowners Association, Inc. – Rule 8 papers
11. Jon David Wallenmeyer, AIA – 1 page
12. "Preserving History" brochure
13. Letter dated September 23, 2002 to Mr. Charles Marks, Chairman from Mary E. Harvey
14. Mickey A. Cornelius, P.E., P.T.O.E. – 1 page
15. The Dimensions of Parking – Fourth Edition
16. Interoffice Correspondence to Board of Appeal from Robert W. Bowling, Supervisor
17. George E. Gavrelis – 1 page
18. Site plan - highlighted

PROTESTANT's EXHIBITS

- 1A. Aerial photograph of Oella
- 1B.. Photograph of Oella
2. Tape
3. Henry Berger III – 2 page
- 4A – 4C. Photographs
5. Mezzanine photograph
6. Drawing
7. Zoning Map
8. Real Property Data Search

9. GSI – Oella Avenue
10. Henry Maeser, IV, A.I.A. – 1 page
11. Sketch of parking plan

October 8	Hearing before the Board – Day #3
October 30	Hearing before the Board completed – Day #4
November 12	Forest City's Post-Hearing Memorandum filed by Robert Hoffman People's Counsel's Post-Hearing Memorandum filed by Peter Zimmerman
November 12	Motion for Reconsideration and Rehearing filed by Peter Zimmerman, Officer of People's Counsel
November 14	Forest City's Response to Motion for Reconsideration and Rehearing, filed by Robert A. Hoffman, Esquire
November 19	Board convened for public Deliberation
December 4	Opinion Issued By The Board Of Appeals / ORDERED That the Petition for Variances – GRANTED That the Development Plan – AFFIRMED w/restriction
December 10	Amended Opinion Issued By The Board Of Appeals to correct two numerical errors in the Opinion Issued By The Board Of Appeals, dated December 4, 2002.
January 2, 2003	Petition for Judicial Review filed in the Circuit Court for Baltimore County by John V. Murphy, Esquire, on behalf of Greater Oella Community Association, Inc.; Henry Berger, individually; Gregg Brown, individually; Lynette Burns, individually; and Lydia Temoshok, individually.
January 6	Copy of Petition for Judicial Review received by the County Board of Appeals from the Circuit Court for Baltimore County.
January 8	Certificate of Notice sent to interested parties.
February 10	Partial transcript of proceedings received. Day One not paid for or filed. See letter from John V. Murphy, Esquire to Carolyn Peatt, dated January 9, 2003 and marked as Exhibit "A".

February 26

Record of Proceedings filed in the Circuit Court for Baltimore
County.

Record of Proceedings pursuant to which said Order was entered and upon which
said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence
before the Board.

Respectfully submitted,



Theresa R. Shelton, Legal Secretary
County Board of Appeals of Baltimore County
400 Washington Avenue, Room 49
Towson, MD 21204 (410) 887-3180

cc: John V. Murphy, Esquire
Lydia Temoshok, President, Greater Oella Community Association, Inc.
Robert Hoffman, Esquire
Patricia A. Malone, Esquire
Forest City Residential Group
Peter Max Zimmerman, People's Counsel for Baltimore County
Carole S. Demilio, Deputy People's Counsel for Baltimore County

FEB 10 2003

CIRCUIT COURT FOR BALTIMORE COUNTY

Suzanne Mensh

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

**COPY FOR YOUR
INFORMATION**

N O T I C E O F M O T I O N S H E A R I N G

Case Number: 03-C-03-000016

Administrative Agency : 02412SPHA

Administrative Agency : cba02137

C I V I L

In The Matter of: Greater Oella Community Association Inc, et al

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: John V. Murphy
Murphy & Murphy, L.L.C.
14 North Rolling Road
Catonsville, MD 21228-4848

This case has been assigned a hearing on all open motions on:

CIRCUIT COURT FOR BALTIMORE COUNTY
County Courts Building
401 Bosley Avenue
Towson, MD 21285-6754

Court date:
April 21, 2003
At: 01:30 PM
Motion Hearing (Civil)
15 MINUTES MOTIONS

PLEASE NOTE: If you desire to submit prior to this hearing date, please contact the Motion Assignment Clerk. A total of no more that one-half hour is allotted for a hearing on "Motion Days". If motions will take more than one-half hour, please contact the Motion Assignment Clerk for reassignment.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

A court reporter will not be present at the motion hearing unless specifically requested. Requests for reporters should be directed to the Motion Assignment Clerk. All requests for a postponement MUST BE MADE IN WRITING AS SOON AS POSSIBLE. This should be directed to the Motion Assignment Clerk with a copy to all counsel. Claim of not receiving this notice will not constitute reason for postponement.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Culbertson Rebecca
Assignment Office Phone: (410)-887-2660

Date Issued: 02/04/03

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

January 9, 2003

Carolyn Peatt
216 Clarendon Avenue
Pikesville MD 21208

Re: Oella Mill Transcript
case no. CBA 02-137 and 02-412-SPHA

Dear Carolyn:

Enclosed please find my client's check for \$700.00 as the deposit to order the transcript of the Oella hearings. I understand from our conversation that day 1 has not been transcribed but involved only argument of the attorneys on the legal issues of the case. I will not need day 1 transcript.

I further understand that testimony began on day 2 and that day and day 3 have already been transcribed. Consequently the cost to my clients is \$1.25 per page for 400 pages or \$500.00 for copies of these two days transcript.

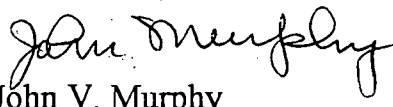
Finally day 4 has not been transcribed and will cost my client \$3.15 per page for 160 pages or \$504.00. The total cost of the testimony transcript will be \$1004.

You were kind enough to give us a further \$150 discount, so that we will owe you $\$1004 - \$700 - \$150 = \154 on completion. I realize that the actual page count may vary somewhat on the last day so that this is an estimate only.

As you know I have 60 days to file the record in this case, so I would appreciate your earliest attention to this matter.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

RECEIVED

FEB 10 2003

BALTIMORE COUNTY
BOARD OF APPEALS

JVM:pam

Enclosures
cc: Lydia Temoshok
H:\WP\WIN\DAI\YSUV\JJan03\JAN9.02

EXHIBIT "A"

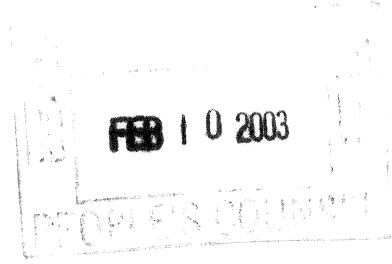
2/4/03

CID
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MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

**COPY FOR YOUR
INFORMATION**



February 6, 2003

Greater Oella Community Association
513 Oella Avenue
Ellicott City, MD 21043
attn: Lydia Temoshok President

Re: Oella Mill Judicial Review

Dear Lydia:

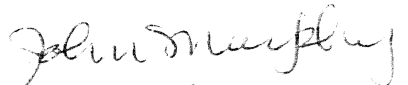
Enclosed please find Forest City's response to my answer to their Motion to Dismiss GOCA as a Petitioner. Note that they orchestrated Julia and then used her letter to me as evidence of their position. I received another such letter to the Court from Alexandra attached hereto which of course they again have orchestrated. They really want GOCA out as a Petitioner to go through this much trouble when there are four other petitioners who would stay on the review regardless of the status of GOCA. My guess is they think that this exercise will drain our resources and probably more important they think that if GOCA is out, our side will collapse. Are they correct?

Also attached is the notice from the Court of a hearing on this issue on April 21, 2003 which I will attend and argue our side. Ordinarily these hearing are strictly attorneys arguing without testimony and ordinarily I would not ask you to attend unless you just wanted to see the beauties of Towson. However in this case they have introduced the issue of the legitimacy of the GOCA votes and procedures. I will start my time by asking the Court to strike (not consider) arguments from persons such as Julia and Alexandra who are not parties to the review. However, although unlikely, it is possible the judge could wander into GOCA's business and I surely would need you there.

I hope the fund raising is going well. I have an absolute deadline of March 2, 2003 to transmit the record. This means that you have to pay the remaining cost of the transcript and County's transmittal cost of \$408 much before then. Our review will be dismissed if we miss this deadline.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

Enclosures

FEB 10 2003

PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

* IN THE
* CIRCUIT COURT

**COPY FOR YOUR
INFORMATION**

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

* FOR
* BALTIMORE COUNTY
*

840 Oella Avenue

*

1st Councilmanic District
1st Election District

* Civil Action No. 03-C-03-0016

*

CBA Nos. CBA-02-137/
02-412-SPHA

*

PDM No. I-498

*

*

* * * * *

**RESPONDENTS' REPLY MEMORANDUM
IN SUPPORT OF MOTION TO DISMISS**

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser, (hereinafter "Respondents"), by James A. Dunbar and Patricia A. Malone with Venable, Baetjer and Howard, LLP, their attorneys, file this Reply Memorandum in Support of Motion to Dismiss, as follows:

1. The inconsistencies that are contained in Petitioners' Answer to the Motion to Dismiss and the supporting documents are typical of the behavior of the officers of the Greater Oella Community Association ("GOCA") in this case. While the Answer states, in no uncertain terms, that Paul Mandl's letter to the County Board of Appeals on September 18, 2002, was "without authorization" of the President or

Board of Directors,” the officers, themselves, in a September 26, 2002, letter (attached to their Answer as Exhibit A) acknowledge that “Mr. Mandl was authorized to write a letter which reported the vote of the GOCA membership on 18 September.” (Emphasis added).

2. While GOCA’s President and Board of Directors may not have liked the outcome of the vote, it is clear that the GOCA membership did, in fact, vote on September 18, 2002, to withdraw its appeal of the Oella Mill development plan and variances. It is also clear that an authorized representative of GOCA reported that vote to the Board of Appeals and requested that GOCA’s appeal be withdrawn. The Board granted that request.

3. What is not clear is whether there was ever a legitimate vote that took place subsequent to the withdrawal wherein the membership voted to request reinstatement of GOCA’s appeal. *See* Letter from William Meisheid, et al., dated January 15, 2003, attached as Exhibit 1. Respondents submit, though, that it is immaterial whether or not any such vote took place.

4. The Board of Appeals properly granted GOCA’s request to withdraw its appeal on September 24, 2002, and it was under no obligation – on the last of four hearing dates and after both sides had already rested - to reinstate GOCA’s appeal and to give it “party” status. The Board’s decision to hold GOCA to its decision to withdraw was appropriate and supportable.

5. Without the requisite status as a “party” before the Board of Appeals, GOCA had no standing to file a petition for judicial review from the Board’s decision

on the Oella Mill development plan and variance requests. See Baltimore County Code, § 26-133; Baltimore County Charter, § 604.

6. Further, even if the Board of Appeals had reinstated GOCA's appeal, GOCA's petition would still merit dismissal as GOCA has not show that it is "aggrieved" by the final decision of the Board as that term has been defined by the Maryland appellate courts. Medical Waste Assoc. v. Maryland Waste Coalition, Inc., 327 Md. 596, 612-613 (1992) (holding that an organization must have a "property interest of its own – separate and distinct from that of its individual members.")

WHEREFORE, Respondents respectfully request this Court grant the Motion to Dismiss and dismiss GOCA as a petitioner.

Respectfully submitted,

James A. Dunbar / PAM

James A. Dunbar

Patricia A. Malone

Patricia A. Malone
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of February, 2003, a copy of the foregoing REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS was mailed to John V. Murphy, Esquire, Murphy & Murphy, LLC, 14 N. Rolling Road, Catonsville, Maryland 21228, Attorney for the Petitioners.

A handwritten signature in black ink, appearing to read 'Patricia A. Malone', is written over a horizontal line.

Patricia A. Malone

TO1DOCS1/154044 v1

FEB 10 2003

OELLA HOMEOWNERS ASSOCIATION, INC.
P.O. Box 802, Ellicott City, MD 21041-0802

January 31, 2003

Circuit Court for Baltimore County
County Courts Building
Clerk's Office
401 Bosley Ave.
Towson, MD 21204

Re: Petition of Greater Oella Community Association et al. for Judicial Review
In the Matter of Oella Mill LLP et al. For Development Plan Approval and
Approval of Petition for Variance
840 Oella Avenue
1st Councilmanic District
1st Election District
CBA Nos. CBA-02-137/02-412-SPHA
PDM No I-498
Civil Action Number 03-C-03-0016

Dear Judge:

I am writing to you regarding the appeal of the Appeals' Board's decision of Forest City Residential Group, Inc.'s ("Forest City") proposed redevelopment of the Oella Mill in historic Oella.

The Oella Homeowners Association, Inc. ("HOA") disagrees with this appeal by certain individuals and by the Greater Oella Community Association ("GOCA"). The HOA represents all the residentially zoned lots in the original company town that surrounds the historic mill. Our members are therefore most directly affected by the proposed restoration and adaptive use of the mill.

The Board of Directors of the HOA (the "Board") called a special meeting of all HOA members regarding the proposed mill development. The meeting was held on Wednesday, June 5th. Representatives of Forest City Residential Group, Inc. were present to discuss the development plan and answer specific questions from the community. In addition, the Oella HOA Board conducted a PowerPoint presentation outlining the major issues involved with Forest City's proposed development. Residents were given the opportunity to make comments and ask questions and Board members, opponents and Forest City Representatives answered the questions. A vote was taken at the end of the meeting. The result was in favor of the proposed mill development: 54 in favor, 29 opposed. As a result of the vote, the Board adopted a resolution to support the mill development pursuant to the Development Plan submitted by Forest City Residential Group. I presented the outcome of the vote to the Hearing Officer on Wednesday, June 12, 2002. After the appeal of the Hearing Officer's decision, I also testified at the

Appeals Board's hearing on October 3, 2002 and presented the results of the HOA vote to those judges.

GOCA's position does not represent the position of the HOA and those who are most directly affected by the mill redevelopment. Accordingly, we ask that when you deliberate the issues in this case and render your decision, that you consider the voice from those who are most directly affected by the proposed development.

Thank you for your consideration in this matter.

Respectfully,

A handwritten signature in cursive script that reads "Alexandra C. Clark".

Alexandra Clark, Esquire
HOA President

cc: John V. Murphy, Esquire
Robert Hoffman, Esquire
Peter Ruff
Jon Wallenmeyer

January 15, 2003

Mr. John Murphy, Esq.
Murphy & Murphy
14 N. Rolling Road
Catonsville, Maryland 21228

Dear Mr. Murphy:

We are writing to you as past presidents of the Greater Oella Community Association (GOCA), who are gravely concerned by recent actions taken by the President of the Association in regard to the mill development plan. These actions were taken in GOCA's name without proper authorization of the membership.

While possible GOCA action related to the mill development has been discussed since the plan was announced, it was only recently that action was taken "in the name of the Association." At the September 18, 2002 General Membership meeting (at which all the undersigned were present) three motions were made that bear directly on GOCA's position regarding the mill development plan. Those items in quotation marks below are a verbatim transcription of the videotape of that meeting. The motions contained in the minutes presented at the January 8, 2003 meeting did not contain the exact wording of the motions even though that was requested several times during the meeting. We will be happy to provide you with a copy of the videotape to authenticate the accuracy of these statements if necessary.

- First, a motion was made and seconded that "the Association take a vote in opposition to the development of the mill." It was ruled appropriately that this was new business and the motion would be carried over to the next meeting. Dr. Temoshok, President of the Association stated "discussion of that is going to take much longer than we have tonight."
- Next a motion was made and seconded that "we remove GOCA as a protestant on the appeal filed by Mr. Murphy effective immediately." This motion carried by a vote of 28 to 16. This vote took place after lengthy discussion that centered on the issue of the board not having the authority to take the action of filing an appeal on behalf of GOCA without the prior approval of the membership.
- A motion was made and seconded to "postpone the discussion and vote on whether the Concerned Citizens of Oella should become formally an Ad Hoc committee of GOCA." The motion passed 16 to 2 with 4 abstaining.

Even though further discussion of the tabled motions was either part of the motion, or a prominent part of the discussion, as stated by the President, this has not yet happened. Instead the board, on its own initiative, later decided to hold a paper ballot vote on October 28. This deprived members of the opportunity for proper discussion and vote. There is no provision in the bylaws permitting such a vote to be authorized outside of a membership meeting, and therefore such a vote could only be proposed and authorized by the membership. The board claims that the vote on October 28 was taken under its authority to call special or emergency meetings. However, the bylaws specifically state "Special and Emergency Meetings: are for the purpose of *discussing and voting* on any special, emergency, or otherwise unforeseen situation which demands immediate attention;" Since the bylaws require discussion be part of any special or emergency meeting, the vote on October 28 does not qualify as a meeting. Additionally, *Roberts Rules of Order* (which are incorporated into the bylaws by reference) require a vote to be initiated by a motion and opening the floor to discussion. The vote on October 28 was not the result of a

motion made at a membership meeting and in addition did not allow any discussion, therefore it does not qualify as a meeting and the vote was invalid.

Additionally, the motions that appear on the ballot of the October 28 "special meeting" were never moved nor seconded during a GOCA membership meeting and were therefore, as stated above, not valid. Nor do any of the motions on the ballot, even if for argument's sake could be considered valid, authorize the filing of an appeal at the Circuit Court level in the mill development case. In addition it should be noted that establishment of the Concerned Citizens Action Committee as an Ad Hoc Committee of GOCA is still only a proposal, having never been approved by the membership at a meeting and the establishment of the committee was specifically tabled at the September 18 meeting and not addressed at the January 8 meeting. Therefore, they cannot validly make any claim to be a committee of GOCA or to represent GOCA in any way.

According to the bylaws "Board Meetings: are for the purpose of reviewing Association business, and preparing an agenda for the next Membership Meeting." Therefore the Board does not have the authority to take such action on its own, outside of the intent of the Association, expressed by a specific motion and vote.

The board has continued acting without any authorization by filing an appeal on behalf of GOCA with the Circuit Court. As past presidents, we are outraged by these improper actions and the misrepresentation of GOCA's official position, and demand that GOCA's name be removed from the filing in Circuit Court.

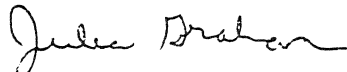
Sincerely,



William Meisheid, 502 Oella Ave., Oella, MD 21043



Terry Viancour, 292 Bloomsbury Ave., B-9, Catonsville, MD 21228



Julia Graham, 730 Oella Ave., Oella, MD 21043



Jay Patel, 425 Oella Ave., Catonsville, MD 21228

cc: Robert Hoffman, Esq. ✓
Circuit Court of Baltimore County
Dr. Lydia Temoshok, GOCA President
Paul Mandl, GOCA Corresponding Secretary

BY-LAWS
of the
**GREATER OELLA
COMMUNITY ASSOCIATION**



Revised
January 11, 2002

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BY-LAWS
of the
GREATER OELLA COMMUNITY ASSOCIATION

Revised, March 14, 2001

ARTICLE I. Organization

- A. Name: Greater Oella Community Association (GOCA).
- B. Established: Formerly the Oella Community Improvement Association, founded April 3, 1874, and incorporated by the State of Maryland on July 29, 1988 as the Greater Oella Community Association, a non-stock, non-political, non-religious, non-profit, tax-exempt organization.
- C. Jurisdiction:
 - 1. Starting from the Ellicott City bridge, going:
EAST on Route 144 (Frederick Road) 1.3 miles, to the intersection of Route 144 and Oella Avenue;
NORTHWEST (left) on Oella Avenue to the intersection of Oella and Westchester Avenues;
NORTHEAST (right) on Westchester Avenue to the intersection of Westchester and Rockwell Avenues;
WEST (left) along an imaginary line extending Rockwell Avenue to the Patapsco River;
SOUTH (left) along the Patapsco River to the Ellicott City bridge.
 - 2. All the area within the above boundaries (see map in Appendix A).
 - 3. All the areas immediately adjacent to the above boundaries.
- D. Goals: Association policy shall be dedicated to:
 - 1. securing and maintaining recreational facilities for the entire community;
 - 2. preserving the historical and rural atmosphere of the community;
 - 3. working in conjunction with other community, historic, and preservation organizations operating within the jurisdiction of and immediately adjacent to the Association. From time to time the Association may appoint representatives to these or to other organizations;

4. working with all governmental agencies to enhance the quality of life within the community.
5. From time to time Association policy may change as the need arises. 'Policy' shall be the ways and means of achieving the above goals.

ARTICLE II. Membership Requirements and Qualifications

- A. Membership: Hereafter, the term 'Member' shall be defined as any person who:
 1. is 18 years or older; and
 2. is a resident, by owning or otherwise maintaining a legal residence, within the jurisdiction of the Association (must be able to provide proof of residency or ownership; 'legal' shall be interpreted as 'for tax purposes'); or
 3. owns or operates a business within the jurisdiction of the Association; and
 4. has signed up to be a Member of the Association on or after March 1, 1988.
 - B. A Member may request that his or her name be removed from the Membership roster by submitting a request in writing to the Treasurer.
-

ARTICLE III. Dues *(This Article was deleted by amendment, January 30, 1990)*

ARTICLE IV. Association Officers

- A. The Association Officers constitute the Board of Directors.
- B. The Board of Directors is elected by vote of the Association Members (see ARTICLE V. Nominations and Elections).
- C. Term of office: 1 year (see ARTICLE V, Section E).
- D. Eligibility: A Member of the Board of Directors shall be a Member of the Association.
- E. Authority: All appointments made by the President and/or the Board of Directors, unless otherwise noted herein, are subject to approval of the Membership.

F. The Board of Directors consists of 5 Officers:

1. President: The principal duties of the President are to:
 - a. preside at all Membership, Board, Special, and Emergency Meetings;
 - b. coordinate all Association activities;
 - c. represent the Association in all activities outside the Association.
2. Vice-President: the principal duties of the Vice-President are to:
 - a. preside in the absence of the President;
 - b. assist the President in Association leadership;
 - c. represent the Association in the absence of the President;
 - d. keep the Association Charter and Seal.
3. Recording Secretary: the principal duties of the Recording Secretary are to:
 - a. keep detailed minutes of each Membership, Board, Special, or Emergency Meeting;
 - b. provide to the Membership copies of a synopsis of the minutes of the previous Membership Meeting and any Special or Emergency Meeting held since the previous Membership Meeting, along with the agenda of the next Membership Meeting;
 - c. read, at the beginning of each Membership Meeting, the minutes recorded at the last Membership Meeting;
 - d. maintain and update the Association *BY-LAWS*
(see Article XI, Section B);
 - e. turn over all Association minutes more than one year old to the Corresponding Secretary for the Association Archives.
4. Corresponding Secretary: the principal duties of the Corresponding Secretary are to:
 - a. keep a copy of all Association incoming and outgoing correspondence, and all correspondence from the Association to its Members and the community;
 - b. inform the Membership, at the beginning of each Membership Meeting, of all incoming and outgoing correspondence since the last Membership Meeting ;
 - c. preserve and maintain as Association Archives, all Association records not currently kept by other Association Officers and Committee Chiefs.
5. Treasurer: the principal duties of the Treasurer are to:
 - a. conduct, and keep records of, all Association financial business and monies;
 - b. keep a current list of Members;

- c. take attendance at the beginning of each-Membership, Special, or Emergency Meeting, to ensure that voting is by members only, and that participation is only by Members or by non-members invited by the Board of Directors to participate (see Article VII, Section B);
 - d. report on, at each Meeting, all incoming monies and expenditures which have occurred since the last Meeting; and the current financial situation of the Association General Fund, all Special Funds, and the Petty Cash fund;
 - e. ensure that the Association financial records are current and accurate for tax purposes;
 - f. turn over all Association financial records more than one year old to the Corresponding Secretary for the Association Archives.
- G. An outgoing Board of Directors is responsible for all tax information for the year of its office. Outgoing and incoming Boards of Directors shall work together to ensure that all records are correct and complete when they are turned over to the incoming Board of Directors.

ARTICLE V. Nominations and Elections

- A. At the second regular Membership Meeting of the calendar year, a Nominating Committee shall be established and its Committee Chief shall be appointed by the President, for the purpose of collecting nominations for each of the five Offices of the Board of Directors for the following Electoral Year. The Electoral Year shall run from the end of regular business at the third regular Membership Meeting of the calendar year, until the same time in the following year (see Section E below).
- B. At the third regular Membership Meeting of the calendar year, the Nominating Committee shall present the nominations for the five Offices of the Board of Directors. New nominations may also be entertained from the floor during this meeting. Elections, including any primary voting, if necessary, will then be held at this same Meeting.
- C. The final election for each Office shall be between no more than two candidates. If there are 3 or more nominees for any one Office, a primary vote will be held for that Office. The 2 nominees who receive the most primary votes will be the 2 candidates for that Office.
- D. Election to an Office shall be awarded to the candidate who receives the greater number of votes for that Office.

- E. The incoming Board of Directors shall be installed as the last business item on the agenda of the Membership Meeting during which they are elected, at which time all Association records, and any Association property related to the execution of their duties as Association Officers, shall be turned over to the incoming Board of Directors.
- F. Vacancies in the Board of Directors: Whenever a vacancy occurs in the Board of Directors:
 - 1. The President shall appoint a Member temporarily to fill the vacancy until the next Membership elections.
 - 2. If the Office of President becomes vacant, the Vice-President shall assume the Presidency and appoint a temporary Vice-President.
 - 3. The appointments shall be approved by a simple majority vote at the next scheduled Membership Meeting.
- G. Limitations:
 - 1. Only one member of an immediate family (parent, child, spouse, sibling, grandparent, grandchild) shall serve on the Board of Directors during the same term of office.

ARTICLE VI. Quorum

- A. A quorum must be present at any meeting in order to vote on any issue concerning the Association or its Membership.
- B. A Membership quorum consists of 9 Members: the President or his appointed alternate (must be a Member of the Board of Directors), one other Officer of the Board of Directors, 6 other Members, and a designated secretary to record the proceedings.
- C. A Board of Directors quorum consists of 3 Officers.
- D. A committee quorum consists of a simple majority of its Members.

ARTICLE VII. Voting Requirements and Privileges

- A. A simple majority of the Membership present at any Association Meeting is needed to pass any voted decision, including Association policy, unless

4. Committee membership may be restricted on a case by case basis subject to the approval of the Board of Directors.
5. All Committee correspondence outside the Association shall be with the approval of the Board of Directors.
 - a. Action by the Board shall be within 10 days of submission.

G. There are two types of Committees: Standing and Ad Hoc.

1. Standing Committee: A Standing Committee is a committee established to deal with ongoing, long-term Association business.
 - a. A Standing Committee shall consist of at least 3 Association Members.
 - b. Standing Committees other than the those in Item 1.c below may be defined, created, or dissolved by the President or the Board of Directors, with the consent of the Membership; or by the Membership by simple majority vote.
 - c. In order to meet the Association goals in ARTICLE I, Section D, the following Standing Committees are established:
 - i. Public Works & Safety: to deal with public works, roads, safety, and security within the Association jurisdiction.
 - ii. Zoning & Development: to deal with zoning and development activities by governments as well as historical activities within the Association jurisdiction.
 - iii. Recreation & Environment: to deal with retaining the rural atmosphere; maintaining parks and open spaces; providing for recreational activities; cleaning and maintaining the outward physical appearance of the community; and issues and situations which threaten the environment.
 - iv. Membership & Community Welfare: to recruit and maintain membership within the Association; to interact with other community associations within or immediately adjacent to the Association jurisdiction; to deal with any inter-personal relations within the Association jurisdiction which, by public acclaim, are seen to be detrimental to the Association, its Members, or the community at large; to provide an avenue for protest or redress; and to provide a forum in which aggrieved parties may present their problems.
2. Ad Hoc Committees: An Ad Hoc Committee is a committee established to handle short-term, temporary Association business, or special activities, as the need arises.
 - a. Ad Hoc Committees may be established by the President, the

otherwise noted in these *BY-LAWS*.

1. In these *BY-LAWS* the term 'consent of the Membership', or 'approval of the Membership', shall mean 'unless there is an objection'. If no objection is raised, or an objection is withdrawn after discussion, the decision passes automatically. If the objection stands after discussion, a simple majority vote shall decide the issue.
 - B. Only Members of the Association (see ARTICLE II. Membership Requirements and Qualifications) shall make motions or seconds, or vote in any Association meetings.
 1. Non-members may be invited by the Board of Directors to talk or to discuss particular topics at Membership, Special, or Emergency Meetings; and may be invited by the Board of Directors to participate in floor discussions; but non-members shall not vote.
 2. Non-members who wish to address the Association may contact the Board of Directors, who shall decide whether to allow the person(s) to speak or to present a petition for a Membership vote.
 - C. A Member must be present at a meeting in order to vote on any issue. No proxy votes are allowed.
 - D. Voting on any issue can only be done at an Association Meeting (see ARTICLE IX. Meetings).
-

ARTICLE VIII. Association Committees

- A. Committee Chiefs shall be appointed and/or removed by the President subject to the approval of the Membership.
- B. The principal duties of the Committee Chiefs shall be to:
 1. provide leadership and direction to Committee activities;
 2. conduct Committee business between Membership Meetings;
 3. report Committee activities at each Membership Meeting;
 4. represent the Committee in all activities outside the Committee;
 5. keep and maintain all Committee records;
 6. coordinate with other Committees in any areas of responsibilities which may overlap.
- C. Term of office of Committee Chiefs: 1 year

4. Committee membership may be restricted on a case by case basis subject to the approval of the Board of Directors.
5. All Committee correspondence outside the Association shall be with the approval of the Board of Directors.
 - a. Action by the Board shall be within 10 days of submission.

G. There are two types of Committees: Standing and Ad Hoc.

1. Standing Committee: A Standing Committee is a committee established to deal with ongoing, long-term Association business.
 - a. A Standing Committee shall consist of at least 3 Association Members.
 - b. Standing Committees other than the those in Item 1.c below may be defined, created, or dissolved by the President or the Board of Directors, with the consent of the Membership; or by the Membership by simple majority vote.
 - c. In order to meet the Association goals in ARTICLE I, Section D, the following Standing Committees are established:
 - i. Public Works & Safety: to deal with public works, roads, safety, and security within the Association jurisdiction.
 - ii. Zoning & Development: to deal with zoning and development activities by governments as well as historical activities within the Association jurisdiction.
 - iii. Recreation & Environment: to deal with retaining the rural atmosphere; maintaining parks and open spaces; providing for recreational activities; cleaning and maintaining the outward physical appearance of the community; and issues and situations which threaten the environment.
 - iv. Membership & Community Welfare: to recruit and maintain membership within the Association; to interact with other community associations within or immediately adjacent to the Association jurisdiction; to deal with any inter-personal relations within the Association jurisdiction which, by public acclaim, are seen to be detrimental to the Association, its Members, or the community at large; to provide an avenue for protest or redress; and to provide a forum in which aggrieved parties may present their problems.
2. Ad Hoc Committees: An Ad Hoc Committee is a committee established to handle short-term, temporary Association business, or special activities, as the need arises.
 - a. Ad Hoc Committees may be established by the President, the

- Board of Directors, or by Membership request.
- b. Ad Hoc Committees are dissolved when the special activity has ended, or the Committee is no longer needed. When Ad Hoc Committees are dissolved, all Committee records are turned over to the Corresponding Secretary.
 - c. Ad Hoc Committees are established and dissolved only with the approval of the Membership.
 - d. The principal objectives and duties of each Ad Hoc Committee shall be outlined by the Board of Directors and/or the Membership when the Committee is established.
 - e. The term of office of the Committee Chief shall be one year or the life of the Committee, whichever is less.
 - f. The procedure for appointing new Ad Hoc Committee Chiefs shall be the same as for Standing Committee Chiefs (ARTICLE VIII, Sections A and C).
 - g. Ad Hoc Committees may be made Standing Committees by the President or the Board of Directors, with the consent of the Membership; or by the Membership by simple majority vote.

ARTICLE IX. Meetings

- A. All Association Meetings shall be conducted according to *Robert's Rules of Order* (published by Scott Foreman & Co.) where it does not conflict with these *BY-LAWS*.
 - 1. Only the latest Scott Foresman textual revision of *Roberts Rules of Order* shall be used.
 - 2. The Board of Directors must ensure that a copy is available at all Membership, Board, Special, or Emergency Meetings as a reference.
- B. At any Association Meeting of any kind (see Sections C, D, and E below), an audio recording of the Meeting may be made by the Recording Secretary.
 - 1. Such audio recordings are strictly for temporary use by the Recording Secretary, to ensure accuracy of detail when transcribing the Meeting Minutes.
 - 2. Every such audio recording shall be erased as soon as the Meeting Minutes have been satisfactorily transcribed. No such audio recordings shall ever become archives of the Association.

C. Membership Meetings:

1. are for the purpose of conducting normal Association business and establishing and changing the Association policy;
2. are open to the entire Association Membership and may be attended by all invited guests, permanent residents, property owners, renters, or persons otherwise maintaining legal residences or operating businesses within the Association jurisdiction;
3. shall be scheduled at least four times per calendar year, but not more than four months apart, and on a regular day of each chosen month, and at a regular time and place.
 - a. This requirement may be temporarily augmented or suspended by a 2/3 vote of the Membership present at a Membership Meeting.
 - b. Any augmentation, suspension, or change shall be conveyed by mail, posters, flyer distribution, or by some other means, to the rest of the Membership and the community at least ten days before the next scheduled Membership Meeting.
4. In the event a scheduled meeting must be cancelled, the Board of Directors shall be responsible for rescheduling the meeting and notifying the Membership.

D. Board Meetings:

1. are for the purpose of reviewing Association business, and preparing an agenda for the next Membership Meeting.
 - a. The agenda for the next Membership Meeting shall be distributed to the entire Membership at least 10 days before the Membership Meeting to allow time for Members to examine it and prepare discussions and/or presentations.
2. are open to any Association Members, and may be attended by non-members invited by the President.
 - a. The President retains the right to request a disruptive individual to leave a Board Meeting.
 - b. Future attendance by a continuously disruptive person may be restricted on a case by case basis subject to the approval of the Board of Directors and the consent of the Membership.
3. are scheduled by the President at times and places convenient to the majority of the Board of Directors.

E. Special and Emergency Meetings:

1. are for the purpose of discussing and voting on any special, emergency,

- or otherwise unforeseen situation which demands immediate attention;
2. may be called by the President or Vice-President, upon notification of the Board of Directors and as many Members as reasonable time permits;
 3. may be requested by a group of at least 7 non-Board Members upon their notification to the Board of Directors.

ARTICLE X. Association Funds

- A. The Association fiscal year shall coincide with the calendar year.
- B. The Association General Fund:
 1. consists of all monies owned and controlled by the Association, other than monies in Special Funds and Petty Cash;
 2. is deposited, invested, and maintained by the Treasurer, by order of the Board of Directors, with the consent of the Membership.
- C. Special Funds:
 1. are funds raised by, or for, Special Projects sponsored and/or organized by the Association;
 2. are created and expended by simple majority vote of the Membership;
 3. shall be kept in separate bookkeeping accounts to be used only by or for the Special Projects to which they belong;
 4. shall be transferred to the General Fund if the Special Projects to which they belong are fulfilled or abandoned, or cease to exist;
 5. may be established by borrowing monies from the General Fund to provide for expenditures incurred in establishing and operating Special Projects;
 6. which have been established by monies borrowed from the General Fund, shall be returned, interest free, to the General Fund upon maturation of the Special Projects, or when no longer needed to maintain the operating balance of the Special Funds;
 7. belonging to Special Projects, which are terminated before being able to return any monies borrowed from the General Fund, shall be returned to the General Fund. All property of terminated Special Projects shall be returned to the Association.

D. Petty Cash:

1. A Petty Cash fund of \$100.00 shall be established from the General Fund for the purpose of providing the Board of Directors with monies for all Association business between meetings.
2. Petty Cash transactions may be by cash or check.
3. At each Membership Meeting the expended monies may be replaced from the General Fund. If there are objections to the expenditures for the period since the last Membership Meeting, the Membership may elect not to restore the full amount to Petty Cash.
5. The Board of Directors is responsible for ensuring Board Members access to the checkbook or Petty Cash should the Treasurer not be available.

E. Expenditures:

1. All checks for the disbursement of Association funds must bear the signature of any two of the five Board Members, with one preferably being the Treasurer whenever possible.
2. All expenditures from the General Fund shall be with the consent of the Membership.

F. Records:

1. All Association accounts:
 - a. shall be kept and maintained by the Treasurer;
 - b. shall be surrendered to any authorized government auditing activities, or any business authorized by the Association;
 - c. shall be made available, upon request to the Board, for examination by any Member, within 7 days.
2. Association financial records more than one year old shall be turned over to the Association Archives (Corresponding Secretary).

ARTICLE XI. Amendments to the BY-LAWS

A. The Association BY-LAW shall be amended as follows:

1. Any amendment to these BY-LAWS shall be proposed only at a Membership Meeting. Discussion of and voting on the proposed amendment shall be at the following Membership Meeting. (See also Section A.5 below.)
2. Any proposed amendment shall be open for discussion at a Membership Meeting before voting on that amendment takes place.

3. An amendment shall be phrased in such a way as not to infringe upon, nullify, or detract from any existing By-Law except the one under consideration. If it is found that a proposed amendment cannot be so phrased because more than one Article or Section is involved, then all Articles or Sections involved shall be included in the proposed amendment.
4. The proposed amendment shall be made available in written form to the entire Membership for study at least 10 days before the Membership Meeting during which it is to be voted upon.
5. If necessary, discussion of the proposed amendment may be continued into one additional Membership Meeting. After each meeting, a synopsis of the discussion, and an updated version of the proposed amendment shall be made available in writing to the entire Membership at least 10 days before the next Membership Meeting.
6. The proposed amendment shall be approved by a 2/3 majority vote of the Membership present at the Membership Meeting.
7. If, after discussion during two Membership Meetings, the proposed amendment fails to achieve a 2/3 majority, the amendment fails and cannot be re-introduced for 3 months, or 3 Membership Meetings, whichever occurs first.
8. The exact text of the amendment, once approved, shall be made available in writing to any Member upon request by the next meeting.

B. Official copies of the BY-LAWS:

1. An up-to-date copy of the *BY-LAWS*, marked with the Association Seal, shall be kept by the Recording Secretary, and shall be available at all meetings, and shall be provided to any Member upon request, for examination.
2. Any Member can obtain upon request an up-to-date copy of the *BY-LAWS* from any Officer of the Association, or from a designee of the Board of Directors at any Membership Meeting. Each current Officer of the Association shall keep a reasonable supply of up-to-date copies of these *BY-LAWS* in his or her possession for this purpose.
3. All pages of all copies of the *BY-LAWS* shall be dated, and each amendment adopted during the year shall be noted with the date of its adoption.
4. The first duty of an incoming Recording Secretary each year shall be to make, or to have made, a completely updated copy of the *BY-LAWS*, incorporating any amendments adopted during the year; and to mark each page with the Association Seal, which shall be temporarily

obtained from the Vice-President for this purpose. The Recording Secretary shall then use, or cause to be used, this completely updated copy as a master to make copies of the *BY-LAWS* which shall be available to Members through the current Officers and at Membership Meetings, as described in Section B.2 above.

5. In the event of dispute over copies of the *BY-LAWS* containing any differences of content, the copy and amendments with the latest date shall be considered the most current. All previously dated and all undated copies shall be null and void.

ARTICLE XII. Removal of Officers, Committee Chiefs, or Association Members

- A. In the best interest of the Association and its Members, every effort should be made, both by Board Members and by other Association Members, to intervene between aggrieved parties. The intention of this article is to provide a mechanism for handling only those most serious breeches of conduct. The frivolous use of this article shall be viewed with the same severity as those transgressions noted in sections B and C.
- B. Any Member who continuously disrupts a Membership, Board, Special, Emergency, or Committee Meeting, or any Association function, shall be dealt with as described in the disciplinary procedures section of *Robert's Rules of Order*.
- C. Officers or Committee Chiefs may be removed from office and Members may lose their membership for the following reasons:
 1. Failure to carry out accepted assignments made by the Board of Directors or Committee Chiefs;
 2. Usurpation of another Board Member's or Committee Chief's duties;
 3. Failure to carry out the duties of their Offices;
 4. General conduct not befitting a Board Member, Committee Chief, or Association Member, when representing the Association;
 5. Misrepresentation of previously established Association policy;
 6. Malfeasance.
- D. Removal from Office or from the Association shall be as follows:
 1. Using Section A of this Article as a guideline, any Member may

request, in writing, to remove an Officer or Committee Chief from his or her post, or any Member from the Association.

2. The request, signed by the Member, and containing the reason(s) for removal, shall be read at the next scheduled Membership Meeting. After the request is read, the Chair shall then announce that at the following Membership meeting the floor shall be open for any motion concerning the request for removal.
3. At the following Membership Meeting, the request shall be read again, and the Chair shall entertain any motions from the floor for a Call to Remove.
 - a. If no such motion is made, or no second to the motion is made, then the request is dropped, and no further action is taken. If the motion is made and seconded, then open discussion takes place. The motion is then voted upon.
 - b. A 2/3 majority vote of Members present is required to pass a motion for a Call to Remove. If the motion fails, the matter is dropped and no further action is taken. If the motion passes, the Chair declares that the Member no longer serves in his or her capacity prior to the Call to Remove, and/or that he or she is no longer accepted as a Member of the Association, whichever is applicable.

Appendix A

Jurisdiction of the Greater Oella Community Association

1/13/03
PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

* IN THE
* CIRCUIT COURT

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

* FOR
* BALTIMORE COUNTY

840 Oella Avenue

*

1st Councilmanic District
1st Election District

* Civil Action No. 03-C-03-0016

*

CBA Nos. CBA-02-137/
02-412-SPHA

*

PDM No. I-498

*

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* * * * *

**RESPONDENTS' MOTION TO SHORTEN TIME
AND FOR EXPEDITED HEARING**

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser, (hereinafter "Respondents"), by James A. Dunbar and Patricia A. Malone with Venable, Baetjer and Howard, LLP, their attorneys, in accordance with Maryland Rules 1-204, 7-206, 7-207, and 7-208, file this Motion to Shorten Time and for Expedited Hearing, as follows:

1. This case involves a request for judicial review of a decision by the County Board of Appeals for Baltimore County ("Board of Appeals") to affirm the approval of the Zoning Commissioner for Baltimore County, sitting as Hearing Officer, of a development plan for the Oella Mill property and to approve related

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**BALTIMORE COUNTY
BOARD OF APPEALS**

zoning relief, which opinion was filed December 4, 2002, and amended on December 10, 2002.

2. A Petition for Judicial Review was filed by the Greater Oella Community Association, Inc. and four individuals on January 2, 2002.

3. The Oella Mill is currently owned by Oella Mill, LLP, who has contracted to sell this significant historic property to Forest City Residential Group ("Forest City"). Forest City has proposed to renovate the Mill property into luxury apartments. Forest City has sought and received from the Zoning Commissioner of Baltimore County, sitting as Hearing Officer, and the County Board of Appeals, the necessary development plan approval and zoning relief for the proposed apartment project.

4. However, the appeal to the Board of Appeals and the petition for judicial review have delayed settlement on the property and have forced Forest City to seek contract extensions with Oella Mill, LLP, at significant expense. Oella Mill, LLP and Forest City would benefit from this Court shortening the time for transmission of the record and for filing memoranda and granting an expedited hearing date.

5. The historic Oella Mill, which building dates back to the early 1900's, would also benefit from a quick resolution of this matter. The building is in disrepair, and, for obvious reasons, no one is willing to expend the funds necessary to begin renovation/restoration of the building while this appeal is pending.

6. According to the Maryland Rule 7-206, unless the time is shortened or extended by the court, the Board of Appeals "shall transmit to the clerk of the circuit court the original or a certified copy of the record of the proceedings within 60 days after the agency receives the first petition for judicial review." Respondents request that the time in which the Board of Appeals must transmit the record of the proceedings be shortened from 60 days to 30 days. Counsel for Respondents have spoken directly to the Administrator of the Board of Appeals and the court reporter involved, who have informed counsel that 30 days would be sufficient time in which to prepare the transcripts and to transmit the record.

7. All significant issues, both for and against approval of the development plan and the related zoning variance, have been briefed and argued both before the Hearing Officer and the Board of Appeals. Petitioners, therefore, would not be prejudiced if the Court were to grant this motion.

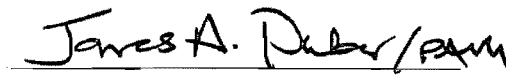
8. With regard to the dates for filing memoranda in accordance with Maryland Rule 7-207, Respondents, therefore, request that the Court shorten the time requirements to the following:

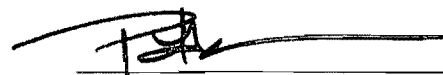
- Within 15 days after the clerk send notice of the filing of the record, the Petitioners shall file their Rule 7-207 Memorandum;
- Within 15 days after service of the Petitioners' Memorandum, the Respondents shall file their Answering Memorandum; and
- Within 10 days after service of the Answering Memorandum, the Petitioners may file a Reply Memorandum.

9. With regard to the hearing under Maryland Rule 7-208, Respondents request that the Court grant an expedited hearing date and that a hearing date be scheduled approximately 60 days from the date the record is filed.

WHEREFORE, Respondents respectfully request that this Motion to Shorten Time and for Expedited Hearing be granted.

Respectfully submitted,


James A. Dunbar


Patricia A. Malone
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Respondents

MEMORANDUM OF GROUNDS AND AUTHORITIES

1. Maryland Rule 1-204 (Motion to Shorten or Extend Time Requirements);
2. Maryland Rule 7-206(c), (d) (Record – Time for Transmitting, Shortening or Extending Time);
3. Maryland Rule 7-207(a), (c) (Memoranda – Generally, Modification of Time Requirements);
4. Maryland Rule 7-208(b) (Hearing – Scheduling).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of January, 2003, a copy of the foregoing MOTION TO SHORTEN TIME AND FOR EXPEDITED HEARING, MEMORANDUM OF GROUNDS AND AUTHORITIES, and proposed ORDER was hand-delivered to John V. Murphy, Esquire, Murphy & Murphy, LLC, 14 N. Rolling Road, Catonsville, Maryland 21228, Attorney for the Petitioners; and to Kathleen C. Bianco, Administrator, County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.



Patricia A. Malone

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PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

840 Oella Avenue

1st Councilmanic District
1st Election District

CBA Nos. CBA-02-137/
02-412-SPHA

PDM No. I-498

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

*

*

* Civil Action No. 03-C-03-0016

*

*

*

*

* * * * *

ORDER

Having considered the Motion to Shorten Time and for Expedited Hearing
and any response thereto, it is on this _____ day of _____, 2003, by the
Circuit Court for Baltimore County,

ORDERED that the Motion to Shorten Time and for Expedited Hearing is
hereby GRANTED;

ORDERED that the time in which the County Board of Appeals for Baltimore
County has to transmit the record of the proceedings under Maryland Rule 7-206 be
shortened from 60 days to 30 days;

ORDERED that the time required to file Memoranda in accordance with Maryland Rule 7-206 be shortened according to the following:

- Within 15 days after the clerk send notice of the filing of the record, the Petitioners shall file their Rule 7-207 Memorandum;
- Within 15 days after service of the Petitioners' Memorandum, the Respondents shall file their Answering Memorandum; and
- Within 10 days after service of the Answering Memorandum, the Petitioners may file a Reply Memorandum.

ORDERED that Respondents' request for an expedited hearing date under Maryland Rule 7-208 is hereby GRANTED and that a hearing date will be scheduled approximately 60 days from the date the record is filed.

JUDGE, CIRCUIT COURT FOR
BALTIMORE COUNTY

1/13/03
PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

* IN THE
* CIRCUIT COURT

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

* FOR
* BALTIMORE COUNTY
*

840 Oella Avenue

*

1st Councilmanic District
1st Election District

* Civil Action No. 03-C-03-0016

*

CBA Nos. CBA-02-137/
02-412-SPHA

*

PDM No. I-498

*

*

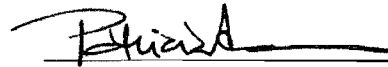
* * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser, (hereinafter "Respondents"), by James A. Dunbar and Patricia A. Malone with Venable, Baetjer and Howard, LLP, their attorneys, in accordance with Maryland Rule 7-204, submit this Response to the Petition for Judicial Review filed by the Greater Oella Community Association, Inc., et al., and state that they intend to participate in this action for judicial review.

Respectfully submitted,

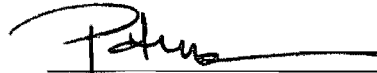
James A. Dunbar / JAM
James A. Dunbar



Patricia A. Malone
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of January, 2003, a copy of the foregoing RESPONSE TO PETITION FOR JUDICIAL REVIEW was hand-delivered to John V. Murphy, Esquire, Murphy & Murphy, LLC, 14 N. Rolling Road, Catonsville, Maryland 21228, Attorney for the Petitioners; and to Kathleen C. Bianco, Administrator, County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.



Patricia A. Malone

1/8/03
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
**GREATER OELLA COMMUNITY
ASSOCIATION, INC.**
513 OELLA AVENUE
ELLCOTT CITY MD 21043

and

HENRY BERGER
734 PLEASANT HILL ROAD
ELLCOTT CITY, MARYLAND 21043

and

GREGG BROWN
709 PLEASANT HILL ROAD
ELLCOTT CITY, MARYLAND 21043

and

LYNETTE BURNS
715 RACE ROAD
ELLCOTT CITY, MARYLAND 21043

and

LYDIA TEMOSHOK
513 OELLA AVENUE
ELLCOTT CITY, MARYLAND 21043

FOR JUDICIAL REVIEW OF THE OPINION OF
THE **COUNTY BOARD OF APPEAL**
OF BALTIMORE COUNTY
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

CIVIL ACTION
No. 3-C-03-0016

IN THE MATTER OF THE APPLICATION OF
OELLA MILL LLC /PDM #I-498

1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

CASE NO. CBA-02-137 AND 02-412-SPHA

* * * * *

RECEIVED AND FILED

2003 JAN -8 A 10:30

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

John V. Murphy, Esquire
Murphy & Murphy, L.L.C., 14 North Rolling Road, Catonsville, MD 21228

Lydia Temoshok, President, Greater Oella Community Association, Inc.,
513 Oella Avenue, Ellicott City, MD 21043

Lydia Temoshok
513 Oella Avenue, Ellicott City, MD 21043

Henry Berger
734 Pleasant Hill Road, Ellicott City, MD 21043

Gregg Brown
709 Pleasant Hill Road, Ellicott City, MD 21043

Lynette Burns
715 Race Road, Ellicott City, MD 21043

Robert Hoffman, Esquire
Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204

Patricia A. Malone, Esquire
Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204

Forest City Residential Group
5803 Nicholson Lane, North Bethesda, MD 20852

Mr. Jon Wallenmeyer, Vice President
East Coast Development, 5803 Nicholson Road, Rockville, MD 20853

Mr. Mickey Cornelius
The Traffic Group, 9900 Franklin Square Drive #H, Baltimore, MD 21236

Ronald Kann

Kann & Associates, 207 E. Redwood Street, Baltimore, MD 21202

Mr. Peter Ruff

Oella Mill LLP, 840 Oella Avenue, Ellicott City, MD 21043

Christine Beed

917 Oella Avenue, Ellicott City, MD 21043

Mitchell Kellman

Daft McCume Walker, Inc., 200 West Pennsylvania Ave., Towson, MD 21286

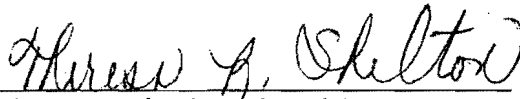
Peter Max Zimmerman

People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

Carole S. Demilio

Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47,
400 Washington Avenue, Towson, Maryland 21204

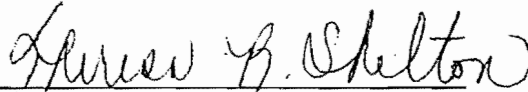
A copy of said Notice is attached hereto and prayed that it may be made a part hereof.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John V. Murphy, Esquire, Murphy & Murphy, L.L.C., 14 North Rolling Road, Catonsville, MD 21228; Lydia Temoshok, President, Greater Oella Community Association, Inc., 513 Oella Avenue, Ellicott City, MD 21043; Lydia Temoshok, 513 Oella Avenue, Ellicott City, MD 21043; Henry Berger, 734 Pleasant Hill Road, Ellicott City, MD 21043; Gregg Brown, 709 Pleasant Hill Road, Ellicott City, MD 21043; Lynette Burns, 715 Race Road, Ellicott City, MD 21043; Robert Hoffman, Esquire, Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204; Patricia A. Malone, Esquire, Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204; Forest City Residential Group, 5803 Nicholson Lane, North Bethesda, MD 20852; Mr. Jon Wallenmeyer, Vice President, East Coast Development, 5803 Nicholson Road, Rockville, MD 20853; Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Drive #H, Baltimore, MD 21236; Ronald Kann, Kann &

Associates, 207 E. Redwood Street, Baltimore, MD 21202; Mr. Peter Ruff, Oella Mill LLP, 840 Oella Avenue, Ellicott City, MD 21043; Christine Beed, 917 Oella Avenue, Ellicott City, MD 21043; Mitchell Kellman, Daft McCume Walker, Inc., 200 West Pennsylvania Ave., Towson, MD 21286; Peter Max Zimmerman, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; and Carole S. Demilio, Deputy People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204; this 8th day of January, 2003.



Theresa R. Shelton, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)



County Board of Appeals of Baltimore County

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

January 7, 2003

John V. Murphy, Esquire
Murphy & Murphy, LLC
14 North Rolling Road
Catonsville, MD 21228

RE: Circuit Court Civil Action No. 3-C-03-0016
Petition for Judicial Review
Oella Mill LLC
Case No.: CBA-02-137 and 02-412-SPHA

Dear Mr. Murphy:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with the Maryland Rules.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

A handwritten signature in cursive script that reads "Theresa R. Shelton".

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

John V. Murphy, Esquire
Murphy & Murphy, LLC
January 7, 2003
Page Two

cc: Lydia Temoshok, President, Greater Oella Community Association, Inc.
Lydia Temoshok, Individually
Henry Berger
Gregg Brown
Lynette Burns
Robert Hoffman, Esquire - *okay removed*
~~Patricia A. Malone, Esquire~~
~~Forest City Residential Group~~
~~Jon Wallenmeyer, East Coast Development~~
~~Mickey Cornelius, The Traffic Group~~
~~Ronald Kann, Kann & Associates~~
~~Mr. Peter Ruff~~
~~Christine Beed~~
~~Mitchell Kellman, Daft McCume Walker, Inc.~~
~~Peter Max Zimmerman, ESQ~~
~~Carole S. Demilio, ESQ~~
~~Pat Keller, Director / Planning~~
~~Lawrence E. Schmidt / Zoning Commissioner~~
~~Donald Rascoe, Development Manager / PDM~~
~~Arnold Jablon, Director / PDM~~
~~Edward J. Gillis, County Attorney~~

*no County
on long letter*



County Board of Appeals of Baltimore County

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

January 7, 2003

Robert Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-03-0016
Petition for Judicial Review
Oella Mill LLC
Case No.: CBA-02-137 and 02-412-SPHA

Dear Mr. Hoffman:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on January 2, 2003, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 3-C-03-0016.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

A handwritten signature in cursive script, reading "Theresa R. Shelton".

Theresa R. Shelton
Legal Secretary

/trs
Enclosure

Robert Hoffman, Esquire
Venable, Baetjer and Howard, LLP
January 7, 2003
Page Two

cc: John V. Murphy, Esquire
Lydia Temoshok, President, Greater Oella Community Association, Inc.
Lydia Temoshok, Individually
Henry Berger
Gregg Brown
~~Lynette Burns~~
Patricia A. Malone, Esquire
Forest City Residential Group
Jon Wallenmeyer, East Coast Development
Mickey Cornelius, The Traffic Group
Ronald Kann, Kann & Associates
Mr. Peter Ruff
Christine Beed
Mitchell Kellman, Daft McCume Walker, Inc.
Peter Max Zimmerman
Carole S. Demilio
Pat Keller, Director / Planning
Lawrence E. Schmidt / Zoning Commissioner
Donald Rascoe, Development Manager / PDM
Arnold Jablon, Director / PDM
Edward J. Gillis, County Attorney

*no
appeals
in short letter
only counsel
and other sides*

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF :

GREATER OELLA COMMUNITY ASSOCIATION, INC., *
 513 OELLA AVENUE, ELLICOTT CITY MD 21043,
 C/O LYDIA TEMOSHOK, President *

HENRY BERGER, individually *
 734 PLEASANT HILL ROAD *
 ELLICOTT CITY MD 21043 *

GREGG BROWN, individually *
 709 PLEASANT HILL ROAD, *
 ELLICOTT CITY MD 21043 *

Civil Action No.

LYNETTE BURNS, individually *
 715 RACE ROAD, *
 ELLICOTT CITY MD 21043 *

LYDIA TEMOSHOK, individually *
 513 OELLA AVENUE, *
 ELLICOTT CITY MD 21043 *

FOR JUDICIAL REVIEW OF THE DECISION OF THE *
BOARD OF APPEALS OF BALTIMORE COUNTY *
 400 WASHINGTON AVENUE *
 OLD COURTHOUSE ROOM 49 *
 TOWSON MD 21204 *

IN THE MATTER OF : OELLA MILL LLC/ PDM I-498 *
 Case Nos.: CBA -02-137 and 02-412-SPHA *

* * * * *

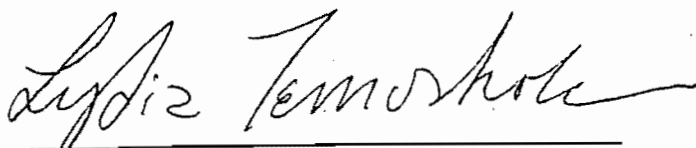
PETITION FOR JUDICIAL REVIEW

The Petitioners, Greater Oella Community Association, Inc., ("GOCA"), Henry Berger, Gregg Brown, Lynette Burns and Lydia Temoshok by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., hereby petition for judicial review of the decision of the Board of Appeals of Baltimore County, dated December 4, 2002, in County Board of Appeals Case No. CBA-02-137 and 02-412-SPHA, a copy of which decision is attached hereto.

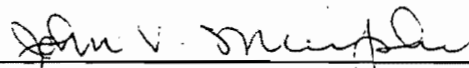
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 2003 JAN 21 1:44
 CLERK OF THE CIRCUIT COURT
 BALTIMORE COUNTY

MS

Petitioners Berger, Brown, Burns and Temoshok were parties to the Board of Appeals case below. Petitioner GOCA appealed the decision of the Zoning Commissioner to the Board of Appeals but was denied status to appeal as a party by the Board of Appeals over the Petitioner's objection which denial is one of the issues of this appeal. GOCA has standing to bring this appeal because its borders and boundaries include the development which is the subject of this appeal. Members of the GOCA would be personally affected by the subject development in a way different than the citizens of Baltimore County in general and therefore the GOCA has the right to have its case heard.



LYDIA TEMOSHOK, individually and
on behalf of GOCA

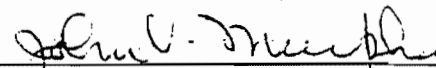


JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.

14 N. Rolling Road
Catonsville, MD 21228
(410)744-4967
Attorney for the Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of January 2003, a copy of the foregoing Petition for Judicial Review was mailed first class mail, postage paid, to Robert Hoffman, Esquire, 210 Allegheny Avenue, P.O. Box 5517, Baltimore, Maryland 21285-5517, Attorney for the Developer and Peter Zimmerman, Esquire, People's Counsel, Old Courthouse Room 47, 400 Washington Avenue, Towson, Maryland, 21204.



JOHN V. MURPHY, ESQUIRE

1/2/03
CIRCUIT COURT FOR BALTIMORE COUNTY

Suzanne Mensh

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-03-000016

RECEIVED

JAN 06 2003

BALTIMORE COUNTY
BOARD OF APPEALS

TO: BOARD OF APPEALS OF BALTIMORE COUNTY
400 Washington Avenue
Old Courthouse Room 49
Towson, MD 21204

12/10/02
IN THE MATTER OF
OELLA MILL, L.L.P.; FOREST CITY
RESIDENTIAL GROUP /PDM I-498
W/S OELLA AVENUE, E PATAPSCO
RIVER (840 OELLA AVENUE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. CBA-02-137
and
* CASE NO. 02-412-SPHA

RE: DEVELOPMENT PLAN APPROVAL
AND PETITIONS FOR SPECIAL
HEARING AND VARIANCE

* * * * *

AMENDED OPINION AND ORDER

On December 4, 2002, this Board issued a final Opinion and Order in the above-captioned matter which was required, by statute, to be issued no later than December 4, 2002. The Board, on its own initiative and pursuant to Rule 10, has subsequently reviewed its Opinion and Order issued in the proceedings and finds that two numerical errors exist, one in the number of apartments as divided between the Mill building and the Power Plant building and the other as to the number of parking spaces reflected in the variance request.

Accordingly, the Board will correct these two numerical errors in its Opinion and Order as indicated by the underscored portion of the following, no other changes having been made by this correction:

Pages 4, 9, 20, and 28: The Board references that the main Mill building will have 171 apartments with 4 apartments in the Power Plant building. Pursuant to Board of Appeals Exhibit 8 and Transcript 5/10/02, pp. 60-61, testimony of Charles Main at the hearing before the Hearing Officer, the actual breakdown is 169 apartments in the main Mill building and 6 units in the Power Plant building.

Pages 29, 35, and 52: The Board references a request that 26 parking spaces be permitted to be located so as not to adjoin or have direct access to an aisle. A review of the file confirms that the original request of 26 parking spaces was amended before the Hearing Officer to reference 32 parking spaces, and the property was re-posted at the request of Protestants to reflect this amendment, Transcript, 5/10/02, pp. 288-293

Page 52, ORDER -- To read as follows:

ORDER

IT IS THEREFORE THIS 10th day of December 2002 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance filed by the Petitioner seeking relief from the *Baltimore County Zoning Regulations* (BCZR) to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum required 25 feet; to permit 32 parking spaces to be located so as not to adjoin or have direct access to an aisle; and to permit a minimum width of as narrow as 17.7 feet for two-way aisles in lieu of the minimum required 22 feet be and is hereby **GRANTED**; and it is further

ORDERED that the Decision of the Hearing Officer in Case No. CBA-02-137 (PDM File No. I-498) in which the development plan of Oella Mill L.L.P. was approved be and the same is hereby **AFFIRMED**, subject to the following restriction as imposed by the Hearing Officer:

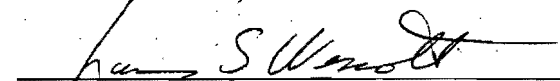
The Developer shall obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and the floodplain shown on the Developer's Exhibit 7, prior to the issuance of any permits or the filing of a record plat.

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

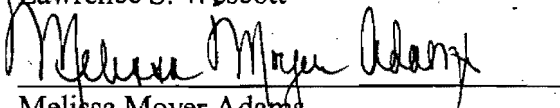
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Charles L. Marks, Chairman



Lawrence S. Wescott



Melissa Moyer Adams



County Board of Appeals of Baltimore County

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

December 10, 2002

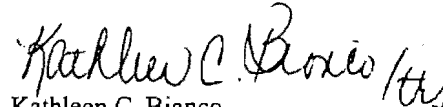
Peter Max Zimmerman
People's Counsel for
Baltimore County
Room 48, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of: *Oella Mill LLP* /PDM I-498
Case No. CBA-02-137 and 02-412-SPHA
Amended Opinion /Order (Numerical Correction)

Dear Mr. Zimmerman:

Enclosed please find a copy of the Amended Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. This amendment reflects corrections made relative to two numerical errors in the Opinion /Order. No other changes to the final Opinion /Order were made by these corrections.

Very truly yours,


Kathleen C. Bianco
Administrator

Enclosures

c: Lydia Temoshok
Dennis Burns and Lynette Burns
Gregory Brown
Henry Berger
Kelly Clark
Mark Wilson
Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire
Forest City Residential Group
c/o Jon Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney

12/4/02
IN THE MATTER OF
OELLA MILL, L.L.P.; FOREST CITY
RESIDENTIAL GROUP /PDM I-498
W/S OELLA AVENUE, E PATAPSCO
RIVER (840 OELLA AVENUE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

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

RE: DEVELOPMENT PLAN APPROVAL * CASE NO. CBA-02-137
AND PETITIONS FOR SPECIAL and
HEARING AND VARIANCE * CASE NO. 02-412-SPHA

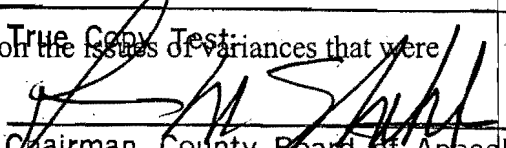
* * * * *

OPINION

This case comes to the Board of Appeals of Baltimore County based on an appeal from a decision of the Hearing Officer /Zoning Commissioner in which the Hearing Officer, by order dated July 8, 2002, approved the Development Plan submitted by the Developers, subject to one condition relative to the floodplain. A Motion for Reconsideration was filed on July 9, 2002 by the Developer requesting the granting of amended zoning relief to permit a minimum drive aisle width of as narrow as 17 feet 7 inches in lieu of the required 22 feet. This amended relief was requested because the Developer, in preparing the plan, measured the columns from center to center and computed a distance of 18-½ feet.

As noted in the "Motion," the columns cannot be removed. However, because of the width of the columns, the actual width between them (inside edge to edge) would be as narrow as 17 feet 7 inches, hence the reason for the modification request. Because the Hearing Officer considered the requested amendment to be of a technical nature, the Hearing Officer granted the Motion for Reconsideration on August 8, 2002.

A timely appeal to this Board was made on August 16, 2002 with the "Notice of Appeal" identifying the "persons aggrieved and feeling aggrieved" as prescribed by the *Baltimore County Code* (BCC), § 26-209, "Appeals from final action on a plan." This Board held a public hearing on September 24, 2002. Additional days followed concentrating on the issues of variances that were

True Copy Test

Chairman, County Board of Appeals

being requested. The matter was publicly deliberated for a considerable time on Tuesday, November 19, 2002. The BCC requires that this Board issue its Order within 15 days "following the conclusion of the hearing."

Peter M. Zimmerman, People's Counsel for Baltimore County, presented oral arguments to the Board in opposition to the Plan; and Robert A. Hoffman, Esquire, represented the Developer in support of the Hearing Officer's order and decision.

The Board's role in development plan appeals is outlined by BCC § 26-209:

- (d) In a proceeding under this section, the board may:
 - (1) Remand the case to the hearing officer;
 - (2) Affirm the decision of the hearing officer; or
 - (3) Reverse or modify the decision if a finding, conclusion, or decision of the hearing officer:
 - a. Exceeds the statutory authority or jurisdiction of the hearing officer;
 - b. Results from an unlawful procedure;
 - c. Is affected by any other error of law;
 - d. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
 - e. Is arbitrary or capricious.
 - (4) Notwithstanding any provisions to the contrary, if the hearing officer fails to comply with the requirements of section 26-206(i) and an appeal is filed pursuant to section 26-206(j), the board may impose original conditions as is otherwise set out in section 26-206(o) of these regulations.

The Board is provided guidance in development plan review by the Court of Special Appeals, and relies on the case of *Monkton Preservation Associations, et al v. Gaylord Brooks Realty Corporation* (No. 494, Sept Term 1995, decided by that Court). In that case, involving review by the Board of a development plan, the Court stated that "...the standard of review to be applied by the County Board of Appeals to final action of the hearing officer approving the development plan is deferential; although the Board must make independent evaluation as to whether the decision of the hearing officer exceeded his authority, resulted

from unlawful procedure, or was affected by any other error of law, the Board's review of the factual basis for the hearing officer's decision is based on the traditional standard of whether substantive evidence supports the decision."

The question to which the Board must respond, giving deference to the Hearing Officer's credibility determinations, is whether or not his decision was supported by competent, material, and substantive evidence; and that the Hearing Officer did not act in any arbitrary or capricious manner. A Board of Appeals is not intended to be a policy-making body, at least with respect to reviewing development plans; it is not empowered with broad visitorial power over the County agencies, but acts as a review board to assure that lower agencies' decisions are in conformity with the law, and are supported by substantial evidence. The Board must examine the record as a whole to determine whether or not substantial evidence exists to support the findings of the Hearing Officer, and, if so, the Board may affirm those findings; and to that end, the Board takes note of several leading Maryland cases that suggest that "substantive evidence" means a little more than a "scintilla of evidence." (*Prince George's County v. Meininger*, 264 Md 148)

In this instance, the Board was fortunate to have for its review the entire transcript prepared by the court reporter during the several days of public hearings conducted by the Hearing Officer. In addition, the Board has had the opportunity to review their individual notes taken during oral argument offered preliminary to public deliberations. The hearings before the Hearing Officer encompassed several public hearings held on May 9, May 10, May 13, and May 15, 2002. As provided for by Title 16 of the BCC, "a concept plan was filed with Baltimore County on January 14, 2002 with subsequent comments made by the reviewing agencies of Baltimore County. This is the initial review by the County to ascertain areas of the plan that need analysis to bring the plan into compliance with the development regulations." Subsequently, on February 19, 2002, the Community Input Meeting was held. Sixty-nine individuals were in attendance. The developer is required under § 26-203(a) to file a development plan within 12 months after the final community input meeting is concluded. That plan "must be drawn to an appropriate scale in a clear and

legible manner; and shall be filed with the Department of Public Works. Copies shall be distributed to all parties.”

A development plan was filed with the Baltimore County Department of Permits & Development Management on March 26, 2002 accompanied by a “Development Plan Checklist” (referencing § 26-203, BCC). During the intervening months between the community input meetings, additional comments had been received from the reviewing County agencies. The final step in the development process is the Hearing Officer’s review. The function of the Hearing Officer is to identify any unresolved agency comments, in addition to any open issues, or disputes. Assuming there are such issues or disputes, the Hearing Officer will accept testimony and evidence at his hearings pertaining to the identified issues and/or comment from any interested parties.

Essentially, the development plan calls for a renovation of the historic Oella Mill and its accompanying Power Plant to be converted into a total of 175 luxury apartments; 171 apartments would be located in the main Mill building with 4 apartments in the much smaller Power Plant. In the main Mill building, 106 interior parking spaces are suggested, with 12 interior spaces in the Power Plant for a total of 118 spaces – with 145 external parking spaces (a total of 263 spaces, interior and exterior). The Mill is an historic structure listed on the Maryland Historic Trust (Inventory #BA 2375). The structures are an integral part of the Oella Community. The property is irregular in shape and abuts the Baltimore County /Howard County line. It contains 5.73 acres (+/-) the bulk of which is zoned BM-CCC (5.73 acres +/-), with a small sliver zoned D.R. 3.5 (.18 acre +/-). The Patapsco River is in the rear of the property.

In addition to the historic nature of the Mill, the Community of Oella has a long and rich history, and is listed on the National Register of Historic Places.

The Board was provided with a “Vignette of Oella History” authored by Mr. Charles L. Wagandt who has rehabilitated several buildings in the Oella Community, and has no financial interests in the proposals being requested by the Developer.

The Mill, during its glory days, was used to process textiles and wool, and was the cause for development of the Oella Community. As conditions evolved and changed, the Mill having reached its zenith, was closed in 1972. At the present time, the property is utilized for a blend of both commercial and retail operations. It is not totally occupied, and age has taken its toll on the buildings.

At the Hearing Officer's hearings, the property was owned by The Oella Mill Limited Partnership, and under contract to be sold to Forest City Residential Group /East Coast Development Division. During the Board's hearings, it was acknowledged that Forest city was now the owner of the property. They propose to develop the property and renovate it to private, luxury apartments. Their expertise is in the specialized area of acquiring historic properties throughout the Country and readapting them for commercial or residential purposes. The proposal calls for 175 units consisting of 150 one bedroom units (studio apartments) and 25 two-bedroom units.

Day 1 of the public hearing, conducted on September 24, 2002, addressed the appeal of the development plan. Day 2 was conducted on October 3, 2002, and was confined to issues involving variances that were being requested by the Petitioner and being heard by the Board on a "*de novo*" basis. Robert A. Hoffman, Esquire, and Patricia A. Malone, Esquire, represented the Developer /Petitioner; Peter Max Zimmerman represented the Office of People's Counsel for Baltimore County. Mr. Gregory Brown had previously been selected to represent individual Appellants /Protestants. The Board entertained brief opening statements by both Mr. Hoffman and Mr. Zimmerman.

Mr. Hoffman argued that the Concerned Citizens of Oella had no standing as an organization to prosecute the case, but could continue as individual Appellants /Protestants. His argument was countered by Mr. Zimmerman. The Board recessed briefly; and agreed with Mr. Hoffman that the Concerned Citizens of Oella was an unincorporated association with no Rule 8 papers and was not a viable and legal entity, and, to that extent, had no official standing in this case.

The Board did agree that the individual Appellants /Protestants could remain in the case, with Mr. Brown acting as their representative. The Board also took note that Ms. Christine Beed had officially withdrawn as one of the Appellants that left five individual Protestants.

Mr. Hoffman called Mr. Charles Wagandt as the Petitioner's first witness. Petitioner's Exhibit #1 was submitted as the Petitioner's /Developer's site plan. Mr. Wagandt's C.V. was admitted as Petitioner's Exhibit #2. The witness related his educational and business background, along with his extensive involvement in the history and recent development of the Village of Oella. Mr. Wagandt was readily accepted by the Board without objection as an expert in history of both the town of Oella and Oella Mill.

The Board heard the long history of the town and Mill, its development as a mill town, as it prospered and with the advancement of years and changing economic situations, how the Mill fell upon hard times. Throughout the years, the town and Mill developed as conditions warranted, which included the evolvement of many different types of homes. Mr. Wagandt explained how his admiration for the community led him to invest heavily in the purchase of many homes in the Oella area which he subsequently extensively rehabilitated and were now rented out. He related that, at one time in its history, the Oella Mill was the largest cotton mill in the United States. With the advent, however, of imports and synthetic fibers and double-knits, clothing conditions changed significantly and eventually the mill operations were discontinued in 1972.

Much of Mr. Wagandt's description of the Mill and life in the town was vividly described as the Board had the opportunity to examine an imposing digital picture of both the town and the Mill. The witness, by photographic exhibits, described the homes he had purchased, many rehabilitated and a description of the area which totaled approximately 7 acres. He opined that, in his opinion, the present efforts to develop the Mill were completely in line with the State of

Maryland's "smart growth" policy which attempted to make use of existing facilities in urban areas rather than continued sprawl in the counties.

Mr. Wagandt related agreements made in 1983 with Baltimore County that brought in water and sewerage and the position of the Mill and town relative to the Baltimore County Master Plans and the town's proximity to Ellicott City. He also related variances that were granted by the County in 1983 concerning parking and setbacks. He opined that the Village was created long before the *Baltimore County Zoning Regulations* were enacted. The witness emphasized that he had absolutely no financial interest in the Mill nor any rights therein. It was his opinion that reduction of the number of units would not be feasible based on his knowledge of previous efforts of other developers. The principal purpose in being involved in the case was one of an individual concern with the town and the Mill's long history and the continued historical preservation of the Mill which could be adapted to a newer use as exemplified by the Developer's plans. He sensed a role of "togetherness" as to the town and Mill and believed them to be "inseparable." He opined that the specifics required by United States Secretary of the Interior were very appropriate in the preservation of the Mill and its re-adaptive use. Those specifications permit interior renovations. He supported the Developer's proposal relative to the window and parking variances.

Mr. Zimmerman and Mr. Brown cross-examined the witness concerning his ownership of properties within the community, the rental properties he owns, and a number of questions concerning "infill" situations. The witness indicated that he did not live in Oella, but lived close by and maintains his business office in the former Oella Church which he had rehabilitated, and the Board examined photographs of that facility.

Mr. Donald Kann also testified for the Developer. His C.V. was admitted as Petitioner's Exhibit #3. He was acknowledged, without objection, as an expert in both historical preservation

and architecture. He opined that his specialty was in historical preservation. The witness related the methodology by which he works and the standards imposed by the United States Department of the Interior. Oella Mill is currently on the Maryland Historical Trust inventory (BA 2375). He related, in a general way, the guidelines established by the Secretary of the Interior.

The Mill and town are both considered within an historical district. He opined that the Federal guidelines were quite rigid and require that the interior be preserved as much as possible, including the historical context of the building. Similar conditions must be maintained in the rehabilitation of the building. For example, any changes made must be reversible, i.e., if carpet is placed on wood floors, it must be reversible so that the wood floors remain the primary covering. The principal objective to the interior department's standards is that there be no major change in the interior/exterior character of the facility and that it be restored nearly as possible to its original condition. Mr. Kann opined that the project has passed Federal standards and now qualifies for certain Federal tax credits. Again he emphasized the building was in both the Maryland Historical Trust inventory and the Federal Registry, along with the Historical designation of the town of Oella.

A discussion of the window variances ensued and Mr. Kann related the reasons why the window pattern must be retained. He concurred with Mr. Wagandt's comments and stated that Baltimore County has but 17 historical districts. He outlined his reasons as to its uniqueness in Baltimore County [T 10/3/02 p 64-65]. Being in a limited number of historical districts alone constituted a unique factor. Many former town mills have been completely ravaged and destroyed with the advent of time. The town and Mill, coupled with the proximity of the river and river fall used to generate power, clearly distinguishes it as a unique and unusual property. There is no similar community in Baltimore County. He also cited the various physical and topographical constraints that posed difficulties in the building's usage.

Mr. Zimmerman and Mr. Brown followed with cross-examination that indicated the usage of the building since 1970. Current usage includes small manufacturing, individual occupancies, and various art galleries. Parts of the building are still in use, with outdoor parking available in several areas. The witness acknowledged some industrial business usage and that the town of Oella consisted of individual and single-family dwellings with relatively low density in the village. Mr. Kann indicated that the buildings might be used for commercial endeavors but that the Developer had not considered such usage. He opined that parking was a major issue and its best adaptation for parking was offered on the site plan.

Petitioner's Exhibit #4 was admitted, along with John McGrain's comments made in 1955 (page 4) relative to McGrain's observations of what had occurred since the Mill closed.

Mr. Geoffrey Glazer was the third witness for the Petitioner. He is an architect with Kann Associates. He is a professional licensed architect in several states including Maryland and was accepted as an expert in the field of architecture with experience in historic renovation. He also used Petitioner's Exhibit #1 to describe in detail the Mill and surrounding community. He outlined the contemplated plans relative to the parking – points of entry, parking spaces, and the power plant. The power plant is to be converted into four apartments with 12 interior parking spaces. He opined that the first floor of the main building is to be for parking for residents only, secured by a controlled gate. He described the Oella roadway system, the effect of the Potomac River on the building, and certain constraints made by it. Petitioner's Exhibits #6A and 6B were admitted and described in detail by the witness reflecting views from each direction, the various elevations, slopes, and grade changes. He opined that development in the site was limited based on its existing topographic constraints. He related how the present configuration of the main building and column structure affected parking. [T 10/03/02 pp 95-109] The variance request relative to the windows

and the property line problem was related in detail. Parking variances were also discussed in detail.

One of the problems is the columns that hold the building up. They cannot be removed without causing structural problems. In essence, they cannot be removed or altered.

Petitioner's Exhibits #7A through 7E relative to the Mill's interior space were admitted and examined by the Board, along with Petitioner's Exhibit #8, the power plant. Mr. Glazer concurred with the prior witnesses that the buildings were unique and unusual because of their total association with the village of Oella, their proximity to the Potomac River, and the use of the Mill and river for producing power for the original Mill and the retaining wall that affords protection to the Mill, and topographical constraints of the site. Various parking variances were essential to rehabilitation of the buildings, and the window variances were needed to continue the historical character of the facility, required by Federal standards.

Petitioner's Exhibit #9 reflected varying views of the landscape taken by Mr. Glazer from inside the building, reflecting the forest buffer. On cross-examination by Mr. Zimmerman, the witness indicated that he had been retained by Forest City Residential Group within the past 9 to 12 months. He related the intent of the Forest City Group in rehabilitating the buildings. He indicated that 175 units were being contemplated, some one bedroom, others two bedrooms. He described the current parking on site which was being proposed. There would be 106 spaces on the first floor and mezzanine plus 12 in the power plant. He described his meetings with community leaders and general support for the project [p 134-136].

Mr. Brown on cross-examination had questions relative to grade patterns and the column structures.

Ms. Alexandra Clark testified on behalf of the Oella Homeowners' Association, and as an individual [pp 144-164]. Petitioner's Exhibit #10 was admitted consisting of the Board's Rule 8

papers. As president of the Oella Homeowners' Association, she stated that the homeowners' association consisted of 160 members [p 148]. At a special meeting of the HOA, she was empowered to speak on behalf of the homeowners' association. Ms. Clark indicated she was a tax attorney and lived at the north end of the Mill. Mr. Zimmerman and Mr. Brown questioned Ms. Clark. She has lived in Oella for 2½ years. the vote to support the project was 54 yes /24 no [p 159]. Mr. Wagandt cast 13 votes for the homes he owns and rents.

Mr. Jon Wallenmeyer also testified on behalf of the Petitioner. Petitioner's Exhibit #11 was accepted as his C.V. Mr. Wallenmeyer related the various projects with which he had been associated. One of his major functions with the Forest City Residential Group is to locate properties that can be developed and rehabilitated from an adaptive use standpoint. Petitioner's Exhibit #12 was submitted, a brochure describing the history of Forest City and their expertise in historic renovation. Mr. Wallenmeyer related what attracted him to the Oella Mill and that, in his opinion, it was eligible for Historical Tax Credit status, and he believed that this building, because of its unique status, could be readily adapted into a residential use while maintaining the historical connotations placed upon it. He indicated that, at times, rehabilitation on projects such as this was much more expensive than new construction. He indicated that parking was a major concern and that he believed that the site plan reflected maximum use of parking while retaining adequate spacing. He related that this was going to be a luxury apartment building, parking exclusively to be used by tenants only, and that those tenants would pay for those spaces and the security needed to protect the building. He did not believe that the rehabilitation would detract from any light or exterior air conditions and that the variances that were requested for both the parking and windows were essential for the successful rehabilitation of the facility.

Mr. Zimmerman had several questions on cross-examination relative to the number of

one-bedroom apartments and the square footage that was being proposed. Mr. Wallenmeyer admitted that it was necessary to have the proposed number of apartments from an economical standpoint, and in order to utilize the building for its adaptive reuse. He cited the Drake Hotel in Philadelphia as one that was rehabilitated and successfully so but was also economically driven as to the number of units available. The witness referenced meetings with the GOCA and several other community groups. The issue of community concerns relative to the number of apartments and traffic was expounded by Mr. Zimmerman, and the Board's ruling is expressed in the transcript of October 3, 2002, p 182-183. The Board believed that the file, primarily the five volumes of Transcript from the development hearings, adequately covered these issues and would be considered in its complete analysis of the development appeal, and agreed that "there are factors the Board individually would review." [p 183]

Day 3, October 3, 2002, consisted of extensive testimony from Mickey Cornelius, accepted as an expert traffic engineer. His testimony is reflected on pages 6 to 16 and covers the request for parking variances applied for by the Developer. The Board members have reviewed in depth his testimony and that of Protestants' traffic witness, Mammen Daniel, transcript, Volume III of the Hearing Officer's hearing of May 13, 2002, pp 134-214. He was accepted by Mr. Schmidt as a traffic engineer based on his education, background, and experience (p 138). The Board has also reviewed his testimony and the written reports authored by both gentlemen.

The Hearing Officer covers the traffic /road capacity on pages 11-13 of his Opinion and Order. These issues are core issues in any development proceedings. The Board is not permitted to substitute its judgement for that of the Hearing Office if substantive and competent testimony and evidence is present to support his findings and conclusions.

The Board particularly finds the testimony of Mr. Daniel interesting in that a Memorandum

submitted to Mr. Jay Patel, President of the Greater Oella Community Association, on March 11, 2002 in which he stated that he had reviewed the traffic study submitted by The Traffic Group had been conducted according to standard traffic engineering principals and standards [T 5/13/02, p 201]. He concluded that, "Therefore, traffic should not be considered as a primary cause for any objection." [p 201]

Subsequently, another report was issued on April 4, 2002 in which he acknowledged that his prior letter indicated that "it (The Traffic Group) looks like they did all of the things that are required for a traffic study. I just looked at it...I did not go into the details." [p 208] The April 4, 2002 report provided some additional analysis or more study (p 211). The Protestants, based on the Hearing Officer's transcript, had more than sufficient opportunity to present their concerns relative to the traffic, safety and congestion issues, including significant lay testimony. The Board concurs.

Reference the following testimony of:

- Mr. Gregg Brown: concerning traffic issues, exterior parking, site distances, proposed interior parking, increased noise levels, emergency vehicle problems. [T 131-175]
- Mr. Morris: re school overcrowding, increased noise, increased traffic, school bus problems, lack of sidewalks, dangerous curves. [T 174-217]
- Lynette Burns: traffic issues, school bus concerns, lack of sidewalks. [T 219-230]
- Georgeann Whelan: school bus issues, icy road conditions, density, real estate value concerns. [T 230-250]
- Kelly Clark: open space issues, high traffic volume. [T 251]
- Sherree Carter: traffic concerns, incompatibility. [T 215-226]
- Julia Graham: increases in traffic; she opined present roadway system was adequate [T

5/15/02, pp 5-32]

- Charles Wagandt: in favor of development proposed and variances. [T 5/15/02, pp 33-67]
- Mark Wilson: buffer issues, open space, lead paint concerns.
- Bill Knapp: flood plain issues. [T 5/15/02, pp 69-115]
- Henry Berger: parking issues relative to interior design, compatibility issues, interior safety issues, business parking in residential zones, increased traffic volume, RTA issues. [pp 262-392]
- Lydia Temoshok: issues concerning credibility of Forest City intentions, OSHA citations. [pp 353-404]

The Hearing Officer's analysis is very clearly and precisely stated on page 12 to 13 of his Opinion and Order.

The Allowable Residential Density in Business Zones with a CCC Overlay

Reference pages 9 – 11, Hearing Officer's Opinion and Order.

The Developer proposes to rehabilitate this site with 175 apartment units. The property is zoned B.M. (Business Major). It has a superimposed C.C.C. (commercial, community core) overlay district. The adjoining property is zoned D.R. 3.5. Since the property is zoned B.M., residential uses in the B.M. zone are ordinarily regulated by the regulations governing the immediately adjoining residentially zoned property. [BCZR § 233.1] The Hearing Officer reviewed the legislative history of Bills No. 111-68 and No. 100-70 supplied by People's Counsel. The Developer recited § 235A of the *Baltimore County Zoning Regulations*. That section provides that "the specific number of dwellings or density units, as such, shall not be directly limited." The Hearing Officer considered the relevant provisions of the Comprehensive Manual of Development Policies (CMDP). That manual sets out a table regarding residential

development in nonresidential zones and provides that for residential uses in C.C.C. districts such uses are "not subject to density."

People's Counsel argued that density should be limited to 20 units, because while BCZR 235A applies to the B.M. zone, Mr. Zimmerman argues that it should be read in context with its companion sections. To accomplish this, People's Counsel has submitted various source documents that relate to BCC regulations. Essentially, §§ 232A, 235A, and 238A do not intend unlimited residential density. The Hearing Officer determined that the language contained in § 235A was both clear and unambiguous. "It states that for the BM-CCC district, there shall be no limitation on density." He determined that statement to be consistent with the subsequently adopted provisions of the CMDP, and also that the introductory language of § 235A unequivocally states that the regulations contained within that section are controlling, notwithstanding other provisions of the *Baltimore County Zoning Regulations*. This was based on a number of factors identified in his Opinion and Order. He also references the persuasive testimony of Mr. George Gavrelis which the Board has also reviewed in depth. [T 5/09/02, p 201] The witness was Director of Planning for Baltimore County from 1963 to 1972, has been accepted on numerous occasions by the Zoning Commissioner and this Board as an expert planner. He was director of Planning when the CCC regulations were adopted and was involved in public hearings before the County Council and the Baltimore County Planning Board. [p 205] While not allowing a planner to reach a legal conclusion, Mr. Gavrelis' testimony was of considerable value relative to his personal recollections concerning the CCC district and how it related to the specific numbers of dwelling or density units. [Reference transcript 5/09/02, pp 206-222]

To the extent that the Hearing Officer found Mr. Gavrelis' testimony to be credible and

persuasive, so also do the members of this Board. The Board therefore concurs with the analysis reached by the Hearing Officer.

**Question Concerning Apartments Only Above the First Story
in Compliance with BCZR § 235A.1**

The Hearing Officer discusses this argument on pages 7-8 of his Opinion and Order. People's Counsel contends that § 232A.1, 235A.1, and 238A.1 all intend that residential use not be exclusive but must come above commercial use. The statutory language which calls for apartments above the first floor intends mixed commercial /residential use. It does not envision parking on the first floor of buildings in the B.M.-C.C.C. zone. The contemplated site plan by the Developer calls for parking on the first floor for the apartment housing on higher floors. Section 235A.1 states that "Apartments shall be permitted, but only above the first story of a building." While not specifically stated, Protestants have argued that, by implication, this would require a commercial or retail use on the first story of the proposed building.

The Hearing Officer had the benefit of a pre-trial memorandum filed by People's Counsel, which has also been reviewed by this Board. Again, the Hearing Officer found the testimony of Mr. Gavrelis to be quite convincing and that the drafters of the legislation may have envisioned that a mixed commercial /apartment use would be anticipated in many situations. [Reference Transcript of 5/09/02, pp 210-211] In determining as he did, the Hearing Officer followed case law relative to statutory construction:

In construing statutes, we obviously begin with the language of the statute. If that language, both on its face and in context, is clear and unambiguous, we need go no further. We give the language its plain meaning. We do not add or delete words in order to reflect an intent not evidenced by what the Legislature actually said and we do not construe statutes with "forced or subtle interpretations" that limit or extend its application.

Swinson v. Lords Landing Village Condominium, 360 Md. 462, 478, 758 A.2d 1008

(2000) [emphasis added.]

In his analysis, the Hearing Officer properly left legislative decisions to the elected County Council body and interpreted § 235A as it clearly reads and concluded that:

...The language merely prohibits what can be on the first floor, but does not mandate any particular use. In my judgment, the words used are unambiguous. Had the County Council required a commercial use on the first floor of an apartment building in the B.M.-C.C.C. zone, it could have done so by clearly stating such a requirement. It did not, and, thus, I find that the use of the first floor for parking is not violative of Section 235.A.1 of the B.C.Z.R.

(Hearing Officer's Order, page 7 [see also Transcript 5/10/02, pp 8-10])

The Board has also reviewed the testimony of Mr. Goeffrey Glazer, licensed architect [T 5/09/02, pp 223-230], Developer's Exhibit 2. Clearly, the first story of the proposed building does not contain apartments. The proposal calls for the first floor to be used for parking which is permitted by right in the B.M. zone and is a proper use of the space. The Board concurs with the Hearing Officer in this matter that the requirements of § 235A.1 have been satisfied.

Do the Provisions of the Local Open Space Requirements of the Adequate Public Facilities Law (Bill 110-99) Apply to this Project?

The Hearing Officer considered this matter in his Opinion and Order (pages 8-9). The Adequate Public Facilities Act was codified by § 26-498 of the *Baltimore County Code*. Its purpose was to make sure that the infrastructure for adequate facilities exists to support ongoing development in Baltimore County. The Department of Recreation & Parks monitors residential open space as it applies to development projects contemplated in Baltimore County. The Bill mandates 650 square feet of active open space per dwelling unit provided for any residential plan. There is no dispute that as to this project the ratio has not been satisfied. The only real issue is whether or not the local open space requirements apply to the project.

People's Counsel argues that a commercial use to a higher density residential use does

not exempt the property from residential space requirements and that the County Council did not envision high density residential use in C.C.C. districts, and particularly so where located in proximity to low density residential zones such as Oella.

The Hearing Officer heard the testimony of Mr. Jan Cook of the Department of Recreation & Parks. The Board has also reviewed that testimony [T 5/09/02, pp 162-200] That Department reviewed the project and determined it to be a "renovation of an existing building" [p 163]. Mr. Cook indicated that "that decision was made by the Department of Permits and Development Management and that there was indeed to be a renovation of an existing building. There is no additional development; and, therefore, adequate public facilities did not apply." [p 182]

The essential question to be answered seems to be "What constitutes construction under Bill 110-99." The Hearing Officer determined that the essential meaning of the word is "to build or fabricate" and, in the instant case, nothing was being built, but rather redeveloped utilizing existing structures. The Hearing Officer noted that the building footprint would not change, and to require strict adherence to Bill 110-99 would result in a nonsensical result that would mandate 4 acres of open space required for an existing 5.7-acre parcel. The facts demonstrate that there is to be no change in building footprint and no new external construction. To apply strict application would be to require more open space than could possibly be provided.

The Board therefore concurs with the decision of the Hearing Officer relative to the local open space requirements.

If Use of Parking Spaces Across Oella Avenue was Appropriated

While the major portion of the subject site is zoned B.M.-C.C.C., there does actually exist 29 parking spaces that are part of the subject tract across Oella Avenue from the primary part of

the lot containing the buildings. These have been utilized for many years, and 11 of these spaces are situated in the D.R. 3.5 zoned portion of the site. These 11 parking spaces will be used to support the proposed apartments in the B.M. zone. It is argued that § 409.8.B of the zoning regulations should apply. That section allows a property owner to utilize parking spaces located in a residential zone to support a business or industrial use on a split-zoned lot. Protestants contend that the Developer should have applied for a special hearing to secure the appropriate relief.

The Hearing Officer determined that the spaces in question were not serving a business or industrial use, but rather a use that is residential in nature, since tenants of the apartments will reside on site. The Hearing Officer notes § 409.6 of the parking regulations that classifies the various uses. Included therein are apartments, business, and industrial uses as classified in § 409.6.A.2 and 409.6.A.3, respectively. The Hearing Officer goes into considerable detail relative to the differences between apartment uses and elderly housing facilities; the differences in uses as to parking in such facilities and the history of existing spaces long before the passage of the current performance standards in 1988 (Bill No. 26-88), and prior approvals for CRG and zoning for Oella Mill (PDM I-226 approved by the CRG on September 16, 1988 and incorporated into the Hearing Officer's file). As such, they would be considered nonconforming by Baltimore County. Therefore, the Board concurs with the findings of the Hearing Officer that a special hearing is not necessary for the parking spaces and that they are an appropriate use.

**Whether Residential Transition Area Restrictions
Apply to this Property**

People's Counsel submitted a lengthy Memorandum on the Residential Transition Area (RTA) setting forth his views concerning applicability of the BCZR governing residential

transitional areas. This was accompanied by substantial documentation which has been reviewed by the Board. In essence, People's Counsel raises the question as to whether the statutory standards of the Residential Transition Area apply to this development. Specifically, regulations moderate the impact of dissimilar residential uses on adjoining single-family detached, semi-detached, or duplex dwellings in D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or R.C. zones within 150 feet of the tract boundary. This is accomplished by providing for setbacks, buffers and screenings of proposed dissimilar housing types.

In the instant case, the Developer is proposing to convert the existing building on the site into 175 luxury apartment units, with 171 units in the larger old Oella Mill building and 4 apartment units in the Power Plant building. The property itself consists of an irregular-shaped parcel that abuts the Howard County /Baltimore County line with the Patapsco River bordering the rear of the site. It consists of approximately 5.73 acres (more or less), essentially zoned B.M.-C.C.C. (4.55 acres, +/-) and a small sliver of D.R. 3.5 (.18 acre). It is undisputed that the site is an historical one recognized by the Federal and State authorities (Reference Maryland Historical Trust Inventory #BA 2375 – Old Oella Mill, a 7-story brick building). As People's Counsel indicates, a small portion of the site consists of .18 acre and is zoned D.R. 3.5.

The Developer argues that the RTA regulations apply only to developments in D.R. zoned tracts. People's Counsel notes that only a small portion of the site is zoned D.R. 3.5 but assumes, for argument, that the zoning is entirely commercial. Based on the language, history and purpose of the regulations, People's Counsel argues that the RTA standards do apply.

The Hearing Officer covers the issue on pages 15-19 of his Opinion and Order. The question in simplified fashion is "Whether the RTA regulations apply to this property (zoned B.M.-C.C.C.), or whether they apply only to land zoned D.R."

The Hearing Officer acknowledges that “the RTA regulations are confusing to read and imprecisely worded. The issue could easily be resolved by legislative amendment to the B.C.Z.R., simply stating whether the RTA requirements are applicable only to the development proposals in the D.R. zoned land. Unfortunately, a clear statement of the legislative intent by the use of clear and unambiguous words is not present. Therefore, the Hearing Officer is required to evaluate the RTA regulations within their content to determine the legislative intent.” [pp 15 and 16] To achieve that goal, the Hearing Officer had the benefit of written Memorandum provided by People’s Counsel that was countered by expert testimony provided by the Developer at the development hearings. Therefore, the immediate question before the Board is one of statutory interpretation – which is important not only in the instant case but future cases to come.

People’s Counsel in his Memorandum has traced the history of the RTA legislation. County Council Bill 2-92 inserted the present language defining the RTA structure. Under BCZR 1B01.B.1:

A. Definitions and Purpose.

1. The residential transition area (RTA) is a 100 foot area, including any public road or right-of-way extending from a D.R. zone tract boundary into the site to be developed.

As this applies to the site, because the adjoining tract is zoned D.R. 3.5, there is a D.R. zone tract boundary at the border of the Oella site. Following the history of the RTA legislation, People’s Counsel recites the prior RTA restrictions that were derived from Bill 124-81 that stated:

A residential transition area is any D.R. (1, D.R. 2, D.R. 3.5, or D.R. 10.5) zone or part there of which lies (a) within 300 feet of any point on a dwelling other than an apartment building, or (b) within 250 feet of any point lying within a vacant lot of record which is itself wholly or partially classified as D.R. and which is two acres or less in area.

People’s Counsel contends that an examination of the three bills reflects that the first two

specifically identify the scope of the RTA as limited to some or all of the D.R. zones, while the third and most current does not explicitly refer to D.R. zones, but includes any properties with a D.R. zone tract boundary [Reference Bill 124-81 and Bill 2-92]. Therefore, People's Counsel argues that "the proposition that D.R. zone tract boundary embraces a boundary where D.R. zone tract land is adjoining is consistent with the provisions of BCZR 1.B01.1B.1b that specified D.R. zones generate residential transition areas."

In essence, because the proposed development suggests a mid-rise use that is adjacent to single-family detached, and/or duplex, dwellings that require setbacks, buffers, and adequate screening, just as development of an apartment building in the D.R. zone; and the proposed renovation of the existing building does not diminish the need for these protective measures. The D.R. provides no provision for conversion of commercial use to apartments.

Counsel for the Developer conversely contends that the residential transition area restrictions do not apply to this property, and that the Protestants have attempted to stretch the application of the RTA to include any property, regardless of the zoning, with a D.R. zoned property along its tract boundary. This is based on the theory that the proposed conversion of the buildings into apartments are permitted because the B.M. zone, in addition to other uses designated in BCZR § 232, allows the uses permitted in the B.L. zone which, in turn, allows "uses permitted and limited in the residential zone immediately adjoining.... (BCZR § 230.1, § 233.1)." Therefore, it follows that the B.M. zone incorporates all regulations that pertain to the adjoining D.R. zone, including RTA restrictions.

The Developer further argues that there are a number of flaws in the position of People's Counsel:

1. The proposed apartments are not being proposed under the authority of either

BCZR § 233.1 or § 230.1. They point out that the adjoining D.R. 3.5 zone does not permit multi-family buildings (defined as a structure containing three more apartments) as proposed at Oella Mills. [Reference BCC § 101, BCZR 1B01.1A.]

In actuality, the proposed apartments on site are permitted by reason of a special district (C.C.C.) that are imposed on certain B.M. properties which include the O.M. property (BCZR § 235A.1).

2. The reasoning of the Protestants is to "stretch" the application of the RTA to include any property, regardless of its zoning, with D.R. zoned property along its tract boundary based on the conclusion that BCZR § 1B01.1B does not specifically exclude properties zoned with classifications other than D.R. zoning.

The Board has carefully reviewed the Memoranda submitted and testimony and evidence taken at the hearings. The language of the zoning regulations is indeed interpretive. However, this Board is guided by its analysis of the legislative history of the County Council's legislative enactments, along with a reasonable interpretation of the legislation and its application by Baltimore County zoning authorities. To that end, the Board has examined BCZR § 1B01, regulations with respect to D.R. zones in general, and in particular, 1B01.1, "General Use Regulations in D.R. Zones." The Board has also reviewed the testimony of Mr. Mitchell Kellman, who was accepted as a zoning expert by the Hearing Officer with particular expertise as a prior employee working with the BCZR regulations in the Department of Permits and Development Management. The Board has also reviewed BCZR § 205.4, 206.4 relative to Bills 186-94 and 108-94 which incorporate the R.C. requirements into the OR-1 and OR-2 zones. The Board also notes the final report by the Planning Board under date of July 22, 1994 wherein that Board states, on pages 2-3, that:

The RTA (residential transition area) restrictions, which, in the D.R. zones, provide

additional setbacks and buffers between single family homes and other uses, do not apply in either the O-1 (now OR-1) and O-2 (now OR-2) zones...because the RTA rules do not apply, no special setback or buffer is required between adjacent single family uses in D.R. zones and the new residential developments in the Office zones. {Emphasis added.}

Further consideration was also given to the Comprehensive Manual of Development Policy (CMDP) page 28 which specifies that “residential projects within a nonresidential zone are not subject to residential transition requirements.” The Board has also reviewed the Zoning Commissioner’s Policy Manual, page 1B-5 relative to “residential transition areas –definitions” which states on page 1B-5, “by definition, an RTA only pertains to areas within a D.R. zoning classification.” Therefore, any use in an R.O. zone need not meet the RTA criteria. Likewise, D.R. zones adjacent to residential use in an R.O. zone need not apply the RTA criteria to that residential use.

Additionally, the Board makes reference to a case recently decided by the Baltimore County Board of Appeals, *Har Sinai Development Plan* /PDM IV-518 /Case No. CBA-99-111, in which the Board was faced with a similar situation that “the RTA requirements are developed in the zoning regulations that regulate the D.R. zones. The Board concurs with the Hearing Officer’s analysis that the logical conclusion must be drawn that the RTA is applicable to the D.R. zones only. The Board concurs with the Hearing Officer’s decision that “the testimony of respective experts and the position of the County staff charged with the enforcement and interpretation of the BCZR are all compelling factors that the RTA does not apply to this site.” [page 27]

The Board concurs with the analysis that led the Hearing Officer to conclude that “I am ultimately persuaded that the longstanding position adopted by the zoning office (DPDM) is correct. That is, the placement of the RTA regulations within § 1B01 of the BCZR is the most persuasive factor. In my judgment, had the Council intended to apply the RTA regulations outside

development in a B.M.-C.C.C. zone, it could have specifically done so just as it did in the O.R.-1 and O.R.-2 zones. Although I am troubled by the absence of a clear absence within the RTA regulations stating that they are application only to properties zoned D.R., the location of the RTA regulations within that section governing the D.R. zones is indicative of the Council's intent that the RTA regulations are applicable only to development in the D.R. zone." [p 18] The Board concurs.

Floodplain Issue

People's Counsel takes the position as reflected in his letter of June 20, 2002 to the Hearing Officer:

1. The Floodplain Incursion Precludes Development Approval. Code § 26-668 precludes development or redevelopment in the 100-year floodplain. A development plan may not be approved in conflict with the existing FEMA map. Developer has not asked for a waiver, and it could not likely get one. A request to FEMA for potential (future) amendment of the floodplain map to allow development is not a basis for "conditional" approval.

* * *

This resembles the case where a developer requests conditional approval based on future amendment of the master water and sewer plan. The Hearing Officers (Schmidt and Kotroco) have rejected this position in the Hilltop Property (I-485) and Oak Tree Hill Estates (XIII-589) cases.

Interestingly enough, the Oak Tree Hill Estates case is currently pending on appeal to the Baltimore County Circuit Court. People's Counsel sees no clear distinction between a necessity to comply with the current Master Water and Sewer Plan and current FEMA map designations. There exists no dispute that the Oella Mill development plan, as presented, reflects the location of the 100-year floodplain as recognized by Baltimore County. Mr. Robert Bowling of the Baltimore County Department of Public Works confirmed that his department had no outstanding issue and agreed with the placement of the 100-year floodplain in the location reflected on the development plan. [T 5/09/02, pp 120-123] The Protestants argue that the placement is in conflict with the

Federal Emergency Management Agency (FEMA) map #240010-0370D. The Department of Public Works requested the Developer to seek a "Letter of Map Amendment" of the FEMA map so as to ultimately reconcile the differences between the Baltimore County map and the FEMA map. The Developer produced testimony that Charles V. Main II, the project manager for the Developer, was currently in the process of seeking a map amendment at the time of his testimony.

The essential question to be addressed is whether or not the development plan can be approved given the status of the FEMA map. The Hearing Officer recites on pages 20-22 his analysis of the Development Regulations (§ 26-166 through 26-307). The flood plain is reflected within § 26-276 of the BCC. In essence, that section provides that areas where a base flood elevation has not been established, 100-year floodplain and flood elevation is to be determined by means of a flood study prepared in accordance with the requirements of the Department of Public Works and sealed by a Professional Engineer. No permit can be issued before the base flood elevation has been established, nor can any subdivision plat be recorded. Before a permit can be issued or a subdivision plat recorded, the base flood elevation must be established. These are both events subsequent to the Hearing Officer's hearing and development plans approval. The Hearing Officer determined that the Developer had offered "accurate information sufficient for plan approval through Phase I of the development review process." [Hearing Officer's Order, p 21]

The Board finds similar characteristics in this case as those that appeared in the recent case of *Oak Tree Hill Estates* (Case No. CBA-02-121), which is currently on appeal to the Baltimore County Circuit Court. In that case, the Hearing Officer denied a development plan because it was not a planned water or sewer area. In that case, the Developer had indicated that water was available on the Development Plan; however, the Protestants argued that the Developer could not proceed with his plan because of water and sewer designations do not allow connections from those

areas to public water and sewer systems at the present time. Surprisingly enough, the Department of Public Works, Director's Office, indicated in that case that it was that office's practice to permit such development plans to progress simultaneously through both the development plan process and the amendments to the Master Water and Sewer Plan process. Both the Zoning Commissioner and Deputy Zoning Commissioner had previously approved prior development plans where amendments were being sought. There is both a majority opinion and a dissenting opinion issued in that case. A present Board member was a member of the Oak Tree Hill panel who wrote the "dissenting opinion". This Board, while it respects the opinion of the prior panel, nevertheless concurs with the rationale employed by the Hearing Officer in the instant case. Reference is made to the leading case of *Monkton Preservation v Gaylord Brooks* 107 Md.App. 573 (1996) 669 A.2d 195 in which the Hearing Officer in that case made the following statement in his opinion on page 35:

The hearing before me is not a hearing for the issuance of building permits for any of the proposed lots in Mager's Landing. The development process must proceed in different steps and phases. Common sense dictates that it must proceed in this fashion. The developer must have an approved plan to work with and to rely upon in order to proceed with this investment. Therefore, it is obvious that the various departments of Baltimore County must continue with their review of the plan as the developer gets closer to the actual construction phase. It is an ongoing process that continues past this Hearing Officer's hearing.

The Court of Appeals went on to state:

We agree with this conclusion. The development process is indeed an 'ongoing' process, the Hearing Officer's affirmation of the plan is just the first step. This conclusion is supported by Baltimore County Code § 26-206(l), which states: "All subsequent detailed development plans such as defining grading and sediment control plan, stormwater management plan, landscape plan, and record plat shall be sealed and certified as being in accordance with the approved development plan." Phase one of the development process is nothing more than the initial blueprint that the developer will be using to guide him through the entire process until the final day occupancy permits are issued by the appropriate county agencies.

Therefore the Board concurs with the analysis of the Hearing Officer that the development

plan could be approved at the present time; that the floodplain as established and determined by Baltimore County is properly shown on the plan and that the Developer had presented accurate information sufficient for plan approval through phase one of the development review process. He also notes that he would require the developer obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with the Baltimore County's record and the floodplain shown on the plan, prior to the issuance of any permits or the filing of a recorded plat. Accordingly, he imposed a condition to that effect.

This Board concludes that the Hearing Officer acted appropriately. In order for the community and Baltimore County to be protected during redevelopment of the property, the issue must be resolved before the project can go forward to the recordation of a record plat or the issuance of permits.

Are the Roadways Surrounding the Oella Mill
Both Safe and Adequate

Since the development proposal and the parking variances relate to parking within the confines of the Oella Mill building and Power Plant, the Board limited traffic/congestion issues and safety to that within the confines of the two buildings over the strong objection of People's Counsel. It should be noted that the Developer is suggesting that 171 apartments be situated in the large Mill facility, with 106 interior parking spaces. The much smaller Power Plant is proposed to yield 4 apartments with 12 internal parking spaces. These total 118 spaces and are the spaces which are the subject of the two variances being requested.

On the exterior, 145 parking spaces are to be provided, altogether totaling 263 parking spaces for a total of 175 apartment units. The variances requested relate to interior building aisle width and tandem parking, with parking restricted to residents in a gated facility. The issue of

traffic /roadway capacity /safety are clearly identified in the Hearing Officer's Order dated July 8, 2002 [pages 11 – 13]. The transcript of the Hearing Officer's hearing clearly produces sufficient evidence and testimony that both the Developer and Protestants had ample opportunity to present their respective views through expert testimony, written reports and lay testimony from area residents in the community. Essentially, the Hearing Officer determined that (1) the *Baltimore County Code* did not require the Developer "improve the road network in the Oella vicinity to increase overall capacity and bring certain older roads up to current standards for new road construction; and (2) the law imposes no moratorium on the proposed development in the Oella community given the existing road network." If a safety issue existed, the County Council can, by legislation, impose a moratorium on development in the vicinity or embark on a capital program to improve the roads. In the final analysis, the Hearing Officer determined that, as to external traffic issues, the testimony of Mr. Cornelius was most persuasive that the increases would not bring about an unacceptable situation from a traffic standpoint.

The Board unanimously concurs that since no external parking variances were being requested and the issue of traffic/congestion safety and concerns relative to the roadway system had been thoroughly explored by the Hearing Officer, any additional issues of safety would be limited to internal building parking issues and the impact of the variances if granted. To that end, the Board determined significant issues could be ascertained based on the testimony and proffers offered by the various Protestants.

As to the issues involved in the two variances being requested:

- (1) To allow apartment windows facing a property line other than a street line to be as close as 8 feet in lieu of the minimum 25 feet; and
- (2) To allow 26 parking spaces to be located in such a manner so as not to adjoin or have

direct access to an aisle, and to allow a minimum width of 18.5 feet for two-way aisles in lieu of the required minimum 22 feet.

The Board has examined the testimony and evidence received at the public hearings. In both instances, the Petitioner /Developer in this *de novo* hearing is required to establish the requirements imposed by Maryland law. The leading case concerning the granting of a variance is *Cromwell v. Ward*, 102 Md.App. 691 [1995].

The first step requires a finding that the property ... is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship.

Also see *Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County*, 103 Md. App. 324 (1995).

In *Cromwell*, the Court further wrote:

...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." *Id.* at 698.

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... *Id.* at 710.

In the instant case, the Board concludes that the testimony and evidence produced at the hearings was overwhelmingly convincing that the site and Mill itself, along with Power Plant, are "unique" within the meaning and context of "uniqueness."

Beginning with the testimony of Mr. Charles Wagandt, and followed by the testimony of Mr. Donald Kann, Mr. Jeff Glazer, and, on day 2 of the hearing, that of Mr. Cornelius, Mr. George Gavrelis, and Mr. Jon Wallenmeyer, the subject of property uniqueness was exhaustively covered.

Mr. Wagandt reviewed his very detailed "Vignette of Oella History" which adequately described the development of the Oella site and history of the Mill as it reached its zenith and years of decline. Without dispute, the Oella community is located in an acknowledged historical district on both the Maryland Historical Trust and the Federal Registry of Historic Places. It is the only mill town in Baltimore County where an active community still incorporates its life around the mill. Today the Mill is part of the National Registry Historical District of Oella.

Mr. Wagandt vividly discussed his efforts since 1973 to stabilize the community and his untiring efforts, demonstrated in the photographic evidence submitted to the Board, to preserve the architectural integrity of the Oella community and integration into which the objective was to achieve the State sponsored "Smart Growth" goals. He noted that public water and sewerage is available to the community. It is located in proximity to transportation facilities, and within easy reach of the metropolitan centers. Certainly the fact that the community and Mill had been declared as "historic" singularly would qualify both as unique.

Additionally, Mr. Kann's testimony was both objective and convincing as an accepted expert in historical preservation and renovation of older sites and buildings. He also described the fact that the property was located in a National Historic Registry district and that there are only 17 such districts in Baltimore County. He also described in significant detail the uniqueness of the site

due to its situation on the river and the use of the river as a power source when the Mill was actively in production. He outlined the very strict standards imposed by the Federal Government and, more specifically, by the Department of the Interior relative to exterior and interior renovations of the Mill and ancillary buildings. He related the uniqueness of the site going back into history, and of its continuing significance in terms of its context with the community of which the building was a major feature.

Mr. Jeff Glazer, the principal architect in charge of the development proposal, also was questioned. He utilized the site plan to describe the Mill, its ancillary buildings, and the community, and the variances being requested that were necessary if the historic nature of the building was to be maintained in accordance with Government standards. Particular emphasis was placed on the maintenance of the exterior features and reversible nature of any interior renovations. As a licensed architect in the State of Maryland, he also concurred relative to the uniqueness of the site and the Mill.

The Board was also similarly impressed with the testimony of Mr. Jon Wallenmeyer. The witness is a licensed architect, and has sole responsibility for site acquisition, design, and program determination, the renovation of Forest City group - East Coast development projects. He also described in a general manner the scope of his responsibilities and principal projects in which he has worked previously. He described the vast experience of the Forest City Group in the restoration and renovation of projects such as that proposed in adherence to the strict guidelines required by the Secretary of the Interior. He outlined the historic tax credits afforded such historic structures, and he opined that the Department of the Interior had determined that the building was historic for its age and architectural detailing, and numerous other elements.

As opposed to the expert testimony offered by the Petitioners, the Appellants did not

counter with any substantive testimony or evidence that the site and Mill, and its ancillary components, were not unusual or unique within the language of Maryland case law.

The Board has no difficulty, therefore, in determining that the "uniqueness" required by Maryland State law was clearly and convincingly established by the Petitioner.

The second prong of the variance requirement is that there be present a practical difficulty that the Petitioner would incur if strict adherence to the regulations was required; and that it can be granted without any adverse impact to the surrounding properties or community. Here again the testimony and evidence offered by the Petitioner was most convincing.

The first variance would allow the apartment windows facing a property line other than a street line to be located as close as 8 feet instead of the required 25 feet. Mr. Wagandt had previously described the Mill as essentially the cornerstone of the village, the reasons for the community' growth around this structure. He submitted numerous photographs depicting the historical nature of the buildings, the restoration and renovation of many units within the community, some of which he had been involved with and attempted to maintain the historical nature of same. He also related the extensive use of tax credits to accomplish same. Not being involved in any manner with the proposed development, the witness opined concerning the window issue and that the granting of the window variance was needed to maintain the character and total integrity of the building.

Mr. Donald Kann described by testimony and evidence that the setting was established in consideration of the constraints of the surrounding site. He based practical difficulty on the fact that the building was bound on one side by the river and on the other side by extremely steep slopes, causing the Mill to be originally constructed where it was because of the physical constraints imposed upon it. He opined that the building was essentially a "T"-shaped building with some

ancillary structures. He noted that the location reflected the water power plant that supported and sustained the surrounding community at one time. The age of the building was dated from the age of steam engines and electric motors. He described the unusual and dated cast-iron column features that interspersed with concrete floors and columns. He also opined concerning the standards required to saving historic structures and materials to be utilized by the Developer. He spoke to the windows and other interior matters that needed to be carefully examined as Charter defined features required by the Federal Department of the Interior standards. Basically, it was a question of maintaining the interior and exterior of the facility as originally constructed.

Mr. George Gavrelis spoke extensively concerning the practical difficulties imposed by the current B.C.Z.R. regulations relative to the window variance that was being requested. He opined concerning his review of the site plan and provided certain opinions relative to the variance requesting certain setbacks from the window to the property line and upon his accepted expertise in the field of land planning. He had been present during most of the testimony and agreed with prior statements relative to the uniqueness:

1. A site extremely different in terms of unusual topographical considerations;
2. A building that had been developed in a different era of the early 1900s;
3. The adaptation of this site to accommodate the building coupled with its proximity to the water source of the adjoining river.

These combined factors formed a very different type of boundary line which he had definitively demonstrated on the proposed site plan reflecting different color schemes on Plaintiff's Exhibit #18.

Based upon the exhibit, it was obvious that the north façade of the property nearest to the northern property line where some of the windows would not be in compliance with the 25-foot facing window to property line in accordance with § 235A of the BCZR. Mr. Gavrelis also pointed out

the northbound property line which was segmented and angled and, as such, imposed a unique result on the Facing Window Standard for the Mill. He also pointed out the Oella footprint developed as the result of historic activity that resulted in the combination of an adapted building and large footprint, irregular property lines, and the unusual manner that the Facing Window Standards had applicability to this property. A myriad of factors, in his opinion, justified the uniqueness and practical difficulty that would result in achieving the setback standards. Based upon his recollections, the regulations were established to allow for the preservation of both air and light, and a standard of privacy where the development was going to be very extensive, and in particular high-rise apartments. [T 10/08/02, pp 43-53]

In the case of Oella Mills, these two factors were (1) highly improbable that any development would occur within an area 50 feet from an area parallel to or within 75 degrees, the other part of the Facing Window requirement was a very small segment of the north façade of the Mill building. There would, in his opinion, be no significant adverse impact if the variance were granted and certainly would be within the clear intent of the spirit and intent of the law as enacted; and if required would be an unreasonable burden placed upon the Developer and, in essence, preclude the building from being restored in accordance with the Federal standards. [pp 50-53]

The Board concludes that the window variance should be granted and would not be in conflict with the spirit and intent of the law.

As to the variance required concerning the 26 parking spaces and minimum aisle widths, the Board also concluded that the variance request should be granted. Having already determined the uniqueness of the site and building, the Board heard the testimony of Mr. Mickey Cornelius and, in particular, his thorough analysis concerning the drive aisles underneath the Mill. The BCZR required 22-foot drive aisles. The required variance is for a main aisle drive of 18 feet, 5 inches, in

lieu of the minimum required 22 feet. (See also Reconsideration Motion.)

Mr. Cornelius opined concerned parking dimensions from a national standard standpoint and that Baltimore County lacked guidelines other than the minimum drive aisle width and size of the parking spaces. The specifications from the "Dimensions of Parking" from the Urban Land Institute were related. The essence of Mr. Cornelius' testimony was that the Baltimore County standard...would be a 58-foot wide module which includes the 22-foot drive aisle, and then 18-foot long parking spaces on each side. So under the BCZR, they would require a 58-foot module. [T 10/08/02 p 9, 10] Following, he offered data from the Urban Land Institute that suggested that, after calculations, a recommended aisle width of 17 feet 6 inches was acceptable. Therefore, in his opinion, you could have drive aisles of 17 feet, 6 inches and still have the ability for vehicles to turn and pull out. The real question here is that the module dimensions were really intended for vehicles to have sufficient freedom of maneuverability to pull in and out of the space without having to back up or do a 3-point turn. Because it was going to be a gated community as opposed to a community venture where there would a high turnover in traffic and cars in and out, the restrictive use by private residents did not cause him any concern relative to safety. It was also his consensus that the tandem parking spaces were not going to cause any safety concerns since these would be used only by residents who had a need for two spaces. Other than for the inconvenience of residents who had two spaces, it was no different than many townhouse situations where two-car spaces exist and cars need to be moved. [pp 12-17]

Potentially the presence of the columns supporting the building require the variances being requested. The columns cannot be removed without causing structural damage to the building, if that were possible at all. And, because the building is essentially a storage facility and of historic impact, because of Interior Department standards, it cannot be altered or changed to accommodate

the aisle widths. Therefore, the situation arises for unreasonable hardship.

The Appellant did counter the parking variances with the testimony and evidence submitted by Mr. Henry Berger. Mr. Berger has had an extensive background in CAD modeling and the many projects in which he had been involved. While not a registered architect, and not having been qualified as an expert, the Board heard his testimony on the basis of his experience in the field of drafting, and any exhibits he might wish to present. In that light, Mr. Berger offered several interesting exhibits relative to the width of the aisles and also the tandem parking issue. These were reviewed in depth by him in his review of the exhibits offered. He acknowledged that he had been in the Mill on many occasions. By his personal observation, he opined that the drive aisle widths were below the standard widths of Baltimore County; and there were genuine concerns relative to the ability to adequately navigate a car through the interior of the building, and problems of pulling in /out of vehicles and physical damages to cars. [T 10/08/02, p 138] He expressed concern relative to tenants just moving in/out of the building on a daily basis.

He suggested a reduction in the number of parking spaces and 90° angled parking [p 143]. He suggested an alternative parking layout – essentially one-way circulation traffic [p 146], and provided his reasons for same. He also suggested structural problems if the variance was granted [p 150]. He provided photographs relative to concerns he had with the tandem parking [p 151] and safety issues in connection with same[p 157]. He acknowledged that his real purpose in requesting denial of the parking variances was to “reduce parking spaces and show the Board that parking space reduction.” (In essence, yes.) [p 165] He explained that “the number of parking spots designates the number of apartment units – which, then I’m not going to say the word ‘traffic’ – but yes, regards all kinds of other things related to this project and its size and impact on our neighborhood.” [p 169]

Mr. Berger also submitted photographs of the windows. It was his concern that in some areas structural members were going to be altered or removed which would endanger the structural integrity of the Mill. It was also Mr. Berger's contention that the Development Plan was not accurate, and he had concerns because the dimensions were different. Mr. Berger also countered with his conception as to how parking could be arranged in a better situation that would reduce the number of parking spaces needed in the Mill. He based his concerns on a personal point of view that the additional 32 double-stacked parked vehicles would present the community with additional parking problems, alleging economic gain and no real hardship as to practical difficulty. He also raised questions concerning whether or not there was sufficient headroom height in which to get underneath of a certain portion of the garage and up to the second level of the mezzanine, and that, in conclusion, the variances should not be granted.

Because of the limitations imposed by the columns and structural makeup of the Mill and Power Plant, the Board considered the totality of the testimony and evidence offered. The Petitioner had overwhelming expert opinion and conclusions concerning the uniqueness and practical difficulties imposed on the Developer. The testimony and evidence submitted by Protestants was less than compelling. There may be objections centered not around these two aspects but rather traffic considerations on an external basis which the Board refused to hear, having disposed of these issues in the Development proceeding.

People's Counsel's Motion for Reconsideration & Rehearing

People's Counsel for Baltimore County has filed the referenced Motion on November 12, 2002 with the Baltimore County Board of Appeals. The Motion was received by the Board on November 12, 2002.

Reconsideration is being requested based on the Board's excluding evidence proffered by

certain citizens from presenting evidence and testimony relating to alleged traffic safety and congestion on Oella Avenue; and evidence relating to population density, in general. People's Counsel believes that this evidence and testimony is relevant to the requested parking variances and was essential to the concerns of the area citizens. People's Counsel argues:

1. That the Board was wrong to rule that the parking variances should be reviewed without examination of traffic and population issues that relate to public safety;
2. That the renovation or adaptation of the historic Oella Mill would cause genuine public safety concerns;
3. That the Board denied the Greater Oella Community Association (GOCA) their right and opportunity to be heard after counsel for the organization had withdrawn from the case;
4. That the Board's reason to disallow the GOCA President to appear and testify on the final hearing date of October 30, 2002 was legally insufficient;
5. That the action of the Board gave the appearance of being unfair and mounted to an appearance of unfairness; and
6. That a new hearing date is being requested to allow relevant evidence and to give the GOCA its "day in court" at the administrative level.

A complete copy of the official transcript of the public hearings conducted on October 3, 2002 and October 8, 2002 is available and has been reviewed by the Board members in response to the Motion filed by People's Counsel, and Forest City Residential's Response to "Motion for Reconsideration and Rehearing."

The Board's file clearly reflects that John V. Murphy, Esquire, filed a Notice of Appeal from the Hearing Officer /Zoning Commissioner's decision in Case No. I-498 and 02-412-SPHA

on behalf of, among others, the Greater Oella Community Association, Inc., on August 20, 2002. Thereafter, on September 18, 2002, the Board received written communication from Mr. Murphy that the Greater Oella Community Association, Inc., Concerned Citizens of Oella, and several individuals as Protestants had dismissed him on September 12, 2002, and would be representing themselves or "may obtain other legal counsel as they determine." His Notice of Withdrawal was mailed to each entity and individual protestant on September 13, 2002.

On September 18, 2002, Mr. Paul Mandl, Corresponding Secretary of the GOCA, wrote to Arnold Jablon, Director of the Department of Permits & Development Management for Baltimore County, as follows:

Re: Request for Removal as Protestants
Development Plan Hearing and
Petition for Special Hearing/Variance
(The Oella Mill Property)
Case No. I-498 & 02-412-SPHA

Dear Mr. Jablon:

Whereas the Membership of the Greater Oella Community Association (GOCA) has never made formal motions nor taken formal votes to appeal the final decision of the Hearing Officer/Zoning Commissioner in the above case, nor approved of GOCA's inclusion in any other protestants' appeals related to this case; and whereas GOCA's inclusion as a Protestant in the attached Appeal of August 20, 2002, was initiated improperly and without the Membership's approval (as required by our By-Laws); and whereas the Membership, at today's regular Membership Meeting, has specifically voted to remove GOCA as a Protestant from the attached Appeal,

We hereby request that GOCA be removed as a Protestant in the above case, effective immediately.

It is our understanding that the Hearing on the attached Appeal is set for Tuesday, September 24, 2002, and is therefore imminent, and so we respectfully ask for your prompt attention to this request.

If you have any questions about the meaning or intent of this letter, or about the legitimacy of this request, please let me know.

Very truly yours,

[signature of "Paul Mandl"]

Paul Mandl, *Corresponding Secretary*
(410) 707-1411
(410) 418-5237

Attachment

cc: Murphy & Murphy, L.L.C.
Robert Hoffman, Esq.
Peter Zimmerman, Esq.
Protestants

That letter was accordingly forwarded to the Administrator of the Board of Appeals of Baltimore County.

At the commencement of the case on September 24, 2002, which represented the appellate Development Plan proceeding, Mr. Zimmerman was present as People's Counsel for Baltimore County, and also present were Protestants representing the Concerned Citizens of Oella. Robert A. Hoffman, Esquire, was present on behalf of the Developer. The Development phase of the appellate hearing was concluded on September 24, 2002, and on October 3, 2002, the case involving the variances was commenced. At that time, again, Mr. Zimmerman was present representing the Office of People's Counsel, and Mr. Hoffman on behalf of the Developer. Mr. Greg V. Brown, who indicated that he was not an attorney, was present to represent several individual Protestants and also the "Concerned Citizens of Oella." Mr. Hoffman objected to standing of the "Concerned Citizens of Oella."

After considerable discussion as reflected in the transcript, the Board agreed that the "Concerned Citizens of Oella" should be stricken as an Appellant since it did not have any standing in accordance with Rule 8 of the Board's Rules of Procedure; however, the Board agreed to

continue the appearance of "the individuals who are still in the Board's file and who have not withdrawn as proper Appellants in the case." [T 10/03/02 p 17] The Board also noted that it had received a letter from Christine Beed in which she requested that her name be removed as one of the Appellants in this case. The hearings continued on October 3, October 8, and October 30, 2002.

Subsequently, on October 30, 2002, in the very closing portion of the hearing, the President of the GOCA, Mrs. Lydia Temoshok attempted to submit a letter in which the GOCA requested continued participation in the Board's proceedings. The Board ruled unanimously that it would not, at this late date, permit the reentry of the GOCA in the proceedings. People's Counsel takes the position that the Board's ruling was legally insufficient.

As to the issues identified:

1. The Board takes exception to People's Counsel's remarks concerning the reasons given in disallowing President Temoshok's appearance and reinstatement of the GOCA as a party to the proceedings.

The Rules of Practice and Procedure before the Board of Appeals state:

Rule 3. Appeals

- (b) An appeal can be withdrawn or dismissed at any time prior to the conclusion of the hearing on said appeal.

Rule 4. Conduct of Hearings

- (b) The chairman shall regulate the course of the hearing and shall rule upon procedural matters, applications, modifications and objections made during the course of the hearing, subject to the concurrence of a majority of the board conducting the hearing.

In the instant case, GOCA withdrew their participation in the hearing prior to the commencement of the hearing on September 24, 2002. The Developer /Petitioner proceeded with their case and concluded their case in chief on the basis that the GOCA was not a participant. The

Board also heard the case on that basis. People's Counsel suggests that the Board's action "generates an appearance of unfairness." The Board strongly disagrees. If anything, to permit the GOCA to reenter the case at the finality of the hearing would be distinctly prejudicial to the Developer /Petitioner. The Board ponders what the position of People's Counsel would be if the "shoe were on the other foot." Administrative bodies cannot proceed on an "on again /off again" basis with the entry, withdrawal, and reentry of a lay organization that may have friction or dissention within their ranks. To do so would be a pure mockery of the system and totally disruptive of administrative proceedings. The withdrawal of the GOCA and their attorney of record in accordance with the letter submitted by the organization's corresponding secretary effectively ended their appeal in this case; and after the statutory period in which to file any appeal within 30 days from the entry of the original order. Even from a statutory standpoint, the reentry of the appeal could not be granted.

The record is even more than clear as stated in the Petitioner's Memorandum that the "GOCA, its individual members, had sufficient opportunity to appear before the Hearing Officer on May 9, 10, 13, and 15, 2002 to express their concerns on either the development plan or the variances, or before the Board on October 3, October 8, and October 30, 2002 to express any concerns they had with regard to the variances. The Board can count for itself how many individuals chose to do so.

In addition, GOCA itself had more than 9 months (from the date the concept plan was submitted to the start of the hearing before the Board of Appeals) to decide whether or not to take an official position on the Oella Mill project. Its failure to proceed together is neither the Board's fault nor that of the Petitioner /Developer. The Board concludes that People's Counsel and the remaining individuals who filed the appeal more than adequately represented themselves in the

appellate development hearing and subsequent “de novo” hearing before the Board, the rights of GOCA were not violated, and the Board unanimously denies People’s Counsel’s request and will not grant a new hearing day.

As to the issues relative to the Board’s limiting testimony on the variances, the Board took into consideration a number of factors. Ordinarily, the Office of People’s Counsel does not participate in development projects before the Baltimore County Hearing Officer. In this case, People’s Counsel chose to do so because of the opinion that many of the issues involved were pure zoning matters and not development issues. Counsel for the Developer /Petitioner objected. Mr. Hoffman objected to the participation of Mr. Zimmerman in the first day of the development proceedings, citing the County Charter, § 524.1 which “limits People’s Counsel’s authority under subsection A3A...in Mr. Zimmerman’s memo, he is raising issues that are not before the Zoning Commissioner. Most of the issues are before you [Commissioner Schmidt] as the hearing officer.”

[T 5/09/02, pp 24, 25] That dialogue continued through page 36 when Commissioner Schmidt made his ruling:

MR. SCHMIDT: Okay. Well, I am going to overrule your [Mr. Hoffman’s] objection. I believe that Crown Development is dispositive on the issue – on all of the issues, clearly on the density issue and clearly under charter on the parking variance. The only other one is recreational open space. It appears to me that Crown Development is sufficiently broad to cover that, and moreover, Mr. Murphy’s participation on, quote, the same side sort of renders that issue. So, with all of that being said, Mr. Zimmerman, I will overrule Mr. Hoffman’s objection and hear from you.

Commissioner Schmidt covers the “standing of People’s Counsel” in his Opinion and Order dated July 8, 2002, pages 6 through 7.

Ordinarily, the parking variances before this Board would be the substance of a “de novo” proceeding independent of a development proceeding heard strictly on an appellate basis by this

Board. This case, while the same standards apply, was different in that People's Counsel appeared actively and aggressively in the development proceedings, and has indicated that the Board should not give the usual deference to the Hearing Officer's rulings because many of the development issues are in reality zoning issues. Mr. Zimmerman's comments appear on page 7 of the transcript of October 3, 2002, as follows:

So I want to say that, as far as the variance goes, I think the variance issue, apart from the usual standards applying under Cromwell versus Ward and Section 307.1, the variance here is reflective of the, I think, the underlying practical issue that drove some of the concerns at the hearing below, and still drive the concerns here, and that is whether or not the need for parking variances reflected over-development of the property and overcrowding of the property.

And, really, many of the legal issues in this case, which may sound in the abstract things which zoning lawyers talk about and they are difficult to put in everyday language, they actually are reflective of the same problem which underlies the concern about the parking variance, that is, is development on this property that's proposed excessive, given the location in a relatively low density area, placing what amounts to a mid or high-rise apartment building, depending on your point of view, and whether or not a more moderate sized building, whether commercial or residential, would be more appropriate. That's my opening comment.

In response thereto, Mr. Hoffman responded as follows:

I would just like to say I have listened to what Mr. Zimmerman just said. I think I heard the first part of what he stated about this hearing verbatim last week, so I don't appreciate Mr. Zimmerman using the opportunity to re-argue his development plan case. He said nothing new about his capital "Z" zoning hearing issues.

The second about the variances themselves, the variances that we have requested involve the interior of the first story of the building where the parking areas are being provided.

It doesn't have to do with the density question. We are asking for aisle widths to be 17.4 feet, 17.6 feet – I have to look it up again – in width, instead of the required twenty or twenty-two feet, depending on which particular regulation you want to look at.

We are asking, because of the configuration of the building, the building interior, that certain parking spaces be allowed to be stacked, meaning persons who

have those spaces assigned to their particular apartment unit would be able to pull one car in front and one car behind, just like you would in your driveway.

Again, I want to stress the variances being requested with regard to the parking are all interior. There is no exterior parking variances being requested here this morning.

The Board agrees that the nature of the road system and traffic congestion are issues important to the community. They are issues that accompany any development proposal. This case was no different. The Hearing Officer expended considerable time on issue #5, "Traffic /Road Capacity" in his July 8, 2002 Order. His first sentence in that narrative states that "a major issue identified by the Protestants relates to whether the development would overwhelm and/or overburden the existing road network in the vicinity. Both sides presented expert testimony regarding this issue (page 11).

The Board has reviewed in depth volume three of the transcript dated May 13, 2002 relative to the testimony of Mickey Cornelius, a Registered Professional Engineer in the State of Maryland (and four others), and a Certified Professional Operations Engineer for over 18 years. His testimony and exhibits cover page 8 – 133 of the transcript.

The Protestants offered Mammen Daniel in rebuttal to Mr. Cornelius. He holds a Bachelor's Degree in Civil Engineering, a Master's Degree in City Planning, and a Master's Degree in Transportation, in addition to 30 years of experience in Pennsylvania and Maryland. He also had considerable experience in consulting traffic engineering surveys for 18 years in Maryland. His testimony and exhibits run from volume three (May 13, 2002), pages 134 – 214. The Board has also reviewed his testimony.

In addition, the Hearing Officer heard from Greg Brown, a member of a homeowners' association and a director of the Oella Homeowners' Association. His testimony encompassed

views relative to traffic, parking, noise, sight distances, curbing, and lack thereof. [T 5/10/02 pp 131-174]

Ms. Morris, a local resident, also testified as to school enrollment in the area. Another local resident, Mrs. Lynette Burns, also testified relative to her concerns based on her experience in traveling the roadway system, "that the Mill is not full, and it is my firm belief that the reason the Mill is not full is because the roads won't support it." [T p 221] "I think that Oella Avenue is very dangerous and, again, I think that the Mill has not been more of a success because of the road that leads directly to it. That is pretty much to it." [T p 225]

Ms. Georgeann Whelan also testified. She also described conditions involving traffic issues based on personal observations as a 17-year resident; school bus problems in the Oella Avenue; icy conditions; and that, as a real estate broker, she would not refer Oella as a "community – viable" property. "So I think it has been empty for that reason." [pp 224-225]. She also references her concerns [p 239], primarily in the areas of density.

Kelly Clark also testified to her concerns which were in the areas of (1) lack of open space; (2) density, "adding 175 residential units, we're looking at adding a density of approximately 20 percent" [p 264]; (3) urban sprawl; (4) incompatibility with a "charmed" community; (5) the traffic impact; and (6) parking limitations. [pp 262-266]

Sherree Carter also testified. She resides at 539 Oella Avenue. Her major concerns were (1) Oella Avenue has very few sidewalks; (2) traffic in the area has increased over the past 4 ½ years at unsafe speeds; (3) Oella is essentially a "walking" community. [T 5/13/02 pp 215-225]

Sheila Graham also testified. She resides at 730 Oella Avenue, has been an area resident for 12 years, serving as President of the community association for a number of years. Her concerns were (1) the continuing deterioration of the Mill; (2) increases in traffic during rush hours; (3) the

inadequacy of the roads; (4) the conversation of the buildings would not alter her traffic flow to and from work.

Mr. Charles Wagandt testified. He provided a lengthy history and description of the site and Mill. Since 1944 he had been continuously involved with "the town, itself, and the traffic patterns." [T 5/15/02 p 51] He opined that he did not believe traffic would be problem for 175 units in the neighborhood. [T 5/15/02 pp 55-56]

Mr. Mark Wilson testified. He resides about ¼ mile from the Mill. He opined concerns relative to traffic issues, possible problems with emergency vehicles, and while acknowledging he was not a traffic expert, he based his traffic concerns on personal observations. Other concerns were (1) traffic lowering the value of his property; (2) limited open space; (3) lead abatement problems in renovating the Mill. [T 5/15/02 pp 70-99]

Mr. William Knapp also testified. He has rented space in the Mill as an artist and sculptor and lives in proximity to the Mill. His concerns centered principally around possible flooding in the area.

Alexandria Clark testified. She resides at 783 Oella Avenue and was President of the Oella Homeowners' Association. She indicated that the Homeowners' Association had held a meeting on June 5, 2002 and at the conclusion of that meeting, 54 members voted for the proposed development, and 29 were opposed. She was not testifying on behalf of the HOA but rather as an individual expressing some concerns which to her were increased lighting if the proposed development went ahead, additional traffic which would come through the community. [T 5/15/02 p 198]

Henry Berger also testified. His testimony centered around traffic concerns and also more explicitly relative to the parking variances being requested for the interior of the building, and that

was covered additionally in this Board's Opinion and Order.

Ms. Lydia Temoshok testified. She resides in Oella and owns another property in the community. She related her feelings about Forest City properties in general and one in particular, the Drake in downtown Philadelphia, and stated, "I don't trust their intentions and I don't feel that I, as a resident, have been dealt with honestly." [T 5/15/02 p 401] Her primary concerns were possible usage of Section 8 in the Mill.

The Board is fully cognizant of its responsibilities concerning the participation of citizens in its hearings and listening to testimony concerning traffic and hazard issues. The Board takes judicial notice of the many fine cases cited in People's Counsel's Motion of November 12, 2002. Hearings before the Board relative to variances are *de novo* cases. The instant case, however, was unusual. People's Counsel undertook the case as a development matter and variance issue. Normally, Mr. Zimmerman's appearance would have been isolated to the "de novo" issue. However, his involvement in the extensive development portion afforded him the opportunity to become involved in traffic and safety issues. Those positions and citizens' concerns relative to external traffic and safety could not have been more fully related by all parties then reflected in the massive pages of five volumes of the transcript, which had been reviewed by the Board members. What more could be said, than what already has been said and recorded in those transcripts. If the Board genuinely believed that anything additional could be added, it would be in the interest of fairness and justice to order an additional day or two of hearings. However, the truth of the matter is that what has been said...has already been said. The Board does not believe that any additional testimony or evidence is necessary. To permit same would be repetitious and exhaustive of the Board's time. Rule 7 of the Board's Rules clearly states:

- a. Any evidence which would be admissible under the general rules of evidence

applicable in judicial proceedings in the State of Maryland shall be admissible in hearings before the county board of appeals. Proceedings before the board being administrative in nature, the board will not be bound by the technical rules of evidence but will apply such rules to the end that needful and proper evidence shall be most conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties. Any oral or documentary evidence may be received; but the board reserves the right as a matter of policy to provide for the exclusion of immaterial or unduly repetitious evidence, and the number of witnesses may be limited if it appears that their testimony may be merely cumulative.

The Board, in examining the transcript and the Hearing Officer's Opinion and Order relating to item #5, Traffic /Road Capacity, has determined that the Hearing Officer was correct in his analysis of the external traffic /road /congestion areas.

In sum, given the totality of the testimony offered, both expert and lay, I am not persuaded that the proposed development will so overburden or overwhelm the existing road network so as to create unacceptable conditions. Surely, it is acknowledged and admitted that the proposal will bring about additional traffic in this community; however, that fact in and of itself does not justify a denial or restriction of the plan. The testimony of Mr. Cornelius was persuasive that these increases will not bring about an unacceptable situation from a traffic standpoint. [p 13]

Having so determined the correctness of the Hearing Officer's position, how could the Board in the variance issue as to the interior of the Mill and power plant now rule otherwise as to external traffic /road /congestion issues? To that end, the Board appropriately limited such issues to the interior of the Mill and power plant; and ruled several times that it was not going to have repetitious and redundant testimony. In essence, as Counsel for the Petitioner has stated, "the Board was not going to allow Protestants to retry the development case under the guise of protesting the variances."

The Protestants are concerned with the density issue of 175 proposed units as it relates to the parking variances. It is fundamental that density equates to economics and economics to profitability. Mr. Wagandt indicated that a number of developers had turned "thumbs down" to

renovating the Mill and Power Plant into luxury apartments because of the number of units required to make such a project feasible. The officials of Forest City have not disputed the fact that a certain number of apartment units are required to make the proposed project practical from their vantage point.

The Board viewed with interest Mr. Berger's alternate parking and vehicle circulation patterns within the interior of the buildings that would effectively require a reduction in the number of apartment units. However, as was stated during the hearings, many alternatives could be produced. The responsibility of the Board, however, is to carefully examine the Developer's proposal and ascertain whether or not it satisfies the statutory and case law requirements to support the "practical difficulty" contention of the Developer.

The Board recognizes that economics cannot be used to justify the granting of a variance. The Board, in reaching its conclusion that "practical difficulty" issues are present in this case to warrant approval of the variance, considered a number of factors. The testimony of several witnesses for the Developer was clear and convincing, in particular, that of Mr. Glazer relative to his description of the interior of the two buildings, the structure designed in another era for mill work, and the presence of the cast iron columns that cannot be removed due to structural concerns.

The general topography of the area has limited the parking available on the exterior of the building. To maximize the space available in the first story of the building, the architect has created a two-level parking area in the first story of the Mill that calls for a center aisle drive and parking utilized on both sides – and suggested use of unusual or unusable space by designing tandem or stacked spaces in both the Mill and Power Plant. It is obvious to the Board that the historic posture of both the Mill and the Power Plant, coupled with the constraints imposed by

the Department of the Interior in preserving the integrity of the exterior of the structures and limitations imposed by the existing footprint, cause many significant problems in the parking configuration that warrants approval of the variance requested due to practical difficulties present.

The evidence and testimony is clear that the local community Protestants desired adequate parking on the site without obstruction by a deck or separate parking garage. Forest City has considered other alternatives. This Board believes the proposed width variance requested will satisfy community objectives.

The Board concurs that Forest city has come forth with a reasonable approach based on the design of the buildings and available space; and the testimony of Mr. Glazer, an expert architect, and Mr. Cornelius, an expert in traffic analysis and planning, was convincing, in addition to the other experts offered by the Developer.

The Board, therefore, will grant the requested parking variances.

People's Counsel Motion for Reconsideration and Rehearing is therefore denied and the Board will so order.

ORDER

IT IS THEREFORE THIS 14th day of December 2002 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance filed by the Petitioner seeking relief from the *Baltimore County Zoning Regulations* (BCZR) to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum required 25 feet; to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle; and to permit a minimum width of as narrow as 17.7 feet for two-way aisles in lieu of the minimum

required 22 feet be and is hereby **GRANTED**; and it is further

ORDERED that the Decision of the Hearing Officer in Case No. CBA-02-137 (PDM File No. I-498) in which the development plan of Oella Mill L.L.P. was approved be and the same is hereby **AFFIRMED**, subject to the following restriction as imposed by the Hearing Officer:

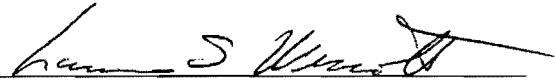
The Developer shall obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and the floodplain shown on the Developer's Exhibit 7, prior to the issuance of any permits or the filing of a record plat.

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

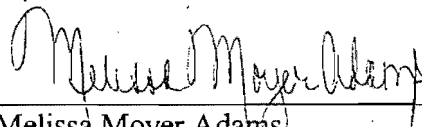
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Charles L. Marks, Chairman



Lawrence S. Wescott



Melissa Moyer Adams

11/18/02

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

840 Oella Avenue

1st Councilmanic District
1st Election District

PDM No. I-498

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

*

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*

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Case Nos.: CBA-02-137/
02-412-SPHA

* * * * *

BALTIMORE COUNTY
BOARD OF APPEALS

NOV 14 2002

RECEIVED

**FOREST CITY'S RESPONSE TO MOTION FOR
RECONSIDERATION AND REHEARING**

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser,
(hereinafter "Forest City"), by Robert A. Hoffman and Patricia A. Malone with Venable,
Baetjer and Howard, LLP, its attorneys, file this Response to People's Counsel Motion
for Reconsideration and Hearing, as follows:

The Board of Appeals Properly Held GOCA to its Withdrawal.

On August 20, 2002, John V. Murphy, Esquire, filed a Notice of Appeal from the
decision of the Hearing Officer/Zoning Commissioner in Case Nos. I-498 and 02-412-
SPHA on behalf of, among others, Greater Oella Community Association, Inc.
("GOCA"). *See* Response Exhibit 1. On September 18, 2002, six days before the
hearing was scheduled to begin before the Board of Appeals, Mr. Murphy moved to
withdraw his appearance in this matter. *See* Response Exhibit 2.

On that same day, Paul Mandl, Corresponding Secretary of GOCA, notified
Baltimore County that GOCA did not wish to participate as an appellant in this matter:

Whereas the Membership of the Greater Oella Community Association (GOCA)
has never made formal motions nor taken formal votes to appeal the final decision

of the Hearing Officer/Zoning Commissioner in the above case, nor approved of GOCA's inclusion in any other protestants' appeals related to this case; and whereas GOCA's inclusion as a Protestant in the attached Appeal of August 20, 2002, was initiated improperly and without the Membership's approval (as required by our By-Laws); and whereas the Membership, at today's regular Membership Meeting, has specifically voted to remove GOCA as a Protestant from the Attached Appeal,

...

We hereby request that GOCA be removed as a Protestant in the above case, effective immediately.

Response Exhibit 3.

As a result of these various papers being filed, on September 24, 2002, when the hearing began, the Board of Appeals properly ruled that Mr. Murphy had withdrawn his appearance and that GOCA would be dismissed as a party to this appeal. This decision was entirely correct.

Apparently, however, GOCA later changed its mind and requested that the Board of Appeals reinstate it as a party to this appeal. The Board properly refused this request. The Board cannot be expected to conduct its proceedings at the whim of the GOCA Membership. One day it is in, one day it is out; the next it is in, the next it is out. The Board's decision to hold GOCA to its decision to withdraw was appropriate and supportable. For the Board to have allowed GOCA's members (and how they were feeling on any given day) to have dictated the course of these proceedings would have been ridiculous and would have been fundamentally unfair to Forest City.

As to the assertions of unfairness to GOCA, its individual members certainly had sufficient opportunity to appear before the Hearing Officer on May 9, 10, 13, 15 and June 12, 2002, to express their concerns on either the development plan or the variances or before the Board on October 3, 8, and 30, 2002, to express any concerns they had with regard to the variances. The Board can count for itself how many individuals chose to do

so. Also, GOCA, itself, had more than nine months (from the date the Concept Plan was submitted to the start of the hearing before the Board of Appeals) to decide whether or not to take an official position on the Oella Mill project. Its failure to get its act together is neither the Board's nor Forest City's fault.

The Board Properly Limited Testimony on the Variances.

People's Counsel also argues that the Board improperly limited testimony regarding the nature of the road system and traffic congestion during the *de novo* hearing on the variances. Strangely enough, during oral argument on the development plan, despite every opportunity to do so, Protestants alleged no error with regard to the Hearing Officer's findings as to traffic. As is outlined in detail in Forest City's Post-Hearing Memorandum, Argument 1.F., after hearing hours of testimony on the issue of traffic from witnesses both for and against the project, including experts produced by both Forest City and Protestants, the Hearing Officer determined that the surrounding roadways are safe and adequate to handle the proposed redevelopment. Hearing Officer's Order, pp. 11-13.

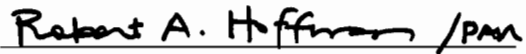
Rather than challenge this finding in the appropriate forum, *i.e.*, in the development plan case, Protestants apparently decided to take an end run approach and attempted to submit evidence and testimony regarding road conditions and traffic congestion in the variance case before the Board under the guise of "health and general welfare concerns." Perhaps Protestants believed they could trick the Board into independently evaluating the evidence and ruling contrary to the Hearing Officer on the issue of traffic.

The Board, however, ruled repeatedly and consistently that it was not going to allow Protestants to retry the development plan case under the guise of protesting the requested variances. This decision was correct. Because Protestants were unsatisfied with the Hearing Officer's findings with regard to traffic, they attempted to get a second bite at the apple. The Board properly refused to let them do so and should stand by its decision.

CONCLUSION

There is simply no justification for People's Counsel's request that the Board of Appeals reconsider its conduct of the hearing or reconvene the hearing. The Board of Appeals should summarily deny the Motion for Reconsideration and Rehearing.

Respectfully submitted,


ROBERT A. HOFFMAN


PATRICIA A. MALONE
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Forest City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 2002, a copy of the foregoing FOREST CITY'S RESPONSE TO MOTION FOR RECONSIDERATION AND REHEARING was mailed to Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, and to Mr. Henry Berger, 734 Pleasant Hill Road, Ellicott City, Maryland 21043, Representative for Protestants.

Robert A. Hoffman /PAM
ROBERT A. HOFFMAN

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

August 20, 2002

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

Re: Notice of Appeal
Development Plan Hearing
and Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412- SPHA

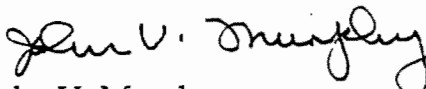
Dear Mr. Jablon:

The Protestants, Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually, hereby appeal to the Board of Appeals the final decision of the Hearing Officer/Zoning Commissioner dated August 8, 2002 incorporating the Hearing Officer/Zoning Commissioner's Order of July 8, 2002 granting approval of the requested variances and the Development Plan for this project.

Checks for appeal fees in the amount of \$250.00 and \$385.00 are attached.

Please let me know if you have any questions.

Very truly yours,

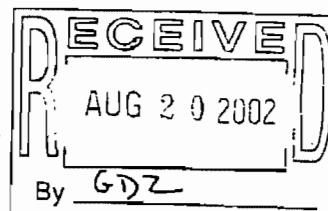

John V. Murphy

Enclosures

cc: Robert Hoffman, Esq
Peter Zimmerman, Esq.
Protestants

H:\WP\WIN\Clients\OellaCommAssoc\Notice of Appeal

RESPONSE EXHIBIT 1



02 AUG 22 AM 11:13

COPY

RE: Petition for SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue

* BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 02-412-SPHA

1ST ELECTION DISTRICT
1ST COUNCIL DISTRICT

* * * * *

RE: DEVELOPMENT PLAN HEARING

OELLA MILL PROPERTY

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No.: 01-498

1ST ELECTION DISTRICT-
1ST COUNCIL DISTRICT

* * * * *

In the matter of Oella Mill/ PDM I-498

* BEFORE THE BOARD OF
APPEALS
* FOR BALTIMORE COUNTY
* Case Nos.: CBA -02-137 and
02-412-SPHA

* * * * *

MOTION TO WITHDRAW APPEARANCE

Now comes appellants The Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually by their attorney, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., and, who represents to this Honorable Board:

1. The above captioned case concerns the appeal of variances granted and development



Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*

Mark Clark, *Vice-President*

Jim Lobell, *Treasurer*

Susan Jouan, *Recording Secretary*

Paul Mandl, *Corresponding Secretary*

18 September 2002

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

Re: Request for Removal as Protestants
Development Plan Hearing and
Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412-SPHA

Dear Mr. Jablon:

Whereas the Membership of the Greater Oella Community Association (GOCA) has never made formal motions nor taken formal votes to appeal the final decision of the Hearing Officer/Zoning Commissioner in the above case, nor approved of GOCA's inclusion in any other protestants' appeals related to this case; and whereas GOCA's inclusion as a Protestant in the attached Appeal of August 20, 2002, was initiated improperly and without the Membership's approval (as required by our By-Laws); and whereas the Membership, at today's regular Membership Meeting, has specifically voted to remove GOCA as a Protestant from the attached Appeal,

We hereby request that GOCA be removed as a Protestant in the above case, effective immediately.

It is our understanding that the Hearing on the attached Appeal is set for Tuesday, September 24, 2002, and is therefore imminent, and so we respectfully ask for your prompt attention to this request.

If you have any questions about the meaning or intent of this letter, or about the legitimacy of this request, please let me know.

Very truly yours,

Paul Mandl, *Corresponding Secretary*

(410) 707-1411

(410) 418-5237

Attachment

cc: Murphy & Murphy, L.L.C.
Robert Hoffman, Esq.
Peter Zimmerman, Esq.
Protestants

11/12/02

**RE: PETITION FOR SPECIAL HEARING *
PETITION FOR VARIANCES**

840 Oella Avenue, W/S Oella Avenue *
190' NW of c/l of Oella Hollow Road *
1st Election District, 1st Councilmanic *

Legal Owner: Oella Mill, LLP *
Contract Purchaser: Forest City Residential *
Group *

Petitioners

* * * * *

RE: DEVELOPMENT PLAN HEARING *

Oella Mill Property *
W/S Oella Avenue, E of Patapsco River *
1st Election District, 1st Councilmanic *

Oella Mill, LLP *

Applicant

* * * * *

BEFORE THE

COUNTY

BOARD OF APPEALS

for

BALTIMORE COUNTY

Case Nos. I-498 and

02-412-SPHA

**People's Counsel for Baltimore County's Motion for
Reconsideration and Rehearing**

People's Counsel for Baltimore County requests reconsideration and
rehearing, on the following procedural grounds:

1. The County Board of Appeals (CBA) improperly excluded evidence
proffered by citizens Lydia Temoshok, Lynette Burns and Mark Wilson, and
foreclosed others from presenting evidence, relating to traffic safety and
congestion on the narrow, hilly, and winding Oella Avenue and intersecting local
roads, and relating to population density in general. This evidence is relevant to
the requested parking variance and is at the heart of the concerns of area citizens.

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**BALTIMORE COUNTY
BOARD OF APPEALS**

2. The CBA was wrong to rule that parking variances which facilitate more than double the current vehicle traffic and population can or should be reviewed without examination of their natural consequences to public safety.

3. The CBA's exclusion of evidence is further arbitrary in light of Petitioners' orchestration of tangential promotional testimony about renovation or adaptation of the historic mill. People's Counsel and citizens were entitled to present evidence to counterbalance this with genuine public safety concerns.

4. The CBA improperly denied the Greater Oella Community Association its right and opportunity to be heard. The acceptance of a letter from GOCA's recording secretary (not signed by President Lydia Temoshok or other officers) as the final word foreclosing further participation is not justified either by CBA rules or by principles of Maryland law which promote participation of all parties in agency proceedings. GOCA had a right to explain in its September 26, 2002 letter the circumstances which cast doubt on the validity of an initial vote to withdraw the appeal. GOCA had a right to reconvene the October 28 meeting fairly to vote and resolve its position in opposition to the project. GOCA had a right to present its position and reasons to the CBA.

5. The CBA Chairman's reasons given at the October 30, 2002 to disallow President Temoshok's appearance are legally insufficient. There is no CBA rule which prevents a party from modifying, clarifying, or explaining its position during a proceeding. Rule 3b allows for the withdrawal or dismissal of an appeal,

but does not define the proper method or identify under what circumstances the withdrawal or dismissal is with prejudice.

6. Even if Rule 3b could justify a dismissal with prejudice of GOCA's appeal, there is no rule to prevent or disallow a community association from making an appearance as a party in a pending appeal at any stage in the proceedings and in any manner the association sees fit, by letter, testimony or otherwise. There may sometimes be imperfections, changes, and adjustments in the position of a party, especially a community organization or association. That is not a reason to seize on a single imperfect moment and silence the association forever. Rather, the CBA should consider the entire course and circumstances regarding the position of the association, and its reasons.

7. Administrative proceedings must not just be fair. They must appear to be fair. The exclusion of material evidence, coupled with the draconian forfeiture of GOCA's right to participate, mounts up to a general denial of an opportunity to be heard. It generates an appearance of unfairness.

8. In the pre-hearing memorandum, People's Counsel described the office's charter function, and appellate court decisions confirming its responsibility to defend, in the public interest, the comprehensive zoning maps and master plan in all sorts of land use cases: such as zoning reclassification, special exception, variance, special hearing, and development cases.

9. Whenever People's Counsel performs this assignment, it focuses not only on the merits, but also on procedural fairness to all parties. People's Counsel

has recently, in Constellation Power Source Generation, Inc., voiced its concern that proceedings should appear to be fair to the Petitioner. In the same vein, proceedings must appear to be fair to citizens and associations opposed to a petition. A new hearing day is required here to allow relevant evidence and to give GOCA its “day in court” at the administrative level.

Statement of Points and Authorities

Relevance of Evidence on Traffic Safety and Congestion

The prevention of traffic congestion and hazards are core purposes of zoning legislation as an exercise of the police power. Euclid v. Ambler Realty Co. 272 U.S. 365 (1926) discussed traffic as a key consideration in the origin of zoning. Baltimore County Code Sec. 26-116 identifies public safety, health, and welfare functions of zoning law. It provides that zoning maps and regulations:

...shall be designed to reduce congestion in the roads, streets, and alleys, to promote safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, and to prevent the overcrowding of land to avoid undue concentration of population, to facilitate adequate provision for schools, parks, water, sewerage, transportation and other public requirements, conveniences, and improvements

The promotion of traffic safety is one way in which zoning protects neighborhoods and the public in general. Southland Corp. v. City of Laurel 75 Md. App. 375 (1988) illustrates this point. There, the Court affirmed denial of a site plan for a convenience store based on the traffic hazards. The Court relied both on expert and citizen testimony regarding the traffic hazards. 75 Md. App. at 384-87.

In Marino v. City of Baltimore 215 Md. 206 (1957), involving an “exception” or “variance”, the Court on its own observed that traffic congestion is a key issue in a zoning case, and that the proposed store and parking area would aggravate an existing problem at the York Road/Belvedere Avenue intersection. This alone justified denial of the variance.

Traffic congestion and safety are frequently among the key issues in special exception cases as well. Eger v. Stone 253 Md. 533 (1969); Schultz v. Pritts 291 Md. 1 (1991); People’s Counsel v. Mangione 85 Md. App. 738 (1991). The Eger case, in particular, emphasized the liberal rules of evidence applicable to zoning proceedings, and the correctness of admitting and relying on citizen testimony.

In this connection, Rule 7a of the CBA Rules of Evidence allows all evidence admissible under the Maryland Rules. It also states that “...the board will not be bound by the technical rules of evidence” and will accept such other evidence as may be “needful and proper.” In a zoning case which applied a similar evidentiary rule in Baltimore City, the Chief Judge Hammond wrote in Neuman v. City of Baltimore 253 Md. 92 (1968):

The Baltimore City Charter ... provides that the Board ‘shall not be bound by the technical rules of evidence in force in the Courts of Maryland’ and this provision is declaratory since this would be true without the legislation. Hyson v. Montgomery County ... (‘In general, administrative agencies are not bound by the technical common law rules of evidence, but they must observe the basic rules of fairness as to parties appearing before them’); hearsay evidence is generally admissible in administrative proceeding in contested cases. ... Hearsay evidence is not only admissible, it may serve as sole basis for decision if it is credible and has sufficient probative force.

Here, the issue does not even go to hearsay evidence. Rather, we have personal observations of citizens who reside in a neighborhood, the type of evidence accepted without hesitation in Eger v. Stone and Southland Corp. v. Laurel.

It is no excuse or answer to say that the inquiry in variance cases is narrow. The "practical difficulty" standard for variances under BCZR 307.1 is very broad. We have cited on numerous occasions the criteria set forth in McLean v. Soley 270 Md. 208, 213-14 (1973):

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

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

The second criterion involves comparative analysis of justice to the applicant and to neighborhood property owners. The third criterion directly addresses public safety and welfare. Under zoning law, traffic congestion and safety are core issues in the achievement of justice and protection of public safety and welfare.

The proposed parking variances enable or lead to a dramatic increase in traffic and population density in an old local road system which is already inadequate. This is a recipe for aggravation of a hazardous situation. It is no

answer to say that the parking variances have to do only with aisle widths and double-stacking. That is a shortsighted and incomplete analysis. The concept of relevance includes the entire scope of related issues. All related links in a chain of events must be considered. It is not a cramped concept.

In a world where globalization connects us closely to distant parts of the earth once considered irrelevant or of remote interest, it is strange to suggest that more than doubling the traffic and population at Oella Mill should not be considered in light of its impact on neighboring roads, existing population, and the immediately affected community. Petitioners' counsel's suggestion that this may have been a development issue, but not a variance issue, is unfounded. The criteria for consideration of a variance are broader than those for a development plan, which usually focus more on the proposed use on the site itself.

Exclusion of GOCA

The Express Powers Act, Md. Ann. Code Art. 25A, Sec.5(U) provides, for a charter county Board of Appeals, "... for the decision on petition by any interested person and after notice and opportunity for hearing and on the basis of the record before the board ..." Charter Sec. 603 echoes this and says that:

All decisions of the county board of appeals shall be made after notice and opportunity of hearing upon the issues before said board. All hearings held by the board shall be heard de novo, unless otherwise provided by legislative act of the County Council, and shall be open to the public.

It is an essential to procedural due process that each interested party have an opportunity to be recognized and be heard. Hyson v. Montgomery Council 242 Md. 55 (1966); Union Investors v. Montgomery County 244 Md. 585 (1966).

The Court of Appeals in Sugarloaf v. Maryland Department of Environment 344 Md. 271, 286 (1996) reiterated that the Maryland has “relatively lenient standards” for administrative standing. Judge Eldridge quoted from Morris v. Howard Research & Development Corp. 278 Md. 417, 423 (1976):

Bearing in mind that the format for proceeding before administrative agencies intentionally designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party. 344 Md. at 286-87.

The Court there included these examples as sufficient: “submitting name in writing as a protestant”; “submitting into evidence letter of protest”; “identifying self on agency record as party to proceedings.”

Judge Eldridge quoted Maryland-National v. Smith 333 Md. 3, 10 (1993):

Morris and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed low. Although we have said that one’s presence at the hearing and testimony in favor an asserted position is sufficient, *id.*, we have also said that personal appearance and testimony at the hearing are not required.

Clearly, any party is entitled to assert its position at an agency hearing. One of the purposes of administrative law is to encourage flexible proceedings which are, to borrow a modern term, user-friendly to all interested persons.

Here, GOCA took an appeal. Its recording secretary then seemed to withdraw the appeal, but the President and other officers wrote to explain their concern that the circumstances warranted further review and action by the association. That action occurred. President Temoshok was prepared to appear on October 30 and explain the association's position and/or to submit correspondence or documentation. She would have been available for cross-examination as to the history and background of the association's meetings, deliberations, and different votes in a way fair to all the parties.

The spirit and intent of Maryland law is to allow and encourage the participation of citizens in agency proceedings. CBA Rule 3b does not mandate that an apparent withdrawal of an appeal must be, or should be, considered final or with prejudice. This is especially true where promptly explained as being under reconsideration.

Here, proceedings were ongoing with other parties involved. There was no prejudice to Petitioners from the reappearance of GOCA, whether as an additional appellant or just as an interested party. Petitioners' presentation was not affected. Had GOCA never been an appellant to start with, it would have nevertheless been entitled to appear anew as a party in a pending proceeding.

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 this 12th day of November, 2002 that a copy of this motion was mailed to Robert Hoffman, Esq., Venable, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners/Applicant and to Lydia Temoshok, Ph.D., 513 Oella Avenue, Ellicott City, MD 21043, individual Appellant and President of Greater Oella Community Association.

Peter Max Zimmerman

Peter Max Zimmerman

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Response to Motion for Reconsideration and Rehearing

DATE: November 14, 2002

TO: Missy Adams

FROM: Kathi

SUBJECT: Case No. CBA-02-137 (PDM I-498) and Case No. 02-412-SPHA / *In the Matter of: Oella Mill, LLP*
Forest City's Response to Motion for Reconsideration and Rehearing

Missy:

Attached for your review prior to deliberation on Tuesday, 11/19/02 at 9:00 a.m. is a copy of Petitioner's response to the Motion filed by Pete Zimmerman.

Copies were given to Chuck and Larry W in the office today. Please be sure to read through this – Peter filed his Motion for Reconsideration as part of his closing memo – you have copies of those documents.

Any questions, please call me.

kathi

Attachment



BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Written Briefs in Lieu of Closing Argument

DATE: November 12, 2002

TO: C. Marks
L. Wescott
M. Adams

FROM: Kathi

SUBJECT: Case No. CBA-02-137 (PDM I-498) and Case No. 02-412-SPHA / *In the Matter of: Oella Mill, LLP*
Closing Memos – Deliberation assigned for November 19, 2002

The subject case is scheduled for public deliberation on Tuesday, November 19, 2002 at 9:00 a.m. A copy of the deliberation notice was previously forwarded to you.

The following memos were filed in lieu of closing argument:

1. People's Counsel's Post-Hearing Memorandum and Motion for Reconsideration and Rehearing; and
2. Forest City's Post-Hearing Memorandum filed by Robert A. Hoffman, Esquire, on behalf of Petitioner /Developer.

Kathi

Attachments (2 packets)



11/12/02

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
PETITION FOR VARIANCES * COUNTY
840 Oella Avenue, W/S Oella Avenue *
190' NW of c/l of Oella Hollow Road *
1st Election District, 1st Councilmanic * **BOARD OF APPEALS**

Legal Owner: Oella Mill, LLP * **for**
Contract Purchaser: Forest City Residential *
Group * **BALTIMORE COUNTY**

Petitioners
* * * * *
RE: DEVELOPMENT PLAN HEARING * Case Nos. I-498 and
Oella Mill Property *
W/S Oella Avenue, E of Patapsco River * **02-412-SPHA**
1st Election District, 1st Councilmanic *

Oella Mill, LLP *

Applicant
* * * * *

Post-Hearing Memorandum

People's Counsel has already filed its pre-hearing memorandum to address the core legal issues in these consolidated cases. That memorandum also included as exhibits the memoranda and correspondence presented to the Zoning Commissioner/Hearing Officer.

We will not repeat here that material. This memorandum will clarify and expand on key points arising from the oral argument. It will also address the trial of the parking variance case.

I. Scope of Review

The core zoning issues involve analysis of the permissible density and uses in the B.M.-C.C.C. zone/district; the applicability of the recreational space law to

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residential construction in a renovation project; the applicability *vel non* of residential transition area restrictions; the applicability of special hearing requirements for commercial parking in a residential zone; and the lawfulness of plan approval without current satisfaction of floodplain standards.

We have always said that these are pure issues of law. They are comparable to the issue presented in People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989), the analysis and application of waterfront zoning standards to a commercial use (restaurant) in navigable waters; to that presented in Board of Child Care v. Harker 316 Md. 683 (1989), the analysis and application of governmental immunity to a facility serving juveniles which is licensed under state law; to that presented in People's Counsel v. Crown Development Corp. 328 Md. 303 (1992), the applicability of transfer of density to a residential development; and to that presented in Annapolis Market Place v. Parker 369 Md. 689 (2002), the analysis and application of adequate facilities law to a rezoning where the developer proposes future provision of facilities not currently programmed for construction.

In Maryland Marine and Crown Development, the Court of Appeals reversed Baltimore County CBA rulings in favor of the developer. In Parker, the Court reversed the Anne Arundel CBA ruling for the developer. In Harker, the Court affirmed a ruling of this CBA against the developer.

In each of the above cases, there was a single primary legal problem. In the present case, there are many. The urge to get development approval often causes

petitioners to try to fit a square peg in a round hole. In each of the above cases, the petitioner could have solved its problem by seeking amendment of the legislation in the county council. That is the democratic process. In each of these cases, the petitioner chose not to do that.

The petitioners here seek refuge in Code Sec. 26-209, the development law provision which limits CBA review of development plan approval to errors of law or arbitrary and capricious decisions. It argues that the CBA should give deference to the Zoning Commissioner's interpretations. Our answer is twofold.

First of all, there is no reason to depart here from Charter Section 603, which makes all CBA proceedings *de novo* unless otherwise provided by law. See Boehm v. Anne Arundel County 54 Md. App. 497 (1983); Hill v. Baltimore County 86 Md. App. 642 (1991). The legal problems here apply both to the development plan and variance cases. They bar approval of each petition. It is undisputed that the variance proceeding is *de novo*. Were the variance proceeding not consolidated with the development plan, it would be crystal clear that the CBA must consider the legal issues *de novo*.

As the cases are consolidated, petitioners have confused the matter. They have attempted to wrap core zoning issues under a development plan umbrella in order to argue for deferential review. The issues are not development plan issues. They do not depend on the road, sidewalk, water, sewer, and similar issues generated under Code Sec. 26-201 to 26-209. Rather, they come up in the context of the requirement that a development plan comply with all other provisions of

county law. Code Sec. 26-180. When a development fails because it violates and cannot pass the threshold of a basic zoning law, it does not properly reach the stage where deferential review comes into play. For example, if the Commissioner approves a development for a junkyard in a density residential zone in Ruxton, Stoneleigh, or West Towson, there is no deference deserved or given.

The zoning issues, including the adequate facilities (recreational space) issue, are threshold issues. They are similar to the “snake breeding vs. farming” issues reviewed *de novo* in special hearing cases, such as Marzullo v. Kahl 366 Md. 158 (2001). They are similar to the “airport vs. airstrip/helistop” issues reviewed *de novo* in conjunction with a special exception. Lucas v. People’s Counsel ____ Md. App. ____ (2002). The CBA must not fall into the trap of subordination of basic zoning law issues to the development plan. That would stand the law on its head.

The Court of Appeals has differentiated master plan, zoning, and subdivision (development) issues. Board of County Comm’rs v. Gaster 285 Md. 233 (1979). Usually, zoning issues are resolved prior to commencement of the development process. In the present case, the development plan proceeded only because county zoning authorities ignored or missed the major legal problems. They should have required a special hearing to resolve these issues before consideration of a development plan, as was done in Maryland Manufacturing, supra, and in Harker, supra. Because the authorities missed these issues, it became necessary for People’s Counsel to identify them.

Secondly, a deferential standard of review would not save the proposal. As in the Court of Appeals cases cited above, from Maryland Marine to Parker, the legal issues are pure and clear. The legislative intent is sufficiently plain to preclude neutrality. This is not a case where the agency may pass on the issues as “fairly debatable.”

To illustrate, Chief Judge Robert Murphy wrote in Maryland Marine:

But a reviewing court is under no constraints in reversing an administrative decision which is premised solely upon an erroneous conclusion of law. ... The issues which we are concerned with in this case present purely legal questions. 316 Md. at 497.

Judge Harrell reiterated in Parker:

We, however, ‘may always determine whether the administrative agency made an error of law.’ 369 Md. at 703.

The threshold inquiry in administrative law is “the legality of the decision.” 369 Md. at 704.

In sum, the core zoning issues here are issues of law. The deferential standard of review for ordinary development issues does not apply. The legal issues are subject to *de novo* review. In any event, these legal problems could not survive any standard of review. The proposed variances and development plan fail because of density and use conflicts, inadequate recreational space, failure to satisfy RTA and/or commercial parking restrictions, present floodplain violations. The Zoning Commissioner/Hearing Officer’s decision was, and is, illegal.

II. The Legal Problems in Commonsense Perspective

Legal analysis of the several problems at issue inevitably required detailed explanation. The discussion included the B.M.-C.C.C. zone/district legislation and its history going back over thirty years, the recreational space law (Bill 110-99), the residential transitional area law and its history going back over twenty years, the commercial parking zoning law, and the floodplain statute. The Court of Appeals wrote a lengthy opinion in Parker on an analysis of one statute. Here, we have five statutes, two of which have history in depth.

It is a task to analyze the language and history. After that is done, however, it is helpful to step back, as if from a painting, and to place the brush strokes in perspective. There is a method to these laws. There is a picture.

The proposed construction of 175 apartments on 5.73 acres equates to 158 density units, based on the apartment mix. This works out to 27.5 units per acre, a density far higher than the surrounding single-family home and duplex village mainly zoned D.R. 3.5. The roads are old, narrow, and winding. It does not make sense that the County Council would designate the mill property as a community center in a C.C.C. district with the idea of unlimited density, no active recreational space, and exemption from residential transition area restrictions. The Petitioners have distracted attention from these problems by casting themselves as saviors of a historic property.

This is not the point. Everyone agrees that it is a good thing to preserve the historic mill property. The question is whether it is being done in a way which

complies with the law and fits the surrounding community. It is not obvious that the Forest City plan is the only plan, the necessary plan, or the best plan to do this. All we know is that this is the plan they have chosen, they believe works, and they believe is best. This does not immunize it from scrutiny under the light of the law and the commonsense inquiry whether a high-density, no active recreational space, no residential transition development belongs in this village. Suppose this were a high-density development which everyone agreed were ugly, insensitive, and offensive. If Petitioners are right about the legal issues here, there would be no way to stop it. This case must not be decided based on an *ad hoc* aesthetic reaction to whether this proposal is nice or pleasing, and whether the developer is a high-quality organization. Zoning laws which properly exclude offensive land uses may sometimes bring within their ambit particular uses that some find inoffensive or good. As the Supreme Court said in Euclid:

Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than happens in respect of many practice-forbidding laws which this court has upheld, although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. ... The inclusion of a reasonable margin, to insure effective enforcement, will not put on a law, otherwise valid, the stamp of invalidity. 272 U.S. at 388-89.

The solution is not to avoid the law, but rather to consider such appropriate amendments as may be appropriate.

Zoning laws in general, and the specific laws here, are intended to prevent the stark extremes in density, space, and transition associated with this

development. If the proposal is as good and valuable as Petitioners suggest, then they should ask the County Council for legislative action and policy to support it.

III. The Parking Variances On Their Own

a. The Law of Variances Generally

BCZR 307.1 states, in pertinent part:

“The zoning commissioner of Baltimore County and County Board of Appeals, on appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship... only if in strict harmony with the spirit and intent of said height, area, off-street parking, or sign regulations, and only in such manner as to grant relief without injury to the public health, safety, and general welfare. They shall have no power to grant any other variances.”

This standard requires proof of the following:

1. That the land or structure is “unique,” a zoning term of art;
2. That the uniqueness “results” in “practical difficulty” pertinent to zoning compliance;
3. That there is true “practical difficulty,” another zoning term of art;
4. That there is no injury to the public health, safety, and general welfare; and
5. That any such “practical difficulty” is not self-created.

The purpose of variance law is to allow relief so that a property owner has some reasonable use of his property. See 3 Young, Anderson’s American Law of Zoning 4th, Sec. 20.02 (1996):

The underlying purposes of administrative relief have been discussed in an earlier chapter, but specifically, with respect to variances, it is said that a variance is 'designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a **property owner** all beneficial use of his land and thus amount to confiscation.'

The first inquiry here is whether the property is peculiar or "unique." If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends there.

Cromwell v. Ward 102 Md. App. 691 (1995); Umerley v. People's Counsel 108 Md. App. 497 (1996); Riffin v. People's Counsel 137 Md. App. 90 (2001). If this threshold is passed, the further question is whether the unique condition results in "practical difficulty." McLean v. Soley 270 Md. 208, 213-15 (1973).

In McLean, the Court identified the criteria for practical difficulty:

"1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would **unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.**

2) Whether a grant of the variance applied for would do **substantial justice to the applicant as well as to other property owners in the district**, or whether a lesser relaxation than that applied for would give substantial relief **to the owner** of the property involved and be more consistent with justice to other property owners.

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

These criteria are interrelated and must be analyzed together.

b. The Law Applied

Petitioners' theory is that this is a unique historic mill, that the contract purchaser, Forest City Residential Group, has a proposal for preservation and adaptation of the mill for residential use, that the proposal which works for Forest City involves 175 apartments, that this will require the construction of an indoor garage to add to the outdoor parking on site, that there are columns in the building, and that their parking layout requires variances to aisle width requirements and aisle access requirements under BCZR 409. 4 B,C.

It is true that the mill is a historic structure, but that is not the essential reason for the parking variances. The reason is that a developer now proposes an indoor parking garage with over 100 new parking spaces. Even if we assume historical uniqueness, that is not resulting in any practical difficulty.

1. The Owners Have No Difficulty

A threshold problem with the proposed parking variances is that the current owners of the property have not asserted any particular difficulty or need. They are using the property for commercial purposes. There is no evidence they are having any trouble. The property was not listed for sale. The community has no problems with the current usage. The owners did not testify during the hearing.

Variance law is not set up for the convenience of contract purchasers. Where there is a genuine problem, the purchase of a property does not disqualify the buyer from requesting a variance. But here, there was no problem. Under the

law as described in Anderson's treatise and in McLean, the practical difficulty inquiry focuses on the property owner.

2. There Is No Evidence that the Proposal Satisfies Public Safety and Welfare Traffic Concerns

It cannot be emphasized too strongly that BCZR 307.1 commands that a variance may be granted "...only in such manner as to grant relief without injury to the public health, safety, and general welfare." There is the further problem is that there was no evidence as to how the variances would serve the public safety and welfare as to traffic safety and congestion. We have shown in our motion for reconsideration that these are public safety and welfare concerns in virtually all zoning cases, including variance cases. Code Sec. 26-116; Euclid v. Ambler Realty Co., *supra*; Marino v. City of Baltimore 215 Md. 206 (1957); Eger v. Stone 253 Md. 533 (1969); Schultz v. Pritts 291 Md. 1 (1981); Southland Corp. v. City of Laurel 75 Md. App. 375 (1988); People's Counsel v. Mangione 85 Md. App. 738 (1991). We showed the CBA was wrong to exclude citizen evidence about traffic hazards traceable to this plan. Meanwhile, Petitioners never presented any affirmative evidence on the subject. We expected to hear Mr. Cornelius, Petitioners' traffic expert, testify as to traffic safety considerations. It never happened. Petitioners have made the tactical decision that traffic safety is irrelevant. They want the CBA to confine its review to the interior of the proposed parking garage. That is a cramped and distorted perspective.

Petitioners have chosen to propose a high-density development which doubles parking. It involves a new garage inside the mill. It would generate much more population and traffic on local roads than now exist. The congestion and safety impacts are classic zoning concerns. These concerns do not go away by naming the variances “aisle width” or “access” variances. If a height variance has visual impacts, the impacts are offsite. See Red Roof v. People’s Counsel 96 Md. App. 219 (1993). If a setback variance causes problems, the impacts are offsite. See Daihl v. County Board of Appeals 258 Md. 157 (1970). If a parking variance causes problems, the impacts are offsite. Marino, *supra*. There is no artificial rule which confines the public safety and welfare variance inquiry to the interior of the property. Rather, the opposite is true.

The bottom line is that Petitioners failed to address traffic safety and congestion; the citizens proffered cogent and specific evidence on the hazards to their neighborhood; and Christine Beed identified safety problems at the proposed access point.

3. Modifications; Revenue Issues

The Court of Appeals has rejected requests to modify current uses to gain relative advantage or convenience, even where the property owner is involved. Marino, *supra*; Cleland v. City of Baltimore, 198 Md. 440 (1951); Pem Constr. Co. v. City of Baltimore, 233 Md. 372 (1964). The appellate courts have rejected variance claims based on financial or revenue considerations. Burns v. Mayor &

City Council, 251 Md. 554 (1968); Daihl, *supra*; Cromwell, *supra*, quoting Xanthos v. Board of Adjustment, 685 P.2d 1032, 1037 (1985):

“Hardship is not demonstrated by economic loss alone...
Every person requesting a variance can indicate some economic loss.
To allow a variance any time any economic loss is alleged would
make a mockery of the zoning program.”

4. No Discussion of Alternatives

Petitioners asserted that the proposed renovation is what works for Forest City Residential Group. There was no foundation laid and no supporting documentation. There was no discussion of less dense alternatives, or the plausibility of developing the site without variances.

Henry Berger and Henry Maeser, a registered architect, showed that a different parking layout, with a one-way circulation design and less than 90-degree angle parking could likely be done with no variances or lesser variances. See BCZR 409.4.C. The only question would be whether it would result in less spaces, and therefore fewer apartments. These witnesses also raised questions about the practicality of the proposed parking layout with respect to circulation, parking space entry and egress, ramp heights, and double-stacking.

5. Self-Created Difficulty

The next problem is that any difficulty is self-created. It is “incumbent [on the applicant] to [show]... that the hardship was not the result of the applicants’ own actions.” Marino v. City of Baltimore 215 Md. 206, at 218 (1957). In Cromwell, Judge Cathell wrote that self-inflicted hardship “... is never proper

grounds for a variance.” He quoted Steele v. Flavanna Co. Bd. Of Zoning Appeals, 436 S.E.2d 453, 456 (1993):

The hardship, if any, was self-inflicted. The placement of the improvements... was within the control of the [applicants] and their contractor.

He concluded:

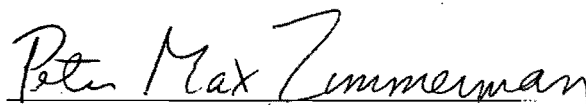
Were we to hold that self-inflicted hardships in and of themselves justified variances, we would effectively not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

The problem here is not in Petitioners’ wish to purchase the property. That does not create the difficulty. The problem is with their decision on the “placement of the improvements ... within [their] control” to serve a desired number of apartments, despite many possible business or lower-density residential uses. Even if it were assumed to be a beneficial use, it is a matter of convenience or choice, not practical difficulty.

The self-created difficulty problem of Forest City goes hand in hand with the owner’s failure to prove any difficulty at all. It has much to do with the fact that the parking garage and variances are driven by Forest City’s financial considerations. All of these problems are intertwined.

6. Summary

The historic nature of the mill does not warrant or require these variances. The Petitioners' case does not satisfy the criteria for practical difficulty. The owners have not claimed any problem with the existing commercial uses. Meanwhile, Petitioners have disregarded or suppressed legitimate public safety concerns. These have been sacrificed to financial considerations. On top of this, the variances run up against all the legal impediments described on the first day of hearing.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 this 12th day of November, 2002 that a copy of this memorandum was mailed to Robert Hoffman, Esq., Venable, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioners/Applicant and to Lydia Temoshok, Ph.D., 513 Oella Avenue, Ellicott City, MD 21043, Individual Appellant and President of Greater Oella Community Association.



Peter Max Zimmerman

11/12/02

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

840 Oella Avenue

1st Councilmanic District
1st Election District

PDM No. I-498

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

*

* Case Nos.: CBA-02-137/
02-412-SPHA

*

*

* * * * *

FOREST CITY'S POST-HEARING MEMORANDUM

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser,
(hereinafter "Forest City"), by Robert A. Hoffman and Patricia A. Malone with Venable,
Baetjer and Howard, LLP, its attorneys, respectfully submit this Post-Hearing Memorandum
in support of development plan approval and approval of the Petition for Variance, as
follows:

INTRODUCTION

With regard to approval of the Oella Mill development plan, Forest City produced
strong and substantial evidence before the Hearing Officer that the plan fully complies with
the Development Regulations and all applicable rules, regulations, and policies, and
Protestants or People's Counsel (hereinafter "Protestants") were unable to rebut this
evidence. On appeal before the County Board of Appeals, Protestants failed to demonstrate
that the Hearing Officer's decision is unsupported by sufficient evidence in the record or is
otherwise legally incorrect. Therefore, the Board of Appeals should affirm the Hearing
Officer's decision to approve the development plan.

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**BALTIMORE COUNTY
BOARD OF APPEALS**

With regard to the Petition for Variance, in the *de novo* hearing before the Board of Appeals, Forest City produced overwhelming evidence that the Oella Mill property has unique and special features that would create a practical difficulty for Forest City in strictly complying with the Baltimore County Zoning Regulations. Therefore, the requested zoning variance relief is justified, and the Board of Appeals should grant the Petition for Variance.

STANDARD OF REVIEW ON APPEAL

The Board of Appeals' role in reviewing the Hearing Officer's approval of a development plan is clearly defined in Section 26-209 of the Baltimore County Code ("B.C.C.") and has been confirmed by the Maryland courts. In reviewing the factual basis for the Hearing Officer's decision, the Board of Appeals must limit its review to whether substantial evidence exists in the record as a whole to support the decision. *Monkton Preservation Assocs. v. Gaylord Brooks Realty Corp.*, 107 Md. App. 573, 580-81, 669 A.2d 195 (1996). "In that examination, the Board does *not* make independent evaluations, for to do so would require the Board to make credibility decisions without having heard the testimony." *Monkton*, 107 Md. App. at 581-582 (emphasis in original).

With regard to determining whether the Hearing Officer's decision resulted from unlawful procedure, was affected by other error of law, or was arbitrary and capricious, all of which involve errors of law, the Board of Appeals makes an independent evaluation, although recent cases suggest that, "[e]ven with regard to some legal issues, *a degree of deference should often be accorded* the position of the administrative agency." *Marzullo v. Kahl*, 366 Md. 158, 172-173, 783 A.2d 169 (2001), *quoting Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 67-69, 729 A.2d 376 (1999) (emphasis added). As the Court of Appeals explained, "an administrative agency's interpretation and application of the

statute which the agency administers should ordinarily be given considerable weight by reviewing courts.” *Id.* Because the Zoning Commissioner, sitting as Hearing Officer, is responsible for administering the Baltimore County Zoning Regulations and the Development Regulations on a daily basis, the Board of Appeals should give “considerable weight” to the Hearing Officer’s interpretation and application of these regulations in this case.

As discussed below, Protestants, who bear the burden of proof in appealing the development plan approval, have failed to demonstrate that the Hearing Officer’s decision is not, in fact, supported by evidence in the record and have failed to prove that his decision is based upon an error of law. The Board of Appeals should, therefore, affirm the approval of the Oella Mill development plan.

ARGUMENT

I. THE HEARING OFFICER PROPERLY FOUND THAT THE OELLA MILL DEVELOPMENT PLAN FULLY COMPLIES WITH THE DEVELOPMENT REGULATIONS AND ALL APPLICABLE RULES, REGULATIONS, AND POLICIES.

Protestants alleged certain deficiencies with regard to the Oella Mill development plan, and the alleged deficiencies are addressed below:

A. The Hearing Officer Correctly Rejected Protestants’ Argument that the Oella Mill Property’s Density was Limited to 20 Units.

Before the Hearing Officer and the Board of Appeals, Protestants argued that the project’s density should be controlled by regulations pertaining to the adjoining density residential zone, which is DR 3.5, and, therefore, should be limited to a density of 3.5 dwelling units per acre or 20 units in total. The Oella Mill property is actually zoned BM-CCC and is governed by Section 235A of the Baltimore County Zoning Regulations

("B.C.Z.R."). Forest City proposes 175 apartment units within the existing structures. *See* Developer's Exhibit 7. Protestants argued that density should be limited to 20 units in spite of the clear language of Section 235A, which states that "[c]ontrary provisions of these zoning regulations notwithstanding, the regulations of this section shall apply in C.C.C. Districts superimposed on B.M. zones" and provides that "[t]he specific number of dwelling units or density units, as such, shall *not* be directly limited." B.C.Z.R. §§ 235A and 235A.3 (emphasis added). Protestants' argument is in direct opposition to, not only the plain language of the Zoning Regulations themselves, but also the consistent application of these regulations by Baltimore County for well over twenty years.

When it adopted the regulations governing the CCC district overlay, the Baltimore County Council included a conflict provision to the effect that, for matters specifically addressed in Section 235A, Section 235A would govern over any contradictory provisions in the Zoning Regulations. B.C.Z.R. § 235A. This conflict provision is consistent with the general conflict provision contained in Section 259.1, which states "[i]n any district, the use, height, area and other regulations applicable in the underlying zone(s) or district(s) upon which the district is superimposed shall govern *except as may specifically be enlarged, modified or limited by the district regulations in this section.*" (Emphasis added). Therefore, one must look first to Section 235A to determine what is permitted on a BM-CCC zoned property.

Section 235A.1 clearly permits "apartments" in the BM-CCC zone, a use which otherwise would not be permitted in the BM zone (unless the property adjoined DR 10.5 or DR 16 zoned properties). In fact, that seems to be the primary function of Section 235A. From the plain language of Section 235A.3, the Baltimore County Council also clearly

chose not to limit “directly” the density or number of dwelling units for an apartment project in the BM-CCC zone. As George Gavrelis¹ explained before the Hearing Officer, the Council intended there only to be *indirect* limitations on density, such as limitations created by a limit on the maximum floor area ratio permitted or by a requirement that amenity open space be provided. (Transcript of Proceedings before Hearing Officer on May 9, 10, 13, 15 and June 12, 2002 (“T”), 5/09/02, pp. 200-222) These types of limitations would limit the size of a building and, consequently, would *indirectly* limit the total number of dwelling units that could be provided on a site. (T., 5/09/02, pp. 206-207) Because Section 235A specifically deals with both apartment use and density, there is no justification for Protestants’ resort to an examination of the provisions governing the adjoining DR zone.

As additional support for application of the plain language of Section 235A.3, Mr. Gavrelis pointed to other examples of high-density projects developed under BM-CT zoning in Towson, namely Tabco Towers and Penthouse Apartments. Developer’s Exhibits 4 and 5.² The BM-CT zone contains a virtually identical density provision. B.C.Z.R. § 235B.1. This application is likewise supported by a reference in the Comprehensive Manual of Development Policies (“CMDP”), page 28 of Residential Standards, that, in the CCC and CT districts, “residential uses [are] not subject to density.”³ Developer’s Exhibit 3.

Having considered both sides of the issue, the Hearing Officer properly ruled that the density of the Oella Mill property is not limited to a specific number of dwelling units:

¹ George Gavrelis was the Director of the Baltimore County Office of Planning and Zoning at the time the CCC and CT districts were created, and he testified as an expert land planner for Forest City before the Hearing Officer in the development plan case and the Board of Appeals in the variance case.

² Forest City will, hereinafter, refer to exhibits introduced in the development plan case before the Hearing Officer as “Developer’s Exhibits,” and those introduced before the Board of Appeals in the variance case as “Board Exhibits.”

³ The CMDP was adopted pursuant to B.C.Z.R. Section 504, which requires County Council approval.

I am persuaded that the language contained in Section 235.A is clear and unambiguous. It states that for the B.M.-C.C.C. district, there shall be no limitation on density. This is consistent with the subsequently adopted provisions of the C.M.D.P. Moreover, the introductory language of Section 235.A unequivocally states that the regulations contained within that Section are controlling, notwithstanding other provisions of the B.C.Z.R.

Thus, it is my judgment that density is not limited and that the development plan should not be denied based on People's Counsel's argument that the project is over-density. Moreover, it is to be noted that Baltimore County, apparently as a matter of longstanding practice, has employed this approach in evaluation similar residential development....

Hearing Officer's Opinion and Development Plan Order, dated July 8, 2002 (hereinafter "Hearing Officer's Order"), pp. 10-11. (*See also* T., 5/10/02, pp. 3-7) The Board of Appeals should affirm this decision.

B. The Development Plan Reflects Apartments only above the First Story in Compliance with B.C.Z.R. Section 235A.1.

Protestants also argued that the Hearing Officer should not have approved the Oella Mill development plan because it does not comply with their interpretation of a provision contained in B.C.Z.R. Section 235A.1 that "[a]partments shall be permitted, but only above the first story of a building." Protestants argued that B.C.Z.R. Section 235A.1, although not specifically stated, by implication would require a commercial or retail use on the first story. Protestants asked the Hearing Officer, essentially, to read Section 235A.1 as if it contained additional language to the effect that, when a building in the BM-CCC zone is used for apartments, not only is there a restriction that the first story cannot be used for apartments, but there is an affirmative requirement that the first story must contain a commercial or retail use.

The Maryland Courts have outlined the rules of statutory construction in countless cases throughout the years. A recent case from the Court of Appeals contains a particularly succinct statement of statutory construction:

In construing statutes, we obviously begin with the language of the statute. If that language, both on its face and in context, is clear and unambiguous, we need go no further. We give the language its plain meaning. We do not add or delete words in order to reflect an intent not evidenced by what the Legislature actually said and we do not construe statutes with “forced or subtle interpretations” that limit or extend its application.”

Swinson v. Lords Landing Village Condominium, 360 Md. 462, 478, 758 A.2d 1008 (2000)

(emphasis added). Following these rules of construction, the Hearing Officer determined the language contained in Section 235A.1 to be clear, and he properly refused to read an additional requirement into the law:

The language merely prohibits what can be on the first floor, but does not mandate any particular use. In my judgment, the words used are unambiguous. Had the County Council required a commercial use on the first floor of an apartment building in the B.M.-C.C.C. zone, it could have done so by clearly stating such a requirement. It did not....

Hearing Officer’s Order, p. 7. (*See also* T., 5/10/02, pp. 8-10)

That decided, the Hearing Officer properly found that the uncontradicted testimony of Geoffrey Glazer, licensed architect (T., 5/09/02, pp. 223-230), and Developer’s Exhibit 2, demonstrated that “the first story of the building...does not contain apartments.” (T., 5/10/02, p. 8) Rather, Forest City is proposing that the first story of the Oella Mill building be used as a parking lot, a use which happens to be permitted by right in the BM zone and, given its location inside the building, is a highly appropriate use of this space. The Hearing Officer, therefore, properly found the requirements of Section 235A.1 to have been met.

Hearing Officer’s Order, p. 8. His decision should be affirmed by the Board of Appeals.

C. The Hearing Officer Properly Ruled that the Local Open Space Requirements of the Adequate Public Facilities Law (Bill No. 110-99) do not Apply to this Project.

Protestants disagreed with the Department of Recreation and Parks' determination that the local open space requirements of the Adequate Public Facilities law (Bill No. 110-99, codified at Section 26-491 through Section 26-500 of the Baltimore County Code) were not applicable to this project because Forest City does not propose "residential development." "Residential development" is defined in B.C.C. Section 26-492(g) as "the development of property for the construction of dwelling facilities."

Jan Cook of the Department of Recreation and Parks testified at the hearing before the Hearing Officer regarding his department's determination that the project was a "renovation of an existing building" and not considered, therefore, to be "development." (T., 5/09/02, pp. 162-199) Forest City is not proposing any additional construction or any increase in the footprint of the existing buildings. During his testimony, Mr. Cook explained that an application of the local open space provisions to this project would have required approximately 4 acres of open space on this 5.7 acre parcel of land (1000 square feet of open space per dwelling unit = 175,000 square feet or 4.0 acres of open space). (T., 5/09/02, p. 166)

In addition to the requirement that a certain quantity of open space be provided, Section 26-498 (and the Local Open Manual) also requires that such open space be of a certain quality, *i.e.*, for active open space, "relatively flat, open, dry, and unencumbered by easements, outside of environmentally constrained areas;" for passive open space, "open or sparsely wooded areas with less than a 10% grade." Baltimore County Local Open Space Manual, p. 5, adopted by the Baltimore County Council on February 22, 2000. The Oella

Mill building (which takes up 1.3 acres), the smaller Power Plant building, the Patapsco River, and the existing steep slopes take up well over 1.7 acres of the 5.7 acre site.

Therefore, without removing the Mill itself, the very structure Baltimore County insists must be protected due to its historic significance, Forest City cannot provide the requisite amount of open space in strict compliance with Bill No. 110-99.⁴

After considering Mr. Cook's testimony, argument of counsel, and his own review of Bill No. 110-99, the Hearing Officer ruled that the local open space provisions of the Adequate Public Facilities bill do not apply to this redevelopment project. Hearing Officer's Order, pp. 8-9. (*See also* T., 5/10/02, pp. 15-19) Specifically, relying on the ordinary meaning of the words "construct" or "construction" as being "to build or fabricate," the Hearing Officer determined that the renovations to the existing buildings did not constitute "construction" of dwelling facilities as required by Bill 110-99. Hearing Officer's Order, p. 9. In making this determination, the Hearing Officer found particularly persuasive that "no new external construction or building is proposed and strict application of the Act would require more open space than could possibly be provided." Hearing Officer's Order, p. 9. The Hearing Officer correctly interpreted the Adequate Public Facilities legislation, and his decision should be affirmed.

D. The Hearing Officer Correctly Determined that Use of the Parking Spaces across Oella Avenue was Appropriate.

Protestants have alleged that the parking spaces across Oella Avenue do not comply with the standards set out in B.C.Z.R. Section 409. Specifically, Protestants have alleged

⁴ In accordance with B.C.C. Sections 26-203(c)(8) and 26-278, Baltimore County requires that buildings with an inventory number from the Maryland Historic Trust, such as the Oella Mill, be "preserved." (T., 10/03/02, p. 55)

that a use permit for “business or industrial parking in residential zones” under Section 409.8.B is required for 11 of these spaces to be used in conjunction with the proposed apartments. Secondly, Protestants argued that none of these spaces can lawfully be located along Oella Avenue under Section 409.8.C.2. Based on the facts presented by Forest City, the Hearing Officer properly rejected Protestants’ arguments.

As the Hearing Officer found, according to the undisputed evidence, the parking spaces at issue have been in existence and have been used in conjunction with both the current commercial use of the Mill and the prior industrial use of the Mill for years without any special relief being required. Hearing Officer’s Order, p. 15. (*See also* T., 5/15/02, pp. 36-40) The use of these spaces in conjunction with the Oella Mill dates back to well before the passage of the current performance standards in 1988 (Bill No. 26-88). In fact, the Site Plan for CRG and Zoning for Oella Mills (PDM # I-226, approved by CRG on September 16, 1988, and incorporated into the Hearing Officer’s file) clearly shows the parking spaces already in existence as of 1988. These spaces would, therefore, be considered legally nonconforming by Baltimore County.

The status of these spaces is further confirmed by the absence of any comment by either the Zoning Review office or the Department of Public Works requiring removal of the 29 spaces or any additional relief. The Hearing Officer, therefore, based on the evidence presented, properly found that use of the parking spaces to be “appropriate.” Hearing Officer’s Order, pp. 15, 19. The Board should affirm this finding.

E. Residential Transition Area Restrictions Do Not Apply to this Property.

In their Petitions on Appeal, Protestants refer to an argument made before the Hearing Officer that the residential transition area (“RTA”) restrictions contained in

B.C.Z.R. Section 1B01.1.B apply to the Oella Mill property despite the Mill building and the proposed apartments being located in a BM-CCC zone. Not having offered oral argument before the Board on this issue, Forest City assumes that Protestants may have decided to abandon this argument. However, in the event they have not, Forest City will briefly address the flaws in the argument.

Protestants' theory regarding the application of RTA is based on an assumption that the proposed apartments are permitted because the BM zone, in addition to other uses specified in B.C.Z.R. Section 233, allows the uses permitted in the BL zone, which, in turn, permits "[u]ses permitted and limited in the residential zone immediately adjoining...."

B.C.Z.R. §§ 230.1, 233.1. Under Protestants' logic, therefore, the BM zone incorporates all regulations pertaining to the adjoining DR zone, including RTA restrictions.

Protestants' theory fails at the outset. The Oella Mill apartments are not being proposed under authority of either B.C.Z.R. Section 233.1 or Section 230.1. In fact, the adjoining DR zoning, D.R.3.5, does not even permit multifamily buildings (defined as a structure containing three or more apartments), such as the ones proposed at the Oella Mill. B.C.Z.R. §§ 101, 1B01.1.A. Rather, as discussed above, the proposed apartments at the Oella Mill are permitted by virtue of a special district – CCC – imposed on certain BM properties, including the Oella Mill property. B.C.Z.R. § 235A.1.

Protestants have attempted to stretch the application of the RTA to include any property, regardless of its zoning, with DR zoned property along its tract boundary. Protestants apparently come to this conclusion because B.C.Z.R. Section 1B01.1.B does not specifically exclude properties zoned with classifications other than DR zoning. This argument is not supported by the language of the Zoning Regulations themselves, the

legislative history surrounding adoption of the RTA regulations, or any accepted interpretation or practice by Baltimore County. The Hearing Officer correctly refused to adopt Protestants' interpretation.

In order to accept Protestants' interpretation, the Hearing Officer would have been required to ignore the clear language of the regulations, themselves, which place these restrictions under B.C.Z.R. Section 1B01, entitled "Regulations with Respect to D.R. Zones in General," and, particularly, under subsection 1B01.1, entitled "General Use Regulations in D.R. Zones." The Hearing Officer also would have been required to ignore years of precedent concerning the application of these regulations, as explained by Mitchell Kellman,⁵ and specific action by the Baltimore County Council as recently as 1994 incorporating the RTA requirements into the OR-1 and OR-2 zones (*see* Memorandum Exhibits 1 and 2, Bills 186-94 and 108-94, codified at B.C.Z.R. §§ 205.4, 206.4), and the related Final Report by the Planning Board, dated July 22, 1994, wherein the Board articulates on pages 2-3:

[t]he RTA (Residential Transition Area) restrictions, which, in the D.R. zones, provide additional setbacks and buffers between single-family homes and other uses, do not apply in either the O-1 [now OR-1] and O-2 [now OR-2] zones.

....

Because the RTA rules do not apply, no special setback or buffer is required between adjacent single-family uses in D.R. zones and the new residential developments in the Office zones.

See Memorandum Exhibit 3 (emphasis added).

Protestants also asked the Hearing Officer to ignore the current version of the Comprehensive Manual of Development Policies ("CMDP"), page 28 of Residential

⁵ Due to his years of experience working in the Zoning Office of the Department of Permits and Development Management, Mitchell Kellman was accepted by the Hearing Officer as a zoning expert with particular expertise working with the Baltimore County Zoning Regulations. (T., 6/12/02, pp. 219-220, 247)

Standards, which clearly does not support their position: "Residential projects within a nonresidential zone are *not* subject to residential transition requirements." Developer's Exhibit 3; Memorandum Exhibit 4. Lastly, Protestants asked the Hearing Officer to ignore the stated interpretation contained in the Zoning Commissioner's Policy Manual, page 1B-5, and his own and this Board of Appeals' rulings in the *Har Sinai* case (PDM No. IV-518). See Memorandum Exhibit 5, pp. 10-12, and Memorandum Exhibit 6, pp. 25-27.⁶

Finding Protestants' argument unconvincing, the Hearing Officer properly confirmed that the RTA requirements do not apply to this BM-CCC zoned project:

Upon due consideration of the testimony and arguments offered, I am ultimately persuaded that the long-standing position adopted by the zoning office (DPDM) is correct. That is, the placement of the RTA regulations within Section 1B01 of the B.C.Z.R. is the most persuasive factor. In my judgment, had the Council intended to apply the RTA regulations outside development in a B.M.-C.C.C. zone, it could have specifically done so, just as it did in the O.R.1 and O.R.2 zones.

Hearing Officer's Order, p. 18. The Hearing Officer's analysis is sound, and the Board of Appeals should affirm.

F. The Roadways Surrounding the Oella Mill are Adequate and Safe.

On appeal, Protestants have pointed to no specific error on the part of the Hearing Officer with regard to his findings on the issue of traffic. Rather, they have simply stated generalized concerns regarding the road system and have criticized the project as being "too dense." These general concerns were fully stated during the hearings before the Hearing Officer, who considered the evidence before him and found that Forest City had more than met its burden under the Development Regulations.

⁶ The Zoning Commissioner's Policy Manual was adopted in accordance with the procedures outlined in B.C.C. Section 2-416, et seq. Memorandum Exhibit 4.

According to B.C.C. Section 26-203(d)(4), on the development plan, Forest City was required to show only “existing and proposed County, State and private streets, along with estimated proposed average daily trips.” Protestants have not disputed that Forest City complied with this requirement. Although it reserved the right to argue that it was not required to do so at the development plan approval phase, Forest City produced overwhelming testimony and evidence to demonstrate that the surrounding roadways are “adequate” to handle the anticipate level of traffic from the project.⁷

Mickey Cornelius, expert traffic engineer, testified before the Hearing Officer and produced two reports evidencing his findings. (T., 5/13/02, pp. 10-133) *See also* Developer’s Exhibits 12 and 13. First, Mr. Cornelius testified that he performed an analysis of the amount of traffic that the proposed apartment use would generate versus the potential volume generated from the existing uses on the property. (T., 5/13/02, pp. 11-16) His analysis concluded that the proposed apartments would generate less average daily trips (1,229 less ADTs) than could be generated by the existing uses on the site. (T., 5/13/02, pp. 12-16)

Second, Mr. Cornelius testified that he performed a link capacity analysis to determine the capacity of the roadways surrounding the Oella Mill. (T., 5/13/02, pp. 18-28) Prior to rendering his opinion on this issue, Mr. Cornelius cautioned that this type of analysis was really intended for “two-lane highways” and should not be considered a “detailed operational analysis,” but, rather, “an estimate as to how the roads are operating given the existing volume and the capacity of the road system.” (T., 5/13/02, pp. 18-21) As Mr.

⁷ Forest City contends that a finding as to the “adequacy” of the “street system” is required only at the building permit stage. *See* B.C.C., §§ 26-282, 26-494. *See also* B.C.Z.R. § 4A02.

Cornelius explained on cross-examination, for these types of roads, there is no way to identify "actual capacity." (T., 5/13/02, pp. 62-63, 65) Rather, it is the surrounding intersections that control and, as discussed in the following paragraph, Mr. Cornelius found these intersections to be at "good levels of service." (T., 5/13/02, pp. 63-66) With this qualification, Mr. Cornelius testified that the link capacity analysis of the roadways resulted in a volume to capacity ratio of .06 or 6% of capacity or lower. (T., 5/13/02, pp. 23-24) *See also* Developer's Exhibit 12, Exhibit 8. Mr. Cornelius confirmed that these estimates are well below the level of .9 or 90% of capacity that the State Highway Administration finds to be acceptable. (T., 5/13/02, pp. 23-24)

Mr. Cornelius also undertook an analysis of three intersections in close proximity to the Oella Mill, considered what impact the proposed apartments would have on those intersections, and detailed his findings in a report dated April 17, 2002. (T., 5/13/02, pp. 33-34) *See also* Developer's Exhibit 13. Specifically, Mr. Cornelius found that these three intersections (MD 144 and Oella Avenue – west, MD 144 and Oella Avenue – east, and Oella Avenue and Westchester Avenue) will maintain acceptable levels of service and that the proposed redevelopment of the site would have "minimal impact on operating conditions at the key intersections." Developer's Exhibit 13, p. 3. (T., 5/13/02, pp. 34-50) As Mr. Cornelius testified, even without subtracting out existing traffic to and from the Oella Mill, he estimates that the resulting impact in terms of delay at the surrounding intersections from the proposed apartments would be "less than 2 seconds." (T., 5/13/02, pp. 48-50)

In response to some general concerns raised by individuals regarding the roads in Oella, Mr. Cornelius offered his expert opinion that the roadways "operate satisfactory [sic] under existing conditions" and "can be traversed safely at the posted speed limits." (T.,

5/13/02, pp. 52-53) Mr. Cornelius also examined the accident reports for the surrounding roadways from January 1998 through December of 2000 and prepared an exhibit summarizing his findings. *See Developer's Exhibit 14.* As Mr. Cornelius explained, the average of one accident per year on the surrounding roadways indicates that "motorists are able to traverse the narrow roads and Oella Avenue without significant safety problems." (T., 5/13/02, pp. 54-59)

When raised on cross-examination, Mr. Cornelius also provided his expert opinion that the proposed access points from the Oella Mill site "have sufficient site distance in accordance with the requirements of the County," as was confirmed through a site visit by Baltimore County's traffic engineer Rahee Famili. (T., 5/13/02, pp. 75-78) Therefore, Forest City produced more than sufficient evidence as to the adequacy and safety of the surrounding roadways and intersections and confirmed that the proposed apartments would not adversely impact the residents of or visitors to Oella.

In an attempt to raise some issue with regard to the roadways in the Oella area, Protestants produced Mammen Daniel as an expert traffic engineer. While much of Mr. Daniel's testimony was unclear, certain statements Mr. Daniel made, either during his testimony or in writing, were clear and would appear to support approval of the development plan:

what I want to emphasize today is not the trip generation, not the intersection capacity, not the roadway capacity, these have been done fairly according to the standards and the procedures, but what I would like to bring to your attention is the inadequacy of the [existing] roadway with respect to acceptable standards.

(T., 5/13/02, p. 142) (emphasis added) This opinion is consistent with a March 11, 2002, memorandum from Mr. Daniel, wherein he wrote in his own words:

I have reviewed the Traffic Study submitted by the Traffic Group in order to determine if the study has been conducted according to the standard traffic engineering principles and standards. My findings based on the trip generation are that the differential trips would be minimal to cause any adverse impact on the roadway system. The study has looked at all the elements of design features such as the intersection capacities and two lane operation and the analyses show that they will operate under acceptable conditions. Therefore traffic should not be considered as the primary cause of any objection.

(T., 5/13/02, pp. 200-203) See Developer's Exhibit 16 (emphasis added). It is important to note that this memorandum was brought to the attention of the Hearing Officer by Developer and not by Protestants. When questioned about this memorandum, Mr. Daniel acknowledged having written it and admitted to having found Mr. Cornelius' first report to be "complete" and "acceptable." (T., 5/13/02, p. 213)

Mr. Daniel also testified that: (1) he found no issues with regard to the site plan or access into and out of the Oella Mill (T., 5/13/02, pp. 145); (2) he found no issue with regard to roadway capacity and stated that "capacity will be there on the road (T., 5/13/02, pp. 161-165); (3) after having agreed that accident data is a critical element to assessing safety of roadways, he testified that he did not dispute the data offered by Mr. Cornelius. (T., 5/13/02, pp. 191-192)

Certainly, with the overwhelming evidence and testimony provided by Mr. Cornelius, which was not rebutted by any credible testimony to the contrary, and with the fact that there were no outstanding issues identified by the Department of Public Works, the Hearing Officer had more than sufficient evidence on which to base his determination that the surrounding roadways are safe and adequate to handle the proposed redevelopment. Hearing Officer's Order, pp. 11-13. In fact, the Hearing Officer found the proposed redevelopment of the Oella Mill site for use as apartments to be, not only an acceptable use

of the property, but “preferable” to development of the site for commercial or other uses.

Hearing Officer’s Order, pp. 12-13. The Hearing Officer was convinced that:

potential traffic volumes will be significantly less than the redevelopment of this site in a commercial manner. Quite simply, the Protestants’ assertions that the redevelopment of this site with 175 residential apartment units would cause greater congestion than a full retail/commercial redevelopment of the property is contrary to both the principles of traffic engineering and common sense. From a traffic standpoint, the proposal may possibly cause the least impact, when compared to other uses.

Hearing Officer’s Order, p. 12. Because these findings regarding the safety and adequacy of the surrounding roadways are supported by substantial evidence in the record, the Board of Appeals must defer to the Hearing Officer and affirm the approval of the Development Plan.

G. The Hearing Officer Properly Ruled that a Pending Letter of Map Amendment did not Prevent Plan Approval.

B.C.C. Section 26-203(c)(6) requires that the development plan identify “one-hundred-year floodplains or flood areas for both riverine and tidal areas.” There appears to be no dispute that the Oella Mill development plan, as presented for approval to the Hearing Officer, showed the location of the one-hundred-year floodplain as recognized by Baltimore County based on a detailed study prepared for Baltimore County. (T., 5/10/02, pp. 75-85) As Mr. Bowling of the Department of Public Works (“DPW”) confirmed, his department had no outstanding issues and obviously agreed with the placement of the one-hundred-year floodplain in the location shown on the development plan. (T., 5/09/02, pp. 120-123)

Protestants complained, though, that this placement of the one-hundred-year floodplain is not in agreement with where the Federal Emergency Management Agency (“FEMA”) Flood Insurance Rate Map (“FIRM”). Baltimore County’s study would place the one-hundred-year floodplain further to the west towards the Patapsco River than is shown on

the FIRM (Panel 240010 0370 B). *See* Developer's Exhibit 37. Charles Main, professional engineer who prepared the development plan, testified that, as requested by DPW, he filed a "Letter of Map Amendment" requesting that FEMA revise the FIRM for the area to agree with Baltimore County's study. (T., 5/10/02, pp. 77-79) At the time Mr. Main testified, he had already submitted the request and had received preliminary review by FEMA's consultant, and a decision was expected shortly thereafter. (T., 5/10/02, pp. 77-79)

Protestants, though, argued that the Hearing Officer could not grant approval of the plan until the Letter of Map Amendment was actually granted, and the FIRM was revised. In making this argument, Protestants relied on one section of the Baltimore County Code – Section 26-663 – and argued that the Code requires that a Letter of Map Amendment be obtained *prior* to development plan approval. Section 26-663 contains no such requirement, nor does any other section of the Code.

As the Hearing Officer properly recognized, the Development Regulations (Article V of Title 26 of the Baltimore County Code, specifically Sections 26-166 through 26-307) themselves should be the starting place for determining how the one-hundred-year floodplain impacts a potential development. Section 26-276 provides that no development is permitted in a riverine floodplain. B.C.C. § 26-276(a). Section 26-276 further provides that, in areas where the base flood elevation has not been established, "the 100-year floodplain and flood elevation shall be determined by means of a flood study prepared in accordance with the requirements of the department of public works design manual and sealed by a registered professional engineer *prior to the issuance of a permit or the recording of a subdivision plat.*" B.C.C. § 26-276(b) (emphasis added).

This distinction between base flood elevation having been determined or not determined is important to the issue of the time frame for obtaining a Letter of Map Amendment. An examination of the FIRM for the Oella area clearly shows that the Oella Mill property lies within Zone A, which is explained in the Key to Map as “[a]reas of 100-year flood; *base flood elevations and flood hazard factors not determined.*” Developer’s Exhibit 37 (emphasis added). Without the base flood elevation having been determined, Section 26-276 clearly indicates that a decision regarding the one-hundred-year floodplain and flood elevation “shall be determined by means of a flood study,” such as the one prepared for Baltimore County and relied on by DPW and Mr. Main in this case, and is required only at the building permit or record plat stage.

Protestants, though, read the Code as if Section 26-276 does not exist. Rather, Protestants cite to a provision not even located in the Development Regulations, specifically B.C.C. Section 26-663. Section 26-663 is located in Article XI of Title 26 of the Code, entitled “Floodplain Management Program.” Section 26-663 provides that the “director of public works shall be responsible for the actual delineation of the FPA...[which] shall include the 100-year flood elevations, which shall not be less than those established in the Flood Insurance Study.” This section is silent as to what to do in situations where the flood elevations have not been established, such as on the Oella Mill property. No where in the Code is there support for Protestants’ position the Hearing Officer should have denied approval of a development plan under these circumstances.

Having considered the relevant code sections and the testimony presented by Forest City’s engineer, Mr. Main, the Hearing Officer found that Forest City had properly shown the floodplain “as established and determined by Baltimore County” on the development

plan and had “presented accurate information sufficient for plan approval through Phase I of the development review process.” Hearing Officer’s Order, p. 21. Having made that determination, Forest City would argue that the Hearing Officer was obligated to approve the development plan.

The Hearing Officer, though, went further and imposed a “condition” requiring Forest City to have the FEMA map amended prior to the filing of a record plat or the issuance of permits. Hearing Officer’s Order, pp. 21-22, 25. According to the Hearing Officer’s own analysis, though, this “condition” does no more than require Forest City to comply, in the future, with existing law: “...it is obvious that the reconciliation of the FEMA map with the County’s studies must be completed before the filing of a record plat for this project or the issuance of any permits.” Hearing Officer’s Order, p. 21. Forest City submits, therefore, that the approval of the development plan is not actually contingent upon the fulfillment of this “condition,” although permits cannot be issued and the plat cannot be recorded until Forest City complies.

Even if considered a “condition” upon which development plan approval is based, Protestants’ assertion that the Hearing Officer, as an administrative official, did not have the authority to impose a “contingent” condition is incorrect and is not supported by Maryland case law. *See Halle Companies v. Crofton Civic Assoc.*, 339 Md. 131, 146-149, 661 A.2d 682 (1995) (holding that, in considering a special exception request, Board of Appeals had the authority to condition approval on applicant providing access through adjacent property that it did not yet even own). Merely because a condition imposed involves an element of “uncertainty,” such as having to obtain interest in a third party’s property as in the *Halle Companies* case, does not make the Hearing Officer’s approval of a development plan

invalid. *Id* Also, Forest City suggests that obtaining the Letter to Map Amendment was not nearly as speculative and uncertain as the circumstances in *Halle Companies* considering the request had already been submitted and reviewed by FEMA's consultant for preliminary comment.

In sum, with regard to development plan approval, Protestants had the burden to demonstrate that the Hearing Officer's decision was, either, not supported by substantial evidence in the record or was based on some error of law. As outlined above, Protestants failed in their burden. From a review of the record, it is clear that the Hearing Officer had strong and substantial evidence to support each of his decisions. Furthermore, his interpretation and application of the Baltimore County Zoning Regulations and Development Regulations was sound, without error, and should be given the appropriate amount of deference, resulting in affirmance by the Board of Appeals.

II. FOREST CITY PRODUCED STRONG AND SUBSTANTIAL EVIDENCE DEMONSTRATING ITS ENTITLEMENT TO THE REQUESTED VARIANCE RELIEF.

In addition to development plan approval, adaptive reuse of the Oella Mill property for apartments requires that Forest City obtain variances from the Baltimore County Zoning Regulations. Specifically, Forest City has sought the following variances: (1) variance from B.C.Z.R. Section 235A.2 to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet; (2) variance from B.C.Z.R. Section 409.4.B to permit 32 interior parking spaces to be located so as not to adjoin or have direct access to an aisle, *i.e.*, tandem or stacked spaces; and (3) variance from B.C.Z.R. Section 409.4.C to permit two-way drive aisles in the interior

parking lot to have a minimum width of 17 feet 7 inches in lieu of the minimum required 22 feet.

BURDEN OF PROOF FOR PETITION FOR VARIANCE

On appeal from the Zoning Commissioner, a request for variance relief is heard *de novo* by the Board of Appeals. In Baltimore County, the Board of Appeals may grant a request for a variance “where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.” B.C.Z.R. § 307.1. The proper application of Section 307.1 requires the Board to determine first that the property where a use is proposed is unique and that such “uniqueness” causes a disproportionate impact in terms of the application of the Zoning Regulations. *Cromwell v. Ward*, 102 Md. App. 691, 694, 651 A.2d 424 (1995). Second, the Board must determine whether those unique circumstances make it practically difficult for the owner to utilize the property for a permitted use without coming into conflict with the Zoning Regulations. *Id.* at 694-695.

Proving practical difficulty is *not* intended to be a particularly stringent test, and, despite Protestants’ suggestions to the contrary, a petitioner is *not* required to show that no reasonable use of the property may be made without the variances. Simply put, practical difficulty means that, given the balance of interests of the property owner, neighboring property owners, and the public in general, requiring strict compliance with the zoning regulations would unnecessarily burden the property owner when the owner attempts to use the property for a permitted use. *McLean v. Solely*, 270 Md. 208, 214-215, 310 A.2d 783 (1973). In determining whether a practical difficulty exists, deserving of a variance, the

Board of Appeals should, therefore, consider: whether requiring conformity with the applicable zoning regulations would be unnecessarily burdensome; whether granting the variance would do substantial justice; and whether the requested variance would be consistent with the spirit of the ordinance and the interests of public safety and welfare. *Id.*

At the hearing before the Board, Forest City produced strong and substantial evidence that the requested variance relief is warranted.

A. The Overwhelming Evidence Confirms that the Oella Mill Property is Unusual and Unique.

A review of the record produced before the Board of Appeals brings into focus the true uniqueness of the Oella Mill property. Testifying first, Charles Wagandt offered a very personal version of the history of the property, being the former owner of the Oella Mill and, in fact, the former owner of the entire village of Oella. (Transcript of Proceedings before the Board of Appeals on October 3, 8, and 30, 2002, (“T.”), 10/03/02, pp. 19-42) Mr. Wagandt, who was accepted by the Board as an expert on the history of Oella, produced a “Vignette of Oella History” for the Board. Board Exhibits 2 and 2A. As Mr. Wagandt explained, the history of the Oella Mill operation dates back to 1808; it was the site of the first textile company ever chartered by the State of Maryland and also, in its day, the largest cotton mill in the United States. (T., 10/03/02, pp. 24-26) Because of the lack of transportation at that time, a self-contained village emerged around the Mill with houses for the Mill workers, a church, a community facility, and a company store. (T., 10/03/02, pp. 24-25)

In 1887, Mr. Wagandt’s great grandfather, William James Dickey, purchased the Mill, the Mill village, and the adjacent land. Production of the Mill was shifted from cotton to fancy menswear woolens. (T., 10/03/02, pp. 25-26) The original old stone mill building

was destroyed in a fire in 1918, and the existing brick Mill building was constructed on the site shortly thereafter. (T., 10/03/02, p. 26) The Mill was operated in an industrial capacity until, as Mr. Wagandt recounted, W.J. Dickey and Sons ceased operations in 1972. (T., 10/03/02, pp. 27-28) The Mill property was then sold to a machinery dealer, who subsequently sold the property to the current owner. Mr. Wagandt purchased the rest of the 75 acres that made up the Oella village. (T., 10/03/02, p. 28)

After the Mill was closed, the entire area of Oella, including the Mill and the surrounding village, was designated as a National Register Historic District. (T., 10/03/02, pp. 34-35) *See also* Board Exhibits 2A and 4. As Mr. Wagandt explained, the Mill was the primary reason for the designation. In his opinion, the Oella Mill is of such historical significance because, without the Mill, the village would not have been created; the village was created to house and care for the Mill workers. (T., 10/03/02, p. 32) He has spent the past thirty years attempting to preserve and revitalize the Oella community, including bringing water and sewer service to the area, creating appropriate in-fill development, and, now, supporting Forest City's effort to preserve and restore the Mill building. (T., 10/03/02, pp. 28-29, 33-34) *See also* Board Exhibits 2A. Having no financial interest in this project, Mr. Wagandt is simply interested in "fulfilling a vision of what Oella can and should be." (T., 10/03/02, p. 34) Central to that vision is the restoration and rehabilitation of the Oella Mill. The Mill is still the "centerpiece" of the village, and the Mill's not having been restored distracts greatly from the "whole ambiance of the area." (T., 10/03/02, pp. 31-32)

Next, Forest City produced Donald Kann to testify as an expert in architecture and historic preservation. (T., 10/03/02, pp. 53-66) Based on his own expertise and research, Mr. Kann expressed an opinion that the Oella Mill property is "unique." (T., 10/03/02, pp.

64-65) Mr. Kann agreed with Mr. Wagandt's view that the Oella Mill building is the "key component" of the Oella National Historic District, one of only 17 such districts in Baltimore County. (T., 10/03/02, pp. 64-65) *See also* Board Exhibit 4. According to Mr. Kann, Oella is one of the last examples of 19th century industrial mill villages and is singular because it is largely intact and because of its location along the Patapsco River. (T., 10/03/02, pp. 64-66) *See also* Board Exhibit 4. Mr. Kann opined that there are "no similar facilities...in Baltimore County at all, certainly on this scale and integrity, and there are very few similar facilities in this country." (T., 10/03/02, p. 65)

Mr. Kann further explained that the Mill building itself is listed on the Maryland Historical Trust's Inventory of Historic Properties as MHT No. BA02375. (T., 10/03/02, p. 55) Because of this designation, Baltimore County requires that the Oella Mill building be "preserved." B.C.C. §§ 26-203(C)(8), 26-278. (T., 10/03/02, p. 55) In addition to the "preservation" requirement at the local level, in order to participate in a program for tax credits for historic renovation, national (Department of the Interior) standards must be met for both the interior and exterior renovation of the Oella Mill building. (T., 10/03/02, pp. 56-58) As Mr. Kann explained, these standards severely limit what alterations may be done to a historic structure, such as the Oella Mill, with a particular emphasis on preserving the structure's historical integrity. (T., 10/03/02, pp. 58-63) Major structural changes would not be permitted, and changes that would impact the character of a building would not be permitted. In this case, for instance, removal of the windows, which make up a large portion of the Oella Mill's façade, would not be permitted. (T., 10/03/02, p. 62)

In analyzing "uniqueness" for purposes of B.C.Z.R. Section 307.1, the Board of Appeals must consider not only the special features of the land itself, but also its setting in

the Oella National Register Historic District and the historic Oella Mill building, which predates the enactment of the Zoning Regulations. As articulated above, Forest City cannot remove the structure or substantially alter it. Forest City, therefore, must work within the confines of the land and the existing site and building, which presents a difficult challenge.

Geoffrey Glazer, architect for the Oella Mill project, described the physical aspects of the site, the practical and structural constraints of the historic building, and the proposed reuse of the property. (T., 10/03/02, pp. 81-140) As Mr. Glazer described, the 5.7 acre property is bounded to the south and east by Oella Avenue and on its entire western side by the Patapsco River. (T., 10/03/02, pp. 83, 108-110) In fact, a portion of the Patapsco River is actually included in that 5.7 acres. The property's close proximity to the river creates other site constraints, such as forest buffers and other development restricted areas. (T., 10/03/02, pp. 89, 108-109)

Mr. Glazer explained that the site is further constrained by its topography and steep slopes; from one end of the site to the other, not including a 25-30 foot drop to the river, there is an elevation change of approximately 40 feet. (T., 10/03/02, pp. 88-92, 108-110) Development of the site in the early 19th and 20th centuries took place within the parameters of these constraints as is evident from the Mill building's being constructed into the side of the hill. As a result, the Mill's height varies from four stories to seven stories depending on the grade. Board Exhibits 6A and 6B. The site also has other unique features, including the presence of an abandoned "mill race" or waterway in which water was diverted from the river, directed through the site, and used to generate power for the Mill operations. (T., 10/03/02, pp. 92-93)

Further, as Mr. Glazer explained in detail, the Mill building itself, which was constructed in approximately 1919, poses practical constraints, such as the exterior perimeter masonry walls and the existing cast-iron columns located, on center, every 10 feet throughout the two proposed parking levels, which are holding up the entire building and cannot be removed. (T., 10/03/02, pp. 97-103) Mr. Glazer testified that “the column bays are much closer than any structure that would be created today. The technology of spanning is greater today than when this was created.” (T., 10/03/02, p. 103)

As the testimony and evidence presented by each of Forest City’s experts demonstrates, the Oella Mill property is “unique,” and its unusual features present a difficult challenge for a property owner seeking adaptive reuse of this historic building. Forest City is compelled with work within, not only the constraints of the site itself, which leave little room for even the most basic of site requirements, but also the physical constraints of the building itself and the governmental/regulatory constraints posed by renovating this historic property. As Jon Wallenmeyer explained, Forest City understands these constraints and seeks to take on this challenge in an effort to breathe “new life” into the Oella Mill. (T., 10/03/02, pp. 168-169)

B. The Evidence Confirms that Forest City had a Practical Difficulty in Strictly Complying with the Baltimore County Zoning Regulations.

Having presented clear and convincing evidence that the Oella Mill is uniquely situated, Forest City next demonstrated that, as a result of the Oella Mill’s special circumstances, requiring strict compliance with the Baltimore County Zoning Regulations would result in a practical difficulty for Forest City.

As Mr. Glazer explained, Forest City proposes 175 apartment units with 169 units in the main Mill building and 6 units in the smaller Power Plant building. (T., 10/03/02, pp. 83-89) Apartments, as proposed, are permitted in the BM-CCC zone. *See* Argument, Sections I.A. and I.B. above. In conjunction with that use, Forest City proposes 263 parking spaces: 145 outside parking spaces and 118 interior parking spaces (106 on the first story of the Mill building and 12 on the first story of the Power Plant). Board Exhibit 1. Within the first story of the Mill building, a mezzanine level will be added providing two levels of parking. (T., 10/03/02, pp. 95-96) In order to renovate and reuse the property in accordance with this proposal, however, Forest City will require three variances. At the hearing before the Board, Forest City produced sufficient evidence with respect to each of the relevant considerations under *McLean v. Solely* that each of the variances should be granted. 270 Md. 208, 214-215, 310 A.2d 783 (1973).

1. Forest City should be permitted to have apartments windows within 8 feet of the property line.

Forest City would require a variance to permit a portion of the existing Mill building, which is located within 8 feet of the northern property line, to be used for apartments. This variance is triggered simply by the change in use of this space. (T., 10/08/02, p. 46) *See* B.C.Z.R. § 235A.2: “No apartment window facing a property line other than a street line shall be closer than 25 feet thereto.” No expansion of the footprint of the building is proposed. As George Gavrelis, expert land planner, explained, this setback requirement affects only a portion of the building, which he highlighted on Board Exhibit 18, where the property line juts in sharply towards the building and comes as close as 8 feet to the building. (T., 10/08/02, pp. 42-45)

Without the variance, Forest City would not be permitted to use a portion of the northern side of the building for apartments. Because the windows exist on every floor and extend the entire length of the building, this limitation would have a major impact on Forest City's plan for the property. (T., 10/03/02, p. 111) Mr. Glazer testified that leaving floors or a wing of this building vacant, while attempting to utilize the rest of the building, as suggested by Protestants, is not "feasible" from an architectural standpoint. (T., 10/03/02, pp. 122-123) As Mr. Glazer explained, there are not only concerns with deterioration from lack of attention and maintenance, but there are also practical concerns regarding how the building is heated and cooled. (T., 10/03/02, pp. 122-123). Having vacant, unoccupied space in an otherwise occupied building also presents a difficult situation in terms of security and safety. (T., 10/03/02, p. 174)

Since Forest City cannot raze the historic building, the only other alternative might be to remove and/or cover up the windows on that side of the building in an attempt to comply with B.C.Z.R. Section 235A.2; however, in light of the strict requirements for historic preservation and renovation, this idea is not a realistic option. (T., 10/03/02, pp. 61-63, 175) As Mr. Kann explained:

the overall restoration of this building depends very much on retaining the integrity of the original window patterns throughout the entire perimeter of the building. So the issue of trying to remove those windows would go substantially against the direction of preserving this building....

(T., 10/03/02, pp. 62-63)

Further, requiring these windows to be removed or the space not to be used for apartments would not serve the intent of B.C.Z.R. Section 235A.2. As Mr. Gavrelis explained, the intent behind the setback requirement in Section 235A.2 was to ensure that

adequate privacy and sufficient light and air would be provided between an apartment building and any adjacent buildings. (T., 10/08/02, pp. 51-52) Looking at the Oella Mill, requiring a 25 foot setback in this instance would serve no purpose. As Mr. Gavrelis testified, looking at the north side of the property, the closest building to the offending windows is 180 feet away. (T., 10/08/02, pp. 44-45, 67) Furthermore, because of steep slopes and environmental constraints and also because the adjacent land is dedicated open space owned by the Oella Homeowners' Association, any land within 50 feet of these windows is "undevelopable" anyway. (T., 10/03/02, pp. 111-115) (T., 10/08/02, pp. 48, 51) *See also* Board Exhibit 9.

As Mr. Gavrelis explained, the proposed use of the spaces behind those windows "is not in any way, shape of [sic] form, in my opinion, going to have any kind of detrimental effect." (T., 10/08/02, pp. 67-68) It cannot be overlooked that the space behind the windows in question was used for many years in conjunction with a woolen manufacturing operation and is currently used for commercial or retail space. Permitting apartments in that space will have no adverse impact on anyone as attested by Mr. Wagandt, Alexandra Clark, and Julia Graham, all of whom either live or own property near the Mill. (T., 10/03/02, pp. 36-39, 41-42, 44) (T., 10/08/02, pp. 71, 151)

From this overwhelming evidence, which was not disputed by Protestants, the Board of Appeals should easily find that granting of a variance from Section 235A.2, allowing apartment windows to be located within 8 feet of the northern property line, would alleviate what would, otherwise, be an unnecessary burden on Forest City; would result in substantial justice to both Forest City, its residents, and the surrounding community, who would not be impacted by the variance; and would be consistent with the spirit of the Zoning Regulations.

2. Forest City's request for relief relating to the interior parking areas should also be granted.

Forest City also presented substantial evidence with regard to the variance requests for the 32 stacked parking spaces within the Oella Mill and Power Plant buildings and for the proposed reduction in drive aisle width in the Oella Mill building. Mr. Glazer explained the layout of the parking areas in both the Mill and the Power Plant and described the requested relief. (T., 10/03/02, pp. 84-85, 95-103) *See also* Board Exhibits 1, 8. As Mr. Glazer described, Forest City proposes to create two parking levels on the first story of the Mill building for resident parking with gated-access. (T., 10/03/02, pp. 85, 95-96) Cast-iron columns, however, are located every 10 feet (measured from the center of column to the center of column) within this area and cannot be moved or removed. (T., 10/03/02, pp. 96-100, 155-156) Therefore, the parking spaces and drive aisles had to be designed around these structural supports. (T., 10/03/02, pp. 98-100)

With parking on the exterior of the buildings maximized, Mr. Glazer attempted to create a flexible parking plan to take advantage of existing interior areas to maximize the parking that could be provided inside the buildings. (T. 10/03/02, pp. 84, 107) One way he accomplished this was to design a two level parking area in the first story of the Mill with a center drive aisle and parking on either side; the other way he accomplished this was to make use of unused/unusable space by designing tandem or stacked spaces in both the Mill and the Power Plant. (T., 10/03/02, pp. 101-108) All spaces within the Oella Mill building would be accessible only to residents with gated-access, and all tandem spaces would be leased to one unit. (T., 10/03/02, p. 102)

Jon Wallenmeyer, Vice- President of Forest City and an architect, testified that, during meetings with the Oella community over the past year, community members expressed concern that the project have sufficient parking on site. (T., 10/03/02, pp. 170-172) Julia Graham, former President of the Greater Oella Community Association, testified that she discussed these concerns with Mr. Wallenmeyer. (T., 10/08/02, pp. 70-74) Concerns were also expressed, though, regarding the appearance of the project as it related to parking, namely a desire that the project not have a parking garage or deck that would obstruct views of the Mill and the site. (T., 10/03/02, pp. 170-171) The proposed parking layout for the Oella Mill building and the Power Plant is the result of Forest City's attempts to reconcile and address these concerns. Forest City was able to come up with a plan that maximizes interior parking where it is not accessible or even visible to the public. As Mr. Wallenmeyer testified, Forest City made every effort to maximize parking, not only because members of the Community requested that it do so, but also because it believes that 263 parking spaces is the correct number for the project. (T., 10/03/02, pp. 170-172)

Forest City's design makes creative use of space within the constraints of the site and the historic structure. However, as Mr. Glazer explained, this design, because of the uniqueness of the site, would require variances from a strict application of the Baltimore County Zoning Regulations, which are unnecessarily burdensome given the circumstances. Without the variances, Forest City would have the same problem of unusable vacant space addressed above in Section II.B.1 and would have to consider either a parking deck, which is questionable given the standards for historic renovation, or a variance to approve a plan with less parking spaces on site. Forest City submits that either of these alternatives has a greater potential impact on the surrounding community than what is currently proposed. Even

Protestants' attempts to design an alternative parking plan resulted in a proposal that Henry Maeser, Protestants' architect witness, grudgingly acknowledged would require a variance because of the existing columns.

Forest City also produced expert testimony confirming that the parking areas, as proposed, would function in an appropriate and safe manner. On the issue of the operation of the parking areas, Forest City produced the testimony of Mickey Cornelius, an expert traffic engineer with over fifteen years of experience. (T., 10/08/02, pp. 4-17) With regard to the reduced drive aisle width in the Oella Mill, Mr. Cornelius explained that a strict application of the Zoning Regulations would require a 22 foot wide drive aisle and 8½ foot wide parking spaces with a standard 58 foot wide "module," which includes the 22 foot aisle and 18 foot long parking spaces on either side. (T., 10/08/02, pp. 8-11) Based on his analysis, which included reference to a well-respected transportation treatise, *The Dimensions of Parking*, and his own experience with other facilities, with 10 foot wide parking spaces to be provided (9 foot 3 inch clearance at the end), the drive aisles in the Oella Mill could be reduced to a width of 17½ feet and still function provide for the "safe and efficient movement for motorists" in those parking areas. (T, 10/08/02, pp. 7-14) *See also* Board Exhibit 15.

As Mr. Cornelius explained, increasing parking stall width and decreasing aisle width, as is proposed in the Oella Mill, is actually a "preferred method of maintaining an overall minimum level of comfort while maximizing user acceptance." (T., 10/08/02, p. 13) *See also* Board Exhibit 15. A reduction in the drive aisle width, apparently, is not as important to users' sense of comfort as is the amount of space available in the stall itself. (T., 10/03/02, p. 13) Baltimore County's own Department of Public Works also confirmed

its opinion that, having reviewed the proposed parking layout for the Oella Mill, "[t]his parking layout is acceptable and will still provide for the safe and efficient circulation of vehicles." Board Exhibit 16.

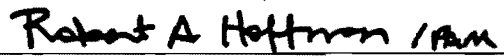
Mr. Cornelius further stated that, other than the inconvenience for the people having to back out their first car to access their second car, he saw no operational problems with the 32 tandem parking spaces, nor did he believe there would be any adverse impact resulting from approval or use of these spaces. (T., 10/08/02, pp. 15-16, 23) In his opinion, these spaces would not function any differently from a town house with a single car garage. (T., 10/08/02, p. 16) It is particularly notable that each of the variance requests for the parking areas relates solely to areas within the Mill buildings accessible only to residents of the apartments. (T., 10/03/02, pp. 97-98, 172-173)

The testimony provided by Forest City's experts confirms that the granting of the requested variances to permit 17 foot 7 inch wide drive aisles and 32 stacked parking spaces would allow Forest City to maximize the parking inside the buildings, where it is not visible or accessible to the public, while still providing for the safety and convenience of its residents. Certainly, there is sufficient evidence for the Board to find that the elements of practical difficulty have been met: that a strict application of the Zoning Regulations would result in an unnecessary burden on Forest City; that granting the variances would do substantial justice to Forest City, its residents, and the surrounding community, who would not be impacted by the variance; and that granting the variances would be consistent with the spirit of the Zoning Regulations in that the parking areas would operate safely and efficiently under the proposed plan.

CONCLUSION

For all the above-stated reasons, the County Board of Appeals should affirm the Hearing Officer's decision to approve the Oella Mill development, and, after considering the overwhelming evidence produced in support of the variances during the *de novo* hearings, the Board should grant Forest City's Petition for Variance.

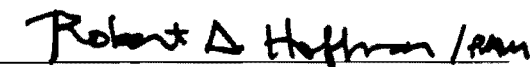
Respectfully submitted,


ROBERT A. HOFFMAN


PATRICIA A. MALONE
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Forest City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12TH day of November, 2002, a copy of the foregoing FOREST CITY'S POST-HEARING MEMORANDUM was mailed to Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, and to Mr. Henry Berger, 734 Pleasant Hill Road, Ellicott City, Maryland 21043, Representative for Protestants.


ROBERT A. HOFFMAN

9/24/02

RE: Petition for SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue

1ST ELECTION DISTRICT
1ST COUNCIL DISTRICT

* * * * *

RE: DEVELOPMENT PLAN HEARING

OELLA MILL PROPERTY

1ST ELECTION DISTRICT-
1ST COUNCIL DISTRICT

* * * * *

In the matter of Oella Mill/ PDM I-498

* * * * *

* BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 02-412-SPHA
*
* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No.: 01-498
*
* BEFORE THE BOARD OF APPEALS
* FOR BALTIMORE COUNTY
* Case Nos.: CBA -02-137 and
02-412-SPHA

ORDER GRANTING WITHDRAW OF APPEARANCE

Having considered the Appellant's Motion to Withdraw Appearance and any response thereto,
it is this 24th day of September, 2002, by the Board of Appeals for Baltimore County,

ORDERED, that the appearance of John V. Murphy, Esquire and Murphy & Murphy, L.L.C.
is hereby STRICKEN.


Chairman, Board of Appeals



County Board of Appeals of Baltimore County

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

John V. Murphy, Esquire
MURPHY & MURPHY LLC
14 North Rolling Road
Baltimore, MD 21228

RE: *In the Matter of: Oella Mill*
Case No. 02-412-SPHA and Case No. CBA-02-137

Dear Mr. Murphy:

Enclosed please find a copy of the Order issued by the Board this date in which your appearance in the subject matter has been stricken.

Very truly yours,


Kathleen C. Bianco
Administrator

Enclosure

c: Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire
Greater Oella Community Association
2414 Westchester Avenue 21043
Lydia Temoshok
Dennis and Lynette Burns
Christine Beed
Concerned Citizens of Oella c/o Lydia Temoshok
Henry Berger
Gregg V. Brown
Peter M. Zimmerman, People's Counsel
for Baltimore County
Arnold Jablon, Director /PDM



9/19/02

**RE: PETITION FOR SPECIAL HEARING *
PETITION FOR VARIANCES**

840 Oella Avenue, W/S Oella Avenue *
190' NW of c/l of Oella Hollow Road *
1st Election District, 1st Councilmanic *

Legal Owner: Oella Mill, LLP *
Contract Purchaser: Forest City Residential *
Group *

Petitioners

* * * * *

RE: DEVELOPMENT PLAN HEARING *

Oella Mill Property *
W/S Oella Avenue, E of Patapsco River *
1st Election District, 1st Councilmanic *

Oella Mill, LLP *

Applicant

* * * * *

BEFORE THE

COUNTY

BOARD OF APPEALS

for

BALTIMORE COUNTY

02-412-5PHA
CBA-02-137

People's Counsel for Baltimore County's Hearing Memorandum

People's Counsel for Baltimore County files this hearing memorandum:

This appeal arises from the Zoning Commissioner/Hearing Officer's decision (initially and as modified on reconsideration), to approve a development plan and variances for the redevelopment of the Oella Mill as a high-density (about 180-units) apartment project, with the first floor reserved for parking. There are a number of parking variances. There is no active open space. Part of the development is an area currently mapped as 100-year floodplain.

The historic mill building is in the southwestern section of the county for which it is named. The property is mainly zoned Business-Major (B.M.) with a C.C.C. District overlay. The regulations for the B.M. zone begin at BCZR 233 and

include regulations for the C.C.C. District at BCZR 235A. There is also a smaller section of the property zoned D.R. 3.5.

Standing of People's Counsel

Because the developer challenged the standing of People's Counsel below, we address this preliminarily. There is no substantial justification for the challenge, and the Hearing Officer was correct to recognize the office's standing.

Our office appeared at the hearing below because of the significant zoning and/or land use issues involved in this remarkable case. These relate to allowable zoning uses and density, recreational space, residential transitional area standards, commercial parking in a residential zone, consistency with the floodplain map, and parking variances, all of which are identified in the petition for appeal. These issues are not merely legal or technical. As with most zoning issues, they relate to a legitimate land use purpose. In this case, the issues coalesce around the problem of excessive development. This has made the project controversial and led to opposition by a substantial group of citizens. At the same time, the project is supported by the Oella Company, which has undertaken development of properties in Oella, as well as some other citizens.

The appropriateness of development may not, of course, be decided upon the basis of popularity. Under Baltimore County Charter Sec. 524.1(b), People's Counsel is responsible to defend the comprehensive zoning maps and master plan in the public interest. In determining the public interest, the office must look to the law. The courts have approved or recognized the standing of the People's Counsel

in many published cases: People's Counsel v. A.V. Williams 45 Md. App. 617 (1980); People's Counsel v. Webster 65 Md. App. 694 (1986); People's Counsel v. Mockard 73 Md. App. 340 (1987); People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683 (1989); People's Counsel v. Mangione 85 Md. App. 738 (1991); Red Roof Inns v. People's Counsel 96 Md. App. 219 (1993); United Parcel Service v. People's Counsel 336 Md. 569 (1994); Security Management Co. v. Baltimore County 104 Md. App. 234 (1995), cert. denied; People's Counsel v. Beachwood 107 Md. App. 627 (1995), cert. denied; Umerley v. People's Counsel 108 Md. App. 496 (1996), cert. denied; People's Counsel v. Prosser 119 Md. App. 150 (1998); Riffin v. People's Counsel 137 Md. App. 90 (2001), cert. denied; Marzullo v. Kahl 366 Md. 158 (2001); and People's Counsel v. Country Ridge Shopping Center 144 Md. App. 580 (2002). These have included not only reclassifications (Williams, Mockard, Beachwood, Prosser), special exceptions (Webster, Mangione, Umerley, Country Ridge), variances (Red Roof Inns, Riffin), and the master plan (again, Webster), but also cases involving mainly legal interpretation of the applicable zoning regulations and maps, usually involving "special hearings." (Maryland Marine, Harker, United Parcel Service, Marzullo) and cases involving constitutional issues (Security Management).

Standing, of course, is a jurisdictional issue which may be raised by the court at any time. The appellate courts' consistent acceptance of People's

Counsel's standing in so many cases shows their understanding that the Charter intends the office to have breathing room and not be placed in a straitjacket.

The standing of People's Counsel does not depend on form, but rather on substance. Therefore, when issues of zoning and/or master plan implementation arise in a "development" case, the People's Counsel clearly has standing. In People's Counsel v. Crown Development Co. 328 Md. 303 (1992), the Court of Appeals explicitly recognized the standing of People's Counsel in a development case. There, a single question of density arose in a development case proceeding at the County Review Group, the predecessor of the Hearing Officer process.

Here, there arise a plethora of zoning and master plan issues. Issues of use, density, open space, and parking all are well within the scope of the zoning-enabling act. See Code Sec. 26-116. Floodplain management issues, in turn, come within the ambit of the Master Plan. It is also noteworthy that Charter Sec. 524.1(b) refers to issues involving land, air, and water resources. Therefore, there is no legitimate challenge to the standing of People's Counsel.

Even were there any fairly debatable question, the Court in Crown Development also reminded the parties that where there is any party having standing, there is no need or warrant to inquire into the standing of any party on the same side. Here, there are several citizens nearby the property in the Oella neighborhood who are interested persons and proper parties. Their presence puts the standing of People's Counsel beyond inquiry. See, e.g. Sugarloaf Citizens v. Maryland Department of Environment 344 Md. 271 (1996).

It is also to be remembered that standing does not depend on the merits of a party's position but rather on an interest in the proceedings. Sugarloaf Citizens, supra. In other words, parties may win or lose but still be legitimate parties. Otherwise, the adversary system could not function. As long as there is a question raised within the scope of the law of zoning, the master plan, or land, air, and water resources, People's Counsel has standing.

The Argument Below

People's Counsel filed the attached pre-hearing memorandum. On the first day of hearing, May 9, 2002, there was oral argument on the standing of People's Counsel, the permissible density and uses in the B.M.-C.C.C. classification, and the applicability of the recreational space law. On the second day, May 10, Hearing Officer Schmidt delivered his oral opinion. He found that People's Counsel has standing, citing the Crown Development case, but ruled for the developer on the legal issues. There followed argument on the additional issue of applicability of the Residential Transition Area (RTA) restrictions. The Officer allowed memoranda, including the attached submission. Ultimately, he ruled again in favor of the developer.

On subsequent hearing days, more legal issues came up. When it was apparent that part of the property is zoned D.R. 3.5, the issue arose as to the necessity of a use permit for business parking in a residential zone, under BCZR 409.8. When the evidence also showed that the FEMA floodplain maps, recognized under Code Sec. 26-661 to 26-670 covered the subject property, the

issue arose as to whether the development could be approved subject to the approval of developer's request for correction or modification of the map. Finally, in addition to variance issues under BCZR 307.1, the question arose as to whether the developer's engineer had correctly measured the relevant parking data, so that there was actually involved a greater variance than requested. After the hearings ended, People's Counsel underlined some additional points in the attached letter dated June 20, 2002.

All of the issues ultimately got resolved in the developer's favor. The Hearing Officer's issued a written opinion July 8, 2002 and an opinion granting the developer's motion for reconsideration on August 8, 2002. These proved consistent in the results: all for the developer. The rulings went so far as to exclude entirely the citizens' expert traffic and/or parking testimony, despite the more than acceptable qualifications and experience of their witness.

When it comes to logic and law, on the other hand, the opinions are riddled with inconsistencies. It also escaped the Hearing Officer that the project's legal problems have to do with the project's excessive size, scale, and density.

Legal Analysis of the Hearing Officer Decision

The B.M. – C.C.C. Classification: Density and Use: These are both questions of first impression, in the sense that there has never been an adjudication of them after an adversary hearing. There has not been any precedent cited for their application in the C.C.C. District in a contested case. There were references to an earlier C.R.G. approval of the redevelopment of this mill, but that was not

contested. There were also references to several examples in the C.T. District, also uncontested. These will be discussed below.

In our pre-hearing memorandum and oral argument, we showed, in context, that the language and legislative history pointed to several propositions: first of all, the districts were intended for mixed use “combined apartment-office buildings; the provision in BCZR 235A1 that all apartments be above the first floor was intended to protect the retail potential of the first floor; the provision in BCZR 235A3 that “... the specific number of dwelling or density units, as such shall not be directly limited” refers to the floor area ratio limitation and does not preempt the usual limitation of density based on the adjoining residential zone density; and that, in sum, the C.C.C. District is not an R.A.E. (Elevator-Apartment) zone in disguise.

To avoid these sensible conclusions, the Hearing Officer did a kind of slalom run. On the matter of use, he focused on the lack of an explicit provision to require commercial or office use on the first floor and downplayed the undisputed legislative history and the actual history that buildings under similar C.T. District provisions (The Penthouse Condominium, The Ridgely Condominium) had commercial or office uses below the residential tower.

When it came to density, on the other hand, he emphasized the history that these same condominiums did not follow any density limits, and that the zoning office apparently did not interpret or implement any limit. He did not address the different functions of commercial floor area ratio and residential density.

Significantly, the Hearing Officer did not respond to the argument that to allow a pure apartment building with unlimited density transformed B.M.-C.C.C. into a disguised R.A.E. zone. Rather, with a partial or distorted lens, he downplayed the actual history on the use issue so the result could favor the developer. At the same time, he highlighted the actual history on the ~~use~~ *density*,

Recreational Space Law: The recreational space provisions of Bill 110-99 are codified in Section 26-498. They apply to all “residential development.” This, in turn, is defined as “the development of property for the construction of dwelling facilities.”

At one point, the developer made the absurd argument that its project was not really a “development” and that its filing of a “development plan” or appearance in a “development hearing” was just a courtesy or gratuitous. The Hearing Officer rejected this absurd argument, only to be beguiled into acceptance of an equally absurd proposition. The Hearing Officer found that the project does not involve the construction of dwelling facilities, despite the fact that the sole purpose of the renovation is the construction of apartments.

In our June 20, 2002 letter, we attached the Webster’s Dictionary definition of “construction.” It is very broad, particularly the quoted item 2. The Hearing Officer’s distortion of the definition as excluding renovation is nothing short of outrageous. This project involves the construction of apartments for the very first time. Apartments are dwellings. The recreational space law does not exempt apartment projects, whatever the size, shape, age, or style.

The Hearing Officer follows this by accepting the outrageous rationalization proposed by the Department of Recreation and Parks representative. Mr. Jan Cook suggested that it would be impractical to apply the recreational space law because the project could not come close to providing the required active open space of 650 square feet per unit. This resembles the equally dangerous idea that inability to comply with a relevant zoning standard justifies a variance where a project is “worthwhile” or “economically beneficial.” The Court had no difficulty rejecting the latter argument in Umerley v. People’s Counsel 108 Md. App. 496 (1996). The idea that inability to comply with recreational space law justifies its circumvention is arrogant and nihilistic.

The argument is also disingenuous because it distracts from the point that a less dense development might well be able to provide the necessary open space. If not, then the development fails. If the developer believes the result oppressive, or that the law is too harsh, then the remedy, if any, is to request the legislature to amend the law. In the three years since the law was enacted, there has been no such movement.

The main thing here is that it is improper for the Department of Recreation and Parks or the Hearing Officer to usurp the legislative function. They are not free to disregard laws they do not like. They are not free to judge that a particular development is above the law.

Residential Transition Area Restrictions: We filed a separate memorandum to show how the language and history of the RTA law (BCZR

1B01.1B1) evince a legislative purpose to govern residential uses in whatever zone they occur. Indeed, there is more urgency for such restrictions in nonresidential zones because there is more of a threat of severe incompatibility with adjacent single family or semi-detached homes.

The hearing officer avoided the legislative purpose with the mantra that the RTA restrictions are found in the residential zone regulations and are not mentioned in the B.M.- C.C.C. regulations. He sidestepped, among other things, the provisions in the business zones which incorporate the "uses permitted and as limited in the residential zone immediately adjoining." See BCZR 230.1, 233.1, and 236.1. He also appeared to accept the idea that the explicit mention of RTA restrictions in the OR-1 zone dictated their exclusion from other nonresidential zones, rather than being a specific response to an issue for that zone. As we pointed out at pages 6-7 of our memorandum, there are a number of places in the zoning regulations where it is stated that a variance may be available from particular standards, including in the RTA provisions themselves. This has never been interpreted to preclude the availability of a variance where there is no such reference.

It is particularly disappointing that the Hearing Officer would allow avoidance of the RTA restrictions where he has placed no limit on density. The result is a carte blanche for the developer. This ruling authorizes the most extreme incompatibility and contrasts with the normal array of density and RTA controls applicable to residential uses.

Our initial argument on the RTA issue assumed that the entire property is zoned B.M-C.C.C. When we realized that a small part of the property is zoned D.R. 3.5, we added that this should eliminate any argument about the applicability of the RTA restrictions. Once again, the Hearing Officer swept this point aside.

Business Parking in A Residential Zone: Here, the Hearing Officer did a 180-degree turn in his logic, but the result was again being favorable to the developer. He found that the parking was not business parking because the use is residential. This allowed the developer to avoid the use permit review under BCZR 409.8.

In isolation, this ruling might be fairly debatable. The proposed use is residential. But it is the height of inconsistency, if not a charade, to exempt the project from density and RTA restrictions because it is in a business zone/district and then exempt it from business parking controls because it is a residential use.

The Floodplain Incursion: Here, we refer to paragraph 1 of our June 20, 2002 letter to the Hearing Officer:

1. "The Floodplain Incursion Precludes Development Approval. Code Sec. 26-668 precludes development or redevelopment in the 100-year floodplain. A development plan may not be approved in conflict with the existing FEMA map. Developer has not asked for a waiver, and it could not likely get one. A request to FEMA for potential (future) amendment of the floodplain map to allow development is not a basis for "conditional" approval.

* * *

This resembles the case where a developer requests conditional approval based on future amendment of the master water and sewer plan. The Hearing Officers (Schmidt and Kotroco) have rejected this position in the Hilltop Property (I-485) and Oak Tree Hill Estates (XIII-489) cases."

The County Board of Appeals has since affirmed the decision in the Oak Tree Hill Estates case. Its decision is on appeal in the Circuit Court.

We see no valid distinction between the necessity to comply with the current master water and sewer plan designation and current FEMA map designation. Having already ruled in favor of the developer on so many other issues, the Hearing Officer seems merely to have stayed on the course here.

Perspective

In the course of these proceedings, supporters of the project have said from time to time that the above objections are “technical” obstructions and should not be made to a worthwhile project. The worth of a project, however, is subject to differences of opinion.

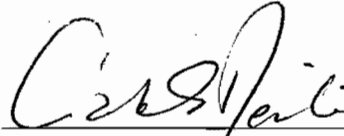
If the law is to have meaning and respect, then it must be applied with consistency. It must not be avoided or ignored based on the mood of the moment or the favor of a particular result. The ends do not justify the means in the legal process. The legal process is about proper means.

The language of zoning law has its own dialect and rhythms. It may often appear “technical” to an observer. But the law serves important land use objectives. Here, the legal issues revolve around the intent of the zone and interrelated controls on use, density, recreational space, compatibility with adjacent residential uses, and parking. Practical concerns drive these legal issues. They should not be dismissed or swept aside as obstructions or technicalities.



PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



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 19th day of September, 2002, a copy of the foregoing People's Counsel's Memorandum was mailed to Robert A. Hoffman, Esquire, VENABLE, BAETJER & HOWARD, LLP, 210 Allegheny Avenue, Towson MD 21204, Attorney for Petitioners, and John V. Murphy, Esquire, 14 N. Rolling Road, Baltimore MD 21228, Attorney for Protestants.



PETER MAX ZIMMERMAN



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 19, 2002

Charles L. Marks, Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: PETITION FOR DEVELOPMENT PLAN
AND SPECIAL HEARING
W/s Oella Avenue, E. of Patapsco River
190' NW of c/l of Oella Hollow Road
1st Election District, 1st Councilmanic
Legal Owner: Oella Mill, L.L.P.
Developer: Forest City Residential Group
Case Nos.: I-498 and 02-412-SPHXA

Dear Chairman Marks,

Enclosed for filing is this office's hearing memorandum. It addresses relevant zoning issues. We have identified errors of law in the Zoning Commissioner/Hearing Officer's decision. We underline here that these issues are akin to special hearing issues, like those decided in **Marzullo v. Kahl** 366 Md. 158 (2001). As such, the Board should approach issues of legal interpretation as de novo issues. They are not ordinary development plan issues, or subject to a deferential standard of review.

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BALTIMORE COUNTY
BOARD OF APPEALS

Chairman Charles L. Marks

September 19, 2002

Page 2

Separately, after we prepared our memorandum, it came to our attention that the Court of Appeals issued Annapolis Market Place v. Parker 369 Md. 689 (2002). It is helpful on issues of scope of review and legal interpretation. We attach a copy and will discuss it at oral argument.

Very truly yours,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S. Demilio

Deputy People's Counsel

PMZ/CSD/pah

cc: Robert A. Hoffman, Esq.
John V. Murphy, Esq.

er, 365 Md. at 293, 778 A.2d at 398. See also *Attorney Grievance Comm'n v. Drew*, 341 Md. 139, 154, 669 A.2d 1344, 1351, (1996) (holding that failure to safe keep property in the attorney's escrow fund, absent clear and convincing evidence to support intentional misappropriation, warranted suspension as opposed to disbarment).

Considering all of the circumstances in this case, we conclude that the appropriate sanction to be imposed in this matter is an indefinite suspension from the practice of law with the right to seek reinstatement after 90 days. The suspension shall take effect 30 days from the date of the filing of the opinion. In doing so, we consider the absence of fraudulent intent and the lack of evidence that any client suffered financial loss resulting from Respondent's misconduct. We further note the lack of evidence of any prior disciplinary problems in Respondent's nearly 38 year membership before this Bar.

IT IS SO ORDERED; RESPONDENT SHALL PAY ALL COSTS AS TAXED BY THE CLERK OF THIS COURT; INCLUDING THE COSTS OF ALL TRANSCRIPTS, PURSUANT TO MARYLAND RULE 16-715(C), FOR WHICH SUM JUDGMENT IS ENTERED IN FAVOR OF THE ATTORNEY GRIEVANCE COMMISSION OF MARYLAND AGAINST ROBERT A. DICICCO; RESPONDENT'S SUSPENSION SHALL COMMENCE THIRTY DAYS FROM THE FILING OF THIS OPINION.

802 A.2d 1029

ANNAPOLIS MARKET PLACE, L.L.C.,

v.

John N. PARKER, Sr., et al.

No. 46, Sept. Term, 2001.

Court of Appeals of Maryland.

July 18, 2002.

Landowner's neighbors sought judicial review of county board of appeals decision to permit rezoning from residential to commercial district. County intervened. The Circuit Court, Anne Arundel County, Eugene M. Lerner, J., reversed. Landowner appealed. The Court of Special Appeals affirmed in an unreported opinion. Certiorari was granted. The Court of Appeals, Harrell, J., held that: (1) adequate facilities are not "programmed for construction" when the developer agrees to construct them at rezoning; (2) the developer's agreement thus does not satisfy county ordinance which prohibits rezoning without finding that facilities, infrastructure systems, and schools adequate to serve uses allowed by the new zoning classification are either in existence or programmed for construction; and (3) county board of appeals failed to make adequate findings.

Affirmed.

1. Zoning and Planning ¶154

Adequate facilities are not "programmed for construction" when the developer agrees to construct them at rezoning, and, thus, the developer's agreement does not satisfy county ordinance which prohibits rezoning without finding that facilities, infrastructure systems, and schools adequate to serve uses allowed by the new zoning classification, as defined in article on adequacy of facilities, are either in existence or programmed for construction; the reference to the part on adequacy of facilities is intended to modify the first portion of the

9/18/02

RE: Petition for SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue

1ST ELECTION DISTRICT
1ST COUNCIL DISTRICT

* * * * *

RE: DEVELOPMENT PLAN HEARING

OELLA MILL PROPERTY

1ST ELECTION DISTRICT-
1ST COUNCIL DISTRICT

* * * * *

In the matter of Oella Mill/ PDM I-498

* * * * *

SUPPLEMENTAL MEMORANDUM TO PETITION ON APPEAL

The Protestants, Greater Oella Community Association, Inc, Concerned Citizens of Oella and Christine Beed, Henry Berger, Gregg Brown, Dennis Burns, Lynette Burns, and Lydia Temoshok individually, by John V. Murphy, and Murphy & Murphy, L.L.C., pursuant to Baltimore County Code Sec. 26-209 (a)(1), and zoning Regulations of Baltimore County Section 501.6 file this supplemental petition to accompany appeal to the Board of Appeals regarding the standing of these appellants to appeal the final decision of the Hearing Officer/Zoning Commissioner dated August 8, 2002 and state:

General Basis for Standing

The Developer's and Protestant's experts, the lay witnesses of both sides and the

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SEP 20 2002

* BEFORE THE
* ZONING COMMISSIONER
* BALTIMORE COUNTY
* BOARD OF APPEALS

* FOR BALTIMORE COUNTY

* Case No. 02-412-SPHA

* * * * *

* BEFORE THE

* HEARING OFFICER

* FOR

* BALTIMORE COUNTY

* Case No.: 01-498

* * * * *

* BEFORE THE BOARD OF APPEALS

* FOR BALTIMORE COUNTY

* Case Nos.: CBA -02-137 and
02-412-SPHA

exhibits introduced at the Zoning Commissioner/ Hearing Officer hearing all clearly indicate that the proposed development of the Oella Mill is located in the in the 19th century town of Oella adjacent to the Patapsco River. The only road access to the development is by Oella Avenue (in two directions) and Hollow Road. Minor roads feed into Oella Avenue and Hollow Road.

Individual Appellants

Christine Beed's property is located at 917 Oella Avenue, Ellicott City MD 21043 and is within 200 feet of the development and traffic coming to and from the development must pass her driveway and use her only access into and out of the town of Oella. She was not a participant at the hearing below. She will be directly and personally affected by the proposed development. She is a member of the Greater Oella Community Association Inc.

Lydia Temoshok's property is located at 513 Oella Avenue, Ellicott City MD 21043 and is within 1200 feet of the development and traffic coming to and from the development via Westchester Avenue, Old Frederick Road or Frederick Avenue must pass her driveway and use her primary access out of the town of Oella. She was a participant at the hearing below. She will be directly and personally affected by the proposed development. She is the President of the Greater Oella Community Association, Inc. and the Concerned Citizens of Oella.

Dennis and Lynette Burns' property is located at 715 Race Road, Ellicott City MD 21043 and is within 750 feet of the development. Race Road connects to Oella Avenue which is their only access into and out of the town of Oella. Dennis Burns was not a participant at the hearing below. Lynette Burns was a participant at the hearing below. They will be directly and personally affected by the proposed development. They are members of the Greater Oella Community Association Inc and the Concerned Citizens of Oella

Henry Berger's property is located at 734 Pleasant Hill Road, Ellicott City MD 21043 and is within 350 feet of the development. Pleasant Hill Road connects to Oella Avenue which is his only access into and out of the town of Oella. He was a participant at the hearing below. He will be directly and personally affected by the proposed development. He is a member of the Greater Oella Community Association Inc and the Concerned Citizens of Oella

Gregg Brown's property is located at 709 Pleasant Hill Road, Ellicott City MD 21043 and is within 400 feet of the development. Pleasant Hill Road connects to Oella Avenue which is his only access into and out of the town of Oella. He was a participant at the hearing below. He will be directly and personally affected by the proposed development. He is a member of the Greater Oella Community Association, Inc and the Concerned Citizens of Oella.

Associations

The Greater Oella Community Association, Inc. is a non-profit Maryland Corporation in good standing with the State Department of Assessments and Taxation. The proposed development is located within the geographic limits of the Association which are more fully described by the geographic description contained in the association's corporate documents, i.e., the By-Laws attached as Exhibit A. The Association's address is 513 Oella Avenue, Ellicott City MD 21043 c/o Lydia Temoshok, President

The development will personally and specifically affect, damage and/or impact the members of the Association in ways different from that suffered by persons of a general interest.

Concerned Citizens of Oella is a non corporate association composed of residents of the area and an ad hoc committee of the Greater Oella Community Association which opposes the development as presently defined. Some of the members of this association are listed above. The Concerned Citizens of Oella's address is 513 Oella Avenue, Ellicott City MD 21043 c/o Lydia Temoshok, Member.

I DO SOLEMNLY SWEAR AND AFFIRM under the penalties of perjury, that the foregoing information is true and correct to the best of my knowledge, information and belief.



Lydia Temoshok, President, Greater
Oella Community Association

Respectfully submitted,



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 N. Rolling Road
Catoonsville, MD 21228
(410) 744-4967

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this th day of September 2002, a copy of the foregoing Supplemental Memorandum to Petition on Appeal was mailed first class mail, postage paid, to Robert Hoffman, Esquire, 210 Allegheny Avenue, P.O. Box 5517 , Baltimore, Maryland 21285-5517, Attorney for the Petitioner and Peter Zimmerman, Esquire, People's Counsel, Old Courthouse Room 47, 400 Washington Avenue, Towson, Maryland, 21204, Arnold Jablon, Director, Department of Permits and Managment, 111 W. Chesapeake Avenue, Towson, Maryland 21204


JOHN V. MURPHY, ESQUIRE

EXHIBIT A

BY-LAWS
of the
GREATER OELLA COMMUNITY ASSOCIATION

Revised, March 14, 2001

ARTICLE I. Organization

- A. **Name:** Greater Oella Community Association (GOCA).
- B. **Established:** Formerly the Oella Community Improvement Association, founded April 3, 1974, and incorporated by the State of Maryland on July 29, 1988 as the Greater Oella Community Association, a non-stock, non-political, non-religious, non-profit, tax-exempt organization. X
- C. **Jurisdiction:**
1. Starting from the Ellicott City bridge, going:
 EAST on Route 144 (Frederick Road) 1.3 miles, to the intersection of Route 144 and Oella Avenue;
 NORTHWEST (left) on Oella Avenue to the intersection of Oella and Westchester Avenues;
 NORTHEAST (right) on Westchester Avenue to the intersection of Westchester and Rockwell Avenues;
 WEST (left) along an imaginary line extending Rockwell Avenue to the Patapsco River;
 SOUTH (left) along the Patapsco River to the Ellicott City bridge.
 2. All the area within the above boundaries (see map in Appendix A).
 3. All the areas immediately adjacent to the above boundaries.
- D. **Goals:** Association policy shall be dedicated to:
1. securing and maintaining recreational facilities for the entire community;
 2. preserving the historical and rural atmosphere of the community;
 3. working in conjunction with other community, historic, and preservation organizations operating within the jurisdiction of and immediately adjacent to the Association. From time to time the Association may appoint representatives to these or to other organizations;

9/18/02

RECEIVED

RE: Petition for SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue

* BEFORE THE SEP 20 2002

* ZONING COMMISSIONER
BALTIMORE COUNTY
BOARD OF APPEALS

* FOR BALTIMORE COUNTY

1ST ELECTION DISTRICT
1ST COUNCIL DISTRICT

* Case No. 02-412-SPHA

* * * * *

RE: DEVELOPMENT PLAN HEARING

* BEFORE THE

OELLA MILL PROPERTY

* HEARING OFFICER

* FOR

1ST ELECTION DISTRICT-
1ST COUNCIL DISTRICT

* BALTIMORE COUNTY

* Case No.: 01-498

* * * * *

In the matter of Oella Mill/ PDM I-498

* BEFORE THE BOARD OF
APPEALS

* FOR BALTIMORE COUNTY

* Case Nos.: CBA -02-137 and
02-412-SPHA

* * * * *

MOTION TO WITHDRAW APPEARANCE

Now comes appellants The Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually by their attorney, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., and, who represents to this Honorable Board:

1. The above captioned case concerns the appeal of variances granted and development

plan approved by the Zoning Commissioner/ Hearing Officer in his August 8, 2002 final order in the above cases.

2. The undersigned attorney entered its appearance on behalf of the following appellants: The Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually.

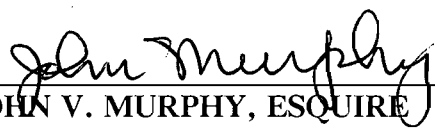
3. These appellants have dismissed the undersigned attorney on September 12, 2002 and will be representing themselves or may obtain other legal counsel as they determine.

4. Notice of this attorney's intention to withdraw from this case was mailed to each appellant on September 13, 2002.

WHEREFORE, the Plaintiff respectfully requests that:

A) This Board grant the undersigned counsel's Motion to Withdraw Appearance in the above captioned case.

B) And for such other and further relief as the nature of its cause may require.



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of September, 2002, a copy of the foregoing
MOTION TO WITHDRAW APPEARANCE was mailed postage pre-paid to:

Robert Hoffman
Attorney for Petitioner
210 Allegheny Avenue
P.O. Box 5517
Baltimore, Maryland 21285-5517

Peter Zimmerman
People's Counsel
Old Courthouse
Room 47
400 Washington Avenue
Towson, Maryland 21204

Greater Oella Community Association
513 Oella Avenue
Ellicott City, Maryland 21043

Concerned Citizens of Oella
513 Oella Avenue
Ellicott City, Maryland 21043

Lydia Temoshok
513 Oella Avenue
Ellicott City, Maryland 21043

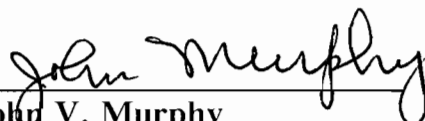
Gregory Brown
709 Pleasant Hill Road
Ellicott City, Maryland 21043

Henry Berger
734 Pleasant Hill Road
Ellicott City, Maryland 21043

Christen Beed
917 Oella Avenue
Ellicott City, Maryland 21043

Dennis Burns
715 Race Road
Ellicott City, Maryland 21043

Lynette Burns
715 Race Road
Ellicott City, Maryland 21043


John V. Murphy

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

September 18, 2002

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

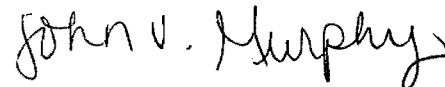
RE: Oella Mill
CBA-02-137 and 02-412 SPHA
Hearing Date: September 24, 2002

Dear Sir or Madam:

Enclosed please find a **SUPPLEMENTAL MEMORANDUM TO PETITION ON APPEAL**, and a **MOTION TO WITHDRAW APPEARANCE** for filing with your office.

Please let me know if you have any questions. Thank you.

Very Truly Yours,



John V. Murphy

Enclosures

JVM:clh

H:\WPWIN\DAI\YS\Chrissy\sept02\sept18.02

RECEIVED
SEP 20 2002
BALTIMORE COUNTY
BOARD OF APPEALS

8/20/02

RE: DEVELOPMENTAL PLAN HEARING
AND PETITION FOR SPECIAL HEARING
W/S Oella Avenue, E of Patapsco River,
190' NW of c/l Oella Hollow Road
(The Oella Mill Property)

1st Election District
1st Councilmanic District

Oella Mill, LLP, Owner
Forest City Residential Group,
Developer

- * BEFORE THE ZONING
- * COMMISSIONER/HEARING
- * OFFICER OF BALTIMORE
- * COUNTY
- * CASE NOS.: I-498 AND 02-412-SPHA
- *
- *

* * * * *

PETITION ON APPEAL

The Protestants, Greater Oella Community Association Inc, Concerned Citizens of Oella and Christen Beed, Henry Berger, Gregory Brown, Dennis Burns, Lynnette Burns, and Lydia Temoshok, individually, by John V. Murphy, and Murphy & Murphy, L.L.C., pursuant to Baltimore County Code Sec. 26-209 (a)(1), and zoning Regulations of Baltimore County Section 501.6 file this petition to accompany appeal to the Board of Appeals regarding the final decision of the Hearing Officer/Zoning Commissioner dated August 8, 2002 incorporating the Hearing Officer/Zoning Commissioner's Order of July 8, 2002 granting approval of the requested variances and the Development Plan for this project. and state:

1. The proposed development exceeds the maximum density allowable in the Business Major Zone (BCZR 233.1, 230.1), which is limited by the density in the adjoining D.R. 3.5 Zone. The C.C.C. district regulation (BCZR 235 A.3) is not intended to override the limitation, but rather denotes that this regulation does not directly limit density.
2. The proposed development violates the mixed use intent if BCZR 235 A1 that commercial uses occupy at least the first floor in C.C.C. Districts, with apartments allowed above the first floor.
3. The proposed development violates the County's recreational space law by failing to provide active open space required under Code Sec. 26-498 (Bill 110-989).
4. The proposed development violates the buffer and setback requirements of the residential transition area (RTA) standards in BCZR 1B01.1B.
5. The proposed development violates the zoning regulations because being partly on land zoned D.R. 3.5, the developer is required to apply for a use permit for commercial parking in a residential zone (BCZR 409.8) because the primary use is based on the C.C.C. district (BCZR 235A).

6. The proposed development does not comply with County flood plain law because it encroaches on the 100-year flood plain as now mapped, and there has been no application for a waiver Code Sec. 26-661 to 26-670.

7. The Hearing Officer is without authority to grant approval of a development plan conditioned upon approval of another government agency. (FEMA did not modify the applicable flood plain map at the close of the developers' case.)

8. The proposed development is accompanied by a petition for zoning variances which are not justified by any unique character of the property or genuine practical difficulty, but rather are generated by the excessive density requested and overcrowding of the site.

9. The Zoning Commissioner granted developer's Motion for Reconsideration increasing the variance requested for aisle width from 18 feet 6 inches to 17 feet 7 inches without justification or public posting as required by law.

10. The Hearing Officer failed to accept the Protestant's witness, Henry Berger, as an architect expert witness.

11. The Hearing Officer failed to accept the expert opinions of and Protestant's exhibits prepared by Henry Berger regarding the proposed traffic flow and parking in the development plan.

12. The Hearing Officer limited the weight of Protestant's Exhibit 17 (RTA Layout) to that of a draftsman rather than the exhibit of an expert architect.

13. The Hearing Officer failed to accept Protestant's Exhibit 12 (State of Maryland's listing of Baltimore County standard for road width leading to development) into evidence although the Protestant's expert witness and traffic engineer, K.M. Daniel authenticated its source and veracity.

14. The Hearing Officer allowed repeated modification of development plan after the plan was admitted into evidence to correct significant errors and omissions in the plan disclosed by the Protestants.

15. The Hearing Officer failed to accept Protestant's lay witnesses testimony and exhibits.

16. The Hearing Officer failed to reduce the density of the proposed development even though the roadways and surrounding development (19th century mill town) can not support such development.

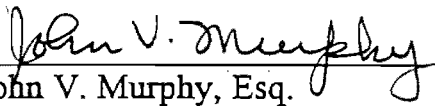
17. The Hearing Officer/Zoning Commissioner 's decisions are not supported by competent, material and substantial evidence in light of the entire record as submitted.

18. The Hearing Officer/Zoning Commissioner 's decisions exceed his authority/jurisdiction, result from unlawful procedure, and are affected by error of law.

19. The Hearing Officer/Zoning Commissioner 's decisions in this case are arbitrary and capricious.

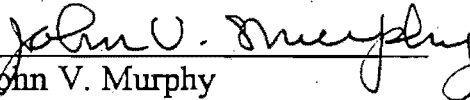
Wherefore the Protestants respectfully request:

- A. That the Board deny the developer's request for Special Hearing/Variance
- B. That the Board reverse or modify the Hearing Officer's decision approving the development plan
- C. That in the alternative the Board remand to the Hearing Officer for further proceedings
- D. That the Board allow additional testimony on the development plan
- E. And for such other relief as their case may require.


John V. Murphy, Esq.
Murphy & Murphy LLC
14 N. Rolling Road
Catonsville MD 21228
410-744-4967

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20 th day of August 2002, a copy of the foregoing Petition on Appeal was mailed first class mail postage paid to Robert Hoffman, Esq, 210 Allegheny Avenue, P.O. Box 5517 , Baltimore, Maryland 21285-5517, attorney for the Petitioner and Peter Zimmerman, Esq. Old Courthouse Room 47, 400 Washington Avenue, Towson, Maryland, Peoples Counsel.


John V. Murphy

8/16/02

RE: DEVELOPMENT PLAN HEARING
AND PETITION FOR SPECIAL HEARING
W/S Oella Avenue, E of Patapsco
River, 190' NW of c/l Oella Hollow Road
(The Oella Mill Property)

1st Election District
1st Councilmanic District

Oella Mill, LLP, Owner
Forest City Residential Group,
Developer

* BEFORE THE ZONING
* COMMISSIONER/HEARING
* OFFICER OF BALTIMORE
* COUNTY
* Case Nos. I-498 and 02-412-SPHA

* * * * *

PETITION ON APPEAL

PEOPLE'S COUNSEL for BALTIMORE COUNTY, pursuant to Baltimore County
Code Sec. 26-209 (a) (1), files this petition in the appeal of the Hearing Officer/Zoning
Commissioner's Order on Motion for Reconsideration dated August 8, 2002, incorporating also
the other terms and conditions of the Hearing Officer/Zoning Commissioner's Approval July 8,
2002 of the Development Plan and variances, in these combined Cases No. I-498 and No. 02-
412-SPHA, and states:

1. The proposed development exceeds the maximum density allowable in the
Business Major Zone (BCZR 233.1, 230.1), which is limited by the density in the
adjoining D.R. 3.5 zone. The C.C.C. district regulation (BCZR 235A3) is not intended
to override the limitation, but rather denotes that this regulation does not directly limit density.
2. The proposed development violates the mixed-use intent of BCZR 235A1
that commercial uses occupy at least the first floor in C.C.C. Districts, with apartments allowed
above the first floor, based on the statutory context and history.

3. The proposed development, violates the County's recreational space law by failing to provide active open space for "residential development" required under Code Sec. 26-498 (Bill 110-99).

4. The proposed development violates the buffer and setback requirements of the residential transition area (RTA) standards in BCZR 1B01.1B.

5. The proposed development being partly on land zoned D.R. 3.5, lacks the required use permit for commercial parking in a residential zone (BCZR 409.8) because the primary use is based on the C.C.C. district (BCZR 235A).

6. The proposed development does not comply with County floodplain law because it encroaches on the 100-year floodplain as now mapped, and there has been no application for a waiver. Code Sec. 26-661 to 26-670.

7. The proposed development is accompanied by a petition for zoning variances which are not justified by any unique character of the property or genuine practical difficulty, but rather are generated by the excessive density requested and overcrowding of the site.

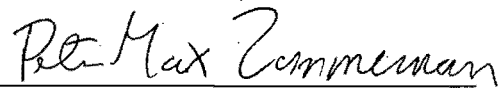
8. The Hearing Officer/Zoning Commissioner's approval is thus affected by numerous errors of law.

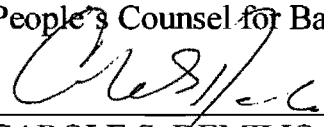
9. The Hearing Officer/Zoning Commissioner's approval is arbitrary and capricious.

10. The reasons stated in the Hearing Officer/Zoning Commissioner's opinion are not only contrary to the relevant statutes, but also are intellectually inconsistent with each other.

Wherefore, People's Counsel requests that the County Board of Appeals reverse the Orders of the Hearing Officer/Zoning Commissioner, disallow the proposed development plan, and deny the requested variances.

Respectfully submitted,


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


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 16th day of August, 2002, a copy of the foregoing Petition on Appeal was mailed to Robert A. Hoffman, Esquire, and Patricia A. Malone, Esquire, VENABLE, BAETJER AND HOWARD, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorneys for Developer, and to John V. Murphy, Esquire, 14 North Rolling Road, Baltimore, Maryland 21228, Attorney for Protestants


PETER MAX ZIMMERMAN

8/8/02

IN RE: DEVELOPMENT PLAN HEARING and * BEFORE THE
PETITION FOR SPECIAL HEARING - * ZONING COMMISSIONER
W/S Oella Avenue, E of Patapsco River, *
190' NW of c/l Oella Hollow Road * OF BALTIMORE COUNTY
(The Oella Mill Property) *
1st Election District – 1st Council District * Cases Nos. I-498 & 02-412-SPHA

Oella Mill LLP, Owner; *
Forest City Residential Group/ *
East Coast Development, Developer

ORDER ON THE MOTION FOR RECONSIDERATION

This matter comes before this Hearing Officer/Zoning Commissioner on a Motion for Reconsideration filed on July 9, 2002 by Oella Mill LLP, Owner and Forest City Residential Group/East Coast Development, Developer, and the Protestant's Response thereto, dated July 17, 2002. By Order dated July 8, 2002, this Zoning Commissioner approved the development plan for the Oella Mill Property and granted a variance to permit a minimum width of 18'6" for two-way aisles in lieu of the minimum required 22'. Within the Motion, Counsel for the Developer requests the grant of amended zoning relief to permit a minimum drive aisle width of as narrow as 17'7" in lieu of the required 22'.

This matter was the subject of a lengthy public hearing regarding the proposed development and related Petitions for zoning relief filed by the property owner/developer. The Developer now comes before me seeking amended relief relative to the width of driveways in parking areas within the interior of the Oella Mill building. The width is measured between existing cast iron columns located within this historic structure. Obviously, these columns cannot be moved. Apparently, when preparing the plan, the Developer's consultants measured the columns from center to center and computed a distance of 18½ feet. However, owing to the width of the columns, the actual width between them (inside edge to edge) would be as narrow as 17'7". The Developer therefore requests amended relief to modify its original request.

ORDER RECEIVED FOR FILING
Date 8/8/02
By [Signature]

The Protestants filed a response in opposition to the Motion for Reconsideration. They argue that no new plan to accompany the Petition was submitted and no public notice of the amended request was made.

In the judgment of the undersigned, I believe that the requested amendment is of a technical nature. Obviously, the intent of the B.C.Z.R. is to allow public participation in the review process. The Protestants were represented by Counsel at the hearing and participated fully. Indeed, it was through testimony produced by the Protestants that the discrepancy between the measurement in the columns was determined. It is unreasonable that the Protestants view a variance request to permit an 18'6" distance differently than a request for a 17'7" distance. In my view, the error is in the nature of a technicality, only. Thus, the Motion for Reconsideration will be granted and all other aspects of the Order issued on July 8, 2002 are incorporated herein.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of August, 2002 that amended variance relief to permit a minimum drive aisle width of as narrow as 17'7" in lieu of the required 22' be and is hereby GRANTED, and as such, the Motion for Reconsideration filed in the above-captioned matter be and is hereby APPROVED.

All other terms and conditions of the Order issued July 8, 2002 shall remain in full force and effect.

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


LAWRENCE E. SCHMIDT
Hearing Officer/Zoning Commissioner
for Baltimore County

LES:bjs

cc: Robert A. Hoffman, Esquire and Patricia A. Malone, Esquire,
Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, Md. 21204
John V. Murphy, Esquire, 14 North Rolling Road, Baltimore, Md. 21228
Peter Max Zimmerman, Office of People's Counsel for Baltimore County
Donald Rascoe, DPDM; Case File(s)

7/17/02

RE: Petition for SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue

1ST ELECTION DISTRICT
1ST COUNCIL DISTRICT

* * * * *

RE: DEVELOPMENT PLAN HEARING

OELLA MILL PROPERTY

1ST ELECTION DISTRICT-
1ST COUNCIL DISTRICT

* * * * *

* BEFORE THE
* ZONING COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 02-412-SPHA

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No.: 01-498

**PROTESTANT'S RESPONSE TO DEVELOPER'S MOTION FOR
RECONSIDERATION**

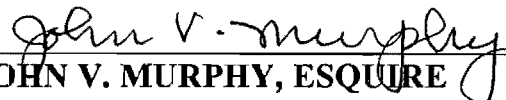
Now comes Henry Berger, Kelly Clark, Gregg Brown and The Concerned Citizens of Oella, Protestants, by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., who file this Response to the Developer's Motion for Reconsideration as follows:

1. That the Developer admits in its Motion for reconsideration that the requested variance of 18 feet 6 inches for two way aisles was not correct as the distance between columns in the building is 17 feet 7 inches.
2. That the Developer in its Motion for Reconsideration requests a new variance which was not advertised as required by law nor has the Developer submitted a new plan to accompany

variance.

3. That the Zoning Commissioner is authorized to approve variances only in accord with Section 26-127 (a) of the Baltimore County Code and Section 307.1 of the Baltimore County Zoning Regulations.
4. That this request for variance as shown on the Motion for Reconsideration does not comply with the Code and or Zoning Regulations

For the reasons set forth herein, the Protestants respectfully request that the Developer's Motion for Reconsideration be denied with prejudice.


JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Protestants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 th day of July, 2002, a copy of the foregoing PROTESTANT'S RESPONSE TO PETITIONER'S MOTION FOR RECONSIDERATION was mailed first class mail postage paid to Robert Hoffman, Esq, 210 Allegheny Avenue, P.O. Box 5517, Baltimore, Maryland 21285-5517, attorney for the Petitioner and Peter Zimmerman, Esq. Old Courthouse Room 47, 400 Washington Avenue, Towson, Maryland, Peoples Counsel.


JOHN V. MURPHY, ESQUIRE

H:\WPWIN\Clients\OellaCommAssoc\ResponseMotReconsider

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

JUL 19 2002

July 17, 2002

The Honorable Lawrence E. Schmidt
Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing
Petition for Variance
840 Oella Avenue, W/S Oella Avenue

Dear Commissioner Schmidt:

Enclosed please find the PROTESTANT'S RESPONSE TO DEVELOPER'S MOTION FOR RECONSIDERATION in regard to the above referenced matter.

Please let me know if you have any questions. Thank you.

Very Truly Yours,

John V. Murphy

Enclosures

JVM:clh

7/9/02

IN RE: DEVELOPMENT PLAN
HEARING AND PETITION
FOR SPECIAL HEARING
W/S Oella Avenue, E of Patapsco
River, 190' NW of c/l Oella Hollow
Road
(The Oella Mill Property)

1st Election District
1st Councilmanic District

Oella Mill, LLP, Owner
Forest City Residential Group,
Developer

* BEFORE THE ZONING
* COMMISSIONER/HEARING
* OFFICER OF BALTIMORE
* COUNTY
*
* Case Nos. I-498 and 02-412-SPHA
*
*

JUL 9 2002

* * * * *

MOTION FOR RECONSIDERATION

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser,
(hereinafter "Developer"), by Robert A. Hoffman and Patricia A. Malone with Venable,
Baetjer and Howard, LLP, its attorneys, in accordance with Rule 2(k) of the Zoning
Commissioner's Rules of Practice and Procedure, file this Motion for Reconsideration, as
follows:

1. On July 8, 2002, the Zoning Commissioner/Hearing Officer issued a Hearing
Officer's Opinion and Development Plan Order in the above-referenced case, approving the
development plan for the Oella Mill property and granting the requested zoning relief. For
purposes of this Motion for Reconsideration, Developer specifically notes that the Zoning
Commissioner/Hearing Officer granted a variance permitting "a minimum width of 18.5 feet
for two-way aisles in lieu of the minimum required 22 feet."

2. As the Zoning Commissioner/Hearing Officer will recall, Geoffrey Glazer, architect for the Oella Mill project, testified that cast-iron support columns are located every 10 feet (measured from center of column to center of column) within the parking areas interior to the Oella Mill building and cannot be moved or removed. (T., 6/12/02, pp. 155-156) As explained at the hearing, the request for a variance to permit a minimum drive aisle of 18.5 feet had been based upon Mr. Glazer's measurement of the drive aisles from "center line of column to center line of column." (T., 6/12/02, pp. 184-185)

3. Protestants complained that this method of measurement is flawed, and, when measured properly, *i.e.*, from edge of column to edge of column, the drive aisle would actually be as narrow as 17 feet 7 inches. (T., 6/12/02, pp. 185-190, 301-305)

4. To alleviate any confusion in this regard, Developer requested that the Zoning Commissioner/Hearing permit an amendment of its Petition for Variance to reflect a request for minimum drive aisles of 17 feet 7 inches within the Oella Mill building. (T., 6/12/02, pp. 407-408) The Zoning Commissioner/Hearing Officer indicated that he understood the issues surrounding the measurement of the drive aisles and that he would not require Developer to complete any additional procedural steps, such as re-posting or re-advertising, in order for him to consider the variance request. (T., 6/12/02, pp. 187-190, 409-413)

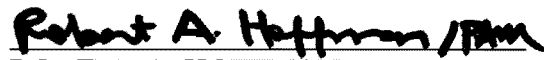
5. From the body of the opinion, it appears that the Zoning Commissioner/Hearing Officer intended to grant all necessary relief for the project to go forward, including any necessary relief relating to the drive aisles. However, the order

reflects only a variance of 18.5 feet rather than the 17 feet 7 inches suggested by Protestants.

Developer assumes this was an oversight by the Zoning Commissioner/Hearing Officer.

WHEREFORE, Developer respectfully requests that the Zoning Commissioner/Hearing Officer amend his order to grant a variance permitting "a minimum width of 17 feet 7 inches for two-way aisles in lieu of the minimum required 22 feet."

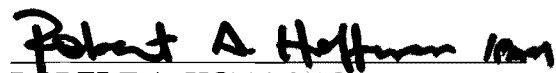
Respectfully submitted,


ROBERT A. HOFFMAN


PATRICIA A. MALONE
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Developer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of July, 2002, a copy of the foregoing MOTION FOR RECONSIDERATION was mailed to John V. Murphy, Esquire, 14 North Rolling Road, Baltimore, Maryland 21228, Counsel for the Protestants; and to Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.


ROBERT A. HOFFMAN

7/8/02

IN RE: DEVELOPMENT PLAN HEARING and * BEFORE THE
PETITION FOR SPECIAL HEARING -
W/S Oella Avenue, E of Patapsco River, * ZONING COMMISSIONER
190' NW of c/l Oella Hollow Road
(The Oella Mill Property) * OF BALTIMORE COUNTY
1st Election District – 1st Council District * Cases Nos. I-498 & 02-412-SPHA

Oella Mill LLP, Owner;
Forest City Residential Group/
East Coast Development, Developer *

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a combined public hearing, pursuant to Section 26-206.1 of the Baltimore County Code (B.C.C.). Pursuant to the development review regulations codified in Title 26 thereof, the Owners/Developers seek approval of a development plan prepared by Daft-McCune-Walker, Inc. for the proposed redevelopment of the subject property by Oella Mill LLP, Owners, and Forest City Residential Group, East Coast Development division (hereinafter referred to as "Forest City"), Contract Purchaser/ Developer, with 175 luxury apartment units, to be known as Oella Mills. In addition, the Owners/ Developers request a special hearing to approve a waiver, pursuant to Sections 126-171, 26-172(b) and 26-203(C)(8) and 26-278 of the Baltimore County Code to permit renovations to a historic structure and variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum required 25 feet; to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle; and, to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required 22 feet.¹ The proposed subdivision and requested zoning relief are more particularly described on the red-lined development plan submitted and marked into evidence as Developer's Exhibit 7.

¹ The Developer's originally filed Petition for Special Hearing also sought a waiver to allow construction (i.e., wooden steps) in a riverine floodplain, pursuant to Sections 26-171, 26-172(b) and 26-276 of the Baltimore County Code. During the hearing, the proposed construction was abandoned and that part of the Petition for Special Hearing withdrawn as unnecessary.

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INTRODUCTION

As to the history of this project through the development review process codified in Title 26 of the Baltimore County Code, a concept plan of the proposed redevelopment project was prepared and a conference held thereon on January 28, 2002. As required, a Community Input Meeting (CIM) was held on February 19, 2002 at the Westchester Elementary School. Subsequently, a development plan was submitted and a conference between the County agencies and the Developer's representatives held thereon on April 17, 2002. Following the submission of that plan, comments were submitted by the appropriate reviewing agencies of Baltimore County and a revised development plan incorporating these comments (Developer's Exhibit 7) was submitted at the Hearing Officer's Hearing which took place over five days; namely, May 9th, 10th, 13th and 15th, 2002, with the final hearing date on June 12, 2002. Final argument memoranda from both sides were scheduled for submittal and received by no later than June 25, 2002.

Appearing at one or all of the public hearings held in this matter were Peter Ruff, on behalf of Oella Mill L.L.P., Owners; Jon Wallenmeyer, Vice President of East Coast Development, a division of Forest City Residential Group, Contract Purchaser/Developer; Ronald Kann and Geoffrey Glazer, representatives of Kann and Associates, Inc., Architects; George F. Gavrelis, Charles Main, II, Linda Jones, Eric Hadaway, and Mitchell Kellman, representatives of Daft-McCune-Walker, Inc., the consultants who prepared the development plan; Mickey Cornelius, Traffic Engineer; and Robert A. Hoffman, Esquire and Patricia A. Malone, Esquire, attorneys for the Owner/Developer. Numerous representatives of the various Baltimore County agencies who reviewed the plan attended the hearing, including the following individuals from the Department of Permits and Development Management (DPDM): Don Rascoe, Project Manager; Bob Bowling, Development Plans Review; William Miner, Land Acquisition; and, Lloyd Moxley, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); R. Bruce Seeley, Ed Schmaus, and John Russo, Department of Environmental Protection and Resource Management (DEPRM); Jan Cook, Department of Recreation and Parks (R&P), and Lt. Jim Mezick, Baltimore County Fire Department.

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The proposed development has divided the community. Residents of the surrounding locale appeared both in support of and in opposition to the plan. Additionally, the undersigned Hearing Officer has received correspondence from members of the community, both supporting and opposing the proposal. All of these interested residents will not be listed herein, but their names appear in the transcript of the testimony offered and/or record of this case. John V. Murphy, Esquire appeared in a representative capacity on behalf of Henry Berger, Kelly Clark, Gregg Brown, and The Concerned Citizens of Oella, Protestants in the matter. Also, Peter Max Zimmerman, Esquire, appeared as a Protestant on behalf of the Office of People's Counsel for Baltimore County.

BACKGROUND

The subject property is an irregularly shaped parcel with frontage on the northwest side of Oella Avenue at its intersection with Oella Hollow Road in the historic district of Oella. The property abuts the Howard County/Baltimore County line and the Patapsco River to the rear and contains a gross area of 5.73 acres, more or less, predominantly zoned B.M.-C.C.C. (5.55 acres), with a small sliver of D.R.3.5 (.18 acres). The site contains environmental constraints, most notably a floodplain generated by the river. Moreover, the property is improved with two old structures, one of which is a 7-story brick building identified as the Old Oella Mill, which is a historic structure listed on the Maryland Historic Trust Inventory as #BA2375. The other building is a stone structure identified as The Power Plant.

As noted above, a redevelopment of the subject property for residential use is proposed. Specifically, the Owner/Developer proposes converting the existing buildings into 175 luxury apartment units. As shown on the plan, 171 apartments will be located in the Old Oella Mill building, with 106 interior parking spaces therein. The Power Plant will contain 4 apartments, and 12 interior parking spaces. In addition to the 118 parking spaces that will be located within the two buildings, additional outside parking is proposed. Specifically, 145 external parking spaces are to be provided for a total of 263 spaces. It is important to note that no new construction and/or expansion of the existing building envelopes is proposed; rather extensive renovation of the existing buildings to accommodate the proposed new residential

development. In addition, significant landscaping and streetscape improvements, including outdoor seating areas with overlooks, courtyards and gazebos, are proposed.

A thumbnail history of Oella was offered at the hearing, primarily through the testimony of Charles Wagandt. Mr. Wagandt and his family are long-associated with Oella in that his Great Grandfather, William J. Dickey, bought the mill and the village of Oella in 1887. Mr. Wagandt appeared in support of the proposal and continues to have significant property holdings in the village. However, he has no proprietary or financial interest in the subject property or development.

The village of Oella was founded many years ago, owing to its key location on the Patapsco River. The Oella community has a rich history and is listed on the National Register of Historic Places. Apparently, there have been mill operations and buildings on the site for many years. The present structures date to the early 20th Century and replaced older buildings, which were destroyed by fire. The Dickey family used the mill to process textiles and wool. Mr. Wagandt described in some detail the nature of that business and the development of the surrounding Oella community. That residential community developed as the result of the need to provide housing for mill workers. Ultimately, the mill closed in 1972.

Presently, the property is used for a mix of commercial and retail operations. There are antique businesses, museums and artists shops. The mill is not entirely occupied and has become somewhat rundown over the years. Photographs presented at the hearing depicted both existing internal and external conditions of the building and the property.

The property is currently owned by the Oella Mill Limited Partnership but will be sold to and developed by Forest City, which is a national corporation that has developed properties across the United States. Testimony regarding the Developer and its plan were offered by Jon Wallenmeyer, Vice President of East Coast Development, a division of Forest City. Mr. Wallenmeyer indicated that Forest City has developed numerous historic properties throughout the country. Many have been redeveloped for commercial or residential purposes. In this regard, the subject proposal was favorably compared to a Forest City project in Richmond, Virginia. There, Forest City redeveloped an old tobacco warehouse into luxury apartments. The project

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proposed for Oella will be geared to a specifically identifiable demographic group. It is anticipated that most of the tenants will be affluent, single individuals. Most of these individuals will be goal-oriented, career individuals and it is not anticipated that families with children will rent at Oella Mills. The proposal calls for 175 units, approximately 150 of which will be studio or one-bedroom units. The remaining 25 units will be two-bedroom. It was indicated that the project is proposed for those individuals who do not wish to be encumbered with the demands of homeownership. Frequently, the individual tenant will be away from the site on business travel and will be employed in the Baltimore/Washington community.

COUNTY ISSUES

Pursuant to Section 26-206 of the Baltimore County Code, which regulates the conduct at the Hearing Officer's Hearing, I am required to first identify any unresolved County agency comments or issues. In this regard, on the initial public hearing date, the Department of Environmental Protection and Resource Management (DEPRM) asked for additional time to review the Developer's storm water management plan, forest buffer variance request, and environmental impacts analysis. Specifically, as to storm water management, the County Code requires that the Developer include acceptable preliminary hydrology computations and verification of suitable outfall with its development plan submittal. Also, before the development plan can be approved, the Developer need submit information to support its forest buffer variance request and a Phase I Environmental Impact Analysis. By agreement of the parties' the Developer's submittals and DEPRM's review of same was completed after the first hearing date (May 9, 2002) but prior to the final hearing date (June 12, 2002). On June 12, 2002, testimony from Bruce Seeley of DEPRM indicated that the plan could be approved in that these three items had been reviewed and were acceptable to his agency. Obviously, additional information will be required by DEPRM during Phase II of the development plan review process; however, DEPRM is now satisfied that, from an environmental standpoint, the current plan can be approved.

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Other County agencies represented by those individuals named herein indicated that the plan complies with their respective comments and requirements.² It is of particular note that Mr. Cook indicated that the plan met Department of Recreation and Parks requirements. One such issue routinely reviewed by his agency relates to compliance with the Adequate Public Facilities Act (Bill No. 110-99) and will be separately discussed hereinafter. All in all, there were no major raised by County representatives, but for those minor items that required the addition of minor notes and revisions to the plan during the course of the hearing. The reviewing agencies collectively opined that the plan meets all County requirements.

PROTESTANTS' ISSUES:

Although County representatives indicated that the plan complied with their specific agency requirements, the residents who opposed the project raised a number of issues. Generally, these issues were presented through Mr. Murphy and/or Mr. Zimmerman. A discussion of each issue is set out below.

1) Standing of People's Counsel:

As a preliminary matter, Counsel for the Owner/Developer objected to the participation of the Office of People's Counsel in the Hearing Officer's Hearing component of this case. The transcript of the hearing held on May 9, 2002 will reflect the positions of the parties in this regard. Essentially, the Developer argues that People's Counsel authority is limited by Section 524.1 of the Baltimore County Code to participation in matters relating to defense of the master plan/duly enacted zoning reclassifications, variances or special exception petitions. The Developer argues that this authority does not include the development plan review process codified in Title 26 of the Baltimore County Code. In response, People's Counsel argues that its standing has been broadly construed and cited a number of appellate decisions, including People's Counsel v. Crown Development Corp., 328 Md. 303 (1992), and Sugarloaf v. Department of the Environment, 344 Md. 271 (1996).

² Other than minor "housekeeping" items, there were no open issues identified by the Department of Public Works, Office of Planning, the Zoning Review and Land Acquisition Divisions of DPDM, the Fire Department, or the State Highway Administration (SHA).

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A review of the Baltimore County Charter (Section 524.1) as well as the cases cited above is persuasive to a finding that People's Counsel is a proper party. The appellate courts of this state have confirmed that People's Counsel may participate in all matters related to the defense of any duly enacted Master Plan and/or Comprehensive Zoning Maps as adopted by the County Council. The appellate courts have given wide latitude and broad discretion to the scope of People's Counsel's duties in that respect. This includes participation in development plan hearings. Therefore, I find that People's Counsel is a proper party in this case. Moreover, it is to be noted that the concerned citizens of Oella (i.e., Protestants) raised and participated in the identical arguments offered by People's Counsel so that those issues were properly raised and considered in any event.

2) Use of the First Floor:

A threshold argument raised by People's Counsel relates to the proposed use of the first Floor of the subject building. As more particularly shown on the plan, that first floor will be used for parking. The actual apartment housing is on the higher floors. People's Counsel avers that the plan cannot be approved in that the first floor is not used for commercial purposes. Again, People's Counsel's full arguments are set forth in the transcript and in their Pre-Trial Memorandum. In sum, People's Counsel's argument is that the statutory language which calls for apartments above the first floor intends mixed commercial/residential use of the first floor.

Testimony was received on this issue from George Gavrelis. Mr. Gavrelis candidly acknowledged that the drafters of the Bill may have envisioned that a mixed commercial/apartment use would be anticipated in many cases. Nonetheless, the language ultimately adopted in Section 235.A.1 states "Apartments shall be permitted, but only above the first story of the building. Elderly housing facilities shall be permitted in any story of the building."

That language is clear and cannot be construed to require that a commercial component must be contained on the first floor. The language merely prohibits what can be on the first floor, but does not mandate any particular use. In my judgment, the words used are unambiguous. Had the County Council required a commercial use on the first floor of an apartment building in the B.M.-C.C.C. zone, it could have done so by clearly stating such a requirement. It did not, and

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thus, I find that the use of the first floor for parking is not violative of Section 235.A.1 of the B.C.Z.R.

3) Recreational Open Space:

The third issue, which was preliminarily raised and decided during the course of the hearing, relates to whether recreational open space is required for this project in accordance with the provisions of the Adequate Public Facilities Act (Bill No. 110-99, codified by Section 26-498 in the Baltimore County Code). Bill No. 110-99 was enacted by the Baltimore County Council to insure that the infrastructure for adequate facilities exists to support ongoing development in the County. One of the facets of the Bill relates to recreational open space. This requirement is monitored by the Department of Recreation and Parks and is usually identified within their concept plan and development plan comments. Essentially, the Bill requires that 650 sq.ft. of active open space per dwelling unit be provided for any residential plan. All parties agreed that open space computed at that ratio has not been provided on this development plan. The issue is whether the local open space requirements of Bill No. 110-99 are applicable to this project.

Bill No. 110-99 requires local open space for "residential development." Section 26-492(g) of the Baltimore County Code defines that term as "The development of property for the construction of dwelling facilities." The Department of Recreation and Parks, through Jan Cook, its representative, determined that the project constituted the renovation of an existing building and was therefore not "development." Mr. Cook also explained that the application of the Act to this project would bring about the nonsensical result that approximately 4 acres of open space would be required on this 5.7-acre parcel. Given that much of the acreage for this property includes the Patapsco River, environmentally sensitive areas, and the footprint of the two existing buildings, the Developer could not possibly provide the requisite area of open space or strictly adhere to the provisions of Bill No. 110-99.

People's Counsel and the Protestants seek a broad application of what constitutes construction under Bill No. 110-99. People's Counsel's written supplement to their Pre-Trial Memorandum suggests that the broad definition of "construction" be applied. People's Counsel sites the various definitions set forth in Webster's Third International Dictionary as authority.

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A review of that definition indeed shows that the words "construct" and "construction" have several definitions; however, the most essential and basic definition listed is that the word means to build or fabricate. In this case, there is nothing being built or fabricated; rather, the site is being redeveloped using existing structures. The footprints of the two buildings being redeveloped will not change.

In reviewing this issue, one cannot rationally conclude that the County Council would intend the requirements of Bill No. 110-99 to be applicable in this instance. That no new external construction or building is proposed and strict application of the Act would require more open space than could possibly be provided are persuasive factors to a finding that the Act should not apply in this case.

4) Density in the B.M.-C.C.C.District:

Another threshold issue raised by People's Counsel and the Protestants relates to the number of units proposed. As clearly shown on the plan, the Developer proposes to redevelop the site with 175 apartment units. For reasons fully set forth in its Pre-Trial Memorandum, People's Counsel argues that the project is over-density and that the plan must be denied. The neighbors/Protestants who oppose the project likewise adopt this position.

As noted above, the subject property is zoned B.M. (Business-Major) with a superimposed C.C.C. (Commercial, Community Core) overlay district. The adjoining property is zoned D.R.3.5. People's Counsel correctly notes that residential uses in the B.M. zone are ordinarily regulated, pursuant to the regulations governing immediately adjoining residentially zoned property (See Section 233.1, B.C.Z.R.). Applying the density standards set out in the D.R.3.5 zoning regulations to the subject property would yield only 20 units.

In support of its position, People's Counsel's Pre-Trial Memorandum set out certain legislative history to the Bill that adopted the C.C.C. zoning regulations (Bill No. 111-68, and Bill No. 100-70). The full text of People's Counsel's arguments will not be repeated here, but is contained within their Memorandum.

In opposition to People's Counsel's argument, the Developer notes the clear and unambiguous language contained within Section 235.A of the B.C.Z.R. That Section sets out the

regulations for the C.C.C. District. Section 235.A states, "The specific number of dwelling or density units, as such, shall not be directly limited." Moreover, the introductory language to Section 235.A is of note. It states, in part, "Contrary provisions of these zoning regulations notwithstanding, the regulations of this Section shall apply in C.C.C. districts superimposed upon B.M. zones." (Emphasis added)

Additionally, the Developer notes relevant provisions of the Comprehensive Manual of Development Policies (C.M.D.P.) which were enacted pursuant to Section 504 of the B.C.Z.R. The C.M.D.P. was adopted by the Planning Board on April 16, 1992 and has been amended as recently as 1998. In effect, the CMDP further refines the requirements in the B.C.Z.R. Page 28 of the C.M.D.P. sets out a table regarding residential development in non-residential zones and provides that for residential uses in the C.C.C. districts, such uses are "not subject to density."

I have considered the various arguments of the parties and have reviewed the relevant Sections of the B.C.Z.R. and C.M.D.P. It is clear that the cardinal rule of statutory construction is to ascertain the intention of the legislature (See e.g., Privette vs. State, 320 Md. 738 (1990). To do this, one is to look at the clear meaning of the words used in the text of the regulation. I am persuaded that the language contained in Section 235.A is clear and unambiguous. It states that for the B.M.-C.C.C. district, there shall be no limitation on density. This is consistent with the subsequently adopted provisions of the C.M.D.P. Moreover, the introductory language of Section 235.A unequivocally states that the regulations contained within that Section are controlling, notwithstanding other provisions of the B.C.Z.R.

Thus, it is my judgment that density is not limited and that the development plan should not be denied based on People's Counsel's argument that the project is over-density. Moreover, it is to be noted that Baltimore County, apparently as a matter of longstanding practice, has employed this approach in evaluating similar residential development. For example, in the C.T. district, the County has approved several high rise apartments that would be "over density" under People's Counsel's approach. Although a different category, the C.T. district is similar to the C.C.C. district. Persuasive testimony was offered by George Gavrelis, an expert planner,

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regarding the County's longstanding interpretation in this area. For all of these reasons, I decline to adopt People's Counsel's argument on this issue.

5. Traffic/Road Capacity:

A major issue identified by the Protestants relates to whether the development would overwhelm and/or overburden the existing road network in the vicinity. Both sides presented expert testimony regarding this issue. The Developer produced testimony of Mickey A. Cornelius, P.E./P.T.O.E. and Senior Vice President of The Traffic Group, Inc. The Protestants produced testimony of K. Mammen Daniel, P.E. In addition to these expert witnesses, testimony was also received regarding traffic issues from numerous citizens who reside in the area.

Both sides also produced written reports. Mr. Cornelius' investigation and work is summarized in Developer's Exhibits 12 and 13. Developer's Exhibit 12 is a Traffic Impact Analysis conducted by Mr. Cornelius' firm which generally compares existing versus proposed trip generation figures for the property. Additionally, the report highlights projected total peak hour traffic volumes and includes a road capacity analysis. Developer's Exhibit 12 was supplemented with a second report (Developer's Exhibit 13), dated April 17, 2002. The supplemental report addressed existing and future traffic operations at what were determined to be key intersections in the surrounding road system, including Maryland Route 144 and Oella Avenue (west), Maryland Route 144 and Oella Avenue (east) and Oella Avenue and Westchester Avenue.

In response, the Protestants' Traffic Engineer produced a report dated April 4, 2002 (Protestants' Exhibit 11). Additionally, a printed copy of an e-mail from Mr. Mammen to Mr. J. Patel, President of the Greater Oella Community Association, was offered as Developer's Exhibit 16.

In addition to the expert lay testimony offered, other exhibits were submitted. These included plats and maps which depict the existing road system near the subject site, as well as photographs of the vicinity.

Part of the charm and character of Oella is derived from the existing road system. The original Oella community was established as a mill town and its most significant geographic factor is the Patapsco River. This river divides the area between Baltimore and Howard Counties, and

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divides the Oella community in Baltimore County from Ellicott City in Howard County. The land rises from the riverbed.

Most of the roads can be characterized as relatively narrow and winding. Some of the roads in the vicinity (i.e., Maryland Route 144) are of sufficient dimension to meet current standards for roadways. Other roads, particularly those that serve the residential neighborhoods, are more difficult to traverse. In some areas, the roads narrow to a minimal width and the curvature and topography are such that sight distance can be limited.

Mr. Cornelius' original report emphasized projected traffic volumes for redevelopment of the Oella Mill under the apartment proposal at issue, versus existing and potential redevelopment of this site as a commercial/retail center. Essentially, he concluded that the redevelopment of this site in a residential manner *as proposed* was preferable, in that the existing road network in the vicinity was sufficient to handle anticipated volumes. Upon due consideration, I accept and concur with Mr. Cornelius' conclusions. I believe that the Protestants' objections are not sustainable and ignore the larger picture. Particularly, given the nature of the proposed redevelopment (i.e., the residential use and demographics of the individuals who will targeted to rent the premises), I believe that potential traffic volumes will be significantly less than the redevelopment of this site in a commercial manner. Quite simply, the Protestants' assertion that the redevelopment of this site with 175 residential apartment units would cause greater congestion than a full retail/commercial redevelopment of the property is contrary to both the principles of traffic engineering and common sense. From a traffic standpoint, the proposal may possibly cause the least impact, when compared to other uses.

Mr. Cornelius' assertions regarding the capacity of the roadways are likewise appropriate. As detailed in his report, he opined that the surrounding road network is sufficient to handle (from a capacity standpoint) anticipated volumes. This includes not only the roads themselves (link capacity), but also the adjacent intersections.

Interestingly, Mr. Daniel's testimony and written reports do not directly contradict Mr. Cornelius' findings. I find of particular interest his initial conclusion that "Therefore traffic should not be considered as the primary cause of any objection." (See Developer's Exhibit 16) Likewise,

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during his testimony, Mr. Daniel did not raise issue with Mr. Cornelius' methodology and many of his conclusions. Mr. Daniel's primary concerns regarded safety and traffic congestion issues and specifically the character of the existing road network. The Protestants and Mr. Daniel apparently believe that the existing road network prohibits any additional development (traffic) in the area.

There is no authority under Title 26 of the Baltimore County Code (i.e., Development Regulations) to require that this Developer improve the road network in the Oella vicinity to increase overall capacity and bring certain older roads up to current standards for new road construction. Likewise, the law imposes no moratorium on the proposed development in the Oella community, given the existing road network. Admittedly, Mr. Daniel's concerns about safety issues are valid. Public safety is a paramount issue and narrow, winding roads with limited sight distance can be dangerous. However, the character of the existing road network does not merit a denial of the plan or a reduction in the number of units. If Baltimore County determines that a safety issue exists, it can, by legislation, impose a moratorium on development in the vicinity or embark on a capital program to improve the roads. A reduction in units in this case would be arbitrary and without basis in the record of this case. In sum, given the totality of the testimony offered, both expert and lay, I am not persuaded that the proposed development will so overburden or overwhelm the existing road network so as to create unacceptable conditions. Surely, it is acknowledged and admitted that the proposal will bring about additional traffic in this community; however, that fact in and of itself does not justify a denial or restriction of the plan. The testimony of Mr. Cornelius was persuasive that these increases will not bring about an unacceptable situation from a traffic standpoint.

6. Parking Spaces in the D.R.3.5 Zone:

As noted above, the subject property is split zoned B.M.-C.C.C. and D.R.3.5. The predominant zoning of the site is B.M.-C.C.C.; however, as shown on the development plan, a portion of the zoning line runs along the bed of Oella Avenue. The plan further shows that there are 29 existing parking spaces which are part of the subject tract located across (south side) Oella Avenue from the primary part of the lot containing the buildings. Apparently, these spaces have existed for many years and 11 of those spaces are located in the D.R.3.5 zoned portion of the site.

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The Protestants correctly note that the development plan proposes the utilization of these 11 spaces to support the apartment complex in the B.M. zone. The Protestants contend that this parking arrangement is controlled by Section 409.8.B of the B.C.Z.R. This Section permits a property owner to utilize parking spaces located in a residential zone to support a business or industrial use on a split-zoned lot. In that a Petition for Special Hearing was not filed for relief under that Section, the Protestants contend that the plan is not proper and must be denied.

The simple answer to the Protestants' position is that the parking spaces are not serving a business or industrial use. Although the proposed use (apartments) is located on land zoned B.M.-C.C.C., it is clear that the use is not business or industrial in nature as contemplated by Section 409.8.B. The use is residential in character in that the tenants of the apartments will reside on the property. It is to be noted that Section 409.6 of the parking regulations classifies the certain uses. These include the residential and lodging uses listed in Section 409.6.A.1 of the B.C.Z.R. Included among the uses listed therein are apartments. Business and industrial uses are classified in Section 409.6.A.2 and 409.6.A.3, respectively.

Notwithstanding the classification of an apartment as a residential use in Section 409.8.A, the Protestants contend that an apartment use is not a pure residential use in that the property owner makes a commercial profit. The Protestants contend that the use is similar to an elderly housing facility, which has, in practice, been considered a commercial use by Baltimore County in applying the parking requirements. The differences between these uses, however, support a conclusion that apartments must be considered residential, while elderly housing facilities are commercial uses. First, the terms are defined differently under Section 101 of the B.C.Z.R. Therein, the words and phrases used throughout the regulations are defined. A "dwelling" is defined as "A building or portion thereof which provides living facilities for one or more families." Dwellings may be single family, townhomes, apartments, etc. It is to be noted that an elderly housing facility is an entirely differently defined use. The definition of an elderly housing facility includes an assisted living facility, a continuing care facility, and Class A or Class B housing for the elderly. Thus, the B.C.Z.R., by its definitions, distinguishes dwellings from elderly housing facilities.

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Moreover, in reality, the operation of elderly housing facilities and apartments is quite different. Most residents of elderly housing facilities do not own automobiles and do not park at that use. The parking spaces reserved at elderly housing facilities are generally for visitors, employees, and deliveries. To the contrary, residents of apartment buildings typically own vehicles and quite obviously park at their homes. Thus, an elderly housing facility and apartment building cannot be construed to require the same treatment as it relates to the parking regulations.

Additionally, as noted in Developer's Memorandum, the parking spaces located across Oella Avenue have existed for some time and have been used in conjunction with the Oella Mill for many years. These spaces were in existence prior to the adoption of the parking regulations and performance standards enacted under Bill No. 26-88 in 1988. Moreover, Baltimore County approved a site plan for Oella under the CRG process in 1988. At that time, there was no issue raised by Baltimore County or other interested parties regarding those parking spaces.³ Similarly, there is no comment on this issue by the Zoning Review Division of DPDM in the current Hearing Officer's Hearing case file. For all of these reasons, I find that the Developer need not file a Petition for Special Hearing pursuant to Section 409.8.B of the B.C.Z.R. The parking spaces located on the other side of Oella Avenue are appropriate and can be utilized to support the proposed apartment use.

7. Applicability of Residential Transition Area (RTA) Requirements:

A major issue raised by the Office of People's Counsel and the Protestants relates to the applicability to this project of the RTA requirements found within Section 1B01.B.1 of the B.C.Z.R. Simply stated, the issue is whether the RTA regulations apply to this property (zoned BM-CCC), or whether they apply only to land zoned D.R. At the onset, it should be noted that the RTA regulations are confusing to read and imprecisely worded. The issue could be easily resolved by legislative amendment to the B.C.Z.R. simply stating whether the RTA requirements are applicable only to development proposals on D.R.-zoned land. Unfortunately, a clear statement of the legislative intent by the use of clear and unambiguous words is not present.

³ That approved CRG plan has since lapsed.

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Thus, the Hearing Officer is required to evaluate the RTA regulations within their context to determine the legislative intent.

The position of People's Counsel and the Protestants is clearly set out in their written memoranda. Therein, People's Counsel and Protestants note the legislative history of the RTA requirements. The present language governing RTA was drafted in Bill No. 2-92 (1992).

RTA had its genesis in Bill No. 100-70 (1970). Later, the RTA regulations were amended under Bill No. 124-81. In that Bill, the regulations provided, in part, that "A residential transition area is any D.R....zone, or part thereof..." Clearly, the language of Bill 124-81 states that a RTA exists only in a D.R. zone. People's Counsel argues that the current RTA regulations do not explicitly state that they are applicable in the D.R. zones only, as was the case in Bill No. 124-81 or its predecessor, Bill No. 100-70. The absence of this direct language, it is argued, mandates a broader applicability. Further, the Protestants and People's Counsel argue that, pursuant to the current language in Bill No. 2-92, RTA is generated by the zoning at the tract boundary of the subject site.

It is specifically noted that Section 1B01.1.B.1.b discusses the generation of a RTA. That Section states that a RTA is generated if the property to be developed "...lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5, or R.C...." Thus, under the Protestants' and People's Counsel's interpretation, it is the zoning at the tract boundary which generates RTA. Moreover, Section 1B01.1.B.1.b provides that the adjacent tract must contain either a single family detached, semi-detached, or duplex dwelling within 150 feet of the tract boundary, or, if vacant, be less than 2.0 acres in size or contain a buildable area of at least 20' x 30'.

Utilizing this Section, People's Counsel and the Protestants urge application of the RTA regulations in that the subject property in this case is adjacent to D.R.3.5 zoned land and that those adjacent parcels contain single family detached, semi-detached, or duplex dwellings.

Further support of People's Counsel's/Protestants' arguments is found elsewhere in the current regulations. Specifically, within the Definitions and Purposes regulation (Section 1B01.1.B.1.a) RTA is defined as "A 100-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed." Again, this

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language is relied upon for the proposition that RTA is generated based upon adjacent D.R. zoning.

Finally, the Protestants and People's Counsel note that the RTA regulations define certain residential transition uses (See Section 1B01.1.B.1.d) and conditions (See Section 1B01.1.B.1.e) in the RTA. The Protestants and People's Counsel urge that collectively all of these Sections and legislative history support a finding that the RTA regulations are applicable here. Since no RTA buffers are shown on the plan, the Protestants and People's Counsel argue that the plan must be denied. Moreover, it need be stated that the above is not fully descriptive of People's Counsel's/Protestants' arguments on this topic, but rather is a summary thereof.

To the contrary, the Developer argues that the RTA regulations are not applicable. Expert testimony in support of their argument was produced by Mitchell Kellman, a Zoning consultant presently employed by Daft-McCune-Walker, Inc., who previously was employed in Baltimore County's Department of Permits and Development Management (DPDM). As to the Developer's arguments, it is first noted that indeed, the RTA regulations are codified and found entirely within Article 1B01 of the B.C.Z.R. By definition, this Article contains "regulations with respect to D.R. zones in general." As this Hearing Officer noted in the matter of the development plan for the Har Sinai Congregation (Case no. IV-518), the inclusion of the RTA regulations within this Section is persuasive to a conclusion that RTA applies only in the D.R. zone. Simply stated, the RTA regulations are found within that Chapter of the B.C.Z.R. that regulates uses in the D.R. zone. Since the subject property is zoned B.M.-C.C.C., RTA is not applicable.

Mr. Kellman noted that this was the long-standing position of Baltimore County. That is, the County's zoning office (DPDM) has long interpreted the RTA requirements to be applicable only for proposed development on a D.R. zoned tract. Further, it is to be noted that the County Council, by legislative amendment to the B.C.Z.R., specifically expanded the RTA regulations for residential development in the O.R.-1 and O.R. 2 zones. That is, by Bill No. 186-94, the Council specifically stated that certain uses in the O.R.1 and O.R.2 zones were subject to the RTA regulations (See Section 205.4.A). Thus, the Developer argues that the passage of Bill No. 186-94 by the Council is indicative of the Council's intent to extend the RTA regulations to

tracts other than D.R., namely for residential development in O.R.1 and O.R.2 zones. The Developer also notes that no such similar language exists in the B.M. regulations (See Section 233). The Developer further notes that the Zoning Commissioner's Policy Manual and the Comprehensive Manual of Development policies (CMDP) specifically state that residential projects within a non-residential zone are not subject to the RTA requirements. Quite obviously, those provisions reflect the long-standing application of the RTA regulations by the zoning office (DPDM).

Finally, the Developer disputes the assertion by People's Counsel and the Protestants that the RTA regulations are incorporated into the regulations governing a residentially used tract zoned B.M. As noted within the discussion of the density issue herein, People's Counsel and the Protestants argue that residential development in a B.M. zone is governed by the regulations for the adjacent zone. In this case, the adjacent tract is zoned D.R.3.5. In response to this assertion, it is to be observed that the residential/apartment development is based upon the authority found in the C.C.C. district regulations. That is, only because of the C.C.C. district overlay, can the tract be developed as proposed. The C.C.C. district regulations do not contain similar wording incorporating the adjacent zone's regulations.

Upon due consideration of the testimony and arguments offered, I am ultimately persuaded that the long-standing position adopted by the zoning office (DPDM) is correct. That is, the placement of the RTA regulations within Section 1B01 of the B.C.Z.R. is the most persuasive factor. In my judgment, had the Council intended to apply the RTA regulations outside development in a B.M.-C.C.C. zone, it could have specifically done so, just as it did in the O.R.1 and O.R.2 zones. Although I am troubled by the absence of a clear statement within the RTA regulations stating that they are applicable only to property zoned D.R., the location of the RTA regulations within that Section governing the D.R. zones is indicative of the Council's intent that the RTA regulations are applicable only to development in the D.R. zone. Thus, on balance, I reject the Protestants' and People's Counsel's argument that the RTA regulations are applicable here.

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Although I conclude that the RTA regulations are not applicable to the vast portion of the tract zoned B.M.-C.C.C., the existence of a small strip (.18 acres) zoned D.R. 3.5 within the subject parcel raises yet another issue. Specifically, as noted above within the discussion regarding parking, 11 of the parking spaces on the south side of Oella Avenue are located within the D.R. zoned strip. Here, unquestionably, an RTA would be generated. What impact does this residentially zoned strip and the parking spaces thereon have on the development plan?

The simple answer is "none," given the nonconforming use of that strip. The undisputed testimony and evidence offered was that this strip has been used for parking for many years. It was used for parking years ago; is used for parking currently; and, it will be used for parking under the proposal. This history and unchanged proposed use are persuasive factors, in my judgment, that the generation of a RTA by that small D.R. zoned strip is without effect. The B.C.Z.R. (Section 104) recognizes that certain uses are "grandfathered" (i.e., nonconforming), given their long-standing use. Given the small percentage of the overall tract involved, as well as the history of parking use thereon, I find that RTA regulations are inapplicable in this instance.

8. Floodplain:

The Protestants argue that the development plan must be denied due to the location of the floodplain. As noted above, the site abuts the Patapsco River. Indeed, as indicated during the testimony of Charles V. Main, II, the Project Manager for Daft-McCune-Walker, Inc., a portion of the property actually encompasses the bed of the river (See Transcript, May 10, 2002, Pgs. 73 and 74). Quite obviously, the river generates a riverine floodplain.

In support of their position, the Protestants offered a copy of the Federal Emergency Management Agency (FEMA) Map No. 240010-0370 D. That map clearly shows that a portion of the floodplain encompasses all of that ground on which the Power Plant building is located, and a portion of the Old Oella Mill building. Relying upon Sections 26-276 and 26-668 of the Baltimore County Code, the Protestants argue that the proposed redevelopment of this site is not permitted.

Obviously, the Developer disagrees. Testimony in this regard was again offered by Mr. Main, the Developer's consultant. He indicated that the floodplain shown on the

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development plan (Developer's Exhibit 7) differs from that shown on the FEMA map. He further stated that the floodplain shown on the development plan was based upon information obtained from Baltimore County. Apparently, the County's investigation utilized to locate the floodplain for this property reached a different result than that shown on the FEMA map. That is, the County map and FEMA map disagree. At the direction of Baltimore County's Department of Public Works, the Developer has shown the floodplain in accordance with the County's studies. No issue was raised by any County agency regarding this matter other than the Developer was directed to seek a "Letter of Map Amendment" of the FEMA map so as to ultimately reconcile these differing conclusions. Mr. Main indicated that the Developer was in the process of seeking a map amendment at the time of his testimony. The Protestants will no doubt contest this requested amendment before FEMA. Obviously, the propriety of that map amendment is beyond the scope of this Hearing Officer.

The question presented here is whether the development plan can be approved, given the current state of the FEMA map. A number of Sections of the Baltimore County Code need be evaluated in addressing this issue.

The development regulations are codified in Title 26, Article 5 of the Baltimore County Code; specifically, Sections 26-166 through 26-307. The issue of floodplain and wetland protection is contained within Section 26-276 of the Code. Therein, it is provided, in part, that no development is permitted in any riverine floodplain. That Section also provides that in areas where a base flood elevation has not been established, the 100 year floodplain and flood elevation shall be determined by means of a flood study prepared in accordance with the requirements of the Department of Public Works and sealed by a Professional Engineer. Moreover, no permit may be issued before the base flood elevation has been established, nor may any subdivision plat be recorded. This language is particularly relevant, in that it establishes the time frame by which the floodplain must be determined for any given property prior to the issuance of any permit or subdivision plat. Obviously, those events occur after the Hearing Officer's Hearing and development plan approval.

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The other applicable provisions of law on this issue are contained within Article 11 of Title 26 of the Code. That Article is entitled "Floodplain Management Program." It is to be noted that although contained within the same title of the Code, the Floodplain Management Program regulations are not part and parcel of the development review regulations. This is significant in that the standard which must be applied by the Hearing Officer in evaluating a development plan is to determine if same complies with the development regulations contained within Title 26 (See Section 26-206(b) of the Code).

Nonetheless, a review of the provisions of Article 11, Sections 26-661 through 26-670 of the Code, is warranted. As noted by the Protestants, Section 26-668(3) specifies that the lowest floor elevations of all new or substantially improved structures shall be at or above the flood protection elevation. However, the establishment of that elevation is at the ultimate discretion of the Department of Public Works. Specifically, Section 26-663 of the Code requires that "The Director of Public Works shall be responsible for the actual delineation of the FPA (floodplain area)." However, the floodplain area is to be based upon the FEMA map.

In my judgment, the development plan can be approved at the present time in that the floodplain, as established and determined by Baltimore County, is properly shown on the plan. That is, the Developer has presented accurate information sufficient for plan approval through Phase I of the development review process. However, it is obvious that the reconciliation of the FEMA map with the County's studies must be completed before the filing of a record plat for this project or the issuance of any permits. Moreover, Section 26-206(o) of the Code empowers the Hearing Officer to impose conditions upon the approval of a plan where the imposition of such a condition will alleviate an adverse impact on surrounding properties. The hearing officer's authority conferred by this Section has been broadly construed.

The parties disagree whether conditions should be imposed in this case. As fully set forth in their respective Memoranda, the Developer contends that the imposition of a condition would be improper, whereas the Protestants contend that the floodplain reconciliation issue is of a threshold nature and cannot be resolved through conditional approval. I disagree with both parties in this respect. In my judgment, the imposition of a condition to plan approval requiring

that the Developer reconcile the differing floodplain locations, as respectively determined by FEMA and Baltimore County, is warranted and appropriate. Until that issue is resolved, the project can not go forward to the recordation of a record plat or the issuance of permits. Redevelopment of the site without a finalization of this issue could indeed aggravate flood conditions in this area, given the peculiar geographic features of the property. The area at large is prone to flooding and has experienced significant floods in the past. Certainly it is possible that the redevelopment of this property, irrespective of the lack of additional building, could nonetheless aggravate conditions and alter drainage patterns on the site. Conceivably, these could cause a worsening of flood conditions on adjacent properties. There was no testimony offered by the Developer indicating that such a scenario was precluded or impossible.

Therefore, based upon the requirements of Sections 26-661 through 26-670 of the Code and pursuant to the authority of section 26-206(o), I will require that the Developer obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and the floodplain shown on the plan, prior to the issuance of any permits or the filing of a record plat. Only if that reconciliation is obtained can this project move forward.

8. Scope of the Project:

Both People's Counsel and the Protestants urge denial of the plan and argue that the project is simply too large for this property and the neighborhood. They contend that 175 residential apartments will create inappropriate traffic congestion, adverse environmental impacts, etc.

It is the Hearing Officer's responsibility to adjudge the plan in accordance with the regulations and standards set forth in the Baltimore County Code. The Hearing Officer cannot arbitrarily modify or reduce the size of a project upon personal preference. There is no evidence in the record of this case sufficient to support the imposition of a condition that would reduce the size and scope of this project. The plan meets all regulations and standards. I decline to impose the reduction that People's Counsel and the Protestants request.

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Further, it is my opinion that the project is not too large or massive for this site and neighborhood. It is to be stressed that there is no new building proposed. No square footage will be added to the area of the buildings on site. The Developer is not arguably building a structure that is too large for the lot; rather, it is utilizing what already exists. The Developer's plans to redevelop this historic site utilizing the existing buildings should be encouraged. A commercial/industrial/retail redevelopment would cause significantly more impacts to the community than the proposed residential use. Moreover, the continued neglect and deterioration of the historic buildings on the site through inaction would result in the potential loss of a major landmark in the historic Oella community. For all of these reasons, I will not require a modification to the plan that the citizens seek.

ZONING RELIEF

In addition to development plan approval, the Developer also filed two zoning Petitions requesting certain relief. The first was a Petition for Special Hearing. Although part of the relief requested therein was withdrawn, (i.e., construction of wooden steps in a riverine floodplain), the balance of the special hearing request remains. Specifically, the Developer seeks a waiver from the requirements contained in Section 26-278 of the Baltimore County Code that historic structures be preserved. In this regard, relief is arguably required because the Old Oella Mill is listed on the Maryland Historic Trust Inventory and Oella is listed within the National Register of Historic Districts.

The testimony regarding the Petition for Special Hearing was more than sufficient to support a grant of the relief. Testimony was received from Geoffrey Glazer, architect, regarding the proposal to preserve and redevelop the Old Oella Mill building. Mr. Wagandt's testimony in support of this request is also persuasive.

In my judgment, the Mill and Power Plant buildings are structures worthy of preservation. The proposed redevelopment is an appropriate reuse of the buildings and, I believe, will be an asset to the Oella community. I specifically find that the requirements for waiver relief set out in Section 26-172 are met in this case. Although the Hearing Officer cannot substitute his personal preference in considering this project, I believe that the proposal represents an

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enhancement to the area and I respectfully find that the Protestants' objections to the project are without merit.

In addition to the Petition for Special Hearing, a Petition for Variance was filed, seeking relief from window to property line setback requirements as well as access to and width of certain drive aisles. Turning first to the setback requirements, relief is requested due to the location of the existing buildings and property lines. Section 235.A.2 of the B.C.Z.R. requires that apartment windows facing a property line other than a street line be set back a minimum of 25 feet. In certain locations on the building façade, this requirement cannot be met and windows are as close as 8 feet on the north side of the building. It is to be noted that these windows are existing and that the historic façade of the building will not be materially altered.

The grant of variance relief is governed by Section 307 of the B.C.Z.R. as has been construed in Cromwell v. Ward, 102 Md. App. 691 (1995). In order for a variance to be granted the Petitioner must show that the property is unique, that a practical difficulty would be incurred by the Petitioner if strict adherence to the regulation was required, and that relief can be granted without adverse impact to surrounding properties. The property is surely unique, given the existence of historic buildings and topographical features and configuration. These three factors support a finding of uniqueness as required in Cromwell, *infra*. Additionally, I am persuaded that practical difficulty would be sustained by the Developer if setback relief were denied. That portion of the building for which relief is requested has always had windows. To not allow windows where they previously existed would be inappropriate and would change the historic façade of the building. Moreover, given the character of the area and particularly the adjacent lots, there would clearly be no adverse impact to adjacent properties.

Turning to the access and drive aisle widths, I am likewise persuaded to grant variance relief. The same unique factors exist to support this request; specifically, the footprint and location of the existing building on an irregularly shaped lot with unusual topography and environmental constraints. Obviously, given the historic nature of the building, exterior changes and an alteration of the building's footprint is unacceptable. Working within these constraints, I believe that the Developer's proposal as to parking and driveway access has merit. Testimony

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was offered by the Protestants regarding this issue and that the parking plan is not feasible. In response to same, I defer to the expertise of the Developer's consultants and also note that internal parking will be reserved to tenants of the building. There will be no adverse impact to adjacent properties or indeed any member of the public caused by this variance relief. For all of these reasons, the zoning relief requested shall be granted.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, the development plan shall be approved consistent with the comments contained herein and the restrictions set forth hereinafter, and the Petitions for Special Hearing and Variance granted.

THEREFORE, IT IS ORDERED by this Zoning Commissioner/Hearing Officer for Baltimore County this 8th day of July, 2002 that the red-lined development plan for the Oella Mill Property, identified herein as Developer's Exhibit 7, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve a waiver, pursuant to Section 26-127 of the Baltimore County Code, of Section 26-166 thereof, to permit renovation of a historic structure, in accordance with Developer's Exhibit 7, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum required 25 feet; to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle; and, to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required 22 feet, in accordance with Developer's Exhibit 7, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Developer shall obtain a map amendment from FEMA reconciling the location of the floodplain in accordance with Baltimore County's records and the floodplain shown on Developer's Exhibit 7, prior to the issuance of any permits or the filing of a record plat.

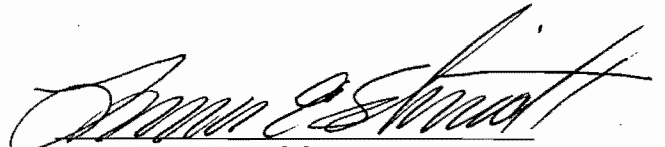
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IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval of a waiver, pursuant to Sections 126-171, 26-172(b) and 26-203(C)(8) and 26-278 of the Baltimore County Code to permit the addition of wooden steps in a riverine floodplain, be and is hereby DISMISSED AS MOOT.

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


LAWRENCE E. SCHMIDT
Zoning Commissioner/Hearing Officer
for Baltimore County

LES:bjs

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7/8/12

By



IN RE: DEVELOPMENT PLAN HEARING
S/S White Marsh Road, N of Bucks
Schoolhouse Road (Church Property)
14th Election District
6th Council District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY

St. Peter's Lutheran Church
of Fullerton, owners:
Prestige Development, Inc.
Contract Purchaser/Developer

* Case No. XIV-392
*

*Entered as
examples in
Della*

**BALTIMORE COUNTY'S RESPONSE TO PRESTIGE'S
MEMORANDUM IN SUPPORT FOR SPECIAL HEARING FILED JUNE 25, 2001**

The Motion for Reconsideration was filed by Prestige Development, Inc. ("Prestige") on December 27, 2000. The Hearing Officer ruled on December 27, 2000 that:

The Developer shall be required to provide areas of open space acceptable to the Department of Recreation and Parks, in accordance with the requirements contained in the presently enacted Open Space Manual.

The Hearing Officer should uphold his December 27, 2000 ruling as we will explain.

Prestige is prohibited by the Baltimore County Code and the Local Open Space Manual from paying a fee to the local open space account in lieu of dedicating the active open space.¹ Section 26-498 provides for the circumstances when a fee may be paid:

- (d) Unless the development is adjacent to a county or state park, if the residential development contains 20 or fewer dwelling units, an applicant may pay a fee to the local open space revenue account instead of dedicating the first 650 square feet as required in subsection (c)(2) of this section.
- (e) (1) The department of recreation is adjacent to a county or state park, if the residential development contains 20 or fewer dwelling units, an applicant may pay a fee to the local open space revenue account instead of dedicating the first 650 square feet as required in subsection (c)(2) of this section if:
 - (i) the development is located in a CT district, a RAE zone or the development is an elderly housing facility as defined in the zoning regulations or dormitories for the housing of not less than 50 students attending an accredited higher education institution; and

¹The County Council adopted the Local Open Space Manual on February 22, 2000.



**Baltimore County
Zoning Commissioner**

July 9, 2002

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

Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: DEVELOPMENT PLAN HEARING and
PETITIONS FOR SPECIAL HEARING & VARIANCE
W/S Oella Avenue, E of Patapsco River, 190' NW of the c/l Oella Hollow Road
(The Oella Mill Property)
1st Election District - 1st Council District
Oella Mill LLP, Owners; Forest City Residential Group/East Coast Development,
Contract Purchaser/Developer
Cases Nos. I-498 & 02-412-SPHA

Dear Mr. Hoffman & Ms. Malone:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The development plan has been approved, and the Petitions for Special Hearing and Variance 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,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Jon Wallenmeyer, V.P., East Coast Development
5803 Nicholson Road, Rockville, Md. 20853
Messrs. Charles Main, II, Eric Hadaway & Mitchell Kellman, Ms. Linda Jones
Daft-McCune-Walker, Inc., 200 E. Pennsylvania Avenue, Towson, Md. 21286
Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Sq.Dr., #H, Baltimore, Md. 21236
Messrs. Ronald Kann, Geoffrey Glazer, & Peter Ruff, Kann & Associates, Inc.
207 E. Redwood Street, Baltimore, Md. 21202
John V. Murphy, Esquire, 14 Rolling Road, Catonsville, Md. 21228-4848
Ms. Kelly Clark, 109 Oella Avenue, Oella, Md. 21228
Mr. Henry Berger, 734 Pleasant Hill Road, Ellicott City, Md. 21043
Mr. Gregg V. Brown, 709 Pleasant Hill Road, Ellicott City, Md. 21043
Mr. Mark Wilson, 2642 Westchester Avenue, Ellicott City, Md. 21043
Peter Max Zimmerman, Esquire, People's Counsel; Don Rascoe, DPDM; DEPRM; DPW; OP; R&P;
Case Files

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



6/21/02

IN THE MATTER OF
OELLA MILL, LLP, et al.,
FOR DEVELOPMENT
PLAN APPROVAL, SPECIAL
HEARING, AND VARIANCE

840 Oella Avenue

1st Councilmanic District
1st Election District

* BEFORE THE
* ZONING COMMISSIONER/
* HEARING OFFICER
* FOR BALTIMORE COUNTY
*
* PDM No. I-498
* Case No. 02-412-SPHA
*

* * * * *

JUN 21 2002

DEVELOPER'S POST-HEARING MEMORANDUM

Oella Mill, LLP, owner, and Forest City Residential Group, contract purchaser, (hereinafter "Developer" or "Forest City"), by Robert A. Hoffman and Patricia A. Malone with Venable, Baetjer and Howard, LLP, its attorneys, respectfully submit this Post-Hearing Memorandum in support of development plan approval and approval of requested zoning relief, as follows:

INTRODUCTION

As discussed in detail below, before the Hearing Officer, Forest City produced strong and substantial evidence that the Oella Mill development plan fully complied with the Development Regulations and all applicable rules, regulations, and policies, which evidence was not rebutted by Protestants or People's Counsel (hereinafter "Protestants"), and that the requested zoning relief (Petition for Special Hearing and Petition for Variance) was justified and should be granted.

ARGUMENT

I. THE DEVELOPMENT PLAN FULLY COMPLIES WITH THE DEVELOPMENT REGULATIONS AND ALL APPLICABLE RULES, REGULATIONS, AND POLICIES.

As the record reflects, during the course of the Hearing Officer's Hearing, representatives from the relevant County agencies and the State Highway Administration appeared (or submitted written comments) and indicated that the redlined Oella Mill development plan, submitted as Developer's Exhibit 7, complied with all applicable requirements and that the respective agency had no outstanding issues with the plan that would prevent approval of the plan:

Department of Public Works: Robert Bowling appeared on behalf of the Department of Public Works ("DPW") and indicated that his department had reviewed the redlined development plan and had "no outstanding issue or comments." (T., 5/09/09, pp. 120-123)

Office of Planning: Mark Cunningham appeared on behalf of the Office of Planning and indicated that his department had only "one minor housekeeping item" and that was to put the "census tract" on the plan. (T., 5/09/02, pp. 124-125) Other than this item, the Office of Planning had no other outstanding issues with regard to the development plan. (T., 5/09/02, p. 125)

As was pointed out during the testimony of Charles Main, the engineer responsible for preparation of the development plan, the census tract was, indeed, shown on the plan,

and Mr. Cunningham simply did not see the reference. (T., 5/09/02, p. 56) Therefore, the plan was not deficient in this respect.

Zoning Review: Lloyd Moxley appeared as the representative of the Zoning Review office and indicated that his office was satisfied that the redlined Oella Mill development plan addressed any of its concerns. (T., 5/09/02, pp. 130-131)

Although not a requirement for the development plan, with regard to the site plan submitted with the Petition for Variance and Special Hearing, introduced as Developer's Exhibit 36, Mr. Moxley requested that Developer add a reference to a prior CRG Plan for the Oella Mill property, approved in 1988, which plan had since expired. (T., 5/09/02, pp. 131-132) Forest City agreed to add the requested reference to the zoning site plan. (T., 5/09/02, p. 132) As the Hearing Officer indicated, the CRG file to which Mr. Moxley was referring (PDM # I-226) was "part of the record of the case," and he noted that "the plan had lapsed." The Hearing Officer properly saw this issue as "resolved." (T., 5/09/02, p. 119-120) At any rate, a reference to an old CRG Plan is not a requirement of Section 26-203 of the Baltimore County Code ("B.C.C.") and, therefore, not a sufficient basis on which to deny approval.

Bureau of Land Acquisition: William Miner appeared on behalf of the Bureau of Land Acquisition and testified that the redlined development plan addressed all of his issues and that he was satisfied. (T., 5/09/02, p. 133)

Fire Department: The Baltimore County Fire Department issued what the Hearing Officer characterized as a "standard comment" without "particular site-specific issues" requiring compliance with the Baltimore County Fire Prevention. (T., 5/09/02, pp. 134-135)

Lieutenant Jimmie Mezick, Baltimore County Fire Marshall's Office, appeared at the hearing on May 9, 2002, but did not stay to offer any testimony. (T., 5/09/02, p. 134) Therefore, the Hearing Officer can only presume that the Fire Department had no outstanding issues that would prevent development plan approval.

State Highway Administration: Kenneth McDonald of the Maryland State Highway Administration issued a development plan conference comment on March 29, 2002, which is included in the file, indicating that his agency has no objection to approval of the plan.

Department of Recreation and Parks: Jan Cook of the Department of Recreation and Parks confirmed during the hearing that the redlined development plan for the Oella Mill complied with his department's requirements, and there were no outstanding issues with regard to plan approval. (T., 5/09/02, pp. 135-137)

Department of Environmental Protection and Resource Management: Todd Taylor appeared on May 9, 2002, and outlined the position of the Department of Environmental Protection and Resource Management ("DEPRM") that, at that time, there were three outstanding issues with regard to approval of the Oella Mill development plan. (T., 5/09/02, pp. 82-86) Mr. Taylor explained that Storm Water Management had not had sufficient time to review the required hydrology computations and to determine whether Forest City was providing a suitable outfall. (T., 5/09/02, pp. 83-84) Secondly, Mr. Taylor explained that his department had not yet completed review of the alternatives analysis submitted in conjunction with the forest buffer variance request. (T., 5/09/02, pp. 84-85)

Thirdly, DEPRM was asking for additional information with regard to the Phase I Environmental Site Assessment. (T., 5/09/02, pp. 85-86) DEPRM requested an additional four weeks to complete its review. (T., 5/09/02, p. 89) To provide DEPRM with the necessary time to complete its review, the Hearing Officer scheduled a hearing date of June 12, 2002.

On June 12, 2002, Bruce Seeley appeared on behalf of DEPRM and confirmed that: (1) DEPRM had reviewed the hydrology calculations submitted and concurred that the proposed outfall was "suitable; (2) with the proposed wooden steps and outlook removed from the forest buffer area and with mitigation and other conditions referenced in a June 5, 2002, letter to the project engineers (Developer's Exhibit 20), DEPRM had granted the forest buffer variance; and (3) confirmed that the additional information requested on the Phase I Environmental Assessment, outlined in Developer's Exhibit 21, was not a requirement of development plan approval, but would be addressed prior to the issuance of any grading or building permits. (T., 6/12/02, pp. 6-16) DEPRM, therefore, had no outstanding development plan issues.

On behalf of Forest City, Charles Main, professional engineer responsible for preparation of the Oella Mills development plan, introduced the two-page redlined plan and gave a brief description of the project. (T., 5/10/02, pp. 50-56) Mr. Main then testified that, with the redlined changes, the development plan submitted as Developer's Exhibit 7 met all the regulations and requirements for development plan approval contained in the Baltimore County Code. (T., 5/10/02, pp. 55-56)

With this testimony and the concurrence of the different County agencies and the State Highway Administration, Forest City satisfied its burden of proof with regard to approval of the development plan and, therefore, was entitled to approval of the plan unless Protestants were able to point to a specific failure of the development plan to comply with the applicable regulations. As discussed below, Protestants were unable to do so, and Forest City is, thus, entitled to approval of its development plan.

II. PROTESTANTS PRESENTED NO CREDIBLE EVIDENCE OR ARGUMENTS TO DISPUTE FOREST CITY'S ENTITLEMENT TO DEVELOPMENT PLAN APPROVAL.

Protestants alleged certain deficiencies with regard to the Oella Mill development plan, and the alleged deficiencies are addressed below:

A. The Hearing Officer Ruled in favor of Forest City on Three Threshold Issues.

In their Hearing Memorandum, Protestants have raised three issues already decided by the Hearing Officer. Because the Hearing Officer has already ruled on these issues, Forest City will simply refer the Hearing Officer to the pages in the transcript where the rulings were made.

1. The Property's BM-CCC Zoning Provides Unrestricted Density.

Protestants argued that the project's density should be controlled by the adjoining density residential zone, which is DR 3.5, and, therefore, should be limited to a density of 3.5 dwelling units per acre or 20 units in total. Protestants made this argument in spite of the clear language of Section 235.A.3 of the Baltimore County Zoning Regulations

("B.C.Z.R."), which regulates BM-CCC zones such as this and provides that "[t]he specific number of dwelling units or density units, as such, shall not be directly limited."

After hearing testimony from George Gavrelis, expert land planner and former Director of the Office of Planning and Zoning (T., 5/09/02, pp. 200-222), and considering examples of projects developed under BM-CT zoning, which contains a similar provision regarding density (Developer's Exhibits 4 and 5), the Hearing Officer properly ruled that "[a]s I have considered Section 235.A, I am convinced that the language of that section is clear...that in a CCC District, there is no specific limitation at all on density, and as such, this property is not limited to any specific density number." (T., 5/10/02, pp. 3-7)

2. The Development Plan Reflects Apartments only above the First Story.

Protestants contended that the Oella Mill development plan should not be approved because it does not comply with the provision contained in B.C.Z.R. Section 235A.1 that "[a]partments shall be permitted, but only above the first story of a building." Protestants argued that B.C.Z.R. Section 235A.1, although not specifically stated, by implication would require a commercial or retail use on the first story.

The Hearing Officer rejected both of these arguments. With regard to the allegation that the project had apartments on the first story, the Hearing Officer properly found that the uncontradicted testimony of Geoffrey Glazer, licensed architect (T., 5/09/02, pp. 223-230), and Developer's Exhibit 2, demonstrated that "the first story of the building...does not contain apartments." (T., 5/10/02, p. 8) With regard to the implied requirement of

commercial or retail activity on the first story, the Hearing Officer refused to “step into the shoes of the [Baltimore County] Council, and to read something into the law that is not there.” (T., 5/10/02, pp. 8-10)

3. The Local Open Space Requirements of the Adequate Public Facilities Law (Bill No. 110-99) do not Apply to this Project.

Protestants disagreed with the Department of Recreation and Parks’ determination that the local open space requirements of the Adequate Public Facilities law (Bill No. 110-99, codified at Section 26-491 through Section 26-500 of the Baltimore County Code) were not applicable to this project because Forest City does not propose “residential development.” “Residential development” is defined in B.C.C. Section 26-492(g) as “the development of property for the construction of dwelling facilities.”

Jan Cook of the Department of Recreation and Park testified at the hearing regarding his department’s determination that the project was a “renovation of an existing building” and not considered, therefore, to be “development.” (T., 5/09/02, pp. 162-199) During his testimony, Mr. Cook explained that an application of the local open space provisions to this project would have required approximately 4 acres of open space on this 5 ½ acre parcel of land. (T., 5/09/02, p. 166)

After considering Mr. Cook’s testimony, argument of counsel, and his own review of Bill No. 110-99 and other sections of the Baltimore County Code, the Hearing Officer ruled that the local open space provisions of the Adequate Public Facilities bill do not apply to this project. (T., 5/10/02, pp. 15-19) After explaining all of the factors that went into his

decision, the Hearing Officer went on to explain that he could not believe that the Baltimore County Council would have required that “more than 80% of a parcel would have to be dedicated for open space under these circumstances.” (T., 5/10/02, p. 17)

B. Residential Transition Area Restrictions Do Not Apply to this Property.

In addition to these three threshold issues, Protestants argued that the residential transition area (“RTA”) restrictions contained in B.C.Z.R. Section 1B01.1.B apply to the Oella Mill property despite the Mill building and the proposed apartments being located in a BM-CCC zone. Protestants’ theory appears to be based on an assumption that the proposed apartments are permitted because the BM zone allows the uses permitted in the BL zone, which, in turn, permits “[u]ses permitted and limited in the residential zone immediately adjoining....” B.C.Z.R. §§ 230.1, 233.1. Protestants then concluded that the BM zone, therefore, incorporates all regulations pertaining to the adjoining DR zone, including RTA restrictions.

Protestants’ theory must fail at the outset. The apartments are not being proposed under the authority of either B.C.Z.R. Section 233.1 or Section 230.1. In fact, the adjoining DR zoning, D.R.3.5, does not even permit multifamily buildings (defined as a structure containing three or more apartments), such as the one proposed at the Oella Mill. B.C.Z.R. §§ 101, 1B01.1.A. Rather, the proposed apartments at the Oella Mill are permitted by virtue of a special district – CCC – imposed on certain BM properties, including the Oella Mill property. B.C.Z.R. § 235A.1.

Protestants have attempted to stretch the application of the RTA even further to

include any property, regardless of its zoning, with DR-zoned property along its tract boundary. Protestants apparently come to this conclusion because B.C.Z.R. Section 1B01.1.B does not specifically exclude properties zoned with classifications other than DR zoning. This argument is not supported by the language of the Zoning Regulations themselves, the legislative history surrounding adoption of the RTA regulations, or any accepted interpretation or practice by Baltimore County.

To accept this argument would require the Hearing Officer to ignore the clear language of the regulations, themselves, which place these restrictions under B.C.Z.R. Section 1B01, entitled "Regulations with Respect to D.R. Zones in General," and, particularly, under subsection 1B01.1, entitled "General Use Regulations in D.R. Zones." The Hearing Officer would likewise have to ignore years of precedent concerning the application of these regulations, as testified to by Mitchell Kellman, and specific action by the Baltimore County Council as recently as 1994 specifically incorporating the RTA requirements into the OR-1 and OR-2 zones (*see* Memorandum Exhibits 1 and 2, Bills 186-94 and 108-94, codified at B.C.Z.R. §§ 205.4, 206.4), and the related Final Report by the Planning Board, dated July 22, 1994, wherein the Board articulates on pages 2-3:

[t]he RTA (Residential Transition Area) restrictions, which, in the D.R. zones, provide additional setbacks and buffers between single-family homes and other uses, do not apply in either the O-1 [now OR-1] and O-2 [now OR-2] zones

....

Because the RTA rules do not apply, no special setback or buffer is required between adjacent single-family uses in D.R. zones and the new residential developments in the Office zones.

See Memorandum Exhibit 3 (emphasis added).

Protestants would also ask that the Hearing Officer ignore the current version of the Comprehensive Manual of Development Policies (“CMDP”), page 28 of Residential Standards, which clearly does not support their position: “Residential projects within a nonresidential zone are not subject to residential transition requirements.” *See* Memorandum Exhibit 4 (emphasis added). Lastly, Protestants argument would require the Hearing Officer to ignore the stated interpretation contained in the Zoning Commissioner’s Policy Manual, page 1B-5, and this Hearing Officer’s ruling in the Har Sinai case (PDM No. IV-518), which ruling was affirmed by the County Board of Appeals. *See* Memorandum Exhibit 5, pp. 10-12, and Memorandum Exhibit 6, pp. 25-27.¹

Because there is no basis for the Hearing Officer to apply the requirements of B.C.Z.R. Section 1B01.1.B to this project as suggested by Protestants, the Hearing Officer should confirm that the RTA requirements do not apply to this project.

C. Protestants failed to Demonstrate that the Parking Spaces across Oella Avenue were not in Compliance with the Zoning Regulations.

Protestants have alleged that the parking spaces across Oella Avenue located within the DR 3.5 zone do not comply with the standards set out in B.C.Z.R. Section 409. Specifically, Protestants have alleged that a use permit for “business or industrial parking in residential zones” under Section 409.8.B is required for 11 of these parking spaces to be

¹ The CMDP was adopted pursuant to B.C.Z.R. Section 504, which expressly requires County Council approval. The Zoning Commissioner’s Policy Manual was adopted in accordance with the procedures outlined in B.C.C. Section 2-416, et seq.

used in conjunction with the proposed apartments. Secondly, Protestants argue that these spaces cannot lawfully be located along Oella Avenue under Section 409.8.C.2. The Hearing Officer should reject Protestants' arguments.

With regard to the use permit issue, the Hearing Officer has already determined that the 11 parking spaces located across Oella Avenue in a DR 3.5 zone would not be considered "business or industrial parking" when used in conjunction with the proposed apartment use. (T., 6/12/02, pp. 354-356). As the Hearing Officer noted, "the mere fact that this is an apartment and somebody is paying rent does not make it a commercial entity." (T., 6/12/02, p. 356) It is notable that those parking spaces have been in existence for many years and have, in fact, been used in conjunction with both the current commercial use of the Mill and the prior industrial use of the Mill without special relief being required.

Protestants' argument with regard to the application of the performance standards for parking spaces, including the restriction for parking bays located on a street, should also be rejected. The performance standards to which Protestants refer were passed in 1988 (Bill No. 26-88). As Protestant Henry Berger acknowledged, the parking spaces across Oella Avenue are in existence and are being used in conjunction with the Oella Mill today. (T., 6/12/02, pp. 374-375) There is also more than sufficient evidence for the Hearing Officer to find that the Oella Mill has been using these spaces as additional parking for years, well before the passage of new performance standards and that these spaces would, therefore, be considered nonconforming by Baltimore County. (T., 5/15/02, pp. 36-40) For example, the Site Plan for CRG and Zoning for Oella Mills (PDM # I-226, approved by CRG on

September 16, 1988, incorporated into the Hearing Officer's file in this matter) clearly shows the parking in existence in this area as of 1988. The status of these spaces is further confirmed by the absence of any comment by either the Zoning Review office or the Department of Public Works requiring removal of the 29 spaces or any additional relief.

D. The Roadways Surrounding the Oella Mill are Adequate and Safe.

Protestants expressed general concerns regarding the condition and operation of the roads surrounding the Oella Mill and that the proposed apartments would result in an unacceptable increase in traffic, making the already "treacherous" and "dangerous" roads worse. According to B.C.C. Section 26-203(d)(4), Forest City was only required to show on the development plan "existing and proposed County, State and private streets, along with estimated proposed average daily trips." Protestants have not disputed that Forest City complied with this requirement. Although it reserves the right to argue that it was not required to do so at this stage, Forest City also produced overwhelming testimony and evidence to demonstrate that the surrounding roadways are "adequate" to handle the anticipate level of traffic from the project.

Mickey Cornelius, expert traffic engineer, testified before the Hearing Officer and produced two reports evidencing his findings. (T., 5/13/02, pp. 10-133) *See also* Developer's Exhibits 12 and 13. First, Mr. Cornelius testified that he performed an analysis of the amount of traffic that the proposed apartment use would generate versus the potential volume generated from the existing uses on the property. (T., 5/13/02, pp. 11-16) His analysis concluded that the proposed apartments would generate less average daily trips

(1,229 less ADTs) than could be generated by the existing uses on the site. (T., 5/13/02, pp. 12-16)

Second, Mr. Cornelius testified that he performed a link capacity analysis to determine the capacity of the roadways surrounding the Oella Mill. (T., 5/13/02, pp. 18-28) Prior to rendering his opinion on this issue, Mr. Cornelius cautioned that this type of analysis was really intended for "two-lane highways" and should not be considered a "detailed operational analysis," but, rather, "an estimate as to how the roads are operating given the existing volume and the capacity of the road system." (T., 5/13/02, pp. 18-21) As Mr. Cornelius explained on cross-examination, for these types of roads, there is no way to identify "actual capacity." (T., 5/13/02, pp. 62-63, 65) Rather, it is the surrounding intersections that control and, as discussed in the following paragraph, Mr. Cornelius found these intersections to be at "good levels of service." (T., 5/13/02, pp. 63-66) With this qualification, Mr. Cornelius testified that the link capacity analysis of the roadways resulted in a volume to capacity ratio of .06 or 6% of capacity or lower. (T., 5/13/02, pp. 23-24) *See also* Developer's Exhibit 12, Exhibit 8. Mr. Cornelius confirmed that these estimates are well below the level of .9 or 90% of capacity that the State Highway Administration finds to be acceptable. (T., 5/13/02, pp. 23-24)

Mr. Cornelius also undertook an analysis of three intersections in close proximity to the Oella Mill, considered what impact the proposed apartments would have on those intersections, and detailed his findings in a report dated April 17, 2002. (T., 5/13/02, p. 33-34) *See also* Developer's Exhibit 13. Specifically, Mr. Cornelius found that these three

intersections (MD 144 and Oella Avenue – west, MD 144 and Oella Avenue – east, and Oella Avenue and Westchester Avenue) will maintain acceptable levels of service and that the proposed redevelopment of the site would have “minimal impact on operating conditions at the key intersections.” Developer’s Exhibit 13, p. 3. (T., 5/13/02, pp. 34-50) As Mr. Cornelius testified, even without subtracting out existing traffic to and from the Oella Mill, he estimates that the resulting impact in terms of delay at the surrounding intersections from the proposed apartments would “less than 2 seconds.” (T., 5/13/02, pp. 48-50)

In response to some general concerns raised by individuals regarding the roads in Oella, Mr. Cornelius offered his expert opinion that the roadways “operate satisfactory [sic] under existing conditions” and “can be traversed safely at the posted speed limits.” (T., 5/13/02, pp. 52-53) Mr. Cornelius also examined the accident reports for the surrounding roadways from January 1998 through December of 2000 and prepared an exhibit summarizing his findings. *See* Developer’s Exhibit 14. As Mr. Cornelius explained, the average of one accident per year on the surrounding roadways indicates that “the motorists are able to traverse the narrow roads and Oella Avenue without significant safety problems.” (T., 5/13/02, pp. 54-59)

When raised on cross-examination, Mr. Cornelius also provided his expert opinion that the proposed access points from the Oella Mill site “have sufficient site distance in accordance with the requirements of the County,” as was confirmed through a site visit by Baltimore County’s traffic engineer Rahee Famili. (T., 5/13/02, pp. 75-78) Therefore, Forest City produced more than sufficient evidence as to the adequacy and safety of the

surrounding roadways and intersections and confirmed that the proposed apartments would not adversely impact the residents of or visitors to Oella.

In an attempt to raise some issue with regard to the roadways in the Oella area, Protestants produced Mammen Daniel as an expert traffic engineer. While much of Mr. Daniel's testimony was unclear, certain statements Mr. Daniel made, either during his testimony or in writing, were clear and would appear to support approval of the development plan:

what I want to emphasize today is not the trip generation, not the intersection capacity, not the roadway capacity, these have been done fairly according to the standards and the procedures, but what I would like to bring to your attention is the inadequacy of the [existing] roadway with respect to acceptable standards.

(T., 5/13/02, p. 142) (emphasis added) This opinion is consistent with a March 11, 2002, memorandum from Mr. Daniel, wherein he wrote in his own words:

I have reviewed the Traffic Study submitted by the Traffic Group in order to determine if the study has been conducted according to the standard traffic engineering principles and standards. My findings based on the trip generation are that the differential trips would be minimal to cause any adverse impact on the roadway system. The study has looked at all the elements of design features such as the intersection capacities and two lane operation and the analyses show that they will operate under acceptable conditions. Therefore traffic should not be considered as the primary cause of any objection.

(T., 5/13/02, pp. 200-203) See Developer's Exhibit 16 (emphasis added). It is important to note that this memorandum was brought to the attention of the Hearing Officer by Developer and not by Protestants. When questioned about this memorandum, Mr. Daniel acknowledged having written it and admitted to having found Mr. Cornelius' first report to be "complete" and "acceptable." (T., 5/13/02, p. 213)

Mr. Daniel also testified that: (1) he found no issues with regard to the site plan or access into and out of the Oella Mill (T, 5/13/02, pp. 145); (2) he found no issue with regard to roadway capacity and stated that “capacity will be there on the road (T., 5/13/02, pp. 161-165); (3) after having agreed that accident data is a critical element to assessing safety of roadways, he testified that he did not dispute the data offered by Mr. Cornelius. (T., 5/13/02, pp. 191-192)

Certainly, with the overwhelming evidence and testimony provided by Mr. Cornelius, which was not rebutted by any credible testimony to the contrary, and with the fact that there were no outstanding issues identified by the Department of Public Works, the Hearing Officer should find the development plan acceptable in terms of traffic issues.

E. The Pending Letter of Map Amendment does not Prevent Plan Approval.

B.C.C. Section 26-203(c)(6) requires that the development plan identify “one-hundred-year floodplains or flood areas for both riverine and tidal areas.” At the hearing, Charles Main, professional engineer, testified that the Oella Mills development plan shows the location of the one-hundred-year floodplain as recognized by Baltimore County based on a detailed study prepared for Baltimore County. (T., 5/10/02, 75-85) As Mr. Bowling of the Department of Public Works (“DPW”) confirmed, his department had no outstanding issues and obviously, therefore, agreed with the placement of the one-hundred-year floodplain in its current location. (T., 5/09/02, pp. 120-123)

Mr. Main testified that, as requested by DPW, he filed a “Letter of Map Amendment” with the Federal Emergency Management Agency (“FEMA”) requesting that FEMA revise

the Flood Insurance Rate Map ("FIRM") for the area (Panel 240010 0370 B) to agree with Baltimore County's study. (T., 5/10/02, pp. 77-79) Baltimore County's study would place the one-hundred-year floodplain further to the west towards the Patapsco River than is currently shown on the FIRM. Developer's Exhibit 37.

Protestants argued that, with the Letter of Map Amendment pending, the Hearing Officer cannot grant approval of the plan. In making this argument, Protestants rely on one section of the Baltimore County Code – Section 26-663 – and argue that the Code requires that a Letter of Map Amendment be obtained prior to development plan approval. B.C.C. 26-663 does not contain such a requirement, nor does any other section of the Code. Protestants have failed to analyze fully the relevant law and the hierarchy of decision-making authority outlined in the Code.

The Development Regulations (Article V of Title 26 of the Baltimore County Code) themselves should be the starting place for determining how the one-hundred-year floodplain impacts a potential development. Section 26-276 states when "development" may be permitted in a riverine floodplain. For situations in which the floodplain is shown on the FIRM, where base flood elevation has been determined, Section 26-276 limits "any increase in the existing base flood elevation...to one (1) foot maximum." B.C.C. § 26-276(a). Where the base flood elevation has not been established, *"the 100-year floodplain and flood elevation shall be determined by means of a flood study prepared in accordance with the requirements of the department of public works design manual and sealed by a registered professional engineer prior to the issuance of a permit or the recording of a subdivision*

plat.” B.C.C. § 26-276(b) (emphasis added).

This distinction between base flood elevation having been determined or not is important to the issue of the Letter of Map Amendment. An examination of the FIRM for the Oella area clearly shows that the Oella Mill property lies within Zone A, which is explained in the Key to Map as “[a]reas of 100-year flood; *base flood elevations and flood hazard factors not determined.*” Developer’s Exhibit 37 (emphasis added). Without the base flood elevation having been determined, Section 26-276 clearly indicates that a decision regarding the one-hundred-year floodplain and flood elevation “shall be determined by means of a flood study,” such as the one prepared for Baltimore County and relied on by DPW and Mr. Main in this case. Protestants, though, read the Code as if Section 26-276 does not exist.

B.C.C. Section 26-663, cited by Protestants, is located in Article XI of Title 26 of the Code, entitled “Floodplain Management Program.” Section 26-663 provides that the “director of public works shall be responsible for the actual delineation of the FPA...[which] shall include the 100-year flood elevations, which shall not be less than those established in the Flood Insurance Study.” This section is silent as to what to do in situations where the flood elevations have not been established, such as on the Oella Mill property. Section 26-664 of the Baltimore County Code provides for the authority of the Director of the Department of Public Works, when “changes are indicated by detailed hydrologic and hydraulic studies,” to make “[r]evisions, amendments and modifications to the FPA [floodplain area] and flood elevation.” While this authority is subject to the “review and

approval by the Federal Insurance Administration and the Secretary of the Department of Natural Resources,” Section 26-665 gives the Director of Public Works final authority with regard to “[d]isputes regarding any established FPA boundary or flood elevation,” subject to appeal to the County Board of Appeals.

While, on the surface, there appear to be some inconsistencies in the Code sections relating to floodplains, B.C.C. Section 26-276, 26-663, and 26-664 were introduced and passed in the same bill (Bill No. 173-93) adopted by the Baltimore County Council on November 1, 1993, attached as Memorandum Exhibit 7. Forest City submits that any perceived inconsistencies may be explained by the fact that issues relating to the floodplain are expected to be resolved at different stages of the development process. Section 26-276 is located in the Development Regulations and would appear to regulate the preparation and approval of development plans, while Sections 26-661 through 26-670 appear to relate to the permitting or record plat stage of development. Even Section 26-276 would appear to put off any final determination with regard to the location of the one-hundred year floodplain and flood elevation to the permitting or record plat stage, at least where, as with the Oella Mill property, the base elevation has not been established. No where in the Code does it appear that the Hearing Officer may deny approval of a development plan under the circumstances presented here.

At any rate, the Baltimore County Code appears to give the Director of the Department of Public Works more authority in determining the location and extent of the floodplain than Protestants would have the Hearing Officer believe and, in fact, appears to

give the Director the ultimate decision-making authority. As Charles Main testified, it was, in fact, Public Works that directed Forest City to place the one-hundred-year floodplain in its present location on the development plan, and, despite the pending Letter of Map Amendment, Robert Bowling from the DPW confirmed that his department did not see this as an outstanding issue. Therefore, the Hearing Officer should not deny or condition development plan approval on this basis.

However, if the Hearing Officer disagrees with this analysis and finds that a map amendment must be obtained, the Hearing Officer could properly grant a condition to that effect without impacting the validity of his development plan approval. Protestants' assertion that the Hearing Officer, as an administrative official, does not have the authority to impose a "contingent" condition is incorrect and is not supported by Maryland case law. *See Halle Companies v. Crofton Civic Assoc.*, 339 Md. 131, 146-149, 661 A.2d 682 (1995) (holding that, in considering a special exception request, Board of Appeals had the authority to condition approval on applicant providing access through property it did not own). Merely because a condition imposed involves an element of "uncertainty," such as having to obtain fee simple estate in a third party's property, does not make the Hearing Officer's approval of a development plan any less valid. *Id.*

While Forest City would certainly challenge the substance of any such condition and would argue that such a condition would not be appropriate under B.C.C. Section 26-206(o), the requirements of which are discussed below, the Hearing Officer's authority to impose "contingent" conditions appears clear.

G. The Hearing Officer should not Impose a Condition to Reduce Density.

In the appropriate circumstance, the Hearing Officer, in approving a development plan that has met all of the applicable regulations, has limited authority to impose conditions necessary “for the protection of surrounding and neighboring properties.” B.C.C. § 26-206(o). According to Section 26-206(o), the Hearing Officer may only impose such conditions after making factual findings supported by evidence that: (1) the condition was requested by a party; (2) without the condition, there will be an adverse impact on the health, safety or welfare of the community; and (3) the condition will alleviate the adverse impact.

Protestants have failed to suggest a particular number of units to be reduced or to provide the Hearing Officer with evidence upon which he could reasonably base *any* reduction in the number of units. They have offered no evidence that a reduction in the number of units is necessary to protect the “health, safety or welfare of the community” or that a reduction of the number of apartments would “alleviate an adverse impact.” B.C.C. § 26-206(o)(2) and (3). Without this proof, it would be inappropriate for the Hearing Officer to impose such a condition.²

² Protestants have alluded to the possibility of the Hearing Officer reducing the number of apartment units, although no specific reduction was requested. The Development Regulations appear to give the Hearing Officer no authority to reduce the density of this project. If the reduction is being suggested on the basis that this is a “residential development plan,” because the Oella Mill does not lie within any of the zones whereby permission is given to reduce density – DR 5.5, DR 10.5, or DR 16., Forest City would argue that the Hearing Officer has no authority to reduce density. B.C.C. § 26-206(o)(4).

III. FOREST CITY PRODUCED STRONG AND SUBSTANTIAL EVIDENCE AS TO ITS ENTITLEMENT TO THE REQUESTED ZONING RELIEF.

A. Forest City Demonstrated that the Historic Oella Mill will be Preserved.³

Forest City produced overwhelming evidence, which was uncontradicted, that the historic Oella Mill building would be preserved if the development plan is approved and the project goes forward. As was required by the Zoning Review office, Forest City filed a Petition for Special Hearing for a “waiver” from the requirement contained in B.C.C. Section 26-278 that historic structures, such as the Oella Mill, be preserved. The Oella Mill is listed on the Maryland Historic Trust Inventory (No. BA-2375), and the site is in the Oella National Register Historic District.

Subsequent to having filed the Petition for Special Hearing, Geoffrey Glazer, architect for the Oella Mill project, met with Douglas Swam and John Reisinger of the Department of Permits and Development Management and Kimberly Abe of the Office of Planning. After reviewing the proposed renovation of the Mill, these individuals determined that, based on the extent of proposed work on the exterior of the structure, which is minor, Developer should not be required to obtain a waiver because the building is, in fact, being preserved. *See* Developer’s Exhibits 19 and 26.

On this issue, Forest City produced Geoffrey Glazer and Donald Kann, architects from Kann and Associates, who testified regarding the historical background of the Oella Mill and the surrounding community, outlined the proposed renovations, and expressed an

³ As the Hearing Officer will recall, Developer withdrew its Petition for Special Hearing with regard to the construction of wooden steps in a riverine floodplain. (T., 6/12/02, pp. 30-31)

opinion that the proposed renovation would not only “preserve” the structure, but would, in fact, restore the historical integrity of the Mill building and the site. (T., 6/12/02, pp. 117-129, 136-150) *See also* Developer’s Exhibits 23 and 25.

Charles Wagandt, the former owner of the Oella Mill and, in fact, the former owner of the entire village of Oella, also offered a very personal version of the history of the property during his testimony before the Hearing Officer and offered his “strong support” for the project. (T., 5/15/02, pp. 33-66) In light on the overwhelmingly evidence produced by Forest City that the structure is being preserved, the Petition for Special Hearing should be dismissed as moot.

B. Forest City Demonstrated that the Requested Variance Relief should be Granted.

With regard to the requested variances relating to a window to property line setback and access to and width of certain drive aisles, Forest City produced substantial evidence that the requested relief is warranted under B.C.Z.R. Section 307.1. As alluded to in the prior section, Donald Kann, architect and expert in historic preservation and renovation, testified and produced a written report, which provided a detailed history of the Oella Mill site and the existing Mill building. (T., 6/12/02, pp. 121-133) *See also* Developer’s Exhibit 23.

Specifically, Mr. Kann described the boundaries of the Oella National Register District and articulated that the existing Oella Mill building is the “key” to the fact that Oella was designated as a National Register District, one of only 17 such districts in Baltimore

County. (T., 6/12/02, p. 121-122, 133) *See also* Developer's Exhibit 23. In his testimony and, more fully, in his report, Mr. Kann detailed the history of the industrial usage of the Oella Mill site and of the existing Mill building, which was reconstructed in 1919 following a fire. According to Mr. Kann, Oella is one of the last examples of 19th century industrial mill villages and is singular because it is largely intact and because of its location along the Patapsco River. (T., 6/12/02, pp. 122, 125-126) *See also* Developer's Exhibit 23.

Mr. Kann also described the physical constraints of the Mill site itself, being bordered by the Patapsco River and steep slopes and being constrained by these and other features. (T., 6/12/02, pp. 122-123) Development of the site in the 18th and 19th centuries and the current structure took place within the parameters of these constraints as is evident from building's being constructed on the side of the hill. (T., 6/12/02, pp. 122-123) As a result, the building's height varies from four stories to seven stories depending on the grade. As Mr. Kann opined, these features make this site and, in particular, the Oella Mill building unique. (T., 6/12/02, pp. 122-123, 125-126)

Charles Wagandt offered a similar opinion regarding the importance of the Oella Mill to the Oella community. As he explained in no uncertain terms, "[t]he Mill is the core of the village. The Mill is the reason for the community being there, and it is historic." (T., 5/15/02, p. 44)

Geoffrey Glazer, architect for the Oella Mill project, testified as to the practical and structural constraints of the building itself and as to the constraints relating to historic restoration of the building. As both Mr. Glazer and Mr. Kann explained, the Oella Mill

building must be “preserved,” and restoration of both the interior and exterior of the building must be in conformance with the applicable federal (Department of the Interior) standards. (T., 6/12/02, pp. 124-128, 137-146, 153-155) Further, the building itself, which was constructed in 1919, poses practical constraints, such as the exterior perimeter masonry walls and the existing cast-iron columns located, on center, every 10 feet, throughout the two proposed parking levels, which are “holding up the entire building” and cannot be removed. (T., 6/12/02, pp. 155-156) The requirements for preservation and restoration and the structural constraints of this historic building have, therefore, resulted the need for the requested variance relief.

Having heard the testimony of Mr. Kann, Mr. Glazer, and Mr. Wagandt, and having done their own analyses, George Gavrelis and Mitchell Kellman, both expert land planners, testified that the property was, in fact, “unique” and that the unique features of the site, *i.e.*, the existing historic structure, the physical constraints of the site, the unusual lot line to the north, etc., result in a “practical difficulty” in meeting the strict requirements of the Baltimore County Zoning Regulations. (T., 6/12/02, pp. 221-222, 249-257)

With regard to the requested window to property line setback variance for the north elevation of the building, there was substantial evidence from Forest City’s witnesses that the Mill building could not be razed, the windows for which relief was requested are in existence, and there would not be any impact on the neighboring properties. (T., 6/12/02, pp. 230-238, 253-257) The testimony and evidence presented on the setback variance was uncontradicted, and the Hearing Officer should grant the relief as requested.

Forest City also presented substantial evidence with regard to the variance requests relating to the 32 “stacked” parking spaces within the Oella Mill building and the Power Plant building, and regarding the proposed reduction in the width of the drive aisles within the Oella Mill building. On this issue, Mr. Glazer explained the layout of these parking areas and the requested relief. (T., 6/12/02, pp. 150-161) As Mr. Glazer described, Forest City proposes to create two parking levels on the first story of the building for resident parking with gated-access. Cast-iron columns, however, are located every 10 feet (measured from the center of column to the center of column) within this area and cannot be moved or removed. (T., 6/12/02, pp. 155-156) Therefore, the parking spaces and drive aisles had to be designed around these structural supports.

Forest City made every effort to maximize parking, not only because members of the Community requested that it do so, such as Julie Graham, former President of the Greater Oella Community Association, but also because it believes that 263 parking spaces is the correct number for the project. (T., 5/15/02, pp. 5-11) (T., 6/12/02, pp. 161) The proposed parking layout for the Oella Mill building and the Power Plant building is the result of those efforts.

Mr. Cornelius opined that, based on his review of the zoning site plan (and development plan) and his expertise, he was satisfied that the parking areas, as proposed, would function in an appropriate manner. (T., 6/12/02, pp. 205-217) Based on his experience and analysis, with 10 foot wide parking spaces, drive aisles, including the drive aisle between the two levels of parking, could be reduced to a width of 17½ feet and still

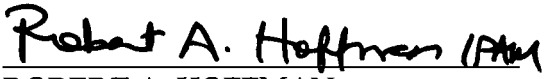
function properly. (T., 6/12/02, pp. 206-209) As Mr. Cornelius stated, for a “private residence parking” facility, such at this, “the drive aisle and the parking dimensions [did] not cause [him] any concern.” (T., 6/12/02, p. 209)

Mr. Cornelius further stated that, other than the inconvenience for the people having to back out their first car to access their second car, he saw no operational problems with the 32 tandem parking spaces. (T., 6/12/02, pp. 211-212) In his opinion, these spaces would not function any differently from a town house with a single car garage. (T., 6/12/02, p. 212) It is particularly notable that each of the variance requests for the parking areas relates solely to areas within the Mill buildings accessible only to residents of the apartments and not accessible to any members of the public. (T., 6/12/02, p. 160) Forest City, therefore, produced substantial evidence upon which the Hearing Officer could approve the requested zoning relief, which was not disputed by any expert testimony on the part of Protestants.

CONCLUSION

At the five days of hearings before the Hearing Officer, Forest City produced strong and substantial evidence of its entitlement to the approval of its development plan and the requested zoning relief. Therefore, Forest City respectfully requests that the Hearing Officer grant the approval of the redlined development plan as proposed and its Petition for Variance and dismiss the Petition for Special Hearing as moot.

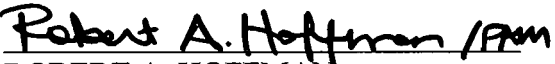
Respectfully submitted,


ROBERT A. HOFFMAN


PATRICIA A. MALONE
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Developer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21ST day of June, 2002, a copy of the foregoing DEVELOPER'S POST-HEARING MEMORANDUM was mailed to John V. Murphy, Esquire, 14 North Rolling Road, Baltimore, Maryland 21228, Counsel for the Protestants; and to Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.


ROBERT A. HOFFMAN

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1994, LEGISLATIVE DAY NO. 20
BILL NO. 186-94

MRS. BERCHIE L. MANLEY, COUNCILWOMAN

BY THE COUNTY COUNCIL, NOVEMBER 7, 1994

A BILL
ENTITLED

AN ACT concerning

Office Zones

FOR the purpose of creating the O-3 (Office Park) zone in the Baltimore County Zoning Regulations which will permit only office and no residential development; renaming and combining the O-1 (Office Building) and O-2 (Office Park) Zones to OR-1 and OR-2 (Office Building-Residential) Zones; defining terms; establishing general provisions for all office classifications; modifying use regulations and performance standards in OR-1 and OR-2 zones; amending bulk regulations in R-O zones; conforming certain provisions of the zoning and development regulations; and generally relating to Office Zones.

BY repealing and reenacting with amendments

Section 101-Definitions, the definitions of "Office" and "Office Building,
Class B"

Baltimore County Zoning Regulations, as amended

By repealing

Section 101-Definitions, the definition of "Office Building, Class C"

Baltimore County Zoning Regulations, as amended

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



• Baltimore County • Focus on Community •

PART III: COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES

Adopted by the Baltimore County Planning Board on April 16, 1992
and with Amendments to November 1998

IN RE:	DEVELOPMENT PLAN HEARING	* BEFORE THE
	SWC Greenspring and Walnut	* HEARING OFFICER
	Avenues	* OF BALTIMORE COUNTY
	2905 Walnut Avenue	* Case No. IV-518
	3rd Election District	
	3rd Councilmanic District	
	Har Sinai Holding, Inc.	
	Applicant/Developer	
	* * * * *	

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before the Hearing Officer for consideration of the development plan prepared by D.S Thaler and Associates, Inc., a consulting firm of civil engineers, landscape architects, surveyors and land planners on behalf of Har Sinai Holding, Inc., Developer/Applicant/Property Owner. Har Sinai Holding, Inc. is that legal corporate entity which owns the subject property. Har Sinai Holding, Inc., is an affiliate of the Har Sinai Congregation of the City of Baltimore, a reform congregation of the Jewish faith. Har Sinai presently maintains a house of worship in Baltimore City. Seeking larger facilities in which to expand and desiring a location within proximity of many of its members, Har Sinai proposes developing the subject property with a 62,500 sq. ft. building to be utilized for religious and educational purposes. If approved, the Har Sinai Congregation will hereinafter move its house of worship to the subject location.

Obviously, in order to proceed with these plans, Har Sinai need obtain approval for the proposed development through the Development Review Regulations as codified in Title 26 of the Baltimore County Code (hereinafter "BCC"). That process is evolutionary in character and requires an Applicant to proceed through a series of steps/stages. The regulations require the Developer to institute the review process by the filing of a Concept Plan with Baltimore County. As the name suggests, the initial plan filed is schematic in nature. In this case, a Concept Plan

IN THE MATTER OF
HAR SINAI HOLDING, INC.
SW/C OF WALNUT AVENUE AND
GREENSPRING AVENUE
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

RE: DEVELOPMENT PLAN APPROVAL

* BEFORE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. CBA-99-111

* * * * *

O P I N I O N

This case comes to the Board of Appeals of Baltimore County based on an appeal from a decision of the Hearing Officer /Zoning Commissioner in which the Hearing Officer, by order dated March 22, 1999, approved the Development Plan submitted by the Developers (Developers' Exhibits 1A and 1B), subject to conditions (A through H) incorporated therein.

A timely appeal to this Board was made on April 19, 1999 with the "Notice of Appeal" identifying the "persons aggrieved and feeling aggrieved" as prescribed by the Baltimore County Code (BCC), Section 26-209, "Appeals from final action on a plan." This Board held a public hearing on May 13, 1999; with a second day of oral argument held on May 21, 1999. The matter was publicly deliberated over the course of several hours on Friday, June 11, 1999. The BCC requires that this Board issue its Order within 15 days "following the conclusion of the hearing."

Stuart Kaplow, Esquire, presented oral arguments to the Board in opposition to the Plan; and J. Carroll Holzer, Esquire, represented the Developer in support of the Hearing Officer's order and decision.

On May 13, 1999, day #1 of the hearing, the Developer submitted the Development Plan approved by the Hearing Officer; and

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

June 25, 2002

Hon. Lawrence E. Schmidt
Zoning commissioner/Hearing Examiner for Baltimore County
County Courts Building
401 Bosley Avenue
Towson MD 21204

JUN 27

Re: Protestant's Reply Memorandum

Dear Mr. Schmidt:

As discussed with counsel, please find attached the Protestant's Reply Memorandum for filing in the above referenced case. I understand that the record of the case is closed with this filing and that you will give us your decision by July 10, 2002.

Thank you for your consideration of this matter..

Very truly yours,


John V. Murphy

JVM:pam

Enclosures

cc: Robert Hoffman, Esq.
Peter Zimmerman, Esq.
Kelly Clark
Gregory Brown



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

June 20, 2002

CAROLE S. DEMILIO
Deputy People's Counsel

Lawrence E. Schmidt
Zoning Commissioner and Hearing Officer
County Courts Building
Towson, MD 21204

Re: Oella Mill, LLP, Case Nos. 02-412-SPHA and I-498

Dear Mr. Schmidt,

We agree with Protestants' memorandum, and highlight these points:

1. The Floodplain Incursion Precludes Development Approval. Code Sec. 26-668 precludes development or redevelopment in the 100-year floodplain. A development plan may not be approved in conflict with the existing FEMA map. Developer has not asked for a waiver, and it could not likely get one. A request to FEMA for potential (future) amendment of the floodplain map to allow development is not a basis for "conditional" approval.

* * *

This resembles the case where a developer requests conditional approval based on future amendment of the master water and sewer plan. The Hearing Officers (Schmidt and Kotroco) have rejected this position in the Hilltop Property (I-485) and Oak Tree Hill Estates (XIII-489) cases.

2. RTA Standards Definitely Apply. The existence of the D.R. 3.5 zone on the subject property does remove any question about the applicability of the RTA, although not necessary (for reasons stated in our memorandum).
3. Recreational Space Standards (Bill 110-99) Should Be Reconsidered. Sec. 26-498(b) states: "This section applies only to residential development." Sec. 26-492(g) defines "residential development" as "the development of property for the construction of dwelling facilities." There has been argument about whether renovation of the building, and site redesign, involve "construction." Webster's Third International Dictionary was not discussed. The attached definition of "construction" includes in part 2 some very broad concepts:

"2 a the act of putting parts together to form a complete integrated object : FABRICATION (during the --- of the bridge) b (1) the form or manner in which something has been put together : DESIGN (several ships of similar ---)

(an analysis of the --- of a time bomb) (2) the science or studyh of building or erection (two years in college mastering ship ---) e : something built or erected : STRUCTURE (raw new ---s along a highway)."

The Oella Mill LLP development plan clearly involves residential development and is subject to Sec. 26-498 recreational space standards.

4. Special Hearing for Commercial Parking Required. The existence of the D.R. 3.5 zone also brings into play the issue of commercial parking in a residential zone and the BCZR 409.8 standards. Since the parking is for a B.M.- C.C.C. use, it is commercial parking. Ironically, the developer's position that B.M.- C.C.C. uses are not governed by residential density standards reinforces the point that the parking is for a commercial zone use. In other words, the developer cannot properly rely on the commercial zone and district to avoid residential standards, and then say the parking is residential to avoid the commercial parking standards. That would be inconsistent.
5. The Parking Variances are Unwarranted. They are purely for the developer's convenience, to maximize density and revenue. There is no practical difficulty whatsoever. Moreover, the property's location is not unique. It is one of many historic properties constrained by proximity to the river. The only arguable uniqueness would be its historic character, but that is no justification for parking variances to increase density. The property can be used without variances in a way more compatible with the low-density neighborhood.
6. Conditions; The Project Overcrowds the Property and Neighborhood. The theme which pervades these legal problems is excessiveness. The floodplain, RTA, recreational space, and parking problems have in common that they relate, directly or indirectly, to density.

* * *

The density is excessive from any point of view. Even if unlimited density is allowed generally in the C.C.C. District (as the Hearing Officer has ruled, despite our objection), it is inappropriate for this site. The development does not meet other specific requirements. Even if it did, it is a situation where a reduction in density is warranted as a condition.

Sincerely,



Peter Max Zimmerman

Cc: Robert Hoffman, Esq.;
John V. Murphy, Esq.

6/12/02

JUN 27 2002

RE: Petition for SPECIAL HEARING * BEFORE THE
PETITION FOR VARIANCE * ZONING COMMISSIONER
840 Oella Avenue, W/S Oella Avenue *
FOR BALTIMORE COUNTY
1ST ELECTION DISTRICT *
1ST COUNCIL DISTRICT * Case No. 02-412-SPHA

* * * * *

RE: DEVELOPMENT PLAN HEARING * BEFORE THE
OELLA MILL PROPERTY * HEARING OFFICER
FOR
1ST ELECTION DISTRICT- *
1ST COUNCIL DISTRICT * BALTIMORE COUNTY
* Case No.: 01-498

* * * * *

PROTESTANT'S REPLY MEMORANDUM

Now comes Henry Berger, Kelly Clark, Gregg Brown and The Concerned Citizens of Oella, Protestants, by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., who file this Reply Memorandum in answer to the Developers Post Hearing Memorandum and further state as follows:

RESIDENTIAL TRANSITION AREA

In its Post Hearing Memorandum, the Developer argues that the Residential Transition Area (RTA) does not apply to this plan because of the business zoning on the property. The Protestants will not repeat their arguments here why they disagree with this

proposition, but rely on prior memorandum. However the Protestants note that the Developer did not address the fact that the zoning on this property is both BM-CCC and DR 3.5. While the Developer cites part of the testimony by Mitchell Kellman regarding RTA 's generated from purely business zones, the Developer fails to note his testimony that the DR 3.5 area of the site would generate an RTA. There is no RTA on the Plan. It is fatally flawed and should be denied.

The Developer cites the Har Sinai case as precedent in its favor. This is simply not so. In the Har Sinai case, the land under development was RC 5 not BM-CCC and DR, and the proposed use was to erect a house of worship not apartments. The RTA legislation was designed to protect single family and duplex dwellings from having dissimilar dwellings such as apartments built in close proximity. This is clearly applicable in this situation.

COMMERCIAL PARKING IN RESIDENTIAL ZONES

The Protestants contend that the Development Plan utilizes the eleven parking spaces in the DR area to support the overall apartment complex in the BM zone. As such this use is controlled by Section 409.8.B of the BCZR. In order to utilize parking in this manner, the Petitioner must file for a Special Hearing and the Petitioner must post the property to that effect. Neither were done in this case. As such the Development Plan does not meet the BCZR and should be denied.

The Developers argue that the parking spaces in the DR area are not in support of a commercial use in the BM zone because the proposed use is apartments. Yet when it comes to the RTA issue, the Developer repeatedly claims the commercial zone and use prohibits an RTA . The Developer can not have it both ways. It is or is not commercial use.

POWER OF THE HEARING EXAMINER TO GRANT PROVISIONAL
APPROVAL

The Petitioner contends that the Hearing Examiner may approve the development plan on the condition that the Petitioner successfully have the official 100 year flood plain changed by the Federal Emergency Management Agency (FEMA). The Protestants strongly disagree with the Petitioner's position because conformance with the existing law is a threshold which must be achieved in order to have development plan approval. Section 26-206 (b) specifies that the plan must comply with the County regulations not at some future time but now. In addition Section 26-180 of the Development Regulations requires that development comply with all other laws and statutes. A conditional approval should not be granted in reliance on a possible change in the current law.

The Developer cites the case of *Halle Companies v Crofton Civic Association*, 339 Md. 131, 661 A. 2d 682 (1995) as authority for the proposition that the Hearing Examiner may impose conditions on development which contain contingent events. In this case which primarily concerned the power of a Board of Appeals to entertain new evidence in a de novo hearing, the Court held that the developer's landfill could begin operationally upon obtaining a fee simple access to the site through property which the developer did not own. The Protestants disagree that this case provides a precedent in the case now before the Commission. The obvious difference is that the future event in the present case is changing a government agency's policy/decision as opposed to providing future access to the site through private property.

The Court in *Halle Companies* cites *Bonhage v Cruse*, 233 Md. 10, 194 A.2d 803 (1963) for the proposition that a Special Exception was improperly granted where it was not

shown the County would widen a street so as to provide adequate access to the site.

If the Hearing examiner were to approve this plan with the requested contingency, then any speculative, fervently hoped for change in law or government agency position would be the basis for a development plan. It is absurd to suggest that the current law/agency position does not apply since it might be changed in the future. That argument would, in effect, place an indefinite hold on this development plan while the Petitioner lobbies the federal agency. It would also render existing law meaningless. This Commission recently declined to enter onto that slippery slope in the cases of the Hilltop development plan, case no I-485 & 02-226 SPH and Oak Tree Farm Estates development plan, case no. XIII-189 where the developers needed to amend the County water and sewer plan.

SIZE OF THE PROJECT

As mentioned in prior Memorandum, if the development were approved as presented, the density on site would be over 35 dwelling units per acre. The adjacent land is developed at 3.5 dwelling units per acre. The proposed development is ten times the density of the adjacent properties and is out of all proportion to the neighborhood. It is simply too big.

In its Post Hearing Memorandum text, the Developer admits the Hearing Officer may reduce the density of this project, but complain that the Protestants have not suggested a number which would alleviate the problem and have failed to present evidence on which the Hearing Officer may reduce the density. The Protestants obviously disagree, but will not attempt to repeat the voluminous evidence of the hazards of the roadways leading to the site. Because of the limitations of the roadways, the Protestants presently suffer from the

light commercial uses of the Mill. There is no number of apartments which would make the present problem disappear. The roadways are that bad.

However presently the mill has surface parking lots which contain 110 spaces. A measurement of the adverse impact of the proposed development is the additional 153 parking spaces inside and outside the Mill which will be added by the Developer. (118 spaces inside the buildings and 35 spaces outside the buildings.) These additional spaces mean additional traffic would be generated by the project beyond even present conditions. If the Hearing Examiner determined just to continue the present bad situation, the Hearing Examiner could reduce the density of the apartments to that allowed by 110 parking spaces which is approximately 85 units. While this will not improve the hazardous traffic situation for the community, at least it will not make it worse.

VARIANCES

The 32 double stacked parking spaces for which the Developer requests a variance will impose further traffic on this already burdened community. There is no hardship or practical difficulty as the Developers evidence showed the Mill presently 78% occupied with light commercial uses. The owner clearly can and does make reasonable use of the property. The driving force behind the request is to allow more apartments and therefore have a greater financial return from the Developer's investment. The Court of Special Appeals in *Anderson v. Board of Appeals, Town of Chesapeake Beach* 22 Md. App.28, stated "an applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).

Further the relief requested must be in strict harmony with the spirit an intent of the

regulations and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. Neither of these provisions are met by the variance request.

PLAN FATALLY INACCURATE

There comes a time when inaccuracies of a development plan require its denial. The plan failed to mention in its initial request for variance six additional double stacked parking spaces. It failed to show a single family home near the DR area which would trigger an RTA. It misrepresented the use of the “abandoned” residence in this area which in fact was being reconstructed into a dwelling which also would generate an RTA.

The Developer misrepresented the width of aisles in the parking area inside the mill as 18.5 feet when in fact it has only 17.5 feet of width due to the thickness of the columns supporting the structure above it.. This error was not corrected nor was the plan re-advertised with the correct dimensions as required by law.

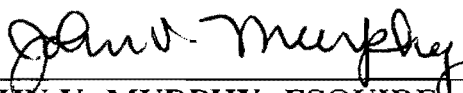
The developer has not requested variances for areas where the plan does not meet the Baltimore County regulations. For example the ramps to the Mezzanine level parking are only 18.5 feet wide and as such do not meet the required 20 foot width for driveways as required by Section 409.4 A of the Baltimore County Zoning Regulations. Furthermore the parking plan woefully mis-represents the number of parking spaces actually provided.

The Developer contends that these inaccuracies and misrepresentations are to be corrected by the Hearing Examiner as minor modifications to the plan. If the purpose of the development regulations is to “fix” the plans flaws until it meets the regulations, then

perhaps the Developer is correct. However the plan as presented did not and does not meet the County regulations with or without the variances. The testimony by the Developer's engineer that the plan meets the regulations was clearly not correct. In spite of requests to explain the plan in detail, the Developer chose to rest its case essentially with the engineer's statement that the plan met the County requirements. Since this is clearly not the case the Protestants suggest the plan be denied as there is no countervailing evidence to approve the plan.

CONCLUSION

For the reasons set forth herein, the Protestants respectfully request that the Development Plan and variances be denied with prejudice.



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Protestants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 th day of June, 2002, a copy of the foregoing Hearing Memorandum was mailed first class mail postage paid to Robert Hoffman, Esq, 210 Allegheny Avenue, P.O. Box 5517 , Baltimore, Maryland 21285-5517, attorney for the Petitioner and Peter Zimmerman, Esq. Old Courthouse Room 47, 400 Washington Avenue, Towson, Maryland, Peoples Counsel.



JOHN V. MURPHY, ESQUIRE

H:\WPWIN\Clients\OellaCommAssoc\Reply Trial Memorandum

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

June 25, 2002

Hon. Lawrence E. Schmidt
Zoning commissioner/Hearing Examiner for Baltimore County
County Courts Building
401 Bosley Avenue
Towson MD 21204

JUN 27 2002

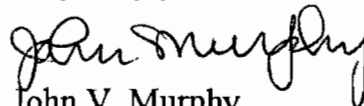
Re: Protestant's Reply Memorandum

Dear Mr. Schmidt:

As discussed with counsel, please find attached the Protestant's Reply Memorandum for filing in the above referenced case. I understand that the record of the case is closed with this filing and that you will give us your decision by July 10, 2002.

Thank you for your consideration of this matter..

Very truly yours,


John V. Murphy

JVM:pam

Enclosures

cc: Robert Hoffman, Esq.
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Kelly Clark
Gregory Brown

6/12/02

RE: Petition for SPECIAL HEARING * BEFORE THE
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840 Oella Avenue, W/S Oella Avenue * FOR BALTIMORE COUNTY
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* * * * *

RE: DEVELOPMENT PLAN HEARING * BEFORE THE
OELLA MILL PROPERTY * HEARING OFFICER
* FOR
1ST ELECTION DISTRICT- * BALTIMORE COUNTY
1ST COUNCIL DISTRICT * Case No.: 01-498

* * * * *

HEARING MEMORANDUM

Now comes ~~Alexander Clark~~, Henry Berger, Kelly Clark, Gregg Brown and The Concerned Citizens of Oella, Protestants, by their attorneys, John V. Murphy, Esquire and Murphy & Murphy, L.L.C., who file this Memorandum in support of their case and further state as follows:

STATEMENT OF CASE

The Petitioner's development plan and petition for variances for the proposed project requests approval of an apartment complex of 175 units located in the historic mill town of Oella. While the site officially occupies 5.7 acres, the tract boundary crosses and includes the adjacent Patapsco River. Consequently the dry develop able land is approximately 4 acres. If the development were approved as presented, the density on site would be over 35 dwelling units per acre. The adjacent land is developed at 3.5 dwelling units per acre. The proposed development is tens times the density of the adjacent properties and out of all portion to the neighborhood. It is simply too big. The Protestants are also opposed to the Development Plan because the plan does not conform to the development regulations, applicable policies and rules and regulations of the Baltimore County Code. In addition, the Protestants are opposed to the Petition for

Variance because the land is not unique and any hardship or practical difficulty are self imposed by the developer in order to obtain more apartment units.

THE DEVELOPMENT PLAN

The Protestants request the Development Plan be denied for the following reasons:

The Protestant incorporate and repeat the allegations, arguments and reasons submitted by People's Counsel in its Pre Hearing Memorandum. These include that development density on the BM portion of this site is controlled by the adjacent DR 3.5 zone, that the BM-CCC regulations require a first floor of commercial uses and that the County's Recreational Open Space requirements fully apply.

In addition the Protestants note that contrary to the Petitioner's Plan, which indicates the zoning on this property is BM-CCC only, the tract boundary includes land zoned both BR-CCC and DR 3.5. Consequently, the property is of mixed zoning, is properly subject to DR 3.5 zoning limitations and should not be allowed unlimited apartment development.

The Protestant also incorporate and repeat the allegations, arguments and reasons submitted by People's Counsel in its Memorandum on Residential Transition Area. In addition the Protestant's note the following:

RESIDENTIAL TRANSITION AREA

A. The Petitioner's development plan provides that 175 new apartments are to be constructed in the Oella Mill building and an outbuilding. The adjacent land is zoned DR 3.5 and is composed of single family detached and duplex dwellings which are within 150 feet of the tract boundary. These dwellings trigger a 100 foot RTA along the boundary tract as shown on Protestant's Exhibit 18. The 150 foot limit for these dwellings to be considered is also shown on Exhibit 18. In addition, Protestant's Exhibit 19 shows photographs of these dwellings confirming their single family and duplex type. Section 1B101.1B of the Baltimore County Zoning Regulations provides (BCZR are shown bold).

B. **Dwelling-type and other supplementary use restrictions based on existing subdivision and development characteristics. [Bill No. 124-1981]**

1. **Residential transition areas and uses permitted therein. [Bill No. 2-1992]**

a. **Definitions and purpose. [Bill No. 2-1992]**

(1) **The residential transition area (RTA) is a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R. zoned tract boundary into the site to be developed.**

There is no question that the tract boundary of the site to be developed is bounded by DR zoned land. The intended purpose of the RTA is to protect certain types of dwellings from having dissimilar housing types built in close proximity. The BCZR provides:

- (2) The purpose of an RTA is to assure that similar housing types are built adjacent to one another or that adequate buffers and screening are provided between dissimilar housing types.**

The Petitioner has proposed to build 175 apartments in the Mill and Boiler Buildings which are clearly dissimilar housing types from the adjacent housing types in the DR zoned land adjacent to the site as shown by the Development Plan and the Protestant's Exhibits.

However, there are specifically designated zones adjacent to the site which trigger an RTA. The BCZR provides:

- b. Generation of residential transition area. An RTA is generated if the property to be developed lies adjacent to land zoned D.R.1, D.R.2, D.R.3.5, D.R.5.5 or R.C. which:
[Bill No. 2-1992]**

In this case the adjacent land is zoned DR 3.5. In order to generate a RTA the adjacent land must:

- (1) Contains a single-family detached, semi-detached or duplex dwelling within 150 feet of the tract boundary;**

A single dwelling of the type listed will trigger an RTA along the tract boundary. However, in this case the Development Plan and Protestant's Exhibits 1 and 1 show there are 4 single family detached dwellings, and 3 duplex dwellings within 150 feet of the tract boundary. In addition the Plan shows an "abandoned" three story residence. Contrary to this allegation, the building is being renovated as a residence as shown on Protestant's Exhibit 19. Even if this property is found not to be a dwelling, the lot on which it is located would trigger an RTA as according to the BCZR because it

- (2) Is vacant, less than two acres in size, and contains a buildable area at least 20 feet by 30 feet on which a dwelling meeting all required setbacks can be erected.**

There are certain uses and conditions permitted in Residential Transition Areas according to the BCZR:

- d. A residential transition use is any use: [Bill No. 2-1992]
- (1) Permitted as of right under Section 1B01.1.A; or
 - (2) Any use permitted by special exception under Section 1B01.1.C, except an accessory use permitted only by special exception; or
 - (3) Any parking area permitted under Section 409.8.B, subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan.

The Mill and Boiler buildings are within the 100 foot buffer area and are to be used as apartments as shown on Exhibit 18. This use is not permitted as of right or by special exception. In addition, the parking in the DR.3.5 zoned land along Oella Avenue is controlled by Section 409.8.B, Business Parking in Residential Zones, and again is not permitted. The Development Plan clearly violates the BCZR.

- e. Conditions in residential transition areas. [Bill No. 2-1992]
- (1) The RTA may contain single-family detached, semidetached or duplex dwellings.
 - (2) Group-house, back-to-back group houses, multifamily building and parking lots shall be set back from the tract boundary 75 feet and provide a fifty-foot RTA buffer.
 - (3) The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, stormwater management ponds or accessory structures, but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments.

The Development Plan shows the proposed multifamily buildings and parking lots are not set back 75 feet from the tract boundary nor is the 50 foot buffer provided as required by the BCZR.

The BCZR further require that:

- (4) The maximum height of any lighting fixtures in an RTA buffer area shall be 16 feet, except for public utility uses which must be of reasonable height. The fixtures shall be designed and placed so as to prevent the spillage of light into any adjoining dwelling or lot. The intensity of the fixture shall not exceed 0.2 candle at the tract boundary.

The Petitioner has given no information on which the Hearing Examiner could find that the proposed lighting meets the Regulations.

Finally the BCZR requires:

- (5) Parking lots or structures, either as principal or accessory use, whether permitted by right, special exception or pursuant to Section 409.8.B, shall provide a fifty-foot buffer and seventy-five-foot setback, and a height not to exceed 35 feet within the one-hundred-foot transition area.

Again the Petitioner's Plan does not provide for a 50 foot buffer, 75 foot set back or height not exceeding 35 feet within the 100 foot transition area.

Consequently the Plan should be denied.

B. The Development Plan Generates a Residential Transition Area

The Petitioner argues that the RTA should not apply to BM-CCC zones. Again the Protestants incorporate and repeat the allegations, arguments and reasons submitted by People's Counsel in its Memorandum on Residential Transition Area. In addition, the Protestant's note that the site to be developed is not zoned as alleged in the Development Plan purely BM-CCC. The parking area along Oella Avenue is within the tract boundary and zoned DR 3.5 (herein after referred to as the "DR area"). As a mixed BM and DR 3.5 zoned tract, the argument that the RTA should not apply to this site is clearly incorrect. The Protestant's Exhibit 18 shows the single family and duplex dwellings within 150 feet of the DR area. This clearly generates an RTA not provided in the Development Plan.

The Petitioner proposes to use the 11 parking spaces in the DR area as part of the parking required for the apartment complex. As such parking in that area is controlled by Section 409.8.B of the BCZR. The Regulations provide:

- (3) Any parking area permitted under Section 409.8.B, subject to the approval of a specific landscape plan for the buffer area which must meet the requirements for a Class A plan.

Neither a landscape plan nor a buffer area is included in the Development Plan in the DR area to separate the proposed development from the adjacent DR 3.5 properties.

Consequently the Plan does not meet the BCZR and should be denied.

Commercial Parking in Residential Zones

The Development Plan utilizes the eleven parking spaces in the DR area to support the overall apartment complex in the BM zone. As such this use is controlled by Section 409.8.B of the BCZR. In order to utilize parking in this manner, the Petitioner must file for a Special Hearing and the Petitioner must post the property to that effect. Neither were done in this case. As such the Development Plan does not meet the BCZR and should be denied.

However in the alternative, should the Hearing Officer find the Special Hearing was requested and the property properly posted, the Hearing Officer, using the criteria outlined in 409.8.B.1.e, should deny the Petitioner's request to use the DR area in this manner.

Roadways as Limiting Factors

This 5.7 acre site has been zoned BM-CCC, one of the heaviest commercial zones in Baltimore County, for the past 22 years. The property is located in affluent western Baltimore County and is across the Patapsco River from tourist Mecca, Ellicott City in booming eastern Howard County. For 22 years the owners of this site merely had to obtain a building permit to use the property in any of the commercial uses permitted in BL Zones such as shopping centers, department stores, offices, restaurants, etc. The BM zone itself allows even more intensive uses such as hotels, theaters etc. Yet none of these expected uses are present in the mill. Testimony shows that the mill is occupied by antique shops, artists, museums and warehouse uses which have the mill building partially occupied. The reason for this phenomenon is that the roads leading to the site limit the development. One simply can't get there from here.

The developer proposes to construct an apartment complex with approximately ten times the density of the surrounding area. This will have an enormous adverse impact on the surrounding community as the roadways leading to the development are not able to

handle the existing much less increased traffic generated by 175 apartments.

The Baltimore County development regulations Section 26-206 (o) provide that the Hearing Examiner has the authority to impose conditions on the development which will alleviate the adverse impact among which conditions is a reduction in density. However 26-206 (o) 4 limits the reduction to twenty percent in certain zones which are not applicable here. Consequently the Hearing Examiner is not limited in such reductions in density in BM-CCC and DR 3.5 zones and may impose whatever limitations in density will alleviate the adverse impact.

The developer's traffic engineer presented studies which allege to show that there would be no adverse impact due to the development. The engineer made two basic comparisons. First he compared the traffic generated by the apartment complex to what he called "existing uses" and secondly to "100% occupancy uses". The second comparison has no value in that the mill has failed to attract anything near that occupancy for the past 22 years. This comparison is simply not relevant.

The comparison to "existing uses" is flawed in several ways. First the "existing use" are projections and not measurements. They are subject to the assumptions that the engineer makes in regard to uses and occupancy. For example the engineer admitted that he made no independent investigation of the present occupancy of the mill but based his model on what an architect assigned to the project told him were the uses and occupancy. This model indicates the mill is presently 78% occupied, which figure is not supported by any data. Secondly there was no basis for the uses and the percentage occupancy given. Finally and most importantly when compared to actual traffic counts done by the engineer's own firm, the "existing" projections were clearly in error. For example Protestant's exhibit 5 shows the measured morning and evening peak traffic in and out of the site based upon the developers engineer's measurements. Protestant's Exhibit 6 compares the measured peaks to the projected "existing" peaks. As is obvious there is no constant ratio of measured to projected traffic as one would expect given other travelers use the roads in addition to those going to and coming from the mill. In fact, there is no relationship of measured to projected peak traffic at all as shown by the peak evening out traffic where we find a reversed ratio. Consequently there is no basis to believe the "existing" projections.

On the other hand, the Protestant's engineer showed with photographs the real obstacle course that the roadway presents to traffic to and from the mill. There are only three roads leading to the site. The Glen/Hollow roads are best described a goat trails. Oella Avenue north of the mill has steep grades and switchbacks reflecting the mountain road it is. Finally Oella Avenue south of the mill is constructed on the edge of the river and passes through a section so narrow that the County has recently closed it to two way traffic.

This is the infamous Granite Hill S curve. One of the witnesses in favor of the project best described the danger here when she said that she simply backs up on Oella Avenue when confronted with a school bus coming the other way trying to negotiate the S curve at Granite Hill.

This project will exacerbate an already dangerous situation. As such the Hearing Examiner should reduce the density to a level that will at least not increase the danger.

Power of the Hearing Examiner to Grant Provisional Approval

The Petitioner contends that the Hearing Examiner may approve the development plan on the condition that the Petitioner successfully have the official 100 year flood plain, now recognized by Baltimore County, changed by the Federal Emergency Management Agency (FEMA). FEMA must accept the developer's contention that 100 year floods do not reach the mill. Development in the existing 100 year flood plain is prohibited. The Protestants strongly disagree with the Petitioner's technical position because the history of flooding in this valley show such floods took out the railroad bridge connecting the mill with the railroad on the opposite side of the Patapsco River. This disagreement is to be played out in FEMA over the next many months. However, conformance with the existing law is a threshold which must be achieved in order to have development plan approval.

a. Present County Law is Unambiguous and Controlling.

The law which controls the approval of the development plan in a flood area is Section 26-668 (3) which specifies that the lowest floor elevation of all new or substantially improved structures shall be at or above the flood protection elevation. The flood plain area (FPA) is the area delineated in the flood insurance rate maps (FIRM) as defined by Section 26-663. The present and official FIRM map is depicted on Protestant's Exhibit 14 which shows the boiler building and part of the mill underwater in the 100 year flood. The development plan violates this section of the Code.

b. The Hearing Officer can not approve the plan contingent on an amendment to the 100 year flood plain.

The Petitioner argues that since the 100 year flood plain can be amended, the Hearing Officer has the discretion to approve the development plan contingent upon the Petitioner's obtaining an amendment from FEMA of the 100 year flood plain in its favor. In essence, the Petitioner argues that since the Hearing Officer has authority to impose conditions on the development plan, this is the same thing as having the authority to grant conditional approvals. These are distinctly different concepts. Imposing conditions means limiting the development in some manner. Granting conditional approval means the

Hearing Officer's approval is not final but rather contingent on some outside event occurring. Obviously these are not even close to the same thing.

The Baltimore County Code, Section 26-206 (a) entitled "Development Plan Approval" describes the Hearing Officer's duties at the final hearing for development plan approval. There is no express or implied authority given by the County Council to authorize the Hearing Officer to grant conditional approval of any kind - much less approval of developments which violate the present law. In fact, Subsection (b) of 26-206 requires approval of the development plans: "that compl[y] with these development regulations and applicable policies, rules and regulations." Thus, even the broadest interpretation of Subsection (b) makes it clear that approvals of development plans which violate the present 100 year flood plain are prohibited. While the County Code mentions that the Hearing Officer may conduct informal and formal hearings on "comments or unresolved conditions," violations of the 100 year flood plain hardly qualify as a "comment" or "unresolved condition," particularly in light of the unambiguous mandate of the law.

Even if the Hearing Officer were to hold he had some authority to grant conditional approvals, it is not appropriate to do so in this case. It is one thing to grant conditional approval while a Petitioner completes some minor application or approval by an agency, and quite another to override the express legislative act of the County Council of Baltimore County. The County law says owners can not build or substantially renovate on flood plain properties. To grant conditional approval here would contravene the present law.

c. **A conditional approval should not be granted
In reliance on a possible change in the current law.**

The Petitioner also contends that since the law can be amended, the Hearing Officer can grant a conditional approval on that basis. The Petitioner certainly has the right to appeal to FEMA to overturn or modify official 100 year flood plain designation. However, it would indeed be absurd to suggest that the current law does not apply since it might be amended in the future. That argument would, in effect, place an indefinite hold on this development plan while the Petitioner lobbies the federal agency. It would also render existing law meaningless.

VARIANCES

Under the authority of Section 307.1 (BCZR), the Hearing Officer, applying the two-step test set forth in Cromwell v. Ward, 100 Md. App. 691 (1995), has the authority to grant variance from the height, area, parking, and sign regulations.

- A. The first step requires the petitioner to prove, to the satisfaction of the hearing officer, that the property whereon structures are to be placed (or uses conducted) is unique, unusual, and different from the surrounding properties such that the uniqueness causes the zoning provision to impact more on the subject property than on the surrounding properties.
- B. The second step of the test requires that the petitioner must demonstrate that strict compliance with the BCZR would result in either practical difficulty or unreasonable hardship. The Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App.28, stated:
1. "To prove undue hardship for a use variance, the following three criteria must be met:
 - (i) Applicant must be unable to secure a reasonable return or make any reasonable use of his property (mere financial hardship or opportunity for greater profit is not enough).
 - (ii) The difficulties or hardship is peculiar to the subject property in contrast with other properties in the zoning district.
 - (iii) **Hardship was not the result of applicant's own actions.**
 2. "To provide practical difficulty for an area variance, the following criteria must be met:
 - (i) Whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome.
 - (ii) Whether the grant would be substantial injustice to applicant, as well as other property owners in district, or whether a lesser realization than that applied for would give substantial relief.
 - (iii) Whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and public safety and welfare secured.
- C. No increase in residential density beyond that allowed by the zoning regulations shall be permitted.
- D. The relief requested must be in strict harmony with the spirit an intent of height, area, off-street parking, or sign regulations
- E. And only in such manner as to grant relief without substantial injury to public

health, safety, and general welfare.

The above law applied to this development demands the request for variances should be denied. First the requests are inaccurate. The developer represents in its development plan that the width of aisles is to be 18.5 feet when in fact it has only 17.5 feet of width in these areas due to the thickness of the columns supporting the structure above it.. The developer represented that it would meet the BCZR if it was allowed to have 26 double stacked parking spaces in the mill. In fact the Protestants pointed out that there were six more spaces in the Boiler Building that were proposed as double stacked for which no variance was initially requested.

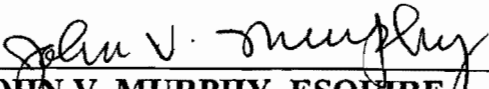
Second the variances lead to unsafe driving conditions. As shown by the Protestant's expert, the double stacked spaces would pose a real danger to the residents and public who use them as they require unreasonably accurate control of a vehicle when backing up from the inside blocked space to the aisle.

Third the developer has not requested variances for areas where the plan does not meet the Baltimore County regulations. For example the ramps to the Mezzanine level parking are only 18.5 feet wide and as such do not meet the required 22 foot width for two way aisles. Furthermore the parking plan woefully mis-represents the number of parking spaces actually provided.

Finally the variances are based simply on the developer's desire to make a better economic package for this development. They are simply self imposed to maximize return on investment. If the variances were denied the scale of the project would be reduced and the impact on the adjacent community lessened.

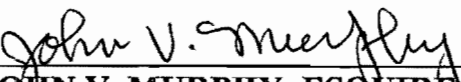
CONCLUSION

For the reasons set forth herein, the Protestants respectfully request that the Development Plan and variances be denied with prejudice.


JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Protestants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 th day of June, 2002, a copy of the foregoing Hearing Memorandum was hand delivered to Robert Hoffman, Esq, P.O. Box 5517, Baltimore, Maryland 21285-5517, attorney for the Petitioner and Peter Zimmerman, Esq. Peoples Counsel, Old Courthouse, Towson, Maryland.


JOHN V. MURPHY, ESQUIRE

H:\WPWIN\CLIENTS\OellaCommAssoc\Trial Memorandum

5/24/02

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE
840 Oella Avenue, W/S Oella Avenue,
190' NW of c/l Oella Hollow Road
1st Election District, 1st Councilmanic

Legal Owner: Oella Mill, LLP
Contract Purchaser: Forest City Residential Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-412-SPHA

* * * * *

RE: DEVELOPMENT PLAN HEARING
Oella Mill Property
W/S Oella Avenue, E of Patapsco River
1st Election District, 1st Councilmanic

Oella Mill, LLP
Applicant

MAY 24 2002

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No. I-498

* * * * *

PEOPLE'S COUNSEL'S MEMORANDUM ON THE
RESIDENTIAL TRANSITION AREA ISSUE

I. Introduction

Counsel for Protestants has raised the applicability of the Baltimore County Zoning Regulations governing residential transition areas (RTAs). BCZR 1B01.1B1. These regulations moderate the impact of dissimilar residential uses on adjoining single-family detached, semi-detached or duplex dwellings in D.R. 1, D.R. 2, D.R. 3.5, D.R. 5.5, or R.C. zones within 150 feet of the tract boundary. They accomplish this purpose by requiring setbacks, buffers and screening of the proposed dissimilar housing type. In

proper cases, a developer may request a variance from the RTA. BCZR 1B01.1B1c. The regulations also provide for certain exceptions.

There is no dispute that D.R. 3.5 zoning adjoins the Oella Mill property. There is also no dispute that there exist single-family detached, duplex, and/or semi-detached dwellings within 150 feet of the tract boundary.

The developer claims nevertheless that its proposed multi-family apartment building is excused from RTA compliance because the subject property is in a Business Zone (B.M.-C.C.C.). Its argument is that the RTA regulations govern only developments in D.R. zones.

Counsel for Protestants has noted that a small part of the property is, in any event, zoned D.R. 3.5. But we will assume for the purpose of this memorandum that the zoning is entirely commercial.

We have studied this issue carefully. We concluded that the RTA standards do apply. The language, history, and core purpose of the regulations all point to this conclusion.

II. The Plain Language: B.M. Zone Incorporation of the RTA

Residential uses in the B.M. zone are “permitted and as limited in the residential zone immediately adjoining...” BCZR 230.1, 233.1. In other words, the B.M. zone *incorporates* the law which applies to the adjoining D.R. zone. These plainly include RTA restrictions which govern the adjoining D.R. 3.5 zone. BCZR 1B01.1B1g.

Where there is a C.C.C. district overlay, the C.C.C. regulations do override in the event of a conflict. But the B.M. zone restrictions remain where the C.C.C. regulations

do not govern the subject-matter. BCZR 235A does not govern setbacks, buffers and screening.

There is thus not even a colorable argument to avoid the fundamental B.M. zoning limitations. In sum, the B.M. zone here incorporates the D.R. zone restrictions and functions as a D.R. zone.

III. The Plain Language and History of the RTA

Even were there no incorporation provision, the RTA restrictions appear to apply on their own to residential development in business zones. Bill 2-92 enacted the present language defining RTA structure. It states BCZR 1B01.1B.1:

A. Definitions and Purpose.

1. The residential transition area (RTA) is a 100 foot area, including any public road or right of way, extending from a D.R. zoned tract boundary into the site to be developed.

Here, because the adjoining tract is zoned D.R. 3.5, there is a D.R. zoned tract boundary at the border of the Oella Mill site.

It is significant that the prior RTA restrictions derived from Bill 124-81 explicitly stated:

A residential transition area is any D.R. [1, D.R. 2, D.R. 3.5, or D.R. 10.5] zone or part thereof which lies (a) within 300 feet of any point on a dwelling other than an apartment building, or (b) within 250 feet of any point lying within a vacant lot of record which is itself wholly or partially classified as D.R. and which is two acres or less in area.

The original RTA legislation, traceable to Bill 100, 1970, targeted only the D.R. zones bracketed and deleted by Bill 124-81, above.

So, in this trilogy of RTA bills, the first two explicitly identified the scope of the RTA as limited to some or all of the D.R. zones. The third, and current, version does not explicitly refer to D.R. zones. Rather, it includes any properties with D.R. zoned tract boundaries. Bill 124-81 and Bill 2-92 are attached.

The proposition that “D.R. zoned tract boundary” embraces a boundary where the D.R. zoned tract is adjoining is consistent with the provision in BCZR 1B01.1B.1.b that specified D.R. zones generate residential transition areas.

IV. Function and Purpose

The legislative purpose to minimize impact of dissimilar residential uses plays as important a role where residential development occurs in business zones as in D.R. zones. Indeed, it is likely more important because residential development in business zones tends to be more intense, other things being equal. An obvious example would be the more intense development in business zones which have overlay districts (if, for the sake of argument, one accepts the notion that these districts allow unlimited density).

The development of a mid-rise apartment building adjacent to single-family, semi-detached and/or duplex dwellings calls just as loudly for setbacks, buffers, and screening as the development of an apartment building in a D.R. zone. Its being a renovation of an existing building does not lessen the need for these measures. There is no exemption in the RTA law for conversions of commercial uses to apartments.

V. The Developer’s Argument About Titles

The developer points to the title of 1B01 being “Regulations with respect to D.R. zones in general” and the subtitle for 1B01.1 as “General Use Regulations in D.R.

zones.” This is said to reinforce the argument that the RTA does not apply to residential development in business zones.

The short answer to this argument is that the business zones explicitly incorporate the D.R. zone standards. The uses there are as permitted and limited in the adjoining D.R. zone. The title and subtitle of the D.R. zone are, therefore, of no consequence. They also are incorporated.

The longer answer is that the adjoining D.R. 3.5 zone here qualifies as one of the several zones which generate a residential transition area. Therefore, even were there no incorporation, the application of RTA to a business zone which adjoins a D.R. 3.5 zone would involve a regulation with respect to a D.R. zone. As to the matter of “use regulations in D.R. zones,” it appears that this applies more to the enumeration of uses than to the RTA restrictions, which essentially are area standards. That subtitle also appears to be a carryover from Bill 124-81, which explicitly linked the RTA to D.R. zones.

VI. The Developer’s Argument About the CMDP

The Developer points to the specific language in the CMDP which states that residential projects within a non-residential zone are not subject to RTA requirements. Our response is that this conflicts with the legislative intent.

Pursuant to BCZR 504, the Planning Board is authorized to adopt the CMDP, subject to the requirement that they be consistent with the zoning law. It is true that the CMDP are transmitted to the Council, and subject to objection or modification. But the policies are submitted in mass, and it is rare that the Council attempts to redraft or modify this voluminous work.

The same consistency requirement applies to the Zoning Commissioner's Policy Manual. It is contained in Code Sec. 26-135.

In this context, the Council's failure to object does not amount to an affirmative statement that all of the policies are consistent with the law. Rather, it represents a general approbation of the policies in mass. It does not foreclose the opportunity for administrative and judicial review of the consistency of a particular policy with the governing legislation.

An administrative policy which is inconsistent with the governing law is null and void. An agency cannot override the plain meaning of its governing statute. It may not bypass statutory restrictions. Vest v. Giant Food Stores, 329 Md. 461(1993); see Whitman v. American Trucking Association, 531 U.S. ____ (2001).

VI. The Developer's Argument about the OR-1 Zone

The developer argues that BCZR 206.4, which explicitly subjects OR-1 residential developments to the RTA, proves that developments in other non-residential zones are not so restricted. We disagree.

All this shows is that there was a particular concern or problem with respect to a development in an OR-1 zone, and that the Council decided to resolve it in particular. Indeed, the CMDP policy provisions are a likely source of confusion.

This does not resolve the more general question of the legislative intent of BCZR 230.1, 233.1, and their incorporation of BCZR 1B01.1. To illustrate the point, there are several explicit provisions which state that specific uses are subject to variance under BCZR 307. We have noted the RTA variance provision in BCZR 1B01.1B1c. There is also explicit authority for variances for radiation fallout shelters under BCZR 308; for

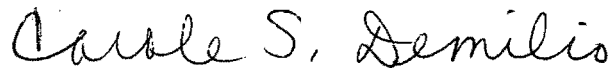
towers (wireless telecommunication facilities) under BCZR 426.11; for fences under BCZR 427c; for satellite receiving dishes under BCZR 429.2; and for signs under BCZR 450.8A. These regulations were enacted at different times for specific reasons. Their presence does not mean that all other area deviations are exempt from the general variance standards.

Similarly, there are specific provisions in BCZR 432.4 for the modification or waiver of RTA restrictions for elderly housing facilities. This does not eliminate the more general provisions for variance or exception to RTA under BCZR 1B01.1B1.

There are many other examples where the legislature's identification of a specific problem is not intended to exclude more general coverage. There is no mechanical rule of law. Rather, the aim is to discern the legislative purpose from the entire context of language and history. In the present case, the addition of BCZR 206.4 does not override the manifest intent to apply RTA restrictions to residential developments involving dissimilar uses in business as well as density residential zones.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 24th day of May, 2002 a copy of the foregoing People's Counsel's Memorandum on the Residential Transition Area Issue was mailed to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners, and to John V. Murphy, Esq., 14 N. Rolling Road, Baltimore, MD 21228, attorney for Protestants.



PETER MAX ZIMMERMAN

County Council of Baltimore County Maryland

Legislative Session 1981, Legislative Day No. 14

BILL NO. 124-81

Mr. Hickernell, Councilman

By the County Council, July 6, 1981

A BILL
ENTITLED

AN ACT concerning

Residential Transition Areas

FOR the purpose of repealing certain zoning regulations relating to residential transition areas and uses permitted therein; re-defining a residential transition area and a residential transition use; authorizing certain uses within a residential transition area and providing certain exceptions; providing certain standards and restrictions for such uses; providing procedures for the review and approval of a residential transition use; requiring that certain notification be given prior to such review and approval; and generally relating to uses in residential transition areas.

BY repealing and re-enacting, with amendments,

Subsection 1B01.1
Subparagraph B.1
Baltimore County Zoning Regulations, as amended

BY repealing

Subsection 1B01.2
Subparagraph C.4
Baltimore County Zoning Regulations, as amended

BILL NO. 2-92

MR. DOUGLAS B. RILEY, COUNCILMAN

BY REQUEST OF THE COUNTY EXECUTIVE

*Passed as Amended
2-3-92
Effective
3-2-92*

BY THE COUNTY COUNCIL, JANUARY 6, 1992

A BILL ENTITLED

AN ACT concerning

Baltimore County Zoning Regulations

FOR the purpose of modifying the Baltimore County Zoning Regulations in accordance with the Master Plan; authorizing certain types of residential dwellings in certain zones as a matter of right; permitting density transfers in limited cases; altering the residential transition area provisions; providing definitions, bulk regulations; changing the circumstances under which a variance may be granted; requiring Council approval of the Comprehensive Manual of Development Policies; and generally relating to the regulation of residential subdivision development in Baltimore County.

BY repealing

Section 101 - Definitions

the definition of "Apartment Building", "Apartment, Group-house", "Window Facing a Property Line", and "Window, Facing"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

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



5/8/02

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE

840 Oella Avenue, W/S Oella Avenue,
190' NW of c/I Oella Hollow Road
1st Election District, 1st Councilmanic

Legal Owner: Oella Mill, LLP
Contract Purchaser: Forest City Residential Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No: 02-412-SPHA

* * * * *

RE: DEVELOPMENT PLAN HEARING

Oella Mill Property
W/S Oella Avenue, E of Patapsco River
1st Election District, 1st Councilmanic

Oella Mill, LLP
Applicant

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No. 1-498

* * * * *

PEOPLE'S COUNSEL'S PRE-HEARING MEMORANDUM

This project presents questions of public importance concerning the allowable residential density in business zones with a C.C.C. District overlay. The property here occupies 5.73 acres in Oella. The proposal is for 175 units, mainly in a mid-rise building. The property is zoned B.M.-C.C.C. The adjoining property is zoned D.R. 3.5.

Ordinarily, residential use in the main business zones – B.L., B.M., and B.R. – is limited to the “uses permitted and as limited in the residential zone immediately adjoining...” See BCZR 230.1, 233.1, 236.1. In each of these zones, there is also a special regulation for C.C.C. Districts. These special regulations do not open up the

MAY 8 2002

underlying business zones to unlimited density based on a C.C.C. overlay. In the present case, the allowable density is 20 unless viewed as unlimited.

The applicable special regulations for C.C.C. Districts in business zones are BCZR 232A, 235A, and 238A. While BCZR 235A applies to the B.M. zone here, it should be read in context of its companion sections.

The original source of these C.C.C. District Special Regulations is Bill 111, 1968. Subsequently, there were significant amendments in Bill 100, 1970. These were explained on Page 7 of a memorandum by Donald W. Johnson to the Director of Planning on August 13, 1973. The Planning Board Report dated September 4, 1969, Pages viii – ix, show the proposed amendments which led to Bill 100's provisions on the C.C.C. District. The above sources are attached to this Memorandum.

Mr. Johnson's history says this about the C.C.C. District:

"AMENDMENTS TO C.C.C.-DISTRICT PROVISIONS"

In 1968 the Planning Board forwarded to the County Council a final report recommending new, more liberal zoning regulations for development in 'major business centers' – that is community and town centers. The proposals for town centers were accepted and passed by the Council, thus allowing construction of high-density, combined apartment-office buildings in 'C.T.' (Commercial, Town-center) core zoning districts. But it was decided that the provisions for community-size centers – 'C.C.C.' districts – should not be enacted without further consideration of the County's future development pattern. The proposals were resubmitted, as part of Bill 100, after the preliminary 1980 Guideplan was approved.

The features of these amendments:

Increased floor area ratios. Before, the FAR had been limited to 2.0 in B.R. zones, 3.0 in B.L. zones, and 4.0 in B.M. zones. Under the amendments, the maximum permitted FAR was changed to 4.0, uniformly, for those B.R., B.L., and B.M. zones lying within C.C.C. districts.

Apartments permitted. The amendments permitted apartments in C.C.C. districts. In order to protect the retail potentials of ground-floor space, however, all apartments must be located above the first floor of any building.

Amenity open space required. In C.C.C. districts, the required amenity open space is 0.2 square foot for each square foot of floor area in buildings.

Shared parking. The parking requirement for apartments in C.C.C. districts is 1.25 spaces for each apartment, but up to 50 per cent of the residential spaces provided may be shared with businesses on the same lot. Further reductions in the overall number of required parking spaces could be allowed by the Zoning Commissioner, in accord with standards that the Planning Board is authorized to adopt.”

II. PURPOSE OF THE C.C.C. DISTRICT

It is important to underline that the purpose of the C.C.C. District is to provide for mixed commercial and residential use in major business centers. It is not a mid-rise or high-rise apartment zone. These are provided for in the R.A.E. 1 and R.A.E. 2 (Elevator Apartment) zones, which allow for the density proposed here. BCZR 200.3D, 201.3D.

III. APARTMENT USE

Sections 232A.1, 235A.1, and 238A.1 all intend that residential use not be exclusive, but must come above commercial use. The statutory language which calls for apartments above the first floor intends mixed commercial/residential use. It does not envision parking on the first floor of buildings in the B.M.-C.C.C. zone. Our interpretation is confirmed by Mr. Johnson’s memorandum in the short paragraph above entitled “Apartments Permitted.”

IV. DENSITY

Sections 232A.3, 235A.3, and 238A.3 do not intend unlimited residential density. The language provides only that "... the specific number of dwelling or density units, as such shall not be directly limited." This means that the C.C.C. District special regulation does not itself limit density. But it does not eliminate the indirect density limits of the underlying zone which otherwise apply. In other words, the C.C.C. special regulations do not directly govern density.

This is reinforced by the observation that BCZR 232A.3 and 238A.3 both refer to limits on floor area ratio in conjunction with the statement that density shall not be directly limited as such. The absence of similar language in BCZR 235A.3 appears to be an errant technical omission. Mr. Johnson's memorandum refers to the intent to place an F.A.R. limit of 4.0 in each of three special regulations, and the 1969 Planning Board report shows this to be the case.

V. NOT AN R.A.E. ZONE IN DISGUISE

In sum, the underlying business zone controls the density, based on the adjoining residential density. The special C.C.C. District regulations control floor area ratio, which is more typically a limitation on commercial space.

If the density were unlimited, the C.C.C. District overlay would transform the business zones into elevator-apartment zones. This does not make sense in light of the specific provisions for R.A.E. zones.

VI. RECREATIONAL OPEN SPACE

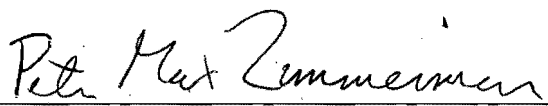
The Department of Recreation and Parks memorandum dated April 17, 2002 does not comment on recreational or open space because the project is a "renovation." We do not agree that a significant change in use from commercial to high-density residential is exempt from recreational space requirements.

Bill 110-99 should apply, including the requirement of 650 square feet per unit active open space. Code Sec. 26-498. The proposal does not appear to meet this requirement.

More important, it should be recognized that properties zoned C.C.C. in business centers rarely have enough room to comply with local open space requirements if the density is high. Rather, they have "amenity open space." The point is that the legislature did not envision high-density residential use in C.C.C. Districts, particularly where they are located in proximity to low-density residential zones such as in Oella.

VII. PARKING VARIANCES

Our preliminary review of the parking variance request does not reveal any "practical difficulty." It appears that the variances are generated by the proposed high-density use of the site. The site could be developed at a lower density and with less parking spaces. This would, moreover, be more compatible with the character of Oella village and its narrow roads.



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 8th day of May, 2002 a copy of the foregoing People's Counsel's Pre-Hearing Memorandum was hand-delivered to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners, and was delivered via facsimile (410-744-8936) to John V. Murphy, Esq., 14 N. Rolling Road, Baltimore, MD 21228, attorney for Protestants.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. William D. Fromm

TO Director of Planning

Date August 13, 1973

FROM Donald W. Johnson

SUBJECT Bill 100 of 1970

Here is a discussion of some of the background, highlights, and details of Bill 100. As lengthy as this memorandum may seem, however, it can by no means deal with all of the essential facts. I will be glad to try answering any questions you may have with respect to matters not covered.

GENERAL BACKGROUND

In 1968 there was a culmination of interest in work on quite a number of the zoning and zoning-related projects that had been pursued over a period running back a dozen years or so. At that time, the planning agencies came to the threshold of completing the first Countywide master plan (the Guideplan). Also, the Board and staff finished work on the "cycle zoning" proposal. And, anticipating adoption of the new rezoning system, the planning agencies began scheduling work on the whole new set of zoning maps that would be required by the law. It was decided that this was the time to go forward with an extensive series of zoning amendments coordinated with these other projects—the amendments that were to become Bill 100 of 1970.

RURAL ZONING CLASSIFICATIONS

Bill 100 established two rural zoning classifications: R.D.P., to be applied to interim "holding zones," and R.S.C., to permanently restrict development in areas that should be conserved. (R.D.P. stands for "Rural Deferred Planning," and R.S.C. for "Rural-Suburban: Conservation.")

Rezoning by petition. No petition reclassification is permitted in an R.D.P. zone unless it is proved that the County plans to make sewer and water facilities available to the site within six years of the time the petition is considered. No reclassification from R.S.C. is permitted unless public sewerage and water-supply systems have been extended to the site prior to the time the petition is considered. Further, R.S.C. land within a watershed area of a public reservoir or within an area designated as a regionally significant green space on a master plan cannot be reclassified by petition.

PUD. Large-scale unit developments may be allowed in an R.D.P. zone (by the County Council), but not in an R.S.C. zone.

Relationship to URDL. R.D.P. and R.S.C. zones may be established only beyond the Urban Rural Demarcation Line, but the line can later be moved outward without affecting the status of the zoning classifications.

Uses permitted as of right. Typical permitted uses are farms and single-family detached houses. Also permitted as of right are a number of other uses that have been permitted in residential zones in Baltimore County for some time.

OFFICE COPY - DO NOT REMOVE

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Final Report of the
BALTIMORE COUNTY PLANNING BOARD

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS

Baltimore County Office of Planning and Zoning
Towson, Maryland 21204
September 4, 1969

Revise Subsection 232.5 as follows:

232.5—Floor Area Ratio. The maximum permitted floor area ratio for any site in a B.L. Zone, excepting C.C.C. and C.T. districts, shall be 3.0.

Redesignate existing Section "232A" as "Section 232B" and redesignate subsections therein accordingly; add new Section 232A as set forth below, immediately following the conclusion of Subsection 232.5:

Section 232A—Special Regulations for C.C.C. Districts.

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C.C.C. districts superimposed upon B.L. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.)

232A.1—Apartments shall be permitted, but only above the first story of a building.

232A.2—No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

232A.3—The maximum permitted floor area ratio for any site shall be 4.0; the specific number of dwelling or density units, as such, shall not be directly limited.

232A.4—The minimum permitted amenity open space ratio shall be 0.2.

232A.5—For all buildings containing apartments, there shall be provided at least 1.25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409.2.d.)

Redesignate existing Section "235A" as "Section 235B" and redesignate subsections therein ac-

[ADJUSTMENT OF PARKING REQUIREMENTS IN COMMUNITY-CORE
COMMERCIAL (C.C.C.) DISTRICTS]

Revise Paragraph d of Subsection 409.2 as follows:

- d. Modification of Parking-Space Requirements in C.C.C. Districts or Town Centers. The Planning Board may adopt, and from time to time revise, parking-space standards for C.C.C. districts or town centers, which standards differ from the parking-space requirements otherwise applicable under these Zoning Regulations; but the provisions of the Zoning Regulations shall control unless and until the Zoning Commissioner, upon petition and after public hearing, orders that the Planning Board's standards may be applied to the subject property of the petition.

In formulating such parking-space standards, the Planning Board shall consider: any relevant surveys and studies submitted by the Baltimore County Department of Traffic Engineering; projections of transit usage; any probability of lessened parking demand as a result of integrally housed business establishments with different (complementary) peak hours; trends with respect to patterns of car ownership or usage within the areas of concern; probability of assisted ("attendant") parking; nearby parking facilities developed by the Baltimore County Revenue Authority; and other pertinent factors under which recommended decreases in parking requirements may be effected.

County Council of Baltimore County Maryland

Legislative Session 1968, Legislative Day No. 13

BILL No. 111

Introduced by Mr. Bartenfelder (5th), Councilman
(By Request of the County Executive)

By the County Council, September 3, 1968.

A BILL

Entitled

AN ACT, To provide zoning regulations for apartment development, AND OTHER development in major business centers, and AUTOMOBILE parking lot design, by deleting certain terms from section 101, "Definitions"; by adding certain terms and definitions to section 101, "Definitions"; by deleting subsection 230.10 of section 230, "Use Regulations," and substituting therefor a new subsection 230.10; by repealing and re-enacting with amendments subsection 230.11 of section 230, "Use Regulations"; by repealing and re-enacting with amendments subsection 232.5 of section 232, "Area Regulations"; by adding new section 232A, "Special Regulations for C.C.C. Districts"; and by adding new section 232B, "Special Regulations for C.T. Districts"; by adding new subsections 233.2A and 233.2B to section 233, "Use Regulations"; by repealing and re-enacting with amendments subsection 235.5, and by adding new sections SECTION 235A and 235B to section 235, "Area Regulations"; by repealing and re-enacting with amendments subsection 238.5, and by adding new sections SECTION 238A and 238B to section 238, "Area Regulations"; by repealing and re-enacting with amendments subsection 259.1 of section 259, "Districts"; and by adding new paragraph d to subsection 409.2 of section 409, "Offstreet Parking and Loading," of the Baltimore County Zoning Regulations (1963) (1955), as amended.

WHEREAS, the amendments to the Zoning Regulations which are contained in this Bill have been formulated in accordance with the procedures specified in sections 23-20 and 23-21 of the 1966 Cumulative Supplement to the Baltimore County Code, 1958, and the several public hearings required by said sections have been held in accordance therewith; now, therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland, That the Baltimore County Zoning Regulations*

20020412

ad

PETITIONS
ETC

THIS CASE IS RIDING

WITH

CBA-02-137

3

02-413-SPHA

20020412

✓ 10/03/02 @ 10 a.m. Day 2
10/08/02 @ 10 a.m. Day #3
10/30/02 @ 10 a.m. Day 4 - concluded
~~11/06/02 @ 10 a.m.~~
11/19/02 @ 9⁰⁰ a.m. deliberation

PETITIONS
ETC

OELLA MILL LLP

02-412-SPHA

840 Oella Avenue, Ellicott City, MD 21043

riding with CBA-02-137

~~FILE 20F 3~~ ⁵

EXHIBITS LOCATED IN FILE 3 OF 3



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 840 Oella Avenue
which is presently zoned BM-CCC

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Special Hearing to approve a waiver pursuant to Sections 26-171, 26-172(b), 26-203(C) (8), and 26-278 of the Baltimore County Code to renovate a historic structure, and a

Special Hearing for a waiver pursuant to Section 500.6, BCZR; Section 517.2 (510.2) Building Code; and Sections 26-276, 26-670, 26-172(a)(3) Baltimore County Code to permit the addition of wooden steps in a ~~river~~ riverine flood plain.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, 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/~~Kessex~~

Forest City Residential Group

Name - Type or Print

Signature By: Jon Wallenmeyer, Vice-President,
East Coast Development

5803 Nicholson Lane (301) 287-3234
Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Robert A. Hoffman

Name - Type or Print

Signature

Venable, Baetjer and Howard, LLP

Company

210 Allegheny Avenue (410) 494-6200
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

Oella Mill, LLP

Name - Type or Print

Signature By: Peter G. Ruff, Partner

Name - Type or Print

Signature

840 Oella Avenue (410) 465-1313
Address Telephone No.

Ellicott City, Maryland 21043
City State Zip Code

Representative to be Contacted:

Robert A. Hoffman

Name

210 Allegheny Avenue (410) 494-6200
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING May 9th + 10th

UNAVAILABLE FOR HEARING

Reviewed By [Signature] Date 3-26-02

PDM # I-498

ORDER RECEIVED FOR FILING

Date

200 9/15/98

By



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 840 Oella Avenue

which is presently zoned BM-CCC

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 Attached.

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

To Be Determined at the Hearing.

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/Lessor:

Forest City Residential Group

Name - Type or Print

Signature By: Jon Wallenmeyer Vice-President,
East Coast Development

5803 Nicholson Lane, (301) 287-3234
Address Telephone No.

North Bethesda, Maryland 20852
City State Zip Code

Attorney For Petitioner:

Robert A. Hoffman

Name - Type or Print

Signature

Venable, Baetjer and Howard, LLP

Company

210 Allegheny Avenue (410) 494-6200

Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

Oella Mill, LLP

Name - Type or Print

Signature By: Peter G. Ruff, Partner

Name - Type or Print

Signature

840 Oella Avenue (410) 465-1313

Address Telephone No.

Ellicott City, Maryland 21043

City State Zip Code

Representative to be Contacted:

Robert A. Hoffman

Name

210 Allegheny Avenue (410) 494-6200

Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING See SPH

UNAVAILABLE FOR HEARING

Reviewed By [Signature] Date 3-26-02

Case No. 02-412-SPH

REV 9/15/98

PDM # I-498

ORDER RECEIVED FOR FILING

Date

By

PETITION FOR VARIANCE

1. Variance from Section 235A.2 of the Baltimore County Zoning Regulations to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet.
2. Variance from Section 409.4.B of the Baltimore County Zoning Regulations to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle.
3. Variance from Section 409.4.C of the Baltimore County Zoning Regulations to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

412

ORDER RECEIVED FOR FILING

Date

7/13/12

By

[Signature]

TO1DOCS1/133689 v1

Description to Accompany

Petition for Special Hearing and Zoning Variance

5.73 Acre Parcel

North and West side of Oella Avenue

Northwest of Oella Hollow Road



Daft•McCune•Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

<http://www.dmw.com>

410 296 3333

Fax 410 296 4705

A Team of Land Planners,

Landscape Architects,

Golf Course Architects,

Engineers, Surveyors &

Environmental Professionals

Beginning for the same at the end of the following course and distance measured from the intersection of the centerline of Oella Avenue and the centerline of Oella Hollow Road, (1) Northwesterly, along the centerline of Oella Avenue, 190 feet, more or less, thence leaving said Oella Avenue and running the twenty-nine following courses and distances, viz: (1) South 22 degrees 07 minutes 25 seconds West 68.21 feet, thence (2) South 69 degrees 32 minutes 14 seconds East 22.10 feet, thence (3) South 20 degrees 27 minutes 46 seconds West 14.61 feet, thence (4) South 13 degrees 03 minutes 54 seconds East 55.67 feet, thence (5) North 87 degrees 10 minutes 14 seconds West 167.57 feet, thence (6) North 01 degrees 55 minute 46 seconds East 28.66 feet, thence (7) North 89 degrees 40 minutes 17 seconds West 7.00 feet, thence (8) South 01 degree 55 minutes 46 seconds West 34.50 feet, thence (9) North 89 degrees 40 minutes 14 seconds West 139.30 feet, thence (10) North 01 degree 01 minute 46 seconds East 35.28 feet, thence (11) South 89 degrees 01 minute 46 seconds West 86.20 feet, thence (12) South 30 degrees 39 minutes 16 seconds West 90.72 feet, thence (13) South 22 degrees 09 minutes 06 seconds West 181.70 feet, thence (14) North 65 degrees 49 minutes 14 seconds West 62.60 feet, thence (15) North 73 degrees 49 minutes 14 seconds West 145.00 feet, thence (16) North 17 degrees 42 minutes 59 seconds East 67.47 feet, (17) North 17 degrees 54 minutes 11

412

seconds East 44.27 feet, thence (18) North 18 degrees 38 minutes 59 seconds East 78.46 feet, thence (19) North 24 degrees 55 minutes 44 seconds East 78.32 feet, thence (20) North 15 degrees 59 minutes 17 seconds East 55.48 feet, thence (21) North 20 degrees 05 minutes 35 seconds East 72.13 feet, thence (22) North 34 degrees 01 minute 44 seconds East 38.94 feet, thence (23) North 06 degrees 40 minutes 28 seconds East 45.43 feet, thence (24) North 06 degrees 38 minutes 41 seconds West 70.87 feet, thence (25) North 19 degrees 14 minutes 42 seconds East 62.42 feet, thence (26) South 70 degrees 54 minutes 14 seconds East 235.93 feet, thence (27) North 57 degrees 21 minutes 25 seconds East 75.26 feet, thence (28) South 67 degrees 32 minutes 14 seconds East 78.95 feet, and thence (29) North 58 degrees 26 minutes 25 seconds East 115.33 feet to a point on or near the centerline of Oella Avenue, thence binding on or near the centerline of Oella Avenue, the four following courses and distances, viz: (30) South 00 degrees 25 minutes 56 seconds West 170.00 feet, thence (31) South 13 degrees 44 minutes 24 seconds East 50.00 feet, thence (32) South 37 degrees 45 minutes 25 seconds East 50.00 feet, and thence (33) South 45 degrees 39 minutes 24 seconds East 50.00 feet to the point of beginning; containing 5.73 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

March 6, 2002

Project No. 01108.00 (L01108)



413

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: #02-412-SPHA

840 Oella Avenue

W/S of Oella Avenue, 190' NW of centerline of Oella Hollow Road

1st Election District - 1st Councilmanic District

Legal Owner(s): Peter G. Ruff, Partner Oella Mill, LLP

Contract Purchaser: Jon Wallemeyer VP, Forest City Residential Group

Special Hearing: to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure. **Variance:** to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet, to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle, to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

Hearing: Thursday, May 9, 2002 at 9:00 a.m. in Room 106, Baltimore County Office Building, 111 W. Chesapeake 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.

4/338 April 25

C534182

CERTIFICATE OF PUBLICATION

4/25, 2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/25, 2002.

☒ The Jeffersonian

☐ Arbutus Times

☐ Catonsville Times

☐ Towson Times

☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Case No. **10184**

02-412-5 PHA

DATE 3-26-02 ACCOUNT R-001 06-6150

AMOUNT \$ 500.00

RECEIVED FROM Karin & Associates

FOR Commercial Special Housing + Variance P/L
840 Della Ave.
Acres

PAID RECEIPT

BUSINESS ADDRESS 5/26/2002 5/26/2002 09:28:00
MAIL NEW JEE DRIVER 2
RECEIPT # 234827 5/26/2002 UFLH
MAIL 5 528 ZIPPING VERIFICATION
CR NO. 010184
Amount Tot \$500.00
500.00 CA
Baltimore County, Maryland

DISTRIBUTION WHITE CASHIER PINK AGENCY YELLOW CUSTOMER

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 10475

DATE 8-21-02 ACCOUNT 001 006 6150

RECEIVED FROM: JOHN V MURPHY AMOUNT \$ 385.00

FROM: MURPHY + MURPHY LLC

FOR: APPEAL SPECIAL HEARING/VARIANCE
OELLA MILL PROPERTY
02-412-SPHA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

DATE 8/21/02 TIME 1:00
BY JOHN V MURPHY DEPT 001 006 6150 DEL
FOR APPEAL SPECIAL HEARING/VARIANCE
OR 02-412-SPHA

PAID TO 001 006 6150
PAID BY 001 006 6150
PAID FOR APPEAL SPECIAL HEARING/VARIANCE

CASHIER'S VALIDATION

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

August 20, 2002

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

Re: Notice of Appeal
Development Plan Hearing
and Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412- SPHA

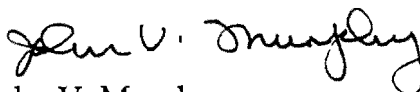
Dear Mr. Jablon:

The Protestants, Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually, hereby appeal to the Board of Appeals the final decision of the Hearing Officer/Zoning Commissioner dated August 8, 2002 incorporating the Hearing Officer/Zoning Commissioner's Order of July 8, 2002 granting approval of the requested variances and the Development Plan for this project.

Checks for appeal fees in the amount of \$250.00 and \$385.00 are attached.

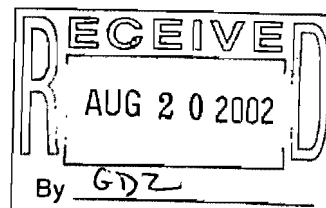
Please let me know if you have any questions.

Very truly yours,


John V. Murphy

Enclosures

cc: Robert Hoffman, Esq
Peter Zimmerman, Esq.
Protestants



02 AUG 22 AM 11:13



County Board of Appeals of Baltimore County

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

January 14, 2003

BILLED TO:

John V. Murphy, Esquire
Murphy & Murphy, LLC
14 North Rolling Road
Catonsville, MD 21228

RE: Petition for Judicial Review filed in the Circuit Court
Civil Action No. 3-C-03-0016

In the matter of: Oella Mill LLP, et al

Petition of: Oella Community Association, et al

Total cost of certified documents in Case No. CBA-2-137.....**\$408.00**

**(Note, these costs are separate and distinct from any
amount paid by you for the transcript)**

PLEASE MAKE CHECK PAYABLE TO: *Baltimore County, Maryland*

REMIT PAYMENT TO:

County Board of Appeals
Room 49, Old Courthouse
400 Washington Avenue
Towson, MD 21204



CERTIFICATE OF POSTING

RE: Case No.

Community Input Meeting

Petitioner/Developer

Oella Mill, LLP

Date of Hearing/Closing

Tuesday, February 19, 2002
7:00 p.m.

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

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as _____

Oella Mill Property

The signs were posted on Monday, January 28, 2002
(Month, Day, Year)

Sincerely,

 28-01-02

(Signature of Sign Poster and Date)

Michael Alexander

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

Notice of
Community Input Meeting

For
Oella Mill Property

Date and Time: Tuesday, February 19, 2002
at 7:00 p.m.

Location: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

Developer: Oella Mill, LLP

Property Acreage: 5.75 acres ±

Description of Proposed Development:

Convert existing building into 171 apartments

You may review the plans or obtain
additional information at:
Department of Permits and Development Management
County Office Building, Room 123
111 West Chesapeake Avenue, Towson, MD 21204
(410) 887-3335

HANDICAPPED ACCESSIBLE



CERTIFICATE OF POSTING

RE: Case No.

Hearing Officer's Hearing

Petitioner/Developer

Oella Mill, LLP

Date of Hearing/Closing

May 9 and May 10, 2002
9:00 a.m.

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

To whom it may concern:

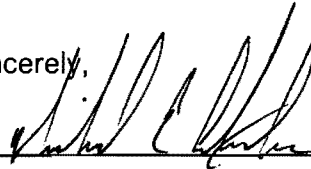
This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as

Oella Mill Property - 2 signs posted

The signs were posted on

April 10, 2002
(Month, Day, Year)

Sincerely,


(Signature of Sign Poster and Date)

Michael E Alexander
(Printed Name)

Daft- McCune- Walker, Inc.
200 East Pennsylvania Avenue
Towson, MD 21286
(Address)

410-296-3333

(Telephone Number)

Notice of
Community Input Meeting

For
Oella Mill Property

Date and Time: Tuesday, February 19, 2002
at 7:00 p.m.

Location: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

Developer: Oella Mill, LLP

Property Acreage: 5.75 acres ±

Description of Proposed Development:

Convert existing building into 171 apartments

You may review the plans or obtain
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Department of Permits and Development Management
County Office Building, Room 123
111 West Chesapeake Avenue, Towson, MD 21204
(410) 887-3335

HANDICAPPED ACCESSIBLE



Notice of
Development Plan Hearing

for
Oella Mill Property

Date and Time: Thursday, May 9, 2002 9:00 a.m.
Friday, May 10, 2002 9:00 a.m.

Location: Baltimore County Office Building
Room 106
111 West Chesapeake Avenue
Towson, MD 21204

Developer: Oella Mill, LLP

Property Acreage: 5.75 acres ±

Description of Proposed Development:

Convert existing building into 171 apartments

You may review the plans or obtain additional information at:
Department of Permits and Development Management
County Office Building, Room 123
111 West Chesapeake Avenue, Towson, MD 21204
(410) 887-3335

HANDICAPPED ACCESSIBLE



CERTIFICATE OF POSTING

RE: Case No.

02-412-SPHA

Petitioner/Developer

Oella Mill, LLP

Date of Hearing/Closing

Thursday, May 9, 2002

9:00 a.m.

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

To whom it may concern:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as

Oella Mill Property - 2 signs posted

The signs were posted on

April 22ND, 2002
(Month, Day, Year)

Sincerely,

George Brown A. 22-02

(Signature of Sign Poster and Date)

GEORGE BROWN

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

Development Plan Hearing

Oella Mill Property

Date and Time: Tuesday, May 19, 2003 6:00 a.m.
Friday, May 23, 2003 9:00 a.m.

Location: Boardman Center Office Building
Room 106
121 West 2 Street and Avenue
Durham, NC 27704

Developer: L. John Smith, LLC

Property Address: 1175 South 1st

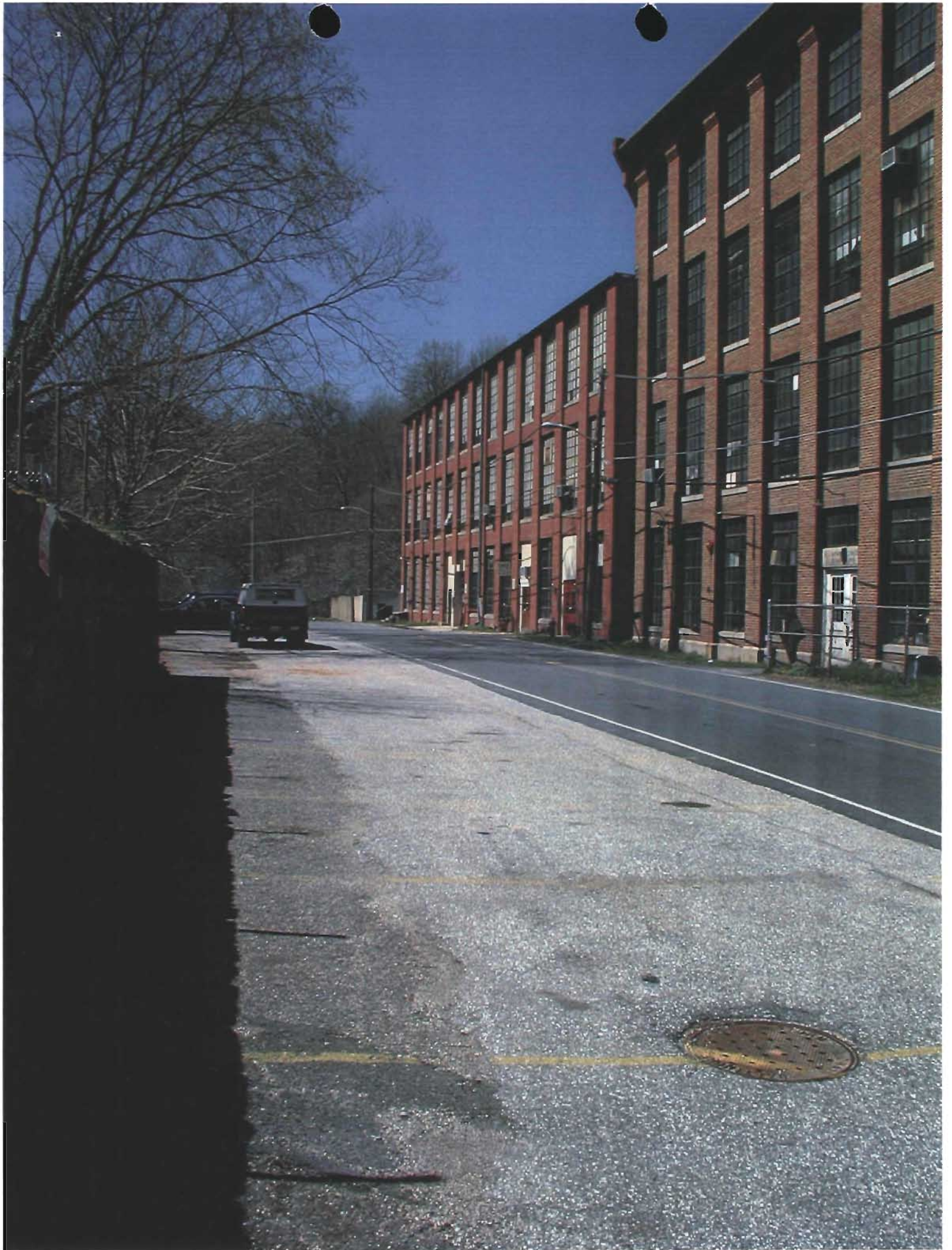
Description of Proposed Development:

Conversion of existing building into 175 apartments

For more information, please contact the Planning Department at
Durham City Government, Planning Department
1000 10th Street, Room 121
Durham, NC 27704
Phone: 919/286-2222

HANDICAPPED ACCESSIBLE





CERTIFICATE OF POSTING

RE: Case No. 02-412-SPHA - Revised
Petitioner/Developer Oella Mill, LLP
Date of Hearing/Closing 6/12/02

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

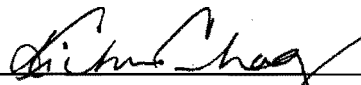
Ladies and Gentlemen:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as _____

Oella Mill Property - 2 signs revised

The signs were posted on 05/16/02
(Month, Day, Year)

Sincerely,



(Signature of Sign Poster and Date)

Lichuan Chang

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

ZONING NOTICE Case No. 02-412-SPHA

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

Place: Baltimore County Office Building - Room 106
111 West Chesapeake Avenue
Towson, MD 21204

Date/Time: Wednesday, June 12, 2002 @ 9:00 a.m.

Request: Special hearing to permit an addition of wooden steps
in a riverine floodplain and to approve a waiver to
renovate a historic structure.
Variance to permit apartment windows facing a
property line other than a street line to be located as
close as 8 feet in lieu of the minimum permitted 25
feet; to permit 32 parking spaces to be located so as
not to adjoin or have direct access to an aisle; to
permit a minimum width of 18.5 feet for two-way
aisles in lieu of the minimum required width of 22
feet.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY - TO CONFIRM HEARING CALL 410-887-1391

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

HANDICAPPED ACCESSIBLE

ZONING NOTICE

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

Development Plan Hearing

Oella Mill Property

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

Place: Baltimore County Office Building - Room 106
111 West Chesapeake Avenue
Towson, MD 21204

Date/Time: Wednesday, June 12, 2002 @ 9:00 a.m.

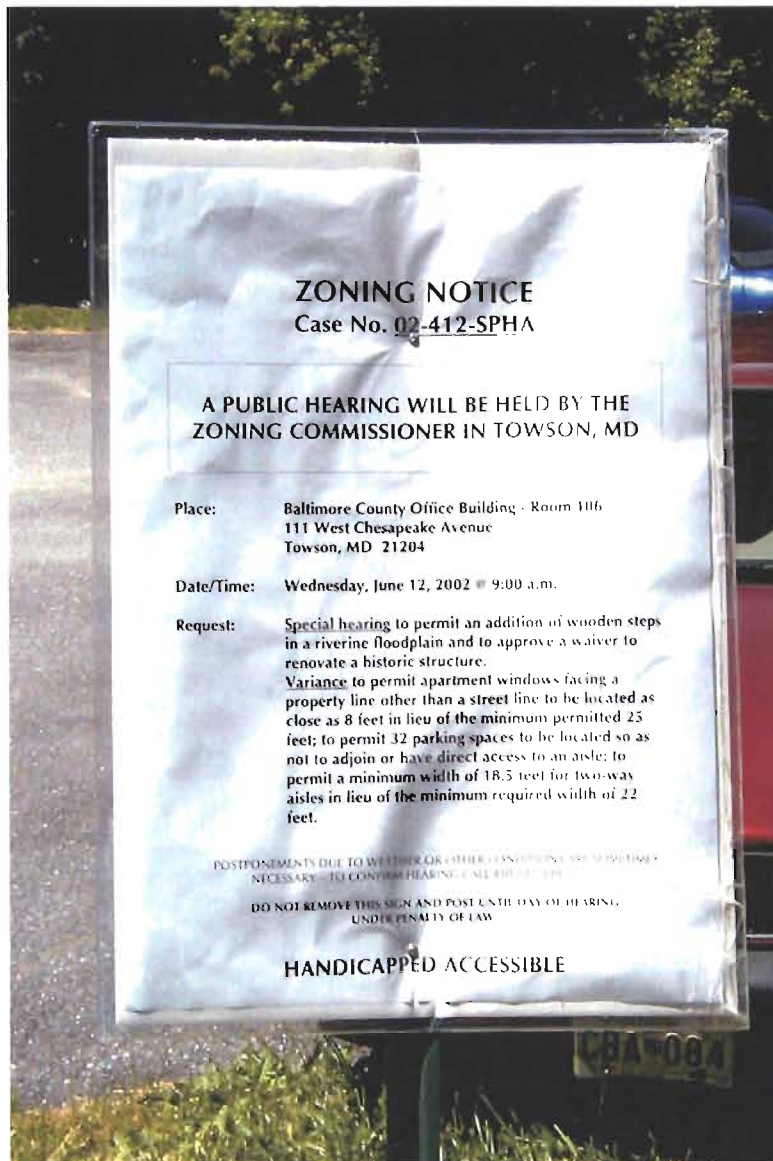
Request: Special hearing to permit an addition of wooden steps
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NECESSARY - TO CONFIRM HEARING CALL 410-887-1391

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

HANDICAPPED ACCESSIBLE



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/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of 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: 02-412 - SPHA
Petitioner: Oella Mill, LLP
Address or Location: 840 Oella Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Amy Dontell
Address: 210 Allegheny Avenue
Towson MD 21204
Telephone Number: (410) 494-6200

Revised 2/20/98 - SCJ

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-412-SPHA

OELLA MILL, L.L.P. - LEGAL OWNERS

840 OELLA AVENUE, ELLICOTT CITY, MD 21043

1ST ELECTION DISTRICT

APPEALED: 8/16/2002

LOCATION: W/S OELLA AVENUE, E. PATAPSCO RIVER

*******COMPLETE AND RETURN BELOW INFORMATION*******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 02-412 SPHA

Petitioner/Developer:

Oella Mill LLP

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

The sign was posted on 8/29, 2002

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

From: Theresa Shelton
To: Freund, Gary
Subject: Sign Posting - Boad of Appeals

Gary:

Just wanted to let you know that we have another posting. It is on the corner of the black file cabinet.

Thank you.

Theresa

02-412-SPHA

ZONING HEARING FILE INTERNAL CHECKLIST

Zoning Case No. 02-412-SPHA

Date Completed/Initials

4-9-02

PREPARE HEARING FILE (put case number on all papers; hole punch and place appropriately; put label and case number on folder; complete information on stamp on front of folder)

4-9-02

DETERMINE HEARING DATE (schedule within 45 days of filing, post and advertise at least 15 days prior to hearing)

4-9-02

TYPE HEARING NOTICE AND ADVERTISING NOTICE (type according to sample, taking billing information for advertising from advertising form in file; make appropriate copies; mail original and copies of hearing notice; place original advertising notice in Patuxent's box; file copies of both notices in hearing file; update ZAC in computer for hearing date, time and place)

UPDATE ZONING COMMISSIONER'S HEARING CALENDAR (keep original in "red" folder; mail copy to zoning commissioner's office)

COMPLETE FILE (write hearing date, time, and room on front of hearing folder; file in numerical order in cabinet next to copier until it is pulled for sending to zoning commissioner's office)

POSTPONEMENTS (type postponement letter; make appropriate copies; mail original and copies; send copy to zoning commissioner; file copy in hearing file; update hearing calendar and ZAC in computer)

RESCHEDULING (determine hearing date; type letter confirming new date; make appropriate copies; mail original and copies; file copy in hearing file; update hearing calendar and ZAC in computer; refile hearing folder)

INDEX CARDS (prepare index cards, according to sample; file cards in cabinet)

ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)

COMMENTS (check off agency comments received on front of hearing file; make copies; type comments letter; mail original to petitioner; file copy in hearing file)

FILES TO ZONING COMMISSIONER'S OFFICE (pull the files for the following week every Friday and administrative files on Tuesday; verify that checklist on front of hearing file has been completed; secure all papers under clips in file; send files for hearings to zoning commissioner's office by noon on Friday and files for administrative on Tuesday morning)



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

April 9, 2002

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: 02-412-SPHA

840 Oella Avenue

W/S of Oella Avenue, 190' NW of centerline of Oella Hollow Road

1st Election District – 1st Councilmanic District

Legal Owner: Peter G Ruff, Partner Oella Mill LLP

Contract Purchaser: Jon Wallemeyer VP, Forest City Residential Group

Special Hearing to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure. Variance to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet, to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle, to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

HEARING: Thursday, May 9, 2002 at 9:00 a.m. in Room 106, Baltimore County Office Building, 111 W Chesapeake Avenue

Arnold Jablon GJZ
Director

C: Robert A Hoffman, Venable Baetjer & Howard, 210 Allegheny Ave, Towson 21204
Peter G Ruff, Oella Mill LLP, 840 Oella Avenue, Ellicott City 21043
Jon Wallemeyer, Forest City Residential Group, 5803 Nicholson Lane, N Bethesda 20852
Amy Dontell, Venable Baetjer & Howard, 210 Allegheny Ave, Towson 21204

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, APRIL 24, 2002.**
- (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, April 25, 2002 Issue – Jeffersonian

Please forward billing to:

Amy Dontell
Venable Baetjer & Howard
210 Allegheny Avenue
Towson MD 21204

410 496-6200

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: 02-412-SPHA

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W/S of Oella Avenue, 190' NW of centerline of Oella Hollow Road

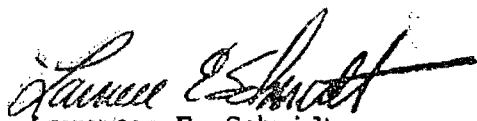
1st Election District – 1st Councilmanic District

Legal Owner: Peter G Ruff, Partner Oella Mill LLP

Contract Purchaser: Jon Wallemeyer VP, Forest City Residential Group

Special Hearing to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure. Variance to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet, to permit 26 parking spaces to be located so as not to adjoin or have direct access to an aisle, to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

HEARING: Thursday, May 9, 2002 at 9:00 a.m. in Room 106, Baltimore County Office Building, 111 W Chesapeake Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDL
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.



County Board of Appeals of Baltimore County

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

Hearing Room - Room 48

Old Courthouse, 400 Washington Avenue

August 27, 2002

NOTICE OF ASSIGNMENT

CASE #: CBA-02-137 and

CASE #: 02-412-SPHA

IN THE MATTER OF: Oella Mill / PDM I-498
Oella Mill LLP -Owner; Forest City Residential Group -
Developer W/s Oella Avenue, E of Patapsco River
1st Election District; 1st Councilmanic District

8/08/02 - Final Order of HO/DZC which included ruling on Motion
for Reconsideration; as well as Order dated 7/08/02 -Plan approval;
and, in Case No. 02-412-SPHA, SPH -Granted in part and dismissed
as moot in part; VAR -Granted - with restrictions.

ASSIGNED FOR:

TUESDAY, SEPTEMBER 24, 2002 at 10:00 a.m. /Day #1

NOTE: Additional dates of Thursday, 10/03/02; Tuesday, 10/08/02; Wednesday, 10/30/02; and
Wednesday, 11/06/02 are being held on the Board's docket as additional hearing dates as
required. Any comments relative to these additional dates will be discussed at the 9/24/02
hearing before the Board.

As to Case No. CBA-02-137 /this matter has been assigned for hearing in accordance with Section 26-209
of the BCC; and as to Case No. 02-412-SPHA- assigned for evidentiary hearing.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code*.

Kathleen C. Bianco, Administrator

c: Appellant

: Office of People's Counsel

Counsel for Appellants /Protestants
Appellants /Protestants

: John V. Murphy, Esquire
Greater Oella Comm Assn, Inc. /Concerned Citizens of
Oella /Lydia Temoshok /Dennis Burns /Lynette Burns
Christen Beed (all c/o of John V. Murphy, Esquire)
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

Counsel for Developer /Petitioner

: Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Reisdential Group
John Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 24, 2002

NOTICE OF HEARING /Day #2

CASE #: CBA-02-137 and

CASE #: 02-412-SPHA

Continued from 9/24/02

IN THE MATTER OF: Oella Mill / PDM I-498
Oella Mill LLP –Owner; Forest City Residential Group -
Developer W/s Oella Avenue, E of Patapsco River
1st Election District; 1st Councilmanic District

8/08/02 – Final Order of HO/DZC which included ruling on Motion for Reconsideration; as well as Order dated 7/08/02 -Plan approval; and, in Case No. 02-412-SPHA, SPH -Granted in part and dismissed as moot in part; VAR –Granted – with restrictions.

ASSIGNED FOR: **THURSDAY, OCTOBER 3, 2002 at 10:00 a.m. /Day #2**

***Additional dates:** **TUESDAY, OCTOBER 8, 2002 at 10:00 a.m.**
WEDNESDAY, OCTOBER 30, 2002 at 10:00 a.m. and
WEDNESDAY, NOVEMBER 6, 2002 at 10:00 a.m.

***Above "Additional" dates to be used for completion /deliberation as required.**

As to Case No. CBA-02-137 /this matter has been assigned for hearing in accordance with Section 26-209 of the BCC ; and as to Case No. 02-412-SPHA– assigned for evidentiary hearing.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code*.

Kathleen C. Bianco, Administrator

c: Appellant : Office of People's Counsel

Appellants /Protestants : Lydia Temoshok
Dennis Burns and Lynette Burns
Christine Beed
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

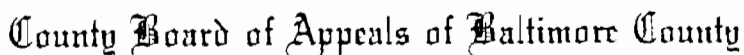
Counsel for Developer /Petitioner : Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Residential Group
John Wallenmeyer, VP /East Coast Development
Peter Ruff/Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.

Mickey Cornelius /The Traffic Group
Ronald Kanni, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney





*** HEARING ROOM - Room 48 ***

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF OCTOBER 7, 2002

In the Matter of:
Oella Mill LLP
1st Election District; 1st Councilmanic District

RE: Final Development Plan Approval / PDM I-498

SPH – To permit renovation of historic structure

SPH – To mpermit wooden steps

VAR – Parking and window location

Day #3 from 10/3

WEDNESDAY 10/09 10:00 am Case No.: CBA-01-155 /HEARING

In the Matter of:
Ward Machinery Company
10615 Beaver Dam Road, Cockeysville, MD 21030

RE: False Alarm Fees

11:30 am Case No.: CBA-02-119 /HEARING

In the Matter of:
Gerald Ney Klauber
18 Coldwater Court, Towson, MD 21204

RE: ABH Decision / Animal waste; at large; no license (2 dogs; 3 cats) \$250.00 fine

2:00 pm Case No.: CBA-02-126 /HEARING

In the Matter of:
Patricia V. Eidman
7736 Wynbrook Road, Baltimore, MD 21224

RE: TE Decision / Denial of Reserved Handicapped Parking Permit

SCHEDULED FOR THURSDAY, OCTOBER 10TH, CONTINUED ON NEXT PAGE

SCHEDULED CONTINUED

THURSDAY 10/10 10:00 am Case No.: 00-082-M /HEARING

In the Matter of:
Haussner Property / PDM File No. X-379
S/s Bluemount Road, SW/cor Wesley Chapel Road
10th Election District; 6th Councilmanic District

RE: Approval of minor subdivision development plan

c:		
Executive Office	People's Counsel	County Council
Law Office	Planning Office	Board Members
Director /PDM	Court Info. Desk	Court Reporter



County Board of Appeals of Baltimore County

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

October 31, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

OELLA MILL, L.L.P. /Forest City Residential Group
Case No. CBA-02-137 /PDM I-498 and Case No. 02-412-SPHA

Having concluded this matter in four days of hearing (9/24; 10/03; 10/08; and 10/30/02), deliberation has been scheduled for the following date and time:

DATE AND TIME : TUESDAY, NOVEMBER 19, 2002 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

**(NOTE: Closing Memos are due on Tuesday, November 12, 2002
ORIGINAL AND THREE [3] COPIES)**

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel
Appellants /Protestants : Lydia Temoshok
Dennis Burns and Lynette Burns
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

Counsel for Developer /Petitioner : Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Residential Group
c/o Jon Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney

c: C.M.S.



CIRCUIT COURT FOR BALTIMORE COUNTY

Suzanne Mensh

Clerk of the Circuit Court

County Courts Building

401 Bosley Avenue

P.O. Box 6754

Towson, MD 21285-6754

(410)-887-2601, TTY for Deaf: (800)-735-2258

Maryland Toll Free Number (800) 938-5802

RECEIVED

FEB 14 2003

BALTIMORE COUNTY
BOARD OF APPEALS

NOTICE OF MOTIONS HEARING

Case Number: 03-C-03-000016

Administrative Agency : 02412SPHA

Administrative Agency : cba02137

C I V I L

In The Matter of: Greater Oella Community Association Inc, et al

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: Board Of Appeals Of Baltimore County

400 Washington Avenue

Old Courthouse Room 49

Towson, MD 21204

This case has been assigned a hearing on all open motions on:

CIRCUIT COURT FOR BALTIMORE COUNTY

County Courts Building

401 Bosley Avenue

Towson, MD 21285-6754

Court date:

April 21, 2003

At: 01:30 PM

Motion Hearing..(Civil)

15 MINUTES MOTIONS

PLEASE NOTE: If you desire to submit prior to this hearing date, please contact the Motion Assignment Clerk. A total of no more that one-half hour is allotted for a hearing on "Motion Days". If motions will take more than one-half hour, please contact the Motion Assignment Clerk for reassignment.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

A court reporter will not be present at the motion hearing unless specifically requested. Requests for reporters should be directed to the Motion Assignment Clerk. All requests for a postponement **MUST BE MADE IN WRITING AS SOON AS POSSIBLE**. This should be directed to the Motion Assignment Clerk with a copy to all counsel. Claim of not receiving this notice will not constitute reason for postponement.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Culbertson Rebecca
Assignment Office Phone: (410)-887-2660

Date Issued: 02/04/03

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

Board Of Appeals Of Baltimore County
400 Washington Avenue
Old Courthouse Room 49
Towson MD 21204

Assignment Date: 03/11/03

Case Title: In The Matter of: Greater Oella Community Association Inc, et al
Case No: 03-C-03-000016 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Richard P. Abbott at (410) 887-3233.

You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 03/26/03
2. All Motions (excluding Motions in Limine) are due by..... 05/03/03
3. TRIAL DATE is..... 06/12/03

Civil Non-Jury Trial: Start Time: 09:30AM: To Be Assigned: 1 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial-dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Court Administrator's Office at (410) 887-2687 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service. (800) 735-2258.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

cc: Patricia Ann Malone Esq
cc: James A Dunbar Esq
cc: John V Murphy Esq
Issue Date 03/11/03

Day #1
Day 2
Day #3

1/5/03

CBA-02-137

Day #4 11/06/02 @ 10 am
BOARD OF APPEALS - DEVELOPMENT PLAN APPEALS

9 am - deliberation

CBA-02-137 / PDM No.1-498
Oella Mill, m L.L.P. - Owner
Foest City Residential Group - Developer

THIS CASE IS RIDING
WITH
02-412-SPHA

20020412

August 8, 2002

9/22/02 - 10/07/02

9/24/2001 at 10:00 a.m.

HOLDING: 10/03/02 10/30/02 10/19/02 Delib.
10/08/02 11/06/02

12/04/02

5

August 16, 2002

OELLA MILL PROPERTY
DEVELOPMENT PLAN

CBA-02-137

riding with 02-412-SPHA

FILE 1 OF 5

EXHIBITS LOCATED IN FILE 3 OF 3

and no more than 60 days after final action

all be concluded within 30 days of first hearing date

shall be issued within 15 days following the conclusion of the Hearing

000-02 137

Completed 10/30/02 @ 10 am #4 11/06/02 @ 10 am

TIMEFRAME / COUNTY BOARD OF APPEALS - DEVELOPMENT PLAN APPEALS

11/19/02 @ 9 am - Deliberation

Case #

CBA-02-137 / PDM No.1-498

Oella Mill, m L.L.P. - Owner

Foest City Residential Group - Developer

20020412

Date of Final

Action by ZC / DZC

August 8, 2002

Window for *

Hearing by CBA

9/22/02 - 10/07/02

CBA Hearing Date

9/24/2001 at 10:00 a.m.

Continued Date for **

Conclusion of Hearing

HOLDING: 10/03/02

10/30/02

11/19/02 Delib.

10/08/02

11/06/02

Date by which CBA ***

Order to be Issued

12/04/02

Order Issued by CBA

Statistical only:

Date Appeal filed

from ZC / DZC Decision

August 16, 2002

Section 26-209(f):

* No less than 45 days and no more than 60 days after final action

** Any continuation shall be concluded within 30 days of first hearing date

*** Order of the Board shall be issued within 15 days following the conclusion of the Hearing

OELLA MILL PRO
DEVELOPMENT P

riding with 02-412-SI

FILE 10F

EXHIBITS LOCA

CBA-

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE

840 Oella Avenue, W/S Oella Ave,
190' NW of c/l Oella Hollow Rd
1st Election District, 1st Councilmanic

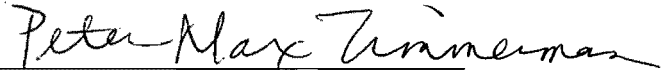
Legal Owner: Oella Mill, LLP
Contract Purchaser: Forest City Residential Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-412-SPHA

* * * * *

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.



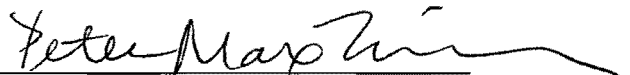
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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 17th day of April, 2002 a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner(s).



PETER MAX ZIMMERMAN

RE: DEVELOPMENT PLAN HEARING
Oella Mill Property
W/S Oella Avenue, E of Patapsco River
1st Councilmanic District

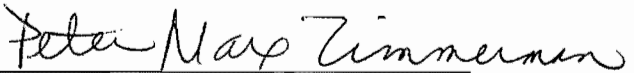
Oella Mill, LLP
Applicant

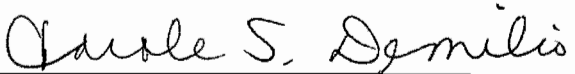
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. I-498

* * * * *

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
People's Counsel for Baltimore County


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 4th day of February, 2002 a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer and Howard, 210 Allegheny Avenue, , Towson, MD 21204, attorney for Applicant.


PETER MAX ZIMMERMAN



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 4.12.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 412

JJS

Dear Mr. Zahner:

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,

Kr 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
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

April 12, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF April 8, 2002

Item No.: See Below

Dear Mr. Zahner:

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

The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:
401, 402, 404-417, 419-425

412

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File
COUNTY REVIEW GROUP MEETING{PRIVATE }

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



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

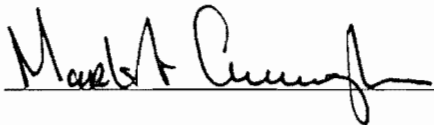
DATE: April 15, 2002

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

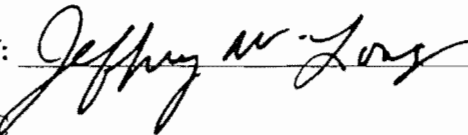
SUBJECT: Zoning Advisory Petition(s): Case(s) 02-411, 02-412, 02-421, 02-422, & 02-425

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:



Section Chief:



AFK/LL:MAC

Ag
5/9

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: May 1, 2002

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

MAY 8 2002

SUBJECT: Zoning Advisory Committee Meeting
For April 8, 2002
Item No. 412

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

Structure shall be designed and anchored to prevent floatation, collapse or lateral movement.

Construction shall be in accordance with BOCA International Building Code adopted by the County.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

In accordance with *Bill No. 18-90, Section 26-276*, filling within a flood plain is prohibited.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential development.

RWB:CEN:cab

cc: File

fig
5/9

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

MAY 8 2002

FROM: R. Bruce Seeley

DATE: May 1, 2002

Zoning Advisory Committee Meeting of April 8, 2002

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

401, 404, 405, 406, 407, 410, 412, 413, 414, 417, 418, 420, 421, 423

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

DATE: October 2, 2002

TO: C. Marks
M. Adams
L. Wescott

FROM: Kathi

SUBJECT: Case No. CBA-02-137 (I-498) and Case No. 02-412-SPHA /Oella Mill Property
Additional material from People's Counsel

Attached FYI is a copy of the letter submitted by Peter Zimmerman referencing the legislative history of BCZR § 235A. The original of this material has been placed in the subject file.

Also submitted since September 24, 2002 and included within the file were the following:

- A letter from Planning, Economic Development and Community Conservation in support of residential use for this property.
- A letter from Patricia Malone, Esquire, submitted the Developer's Post-Hearing Memorandum which was submitted to the Hearing Officer but not included in our file.
- A letter from Lydia Temoshok, President of GOCA – signed by officers of the Association, including Paul Mandl, Corresponding Secretary – objecting to first paragraph of Mr. Mandl's 9/18/02 letter which is part of the record.

All of the above correspondence /attachments have been stamped "**RECEIVED POST-HEARING DAY ONE**" and placed in the subject file.

Attachment

Kathi





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

September 27, 2002

CAROLE S. DEMILIO
Deputy People's Counsel

Charles L. Marks, Chairman
County Board of Appeals
of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

RECEIVED

SEP 27 2002

BALTIMORE COUNTY
BOARD OF APPEALS

Hand-delivered

Re: **Oella Mill Property**
Follow-up on Legislative History
Legal Owner: Oella Mill, L.L.P.
Developer: Forest City Residential Group
Case Nos.: I-498 and 02-412-SPHXA

Dear Chairman Marks,

In view of your questions at the September 24th hearing about legislative history of BCZR 235A, we transmit herewith copies of the history which was submitted to the Zoning Commissioner/Hearing Officer and is a part of the record:

1. Inter-Office Correspondence of Donald Johnson to William Fromm, Planning Director dated August 13, 1973 on Bill 100 of 1970.
2. Bill 100 (excerpts on BCZR 235A).
3. Final Report of the Baltimore County Planning Board dated September 4, 1969.
4. Bill 111, 1968, where BCZR 235A originated.

RECEIVED POST-HEARING
DAY ONE

This is the only documentary history we have found. Mr. Gavrelis, in his testimony, said he "threw away" his records, page 213, line 10, May 9th testimony.

We note Mr. Gavrelis' recollection of developments with high densities in the Towson C.T. (Town Center) district (See Pages 201-22), under the similarly worded BCZR 235B. We observe that they were uncontested cases in the town center. In addition it is unclear whether the nearby residential areas he mentioned (Goucher College, East Towson, Page 209) were "immediately adjoining." If not "immediately adjoining," the BCZR 230.1 B.M./B.L. zone limitation on density would not apply. We do note that all these developments were mixed use developments.

We analyzed the legislative history in the Pre-Hearing Memorandum filed with the Zoning Commissioner and at oral argument May 9th. We reiterate that this is the first time the use and density issues for a business zone with a C.C.C. district overlay have been raised in a contested case.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/pah

cc: Robert A. Hoffman, Esq.
Greg Brown

INTER-OFFICE CORRESPONDENCE

Mr. William D. Fromm
TO Director of Planning
FROM Donald W. Johnson
SUBJECT Bill 100 of 1970

Date August 13, 1973

Here is a discussion of some of the background, highlights, and details of Bill 100. As lengthy as this memorandum may seem, however, it can by no means deal with all of the essential facts. I will be glad to try answering any questions you may have with respect to matters not covered.

GENERAL BACKGROUND

In 1968 there was a culmination of interest in work on quite a number of the zoning and zoning related projects that had been pursued over a period running back a dozen years or so. At that time, planning agencies came to the threshold of completing the first Countywide master plan (the Guideplan). Also, the Board and staff finished work on the "cycle zoning" proposal. And, anticipating adoption of the new rezoning system, the planning agencies began scheduling work on the whole new set of zoning maps that would be required by the law. It was decided that this was the time to go forward with an extensive series of zoning amendments coordinated with these other projects—the amendments that were to become Bill 100 of 1970.

RURAL ZONING CLASSIFICATIONS

Bill 100 established two rural zoning classifications: R.D.P., to be applied to interim "holding zones," and R.S.C., to permanently restrict development in areas that should be conserved. (R.D.P. stands for "Rural Deferred Planning," and R.S.C. for "Rural-Suburban: Conservation.")

Rezoning by petition. No petition reclassification is permitted in an R.D.P. zone unless it is proved that the County plans to make sewer and water facilities available to the site within six years of the time the petition is considered. No reclassification from R.S.C. is permitted unless public sewerage and water-supply systems have been extended to the site prior to the time the petition is considered. Further, R.S.C. land within a watershed area of a public reservoir or within an area designated as a regionally significant green space on a master plan cannot be reclassified by petition.

PUD. Large-scale unit developments may be allowed in an R.D.P. zone (by the County Council) but not in an R.S.C. zone.

Relationship to URDL. R.D.P. and R.S.C. zones may be established only beyond the Urban Rural Demarcation Line, but the line can later be moved outward without affecting the status of the zoning classifications.

Uses permitted as of right. Typical permitted uses are farms and single-family detached houses. Also permitted as of right are a number of other uses that have been permitted in residential zones in Baltimore County for some time.

OFFICE COPY - DO NOT REMOVE

County Council of Baltimore County
Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. K. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Final Report of the
BALTIMORE COUNTY PLANNING BOARD

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS

Baltimore County Office of Planning and Zoning
Towson, Maryland 21204
September 4, 1969

[DEVELOPMENT IN COMMUNITY-CORE COMMERCIAL (C.C.C.) DISTRICTS]

Revise Subsection 232.5 as follows:

232.5—Floor Area Ratio. The maximum permitted floor area ratio for any site in a B.L. Zone, excepting C.C.C. and C.T. districts, shall be 3.0.

Redesignate existing Section "232A" as "Section 232B" and redesignate subsections therein accordingly; add new Section 232A as set forth below, immediately following the conclusion of Subsection 232.5:

Section 232A—Special Regulations for C.C.C. Districts.

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C.C.C. districts superimposed upon B.L. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.)

232A.1—Apartments shall be permitted, but only above the first story of a building.

232A.2—No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet.

232A.3—The maximum permitted floor area ratio for any site shall be 4.0; the specific number of dwelling or density units, as such, shall not be directly limited.

232A.4—The minimum permitted amenity open space ratio shall be 0.2.

232A.5—For all buildings containing apartments, there shall be provided at least 1.25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409.2.d.)

Redesignate existing Section "235A" as "Section 235B" and redesignate subsections therein ac-

County Council of Baltimore County Maryland

Legislative Session 1968, Legislative Day No. 13

BILL No. 111

Introduced by Mr. Bartenfelder (5th), Councilman
(By Request of the County Executive)

By the County Council, September 3, 1968.

A BILL

Entitled

AN ACT, To provide zoning regulations for apartment development, AND OTHER development in major business centers, and AUTO-MOBILE parking lot design, by deleting certain terms from section 101, "Definitions"; by adding certain terms and definitions to section 101, "Definitions"; by deleting subsection 230.10 of section 230, "Use Regulations," and substituting therefor a new subsection 230.10; by repealing and re-enacting with amendments subsection 230.11 of section 230, "Use Regulations"; by repealing and re-enacting with amendments subsection 232.5 of section 232, "Area Regulations"; by adding new section 232A, "Special Regulations for C.C.C. Districts"; and by adding new section 232B, "Special Regulations for C.T. Districts"; by adding new subsections 233.2A and 233.2B to section 233, "Use Regulations"; by repealing and re-enacting with amendments subsection 235.5, and by adding new sections SECTION 235A and 235B to section 235, "Area Regulations"; by repealing and re-enacting with amendments subsection 238.5, and by adding new sections SECTION 238A and 238B to section 238, "Area Regulations"; by repealing and re-enacting with amendments subsection 259.1 of section 259, "Districts"; and by adding new paragraph d to subsection 409.2 of section 409, "Offstreet Parking and Loading," of the Baltimore County Zoning Regulations (~~1963~~) (1955), as amended.

WHEREAS, the amendments to the Zoning Regulations which are contained in this Bill have been formulated in accordance with the procedures specified in sections 23-20 and 23-21 of the 1966 Cumulative Supplement to the Baltimore County Code, 1958, and the several public hearings required by said sections have been held in accordance therewith; now, therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland, That the Baltimore County Zoning Regulations*

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DATE: April 8, 2002

TO: Don Rascoe
Manager

FROM: Janice M. Kemp
House Numbers and Road Names Section

SUBJECT: Oella Mill Property Development Plan
PDM No. I-498

1. Show address, as 880 Oella Avenue and the Mill can remain 840 Oella Avenue.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Don Rascoe MS# 1105 DATE: ~~January 23, 2002~~
PDM Development Management Revised: April 9, 2002

FROM: Linda Leake *sl*
Department of Public Works
Metropolitan District Financing & Petitions

SUBJECT: Quotation of Extinguishment Cost for
Project: **Oella Mill Property**
PWA No:
PDM No: **4-498**

Location: **5.84 ac ns Oella Avenue**

Property #: **16.00.006700**

See attached form(s) for -

- ☒ Existing water and sewer benefit assessments.
- ☐ Deferred water and sewer benefit assessments.
- ☒ Construction loan charges.

LGL/lgl
c: file
Alice Stevenson MS 2111
subplatreviews.xls/lgl

Benefit Assessments

Project Name: Oella Mill property

Project No.: 1-498

Water Benefit	Levy Yr	Last Yr Paid	Rem Yrs.	Exting. Rate/ft	Feet	Prin. Bal	Int. Factor	Interest	Payoff
16.00.006700	1984	2002	22	\$26.76	339	\$9,071.64		*	

Sewer Benefit	Levy Yr	Last Yr Paid	Rem Yrs.	Exting. Rate/ft	Feet	Prin. Bal	Int. Factor	Interest	Payoff
16.00.006700	1984	2002	22	\$36.03	339	\$12,214.17		*	

Total of Principle Balances

\$21,285.81

Interest

\$0.00

(To be computed at time of payment.)

Total Principle and Interest

\$0.00

(To be computed at time of payment.)

Interest is due at time of payment. For computation of interest, call Linda Leake, Metro District Financing & Petition, 410-887-2430.

INTER-OFFICE CORRESPONDENCE

PLEASE FORWARD RESPONSE TO KRISTIN WEIS - Room 123
NEED RESPONSE BY: **January 24, 2002**

**BALTIMORE COUNTY, MARYLAND
INTEROFFICE MEMORANDUM**

TO: Taxpayer Service

FROM: Sue Hafner, Supervisor
Customer Service Division

SUBJECT: Lien Clearance/Development Projects

DATE: _____

Please complete the following information on the attached developer and return to me:

Routing Order	Account/Invoice Number	Amount Due	Comments	Account Clerk Initials & Date
Supervisor, TPS	16-00-006700	0	paid	1/30/02 BCS
Personal Property	NA	N/A	No listing in SPAT	MAH 1/22/02
Central Billing	N/A	N/A	N/A	PB 1/22/02
Construction Loan These charges are currently outstanding not delinquent. Outstanding charges must be paid in full prior to subdivision of property.	16-00-006700	\$1,069.55	plus interest	Dec 01/22/02
Office Assistant, Customer Service. Hand carry to PDM, Room 123 – County Office Building	Received – Department of Permits and Development Management: Signature Date			

**BALTIMORE COUNTY, MARYLAND
BOARD OF APPEALS OF BALTIMORE COUNTY**

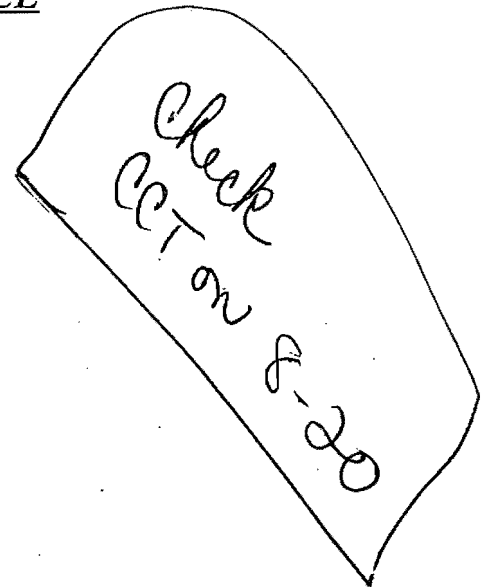
INTER-OFFICE CORRESPONDENCE

TO: C. Marks
M. Adams
L. Wescott
Kathi

FROM: Theresa *[Signature]*

DATE: August 6, 2003

SUBJECT: Oella Mill Property



Attached please find the Circuit Court decision on Oella Mill.

The case has been REMANDED. In light of the remand, I have also attached the Board's notes that I had with the file when it was processed for Circuit Court. I am still awaiting our file from Circuit Court, (the appellate period has not expired). When I receive the file I will notify Kathi for further action on this matter.

Thanking you in advance for your attention to this matter.

/trs

Enclosure: Case History; Order; Memorandum; Notes



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

TO: Mr. Don Rascoe, PDM, MAIL STOP-1105

April 2, 2002

FROM: LIEUTENANT JIMMIE MEZICK
BALTIMORE COUNTY FIRE MARSHAL OFFICE
MAIL STOP-1102F, PHONE (410) 887-4881

SUBJECT: SUBDIVISION REVIEW COMMENTS

PROJECT NAME: Oella Mill Property

PROJECT NUMBER: 01-498

LOCATION: Oella Ave E of Patapsco River

DISTRICT: 1

COMMENTS:

PROPOSED BUILDINGS SHALL BE DESIGNED AND CONSTRUCTED SO AS TO MEET THE APPLICABLE PROVISIONS OF THE BALTIMORE COUNTY FIRE PREVENTION CODE.

IF THE PROPOSED BUILDINGS(S) REQUIRES THE INSTALLATION OF A FIRE ALARM SYSTEM", THE DESIGN PACKAGE AS PRESENTED WITH THE BUILDING PLANS AT THE TIME OF BUILDING PERMIT APPLICATION, SHALL BE CERTIFIED BY A MARYLAND REGISTERED: LEVEL 3 OR 4 NICET ENGINEER, OR FIRE PROTECTION ENGINEER. STATING THE FIRE ALARM SYSTEM COMPLIES WITH ALL APPLICABLE CODES. IE NFPA 70, NFPA 72, NFPA 101, BUILDING CODE; BALTIMORE COUNTY BILL 167-93, AND THE BALTIMORE COUNTY FIRE PREVENTION CODE; BALTIMORE COUNTY BILL 70-01.

ALL FIRE HYDRANT SPACING SHALL BE IN ACCORDANCE WITH THE BALTIMORE COUNTY STANDARD DESIGN MANUAL, SEC 2.4.4, FIRE HYDRANTS.

A FIRE HYDRANT IS REQUIRED WITH-IN 100 FEET OF THE FIRE DEPARTMENT CONNECTION. A DISTANCE OF 200 FEET IS PERMISSIBLE IF THE TOTAL DISTANCE IS DRIVEABLE BY THE EMERGENCY APPARATUS.

THE ON-SITE FIRE HYDRANT MUST BE A MINIMUM DISTANCE OF 40 FEET FROM THE BUILDING.

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



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on Recycled Paper

PDM

BALTIMORE COUNTY, MARYLAND

SUBJECT: DEVELOPMENT PLAN COMMENT

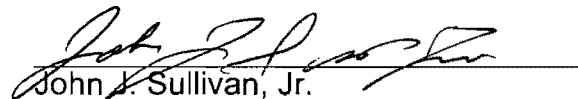
DPC DATE: 04/17/02

FROM: PDM - ZONING REVIEW

PROJECT NAME:	OELLA MILL PROPERTY	PLAN DATE: 03/19/02
LOCATION:	WS OELLA AVE E PATAPSCO RIVER	DISTRICT: 1 C 1
PROPOSAL:	175 APARTMENTS	ZONING: BM-CCC

Comments:

1. The zoning issues are those which are to be decided by the Zoning Commissioner.


John J. Sullivan, Jr.
Planner II
Zoning Review



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 23, 2002

TO: DON RASCOE, PDM, MAIL STOP-1301

FROM: LIEUTENANT JIMMIE MEZICK
BALTIMORE COUNTY FIRE MARSHAL OFFICE
MAIL STOP-1102F, PHONE (410) 887-4881

SUBJECT: SUBDIVISION REVIEW COMMENTS

PROJECT NAME: OELLA MILL PROPERTY

PROJECT NUMBER: 01-498

LOCATION: WS OELLA AVE E OF PATAPSCO RIVER

DISTRICT: 1C1

COMMENTS:

3. PROPOSED BUILDINGS SHALL BE DESIGNED AND CONSTRUCTED SO AS TO MEET THE APPLICABLE PROVISIONS OF THE BALTIMORE COUNTY FIRE PREVENTION CODE.

5. IF THE PROPOSED BUILDINGS(S) REQUIRES THE INSTALLATION OF A FIRE ALARM SYSTEM", THE DESIGN PACKAGE AS PRESENTED WITH THE BUILDING PLANS AT THE TIME OF BUILDING PERMIT APPLICATION, SHALL BE CERTIFIED BY A MARYLAND REGISTERED: LEVEL 3 OR 4 NICET ENGINEER, OR FIRE PROTECTION ENGINEER. STATING THE FIRE ALARM SYSTEM COMPLIES WITH ALL APPLICABLE CODES. IE NFPA 70, NFPA 72, NFPA 101, BUILDING CODE; BALTIMORE COUNTY BILL 167-93, AND THE BALTIMORE COUNTY FIRE PREVENTION CODE; BALTIMORE COUNTY BILL 70-01.

Baltimore County Government
Department of Permits and
Development Management



111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

March 26, 2002

Forest City Residential Group
5803 Nicholson Lane
North Bethesda, MD 20852

Re: Oella Mill Property
PDM Number I-498

Dear Sir or Madam:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation.

DEVELOPMENT PLAN CONFERENCE:

Date: Wednesday, April 17, 2002

Time: 9:00 AM

Location: Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:

Time: 9:00 AM

Dates and Location:

Thursday May 9, 2002

Room 106

County Office Building; 111 West Chesapeake Ave.

Friday May 10, 2002

Room 106

Towson, MD 21204

A copy of a public notification letter of the Development Plan Conference and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of the development plan, and notify all interested parties of the conference and hearing. Also, it is the developer's responsibility to post the property. Please note the property must be posted by **April 11, 2002**. A county authorized sign posting company must post the sign(s). A list of authorized sign posters is available in Room 123 of the County Office Building. A certificate of posting and photograph of the sign must be forwarded to this office prior to the Hearing Officer's Hearing.

Sincerely,

Donald T. Rascoe/dak

Donald T. Rascoe
Project Manager

DTR:dak

c: Daft-McCune-Walker, Inc.

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

DEVELOPMENT PLAN CONFERENCE AND HEARING OFFICER'S HEARING NOTIFICATION

Name of Development:

Location:

Dear Sir or Madam:

In anticipation of a public hearing on the above referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing, if required), scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date: _____ Time: _____

Hearing Location: Room _____ of the _____
Towson, MD 21204

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable State and County regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on _____ (date _____) at _____ (time _____) in Room 123 of the County Office Building (COB), 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer, however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses and recommendations as required by the County Code will be available in the official file in Room 123 of the COB until five (5) days preceding the public hearing. At that time the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at 410-887-3335.

Respectfully yours,

Enclosure: Development Plan

PDM/Development Management; 111 W. Chesapeake Avenue; Towson. MD 21204

DEVELOPMENT PLAN CONFERENCE and HEARING OFFICER'S HEARING
NOTIFICATION

NAME of DEVELOPMENT: Oella Mill Property

LOCATION: North and west side Oella Avenue

Dear Sir or Madam:

In anticipation of a public hearing on the above-referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing if required) scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date and Time: Thursday, May 9, 2002 9:00 a.m.
Friday, May 10, 2002 9:00 a.m.

Hearing Location: Baltimore County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Room 106

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable state and county regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on Wednesday, April 17, 2002, at 9:00 a.m. in Room 123 of the County Office Building (COB), 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer; however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses, and recommendations as required by the County Code will be available in the official file in Room 123 of the COB, until five (5) days preceding the public hearing. At that time, the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at (410) 887-3335.

Enclosure: Development Plan

Oella Mill Property
CIM Notices
DMW Project #01108
HOH additions 4/9/02

Kathy Carpenter
732 Oella Avenue
Ellicott City, MD 21043

Charles Wagandt
803 Oella Avenue
Ellicott City, MD 21043-4729

Charles Wagandt
803 Oella Avenue
Ellicott City, MD 21043-6076

Historic Oella Partnership
519 N. Charles Street
Baltimore, MD 21201

Robert & Lisa Bote
879 Oella Avenue
Ellicott City, MD 21043-4729

Christopher D. Harshman
877 Oella Avenue
Ellicott City, MD 21043-4729

Heather L. Zahn
875 Oella Avenue
Ellicott City, MD 21043-4729

Alfred C. Roe
873 Oella Avenue
Ellicott City, MD 21043-4729

Andreas O. Walter
Rachel Merritt
871 Oella Avenue
Ellicott City, MD 21043-4729

Oella Homeowners Assoc., Inc.
P.O. Box 0802
Ellicott City, MD 21041-0802

Gregory & Lorena Green
755 Oella Avenue
Ellicott City, MD 21043-4727

Wendy A. Wyatt
Bruce L. Elliott
720 Mary Jo Way
Ellicott City, MD 21043

Alexandra C. Clark
783 Oella Avenue
Ellicott City, MD 21043-4727

John & Deborah Cartney
716 Oella Avenue
Ellicott City, MD 21043-4728

Mark K. Ford, Jr.
714 Oella Avenue
Ellicott City, MD 21043-4728

Regina M. Frank
Alan F. Stubbs
718 Oella Avenue
Ellicott City, MD 21043

Rita J. Hamlet
720 Oella Avenue
Ellicott City, MD 21043-4728

Scott A. Sandler
749 Oella Avenue
Ellicott City, MD 21043

W. Scott McClurg
753 Oella Avenue
Ellicott City, MD 21043

Matthew G. Hershfeld
755 Oella Avenue
Ellicott City, MD 21043

Kimberley J. Parr
757 Oella Avenue
Ellicott City, MD 21043-4727

Joanna M. Finnel
759 Oella Avenue
Ellicott City, MD 21043

Kelly G. Reeves
Gavin S. McPhail
744 Oella Avenue
Ellicott City, MD 21043-4728

Kristen Van Zandt
746 Oella Avenue
Ellicott City, MD 21043-4728

Mark & Sandra Johnson
750 Oella Avenue
Ellicott City, MD 21043

Rachel A., Gordon E. & M. Suzanne
Merritt
752 Oella Avenue
Ellicott City, MD 21043

Joan McClurg
754 Oella Avenue
Ellicott City, MD 21043

Stephen W. & Shari L. Sybert
756 Oella Avenue
Ellicott City, MD 21043

Joseph W. Gallagher
758 Oella Avenue
Ellicott City, MD 21043

Thomas J. & Catherine A. Beck
760 Oella Avenue
Ellicott City, MD 21043-4728

Kara R. McCourt
762 Oella Avenue
Ellicott City, MD 21043

Todd W. Chapman
764 Oella Avenue
Ellicott City, MD 21043

Keneth G. Ingles
766 Oella Avenue
Ellicott City, MD 21043-4728

Linda C. Smith
768 Oella Avenue
Ellicott City, MD 21043-4728

Carol A. Hanson
770 Oella Avenue
Ellicott City, MD 21043

Michael W. Martin
6722 Groveleigh Road
Columbia, MD 21046-1113

Anne R. Altemus
774 Oella Avenue
Ellicott City, MD 21043-4728

Kimberly D. Bryan
778 Oella Avenue
Ellicott City, MD 21043-4728

Stephen P. Schreiner
780 Oella Avenue
Ellicott City, MD 21043-4728

Robert F. & Margaret C. Crooks
929 Oella Avenue
Ellicott City, MD 21043-4703

Greater Oella Community Assoc.
425 Oella Avenue
Baltimore, MD 21228
Att: Jay Patel

West Catonsville Comm.Assoc.
2015 Windys Run Road
Catonsville, MD 21228
Att: Steve McCleary

Mark Clark
109 Oella Avenue
Catonsville, MD 21228

Henry Berger
734 Pleasant Hill Road
Ellicott City, MD 21043

Andrei Trach
8404 North Point Court
Bowie, MD 20708

Mike Stone
410 W. Lombard St. #614
Baltimore, MD 21201

Nora Rogers
Matthew Day
508 Oella Avenue
Ellicott City, MD 21043

Catherine Jones
431 Oella Avenue
Ellicott City, MD 21043

Cheryl Jones
432 Oella Avenue
Ellicott City, MD 21043

Frank S. Yensan
2414 Rockwell Avenue
Catonsville, MD 21043

Leslie Lewart
755 Hollow Road
Ellicott City, MD 21043

Jim Odgers
840 Oella Avenue
Ellicott City, MD 21043

Anne Kernan
789 Hollow Road
Ellicott City, MD 21043

Dennis Grove
Patricia Connelly-Grove
712 Oella Avenue
Ellicott City, MD 21043

Jeff Kenebel
Laura Vozzella
945 Oella Avenue
Ellicott City, MD 21043

George & Becky Rhodes
16 Benjamin Way
Ellicott City, MD 21043

Mark Wilson
2642 Westchester Avenue
Ellicott City, MD 21043

Julia Graham
730 Oella Avenue
Ellicott City, MD 21043

Anne Whelan
704 Charles James Circle
Ellicott City, MD 21043



Megan Marcin
792 Glen Avenue
Ellicott City, MD 21043

Liz Fitzsimmons
2820 Westchester Avenue
Ellicott City, MD 21043

Laura Steele
728 Oella Avenue
Ellicott City, MD 21043

Norman Taubenfeld
610 Marianne Lane
Catonsville, MD 21228

Kevin Larkin
314 Oella Avenue
Ellicott City, MD 21228

Anna McLaughlin
1686 Alice Court
Annapolis, MD 21401

R. Kent Adams
778 Hollow Road
Ellicott City, MD 21043

Marjorie Valin
840 Oella Avenue
Ellicott City, MD 21043

Edwin H. Thomas
2205 Rockhaven Avenue
Catonsville, MD 21228

John Cofiell
2313 Westchester Avenue
Catonsville, MD 21228

Rici Yockel
1013 Lillies Lane
Ellicott City, MD 21043

James Pettit
1010 Oella Avenue
Ellicott City, MD 21043

Don Horwitz
792 Hollow Road
Ellicott City, MD 21043

Ken McNaughton
3778 College Avenue
Ellicott City, MD 21043

Dennis Burns
715 Race Road
Ellicott City, MD 21043

Robert Shugars
739 Hollow Road
Ellicott City, MD 21043

Pam Phillip
2407 Westchester Avenue
Ellicott City, MD 21043

Jim Lobell
2409 Westchester Avenue
Ellicott City, MD 21043

Pamela DeAngelis
603 Pleasant Hill Road
Ellicott City, MD 21043

Jill Johnston Price
604 Pleasant Hill Road
Ellicott City, MD 21043

Al Granger
2401 Westchester Avenue
Ellicott City, MD 21043

Mark H. Oswald
2212 Westchester Avenue
Catonsville, MD 21228

John A. Beed
917 Oella Avenue
Ellicott City, MD 21043

Marcia Ames
743 Oella Avenue
Ellicott City, MD 21043

John Handy
2607 Westchester Avenue
Ellicott City, MD 21043

Susie Saunders
315 Oella Avenue
Ellicott City, MD 21043

Karen Humes
5 Cooper Run Court
Ellicott City, MD 21043

Anne Chairs
12 Benjamin Way
Ellicott City, MD 21043

Ryan Thomas
2219 Rock Haven Avenue
Catonsville, MD 21228

David Thomas
736 Pleasant Hill Road
Ellicott City, MD 21043



Nancy Pascale
703 Pleasant Hill Road
Ellicott City, MD 21043

Bill Knapp
703 Pleasant Hill Road
Ellicott City, MD 21043

Rachael & Andreas Walter
871 Oella Avenue
Ellicott City, MD 21043

Betsy James
438 Oella Avenue
Ellicott City, MD 21043

Brian Stafford
2500 Westchester Avenue
Ellicott City, MD 21043

Andy Phillip
2407 Westchester Avenue
Ellicott City, MD 21043

Rev. W. Veasel
2800 Westchester Avenue
Ellicott City, MD 21043

David Nicolaou
602 Pleasant Hill Road
Ellicott City, MD 21043

Janet Miller
777 Glen Avenue
Ellicott City, MD 21043

Mike Nunn
607 Alyia Ct.
Catonsville, MD 21228

Andrew Funk
2637 Westchester Avenue
Ellicott City, MD 21043

Matt Pittroff
701 Pleasant Hill Road
Ellicott City, MD 21043

Joe Pulone
809 Charles James Circle
Ellicott City, MD 21043

Lydia Temoshok
513 Oella Avenue
Ellicott City, MD 21043

Ken Hixon
413 Westside Blvd.
Catonsville, MD 21228

Brendan Daley
724 Marianne Lane
Catonsville, MD 21228

Geoff Baker
741 Oella Avenue
Ellicott City, MD 21043

Richard & Barbara Gambrill
1015 Lillies Lane
Ellicott City, MD 21043

Ross Pettit
1010 Oella Avenue
Ellicott City, MD 21043

Sue Bassler
2013 Edmondson Avenue
Catonsville, MD 21228

Gail Debaugh
2505 Westchester Avenue
Ellicott City, MD 21043

Russ Hatch
707 Race Road
Ellicott City, MD 21043

Kurt Ordakowski
610 Hollow Road
Ellicott City, MD 21043

Cheryl Duvall-Harden
8374 Chestnut Farm Road
Ellicott City, MD 21043

Kerry Stagmer
6 Oella Avenue
Ellicott City, MD 21043

Ernie & Linda Zampelli
10 Benjamin Way
Ellicott City, MD 21043

Clint Gosnell
719 Pleasant Hill Road
Ellicott City, MD 21043

Gerry Mesard
605 Pleasant Hill Road
Ellicott City, MD 21043

Susan Monks
2401 Westchester Avenue
Ellicott City, MD 21043



Richard Pearl
739 Oella Avenue
Ellicott City, MD 21043

J.W. Odgers
112509 Silverbirth Lane
Laurel, MD 21043

Shane Morris
816 Charles James Circle
Ellicott City, MD 21043

C.E. Cates
5687B Harpers Farm Road
Columbia, MD 21044

J. Seiss
c/o Councilman Moxley's Office
400 Washington Avenue
Towson, MD 21204

Karen Hearn
1040 Hull Street #200
Baltimore, MD 21230

Tom & Ros Cronin
726 Mary Jo Way
Ellicott City, MD 21043

Ron Carter
539 Oella Avenue
Ellicott City, MD 21043





Baltimore County

*One of the Best-Managed
Counties in America*

Department of Economic Development

400 Washington Avenue, Towson, Maryland 21204
Tel: 410-887-8000 • Fax: 410-887-8017

September 23, 2002

Mr. Charles Marks, Chairman
Board of Appeals
400 Washington Avenue - Room No. 49
Towson, Maryland 21204

**RECEIVED POST-HEARING
DAY ONE**

RE: Cases Nos. I-498 & 02-412-SPHA

Dear Mr. Marks:

The Offices of Community Conservation, Planning, and the Department of Economic Development support the redevelopment of the Oella Mill Property for residential use. The proposed reuse of the property by Forest City Residential Group is creative and adaptive and in keeping with the Oella Master Plan. The extensive renovation of the property and significant landscaping and streetscape improvements will be an important step in the continued renaissance underway in Oella.

The proposed reuse of the old mill for residential use will complement the area and be a significant contributor to the charm, character and economic vitality of the area.

It is recognized that there are technical issues relative to this case however, please be aware of our conceptual support for this project.

Thank you for your consideration of this matter.

Sincerely,

Arnold F. "Pat" Keller
Director – Office of Planning

Robert L. Hannon
Director – Dept. of Economic Development

Mary E. Harvey
Director – Office of
Community Conservation

RECEIVED

SEP 27 2002

**BALTIMORE COUNTY
BOARD OF APPEALS**



County Board of Appeals of Baltimore County

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

October 9, 2002

Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire
VENABLE BAETJER & HOWARD LLP
210 Allegheny Avenue
Towson, MD

Peter Max Zimmerman
People's Counsel for Baltimore County
Room 48 Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: Oella Mill, LLP*
Case No. 02-412-SPHA /PDM I-498

Dear Counsel:

This letter will confirm that the Board will convene on Wednesday, October 30, 2002 at 10:00 a.m. for Day #4 in the subject matter. This date is shown on the Notice of Hearing dated September 24, 2002 as an "additional date."

This letter will also confirm that, upon conclusion of this matter, closing memos will be due on Tuesday, November 12, 2002, and public deliberation will be assigned for Tuesday, November 19, 2002.

Should you have any questions regarding the above, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Lydia Temoshok
Dennis Burns and Lynette Burns
Christine Beed
Gregory Brown
Henry Berger
Kelly Clark
Mark Wilson
Forest City Residential Group
John Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: January 24, 2002

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

ATTN: Don Rascoe

FROM: William A. Miner, Review Appraiser
PDM, Bureau of Land Acquisition

SUBJECT: Oella Mill Property
PDM # I-498
WS Oella Ave. E of Potapsco River
District: lcl

A review of the concept plan for the above referenced project results in the following comments. These comments are advisory in nature and should be utilized in the preparation of a "package" for the acquisition of rights of way required for this project.

1. Offsite rights of way must be acquired prior to record plat approval.
2. Access easements, approved by DEPRM, should be shown for any storm water management facilities, forest buffers, etc.
3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.
4. On the development plan, identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, greenways and open space areas. Clearly indicate whether or not the above are to be dedicated to Baltimore County. Delineate and label required dedications for highway purposes as "Highway Widening Area," and not as "Future" regardless of whether or not highway improvements will actually be required as part of the development.
5. Additional site specific comments:
 - a. Clearly delineate the existing rights of way of Oella Avenue and Oella Road, which is shown as Avenue, and label each with deed references; plat numbers and/or RW numbers as applicable. Show any required widening's thereof and label as "Highway Widening Area". The Right of Way area shown on the drawing should be labeled as Highway Right of Way Area and arrows to the limit of the proposed Right of Way. Note if the road within the development is to be public or private. If the road is to be public, make a note that the road is to be dedicated at no cost to the county.
 - b. If fire hydrants are to be publicly maintained, show area as a Drainage and Utility easement Area. If not public, label as private hydrant.

Oella Mill Property
PDM # I-498
WS Oella Ave. E of Potapsco River

c. Adjust Forest Buffer line to exclude building and I defer to DEPRM's position on parking in Forest Buffer area. If Forest Buffer area is to be dedicated to Baltimore County, label as 100 year Flood Plain Easement or Reservation.

6. Comments generated by meeting:

PDM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: April 16, 2002

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

ATTN: Don Rascoe

FROM: William A. Miner, Review Appraiser
PDM, Bureau of Land Acquisition 

SUBJECT: Oella Mill Property
PDM # I-498
WS Oella Ave. E of Potapsco River
District: lcl

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 - b. Adjust Forest Buffer line to exclude building and I defer to DEPRM's position on parking in Forest Buffer area.
6. Comments generated by meeting:

Community Concerns & Issues regarding the Oella Mill Development

General

1. What is the projected construction cost?
2. Approximately how long will you be here? in years? 5,10,20?

Traffic & Parking

1. The community is extremely concerned about the proposed 258 parking spaces for the 175 units.
2. Where does overflow parking go? i.e. a resident has a party
3. What will be done about overflow parking from the complex into our neighborhood parking spaces?
4. There is NO on street parking anywhere nearby. Where will the guests of the mill park?
5. Gates are being proposed for the mill parking areas? We are concerned that this will exacerbate the traffic problem. What is Forest City's response to this issue?
6. How will the HOA protect residents parking?
7. Is Forest city willing to increase the number of parking spaces for 175 Units?
8. How accurate is the 1137.5 count of average daily trips mentioned on the concept plan?
9. Has the Traffic study been completed? If so, how soon will the community be able to view it?
10. How does the traffic study influence the permit approval process?
11. How does the existing vehicle traffic factor into the proposed development?
12. What intersections were analyzed?
13. Can the current road adequately handle the traffic from the proposed development?
14. What about the S-Curve and 1012 Oella where 2 cars can barely pass safely?
15. How will Forest city resolve left turn conflicts.
16. From what access point will the vehicles get to the parking within the building? How will that point be modified to handle the increased vehicle load?
17. Will major intersections a slight distance from the property need to be modified? ? i.e. Frederick Road, Westchester Avenue?
18. Will school buses have accessible access to the property?
19. Will the roads need to be widened? How is that possible?
20. Safe pedestrian walkways are crucial to the protection of current and future residents. Will there be new sidewalks? Where?
21. What are the Solutions to Pedestrian traffic with increased vehicular traffic?
22. Will there be painted crosswalks?
23. If traffic & parking is such a big issue here.... Is Forest City willing to lower the number of units in this project? Thus lowering the amount of parking and traffic.
24. If not, Why?

Environment

1. What is the Environmental Impact of this project?
2. Specifically, what Environmental Enhancements will be made?
3. How will the existing topography/grades be affected?
4. This is an Industrial property will all issues such chemical dyes, asbestos, lead paint etc. be dealt with appropriately? Is the EPA or other environmental agencies aware that some of these issues exist? Is Forest City working with them?
5. Will there be any public park/recreation space included in the development?
6. How will the exterior of the Mill be illuminated?
7. Where will the HVAC units be located? How will the noise affect current neighboring residents?
8. Where will the trash area be for the residents? How will the noise from trucks affect current neighboring residents? Will rodent control be an issue?
9. Will there be a storm water management pit required for this development? If so, where will it be located?
10. The currently defined 100-year flood plain according to Baltimore County maps differs from the Proposed concept plan? Why?
11. Will the 100-year flood plain line be changed? Does that affect the insurance of local residents?
12. There was a bridge that connected the mill to the railroad, it was destroyed due to Hurricane Agnes, how do circumstances like this affect a change in the 100-year flood plain?
13. Is there adequate sewage and drainage for the proposed development? Are upgrades necessary?
14. How does the Patapsco Heritage Greenway fall into Forest City's plans?

Architectural Concerns

1. What will be the main entrance to the mill?
2. Will public access be restricted around the mill property?
3. If not, what kind of public pedestrian access will be available around the mill property? And where?
4. Are there any public easement/right of way issues?
5. What kind of gates, walls & security measures will be involved in this project?

Real Estate

1. Will our real estate taxes increase due to this development?
2. Will our property values increase due to this development?
3. Ownership is generally desirable. Why rental properties and not condominiums?
4. Could this development become condos in the future? What would be the timeframe?

HOA

1. Will the mill be included in the HOA?
2. Does Forest City wish to be included in the HOA?
3. How will the HOA property adjacent to the mill be impacted?
4. The HOA has common areas that that dues pay for upkeep and insurance. Will Forest City help to maintain the HOA land if impacted?
5. Will Forest City be willing to contribute to that fund so that their residents can enjoy that space as well?

Mixed Use

1. This has been and continues to be the historic town center. How will this project engage the community?
2. Can the scope/use be changed to incorporate other functions? With a variance?
3. Is it feasible? If not, why?

Quality of Life

1. The fabric of Oella is projected to change due to this project. Currently there is a very strong sense of community, and a certain uniqueness about this area. It has natural, cultural, artistic and historic features that make it special. How will this project improve the quality of life through out the neighborhood? Other than the building will be in much better physical shape?
2. What will happen to the antique/artist/commercial spaces?
3. What is Forest City's view on the Population Change?
4. How will local schools be affected?

Construction

1. How long will construction take to complete the project?
2. Will major utilities need to be upgraded to support this project? How long will it affect us?
3. How much of the existing vegetation/trees will be destroyed during construction?
4. How will sediment control be dealt with during construction?

DRC Related

1. There are community members among us who have been following this project move through the DRC process. There were comments made by the DRC at the Concept Plan Conference as to the 100yr flood plain location, forest buffer, Greenway easement, & various Open Space requirements. How have these requirements been fulfilled? If they are not, how will Baltimore County be able to let this project move forward? Is there some sort of grandfather clause available to this building?
2. The DRC commented on keeping 100 & 150 ft site lines. Where are these sight line locations? Has Forest City been able to fulfill these requirements?

Lastly

1. Of all the issues mentioned above what concerns/input/options are truly viable changes that can be implemented in the development plan from Forest City's viewpoint?
2. Would Forest City be willing to hold a 2nd CIM so that the people will be able to see how their comments/input have been implemented into to the plans?

CONCEPT PLAN CONFERENCE
Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue East of Patapsco River
January 28, 2002 @ 9:00 AM

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

1. **Grading Requirements & Sediment Control Guidelines**

- A. The developer is responsible to address the grading requirements of Baltimore County Code 14, Article VI and Baltimore County Department of Environmental Protection and Resource Management.
- B. A grading permit and security is required for any site having greater than 5,000 square feet of disturbed area. A security is required for sites having more than 20,000 square feet of disturbed area.
- C. An erosion and sediment control plan must be approved by the Soil Conservation District and a separate approved final grading plan is required for any site having greater than 20,000 square feet of disturbed area. These plans must be approved by DEPRM prior to obtaining a grading permit.
- D. Sites having less than 20,000 square feet of disturbed area may be exempt from the approved erosion and sediment control plan requirement and may qualify to use standard sediment control plan measures. Contact Inspection and Enforcement at (410) 887-3226 for additional information

2. **General Engineering Requirements**

- A. Erosion and sediment control plans for sites having greater than 20,000 square feet of disturbed area must be reviewed and approved by the Baltimore County Soil Conservation District (SCD). Upon such approval, plans are then returned to the Department of Environmental Protection and Resource Management for microfilming. Grading plans will not be approved prior to SCD signature on erosion and sediment control plans.
- B. Final grading plans for sites having greater than 20,000 square feet of disturbed area must be submitted for approval to Stormwater Management along with the site erosion and sediment control plans. Final grading plans must show all proposed grading, storm drain inlets and their connections to main storm drain system up to outfall, building locations, first floor elevations, septic reserve areas, sidewalks and driveways. Proposed sanitary and water lines and their connections

**Project I.D. #D990385
OELLA MILL PROPERTY**

to existing systems must be shown on final grading plan. Sediment control devices should not be shown on the final grading plan. Mass grading plans are not acceptable unless a waiver to this standard is granted by Stormwater Management. Final grading must reflect the proposed condition of storm water management hydrology. Refer to Baltimore County Code Title 14, Article VI.

- C. Erosion and sediment control devices must be perimeter type devices and must be located sufficiently outside of proposed grading, therefore, proposed grading should not be shown to the limits of property lines, wetlands, floodplains or buffers. Erosion and sediment control plans must be designed for all work shown on the final grading plan.
- D. Proposed storm water management ponds must be used as temporary sediment basins unless prohibited as such by the Stormwater Management's project engineer.
- E. Grading plan must be in compliance with Development Plan.
- F. Erosion and sediment control devices may not outfall concentrated flow onto adjacent properties without the property owner's written permission or acquisition of Easements.
- G. All floodplains, wetlands, and buffers must be shown on final grading plans and should be shown on the sediment control plans. Erosion and sediment control devices may not be located within such areas except as allowed by DEPRM. Sediment traps outfalling into such areas must provide two times the normally required storage.
- H. Sediment trapping device must be located outside the septic reserve areas. Show location of septic reserve area on grading plan in absence of sanitary sewer line.
- I. Stormwater credits shall be documented with submission of final grading plans and verified with As-Built certification

3. Outlines for Development Plan Approval:

- A. Proposed grading, especially filling, should not be shown up to limits of property lines, floodplains, wetlands, or buffers. There should be adequate room for perimeter sediment and erosion control devices and for movement of construction equipment.

Project I.D. #D990385
OELLA MILL PROPERTY

- B. Proposed grading must not exceed slope requirements of 2:1 maximum on commercial properties and 3:1 maximum on residential lot areas and 4:1 within 25 feet down slope of septic reserve areas.
- C. All swales shall be designed to Department of Public Works Design Standards.
- D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management

4. Site Specific Comments:

- A. Refer to the preceding pages for general requirements.

Edward M. Schmaus

01/17/02

oella m.grd
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CONCEPT PLAN CONFERENCE
Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue East of Patapsco River
January 28, 2002 @ 9:00 AM

STORM WATER MANAGEMENT COMMENTS:

1. **The Storm Water Management Act:**

- A. The Developer is responsible to address the requirements of the Baltimore County Code, Title 14, Article V.
- B. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before Development Plan approval is given.
- C. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.

2. **General Engineering Requirements:**

- A. Water quality storage volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, extreme flood protection (Q_f) or 100 year peak management may also be required.
- B. Please refer to the 2000 Maryland Stormwater Design Manual, Volumes I & II for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.
- C. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands.
- D. Storm water management facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

Project I.D. #D990385
OELLA MILL PROPERTY

- E. Storm water management facilities which either outfall to a Baltimore County storm drain system or for which a public road will serve as a pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.
- F. Site design must maintain, to the extent possible, predevelopment drainage patterns and characteristics. Diversion of drainage is discouraged and DEPRM reserves the right to prohibit drainage diversions it finds detrimental.
- G. Refer to Chapter 5.0 Stormwater Credits for environmentally sensitive designs. Use of these credits shall be documented at the initial (concept) design stage, documented with submission of final grading and verified with As-Built Certification for grading

3. Maintenance Requirements:

- A. Storm water management facilities may be maintained by Baltimore County if the following conditions are met, subject to approval of the Department of Environmental Protection and Resource Management:
 - (1) Residential subdivision in which all lots are for sale in fee.
 - (2) Requirements for public facilities given in the Baltimore County Department of Public Works Design Manual are all met.
 - (3) Storm water management facility is enclosed in a reservation shown on the record plat to allow the facility to be deeded in-fee to Baltimore County.
- B. Private maintenance of SWM facilities is acceptable. A Deed of Declaration and Easement must be executed by the developer guaranteeing maintenance of and County access to SWM facilities before SWM permit security may be released. Storm water management facilities in residential subdivisions to be maintained privately by a Homeowners Association shall be designed according to the requirements for public facilities.

4. Guidelines for Development Plan Approval:

- A. Show type, size and location of all Best Management Practices (BMP) on the Development Plan. Preliminary unified stormwater sizing criteria should be provided to verify that the SWM area(s) on the plan are adequate.

Project I.D. #D990385
OELLA MILL PROPERTY

- B. Show that all outfalls from BMP facilities and bypass areas are "suitable" as defined by the Baltimore County Department of Public Works and the Department of Environmental Protection and Resource Management.
- C. Show that the BMP facilities do not create a hazard. An example of a hazard would be an embankment dam located so that in the event of a breach failure, down stream life or property is endangered.
- D. List on development Plan any waiver or variance and give date of approval by Baltimore County.

5. Site - Specific Comments:

In addition to the above, each project will be given a brief review by the DEPRM's Stormwater Management , and a set of specific comments will be provided. The developer is responsible for address these site specific comments, which are enumerated as follows:

- A. Water quality volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are required.
- B. All site runoff must be conveyed to a suitable outfall without affecting the receiving wetland, watercourse, waterbody, storm drain or adjacent property.
- C. Provide BMP volume computations, stormwater credits and drainage area maps, indicating any by-pass areas.
- D. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.

Edward M. Schmaus

01/17/02

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OELLA M SWM

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Hon. S.G. Samuel Moxley
County Council Office, District 1

April 18, 2002

FROM: Donald T. Rascoe, Project Manager
PDM Development Services

SUBJECT: **Oella Mill Property**
Development Plan Conference Comments
PDM File No. I-498

Attached please find a copy of development plan conference comments for the subject site.

If you have any questions please contact me on 3321.

Attachments

WS:ws

c: file

DEVELOPMENT PLAN CONFERENCE

Project I.D. #D990385

OELLA MILL PROPERTY**Oella Avenue east of Patapsco River****April 17, 2002****STORM WATER MANAGEMENT COMMENTS:****1. The Storm Water Management Act:**

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Project I.D. #D990385
OELLA MILL PROPERTY

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Project I.D. #D990385
OELLA MILL PROPERTY

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- C. Provide BMP volume computations, stormwater credits and drainage area maps, indicating any by-pass areas at least four weeks prior to Development Plan Conference date.
- D. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.
- E. The proposed disturbed area should be shown on the plan. Any existing impervious areas within the disturbed area will be considered re-development and 20% of this impervious will need to be removed or water quality equivalent to a 20% removal provided.

Edward M. Schmaus

04/01/02

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P.D.M.

DEVELOPMENT PLAN CONFERENCE

Project I.D. #D990385

OELLA MILL PROPERTY

Oella Avenue east of Patapsco River

April 17, 2002

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

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**Project I.D. #D990385
OELLA MILL PROPERTY**

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Project I.D. #D990385
OELLA MILL PROPERTY

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 - C. All swales shall be designed to Department of Public Works Design Standards.
 - D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management
4. Site Specific Comments:
- A. Refer to the preceding pages for general requirements.

Edward M. Schmaus

04/01/02

oella.grd
CONCEPT GRD

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

CONCEPT PLAN COMMENTS

Project Name: Oella Mill Property
Project Location: Oella Avenue
Date of Meeting: January 28, 2002
Watershed: Patapsco River
Reviewer(s): John Russo, Bruce Seeley *MS*

ENVIRONMENTAL IMPACT REVIEW

- X This project must conform to the requirements of Article IX, Section 14-331 through Section 14-350 of the Baltimore County Code: Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. The following must be approved by this Department prior to submitting the Development Plan:
- X A wetland delineation report.
- X A steep slopes and erodible soils analysis to determine the extent of the Forest Buffer on this site.
- X Add the standard Forest Buffer and/or Forest Conservation Easement notes to the plan.
- X A Forest Buffer and/or Forest Conservation Access Easement approved by EIR staff must be provided. The access should be labeled "Baltimore County Access Easement".
- X A building setback of 35 feet must be applied from the Forest Buffer and/or Forest Conservation areas.
- X Storm Water Management pond embankments must be at least 15 feet from Forest Buffer and/or Forest Conservation areas.

CONCEPT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: January 28, 2002

- X In accordance with Article IX, Section 14-334 of the Baltimore County Code, a variance is required for this proposal. The variance must be granted prior to Development Plan submittal.
- X In accordance with Article IX, Section 14-342(b)(1) of the Baltimore County Code, an alternatives analysis must be provided for any stormwater management facilities, roads, utilities and/or grading proposed in the Forest Buffer.
- X The Forest Buffer and/or Forest Conservation areas must be recorded as Easements or Reservations.
- X An Environmental Agreement (EA) must be submitted prior to building or grading permits.
- X An Environmental Effects Report and a Hydrogeological Study must be submitted with the Development Plan.
- X Any existing wells, septic systems, and underground storage tanks on-site must be shown on the Development Plan; if there are none, a note must be added to the plan.
- X Additional Comments:
 1. Based on current GIS information and our site visit, the edge of the Patapsco River and adjacent topography shown on the plan is inaccurate. Revise the plan to show the existing 100 year Floodplain and Forest Buffer.
 2. Show a Public Works approved 100 year Floodplain Drainage and Utility Easement. In addition, show the Forest Buffer 25 feet off this limit where applicable.
 3. A Forest Buffer Variance is required for the proposed continued existing use, and expanded or altered uses in the buffer.
 4. Clarify how and where Storm Water Management will be addressed.
 5. Prior to Development Plan approval, the property must be investigated for hazardous materials, and be in compliance with the Maryland Department of the Environment.

PDM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

CONCEPT PLAN CONFERENCE

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

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

DATE: January 28, 2002

PROJECT NAME: Oella Mill Property – **REVISED COMMENTS**

PROJECT NUMBER: I-498

PROJECT PLANNER: Mark A. Cunningham

GENERAL INFORMATION:

Applicant Name:	<u>Oella Mill, LLP</u>
	<u>840 Oella Avenue</u>
	<u>Ellicott City, MD 21043</u>
Location:	<u>W/S Oella Avenue; E of Patapsco River</u>
Councilmanic District:	<u>1st</u>
Land Management Area:	<u>Community Conservation Area</u>
Zoning:	<u>BM-CCC</u>
Acres:	<u>5.73 ± acres</u>

Surrounding Zoning and Land Use:

North:	DR 3.5	Townhomes and Vacant Land
South:	DR 3.5	Residential
East:	BM-CCC & DR 3.5	Commercial and Residential
West:	N/A	Patapsco River

Project Proposal:

The applicant proposes 175 apartment units on 5.55± acres of land zoned BM-CC and 0.18± acres of DR 3.5. Local open space of 2.30± acres is proposed. There are steep slopes greater than 25% on the subject site. Additionally, the Patapsco River runs along the western boundary of said site.

Other Anticipated Actions and Additional Review Items:

☐ Special Exception	☒ Special Hearing	☐ PUD
☐ Variance	☐ Compatibility	☐ Design Review Panel
☐ Waiver	☐ Scenic Route	☐ Other
☐ RTA Modification	☐ Referral to Planning Board	☐

PARTIES TO BE NOTIFIED BY APPLICANT:**ALL ADJACENT PROPERTY OWNERS**

Greater Oella Community Association
Attn.: Jay Patel
425 Oella Avenue
Baltimore Maryland 21228

West Catonsville Community Association
Attn.: Steve McCleary
2015 Windys Run Road
Catonsville, Maryland 21228

MEETINGS:

Concept Plan Conference	01/28/02	Community Input Meeting	
Development Plan Conference		Hearing Officer's Hearing	
Planning Board			

COMMENTS:

The receipt of additional information from the Community Input Meeting or other sources may generate further comments at the Development Plan Conference.

GREENWAYS:

The Patapsco River is designated as a Recreational Greenway in *Master Plan 2010* (see Map 18 on page 114). The Department of Recreation and Parks should address the delineation and acquisition of a recreational greenway along the Patapsco River.

MASTER PLAN:

The *Master Plan 2010 Land Management Area Plan* designation for the subject area is "Community Conservation Area." The proposed use as indicated on the Proposed Land Use Map of Baltimore County is "Single Family Attached."

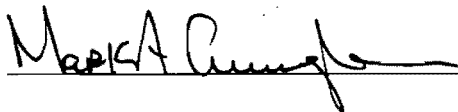
SCHOOL IMPACT:

This development is subject to the requirements of Bill 110-99, Adequate Public Facilities. A school impact analysis is required with development plan submittal. Information is available on the Baltimore County Office of Planning's Web Page:
<http://www.co.ba.md.us/bacoweb/services/planning/html/planof.htm>.

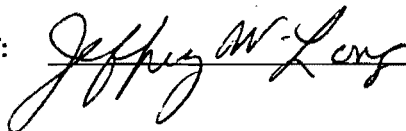
DESIGN COMMENTS:

1. The structure located at 840 Oella Avenue (W. J. Dickey Mill), is listed as MHT # BA 2375 on the Maryland Historic Trust Inventory (MHT) as a contributing structure in the Oella National Register Historic District. Please note that exterior alterations may involve a Special Hearing per Section 26-278 on the Baltimore County Code. No historic review is required for changes in the use of the structure.
2. All exterior modifications/alteration should be shown on the concept plan to include covered walks, stair towers, pedestrian drop-offs, entry tower, etc.
3. All proposed accessory structures such as gazebos should be identified on the concept plan.
4. Building elevation drawings shall be submitted to this office along with the development plans.
5. Sidewalks should be provided along Oella Avenue wherever possible.
6. Indicate the location of the 110 parking spaces proposed for the Mill Building, and the 4 spaces proposed for the Boiler Building.
7. Clearly delineate all structures to be razed, and note when and who is responsible to raze said structures.
8. Indicate the reference system associated with the north arrow shown on the plan.
9. List the plat reference/deed reference number.
10. Identify the tax map, grid and parcel number for the subject site.
11. Indicate the census tract, regional planning district, school district, watershed, and sub-sewershed associated with the subject site.
12. Seal and sign the plan.
13. Note the tax account number of all adjoining properties.
14. Provide a break-down of the parking calculations on the plan.
15. Indicate the proposed use for, and/or any proposed modification to the existing one (1) story building adjacent to the Mill Building.
16. If the property was the subject of a zoning hearing, list the case number, decision, and any conditions or indicate if there is no zoning case history.

Prepared By:



Section Chief:



MAC:kma

BALTIMORE COUNTY, MARYLAND

SUBJECT: CONCEPT PLAN COMMENTS

CPC DATE: 1/28/02

FROM: PDM - ZONING REVIEW

PDM 01-498

PROJECT NAME: Oella Mill Property

PLAN DATE: 1/14/02

LOCATION: W/S Oella Avenue E of Patapsco River

DISTRICT: 1st ED

PROPOSAL: 175 Apartments

ZONING: BM-CCC

Comments:

The proposed use is permitted subject to compliance with all regulations and policies, Section 235A.1 permits apartments. 235A.2 requires a 25 feet facing windows to property line other than a street line show the street line and label it.

Designate the proposed uses on all structures on site or note that they are to be removed and when. Put dimensions on all existing and proposed buildings.

Some future development plan comments: Be aware that the historic designation of the site requires compliance with all historic property regulations and this may involve hearings before the zoning commissioner. Contact the Office of Planning for details.

Parking or buildings/additions must be designated and shown to comply with all zoning regulations and policies show compliance on plan.

The dwelling type designations on the plan do not clearly fit the parking as listed in Section 409.6.A.1, which lists "no separate bedroom" not without enclosed bedroom. Clarify and comply and show actual calculations with number of bedrooms and typical apartment floor plans with areas designated by use and square footage.

Show what uses are proposed for the building and include parking calculations including loading areas per Section 409.11.

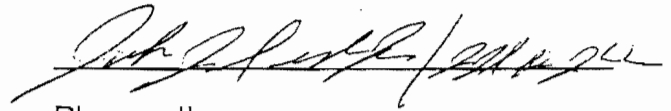
On the 33 parking spaces to the east of the building classify what is meant by "on lower level". Is this a new parking garage? If so, show outline dimensions and 409 compliance for all parking standards and the total number of parking spaces within.

141 parking spaces are shown on site, clarify how the remaining 114 spaces noted in buildings comply with 409 standards. Typical parking space details are acceptable.

Show compliance with Section 405 Baltimore County Zoning Regulations for the existing (if to remain) and proposed signs. Put scaled details with dimensions square footage and illumination on plan.

Further comments will be made once the revised plans for the DPC are received.

John J Sullivan/John Lewis
Planner II
Zoning Review

A handwritten signature in black ink, appearing to read "John J. Sullivan/John Lewis", written over a horizontal line.

Planner II
Zoning Review

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property
 Project Location: Oella Avenue
 Date of Meeting: April 17, 2002
 Reviewer(s): John Russo, Bruce Seeley *MS*

ENVIRONMENTAL IMPACT REVIEW

- X The following requirements have not been provided and/or approved:
- A Wetlands Delineation Report.
 - A steep slopes and soils analysis.
 - X A variance in accordance with Article IX, Section 14-334.
 - X An alternatives analysis in accordance with Article IX, Section 14-342(b)(1).
- X The Development Plan cannot be approved by EIR until such time as the requirements indicated above have been met.
- X The following corrections must be made to the Development Plan prior to approval:
- X The Forest Buffer and/or Forest Conservation area must be labeled as an Easement or Reservation.
 - X A Forest Buffer and/or Forest Conservation Access Easement must be provided. The access should be labeled "Baltimore County Access Easement".
 - X Add the standard Forest Buffer and/or Forest Conservation Easement or Reservation notes.
 - X Show a building setback of 25 feet from the Forest Buffer and/or Forest Conservation area.

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: April 17, 2002

_____ Show existing wells, septic systems and underground storage tanks; if there are none, add a note indicating that there are none.

 X The Forest Buffer and/or Forest Conservation area must be recorded as an Easement or a Reservation.

 X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

 X EIR needs to review the following plans during Phase II:

 X Grading and Sediment Control Plans.

 X Final mitigation plans (must be reviewed and approved prior to Grading Plan approval and be included in the Grading Plan.).

 X Additional Comments:

1. An alternatives Analysis/ Forest Buffer Variance is required for the proposed continued use in the Forest Buffer and the proposed additional impacts from the trail, wooden steps with attached pavilion and the additional paving for the parking lot.
2. Show the limit of the existing forest on-site. The proposed wooden stairs in the Forest Buffer must address the clearing of forest in the Forest Buffer/Floodplain and General Note # 15 may have to be revised. Submit a Single Lot Declaration of Intent.
3. Label the existing mill race (to remain undisturbed) on the plan and add the following note:

“The existing mill race onsite may be regulated by the U.S. Army Corps of Engineers (COE) as Waters of the U.S. in accordance with recent guidance found in the 2000 Nationwide Permit. These same areas may or may not be regulated by the Baltimore County Code. COE Permits may be required to impact these channels. Based on these refined criteria, the COE can take jurisdiction on projects, including those under construction, and issue stop work orders and/or violation notices.”

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: April 17, 2002

DEVELOPMENT COORDINATION

As stated in the Concept Plan comments, prior to approval of the Development Plan, the property must be investigated for hazardous materials and be in compliance with MDE requirements. A Phase I Environmental Site Assessment will be reviewed when received.

*Has been rec'd by DEP, per BS.
4/17/02*

PDM

BALTIMORE COUNTY, MARYLAND

SUBJECT: Development Plan Review Comments

DATE: April 12, 2002

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: Oella Mills

P.D.M. NO.: 01-498

LOCATION: Oella

DISTRICT: 1C1

We have reviewed the subject plan dated March 19, 2002 and have the following comments.

GENERAL COMMENTS:

All construction will be accomplished in accordance with Baltimore County Standard Specifications and Details for Construction (February, 2000, as amended) and Baltimore City Standard Details.

Security shall be posted prior to the issuance of building permits unless the posting of said security is deferred. The security shall be posted prior to the recording of the plat.

A *Public Works Agreement* must be executed by the owner and Baltimore County for the required public improvements.

In accordance with *Bill No. 18-90, Section 26-276*, dredging, filling or construction in any wetland is prohibited.

Any manmade embankment over 10-feet vertically shall be designed and/or approved by a soils engineer. The following note is to be placed on the sediment control plans and grading plans before approval will be given:

- *"All manmade embankments have been designed and/or certified for stability by a soils engineer".*

The developer shall be responsible for damages to the county's facilities, such as water meters, manholes, curbs and gutters and inlets within his subdivision and for any damages caused by his construction equipment outside of his subdivision. Occupancy permits will be withheld until such damages have been corrected.

The contours on the plan reveal rather excessive grading. The developer's engineer is cautioned not to exceed the maximum set by Baltimore County standards. Benching requirements shall be in accordance with *Section 41.02, Item 3 of the 1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control*. Retaining walls that are proposed along road rights-of-way shall be located away from the right-of-way a distance that is at least equal to the height of the wall.

Offsite rights-of-way are necessary for roads, storm drains or other utilities. The developer is hereby advised that the final plat and/or building permits will not be approved until the offsite right-of-way is acquired.

The developer and his engineer shall be responsible for investigating the need for and obtaining the necessary permits for the facilities serving this site that may require a "*Corps of Engineer's Permit*", a "*Water Resources Permit*", a "*Water Quality Certification*", and any other federal or state permits.

The developer shall not allow any cable television cables to be installed in this subdivision without the required county permits being obtained. Baltimore County will not assume any rights-of-way, easements, or maintenance of any public improvements, where such cables have been installed without a permit until the cables are satisfactorily located.

When an *Irrevocable Letter of Credit* is posted as security and the County's ability to draw on or otherwise call the *Letter of Credit* is negatively impacted for any reason (*bank default, receivership, etc.*), it shall be the sole responsibility of the developer to obtain a replacement *Letter of Credit* under the same terms and conditions.

Test pits within county roads require a utility cut permit obtained from the *Bureau of Highways and Equipment Maintenance*.

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

HIGHWAY COMMENTS:

Oella Avenue is an existing road which shall ultimately be improved as a 20-foot street cross section on a 40-foot right-of-way; however, due to the natural and manmade obstructions along this frontage, the required improvements shall be as indicated in the Site-Specific Comments below.

The developer's responsibilities along the existing road frontage of the subdivision shall be as follows:

- a) *The submission of detailed construction drawings to extend a minimum distance of 200 feet beyond the limits of the subdivision or as may be required to establish line and grade.*
- b) *The submission of full cross sections is deemed necessary for design and/or construction purposes. The sections are to be taken at 25-foot intervals and are to be shown on standard cross-section paper at 1"=5' horizontal to 1"=5' vertical scale.*
- c) *The preparation of the right-of-way plat for, and the dedication of, any widening and slope easements at no cost to the county.*
- d) *The preparation of the right-of-way plats for any offsite road right-of-way required to make the necessary improvements.*
- e) *The grading of the widening and the existing road to the established grade. Where adjacent properties are adversely affected by the improvements, the developer shall be financially responsible for the necessary repairs to these properties.*
- f) *The relocation of any utilities or poles as required by the road improvements.*
- g) *The construction of combination curb and gutter in its ultimate location and a maximum of 18.5 feet of paving adjacent thereto along the frontage of the property. The paving thickness shall conform with Baltimore County standards.*

It shall be the responsibility of the developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

Guardrails are required along the public road and/or the storm drain reservation and shall be the developer's responsibility. The guardrails shall be constructed in accordance with Baltimore County standards.

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.

In accordance with *Bill No. 32-72*, street lights are required along all road frontages of subdivisions. The developer will be responsible for the full cost of installation of the cable, poles and fixtures. Along new roads, the county will assume the cost of the power when the roads have been accepted for county maintenance. Along existing roads, the county will assume the cost of power after installation.

Ramps shall be provided for physically handicapped persons at all street intersections.

Sidewalks are required on both sides of the streets within this subdivision and/or along the frontage of all existing streets including state roads. The walks shall be wide enough to meet ADA standards and be installed to conform to Baltimore County standards.

Screening shall be placed so as to prevent headlights within the parking areas from interfering with the traffic on the adjacent road.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The developer is responsible for the total actual cost of drainage facilities required to carry the storm water runoff through the property to be developed to a suitable outfall. The developer's cost responsibilities include the acquiring of easements and right-of-way both onsite and offsite and the deeding in-fee of said right-of-way at no cost to the county. Preparation of all construction, right-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the county overhead both within and outside the development are also the responsibilities of the developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the developer's responsibility.

The developer must provide necessary drainage facilities (*temporary or permanent*) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result due to improper grading or improper installation of drainage facilities will be the full responsibility of the developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of topsoil.

In accordance with *Baltimore County Council Grading, Sediment Control and Forest Management Ordinance (Bill No. 33-88)*, a grading plan shall be approved and a *Performance Bond* posted prior to issuance of a grading permit. A sediment control plan is required. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

The developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road right-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the *Baltimore County Sediment Control Manual*. Minimum acceptable stabilization measures will be as specified in the *Baltimore County Sediment Control Manual* under "*Critical Area Stabilization (With Semi-Permanent Seedings)*". Failure by the developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

The 100-year flood plain shall be dedicated to Baltimore County in-fee or as an easement, at no cost to the county.

The rear of buildings may not be constructed within 20 feet of the flood plain as established for a 100-year flood level with a 1-foot freeboard. *See Plate D19 in the Baltimore County Design Manual.*

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

In accordance with *Bill No. 18-90, Section 26-276*, filling within a flood plain is prohibited.

The developer is responsible for the cost of temporary structures and measures required in the event of sectional development.

WATER AND SANITARY SEWER COMMENTS:

Baltimore City water comments are attached.

The developer is responsible for the entire cost of any relocation of the existing public water main and/or sanitary sewer, including the preparation and the cost of construction drawings and right-of-way plats required, all right-of-way acquisition and/or release costs and recordation charges.

Permission to obtain a metered connection from the existing main may be obtained from the *Department of Permits and Development Management*.

The developer is responsible for the cost of capping or plugging any existing house connections not used to serve the proposed site.

Permission to connect to (*or to connect additional sanitary fixtures to*) the existing public sanitary sewer may be obtained from the *Department of Permits and Development Management*.

Water and sanitary sewer service connections shall be installed by a utility contractor prior to the road improvements and shall be included in the *Public Works Agreement*.

The total water and/or sanitary sewer system connection charge is determined, and payable, upon application for the plumbing permit, or prior to the execution of a utility or right-of-way agreement.

The determination of the water system connection charges will be predicated on the established relationship using a 5/8-inch water meter at a cost of \$575.00 per living unit. The sewer system connection charge, likewise, is based on a 5/8-inch water meter at a cost of \$875.00 per living unit.

However, living units designed for one bedroom or less, excluding those units designed for one bedroom and den, shall be charged a system connection charge for each unit equivalent to 75% of the minimum charge using the rate for a 5/8-inch water meter.

Water mains outside of public right-of-way serving a proposed site improvement are considered private and shall be the developer's full responsibility for construction and maintenance.

Onsite private water mains with fire hydrants shall be metered at the public source. The size and design of the meters shall conform with Baltimore City standards.

Fire hydrant spacing and location are subject to review and approval by the *Fire Protection Section of the Fire Department*.

The developer shall contact the *Department of Permits and Development Management* at 410-887-3321 for information on obtaining water service where the meter required is less than 3", or the *Bureau of Development Plans Review* at 410-887-3751 for water service requiring meters 3" or larger.

TRAFFIC ENGINEERING COMMENTS:

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site is/is not within a traffic deficient area.*

All subsequent plans, including record plats, must note that the areas between the sight line and the curb line must be cleared, graded, and kept free of any obstructions.

A traffic impact study has been submitted to, and reviewed by, the Department of Public Works, Bureau of Traffic Engineering.

SITE-SPECIFIC COMMENTS:

Because of retaining walls, steep slopes and other physical constraints, the right-of-way line along the frontage may be determined as 20 feet from the pavement centerline or 30 feet from the opposite right-of-way line, whichever will be less restrictive to the site. The required pavement width is generally shown correctly on the plan as proposed curb and gutter and will be at least 18 feet. Sidewalk will be continuous along the frontage of this site.

Some storm drain work may be needed along with the pavement widening and new curb and gutter.

* * * * *

RWB: DAK
attachment
cc: file

BALTIMORE COUNTY, MARYLAND

SUBJECT: Concept Plan Review Comments
For January 28, 2002

DATE: January 23, 2002

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: Oella Mills

P.D.M. NO.: I-498

LOCATION: Oella Avenue

DISTRICT: 1C1

***We have reviewed the subject plan dated January 14, 2002
and have the following comments.***

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

A Public Works Agreement will be required.

Sidewalks are required along Oella Avenue.

Oella Avenue is substandard in many areas; however, due to the severe limitations imposed by dwellings, masonry walls, steep grades and severe side slopes, areas where improvements can physically be made are limited. The developer will be required to provide as much improvement along the frontage as is possible in accordance with the following:

preferred pavement width – 24 feet with concrete curb and gutter along frontage

minimum pavement width after development – 20 feet with concrete curb and gutter along frontage

ultimate right-of-way width – 40 feet

Drainage facilities will be needed with the road improvements.

Offsite right-of-way must be acquired before plats or permits will be approved.

Show right-of-way and pavement widening on the plan.
Concrete aprons will be required at all entrances.

Trash dumpster locations must be shown on the plan.

TRAFFIC ENGINEERING COMMENTS:

One-hundred-fifty-foot sight line for the westernmost perpendicular parking and 100-foot sight line for the easternmost parking spaces need to be shown along Oella Avenue. Some parking spaces may have to be eliminated.

A traffic-impact study must be submitted and reviewed **prior** to submittal of the development plan.

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site **is/is not** within a traffic deficient area.*

Prior to development plan submittal, this office shall be contacted to schedule a field visit for the location of the proposed access(es).

RWB:DAK:jrb

cc: File

**BALTIMORE COUNTY,
MARYLAND**Subject: Concept Plan Conference Comments

Date: January 28, 2002

From: Department of Recreation and Parks

Project Name: Oella Mill Property

Project Number: 01-498

Zoning: BM-CCC & DR-3.5

Location: W/S of Oella Avenue E of the Patapsco River

Districts: Elec. 1 Counc. 1

Comments:

This project is subject to the Adequate Public Facilities Act, Bill No. 110-99. The comments generated herein reflect the requirements of Bill No. 110-99 and the Baltimore County Local Open Space Manual, as adopted by the Baltimore County Council on February 22, 2000.

Local Open Space is required for this development.

The Local Open Space required is based on the total amount of dwelling units. The 'Site Development Proposal' chart should state the number of dwelling units:

The Local Open Space required for 175 units is 175,000sf or 4.02 acres +/- . A note shall be added to the Development Plan to read "Open Space Required – 113,750sf Active and 61,250sf Passive or a combination thereof as specified in Section III.D.3; Open Space Provided - 113,750sf Active and 61,250sf Passive."

The 'Site Development Proposal' and 'Open Space Proposal' charts show 2.3 acres of Open Space within the 100-year floodplain and forest buffer to be provided. Local Open Space cannot be located within environmentally constrained areas. The amount shown in the 'Open Space Proposal' chart for 'Amenity Areas' is 'N/A', however, the note below the chart shows the calculation for Amenity Open Space. Clarification is needed on the plan to state the purpose of these conflicting notes.

The open space shall, at a minimum, meet the requirements and standards as described in Section III of the Baltimore County Local Open Space Manual. The Active Open Space shall be provided in parcels of not less 20,000sf each. Refer to Sections III.C.1 & III.D.2. The open space shall have finished grades less than 4% for the active and 10% or less for the passive and labeled "HOA Open Space, Active" and "HOA Open Space, Passive" with square footage and proposed grades shown for the parcel. The Open Space shall be unencumbered by easements, clearly delineated with

leaders or shading, and a minimum of 75' in width (with the exception of passive open space as described in Section III.C.3). For any lots adjacent to the open space, screening and/or fencing shall be provided along the property lines to deter encroachment and to define the open space limits.

The required notes in Section V.B.1 and the following notes shall be added to the development plan:

1. No utilities, whether public or private, including, but not limited to, telephone, cable television, gas and electric, water, sewer, and storm drains shall be placed or constructed on or within the areas labeled as open space without prior written consent from Baltimore County Department of Recreation and Parks.
2. The design, construction and installation of all amenities shown on the development plan shall be the responsibility of the developer.

A declaration of covenants and restrictions assuring the existence and maintenance of the open space in perpetuity must be submitted to and approved by this office prior to the recordation of the plats, see Section V.E.2.a.

In addition to the Open Space requirements, the Patapscso River is a Master Plan designated Recreational Greenway. A Recreational Greenway Reservation of the 100-year floodplain or forest buffer, whichever is greater, shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation and Forest Buffer Easement." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management." A 20' access shall be provided between the greenway and the subdivision's Open Space. Refer to Section II.C for 'Goals and Objectives for Greenways' and Section IV for 'Greenway Standards.'

Jan M. Cook
Engineer Associate II 
410-887-3807
e-mail: jmcook@co.ba.md.us

INTER-OFFICE CORRESPONDENCE

DEVELOPMENT PLAN CONFERENCE**TO:** Arnold Jablon, Director - Department of Permits & Development Management**FROM:** Arnold F. 'Pat' Keller, III, Director - Office of Planning**DATE:** April 17, 2002**PROJECT NAME:** Oella Mill Property**PROJECT NUMBER:** I-498**PROJECT PLANNER:** Mark A. CunninghamGENERAL INFORMATION:

Applicant Name: Oella Mill, LLP
840 Oella Avenue
Ellicott City, MD 21043

Location: W/S Oella Avenue; E of Patapsco River

Councilmanic District: 1st

Growth Management Area: Community Conservation Area

Zoning: BM-CCC

Acres: 5.73± acres

Surrounding Zoning and Land Use:

North:	DR 3.5	Townhomes and Vacant Land
South:	DR 3.5	Residential
East:	BM-CCC & DR 3.5	Commercial and Residential
West:	N/A	Patapsco River

Project Proposal:

The applicant proposes 175 apartment units on 5.55± acres of land zoned BM-CCC and 0.18± acres of DR 3.5. Local open space of 2.30± acres is proposed. There are steep slopes greater than 25% on the subject site. Additionally, the Patapsco River runs along the western boundary of said site.

Other Anticipated Actions and Additional Review Items:

- | | | |
|--|---|--|
| ☐ Special Exception | ☒ Special Hearing | ☐ PUD |
| ☒ Variance | ☐ Compatibility | ☐ Design Review Panel |
| ☐ Waiver | ☐ Scenic Route | ☐ Other |
| ☐ RTA Modification | ☐ Referral to Planning Board | |

MEETINGS:

Concept Plan Conference	<u>01/28/02</u>	Community Input Meeting	<u>02/19/02</u>
Development Plan Conference	<u>04/17/02</u>	Hearing Officer's Hearing	<u>05/09/02</u>
Planning Board			

SCHOOL IMPACT:

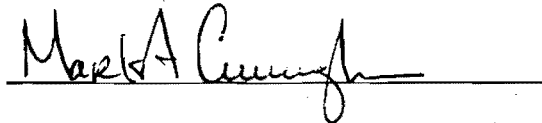
The Office of Planning has reviewed the School Impact Analysis submitted by the applicant and has determined that the proposed development is in compliance with Title 26, Article IX of the Baltimore County Code.

RECOMMENDATION

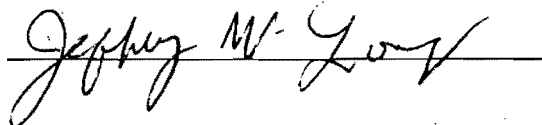
The Office of Planning has reviewed the Development Plan for conformance with Concept Plan comments of January 28, 2002 and recommends the Development Plan be **APPROVED** subject to the listing below:

1. Building elevation drawings shall be submitted to this office for review and approval prior to the issuance of any building permits.
2. Indicate the reference system associated with the north arrow shown on the plan.
3. List the plat reference/deed reference number.
4. Identify the tax map, grid and parcel number for the subject site.
5. Indicate the census tract, regional planning district, school district, watershed, and sub-sewershed associated with the subject site.
6. If the property was the subject of any previous zoning hearing, list the case number, decision, and any conditions or indicate if there is no zoning case history.

Prepared By:



Section Chief:



MAC:kma

**BALTIMORE COUNTY,
MARYLAND**Subject: Development Plan Conference Comments

Date: April 17, 2002

From: Department of Recreation and Parks

Project Name: Oella Mill Property

Project Number: 01-498

Zoning: BM-CCC

Location: W/S of Oella Avenue E of the Patapsco River

Districts: Elec. 1 Counc. 1

Comments:

The Department of Recreation and Parks has no comment regarding Local Open Space requirements for this project since it is a renovation of an existing building.

However, the Patapsco River is a Master Plan designated Recreational Greenway. Assuming the forest buffer variance is granted, a Recreational Greenway Reservation of the 100-year floodplain shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management."

For the portion of the Greenway between the 100-year floodplain and the forest buffer a Recreational Greenway Easement shall be dedicated to Baltimore County. The Recreational Greenway Easement shall be clearly delineated and labeled "Baltimore County Recreational Greenway Easement." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Easement, access by Baltimore County, or its assigns, for public safety or maintenance is allowed, subject to approval by the Department of Environmental Protection and Resource Management.'"

Should the forest buffer variance be denied, a Recreational Greenway Reservation to the limits of the forest buffer shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation." A note shall be added to the plan to read: "Within the area shown as 'Baltimore

County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management."

Refer to Section II.C of the Baltimore County Local Open Space Manual, dated February 22, 2000, for 'Goals and Objectives for Greenways' and Section IV for 'Greenway Standards.'

design issues specific to the proposal can be discussed. Potential conflicts may be resolved early in the process before the Community Input Meeting and, eventually, before the Hearing Officer Hearing.

CONCEPT PLAN REQUIREMENTS-CHECKLIST

Generally, the concept plan consists of two separate maps, a site constraints map and a site proposal map. Depending upon a site's size, features, or configuration, the two maps may be combined, but only if this is requested at a pre-concept plan conference and approved by all reviewing agencies.

SITE CONSTRAINTS MAP

GENERAL

- ☒ name and address of the developer
- ☒ name and address of the preparer of the plan
- ☒ tax account numbers
- ☒ location or vicinity map, preferably at 1"=1000' scale
- ☒ property boundaries from deed or tax map information
- ☒ zone lines

NATURAL ENVIRONMENT ASSESSMENT *

Approximate location of the following:

- ☒ existing topography as shown on county photogrammetric maps, highlighting slopes greater than 25%
- ☒ 100-year floodplain limits as shown on FEMA maps, county studies, or computed using approximate methods
- ☒ soils mapped and labeled in accordance with the Soil Survey, Baltimore County, Maryland
- ☒ streams, seeps, ponds, or other water bodies on and within 200 feet of the development site
- ☒ wetlands
- ☒ forest buffer limits, including adjustments for steep slopes and/or erodible soils in accordance with DEPRM's Policies, Rules, and Regulations Manual. It is not necessary to prepare the formal evaluation as set forth in Section III and IV of the Manual, unless DEPRM field verification is requested
- ☒ existing land cover (e.g., forest, meadow, agriculture, etc.) on and within 200 feet of the development site
- ☒ NA significant regulated plant or wildlife communities using DEPRM or Maryland Department of Natural Resource data
- ☒ NA existing well and sewage disposal systems on and within 100 feet of the development site
- ☒ NA soil evaluation tests (perc tests)

NA existing underground fuel and chemical storage tanks on and within 100 feet of the development site

BUILT ENVIRONMENT ASSESSMENT

Approximate location of the following:

- ☒ existing buildings and roads on and within 200 feet of the development site
- ☒ designated historic structures or sites as per the Landmarks Preservation Commission or the Maryland Historical Trust Inventory
- NA designated sites as per the Maryland Archeological Survey
- ☒ significant views that may affect the development proposal
- ☒ significant features (e.g., specimen trees, buildings, streetscaping, etc.) that may affect the development proposal
- ☒ existing land uses (e.g., commercial, single-family residential, townhouse residential, etc.) on and within 200 ft. of the development site
- ☒ road rights-of-way and easements

CONSISTENCY WITH COUNCIL ADOPTED PLANS

- ☒ Baltimore County Master Plan 1989-2000
- NA Community or Revitalization Plans
- NA Recreation and Parks Plan
- NA Streetscape Plan
- ☒ Greenways Plan

* Although not required, it is strongly recommended that the location of these features be field delineated by the applicant for the concept plan. Field delineations will be required for the development plan, and if the delineations are significantly different from those on the concept plan, the development plan will not be accepted for filing and another Community Input Meeting may be required.

SITE PROPOSAL MAP

- ☒ zoning, with maximum permitted dwelling units or square footage
- ☒ proposed number, type, and locations of dwelling units
- NA proposed square footage and location and use of nonresidential structures
- ☒ proposed road network and sidewalks or pathways
- ☒ proposed open space network and calculations
- ☒ proposed parking areas and calculations
- ☒ proposed stormwater management facilities
- ☒ * proposed landscape concept and planting unit calculations
- ☒ average daily trips
- ☒ identification of significant changes to topography
- ☒ location of permanent project identification signs

* Conceptual Landscape Plan to be submitted on 1-15-02

ADDITIONAL INFORMATION

- NA other anticipated actions needed by the Zoning Commissioner or Hearing Officer such as variances, waivers as part of the development plan, or special exceptions or hearings
- ✓ consistency with design manuals such as the Comprehensive Manual of Development Policies
- NA preliminary phasing and development schedule

The required information and the key should be organized and formatted as indicated on the attachment.

If you have any questions about concept plan requirements, please contact the Office of Planning, Development Review Section at 887-3211 or the Department of Permits and Development Management at 887-3335.

A checkmark (✓) indicates pertinent information that has been shown or noted on the plan. N/A denotes information not applicable to this development project.



Baltimore County
Department of Permits and
Development Management

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

DEVELOPMENT PLAN CHECKLIST

(See Section 26-203, Baltimore County Code)

The plan shall be filed within 12 months after the final Community Input Meeting is concluded. It shall be drawn to an appropriate scale in a clear and legible manner and shall be filed with the Department of Permits and Development Management.

1. The plan shall contain the following background information:

- ☒ Vicinity map showing site location and a note identifying election and councilmanic districts
- ☒ Census tract, watershed and subwatershed
- ☒ Subdivision name and applicant's name and address
- ☒ Name and address of person who prepared the plan
- ☒ Current zoning of the subject property and surrounding properties, including the location of any residential transition areas
- ☒ Ownership of the subject property and adjacent properties, including deed reference(s) and tax account number(s), as shown on the most recent tax maps as published by the Department of Assessments and Taxation, or on the basis of more current information if the same is available to the applicant
- ☒ Existing buildings and access points on property adjacent to the subject property
- ☐ Petitions for variances, special exceptions, special hearings, Chesapeake Bay Critical Area variations, or requests for waivers from county regulations or standards
- ☐ Limitations established by the courts, County Board of Appeals, Planning Board and/or Zoning Commissioner or restrictive covenants recorded with individuals or groups which would limit proposed development on the site
- ☒ The plan shall contain a certification under oath that there are no delinquent accounts for any other development with respect to any of the following: the applicant, a person with a financial interest in the proposed development, or a person who will perform contractual services on behalf of the proposed development
- ☒ The plan shall be signed and sealed by the surveyor, engineer, architect, or landscape architect as appropriate indicating that the plan is accurate and has been prepared in compliance with these regulations.

2. The plan shall identify the following existing site conditions information:

- ☒ Existing topography, and existing topography for adjacent properties as shown on Baltimore County photogrammetric plats or more recent information where available
- ☒ Existing streams, bodies of water and springs
- ☒ Soil types in accordance with the Soil Survey, Baltimore County, Maryland, including identification of prime and productive soils
- ☒ Existing wooded areas
- ☒ Existing buildings on the property
- ☒ One hundred-year floodplains or flood areas for both riverine and tidal areas
- ☒ Wetlands
- ☒ Identification of any building, property or site within or contiguous to the proposed development included on the Maryland Historical Trust Inventory of Historic Properties, the Baltimore County Preliminary or Final Landmarks List, the National Register of Historic Places, the Maryland Archaeological Survey, or identification of any Baltimore County Historic District, or National Register District covering the proposed development
- ☒ Designated areas of critical state concern identified as such under the procedures of Section 5-611 of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and as mapped and available for inspection in the Office of Planning
- ☒ As known to the applicant, location and description of hazardous material as defined by Section 7-101 of the Environmental Article of the Annotated Code of Maryland, as from time to time amended.

3. The plan shall contain the following development proposal information:

- ☒ Proposed lot or building layout with parking and loading area
- ☒ Proposed street layout with existing and future paving and right-of-way widths indicated included pedestrian walkways
- ☒ Location of existing and proposed easements or rights-of-way, public and private
- ☒ Existing and proposed county, state and private streets, along with estimated proposed average daily trips attributable to the development in the plan
- ☒ Transit services when appropriate as per the Maryland Mass Transit Administration's Access by Design publication
- ☒ Proposed and existing water and sewer lines
- ☒ Proposed and existing well and septic areas
- ☒ Proposed and existing utility systems and fire hydrants
- ☒ General schematic proposals for grading and retaining walls, including the anticipated alteration or removal of vegetation or other natural features or a designated limit of disturbance line
- ☒ Storm water management areas supported by preliminary hydrology computations, and proposed and existing storm drainage systems and verification of suitable outfall

- ✓ A hydrogeological study and an environmental effects report if required by the Department of Environmental Protection and Resource Management
- N/A For developments with lots to be served by individual water supplies, evidence of compliance with Article II of Title 35 of the Baltimore County Code (BCC)
- ✓ Proposed location and use of open space and acreage in accordance with the open space manual
- ✓ A chart indicating required and proposed area of open space and parking spaces and indicating the number of units permitted and proposed

In the case of a plan involving a use in a residential transition area, the following:

- _____ The residential transition area and existing and proposed uses therein
- _____ The proposed buildings
- _____ Proposed building setbacks and the distance between principal buildings
- _____ Existing and proposed vegetation and buffer areas
- _____ Existing and proposed lighting
- N/A When required by the Baltimore County Zoning Regulations (BCZR), the plan shall indicate the expected levels of potential emanations, including but not limited to smoke, noise, dust, odors, vibrations, glare, and heat, and the means to continuously control such emanations
- ✓ A schematic landscape plan showing existing vegetation and proposed planting, including street trees (location and quantity) shall be submitted for all development, except in RC-2 and RC-4 zones
- N/A The plan may show the location of a precise building envelope in lieu of the precise location of a building; may show precise maximums and minimums in lieu of fixed values; may set forth reasonable lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth
- ✓ All additional information contained on the critical area findings plan as specified in Section 26-442(b), BCC

When required by the BCZR or the Comprehensive Manual of Development Policies, the Director of Planning may require the following additional items:

- ✓ Layout of the site as it relates to the surrounding roads, and public transit systems, buildings, open space, and environmental features
- N/A Architectural features such as scale, height, bulk, and general massing of buildings, major facade divisions, size and placement of openings, roof treatment, stylistic features and themes and materials
- ✓ Design and placement of signage, lighting and fencing
- N/A Safety, convenience and amenity features for the neighborhood, including public safety aspects of site design for retail commercial developments and hours of operation for nonresidential development adjacent to residential areas

N/A Specific design information shall be in the form of building elevations, perspective drawings, building and site cross-sections and large scale drawings of specific site development details as required by the Director of Planning

- ✓ The plan shall clearly identify any comment raised or condition requested or proposed to the concept plan by a party if such comment or condition is unresolved at the time of filing the development plan
- ✓ At the time of filing the plan, the applicant shall file any request for combined hearing under Section 26-206.1. The plan shall contain a notation that such a request has been filed

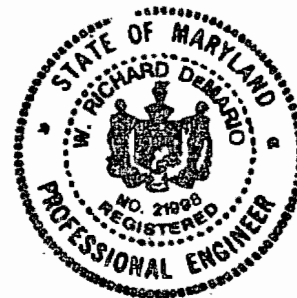
*A check mark (✓) indicates pertinent information that has been shown or noted on the plan. N/A denotes information not applicable to this development project.

W. Richard Demaro

Signature of Engineer

3-19-02

Date



SEAL



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

JUN 20 2002

PETER MAX ZIMMERMAN
People's Counsel

June 20, 2002

CAROLE S. DEMILIO
Deputy People's Counsel

Lawrence E. Schmidt
Zoning Commissioner and Hearing Officer
County Courts Building
Towson, MD 21204

Re: Oella Mill, LLP, Case Nos. 02-412-SPHA and I-498

Dear Mr. Schmidt,

We agree with Protestants' memorandum, and highlight these points:

1. The Floodplain Incursion Precludes Development Approval. Code Sec. 26-668 precludes development or redevelopment in the 100-year floodplain. A development plan may not be approved in conflict with the existing FEMA map. Developer has not asked for a waiver, and it could not likely get one. A request to FEMA for potential (future) amendment of the floodplain map to allow development is not a basis for "conditional" approval.
* * *
- This resembles the case where a developer requests conditional approval based on future amendment of the master water and sewer plan. The Hearing Officers (Schmidt and Kotroco) have rejected this position in the Hilltop Property (I-485) and Oak Tree Hill Estates (XIII-489) cases.
2. RTA Standards Definitely Apply. The existence of the D.R. 3.5 zone on the subject property does remove any question about the applicability of the RTA, although not necessary (for reasons stated in our memorandum).
3. Recreational Space Standards (Bill 110-99) Should Be Reconsidered. Sec. 26-498(b) states: "This section applies only to residential development." Sec. 26-492(g) defines "residential development" as "the development of property for the construction of dwelling facilities." There has been argument about whether renovation of the building, and site redesign, involve "construction." Webster's Third International Dictionary was not discussed. The attached definition of "construction" includes in part 2 some very broad concepts:

"2 a the act of putting parts together to form a complete integrated object : FABRICATION (during the --- of the bridge) b (1) the form or manner in which something has been put together : DESIGN (several ships of similar ---)

(an analysis of the --- of a time bomb) (2) the science or studyh of building or erection (two years in college mastering ship ---) c : something built or erected : STRUCTURE (raw new ---s along a highway)."

The Oella Mill LLP development plan clearly involves residential development and is subject to Sec. 26-498 recreational space standards.

4. Special Hearing for Commercial Parking Required. The existence of the D.R. 3.5 zone also brings into play the issue of commercial parking in a residential zone and the BCZR 409.8 standards. Since the parking is for a B.M.- C.C.C. use, it is commercial parking. Ironically, the developer's position that B.M.- C.C.C. uses are not governed by residential density standards reinforces the point that the parking is for a commercial zone use. In other words, the developer cannot properly rely on the commercial zone and district to avoid residential standards, and then say the parking is residential to avoid the commercial parking standards. That would be inconsistent.
5. The Parking Variances are Unwarranted. They are purely for the developer's convenience, to maximize density and revenue. There is no practical difficulty whatsoever. Moreover, the property's location is not unique. It is one of many historic properties constrained by proximity to the river. The only arguable uniqueness would be its historic character, but that is no justification for parking variances to increase density. The property can be used without variances in a way more compatible with the low-density neighborhood.
6. Conditions; The Project Overcrowds the Property and Neighborhood. The theme which pervades these legal problems is excessiveness. The floodplain, RTA, recreational space, and parking problems have in common that they relate, directly or indirectly, to density.

* * *

The density is excessive from any point of view. Even if unlimited density is allowed generally in the C.C.C. District (as the Hearing Officer has ruled, despite our objection), it is inappropriate for this site. The development does not meet other specific requirements. Even if it did, it is a situation where a reduction in density is warranted as a condition.

Sincerely,



Peter Max Zimmerman

Cc: Robert Hoffman, Esq.;
John V. Murphy, Esq.

account for such psychological variations as present and character in terms of bodily shape and function of the constitutional type 1 a bodily member or organ 2 a factor in coordinating bodily proportions with factors of normal or abnormal physiologic or psychologic function; compare ECTOMORPHIC, EUPHOMORPHIC, MESOMORPHIC

constitutional \kən'stitu-sh(ə)n(ə)l/ *n* -s 1 a mineral after its temperature has been raised to 110°C and its hygroscopic water driven off 2 a factor or support of a constitution

con-stitu-tion-ist \kən'stitu-sh(ə)n(ə)l-ist/ *n* -s 1 a person who is a mirror of the constitution design usu. having a row of balls under the top cornice, side pilasters, and a painted panel above the looking glass—called also *tabernacle mirror*

con-stitu-tive \kən'stitu-tiv/ *adj* 1 a having the power to enact or establish 2 b having the character of stating a condition of the possibility of experience and hence of natural phenomena—used in Kantianism of the categories (as those of quantity and quality); contrasted with *regulative* 2 a that gives the essential quality or nature: *ESSENTIAL* (a truly ~ ingredient) 2 b tending or assisting to constitute: *CONSTITUTIVE* (reason as a ~ factor of faith—W.R. Inge) (for the part evidently is ~ of the whole—A.N. Whitehead) 3 relating to or dependent on constitution (as the arrangement of atoms in a molecule) (a ~ property)—compare *ADDITIVE* 3 *COLLIGATIVE*—**con-stitu-tive-ly** \kən'stitu-tiv-lee/ *adv*

con-stitu-tum \kən'stitu-tum/ *n* -s 1 a pl *constitu-ta* \-tə/ [L. neut. of *constitutus*] Roman law: an agreement not made by formal stipulation whereby one promises to discharge on a given day at a fixed place an existing obligation of himself or another or of a third party

constitutum \kən'stitu-tum/ *n* -s 1 a pl *constitu-ta* \-tə/ [L. neut. of *constitutus*] Roman law: a promise not founded on formal stipulation by one to pay an existing debt of himself or of another at a fixed time and place

constitutum pos-ses-so-ri-um \kən'stitu-tum pə'sses-sō-ri-um/ *n* [L. agreement of possessors] Roman law: the change in intention of one having legal possession of real or personal property whereby he remains in control but transfers the legal possession to another

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constrictor \kən'strik-tər/ *n* 1 a knot that consists of a half-knot under a turn and is used to bind a cylindrical object and keep it from expanding 2 a muscle that contracts or constricts

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recognized as having been intended by the parties and as sufficient in law for where one party to another and agree to hold the goods against the return of where one delivers the documentary evidence of title to another)

constructive \kən'strukt-iv/ *adj* 1 a having the effect of or as if it were actually done 2 a having the effect of or as if it were actually done

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Baltimore County Government
Department of Permits and Development Management



111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2877 (fax)

August 19, 2002

Robert A. Hoffman, Esq.
Patricia A. Malone, Esq.
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Appeal of Order on Motion for Reconsideration
W/S Oella Ave., E of Patapsco River
Oella Mill Property
District: 1 c 1
Forest City Residential Group – Applicant
PDM #I-498 and 02-412-SPHXA

Dear Mr. Hoffman and Ms. Malone:

Please be advised that an appeal of the above-referenced case was filed in this office on August 16, 2002 by Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq. on behalf of the People's Counsel for Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kw

c: John V. Murphy, Esq.
Daft McCune Walker, Inc.
Forest City Residential Group
Oella Mill, LLP
People's Counsel
Baltimore County Board of Appeals
File

02 AUG 20 PM 3:42

CBA-02-137



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 16, 2002

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

Hand-delivered

Re: PETITION FOR DEVELOPMENT PLAN
AND SPECIAL HEARING
W/s Oella Avenue, E. of Patapsco River
190' NW of c/l Oella Hollow Road
1st Election District, 1st Councilmanic
Legal Owners: Oella Mill, L.L.P.
Developer: Forest City Residential Group
Case Nos. I-498 and 02-412-SPHXA

Dear Mr. Jablon:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the August 8, 2002 Order on Motion for Reconsideration by the Hearing Officer/Zoning Commissioner, incorporating also the other terms and conditions of the Hearing Officer/Zoning Commissioner's Approval July 8, 2002 of the Development Plan and variances, in these combined Cases No. I-498 and No. 02-412-SPHXA.

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

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

AUG 16 2002

PMZ/pah

cc: Robert A. Hoffman, Esq. and Patricia A. Malone, Esq.
John V. Murphy, Esq.

APPEAL

Petition for Special Hearing
840 Oella Avenue
W/s Oella Avenue, E. Patapsco River
1 st Election District – 1st Councilmanic District
Oella Mill, L.L.P.
Forest City Residential Group
02-412-SPHA

- ✓ Petition for Special Hearing (3/26/02)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (4/9/02)
- ✓ Certification of Publication (The Jeffersonian issue 4/25/02)
- ✓ Certificate of Posting (See Development Management Case I-498)
- ✓ Entry of Appearance by People's Counsel (4/17/02)
- ✓ Petitioner(s) Sign-In Sheet (See Development Management Case I-498)
- ✓ Protestant(s) Sign-In Sheet (See Development Management Case I-498)
- ✓ Citizen(s) Sign-In Sheet (None)
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibits: (See Development Management Case I-498)
- ✓ Protestants' Exhibits: (See Development Management Case I-498)
- ✓ Miscellaneous (Not Marked as Exhibits - None)
- ✓ Zoning Commissioner's Order (7/9/02 GRANTED)
- ✓ Notice of Appeal received on 8/16/02 from Peter Max Zimmerman, People's Counsel for Baltimore County ; *by Jack Murphy Esq. on 8/20/02.*

c: Robert A. Hoffman, Venable, Baetjer and Howard, LLP 210 Allegheny Avenue
Towson, MD 21204

* People's Counsel of Baltimore County, MS #201
Lawrence Schmidt, Zoning Commissioner
Arnold Jablon, Director of PDM

** John Murphy Esq.*

date sent 8/19/02, rjc

Lydia Temoshok
513 Oella Avenue
Ellicott City MD 21043

Dennis and Lynette Burns
715 Race Road
Ellicott City MD 21043

Christine Reed
917 Oella Avenue
Ellicott City MD 21043

Concerned Citizens of Oella
c/o Lydia Temoshok
513 Oella Avenue
Ellicott City, MD 21043

VE

APPEAL

Order on Motion for Reconsideration
Hearing Officer's Opinion
and Development Plan Order
W/S Oella Avenue, E of Patapsco River
Oella Mill Property
Daft McCune Walker, Inc. – Engineer
Oella Mill LLP – Owner
Forest City Residential Group - Developer
1st Election District – 1st Councilmanic District
PDM No. 1-498, 02-412-SPMA

CBA-02-137

- ✓ Concept Plan.
 - ✓ Concept Plan and Constraints Map (dated January 14, 2002) (2 of 2)
 - ✓ Concept Plan Requirements Checklist (3 of 3)
 - ✓ County agency comments
 - ✓ Tax Clearance (2 of 2)
- ✓ Community Input Meeting (CIM) dated February 19, 2002
 - ✓ Developer's notification to the community (3 of 3)
 - ✓ CIM Minutes dated February 19, 2002 (10 of 10)
 - ✓ Cim Attendance Record dated February 19, 2002 (6 of 6)
- ✓ Certificate of Posting for CIM Meeting dated January 28, 2002 (3 of 3)
- ✓ Waiver Request (None)
- ✓ Development Plan
 - ✓ Development Plan dated March 20, 2002 (2 of 2)
 - ✓ Development Plan Requirement checklist (4 of 4)
 - ✓ Notice of Development Plan Conference and Hearing Officer's Hearing dated March 26, 2002 (2 of 2)
 - ✓ Notice of Hearing Date dated May 9, 2002 and May 10, 2002 , with Developer's notification to the community (5 of 5)
 - ✓ County Agency Comments
- ✓ Plan to Accompany Petition for Special Hearing and Zoning Variance dated March 21, 2002 (2 of 2)
- ✓ Landscape Plan of Oella Mill Apartments (1 of 1)
- ✓ Certificate of Posting for Development Plan Hearing dated April 10, 2002 (6 of 6)
- ✓ Certificate of Posting for Zoning Notice dated April 22, 2002 (5 of 5)
- ✓ Certificate of Posting for Zoning Notice dated May 16, 2002 (3 of 3)
- ✓ Hearing Officer's Hearing Sign-In Sheets dated May 13, 2001 (13 of 13)
- ✓ Petitioner's Exhibits
See Attached Sheet
- ✓ Protestants' Exhibits
See Attached Sheet

Exhibit #36 in Petitioner's Exhibits

- ✓ Miscellaneous correspondence from Community
Comments for February 19, 2002 Cim Meeting (3 of 3)
Letters, Memos & Faxes from Community
- ✓ Entry of Appearance dated February 4, 2002 (1 of 1)
- ✓ People's Counsel's Pre-Hearing Memorandum
Dated May 8, 2002 (35 of 35)
- ✓ People's Counsel's Memorandum on the Residential Transition Area Issue
Dated May 24, 2002 (32 of 32)
- ✓ Hearing Memorandum dated June 12, 2002 (12 of 12)
- ✓ Letter from Peter Zimmerman, Esq., People's Counsel to Hon. Lawrence Schmidt
dated June 20, 2002 (2 of 2)
- ✓ Developer's Post-Hearing Memorandum dated June 21, 2002 (29 of 29)
- ✓ Letter from John V. Murphy to Hon. Lawrence E. Schmidt dated June 25, 2002 (1 of 1)
- ✓ Protestant's Reply Memorandum date stamped June 27, 2002 (7 of 7)
- ✓ Memorandum in Support of Petition for Special Hearing dated June 25, 2002 (16 of 16)
- ✓ Baltimore County's Response to Prestige's Memorandum in Support for Special Hearing
filed June 25, 2001 (11 of 11)
- ✓ Hearing Officer's Opinion and Development Plan Order dated July 8, 2002 (26 of 26)
- ✓ Motion for Reconsideration dated July 9, 2002 (3 of 3)
- ✓ Protestant's Response to Developer's Motion for Reconsideration dated July 17, 2002 (2 of 2)
- ✓ Order On The Motion for Reconsideration dated August 8, 2002 (2 of 2)
- ✓ Letter from Peter M. Zimmerman, Esq. and Carole S. Demilio, Esq. of People's Counsel to
Arnold Jablon dated August 16, 2002 (1 of 1)
- ✓ Petition On Appeal dated August 16, 2002 (3 of 3)

Appeal 8/20/02 by John V. Murphy for Greater Oella
Community, et al. Petition filed 8/20/02.

NOTIFICATION LIST

Robert A. Hoffman, Esq., Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204

Patricia A. Malone, Esq., Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204

~~*John V. Murphy, Esq., 14 North Rolling Road, Baltimore, MD 21228~~ *W/D appearance*

Forest City Residential Group, 5803 Nicholson Lane, North Bethesda, MD 20852

Mr. Jon Wallenmeyer, V.P., East Coast Development, 5803 Nicholson Road, Rockville, MD 20853

Mr. Peter Ruff, Oella Mill, LLP, 840 Oella Avenue, Ellicott City, MD 21043

Messrs. Charles Main, II, Eric Hadaway & Mitchell Kellman, Ms. Linda Jones,

Daft McCune Walker, Inc., 200 W. Pennsylvania Avenue, Towson, MD 21286

Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Drive, #H, Baltimore, MD 21236

Messrs. Ronald Kann, Geoffrey Glazer & Peter Ruff, Kann & Associates, Inc. 207 E. Rdwood Street,
Baltimore, MD 21202

Ms. Kelly Clark, 109 Oella Avenue, Oella, MD 21228

~~*Mr. Henry Berger, 734 Pleasant Hill Road, Ellicott City, MD 21043~~

~~*Mr. Gregg V. Brown, 709 Pleasant Hill Road, Ellicott City, MD 21043~~

Mr. Mark Wilson, 2642 Westchester Avenue, Ellicott City, MD 21043

~~*Peter Max Zimmerman, Esq., People's Counsel~~

~~*Carole S. Demilio, Esq., Deputy People's Counsel~~

Arnold F. Keller, III, Director, Office of Planning

Lawrence E. Schmidt, Zoning Commissioner

Arnold Jablon, Director, Department of Permits and Development Management

Don Rascoe, Development Manager

Lydia Temoshok

513 Oella Avenue

~~*~~ Ellicott City MD 21043

~~*Dennis and Lynette Burns~~

715 Race Road

Ellicott City MD 21043

~~*Christine Beed~~ *W/D 2/02*

917 Oella Avenue

Ellicott City MD 21043

~~*Concerned Citizens of Oella~~

c/o Lydia Temoshok

513 Oella Avenue

Ellicott City, MD 21043

513 Oella

Ellicott City

Case No. CBA-02-137

Case No. 02-412-SPHA

Development Plan –Oella Mill /PDM I-498 (APPROVED per red-line Plan) and

SPH –Renovation of historic structure (GRANTED)

VAR – Parking and location of windows (GRANTED)

SPH – Wooden steps in riverine floodplain – DISMISSED as Moot.

8/08/02 – Final Order of HO/DZC which included ruling on Motion for Reconsideration; as well as Order dated 7/08/02 -Plan approval; and, in Case No. 02-412-SPHA, SPH -Granted in part and dismissed as moot in part; VAR –Granted – with restrictions.

NOTE THAT MEMOS AND RELATED FILINGS FROM APPEAL TO CBA ARE CONTAINED IN THE DEVELOPMENT PLAN FILE /CASE NO. CBA-02-137. NO DUPLICATE COPIES; ZONING FILE NOTED.

8/27/02 --Notice of Assignment sent to following parties; matter scheduled for hearing day #1 on Tuesday, September 24, 2002 at 10:00 a.m. (also holding Thursday, October 3, 2002; Tuesday, October 8, 2002; Wednesday, October 30, 2002; and Wednesday, November 6, 2002, all at 10:00 a.m.; comments relative to the additional dates to be received at 9/24/02 hearing before Board):

Office of People's Counsel

John V. Murphy, Esquire

Greater Oella Comm Assn, Inc. /Concerned Citizens of

Oella /Lydia Temoshok /Dennis Burns /Lynette Burns

Christen Beed (all c/o of John V. Murphy, Esquire)

Gregory Brown

Henry Berger

Kelly Clark

Mark Wilson

Robert A. Hoffman, Esquire

Patricia A. Malone, Esquire

Forest City Residential Group

John Wallenmeyer, VP /East Coast Development

Peter Ruff /Oella Mill LLP

Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones

Daft McCune Walker, Inc.

Mickey Cornelius /The Traffic Group

Ronald Kann, Geoffrey Glazer, Peter Ruff

Kann & Associates

Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC

Donald Rascoe, Development Mgr /PDM

Arnold Jablon, Director /PDM

Edward J. Gilliss, County Attorney

9/19/02 – Memorandum filed by Office of People's Counsel, including attachments from HO hearing and CA Annapolis Market decision just issued.

9/20/02 – Letter from John V. Murphy, Esquire – Supplemental Memorandum to Petition on Appeal and Motion to Withdraw Appearance filed. Also included Order prepared for signature by Chairman granting said Motion to Withdraw; awaiting any response and ultimate signature by Chairman; to be addressed on 9/24/02 when convening for hearing due to lateness of receipt of same.

- Copy of letter from Greater Oella Community Assn – requesting that said association be removed as a Protestant in this matter; no formal motions taken by assn to appeal this matter; no inclusion of GOCA voted on; voted at meeting to remove GOCA from the appeal. Awaiting original letter from Mr. Jablon's office (letter addressed to AJ).

Case No. CBA-02-137

Case No. 02-412-SPHA

Development Plan –Oella Mill /PDM I-498 (APPROVED per red-line Plan) **and**

SPH –Renovation of historic structure (GRANTED)

VAR – Parking and location of windows (GRANTED)

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Office of People's Counsel

John V. Murphy, Esquire

Greater Oella Comm Assn, Inc. /Concerned Citizens of

Oella /Lydia Temoshok /Dennis Burns /Lynette Burns

Christen Beed (all c/o of John V. Murphy, Esquire)

Gregory Brown

Henry Berger

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Mark Wilson

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Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC

Donald Rascoe, Development Mgr /PDM

Arnold Jablon, Director /PDM

Edward J. Gilliss, County Attorney

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- Copy of letter from Greater Oella Community Assn -- requesting that said association be removed as a Protestant in this matter; no formal motions taken by assn to appeal this matter; no inclusion of GOCA voted on; voted at meeting to remove GOCA from the appeal. Awaiting original letter from Mr. Jablon's office (letter addressed to AJ).

9/24/02 -- Original of GOCA letter referenced above hand-delivered from PDM (addressed to Mr. Jablon). Board convened for day #1 of hearing (Marks, Wescott, Adams); concluded day #1; to reconvene on 10/03/02 for day #2.

--Notice of Hearing for Day #2 sent to parties; addresses noted for Appellants per Supplemental Memo filed by Mr. Murphy prior to Withdrawal of Appearance.

--Order Granting Withdrawal of Appearance to be issued to all parties, with copy to GOCA at 2414 Winchester Avenue, Ellicott City, MD 21043 c/o Paul Mandl, Corresponding Secretary.

NOTE THAT MEMOS AND RELATED FILINGS FROM APPEAL TO CBA RECEIVED UP TO AND INCLUDING 9/24/02 ARE CONTAINED IN THE DEVELOPMENT PLAN FILE /CASE NO. CBA-02-137. NO DUPLICATE COPIES; ZONING FILE NOTED. DOCUMENTS FILED AFTER 9/24/02 ARE FILED IN 02-412-SPHA.

9/27/02 – Letter from Patricia Malone, Esquire – provided copy of Developer's Post-Hearing Memorandum submitted at Hearing Officer's Hearing (was not in our case file); also submitted attachments to above Memo. Copies provided by Ms. Malone to Messrs. Zimmerman and Brown.

- Letter from Pat Keller, Bob Hannon, and Mary Harvey regarding this project – support of Offices of Community Conservation, Planning and Department of Economic Development for redevelopment of Oella Mill Property for residential use. Copy provided for Mr. Zimmerman.

- Letter from P. Zimmerman – in response to 9/24/02 Board questions at hearing regarding legislative history of BCZR 235A – providing copies of history which was submitted to the Zoning Commissioner /Hearing Officer and is part of the record.

9/30/02 – Letter from Lydia Temoshok, President of GOCA – letter also signed by officers of Association – objecting to first paragraph of Mr. Mandl's 9/18/02 letter.

10/03/02 – Letter from Christine Beed – requesting that she be removed from this matter as an Appellant. File has been noted in both cases; Ms. Beed has been removed from the file.

– Concluded day #2 (C.M.S.); as noted on Notice of Assignment dated 9/24/02, Board to reconvene on Tuesday, 10/08/02 at 10:00 a.m. for day #3.

10/08/02 – Board convened for day #3 (C.M.S.). Concluded day #3; noted for the parties that the Board would reconvene on Wednesday, 10/30/02 for day #4; that memos would be due from parties on 11/12/02 and deliberation would be assigned for 11/19/02 with notice to be sent.

10/09/02 – Letter to Counsel and parties; confirmation that Board would convene on Wednesday, October 30, 2002 at 10:00 for hearing day #4; that memos will be due from parties on Tuesday, 11/12/02 and that deliberation would be assigned for 11/19/02.

10/30/02 – Hearing concluded; memos due on 11/12/02; deliberation assigned for 11/19/02; notice to be sent.

10/31/02 – Notice of Deliberation sent to parties; assigned for Tuesday, November 19, 2002 at 9:00 a.m. FYI copy to C.M.S.

11/12/02 – Forest City's Post-Hearing Memo filed by R. Hoffman; People's Counsel's Post-Hearing Memo filed by P. Zimmerman; also Motion for Reconsideration and Rehearing filed by P. Zimmerman. Copy to L. Wescott this date; copies to C. Marks and M. Adams on 11/13/02. Deliberation assigned for Tuesday, 11/19/02.

11/14/02 – Forest City's Response to Motion for Reconsideration and Rehearing filed by Robert A. Hoffman, Esquire.

11/19/02 – Board convened for deliberation (C.M.S.); unanimous – Motion for Rconsideration – denied; AFFIRMED Hearing Officer – approval of Plan; G –Variance relief requested; all conditions as imposed by Hearing Officer affirmed. Written Opinion and Order to be issued no later than December 4, 2002 (within 15 days of today's date); appellate period to run from date of written Opinion and Order.

02-412-SPH

840 Oella Avenue
Ellicott City, MD 21043

Oella Mill, L.L.P.

******* THIS CASE IS RIDING WITH CASE NO.: CBA-02-137 – DEVELOPMENT PLAN**

March 26, 2002	Petition for Special Hearing filed by Oella Mill, LLP to approve a waiver of the Baltimore County Code to renovate a historic structure and a special hearing for a waiver to permit the addition of wooden steps in a floodplain.
July 9	Zoning Commissioner's Order GRANTING the Special Hearing
August 16	Notice of Appeal received from Office of People's Counsel
August 20	Appeal received BOA
December 4, 2002	Opinion Issued By The Board Of Appeals /Petition for Variance – GRANTED – Decision of Hearing Officer in Case No.: CBA-02-137 – development plan was approved and the Board AFFIRMS.
January 6, 2003	Petition for Judicial Review filed by John V. Murphy, Esquire on behalf of Lydia Temoshok, President, Greater Oella Community Association, Inc., 513 Oella Avenue, Ellicott City, MD 21043; Lydia Temoshok, 513 Oella Avenue, Ellicott City, MD 21043; Henry Berger, 734 Pleasant Hill Road, Ellicott City, MD 21043; Gregg Brown, 709 Pleasant Hill Road, Ellicott City, MD 21043; and Lynette Burns, 715 Race Road, Ellicott City, MD 21043.
1/8	Certificate of Notice filed.
2/26	Record Extract filed
7/11	Judge Patrick Cavanaugh ORDERS that the Baltimore County Board of Appeals Order dated the 4 th day of December, 2002, in Case No. CBA-02-137 and Case No.: 02-412-SPHA are hereby REVERSED and REMANDED for further action consistent with OPINION filed herewith.
7/23	Notice of Appeal to the Court of Special Appeals filed by Oella Mill, LLC.
9/9/2004	Unreported In the Court of Special Appeals No. 1079 / September Term, 2003 – Judgment Reversed; Case Remanded to Circuit Court for Baltimore County with instructions to affirm the decision of the board of appeals of Baltimore County.
2/18/2005	Order by Judge Patrick Cavanaugh from the Circuit Court of Baltimore County that the Court as ordered by the Court of Special Appeals the the decision of the Board of Appeals dated December 4, 2002 in Case No.: CBA-02-137 and Case No.: 02-412-SPHA is hereby AFFIRMED.

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

02/06/08

Case Number: 03-C-03-000016 AE
Date Filed: 01/02/2003
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :
CTS Start : Target :

In The Matter of: Greater Oella Community Association Inc, et al

CASE HISTORY

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	02412SPHA
Case Folder ID	C03000016V02
Administrative Agency	CBA02137

INVOLVED PARTIES

Type Num	Name (Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	001 Greater Oella Community Association Inc		BT DO 05/07/03	01/02/03
		Party ID: 0552165		
	Mail: 513 Oella Avenue	01/02/03	01/02/03 CMS	01/02/03 CMS
	C/o Lydia Temoshok			
	Ellicott City, MD 21043			
	Attorney: 0012544 Tanczyn, Michael P	Appear: 08/19/2003		08/19/03
	Michael P. Tanczyn, P.A.			
	606 Baltimore Avenue			
	Suite 106			
	Baltimore, MD 21204			
	(410)296-8823			

0017526 Murphy, John V
Murphy & Murphy, L.L.C.
14 North Rolling Road
Catonsville, MD 21228-4848
(410)744-4967

Appear: 01/02/2003

01/02/03

Type Num	Name (Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 002	Berger, Henry		BT DO 07/17/03	01/02/03
		Party ID: 0552166		
	Capacity : Individually			
Mail:	734 Pleasant Hill Road	01/02/03	01/02/03 CMS	01/02/03 CMS
	Ellicott City, MD 21043			
Attorney:	0012544 Tanczyn, Michael P	Appear: 08/19/2003		08/19/03
	Michael P. Tanczyn, P.A.			
	606 Baltimore Avenue			
	Suite 106			
	Baltimore, MD 21204			
	(410)296-8823			
	0017526 Murphy, John V	Appear: 01/02/2003		01/02/03
	Murphy & Murphy, L.L.C.			
	14 North Rolling Road			
	Catonsville, MD 21228-4848			
	(410)744-4967			
PET 003	Brown, Gregg		BT DO 07/17/03	01/02/03
		Party ID: 0552167		
	Capacity : Individually			
Mail:	709 Pleasant Hill Road	01/02/03	01/02/03 CMS	01/02/03 CMS
	Ellicott City, MD 21043			
Attorney:	0012544 Tanczyn, Michael P	Appear: 08/19/2003		08/19/03
	Michael P. Tanczyn, P.A.			
	606 Baltimore Avenue			
	Suite 106			
	Baltimore, MD 21204			
	(410)296-8823			
	0017526 Murphy, John V	Appear: 01/02/2003		01/02/03
	Murphy & Murphy, L.L.C.			
	14 North Rolling Road			
	Catonsville, MD 21228-4848			
	(410)744-4967			
PET 004	Burns, Lynette		BT DO 07/17/03	01/02/03
		Party ID: 0552168		
	Capacity : Individually			

Mail: 715 Race Road
Ellicott City, MD 21043

01/02/03

01/02/03 CMS

01/02/03 CMS

Attorney: 0012544 Tanczyn, Michael P
Michael P. Tanczyn, P.A.
606 Baltimore Avenue
Suite 106
Baltimore, MD 21204
(410)296-8823

Appear: 08/19/2003

08/19/03

0017526 Murphy, John V
Murphy & Murphy, L.L.C.
14 North Rolling Road
Catonsville, MD 21228-4848
(410)744-4967

Appear: 01/02/2003

01/02/03

Type Num	Name (Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
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PET 005 Temoshok, Lydia

BT DO 07/17/03

01/02/03

Party ID: 0552170

Capacity : Individually

Mail: 513 Oella Avenue
Ellicott City, MD 21043

01/02/03

01/02/03 CMS

01/02/03 CMS

Attorney: 0012544 Tanczyn, Michael P
Michael P. Tanczyn, P.A.
606 Baltimore Avenue
Suite 106
Baltimore, MD 21204
(410)296-8823

Appear: 08/19/2003

08/19/03

0017526 Murphy, John V
Murphy & Murphy, L.L.C.
14 North Rolling Road
Catonsville, MD 21228-4848
(410)744-4967

Appear: 01/02/2003

01/02/03

RES 001 Oella Mill L L C

BT DO 07/17/03

01/03/03

Party ID: 0552289

Attorney: 0015510 Malone, Patricia Ann
Venable, LLP
210 Allegheny Avenue
P O Box 5517
Towson, MD 21285-5517
(410)494-6200

Appear: 01/16/2003

01/16/03

0015531 Dunbar, James A
Venable, LLP
210 Allegheny Ave.
PO Box 5517

Appear: 01/16/2003

01/16/03

Towson, MD 21285-5517
(410)494-6200

0022373 McCormack, Timothy F Appear: 08/07/2003
Gordon, Feinblatt, Rothman, Hoffberger & Hollander LLC
233 East Redwood Street
Baltimore, MD 21202
(410)576-4000

08/07/03

0805487 Miller, Hope D Appear: 08/07/2003
Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC
The Garrett Building
233 East Redwood Street
Baltimore, MD 21202
(410)576-4000

08/07/03

Type Num	Name (Last, First, Mid, Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
RES	002 Forest City Residential Group		BT DO 07/17/03	04/28/03
		Party ID: 0579611		
	Attorney: 0015510 Malone, Patricia Ann Venable, LLP 210 Allegheny Avenue P O Box 5517 Towson, MD 21285-5517 (410)494-6200		Appear: 04/29/2003	04/29/03
	0015531 Dunbar, James A Venable, LLP 210 Allegheny Ave. PO Box 5517 Towson, MD 21285-5517 (410)494-6200		Appear: 04/29/2003	04/29/03
ITP	001 Board Of Appeals Of Baltimore County		BT DO 07/17/03	01/02/03
		Party ID: 0552171		
	Mail: 400 Washington Avenue Old Courthouse Room 49 Towson, MD 21204	01/02/03	01/02/03 CMS	01/02/03 CMS

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result	ResultDt	By	Result Judge	Rec			

04/21/03	01:30P	CR06	Motion Hearing (Civil)	Y	JNB	01 /01	02/04/03 RC
	Held/Concluded	04/21/03	E J.Byrnes	Y			
Stenographer(s): Rita M. Taggart							
06/12/03	09:30A	CR04	Civil Non-Jury Trial	Y	PC	01 /01	KLS
	Held/Concluded	06/12/03	E P.Cavanaugh	Y			
Stenographer(s): Marina Coyle							

DISPOSITION HISTORY

Disp	Disp	Stage	Activity
Date	Code Description	Code Description	User Date
07/17/03	DO Decree or Order	BT BEFORE TRIAL/HEARING	03/23/04

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign	Date	Removal	RSN
TBA To Be Assigned,	J	01/02/03			

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review w/ Exhibits	01/02/03	01/02/03	PET001	TBA	07/17/03	CMS JBJ
0001001	Answer	01/13/03	01/16/03	RES001	TBA	07/17/03	PH JBJ
0001002	Memorandum in response Filed by RES001-Oella Mill L L C, , RES002-Forest City Residential Group,	04/28/03	04/29/03	RES001	TBA	07/17/03	PH JBJ
0002000	Certificate of Notice	01/08/03	01/13/03	000	TBA	07/17/03	MI JBJ
0003000	Motion to Dismiss	01/13/03	01/16/03	PET001	JNB Granted	05/07/03	PH JBJ
0003001	Respondents' reply Memorandum in support of motion to dismiss with exhibits	02/04/03	02/10/03	RES001	TBA	07/17/03	AR JBJ
0003002	Answer	01/29/03	10/06/03	PET001	TBA		MRS MRS
0004000	Motion to Shorten Time and for expedited hearing	01/13/03	01/16/03	RES001	JOH Denied	03/03/03	PH MI
0004001	Answer eith memorandum	01/29/03	02/03/03	PET001	TBA	07/17/03	CS JBJ

Num/Seq Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0005000 Request for Hearing	01/13/03	01/16/03	RES001	TBA	07/17/03	PH JBJ
0006000 Hearing Notice	02/04/03	02/04/03	000	TBA	02/04/03	RC RC
0007000 Correspondence	02/03/03	02/06/03	PET001	TBA	02/06/03	CS CS
0008000 *Certified Copies of proceedings before the Baltimore County Dept of Permits and Licenses and the Board of Appeals of Baltimore County	02/26/03	02/27/03	ITP001	TBA	02/27/03	CS CS
0009000 Scheduling Order	03/11/03	03/11/03	000	TBA	03/11/03	KLS KLS
0010000 CBA EXHIBITS FILE IN BOX 357 WITH BROWN ENVELOPE BESIDE THE BOX ON SHELF....	03/21/03	03/21/03	000	TBA	07/17/03	JA JBJ
0011000 Notice of Transcript of Record Sent	03/24/03	03/24/03	PET001	TBA	03/24/03	CS CS
0012000 Notice of Transcript of Record Sent	03/24/03	03/24/03	PET002	TBA	03/24/03	CS CS
0013000 Notice of Transcript of Record Sent	03/24/03	03/24/03	PET003	TBA	03/24/03	CS CS
0014000 Notice of Transcript of Record Sent	03/24/03	03/24/03	PET004	TBA	03/24/03	CS CS
0015000 Notice of Transcript of Record Sent	03/24/03	03/24/03	PET005	TBA	03/24/03	CS CS
0016000 Notice of Transcript of Record Sent	03/24/03	03/24/03	RES001	TBA	03/24/03	CS CS
0017000 *Petitioner 's Memorandum Filed by PET001-Greater Oella Community Association Inc, , PET002-Berger, Henry, PET003-Brown, Gregg, PET004-Burns, Lynette, PET005-Temoshok, Lydia	03/27/03	03/28/03	PET001	TBA	03/28/03	NF NF
0018000 Open Court Proceeding April 21, 2003. Hon. J. Norris Byrnes. Hearing had re: Motion to Dismiss (#3000) - Order to be filed.	04/21/03	04/21/03	000	TBA	07/17/03	GI JBJ
0019000 Reply Memorandum	05/14/03	05/15/03	PET002	TBA	05/15/03	CS CS
0020000 Open Court Proceeding June 12,2003 Hon.Patrick Cavanaugh.Hearing had.Decision held sub-curia.Opinion and Order to be filed.	06/12/03	06/12/03	000	PC	07/17/03	BH JBJ
0021000 Memorndum And Order case is remanded to the Board to allow the petitioners to present evidence as specified, etc.	07/17/03	07/17/03	000	PC Granted	07/17/03	JBJ JBJ
0022000 Order of Court Baltimore County Board of Appeals Order dated the 4th day of December, 2002 in Case No. CBA-02-137 and Case No. 02-412-SPHA are hereby Reversed and Remanded to Board of	07/17/03	07/17/03	000	PC Granted	07/17/03	JBJ JBJ

Appeals as specified, etc.

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0023000	*Notice of Appeal to COSA or COA (12/202) Filed by RES001-Oella Mill L L C, , RES002-Forest City Residential Group,	07/23/03	07/23/03	RES001	TBA		MRS MRS
0024000	Pre Trial Hearing Letter Issued	07/24/03	07/24/03	000	TBA	07/24/03	ED ED
0025000	Docket Entries sent to Brd of Appeals.	07/28/03	07/28/03	000	TBA		ED ED
0026000	*Notice of Appeal to COSA or COA 12/208	08/06/03	08/07/03	RES001	TBA		MI ED
0027000	Pre Trial Hearing Letter Issued	08/07/03	08/07/03	000	TBA	08/07/03	ED ED
0028000	Attorney Appearance filed for APPEAL Purpose only.	08/07/03	08/07/03	RES001	TBA	08/07/03	ED ED
0029000	*Withdraw and enter attorney appearance	08/13/03	08/19/03	000	TBA		MRS MRS
0030000	Order to proceed w/out prehearing conf.	09/08/03	09/08/03	000	TBA		ED ED
0031000	Original Record sent to COSA sent by certified mail, 2 volumes, 1 transcript, brown envelope containing exhibits, 1 box containing exhibits shipped separate. #7002 1000 0005 4137 7825, 7002 1000 0005 4137 7818	11/04/03	11/04/03	000	TBA		ED ED
0032000	Mandate Received from Court of Special Appeals reversing judgment and remanding case for further proceedings with instruction to affirm the decision of the County Board of Appeals	02/07/05	02/07/05	000	TBA		PH PH
0033000	Order Baltimore County Board of Appeals Order dated Dec 4, 2002 in case CBA-02-137 and Case No. 02-412 SPHIA is AFFIRMED	02/23/05	02/23/05	000	PC Affirmed	02/18/05	JBK JBK
0034000	Invoice #14867 SENT TO PATRICIA ANN MALONE	02/28/05	02/28/05	000	TBA		PKE PKE
0035000	Docket entries sent to Board of Appeals of Baltimore County	02/28/05	02/28/05	000	TBA		CVM CVM

TICKLE

Code	Tickle Name	Status Expires	#Days AutoExpire	GoAhead	From Type	Num Seq
1ANS	1st Answer Tickle	CLOSED 01/13/03	0 no	no	DANS D	001 001

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1YRT	One Year Tickle (Jud	CLOSED	01/02/04	365	no	no		DAAA D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	09/15/03	30	no	no			000	000
PAND	Anniversary Date For	OPEN	03/07/06	365	no	no			000	000
SLIL	Set List - Informati	CANCEL	08/07/03	0	no	no		DAAF D	028	000
SLMH	Set List For Motions	CANCEL	01/29/03	0	no	no		SLMM T	004	001
SLMM	Set List Motions Mar	Done	10/08/05	999	yes	yes		DANS D	005	000
SLMR	Set List For Motions	CANCEL	02/04/03	22	no	no		MDIS D	003	000
SLTR	Set List For Trial	Done	01/13/03	0	yes	yes		IANS T	001	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp	Dt	Dis	By
Offered By: ITP 001 Board Of Appeals Of Baltimore										
000		I	returned 3/23/05							

DIFFERENTIATED CASE MANAGEMENT**TRACKS AND MILESTONES**

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 03/11/03 Order Date : 03/11/03
Start Date : 03/11/03 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(	03/26/03	07/17/03	CLOSED	
All Motions (excluding Motions in Limine	05/03/03	07/17/03	CLOSED	
TRIAL DATE is	06/12/03	06/09/03	06/12/03	REACHED

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

03-C-03-000016 Date: 02/06/08 Time: 14:19

Page: 9

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	Method	Balance
----	-----	----	----	-----	-----	-----	-----
01/02/03	200300000075/JJ	1102	CF-Civil Fil	.00	80.00	CK	-80.00
01/02/03	200300000075/JJ	1265	MLSC	.00	10.00	CK	-90.00
01/02/03	200300000075/JJ	1500	Appearance F	.00	10.00	CK	-100.00
07/23/03	200300013294/JLK	1101	CF-Civil Fil	.00	60.00	CK	-160.00
07/23/03	200300013294/JLK	1999	CTSPAPP	.00	50.00	CK	-210.00
08/07/03	200300014159/JJ	1999	CTSPAPP	.00	50.00	CK	-260.00
03/04/05	200500004468/LMC	1500	Appearance F	.00	10.00	CK	-270.00

BALTIMORE COUNTY, CORRESPONDENCE

INTER-OFFICE CORRESPONDENCE

TO: John H. Almond
Supervisor
Records Department

FROM: Theresa R. Shelton
Board of Appeals

DATE: February 25, 2005

SUBJECT: Request for File

Could you please pull our case file and give me a call when it is available for pick-up so I can CLOSE the file?

Thank you for your time and assistance with these matters.

**Matter of: GREATER OELLA COMMUNITY
ASSOCIATION LLP**

Case No.: 03-C-03-00016

CBA Case No.: CBA-02-137 AND 02-412-SPHA

/trs

When file comes in
from Circuit Court
Close

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: OELLA MILL, L.L.P.
Case No.: CBA-02-137/PDM I-498
and Case No.: 02-412-SPHA

DATE: November 19, 2002

BOARD/PANEL:	Charles L. Marks	CLM
	Melissa Moyer Adams	MMA
	Lawrence S. Wescott	LSW

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate the Petition for Special Hearing filed by Oella Mill, LLP to approve a waiver of the Baltimore County Code to renovate a historic structure and a special hearing for a waiver to permit the addition of wooden steps in a floodplain; and all other issues with regards to Oella Mill.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

MOTION FOR RECONSIDERATION

- Legal issues that involved land use
- Was there sufficient evidence presented at zoning hearing to justify the outcome
- issue of traffic that were external issues would be excluded from the internal variance issues
- the development proceeding was held for 5 days
- traffic issues are primary to zoning hearings
- issues of safety, traffic, etc. was addressed extensively in the order
- did the community have ample time to respond to the traffic issues at zoning levels
- all traffic concerns were addresses at development/zoning level
- limitation on parking spaces was considered in zoning
- traffic studies do not need to be reconsidered by the Appeal Board
- if the County feels that there should not be any more development in an area – then there should not be
- people did testify with regards to traffic (generic concerns)
- can not expect the developer to re-route the roads
- Cornelius/Daniels reports discussed

- did the zoning commissioner have enough information with regards to traffic analysis
- give deference to expertise
- community had opportunity below to address issues
- Board will only determine with regards to variances within the building

GREATER OELLA COMMUNITY INVOLVEMENT

- Appeal was withdrawn by Mr. Murphy
- Yo-yo Affect / in-out-in
- to permit re-instatement would create chaos
- can not let individual/group come in at end of case and want to let testimony in
- Board is very lenient with hearing times and can not be expected to re-open hearing when witnesses are late and come in after hearing is closed
- Board was correct in not re-opening hearing
- Board is not responsible for in-house conflict with associations

DEVELOPMENT ISSUES

USE OF FIRST FLOOR

- Section 235.A1
- Zoning does permit parking
- Since no qualification in law, first floor could be used for parking
- Is the law self-explanatory?
- There is a "potential" for retail on first floor
- Law does not say that first floor should be reserved for retail
- There is no specific law that first floor has to be used for retail
- There is no commercial or retail in the immediate area

RECREATIONAL OPEN SPACE

- Rec and Parks called PDM for opinion as to whether project was development or renovation
- PDM view was renovation not development
- Decisions should have been made independent of divisions
- if construction; then open space has to be provided for under law
- Section 235.A /A.4 open space ratio is 0.2% of total square ft.
- Section 235.a – unlimited density
- If you apply one section of 235.A – you have to apply all
- In any renovation you have construction
- Building is on historical list

- Patapsco State Park is adjacent
- Trolley trail/rural area
- Was zoning commissioner's interpretation correct in that is considered this a renovation and not construction
- Density was not limited
- Baltimore County has followed the approach that density is not limited.

PARKING

- Parking in residential zone
- parking was used for residence prior to 1988
- Non-conforming use
- Spaces located on other side could be used

RTA REQUIREMENTS (RESIDENTIAL TRANSITION AREA)

- Har Sinia case discussed
- Can not have a RTA without a DR zoning
- RTA does not apply to this site
- RTA does not apply in non-residential; zones

FLOODPLAINE ISSUE

- Oak Hill case cited
- Phase II of Development plan could take care of this issue during this time period
- Developments were approved on basis that County Council would amend on water and sewer
- this is an on-going process
- Monkton case discussed
- Phase I and Phase II discussed
- Section 26-663 – dispute between the Federal government and the County should not hold the project up

ZONING RELIEF - VARIANCE

WINDOWS/PARKING

- Property is unique
- Practical difficulty (traffic-safety)
- Width of isle is due to columns to hold up building
- Historical building can not be altered on outside – windows can not be altered

- building is deteriorating rapidly
- building is currently being used by craft people
- best possible use discussed
 1. retail (splitting up of inside – more traffic)
 2. office (splitting up of inside – generate more traffic)
 3. warehouse (truck traffic)
 4. apartments (best use of building)
- best use of building would be apartments which would add approximate 175-200 people to Oella
- apartment is least offensive of all best use scenarios
- apartments is the only utilization that has been proposed
- people will not be coming and going at the same time (as with offices)
- testimony supports difficulty
- the configuration will generate greatest usage and upkeep
- if you close off windows it will leave one-half of the building is empty

DECISIONS BY BOARD MEMBERS:

CLM - AFFIRM Zoning Commissioner's Order

LSW - AFFIRM Zoning Commissioner's Order

MMA - AFFIRM Zoning Commissioner's Order

FINAL DECISION: Unanimous decision by the Board of Appeals to AFFIRM the Zoning Commissioner's Order and that the Opinion by the Board will include floodplain language.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,



Theresa R. Shelton
County Board of Appeals



COMMUNITY INPUT MEETING MINUTES

Development Name: Oella Mills
Location: Westchester Elementary School
District: C1

Date: February 19, 2002
PDM File No: I-498

Donald T. Rascoe, Development Manager for Baltimore County, opened the meeting and described the development process in Baltimore County. He then introduced Jeffery Glazer, an architect with Kann & Associates, architects with the project. Mr. Glazer then introduced Jon Wallenmeyer, vice president of east coast development for the Forest City Residential Group, contract purchasers of the property. Mr. Glazer also introduced Robert Hoffman of Venable, Baetjer and Howard, attorney for the project, Mickey Cornelius from the Traffic Group, traffic consultants for the project and Charles Main, representing the engineers and land planners for the project, DAFT McCune Walker, Inc. of Towson.

Mr. Glazer stated the project was for the renovation of the existing Oella Mill on Oella Avenue in southwest Baltimore County. He pointed out the existing features of the property, including the location of the loading dock, which will be converted to a drop off point for persons exiting and entering the building. The access points to the property will be retained as part of this new development. No new entrances will be added, but the existing ones will be modified. There will be first floor parking in the building and the existing surface parking on the site will remain, but be re-configured.

He said he and representatives of Forest City, developers of the project, have been meeting with representatives of the Oella Community Association on a monthly basis. Mr. Glazer pointed out Jay Patel, president of the Oella Community Association in the audience. Mr. Patel then introduced members of his association who have been involved in the meetings.

Mr. Glazer stated the conversion of the existing mill to residential units will create 171 units in the main building and four units in what used to be the power plant for the mill, for a total of 175 units. There will be 110 parking spaces on the first floor of the building and 145 surface parking places on the existing lot.

The renovation of the building will include cleaning and repairing the windows and generally returning the building to its classic historic look. The developer will apply for federal tax credits to assist the funding of the historic renovation.

Mr. Glazer then opened the floor to questions.

A resident asked what county agencies and community representatives Mr. Glazer's group has been meeting with regarding this project. Mr. Glazer stated the county representatives who review the plans as well as the Oella Community Association. A representative of the merchants in the existing mill stated they would like to be kept informed of the discussions with the developer and the Oella Community Association. Mr. Patel stated he would be in contact with them.

A resident asked if the developer believes he can demand as much as \$3,000.00 in rent for units in this area. Mr. Wallenmeyer stated marketing studies have been done that give him confidence the units can be rented at that price. His company owns 36,000 rental units across the United States and has done similar, large projects such as this before. His company has done "high end" historic renovations before and referred to large projects in Richmond, Philadelphia and Denver. People who will be renting this property are "renters by choice." These individuals could afford home ownership, but choose to rent properties. A resident asked what would happen if they can't rent the units at the proposed rates. Mr. Wallenmeyer stated they would do the best they can. He said this project will be market driven and he believes he can achieve the projected rents.

Some residents stated they believe the rents were too high and above market value. Mr. Wallenmeyer stated the units would rent for approximately \$1.60 per square foot per month. He said many of the units would rent for much less than the \$3000 per month that has been mentioned. A resident asked about the developer's due diligence phase of the process. Mr. Wallenmeyer stated they are in that phase now.

A resident asked if the parking for the new units would be gated. Mr. Wallenmeyer stated he is leaning towards not gating the parking areas and not fencing the property at this time. A resident asked about the parking requirements for this project. Mr. Glazer stated 1.25-parking spaces is required for each unit without an enclosed bedroom (studio apartment) and 1.5 parking spaces for each unit with one or two enclosed bedrooms. Mr. Wallenmeyer stated he would build as many parking spaces as is feasible on the site. Mr. Wallenmeyer stated he believes the 257 parking spaces proposed will meet the needs of the residents of the units and their guests.

A resident asked how the developer would be complying with requirements for recreation and parks. Mr. Glazer stated they are in discussions with recreation and park representatives about their requirements and they will address this at the time the development plan is submitted.

A neighbor asked if any variances would be needed to complete this job. Mr. Glazier stated some variances may be requested. Mr. Rascoe pointed out that if zoning variances requiring a public hearing are required; that hearing can be done at the same time as the development plan is considered by the hearing officer.

A resident stated he is concerned about the environmental impact of this project. Mr. Glazer stated Baltimore County's Department of Environmental Protection and Resource Management (DEPRM) has reviewed the concept plan and will review the development plan, when submitted. He said the existing environmental buffers will remain and no trees need to be removed for this project.

A representative of the community asked if a traffic study has been conducted. Mr. Glazer stated traffic counts have been done that show the road system to be adequate to accept the traffic proposed to be generated by this project. He said the pavement would be widen to the degree allowable. He said 20 feet of pavement is needed.

A resident expressed a general concern for traffic in the area stating the roads are too narrow for this project.

A resident asked how the developer is going to preserve the quality of life for the existing residents. Mr. Wallenmeyer stated they have a concern for the safety of the area and seek to renovate the existing historic mill building. He said they have met with representatives of the Department of Public Works to discuss the feasibility of sidewalks and how to enhance pedestrian traffic around the site. Mr. Glazer called the old mill building a "jewel of a building."

A resident asked if there would be a health club in the facility for use by the residents. Mr. Wallenmeyer stated a health club facility is being proposed.

A resident expressed concern for the 16-foot wide roads in the area. He wanted to know if the roads would be widened or possibly made one-way. Mr. Glazer stated the county traffic-engineering group and other public works representatives would review the plan and comment on any changes or improvements.

A questioner asked if a pedestrian walkway is being proposed along the river frontage of the property. Mr. Wallenmeyer stated he is considering the possibility of such a walkway.

A resident asked if Mr. Wallenmeyer's company is proposing to acquire additional property in Oella to further expand. Mr. Wallenmeyer stated he was not aware of other property to acquire.

In response to a question, Mr. Wallenmeyer stated there is no chance these rental units will turn into federally subsidized units. He said a project similar to this in Richmond, Virginia, called "Tobacco Road" was projected to command rents of \$1.05 per square foot per month and are actually getting \$1.35 per square foot per month.

A resident in attendance stated she drove to Richmond last weekend to visit the Tobacco Road project and found it to be a "classy project, one she wouldn't mind living in if she didn't need the homeownership tax credits."

A resident asked how long the construction phase of this project would take. Mr. Glazer stated it would take 12-18 months to complete the project. He said workmen at the site would work reasonable hours as not to disturb the community early in the morning or late at night. He said he would work with the community to come up with reasonable time frames.

A resident asked about the parking area on the north side of the building. Mr. Glazer stated they are still evaluating that issue, but the parking will not be above the existing Oella Avenue grade and the parking will not be covered.

A resident asked for a prediction as to the amount of traffic that this project will generate. Mr. Glazer referred residents to the traffic study, which will be submitted to the county for review and will be provided to Oella Community Association representatives. He said the average daily trips would be approximately 1100.

Other community representatives raised issues of the capacity of Oella Avenue to handle this project and the overall density of the project. Others raised issues of guest parking.

Other representatives voiced support for renovation of the mill building and want to see the building stay as a part of the community.

A resident asked Mr. Wallenmeyer to compare the Oella Mills proposal to a list of 48 federally subsidized housing projects shown on the Forest City website. Mr. Wallenmeyer stated that this project is nothing like those projects. He said some of those projects were acquired after they were built. Oella Mills is a high-end project and there will be no federal subsidy other than monies made available for historic renovations, which are more expensive than scratch built projects.

A resident of Rockwell Avenue, off-site from this project, stated he was concerned about the traffic that will be generated by this project and its effect on his neighborhood.

In response to a question, Mr. Wallenmeyer stated the property will not be fenced and that there will be no reserved parking spaces for the tenants. He said they are looking at ways of resolving parking concerns for both existing property owners and new tenants.

A resident asked for a breakdown of units being proposed and Mr. Wallenmeyer stated there will be 71 studio apartments (no enclosed bedrooms) and 104 units with one or two enclosed bedrooms.

A resident asked when the developer expects to submit the development plan that will go before the hearing officer. Mr. Glazer stated that plan should be submitted within two weeks.

Mr. Wallenmeyer was asked if the proposed health club will be available to residents other than mill tenants. Mr. Wallenmeyer stated he would make that a consideration.

A resident expressed concern that the flood plain shown on the concept plan was inaccurate. Mr. Glazer stated they will work with Baltimore County environmental and public works representatives to show the limits of the flood plain accurately and consistent with the Federal Emergency Management Administration (FEMA) maps.

A resident asked if they would be provided a copy of the development plan when submitted. Mr. Rasoce stated those persons who signed on the sign-in sheet will receive a copy of the development plan submitted for review and notification of the time, date, and place of the public hearing before the hearing officer.

A community representative stated he was concerned for the traffic that presently exists in Ellicott City (Howard County) and asked if there have been discussions with Howard County representatives about this project. Mr. Glazer stated they have not met with Howard County government officials, but have met with Ellicott City representatives.

A resident asked if height would be added to the existing power plant building. Mr. Glazer stated it might be raised 2-4 feet, but not substantially.

A question was asked about privacy screening around the mill building. Mr. Glazer stated a low privacy screening of 42-48 inches would be used.

A resident stated he believes a community plan was approved by the Baltimore County Planning Board and Baltimore County Council. Mr. Main stated he was not aware of any community plans, but would follow up with the Office of Planning.

A resident asked Mr. Wallenmeyer to describe the demographics of this project. Mr. Wallenmeyer stated their experience has shown a development of this type will not include a large number of children and this type of project will not likely be attractive to single parents with children.

Page 5

A resident asked if the sale of the building is complete. Mr. Wallenmeyer stated the sale is contingent upon approval of a development plan.

A neighbor asked if the developer is looking at other sites. Mr. Wallenmeyer stated he is looking at other sites in Virginia, Philadelphia and Florida.

A resident asked Mr. Wallenmeyer to give his best sales pitch for this project to the community. Mr. Wallenmeyer stated it will be a first class facility, it will have long-term owners, and Forest City representatives will work with existing residents to make the project a part of the Oella community.

A community representative spoke of an existing S curve on Oella Road and expressed concern about accidents at that location and concern for general safety for all residents who use the road.

A resident stated she believes the building can be renovated, but believes the area is too small to support this size use.

A resident expressed concern for landscaping to be used at this facility and another resident expressed concern for the businesses that will be displaced when the mill renovation begins. Mr. Rascoe suggested existing businesses in the mill building should contact the Baltimore County Department of Economic Development to see if any programs exist that might assist displaced businesses.

In response to a question, Mr. Wallenmeyer stated the developer would apply for federal tax credits that are available to any developer doing renovation of existing historic buildings.

A resident asked if the hearing dates will be published. Mr. Rascoe stated the hearing dates will be published on the Baltimore County web site (www.co.ba.md.us) as well as in local media such as the **Catonsville Times**.

A resident expressed concern for access to the facility by the Baltimore County Fire Department. It was pointed out that the fire department presently has access to the facility.

A resident asked if a new community association would be created for the new residents or if they would be joining the current homeowner's association. Mr. Wallenmeyer stated that in new projects such as this, the residents would join existing associations.

In response to a question, Mr. Glazer stated public water and sewer services are already available to the existing building and no new infrastructure would be needed. He said the existing capacity is available without causing negative impact to existing services.

An existing resident pointed out that a coal train passes through the area each day at 4 AM which could cause disturbance to new tenants.

A resident expressed concern for the density of the new project. Mr. Wallenmeyer stated the average one bedroom unit would have 800-900 square feet of living space.

A follow-up question asked how many people would likely live in the facility. Mr. Wallenmeyer stated those one-bedroom units usually house one person and two bedrooms can accommodate two persons, but the average will be less than two persons per unit.

A resident asked about the potential increase in crime. Mr. Wallenmeyer stated the demographics would suggest low crime rates. He said a resident-manager would be on the site at all times.

A resident expressed concern for guest parking if and when each unit held a party at the same time. Mr. Wallenmeyer stated that was unlikely and that he believes guest parking will be adequate.

In response to a question, Mr. Wallenmeyer stated construction could begin by fall 2002.

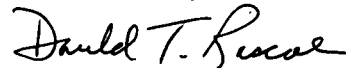
A resident asked if there was an appeals process. Mr. Rascoe stated appeals of the hearing officer's decision could be made to the Baltimore County Board of Appeals and ultimately through the court system.

A resident expressed concern for water run-off. Mr. Glazer stated the developer would work with agencies of the county to meet regulations.

A resident expressed a general concern for the potential for change of what she called the "uniqueness" of Oella.

With no further questions, Mr. Rascoe described the development process from this point forward and adjourned the meeting at approximately 9:30 PM meeting.

Respectfully submitted,



Donald T. Rascoe
Project Manager

c: Hon. Samuel S. G. Moxley, County Council, M.S. 2201
Dev: Forest City Residential Group, 5803 Nicholson Lane, North Bethesda, MD 20852
Eng.: DMW, Inc., 200 E. Pennsylvania Avenue, Towson, MD 21286

Reviewing Agencies: OPZ, PDM, R&P, DPR, DEPRM, EDC, CDC, Bd. of Ed., Fire, SHA- Please distribute as necessary within your agency.

Contact Persons

The following persons will receive a copy of these minutes and be notified of the time, date, and place of the Hearing Officer's Hearing.

Henry Berger
734 Pleasant Hill Road
Ellicott City, MD 21043

Andrei Trach
8404 North Point Ct.
Bowie, MD 20708

Jay Patel
425 Oella Avenue
Ellicott City, MD 21043

Mike Stone
410 W. Lombard St., #614
Baltimore, MD 21201

Nora Rogers & Matthew Day
508 Oella Avenue
Ellicott City, MD 21043

Anne Altemus
774 Oella Avenue
Ellicott City, MD 21043

Alexandra Clark
783 Oella Avenue
Ellicott City, MD 21043

Catherine Jones
431 Oella Avenue
Ellicott City, MD 21043

Cheryl Jones
432 Oella Avenue
Ellicott City, MD 21043

Frank S. Yensan
2414 Rockwell Avnue
Catonsville, MD 21228

Gavin McPhail & Kelly Reeves
744 Oella Avenue
Ellicott City, MD 21043

Leslie Lewart
755 Hollow Road
Ellicott City, MD 21043

Jim Odgers
840 Oella Avenue
Ellicott City, MD 21043

Anne Kernan
789 Hollow Road
Ellicott City, MD 21043

Debbie Cartney
716 Oella Avenue
Ellicott City, MD 21043

Dennis Grove & Patricia Connolly-Grove
712 Oella Avenue
Ellicott City, MD 21043

Jeff Kenebel & Laura Vozzella
945 Oella Avenue
Ellicott City, MD 21043

George & Becky Rhodes
16 Benjamin Way
Ellicott City, MD 21043

Mark Wilson
2642 Westchester Ave.
Ellicott City, MD 21043

Linda Smith
768 Oella Avenue
Ellicott City, MD 21043

Julia Graham
730 Oella Avenue
Ellicott City, MD 21043

Kathy Carpenter
732 Oella Avenue
Ellicott City, MD 21043

Anne Whelan
704 Charles James Circle
Ellicott City, MD 21043

Megan Marcin
792 Glen Ave.
Ellicott City, MD 21043

Liz Fitzsimmons
2820 Westchester Ave.
Ellicott City, MD 21043

Laura Steele
728 Oella Avenue
Ellicott City, MD 21043

Norman Taubenfeld
610 Marianne Lane
Catonsville, MD 21228

Kevin Larkin
314 Oella Avenue
Catonsville, MD 21228

1/28/02

Dear Sir or Madam:

Baltimore County enacted legislation that substantially revised the County's Development Regulations. A Community Input Meeting (CIM) is one of the initial mandatory prerequisites to the development approval process.

The Baltimore County Office of Planning and Zoning requested that you, as a representative of an organization or adjacent neighbor of the property, be invited to the CIM scheduled as follows:

Proposed Development: Oella Mill Property
Location: North and west side Oella Avenue
Meeting Date/Time: February 19, 2002 7:00 p.m.
Meeting Place: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

The purpose of the CIM is to share our development proposal and development constraints within the context of Baltimore County's regulations and guidelines with you, and to provide a forum for the discussion and possible resolution of community concerns.

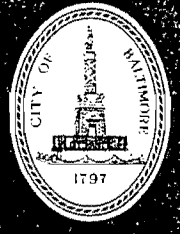
The CIM will be conducted by a representative of the Office of Permits and Development Management, Baltimore County, who will record minutes and prepare a list of comments or conditions raised by any party at the meeting. This information will become a part of the permanent file for this development.

The format of the meeting will include our presentation of the enclosed schematic concept plan for the proposed development that is generally in compliance with Baltimore County standards. The concept plan outlines the major features of the development and will be used as the basis for discussion at the CIM. Your participation will assist the county and us in achieving resolution to any development matters that may arise early enough so that we may integrate your concerns into the planning process.

Subsequent to the CIM, a Development Plan Hearing will be scheduled and notice of it posted in accordance with county law before any final decision is rendered by a Hearing Officer on the development. Please understand that no decision regarding the merits of the project will be rendered by the county at the CIM. The CIM simply provides an opportunity for the community to share in the discussion well in advance of the preparation of a Development Plan.

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



DEPARTMENT OF PUBLIC WORKS

BUREAU OF WATER AND WASTEWATER
WATER AND WASTEWATER ENGINEERING DIVISION
900 Abel Wolman Municipal Building
Baltimore, Maryland 21202

January 28, 2002

Mr. Bowling, P.E.
Chief
Development Plans Review Division
Baltimore County Department of Permits &
Development Management
County Office Building
Towson, Maryland 21204

Dear Mr. Bowling:

This is in response to your letter dated January 15, 2002, concerning Oella Mill Property. Service may be obtained from the Oella Fourth Zone.

The proposed development may be served by the existing 12-inch main in Oella Avenue. Additionally, pressure will exceed 80 PSI below the elevation of 205 feet and we suggest that pressure reducing valves be installed to provide service to all lots below that elevation.

Our records indicate an existing active service on the project site. The developer is responsible for determining if the existing services are adequate for his needs. Please note the following exception: no modifications will be allowed on any existing service. It is also the developer's responsibility to apply for the abandonment of any of the services, which are not needed.

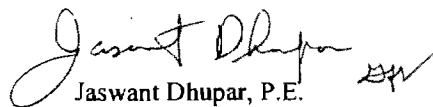
It is recommended that the developer arrange to have a fire flow test made to determine if the water available is adequate for fire protection and domestic service. Arrangements for a fire flow test can be made by contacting Mr. Alex Rabinovich, Bureau of Water and Wastewater, Ashburton Filtration Plant, 3001 Druid Park Drive, (410) 396-0239.

All mains not in the public roads will not be serviced or maintained by the City. Installation of meters in either roadways or driveways will not be permitted.

JD:bs

Cc: Mr. Bruce Keller
Mr. Warren Williams
Mr. Alex Rabinovich
Mr. Bob Suri
C/SUR101/Oella Mill Property

Very truly yours,


Jaswant Dhupar, P.E.



ABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147
www.venable.com

VENABLE
ATTORNEYS AT LAW

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

Writer's Direct Number:
(410) 494-6206

pamalone@venable.com

September 26, 2002

HAND-DELIVERED

Charles L. Marks, Chairman
County Board of Appeals for
Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
SEP 27 2002
BALTIMORE COUNTY
BOARD OF APPEALS

Re: In re: Oella Mill Property
Case Nos.: I-498 and 02-412-SPHXA

Dear Mr. Marks:

At the hearing in the above-referenced matter on Tuesday, September 24, 2002, you indicated that the Developer's Post-Hearing Memorandum, submitted to the Hearing Officer below, was not in your file. With this letter, I am attaching a copy of that memorandum and its exhibits so that your file is complete.

Very truly yours,



Patricia A. Malone

cc: Peter Max Zimmerman, Esquire
Mr. Gregg Brown

TO1DOCS1/pam01/#145680 v1

**RECEIVED POST-HEARING
DAY ONE**



Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

RECEIVED POST-HEARING
DAY ONE

Lydia Temoshok, *President*
Mark Clark, *Vice-President*
Jim Lobell, *Treasurer*
Susan Jouan, *Recording Secretary*
Paul Mandl, *Corresponding Secretary*

26 September, 2002

Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

RE: Request to enter this letter into the record, correcting letter sent 18 September, 2002 by Paul Mandl regarding Greater Oella Community Association (GOCA),
PETITION FOR DEVELOPMENT PLAN AND SPECIAL HEARING,
Case nos.: I-498 & 02-412-SPHXA.

Dear Chairman Marks:

The 18 September letter referred to above, which was sent by Paul Mandl, Corresponding Secretary of the Greater Oella Community Association (GOCA), contains several arguable interpretations in its first paragraph. Unfortunately, Mr. Mandl did not clear his letter with the President of GOCA, nor discuss it with any other Board member prior to sending it. The Board of Directors of GOCA held a meeting tonight, 23 September 2002, to discuss how to remedy this situation. The Association Officers, signed below, agreed that the current letter be delivered to you with the request to enter this letter into the record for the above-referenced case.

While Mr. Mandl was authorized to write a letter which reported the vote of the GOCA membership on 18 September, his justification of the outcome of that vote expresses an opinion which was not voted or agreed upon at the GOCA meeting, and which was not authorized to be communicated in any written document. Therefore, we request that the entire first paragraph of Mr. Mandl's letter be struck from the record regarding the above-referenced case.

The action of adding GOCA's name to the Petition for Special Hearing/Variance was and is consistent with (1) the will of a 2/3 majority of GOCA members who indicated in a mail poll that they were 191 to 89 against the current development plan as proposed by the Forest City Residential Group, (2) the results of research by GOCA's Zoning Committee and by the GOCA members known collectively as the Concerned Citizens of Oella, and (3) GOCA's by-laws concerning Goals of the Association which state that "Association policy shall be dedicated to...preserving the historical and rural atmosphere of the community..." (Article I, Section D, Number 2).

RECEIVED

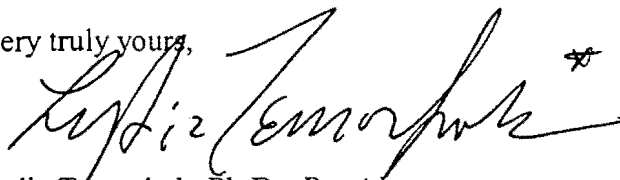
SEP 30 2002

BALTIMORE COUNTY
BOARD OF APPEALS

It was unfortunate that during the September 18 General Membership Meeting of GOCA, a number of statements were made that having GOCA's name on the Appeal would make the Association and even its individual members vulnerable to a "slap suit" or other possible legal action by the developers, and a motion was made to withdraw GOCA from the Appeal. Whether or not these statements were intended to intimidate the members of GOCA from expressing their opinions and views, such statements certainly had the effect of influencing a number of those members left in the room at the protracted meeting to vote (28 to 16) for removing GOCA's name as a Protestant in the above case, as stated in Mr. Mandl's letter. Thus, although a vote to remove GOCA's name was indeed carried, GOCA's Board of Directors feels that this vote (1) does not reflect the will of the large majority of GOCA members; and (2) in our opinion, and based on discussions with a number of GOCA members who were present at that meeting, was the result of GOCA members feeling intimidated by the statements about a "slap suit" against GOCA and its members, should we keep GOCA's name on the Appeal.

In principle, we are certainly not against development of the Mill, nor do we wish to impede the progress of any developers in this regard. For GOCA to support the project, however, we would require a negotiated agreement on size and scope of the project so that it would not damage the historic and rural nature of the community, nor endanger the safety and welfare of Oella's residents, as we feel the currently proposed 175-unit apartment complex would.

Very truly yours,

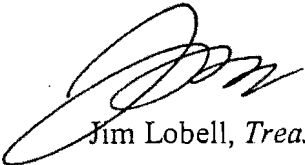


Lydia Temoshok, Ph.D., *President*

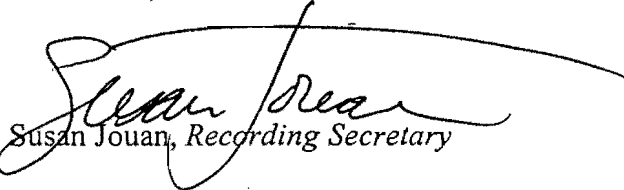
home (410) 480-9383; cell (410) 303-5477; office (410) 480-9383



Mark Clark, *Vice-President*



Jim Lobell, *Treasurer*



Susan Jouan, *Recording Secretary*



Paul Mandl, *Corresponding Secretary*

* Original signatures
in letter sent
24 September
to Mr. Jablon
Lydia Temoshok

RECEIVED POST-HEARING
DAY ONE

cc: Peter Zimmerman, Esq.



9/23/02
af to the 7 appeals

Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*
Mark Clark, *Vice-President*
Jim Lobell, *Treasurer*
Susan Jouan, *Recording Secretary*
Paul Mandl, *Corresponding Secretary*

18 September 2002

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

Re: Request for Removal as Protestants
Development Plan Hearing and
Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412-SPHA

Dear Mr. Jablon:

Whereas the Membership of the Greater Oella Community Association (GOCA) has never made formal motions nor taken formal votes to appeal the final decision of the Hearing Officer/Zoning Commissioner in the above case, nor approved of GOCA's inclusion in any other protestants' appeals related to this case; and whereas GOCA's inclusion as a Protestant in the attached Appeal of August 20, 2002, was initiated improperly and without the Membership's approval (as required by our By-Laws); and whereas the Membership, at today's regular Membership Meeting, has specifically voted to remove GOCA as a Protestant from the attached Appeal,

We hereby request that GOCA be removed as a Protestant in the above case, effective immediately.

It is our understanding that the Hearing on the attached Appeal is set for Tuesday, September 24, 2002, and is therefore imminent, and so we respectfully ask for your prompt attention to this request.

If you have any questions about the meaning or intent of this letter, or about the legitimacy of this request, please let me know.

Very truly yours,

Paul Mandl, *Corresponding Secretary*
(410) 707-1411
(410) 418-5237

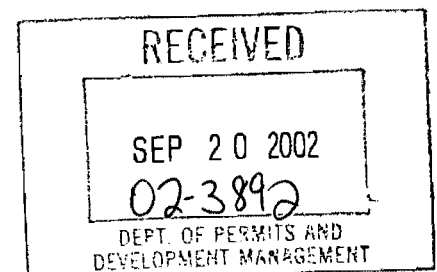
Attachment

cc: Murphy & Murphy, L.L.C.
Robert Hoffman, Esq.
Peter Zimmerman, Esq.
Protestants

RECEIVED

SEP 24 2002

BALTIMORE COUNTY
BOARD OF APPEALS





Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*

Mark Clark, *Vice-President*

Jim Lobell, *Treasurer*

Susan Jouan, *Recording Secretary*

Paul Mandl, *Corresponding Secretary*

RECEIVED

NOV 13 2002

**BALTIMORE COUNTY
BOARD OF APPEALS**

5 November, 2002

Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204
FAX 410.887.3182

RE: Request to reinstate GOCA as a Protestant on this Appeal, and to enter into the record the attached vote tallies and Rule 8 documents, Petition for Development Plan and Special Hearing (The Oella Mill Property)

Case nos. I-498 & 02-412-SPHXA.

Dear Mr. Marks:

The Board of Directors of the Greater Oella Community Association (GOCA) is deeply concerned by your decision at the October 30 hearing date to not allow testimony by the Association's President, Dr. Lydia Temoshok. GOCA has a right to appear as a party in these proceedings and has been wrongfully excluded. Dr. Temoshok had been authorized by the Board of Directors to represent GOCA's position regarding the Oella Mill case according to Rule 8 (see attached documents). Dr. Temoshok was prepared and ready to testify on October 30 at 1 pm (she had a full and unalterable schedule of patients scheduled at the University of Maryland, Baltimore, but had rescheduled her afternoon patients in order to be present at the hearing).

If allowed to testify, the President would have reported the Association's critical vote on October 28 on four issues concerning the above-referenced case, including the significant majority vote (120 to 78) against the current development plan of the Forest City Residential Group and the strong majority vote (111 to 82) to reinstate GOCA on the Appeal (see attached ballot and vote tallies). It would not have harmed the Petitioners in any way to have GOCA's President present the views of the Association on the proposed Oella Mill development plans, nor would it prejudice the Petitioners to have GOCA back on the Appeal.

In order to rectify this situation in which the voice of an 800-person community association which is intrinsically and centrally involved in any decision concerning the proposed Oella Mill development has been unfairly excluded, we respectfully request that GOCA be reinstated as a Protestant on this Appeal, or at the very least to be recognized as a Party of Interest. We request that affidavits concerning the October 28 vote and Rule 8 documents (attached) be added to the official record and file on the above-referenced case. Because GOCA's President has not allowed to testify, we request that her Proffer be entered into the official record.

It has been reported to us that the reason given by the Appeal Board for not allowing Dr. Temoshok to testify on behalf of GOCA is that the Association had allegedly withdrawn from the appeal. We would like to point out that at the time of the initial letter to the Board sent by the corresponding secretary on September 18, the membership had not had sufficient time to consider the issue of the appeal, and that a hasty, late-in-the-evening motion where this issue was not on the agenda was considered unanimously by GOCA's Board of Directors *not* to reflect the will of the majority of GOCA members. Indeed, GOCA's Board sent the Appeal Board a letter dated September 26 to be entered into the record, stating that the vote by the 44 members remaining in the meeting was not a representative vote, and was in our opinion, largely the result of members feeling intimidated by statements made in the meeting about a possible "SLAPP" suit against GOCA and its members should GOCA remain on the appeal.

To correct this situation, the Board of Directors decided to call a special meeting of the membership to have an official vote on the questions of whether members were for or against (1) the current plan by the developers for 175 apartments (2) a modified plan of 85 apartments (or something else), (3) reinstating GOCA's name on the appeal, and (4) approval of the Concerned Citizens Action Committee as an Ad Hoc Committee of GCA to deal specifically with zoning and legal issues connected with the Oella Mill. Written materials were sent out to all GOCA members prior to the vote stating positions for and against these questions, (where positions in favor of the developer's plan were elicited from and quoted directly from statements written by Mr. Charles Wagandt.

The Board of Directors is concerned about what seems to be a pattern of arbitrary decisions by the Appeal Board (1) to reject hearing the results of an official vote of the Greater Oella Community Association on Oella Mill development issues, including having its name on the Appeal; (2) to disallow testimony on this vote by the Association's President; (3) to dismiss a letter from the entire Board of Directors indicating that a previous vote by only 44 members was flawed and not representative of the will of the majority of GOCA members, and (5) to ignore the fact of a more valid vote by almost 200 members on October 28 reversing the earlier, flawed one.

We would like to make the further point that the Greater Oella Community Association has over 800 members. Its jurisdiction encompasses the area of the Oella Mill and of the Oella Homeowner's Association (HOA). We are concerned that the Appeal Board has entered into the record the vote of the HOA in favor of the current mill development plan, but that the Board appears to be prejudicially excluding the voice of GOCA, which is the much larger, older, umbrella association. Because all members of the HOA are also *de facto* members of GOCA, it is not a matter of one association having one opinion, and another association having another opinion; *the views of those members of the HOA who are in favor of the current mill development plan are included in GOCA's membership votes, and they are distinctly in the minority.* Thus, if the Board of Appeals is truly interested in having an accurate understanding of the views of the wider community that will be affected by the proposed Oella Mill development, then we would argue that it is necessary to have in the record the official vote by GOCA on October 28 and to give it appropriate weight.

We would appreciate hearing from you at your earliest convenience about our requests.

Very truly yours,

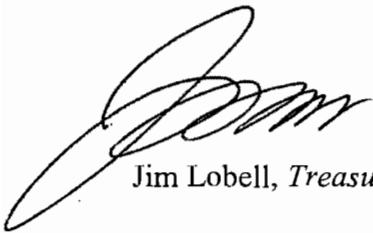


Lydia Temoshok, Ph.D., *President*

home (410) 480-9383; cell (410) 303-5477; office (410) 480-9383



Mark Clark, *Vice-President*



Jim Lobell, *Treasurer*



Susan Jouan, *Recording Secretary*



Paul Mandl, *Corresponding Secretary*

cc: Robert Hoffman, Esq., Peter Zimmerman, Esq., Protestants, Murphy & Murphy, L.L.C.,



Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*
Mark Clark, *Vice-President*
Jim Lobell, *Treasurer*
Susan Jouan, *Recording Secretary*
Paul Mandl, *Corresponding Secretary*

Affadavit Regarding Rule 8

The Greater Oella Community Association (GOCA), formerly the Oella Community Improvement Association, founded April 3, 1974 and incorporated by the State of Maryland on July 29, 1988 as the Greater Oella Community Association is a non-stock, non-religious, non-profit organization.

Resolved: That the position of the Greater Oella Community Association as adopted by the Board of Directors on the zoning matter known as the Oella Mill Development Case (based on an official vote of the general membership on October 28, 2002) is that the Association is (1) AGAINST the current plan of the proposed developer (Forest City Residential Group) to turn the Mill into a 175-unit apartment complex; and (2) IN FAVOR of a modified plan for approximately 85 apartments with the rest commercial use.

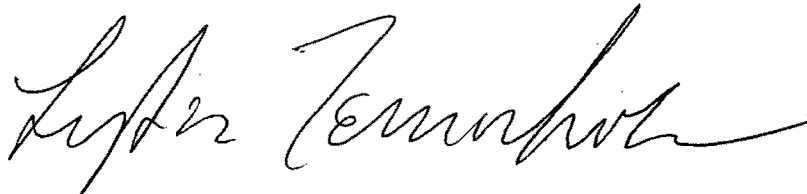
As President of the Greater Oella Community Association and as specified in the By-laws, Lydia Temoshok, Ph.D. is authorized to speak for and represent the views of the Association. Dr. Temoshok has accurate knowledge of the number of members in the Greater Oella Community Association and the geographical limits of the Association.

Responsibility for review and action on all zoning matters are placed on the Board of Directors and the Zoning Committee by an annual election vote of the Association members. The vote this year was June 12, 2002.

In addition, by a Special Membership Meeting vote on October 28, 2002, The Concerned Citizens Action Committee was established and approved by the membership as an Ad Hoc Committee of the Association, to be chaired by Henry Berger III, with the following objectives and duties (1) to assist the Zoning Committee in researching Baltimore County's zoning codes as they pertain specifically to the Oella Mill; (2) to help ensure that any development plan for the Oella Mill adheres to these codes and is consistent with GOCA's by-laws; (3) to raise and disperse funds for legal representation in the process of appealing the developer's current plan to turn the Mill into 175 apartments; and (4) to communicate with appropriate agencies and to discuss any modifications of the 175-unit development plan, as needed, with representatives of Forest City Residential Group.

Thus, by this vote, the Board of Director resolves that, in addition to the President Dr. Lydia Temoshok, Mr. Henry Berger as Chair of the Concerned Citizens Action Committee of the Greater Oella Community Association, is also authorized to speak for and represent the views of the Association in zoning matters concerning the Oella Mill Development Case. Mr. Berger has accurate knowledge of the number of members in the Greater Oella Community Association and the geographical limits of the Association.

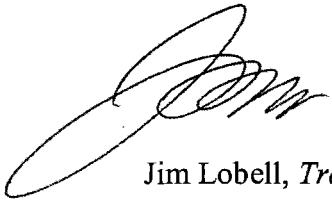
Signed by the Board of Directors of GOCA, November 5, 2002

A cursive handwritten signature in black ink, appearing to read 'Lydia Temoshok'.

Lydia Temoshok, Ph.D., *President*

A cursive handwritten signature in black ink, appearing to read 'Mark A. Clark'.

Mark A. Clark, *Vice-President*

A cursive handwritten signature in black ink, appearing to read 'Jim Lobell'.

Jim Lobell, *Treasurer*

A cursive handwritten signature in black ink, appearing to read 'Susan Jouan'.

Susan Jouan, *Recording Secretary*

A cursive handwritten signature in black ink, appearing to read 'Paul Mandl'.

Paul Mandl, *Corresponding Secretary*

Greater Oella Community Association

OFFICIAL BALLOT

October 28th, 2002

Tally of Votes

QUESTION A:

Are you in favor of or against the current plan of the proposed developer (Forest City Residential Group) to turn the Mill into a 175-unit apartment complex?

78

IN FAVOR OF

120

AGAINST

QUESTION B:

If you voted **AGAINST** on Question A above, then would you be in favor of or against a modified plan, suggested by many GOCA Members, that the number of apartments would be determined by the number of already existing outside parking spaces at the Mill (about 123), making the number of apartments approximately 85?

76

IN FAVOR OF

66

AGAINST

Would you prefer something else? Please describe on the back of this ballot →

MOTION C:

"The Greater Oella Community Association wishes to be reinstated as a protestant in the Petition of Appeal of Forest City's current plan to turn the Oella Mill into a 175-unit apartment complex (or if reinstatement is not accepted, then to be an "interested party" opposed to the proposed development plan)."

111

YES

82

NO

MOTION D:

The Concerned Citizens Action Committee (CCAC) is hereby established as an Ad Hoc Committee of the Association, with the following objectives and duties:

(1) to assist the Zoning Committee in researching Baltimore County's zoning codes as they pertain specifically to the Oella Mill; (2) to help ensure that any development plan for the Oella Mill adheres to these codes and is consistent with Goal #2 of GOCA's By-Laws ("preserving the historical and rural atmosphere of the community"); (3) to raise and disperse funds, through the Special Fund established at the Membership Meeting of June 12, for legal representation in the process of appealing the developer's current plan to turn the Mill into 175 apartments; (4) to communicate with appropriate agencies and to discuss any modifications of the 175-unit development plan, as needed, with representatives of Forest City Residential Group. Henry Berger (long-time GOCA Member who has devoted a great deal of time, effort, and expertise in researching zoning codes and the current development plan) is hereby appointed as Chairman of CCAC.

97

YES

72

NO

**Greater Oella Community Association
Concept Plan Concerns
January 24, 2002**

1/28/02 Oella Mills
JO DO
for file
1-498

Oella is centered on an established community of people who choose to live here and partake in the quality of life this community provides. The winding narrow scenic roads and historical properties give an austere sense of living in a one of a kind, get to know your neighbor, small town place. We feel the Oella Mill Development will jeopardize the quality of life and beauty this community has to offer.

The proposed residential development of the Oella Mill has caused a great deal of concern and will create many problems in the community if not closely monitored by your agency. The following outline details those concerns:

ENVIRONMENTAL

Industrial Contamination

The Oella Mill site is an industrial site. When the mill operated as a textile factory, tanks would hold chemical dyes for wool. The dye tanks are located at the southern end of the mill which, according to maps from the Maryland Department of the Environment, is in the flood plain of the Patapsco Rive. Built into the foundation, the dye tanks are under an area now used as artist studios. Wool would be removed from the tanks dripping with chemical dyes that most likely drained onto the soil and into the river. Residents remember a "rainbow" colored Patapsco River at the Oella Mill Site during this time. Any major construction as proposed by Forest City could easily disturb the soil and any chemicals in the soil.

Patapsco River Flood Plain

According to the maps we have obtained from the Maryland Department of the Environment, some of the construction and parking proposed would occur in the 100 year flood plain. Trees and other underbrush would be disturbed as well.

Erosion/Sediment Control

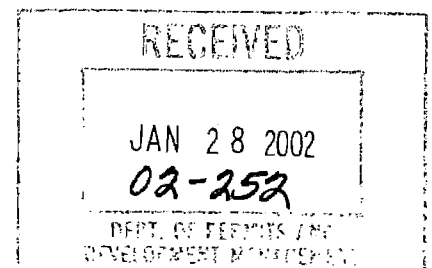
Large-scale development on that pristine area of the Patapsco River could be detrimental to the natural beauty of the river as well as create problems downstream. A great deal of sediment from construction in the area has already taken its toll. Whatever steps can be taken to prevent further erosion damage to the steep riverbank upon which the mill sits.

Asbestos Removal/Lead Abatement

The removal of lead paint and asbestos at this large industrial site over one hundred years old located adjacent to existing residential dwellings needs to be actively monitored.

ZONING ISSUES

Construction



Oella residents are concerned this huge construction project will create a huge impact on the community. Oella Ave. is a two-lane road at best and fire and police vehicles need to be able to access all areas to address safety concerns. Construction noise and containment also needs to be addressed with the close proximity of area residences.

Concept Plan Design & Proposal

The feasibility of the concept plan is of great concern. As a residential development, the community is concerned with 24 hour traffic issues, rental property issues, site construction, parking, environmental etc. This community would like to see the Oella Mill remain a commercial and artistic center for the Oella neighborhood. Forest City does have a commercial development division that should look into the feasibility of a commercial plan. The concept plan does not detail the grades for the parking and any changes made in grading.

PLANNING

Density

The Oella Community is comprised of approximately 820 homes. Adding 177 additional housing units will increase the communities overall density by more than 20%. This does not appear to us as smart growth. The new Westchester Elementary School is already at capacity. A large reduction in units would be advisable.

Rental Properties

If not enough parking is provided we feel the Oella Mill apartments project cannot happen. No one will pay that kind of rent if parking is not available. A large rental community parking area can increase crime in the area such as burglaries, and car thefts. Oella does not have a crime problem now and we need to keep it that way.

Property Values

With the Westchester School and Benjamin Banneker Historical Park Developments, our taxes have increased as high as the tax laws allow over the last five years. More traffic from the mill development will lower property values. The winding road will be more dangerous and it will not be safe for pedestrians with the increased traffic.

ROADWAY SAFETY

Parking

The proposed parking would allot for 258 parking spaces for 177 apartments. Forest City needs to understand that in this area each apartment will utilize at least two spaces.

Forest City is acclimated to developing in urban areas where public transportation and other amenities such as groceries are in walking distance. None of these amenities exist in a safe walking distance from the mill. According to Forest City, the rental price of the units will start in the \$1,400 range for a one bedroom. The proposed apartments would have some of the highest rental prices in this area and will most likely require two people afford the price of one apartment and those two people will most likely have two cars. 354 parking spaces would be necessary or a reduction in units to 110 for the 258 parking

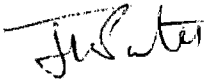
spaces proposed would be advisable. With no room for roadside parking on Oella Ave. for guests/visitors, more than two spaces per apartment would give space for the guest/visitors.

Traffic

Oella Ave. on a good day is a traffic nightmare. Winding narrow roads, pedestrian traffic, no room for road widening, and no sidewalks are issues that need to be addressed. This area needs sidewalks. The 1000 extra trips per day calculated by the Forest City Developers would turn a quiet, scenic road where people walk or ride bikes now precariously into an even more dangerous situation. From the Western end of Oella Ave. to the Oella Mill the road actually has a blind curve at the Granite Hill Inn, where both directions must yield and narrows to almost one lane shortly beyond that.

We at the Greater Oella Community Association ask that you and your department take a careful look at our concerns and ask pertinent questions of Forest City at the Concept Plan Meeting on Monday, January 28th.

Sincerely,



Jay Patel
President of GOCA

Oella Mills

To: Mr. Donald Rosco
Design Review Committee

From: Bill Knapp
Nancy Pascale
703 Pleasant Hill Rd.
Ellicott City, Md. 21043

Dear Mr. Rosco,

As homeowners in the community of Oella Maryland my wife and I want to voice our objection to granting Forest City Enterprises a limited exemption from community input toward the development of the Oella Mill. This community was founded well over 100 years ago and the infrastructure was never intended to support the number of homes that already exist in the neighborhood. The intended project would nearly double the number of people and vehicles already using the narrow roads that wind through our neighborhood.

Another concern of ours is that Forest City's plan is to create only 220 parking spaces for 177 apartment units. There is no on street parking in Oella. After the Mill's lot is full, the only parking areas left are private parking lots for the homeowners of the community.

We realize that the developer has only to fulfil the guidelines that the county has set up, but our community was designed before the guidelines were drawn up. Our homes were built on the edge of the roads with no room for widening. We ask that you hold Forest City to a plan that would fit with our century old community and not their present plan that addresses only their bottom line.

Thank You,

Bill Knapp

Nancy Pascale

701 Pleasant Hill Road
Ellicott City, MD 21043
410.203.2803

January 3, 2002

Mr. Donald Rascoe
Development Manager
Baltimore County
Department of Permits & Development Management
111 West Chesapeake
Towson, MD 21204

Dear Mr. Rascoe:

Happy New Year. I am writing to express my concern about a first councilmanic request on the agenda for the January 7, 2002 DRC meeting. The request is for a limited exemption for the THE OELLA MILL project.

As an Oella homeowner, I am concerned about how this project could negatively impact our historic village (which sits on the edge of state park land) - particularly if no community input is required. Specifically, I'm worried about how the development will impact:

- a) vehicle, pedestrian and bicycle safety; and
- b) the ecological health and related water quality of the Patapsco River.

I know that the development company and it's team of architectural and landscape architectural firms are reputable, and that is somewhat comforting. What makes me nervous, however, is the fact that a few months ago, in a presentation given to the Greater Oella Community Association (GOCA), the development team expressed a strong desire to work with the community, yet now, they are quietly seeking a limited exemption.

I realize that change is inevitable. I also believe that there are some developers who truly have the best intentions. I just ask that you and the DRC please consider requiring the developer to involve the existing Oella community (through GOCA and the Homeowners' Association) in the process.

Community involvement will help the County ensure that the historic nature of the village of Oella, the health and safety of its residents, and the environmental richness of the area will be preserved. Please don't shut us out by granting a limited exemption for this project.

Thank you so much for your attention.

Sincerely,

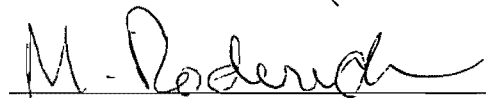
Amy Pittroff
Amy Pittroff

May 15, 2002

To whom it may concern:

I, Manon Roderick, reside at 710 Mary Jo Way in a townhouse overlooking the Oella Mill. I also am the property owner of 799 Hollow Road, which is on the corner of Oella Avenue across the street from the mill. I support and endorse Forest City's proposal for restoring the mill and converting it into upscale loft apartments.

I have put in a contract for a third piece of property on Westchester Avenue and I see the mill renovation as improving the esthetics and quality of life for this community.

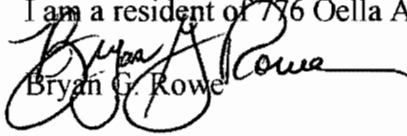
A handwritten signature in cursive script, appearing to read "M. Roderick", written over a horizontal line.

Manon Roderick
710 Mary Jo Way
410-365-2281

15 May 2002

To Whom it May Concern:

I am a resident of 776 Oella Avenue, and I am in favor of the renovation of the Mill.


Bryan G. Rowe

October 1, 2002

RECEIVED POST-HEARING
DAY ONE

Charles L. Marks, Chairman
County Board of Appeals for Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204
RE Request for Removal as Protestants
Development Plan Hearing and
Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. 1-498 & 02-412-SPHA

Dear Mr. Marks:

I, Christine Beed, request to be removed as a Protestant in the above case, effective immediately.

It is my understanding that day number two of the hearing is set for Thursday, October 3, 2002, and is therefore imminent, and so I respectfully ask for your prompt attention to this request.

If you have any questions about the meaning or intent of this letter, or about the legitimacy of this request, please let me know.

Sincerely,

Christine Beed

Christine Beed

Tel: 410-461-1678
917 Oella Ave.
Ellicott City, MD 21043

RECEIVED
OCT 03 2002

BALTIMORE COUNTY
BOARD OF APPEALS

Attention: Jeff Glazer
From: Jay Patel

May 5, 2002

Dear Jay

Thanks for including me in the GCR
meeting on 24 April. I had
to effect some changes
in the plan for the Oella
Mill.

I was very impressed with
the way that Mr. Jon
Wallentz and his colleagues
handled my requests, even
though they felt that my
suggestions were not possible.

This is an impressive
team and I think they
will do a good job in
converting the Mill.

Best wishes

Ken Newland
Elliott City
204/3

Daniels

PHOTOGRAPHY STUDIO

803 OELLA AVENUE • ELLICOTT CITY, MD 21043

(410) 461-2779

February 19, 2002

To Whom It May Concern:

I own a photography business at 803 Oella Avenue. I have been in this location for six (6) years. I favor the proposal to develop the Oella Mill into luxury apartments.



Arvil A. Daniels



The Furniture Solution

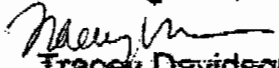
797 Oella Ave - Ellicott City, MD 21043
Phone 410 480-1484 ~ Fax 410 418-8545 ~
Email FurnitureSolution@peoplepc.com

February 19, 2002

To Whom it May Concern,

As I am unable to attend the meeting this evening concerning the development of the Oella Mill, I would like to express my support for this project in writing. I have owned a business in Oella since 1997 and understand that its quiet charm is a large part of its appeal. As a former tenant I realize that the Mill is an important part of Oella and is in need of serious repair. I believe the mill can be developed residentially without changing the atmosphere of the neighborhood. Forest City Enterprises is a company interested in preserving the character of the mill and restoring it in a high quality manner; their work in other areas speaks for itself. The residential development of the mill can only improve the quality of life in Oella and benefit all who live and work there. I am highly supportive of this project.

Best regards,


Tracey Davidson

871 Oella Ave.
Ellicott City, MD 21043
410.465.5282
a.o.walter@att.net

Andreas O. Walter

Fax

To: Jon Wallenmeyer

From: Andreas Walter 

Fax: 1.301.287.3332

Pages: 1

Phone: 1.301.287.3307

Date: 5/8/02

Re: Oella Mill hearing statement

CC:

☒ **XX Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Jon,

As discussed, I've put some thoughts in writing that reflecting the feelings of my wife and I towards the anticipated development of the Oella Mill. I hope you'll have the time to present this in our absence.

To whom it may concern,

The last few months in Oella have proven rather eye-opening. Since word of the possible development of the Oella Mill surfaced, our community has become bitterly divided among those in favor of its potential revitalization, and those fiercely opposed to what they see as the sure-fire downfall of this unique community. While we have spoken to numerous representatives from both 'sides' over these last few months, it was a community meeting earlier this year that served to show the division in our community. Is the development of the Mill advantageous to some, while not to others? Yes it is – a fact no one will argue. During this community meeting, attended by homeowners and business owners alike, we found that numerous questions posed to the developers served to cast our community in a negative light.

We happen to own the residential property that is arguably the closest to the building in question. The more we see and hear of the plans, the more we look forward to the prospect of a revitalized, and reborn, Oella Mill. Some seem to overlook that the Oella Mill will never be utilized for its original purpose again. It will continue to serve as an important symbol of America's early textile industry. Its

M. Steven Appler
883 Oella Avenue
Oella, MD 21043

410-465-3567 (HM) / 410-997-7400 x8 (Ofc)

Mr. Jon Wallenmeyer
Forest City Enterprises, Inc.

RE: Dickey / Oella Mill

May 9, 2002

Dear Jon,

I apologize for not being present at the hearing today. I regret that I will not be able to personally and publicly express my support for your project. I hope that this letter will be accepted as that testimony.

I have lived in the area most of my life dating back to 1954. I have seen the Mill deteriorate in structure and appearance more quickly in the last few years. There are boards in many windows where glass has broken out, water pouring through the structure during rain-storms, deteriorating structures, roof flashing missing, etc.... I have recently built my new home within 100 yards of the Mill. I can see it from all of my windows facing that side. My home is a significant investment for me and the present deteriorating appearance of the Mill is a significant concern for me. All of the neighbors around me to whom I have spoken express the same feelings.

My neighbors and I were excited to hear that you were planning to convert the Mill structure. We appreciate the huge investment that you are pouring into the project and we eagerly await the improvement in the structure. Selfishly, that means our property values will remain stable or rise. Generally, though, it means that the Mill, the community centerpiece, will be restored to its former elegance. That will be good for the whole community.

There are those in the community who would see your project not be approved. I believe they are short-sighted. Few companies have the financial and managerial backing to do what you intend to do. If you and your company are unable to convert the Mill, we, the residents and owners, may not get another chance to see it renovated before it deteriorates beyond the point that it can be restored. Then we all lose.

I understand there are concerns about parking and traffic that you have addressed. I feel that if the tenants abide by the terms of their leases and your management company polices the parking, as it should, there will be no problems. I understand that the traffic studies indicated that you meet Baltimore County requirements and I don't see that as a problem and my house is right on Oella Avenue.

Many people fear and fight change and the unknown. I prefer to accept this change as a very positive necessity. I sincerely hope that you and your company are successful and may proceed with the conversion. If you don't fix the Mill, who will? I'm glad you're there.

Please don't hesitate to contact me if you have any questions.

Respectfully,



M. Steven Appler

Chris Roe
873 Oella Avenue
Ellicott City, MD 21043
May 8, 2002
410-750-3025

Re: Oella Mill

To Whom It May Concern:

I have lived in Oella for a little more than 2 years. My building (Stone Row) is located next to the Mill on the southeast side. I would like to let the appropriate people know that I am in favor of the Mill Project.

I have attended several meetings where Forest City has demonstrated their professionalism and the quality of their previous endeavors. I am anxious to see the improvements that this will bring to our neighborhood.

Thank you for your attention, I am available for further comments if needed. My email address is CROE873@aol.com.

Sincerely,

Chris Roe

A handwritten signature in black ink that reads "Chris Roe". The signature is written in a cursive style with a large, looping initial "C" and a stylized "R".

May 12, 2002

Mr. Commissioner,

My name is Larry Rodbard and I live at 723 Pleasant Hill Road in Ellicott City – the Oella section in Baltimore County. My phone number is 410-461-1022. Thank you for giving me the time to voice my concerns about the proposed project to renovate the Oella Mill. Please understand that these comments are based solely upon my experiences and observations and are to be taken only that way. I do not know what the laws require or not and am not in a position to defend any of these observation as to their legal merits or lack thereof.

1. To begin with, I should like to talk about the increased volume of traffic that the proposed project will generate. I heard testimony on Friday last that there would be 1189 average daily trips after the mill is occupied. What I would like to point out today is that the survey that was taken to get this number was done in the winter when traffic is at its' lowest.

Oella has the distinction of being a historic community and as such experiences a large volume of 'tourists' during the spring, summer and autumn months. This volume is at its highest on nice, warm Sunday afternoons when the driving public goes for a ride. While I have no factual statistics to quote, my observations over the past 10 years leads me to believe that the 'tourists' make up about 15% of the weekend traffic in Oella.

2. Next, I want to bring the rush hours traffic problem to light as I see it. During the evening rush hour (from about 3:30 to 6:30 p.m.), Frederick Road is backed up in both directions in order to get through downtown Ellicott City and across the Patapsco River. I personally have experienced long delays going to my home in Oella from Howard County. I have seen the lineup of cars extend through the entire length of Main Street as far back as Rodgers Avenue and Frederick Road. I would guess that distance to be about a mile. Once it took me 45 minutes to get from Rodgers to Oella Avenue (approximately 1.1 miles) simply because of the volume of traffic on Main Street. There are also two feeder streets that come into Main Street at Old Columbia Pike, the main road from MD Route 103, the exit from US Route 29 and the Long-Gate Shopping Center and Maryland Avenue, a small street that connects with New Cut Road. New Cut Road is a major entry from MD Route 103 where it connects with MD Route 108 and MD Route 104. I think that the addition of several hundred more cars will just exasperate the condition.

Coming west from Baltimore County to Howard County on Frederick Road is not quite as bad but still has a several hundred meter backup. The worst I ever saw was a line of cars around the curve just east of the Oella Avenue/Frederick road junction.

3. My last point has a direct bearing on the second point. With these volumes of traffic, I fear that emergency equipment will have an even harder time of getting into Oella than it has now. Oella's

There are several aspects of the proposed conversion of the former Dicky/Ellicott Mill to a 175 unit apartment complex which are troubling. No realistic assessment of a project can be made without specific information regarding certain aspects and details of the project. To that end, answers to the following questions about the project are relevant to making an accurate assessment, whether individual or as a community group.

- 1) When will specific plans of the project be available to the public? These plans should include:
 - a) floor plans for all levels in the mill, depicting areas for living accommodations (including the number of bedroom types and square footage per unit, storage, vehicle parking spaces, etc.;
- 2) exterior site plans showing location of parking spaces (to include any out-buildings used for same);
- 3) an environmental impact statement, to include any past site removals or ameliorations, and any currently needed;
- 4) a traffic study to determine the impact of same on:
 - a) both Oella and the surrounding communities, and
 - b) should include the "quality of life aspects/prospects" of current and future Oella residents;
- 5) amount of open space allocated, and any accompanying accoutrements;
- 6) any historic preservation and renovation planned for the building or the site;
- 7) the exclusion of any office/retail/workshop space in the complex, as per recommendations contained in the "Comprehensive Plan for Oella" (Murphy/Williams study, approved by the County Council for inclusion in the County's Master Plan, November, 1976);
- 8) specific amounts of any public funds to be utilized, and the government (s) supplying same;
- 9) funding source (s) from the private sector and amount (s);
- 10) future plans for the site upon completion, i.e., conversion to condominiums at some future date, and
- 11) plan (s) to address handling the building and properties, in the event of inadequate occupancy, or other business failure. As indicated, all answers should be quantitative as well as qualitative.

The most important of the above listed items is the quality of life affect which the addition of 175 living units (a potential of 325-350 people) will have on the Oella community. Even at this relatively early stage of the development process, current property-owning residents should be fully alerted as to the potentially deleterious aspects of this project proposal. Only with the fullest cooperation of the developer, the various County agencies and elected County officials involved working in consort with the community, can this project produce an acceptable impact on Oella. At this time, I am not optimistic as to a successful conclusion for the community for the following reasons.

- I) First and foremost, existing County development and zoning regulations do not devolve around a community's "quality of life", not withstanding occasional lip service to the contrary. The bottom line is that we will have to live with the end results of the final decisions of the panoply of County agencies involved.
- II) The developer has already proposed parking spaces in excess of County requirements. Since none of the intersections which provide access to Oella fall into the category of "decayed intersections" (and it is highly unlikely that County Traffic Engineering will conduct its own community survey, but instead will rely on the developer's to identify any existing or potential problems. Any resulting traffic congestion will be addressed only when it becomes intolerable. Experience demonstrates that after-the-fact remedies seldom provide the same protection as exercising the six P's.
- III) Change of the mill's current use to exclusive residential purposes will annually net hundreds of thousands of dollars in tax benefits for the county from several sources: from the higher annual property taxes on the mill building itself, and from the personal income taxes paid by the tenants. Additional peripheral tax gains are generated when the new residents make purchases and use local services, etc.. Not to be morbid but only realistic, an additional tax benefit also includes the final payment made by the tenant (or his/her estate): the death taxes. Again, the bottom line is that Oella residents will probably get short-changed because of the dynamics of the situation; an out-of-state developer with a successful track record in several areas of our state promises to enhance both the local government and the State's tax coffers within the limits of existing County development regulations. It doesn't appear that local resident concerns will have much of a chance against such a formidable dynamic.

In human experience, change is inevitable. There are changes over which we currently have no real control; the weather, aging, and the eventual cessation of our earthly existence. For all else, we can, to varying degrees, take an active part in determining how things go; keep that in mind when it comes time to determine both yours and the community's position regarding conversion of the mill to an apartment building.

R. Kent Adams, a 24 year resident of Oella, at 778 Hollow Road.

**Memorandum on Mill Development for Community Input Meeting
At Westchester Elementary School – 2/19/02**

My name is Charles Wagandt. My great grandfather, William J. Dickey, bought the mill and the village of Oella at an auction in 1887. The Dickeys ran the mill until 1972, when it was sold along with the machinery. The following year I purchased the company houses and the adjacent land but of course acquired no interest in the mill where I had been employed for many years. I formed the Oella Company and brought in engineers and planners to work for the rebirth of the community.

Meanwhile, Oella gained recognition by being listed on the National Register of Historic Places. After many years of struggle, public water and sewer came to Oella in 1984. I had four objectives in addition to eliminating dependence on wells and outhouses. They were: preservation of the architectural integrity of the streetscape, rehabilitation and upgrading of the housing, sensitive infill development, and a program to make it possible for those mill workers who lived here to continue renting their homes – now with indoor plumbing--as long as they wished at rents affordable to them.

We are approaching the final phase of our restoration and development. The Oella Company has rehabbed most of its houses and subdivided into clusters the great majority of its allowable dwelling units. Town homes have been built in these clusters, enabling a large expanse of open space to emerge. We planned and performed smart growth before the term was being used. But there is one element over which we have had no control, and that is the mill. It is the largest and most prominent structure in the village. The County-financed Murphy-Williams plan of the mid 1970s called for its rehab and upgrading. See the accompanying drawing. This is an objective that I have hoped for many years to see fulfilled. In the process I have met and talked with many developers. Just 1½ years ago a Washington developer explored the project but dropped it because the financial numbers did not work for him. Now Baltimore County has a remarkable opportunity to welcome the investment of \$24 million in the mill by an excellent multi-billion dollar company. Like other developers who have looked at the mill, Forest City Enterprises plans to restore the mill and create upscale, infill housing. This is such a desirable project that many political jurisdictions would provide financial incentives to make it possible.

But, as so often happens in America, many folks love infill housing for other people but not in their back yard. Tonight you will hear a litany of complaints because it is always the opposition that turns out for meetings such as this. Ironically, none of the property owners living in the old mill village would be here if it were not for the housing rehabilitation that has taken place since 1984. Some of the recent arrivals, however, want to stop the evolution of the plan for Oella at the point when they bought their house. They do not want to see trails or any more people. Basically, they have their piece of this community and don't want to share it with anyone else.

May 10 2002

Shane G.W. Morris
816 Charles James Circle
Ellicott City MD 21043
Ph 410-203-1803
Email shane@audiotoy.com

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson MD 21204
Room 106

Dear Commissioner

I object in the strongest way to the proposed development, Oella Mill Property.

My objections are based on the following:

1. Schools
2. Noise
3. Traffic

Objective point of view:

I was born in Tasmania, Australia. It is the small island to the south east of the mainland of Australia. It is commonly known as the green island. It is the last stop before Antarctica. The air is clean, the water fresh, and in some areas no human has walked.

There is development in Tasmania, mining, logging, wood-chip, zinc works to name a few industrial areas. Along side this there is a large rural community. Tourists play a big roll in the economy. It has a unique balance that tends to maintain the environment in a natural state. It is a beautiful island.

Here in Maryland and more specifically Baltimore City and Baltimore County over the years there has been a complete disregard for the controlled development of industry, housing and roadways.

I believe that the Oella Mill Property development proposed buy Forest City is yet another developmental catastrophe about slip into our lives. The end result of this being lower property values, traffic congestion and an increase in noise.

To make this even more obnoxious the developers want millions of dollars support from the county to make it profitable.



COMMUNITY INPUT MEETING

Development: Oella Mill

Date: 2-19-02

Place: Westchester

Attendance Record

	Name	Address	Zip	Phone
(A)	R. Kent Adams	778 Hollow Road	21043-4718	410-760-0766
*	Marjorie Valin	840 Oella Ave FRANK + ASSOCIATES	21043	410-203-1228 x22
*	EDWIN H. THOMAS III	2205 RockHaven Ave	21228	443 3240559
	JOHN COFIELD	2313 Westchester Ave	21228	410 465 4506
*	Rick Yockel	1013 Lillian Lane	21043	410-465-0662
*	James Pettit	1010 Oella Ave.	21043	410-203-2535
*	W. R. Rife	873 Oella Ave	21043	410-750-3025
*	Heather Zahn	875 Oella Ave	21043	410-480-0606
*	Don Horwitz	792 Hollow Rd	21043	410 418-5305
*	Kon McNaughton	3778 College Ave EL	21043	410 418 9340
*	DEAN BURNS	715 RACE RD. ELICOTT CITY, MD	21043	410 480 0432
*	ROBERT SHUGARS	739 Hollow Rd	21043	410-418-5163
*	Pam Philip	2407 Westchester Ave	21043	410-203-9369
*	JIM LOBELL	2409 Westchester Ave	21043	410-480-3928
*	R. Hamlet	720 Oella Ave	21043	410 480 0074
*	Patricia DeAngelis	603 Pleasant Hill Rd.	21043	410-750-3659
*	Jul Johnston Price	604 Pleasant Hill Rd	21043	410-750-1436
*	AL Granger	2401 Westchester Ave	21043	410-203-1113
*	Oswald	2212 Westchester Ave	21228	410 461 6940
*	Beed	917 Oella Ave.	21043	410 461 1678

Case Number _____

Oella Mills
5-10-02

PLEASE PRINT LEGIBLY

CITIZEN'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOHN V. MURPHY	14 N. ROBINSON RD	BAWTO MD	21228
CHERYL DUVALL	8374 CHESTNUT FARM LN	ELLICOTT CITY, MD	21043
PETER MAX ZIMMERMAN	PEOPLE'S COUNSEL	TOWSON	21204
Gregg Brown	709 Pleasant Hill Rd	Ellicott City	21043
Joseph Kershner	718 Longview Ave.	Westminster	21157
MARIA AMES	(CATONSVILLE TMD) 747	Oella Ave ELLICOTT CITY	21043
MARY TAUBENFELD	610 MARIANNE LN	CATONSVILLE MD	21228
NORMAN TAUBENFELD	610 MARIANNE LN	CATONSVILLE MD	21228-4700
XXXXXXXXXX			
Lynette Burrows	715 Race Rd	Oella	21043
Mike Stone	410 West Lombard St. apt 614	Baltimore Md	21201
Chad Waggoner	803 Oella Ave.	Oella	21043
Shane Morris	816 Charles Jones Cir	Ellicott	21043
HENRY BERGER	734 PLEASANT HILL ROAD	ELLICOTT CITY	21043
Kelly Clark	109 Oella Ave	Oella MD	21228
Mark Clark	109 Oella Ave	Oella MD	21228

DATE: October 8, 2002

PEOPLE'S COUNSEL'S SIGN-IN SHEET

CASE NAME: Oella Mill Property

CASE NO.: 1-498 and 02-412-SPHA

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

[illegible]

Case Number _____

Petitioner's

SIGN-IN SHEET

[illegible]

Revised 4/17/00

Case Number _____

6-12-02

[illegible]

6401

EXHIBITS

20020

Board Exhibits – zoning cas
Folder 5 of 5

(Zoning Commissioner Exhibits are in Folder

BOA
PETITIONER'S
EXHIBITS

Completed
10/3/02

GLD - Cont. Day 2

10/3/02

~~Logbook~~ ~~Letter~~

- ✓ 1. Zoning Plan - Site Plan accompanying variance (Pet's # 36 Yellow)
- ✓ 2. Wagnett CV a. Skittle b. Photo of Mill (reproduced)
- ✓ 3. Kean's CV
- ✓ 4. Kean's Della Mill Rpt 5/9/02
- ✓ 5. Hayer's CV
- ✓ 6. a. Bldg Site Plan b. ~~Developers~~
- ✓ 7. Photos a - 2 parking ^{features} site
- ✓ 8. Drawing of 12 young young Oak Plant
- ✓ 9. Chart of Photos - View Out of Windows
- ✓ 10. Rule 8 papers Della for Homeowners Assoc.
- ✓ 11. Wallenmyer CV
- ✓ 12. "Preserving History" Brochure

10/8/12

Evidence Day 3

Let's

- ✓ ~~B~~ ~~Letter~~ Keller Harvey Hammond (1)
- ✓ 14. Resume
- ✓ 15. Dimensions on King
- ✓ 16. Comment prepared by Federal Interoffice Memo
- ✓ 17. Disputed Resume
- ✓ 18. Colored Site Plan

~~Protestants~~ P2

- ✓ 1. a & b. Aerial photo Della. In photo of Della.
- ✓ 2. Tape Video
- ✓ 3. Burger Resume
- ✓ 4. a - d c
- ✓ 5. as megaphone photo
- ✓ 6. HE drawing
- ✓ 7. Young Map → 2000 Comprehensive Brccc-Mell
- ✓ 8. Dept of Land Management Listing

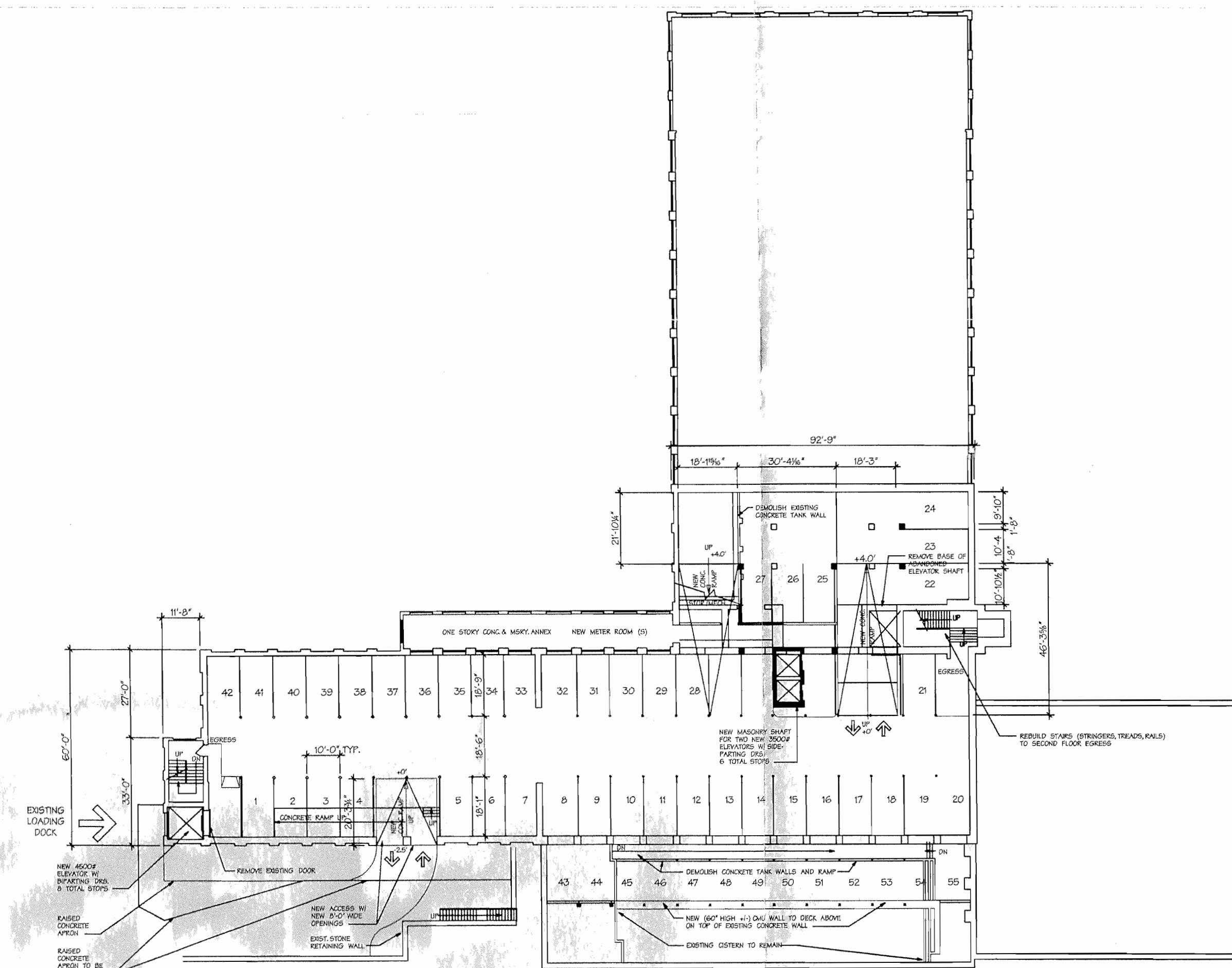
OK 152

Evidence

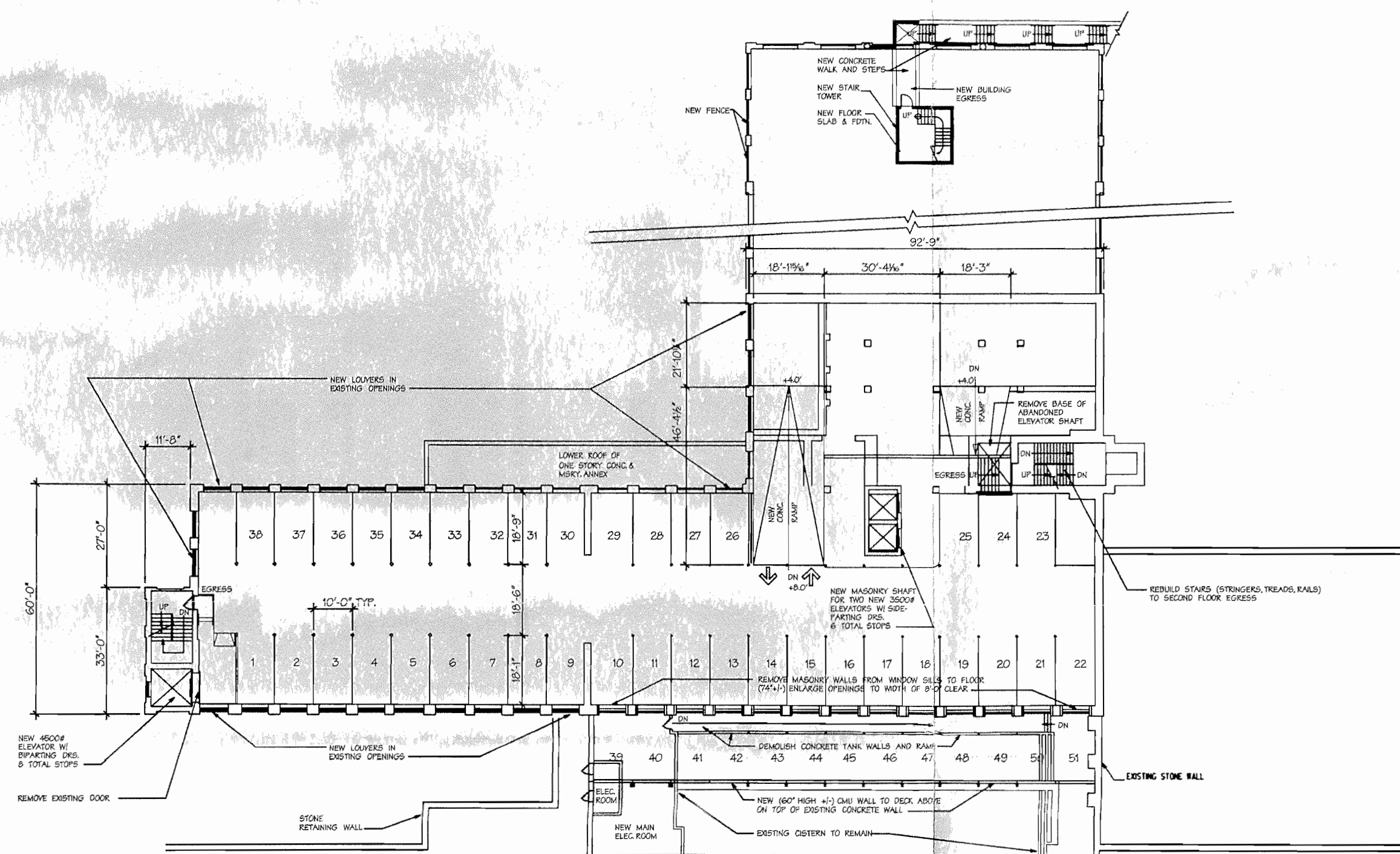
✓ PC # 9 Bella Ave Map GST

✓ 10. Mayer's resume

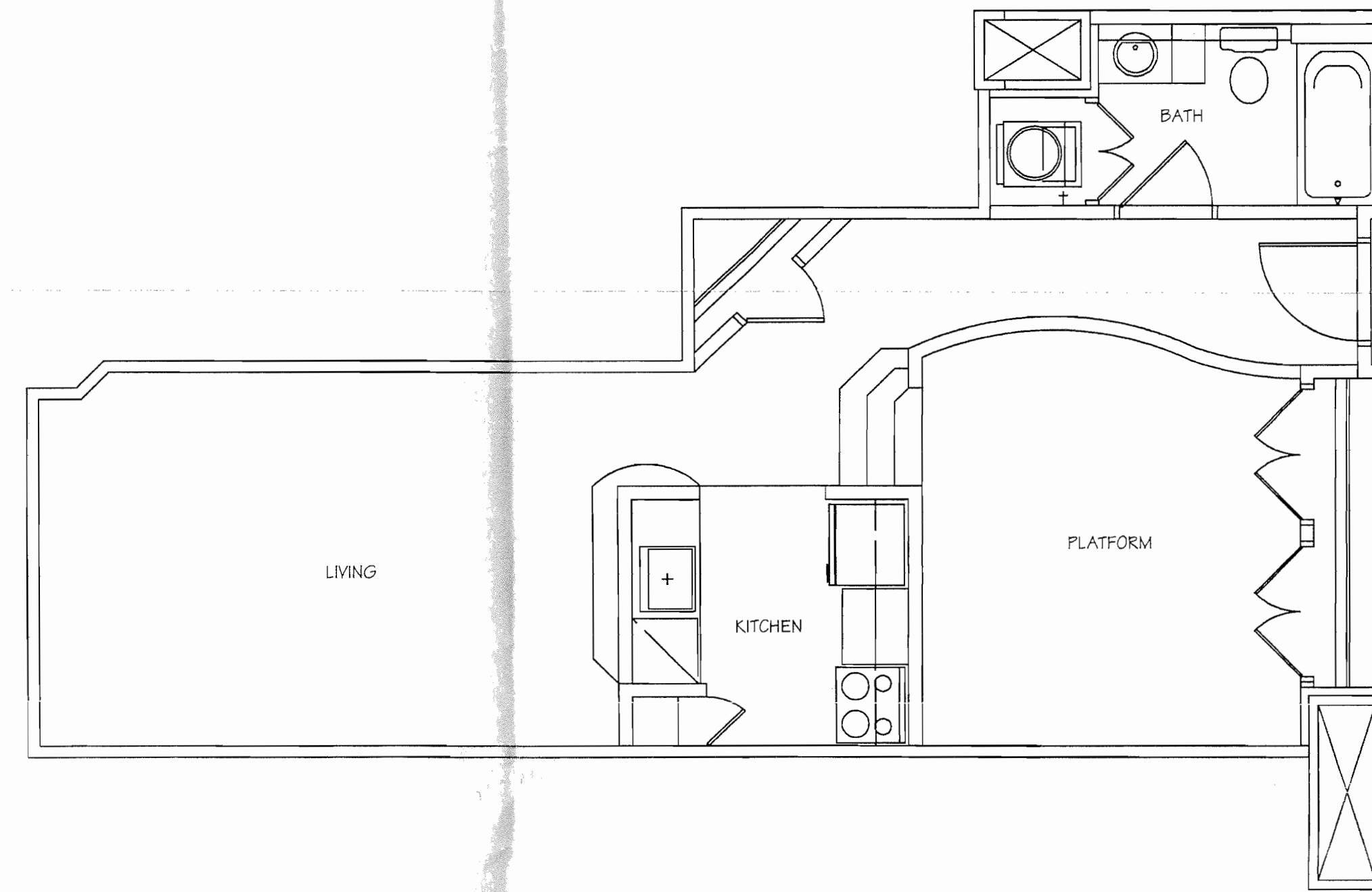
✓ 11. Sketch of Parking Plan done by Thorne



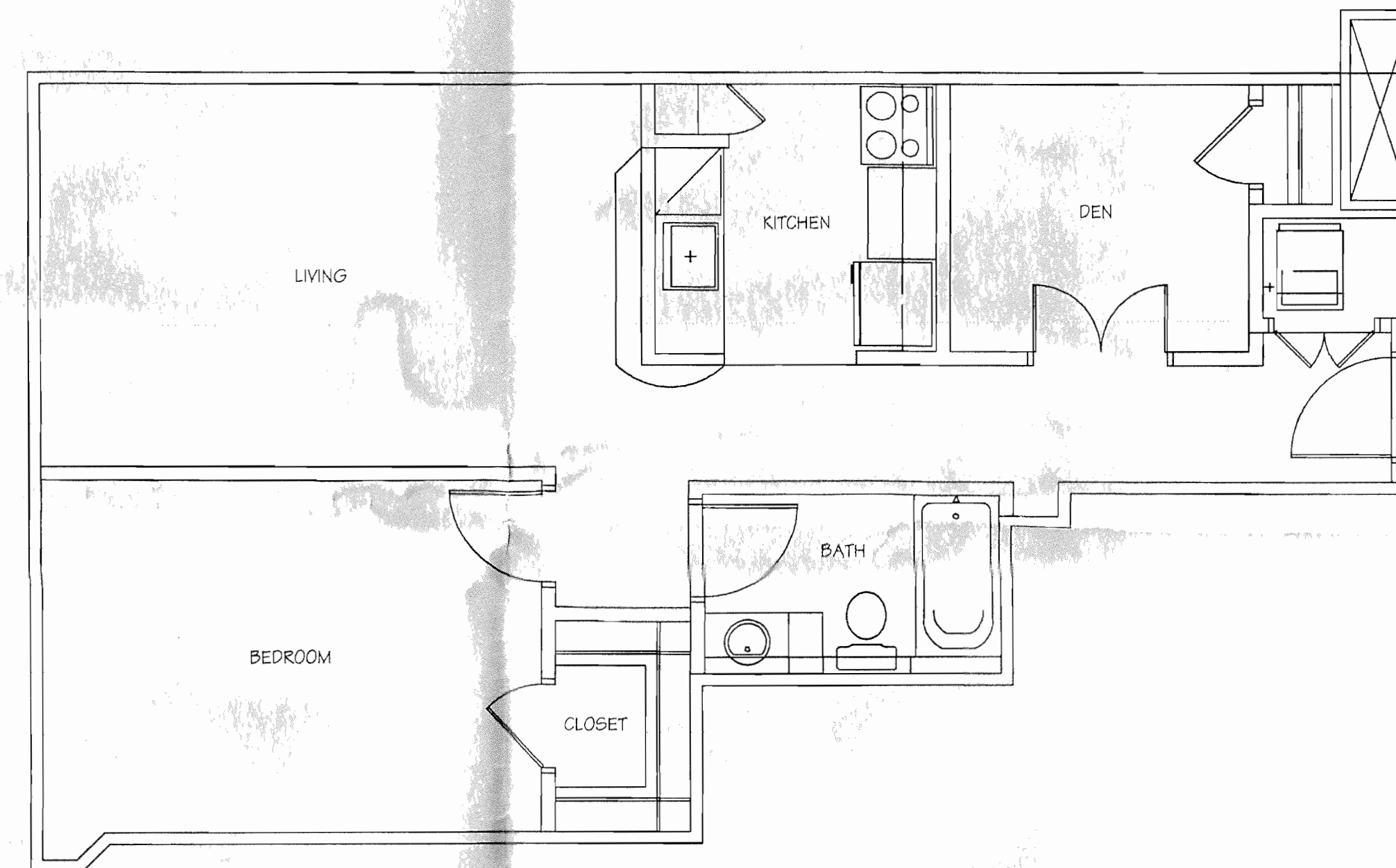
**FIRST STORY
LOWER PARKING**
SCALE: 1" = 30'



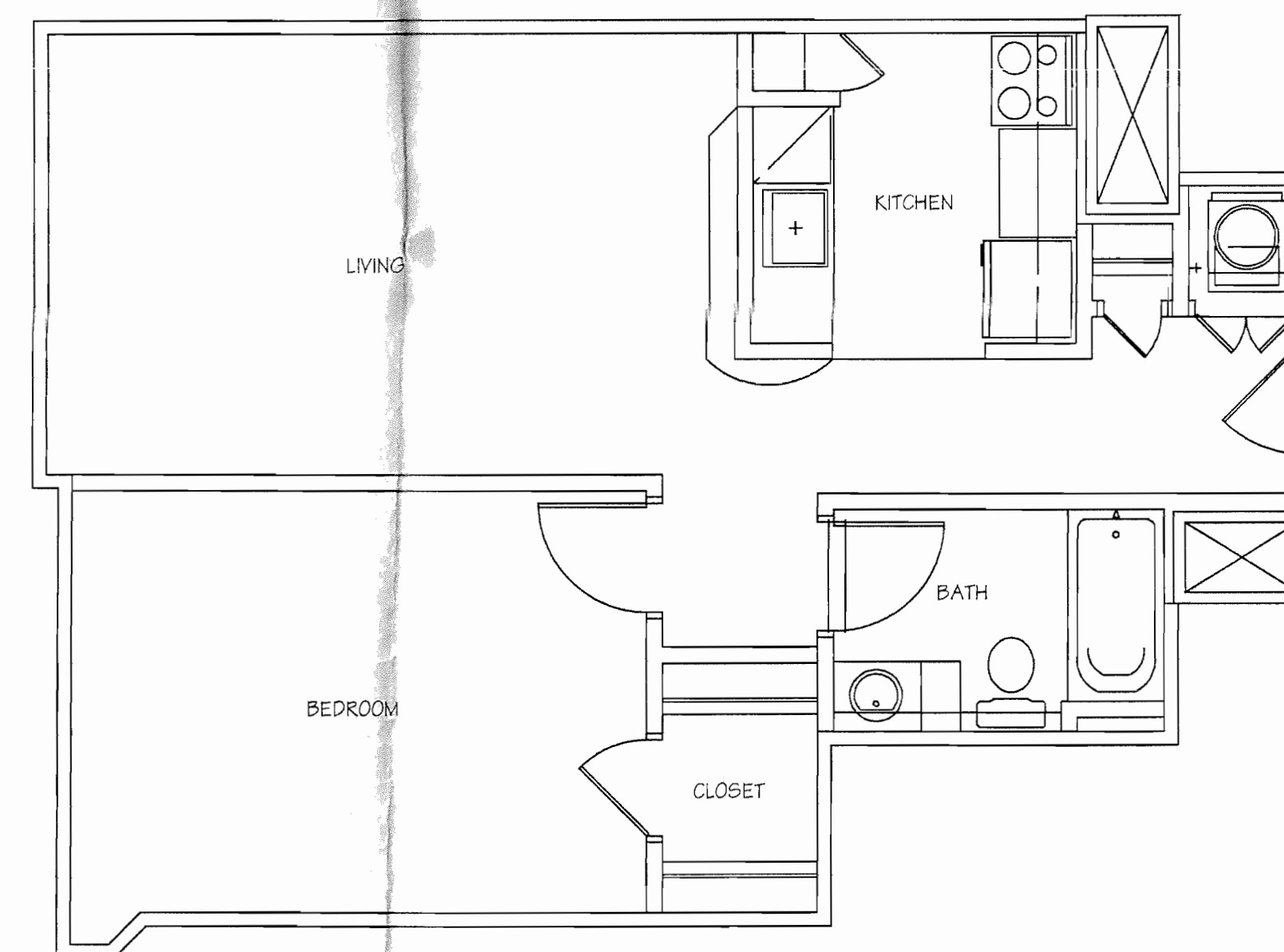
**FIRST STORY
MEZZANINE PARKING**
SCALE: 1" = 30'



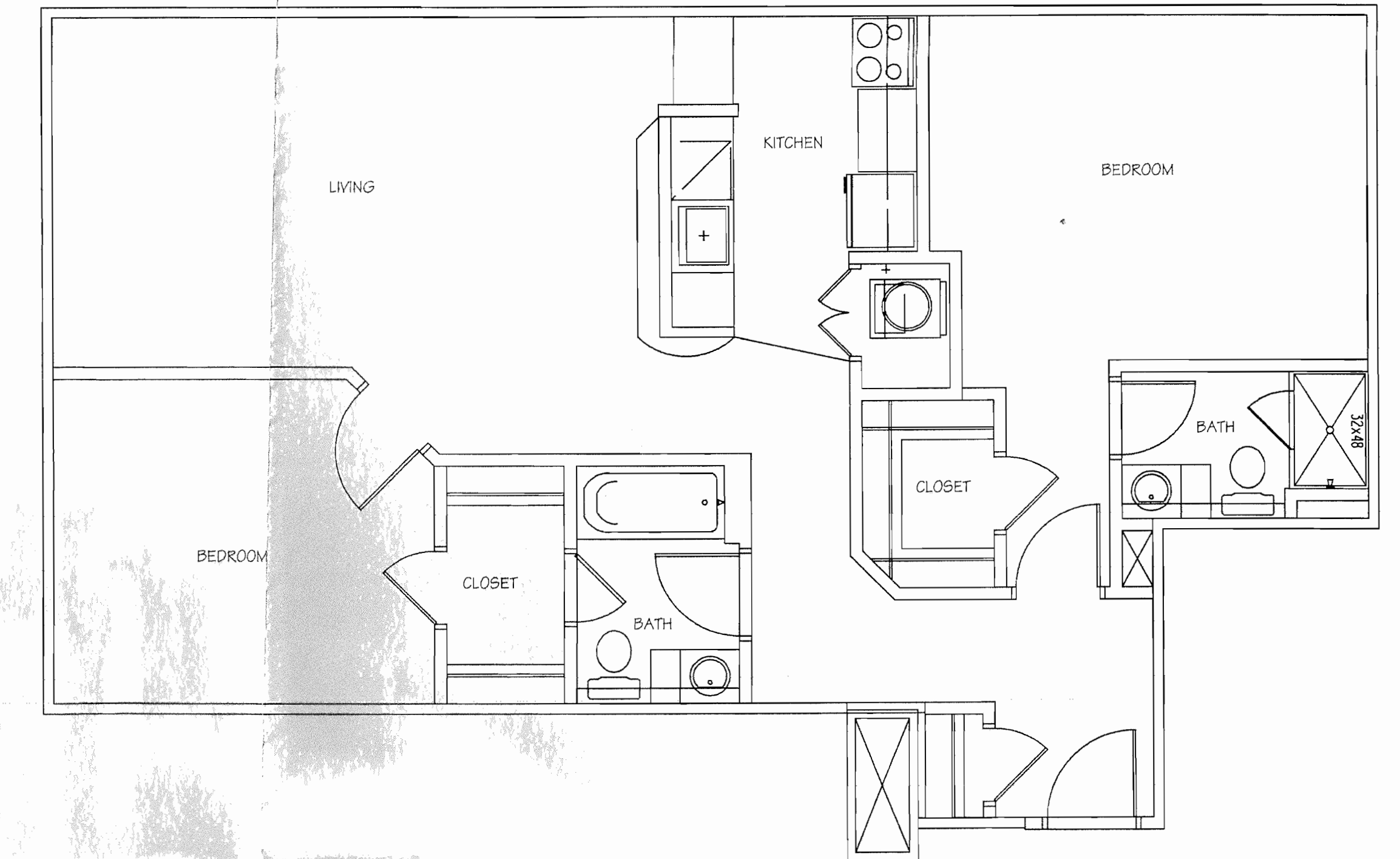
UNIT A5
SCALE: 1/4" = 1'-0"



UNIT C1
SCALE: 1/4" = 1'-0"



UNIT D2
SCALE: 1/4" = 1'-0"



UNIT E1
SCALE: 1/4" = 1'-0"

DATA SOURCES:

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners,
Landscape Architects,
Golf Course Architects,
Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING AND ZONING VARIANCE

1st ELECTION DISTRICT			BALTIMORE COUNTY, MD		
			ISSUE DATES		
			REVIEW: _____		
			BID: _____		
			PERMIT: _____		
			CONSTRUCTION: _____		
			BASE: _____ K/W		
			DRAWN: _____ KANN		
			DESIGNED BY: _____		
			CHECKED BY: _____ O/M		
			DATE CHECKED: _____		
			SCALE: AS SHOWN		
			PROJECT NO.: 01108.00		
			DRAWING: _____		

Charles L. Wagandt
(410) 323-4065 (h) (410) 465-1700 (w)

Bd of App
Pet #2
Devel.
No 17

Education:

Princeton University, AB
University of Pennsylvania, MA
Philadelphia College of Textiles & Sciences
University of North Carolina

Business:

Oella Company, Inc., Owner/President; manage, develop, rehabilitate, and build in historic mill village of Oella, Maryland.

W. J. Dickey & Sons, Inc., Woolen Manufacturer since 1838 until plants sold in 1971-2. Now personal holding company.
President 1972- : Treasurer 1968- : , Secretary 1963-1971.

Managing partner in Ballymena Company, historic mill venture, Dickeyville 1972-1983 (sold).

Publications:

The Mighty Revolution - Negro Emancipation in Maryland: 1862-1864, The Johns Hopkins Press, Baltimore, 1964.

"Redemption or Reaction? - Maryland in the Post-Civil War Years," Chapter in *Radicalism, Racism, and Party Realignment: The Border States During Reconstruction* (ed. Richard O. Curry), The Johns Hopkins Press, Baltimore, 1969.

Articles in the Baltimore Sunpapers, *Maryland Historical Magazine*, *Civil War History*, and *Baltimore*.

Government & Quasi Public:

Elected delegate to the Constitutional Convention of Maryland 1967-68, served on local government committee.

Maryland Advisory Committee to U. S. Commission on Civil Rights, 1962-64.

Baltimore Urban Renewal and Housing Commission, 1964-67. During that period served on Recreation Committee of the Department of Planning; Steering Committee, Master Plan Study for Baltimore Parks and Recreation; and Mayor's Citizen Advisory Committee, Workable Program for Community Improvement.

Maryland Historical Trust - Area representative 1977-78, Trustee 1978-1987; Treasurer 1978-81, Chairman 1981-86. Also served on Baltimore County Committee, 1976-78.

Maryland Heritage Committee 1982-85: Chairman bicentennial sub-committee.

State House Trust 1981-86.

Military:

Military Service - USMCR - 3 years, Commissioned 2nd Lieutenant.

(over)

A Vignette of Oella History

Nestled in the wooded hills reaching down to the Patapsco River, Oella is a time capsule -- a step back into history. Named for the first woman to spin cotton in America, the village owes its creation to the presence of immense water power.

That is what attracted the Union Manufacturing Company, the first textile company to be chartered by the state of Maryland (1808). Its creation flowed from a confluence of various events: Jefferson's embargo, availability of financial and natural resources, and the presence of ample labor and skills. But there was also the vision of William Patterson, one of Baltimore's leading entrepreneurs. He viewed the company as a patriotic endeavor providing work for the poor, schooling for the sons of merchants and farmers and the creation of industry without which America could never be truly independent. The company briefly achieved renown as the largest cotton mill in America. The Union mill also experienced fire and flood, good and bad times.

In 1887, William J. Dickey bought at auction the mill, the company town and surrounding acreage. The company gradually shifted production to woolens. The handsome stone buildings burned to the ground in early 1918, but the structures were promptly rebuilt on the old site. The new architecture featured an excellent example of brick mill construction of that era. The building was divided into many bays with brick pilasters between each bank of windows. The windows were as high as 11 feet with numerous panes in each one. At the cornice the bricks were corbelled and helped support the flat roof. A handsome tower joined the north and west wings. Additions were added later. The mill at one point was reportedly the largest woolen mill south of the Mason and Dixon line. The mill achieved the distinction of becoming America's foremost producer of fancy menswear woolens. The demand for these fabrics dropped with the introduction of synthetics, double knits, and casual wear. The mill closed and was sold to a machinery dealer in 1972. A few years later the mill became part of the National Register Historic District of Oella.

It's gone now -- the sight of richly-colored fabrics, the aroma of dyes, chemicals, and wool, the feel of tweed, saxonomies and shetlands, the clatter of looms echoing off the hillside. No longer do hundreds of workers pour in and out of the mill at shift change. No longer does water from the mill race set the electric turbines humming. Though stripped of its machinery, memories still give life and meaning to its brick walls.

Along a three-quarter-mile stretch of Oella Avenue, there exist the homes of generations of mill workers, the men and women who turned out millions of yards of cloth. Their first homes were built of stone a few years before the War of 1812. Brick houses followed prior to the Civil War. Early in the 19th Century, log cabins were tucked into the steep slopes, while a scattering of vernacular styles emerged over the years. Victorian era frame houses with bracketed cornices appeared in the late 19th Century. Around the time

*Back
Ja*





Donald R. Kann, AIA, NCARB *Principal-In-Charge*

As President of Kann and Associates Inc., Mr. Kann has guided the development of the firm since its founding in 1974. Mr. Kann has directed many of the firm's large scale, multi-disciplined projects.

He is highly involved in the planning and design efforts of the firm on a wide variety of projects, including residential, retail, hospitality, and educational development. He takes an active role in coordinating the efforts of the Design Team with the client throughout all stages of the project.

He serves on the Baltimore City Commission for Historical and Architectural Preservation, and has previously served on the Board of the American Institute of Architects. Mr. Kann serves as the President of the Maryland Association of Historical Districts Commission, an advisory board that provides technical support and policy directives to more than 40 local commissions.

EDUCATION

Bachelor of Architecture, 1965
North Carolina State University

ARCHITECTURAL REGISTRATION

Maryland, Virginia, W. Virginia, Pennsylvania, Illinois,
Delaware, District of Columbia, New York, New Jersey,
North Carolina, Georgia, N.C.A.R.B. Certified

REPRESENTATIVE PROJECTS

Historical Society of Frederick County, Frederick County, MD
Garrett Building Renovation, Baltimore, MD
Baltimore City Hall Restoration, Baltimore, MD
Clarence M. Mitchell, Jr. Courthouse Restoration, Baltimore, MD
The Meadows Restoration & Expansion, Owings Mills, MD
Centerpoint Redevelopment, Baltimore, MD
Union Wharf Redevelopment, Baltimore, MD
Eastern High School Renovation/Adaptive Use, Baltimore, MD
Druid Hill Park Master Plan Implementation, Baltimore, MD
Baltimore City Courthouse Restoration, Baltimore, MD
Johns Hopkins Hospital Exterior Restorations, Baltimore, MD
Johns Hopkins Bayview Campus, Renovation of Mason F. Lord Building,
Baltimore, MD
Paca Pratt Office Complex - Maryland National Bank, Baltimore, MD
Lloyd Street Synagogue Restoration, Baltimore, MD
Lovely Lane Church Restoration, Baltimore, MD
First & Franklin Street Church Restoration, Baltimore, MD
Westminster Chapel Restoration, Baltimore, MD

Perk
3



OELLA MILL REPORT

May 9, 2002

The Oella Historic District represents a truly unique resource to both Baltimore County and the region. The district is bounded on the north by the Union Dam, on the west by the Patapsco River and on the south by Cooper's Branch. The eastern boundary follows Cooper's Branch upstream to the west of the hill then west down the hill to the rear property lines along the east side of Frederick Avenue (old National Pike) then following the rear property lines on the east side of Frederick Avenue and Oella Avenue north and east following the property lines of the Union Manufacturing Company, which is the rear property line on the west side of Westchester Avenue and continuing north to include the Oella cemetery then turning west along the south side of Rest Avenue to the east side of the mill race and following the mill race north to Union Dam.

As noted in a previously written Statement of Significance and the National Register Nomination prepared in 1975, the Oella District is significant for a number of reasons.

"What survives of Oella is significant because it is a well preserved company town, one of the last such villages in Baltimore County, certainly the largest. Parts of the town are scattered in rustic settings, other parts are crowded together to form vistas and street-scapes..... The houses come in considerable variety; one long row is of yellow brick with the appearance of an English mill town." (Statement of Significance)

"The Oella Historic District is one of the major 18th and 19th century industrial centers in Maryland. The first merchant milling operation in the colonies, Ellicott's Mill, was located here where an 18th century system of automating flour milling was used. One of the earlier and more extensive cotton factories in the country, the Union Manufacturing Company, located in and chose the name of Oella. This company used water-powered looms as early as 1819. The W. J. Dickey Company, successor to the Union Company in Oella, was the largest textile firm in the South during the early decades of the 20th century. A second early cotton mill, the Granite Hill Factory, operated in Oella on the site of an Ellicott iron works." (National Register Nomination 1975)

"Oella is best known for the 19th century village of pristine workers' houses. Few counties or states possess such a well-preserved intact company town. The picturesque setting on a densely wooded hillside on the Patapsco River enhances the unpretentious, functional houses." (National Register Nomination 1975)

The major building feature of the Oella District is the extant mill complex of the W.J. Dickey Company. Its physical siting is established fully by the constraints of the surrounding site. In fact, the entire area is largely determined by the severe topography and location of the river areas.

"Topography and industry determined the appearance of Oella, situated where the Patapsco River rushes through a veritable canyon edged on both sides by

Pet. #4



Geoffrey H. Glazer, AIA, NCARB

Principal-In-Charge

The ability to simultaneously manage numerous projects puts Mr. Glazer in the project director's role at Kann and Associates Inc. He has managed the firm's design and renovations of dozens of major hospitality, and retail renovation projects throughout the Mid-Atlantic. Mr. Glazer's range, depth of experience and expertise allows him to effectively participate with our clients in evaluating marketing concepts, tenant mix options and creations of merchandising concepts.

Under his direction, the firm has received numerous awards for projects such as Roots Market and Bibelot Bookstore.

Mr. Glazer is active in the community--he is participating in the Baltimore County Leadership 2002 Program and is a board member for Healthcare for the Homeless.

EDUCATION

Bachelor of Architecture
University of Cincinnati, 1984

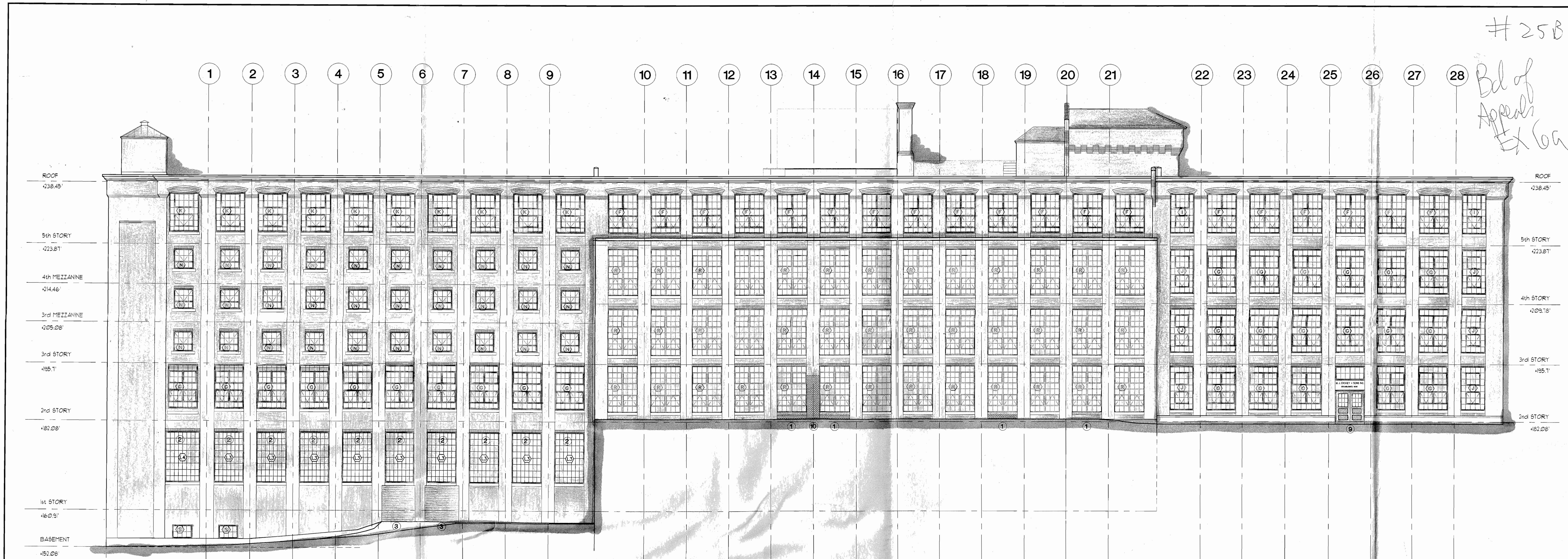
ARCHITECTURAL REGISTRATION

Maryland, Pennsylvania, Virginia, New Jersey, New York, Michigan
N.C.A.R.B. Certified

REPRESENTATIVE PROJECTS

Har Sinai Congregation, Baltimore, MD
Roots Market, Clarksville, MD
Oella Mill, Ellicott City, MD
Superior Market, Tobacco Row, VA
St. Mary's College, Calvert Hall
Giant Food/Carlisle, Shrewsbury, , Scranton, Kennett Square, PA
Morgan State Fine Arts Center/Holmes Hall, Baltimore, MD
Shops at Monocacy, Frederick, MD
Marriott Hotels, Interior Design Project Supervision, CA and FL
Inn at Pier 5 Hotel and Conference Center, Baltimore, MD
Broadcasting Square, Reading, PA
The Colonnade at State College, State College, PA
University of Maryland Balto. Co. Surge Bldg., Baltimore, MD
Fairgrounds Plaza, Timonium, MD
Bibelot Book Store and Donna's Café, Canton, Baltimore, MD
Paca Pratt Office Complex - Maryland National Bank, Baltimore, MD
The Meadows Office and Conference Center, Baltimore County, MD
The Sports Authority, Various Locations, MD, VA, NJ, D.C.
Glen Burnie Town Center, Glen Burnie, MD
Weinberg Gardens at Bedford Senior Housing, Pikesville, MD
White Marlin Mall, Ocean City, MD
House of Ruth Women's Residential Facility, Baltimore, MD
Hecht's Department Stores, Various Locations, MD, D.C., VA
Lorien Life Center Residential Facility, Mt. Airy, MD
643 and 701 West Pratt Street, UMMS Baltimore, MD
Towson Marketplace Renovation, Towson, MD
Timonium Mall Renovation, Timonium, MD
Giant Food Stores, Various Locations, MD, VA
Safeway Food Stores, Various Locations, MD, D.C., VA

Pet # 24



2 | SOUTH ELEVATION

SCALE: 3/32" = 1'-0"



1 | WEST ELEVATION

SCALE: 3/32" = 1'-0"

GENERAL NOTES

1. NEW FACE BRICK INFILL
4. PRECAST CONC. SILL
2. NEW GRILLES IN EXIST. OPENING
3. NEW GARAGE ENTRY DOORS
4. REFURBISH EXIST. DOOR FRAME AND TRANSOM
5. REPLACE EXISTING CONCRETE WATER TABLE AND WINDOW SILL TO MATCH ADJACENT
6. NEW FACE BRICK 4 PRECAST CONC. SILL TO MATCH EXIST. TOOTH BRICK N.Y.M. 12"
7. NEW WINDOW TO REPLACE EXIST. DOOR
8. NEW GRILL TO FIT IN EXIST. OPENING
9. FIRE STAIR EGRESS
10. REBUILD PIER TO MATCH ADJACENT
11. REPLACE EXIST. CONCRETE SILL WITH NEW PRECAST SILL
12. REMOVE EXIST. DOOR, RE-FACE WITH BRICK TO MATCH ADJACENT
13. REMOVE GLAZING & SEAL EXISTING OPENING
14. NEW LOUVERED OPENING



Kann and Associates Inc.
207 East Redwood Street
Fourth Floor
Baltimore, MD 21202
410 234 0900
410 539 4921 Fax

Architecture
Planning
Preservation
Interior Design

DESIGNER:
HEINEMAN & WANG
8075 CHARTER DR. #440
COLUMBIA, MD 21046
M.E.P.
MENDOZA, REAS, FARNAS & ASSOC.
STRUCTURAL:
ADAMS, MIZIA ENGINEERING, INC.
CIVIL:
DAFT, MC GUNE, AND WALKER, INC.

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The OELLA MILL
840 Oella Avenue - Oella, Maryland 21043

Issued	Date
PROGRESS PRINT	10/24/02
B.A.T. CO. PRESENTATION	11-05-02
Schematic Design	12-21-01
Schematic Design	3-04-02

PM	DRS	Date
PA	DRS	4/23/02
OC	JG	4/23/02

KA Project Number: 01075

Sheet Title:

**PROPOSED
EXTERIOR
ELEVATIONS**

A201

GENERAL NOTES

- 

Architecture
Planning
Preservation
Interior Design

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Written dimensions on these drawings shall have precedence over scale dimensions. Contractors shall verify and be responsible for all dimensions and conditions on the job and the office must be notified of any variation from the dimensions and conditions shown by these drawings.

Issued	Date
PROGRESS PRINT	10/24/01
BALT. CO. PRESENTATION	11-06-01

	Inhibits	Date
FN	CRS	4/23/02
PA	CRS	4/23/01
QC	JOF	4/23/02

KA Project Number:	01075
Sheet Title:	

PROPOSED EXTERIOR ELEVATIONS

A202

Board of Ref. Des. #



SCALE: 3/32" = 1'-0"

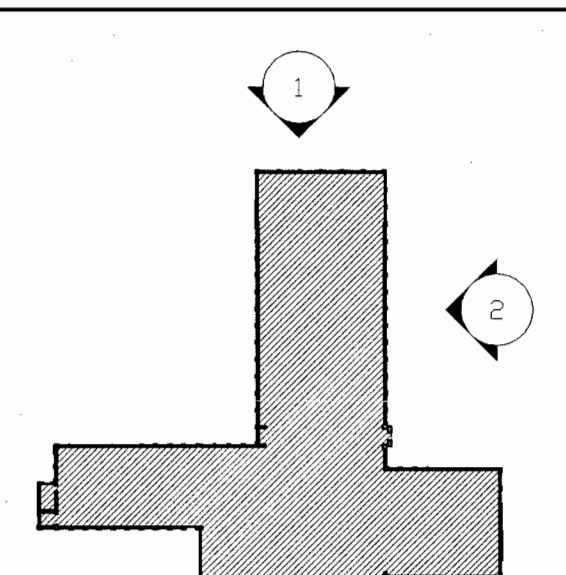


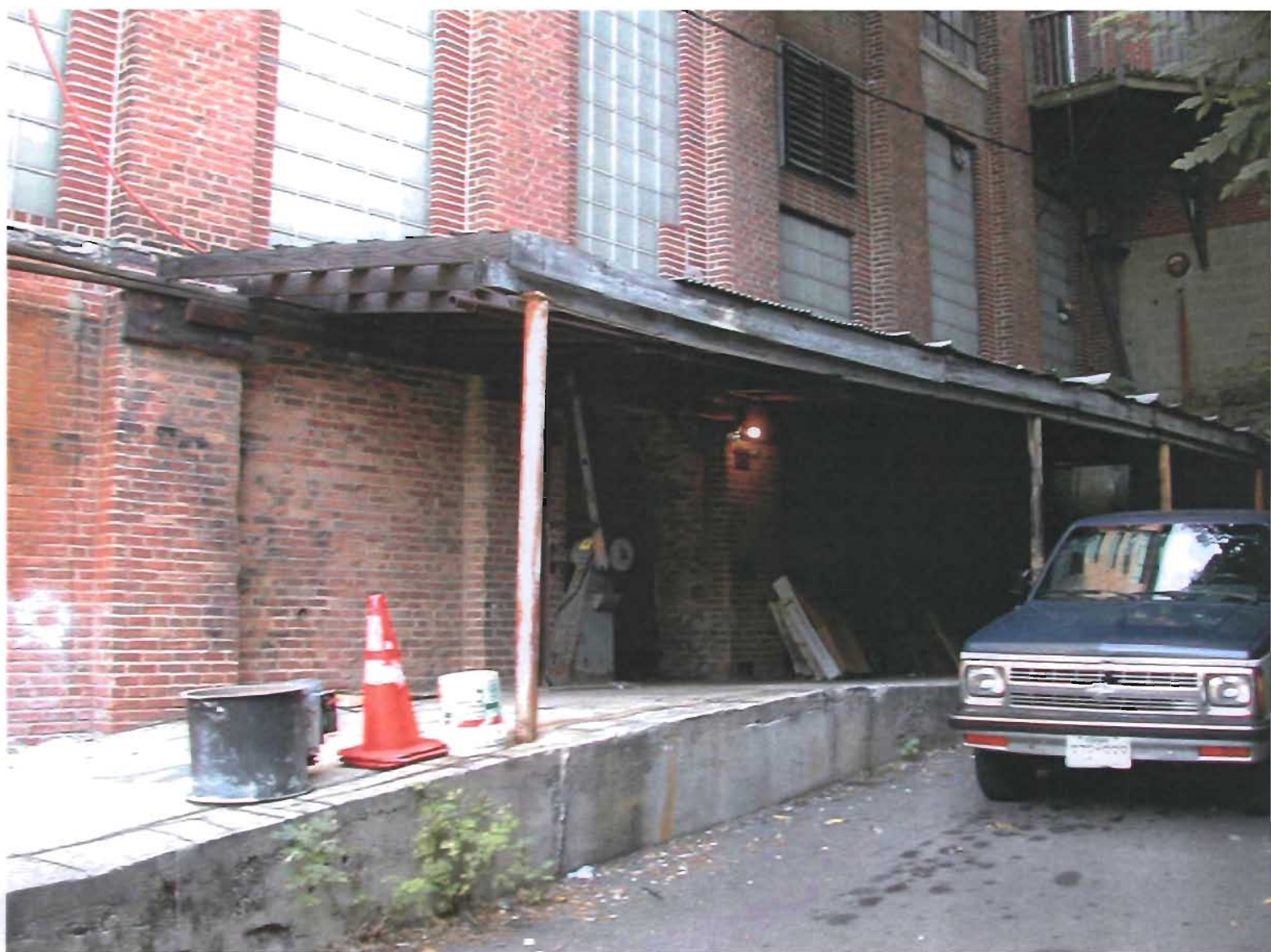
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SYMBOL LEGEND

-  WINDOW TAG
 GENERAL NOTE NO.

KEY PLAN





Pitt
7a



Pot's
Sh

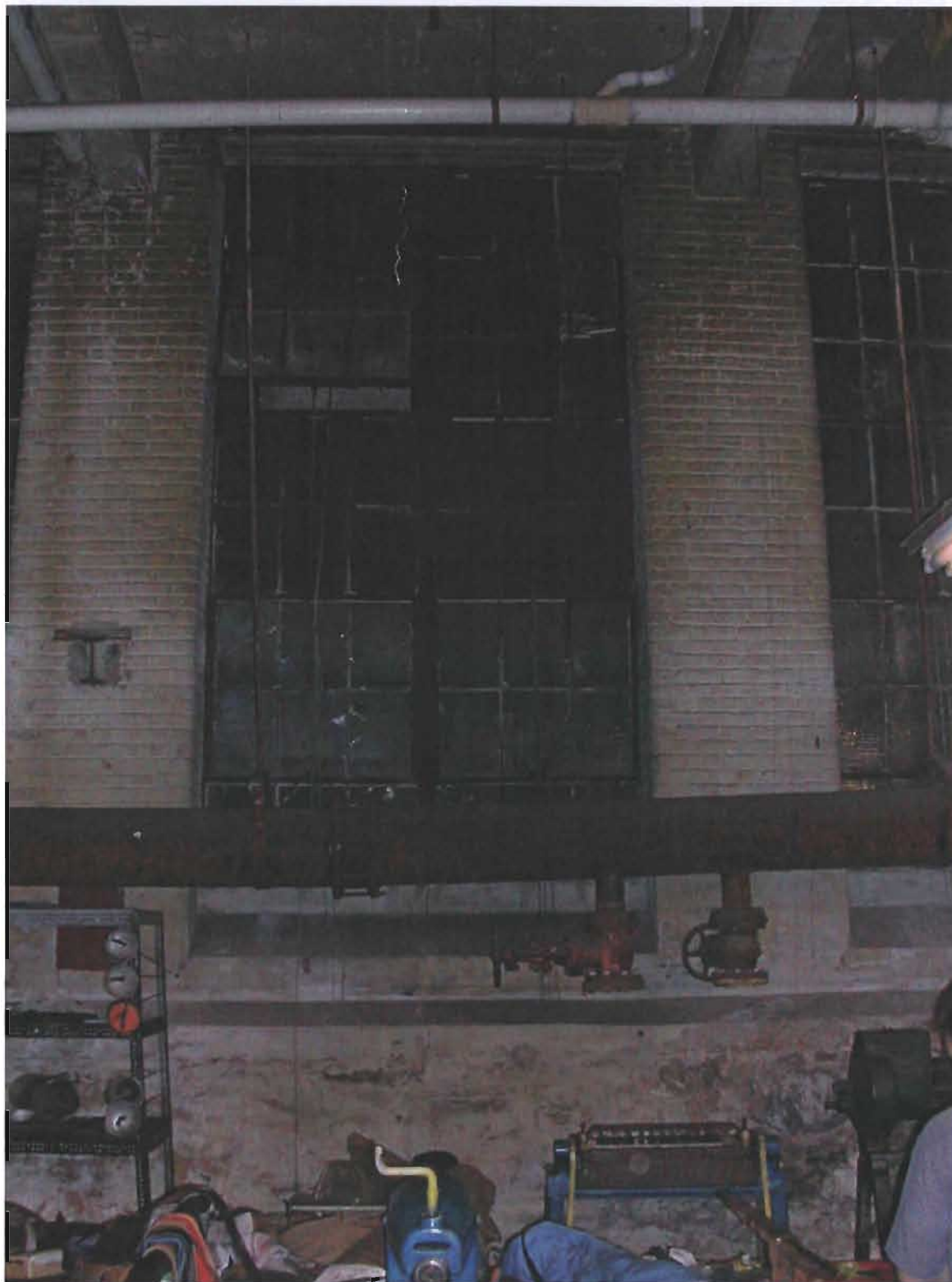
7'-7"



Patt
Mc

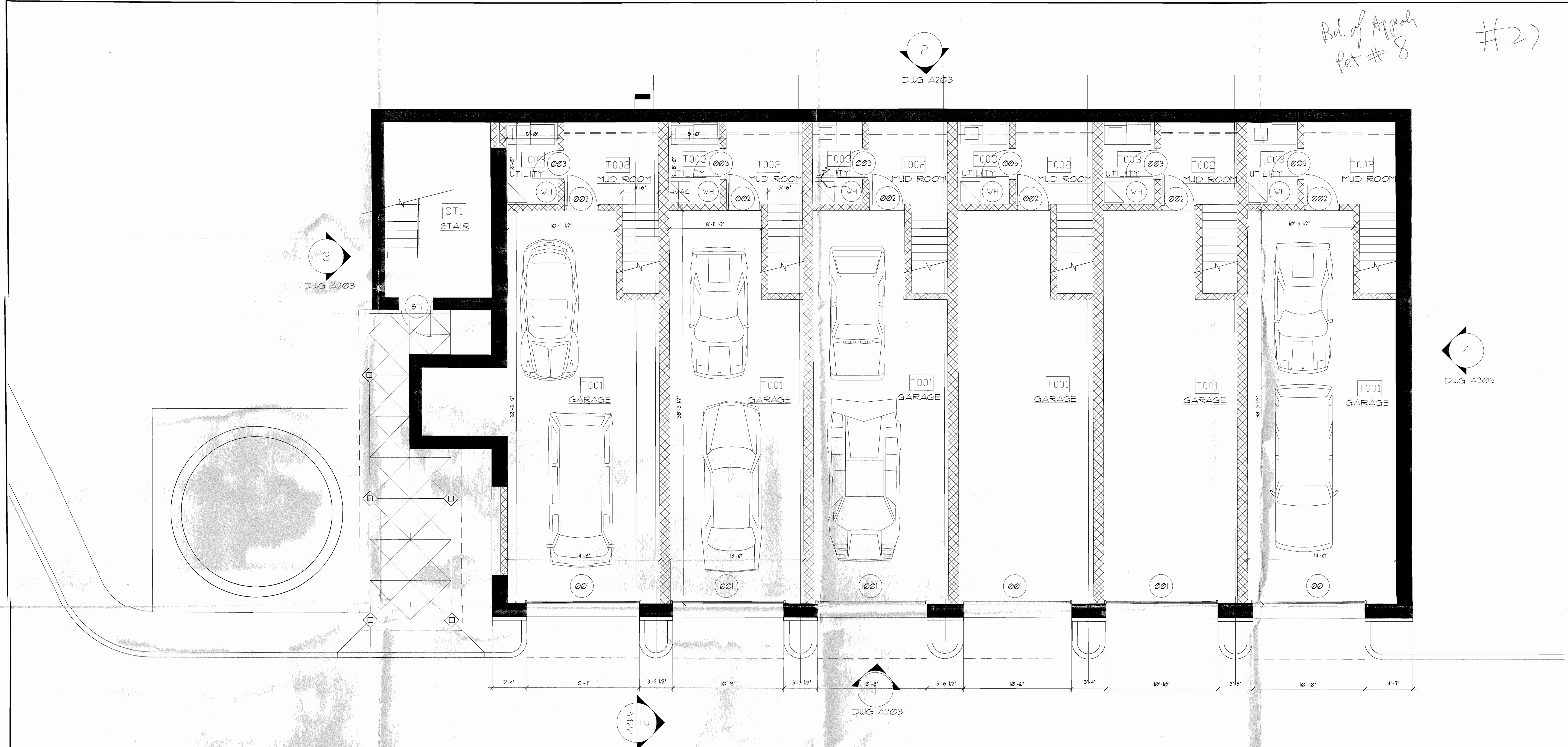


Pet's
7d



Pat's
172

Bd of Appeal
Pet # 8
#27



1 GROUND FLOOR PLAN

SCALE: 1/4" = 1'-0"

2 TYPICAL SECTION

SCALE: 1/4" = 1'-0"

Kann and Associates Inc.
207 East Redwood Street
Fourth Floor
Baltimore, MD 21202
410 234 0900
410 539 4921 Fax

Architecture
Planning
Preservation
Interior Design

DESIGNER:
HENNEMAN & WANG
10705 CHARTER DR. #440
COLUMBIA, MD 21043

M-E-P:
MENDOZA, REBAS, FARRAS & ASSOC.

STRUCTURAL:
ADAMS, MUEZ ENGINEERING, INC.

CIVIL:
DAFT, MC CONE, AND WALKER, INC.

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Issued	Rev
PROGRESS PRINT	10/24/01
BAL. CO. PRESENTATION	11-05-01
Progress Print	11-28-01
S.D. Submission	12-14-01
Progress Set	4-10-02
PROGRESS PRINT	6-07-02

	Initials	Date
PM	CRS	4/23/02
PA	CD	4/23/01
QC	JGF	4/23/02

K&A Project Number: 01075
Sheet Title:

**PROPOSED TOWNHOUSE
1ST / 2ND
PLANS**

A451



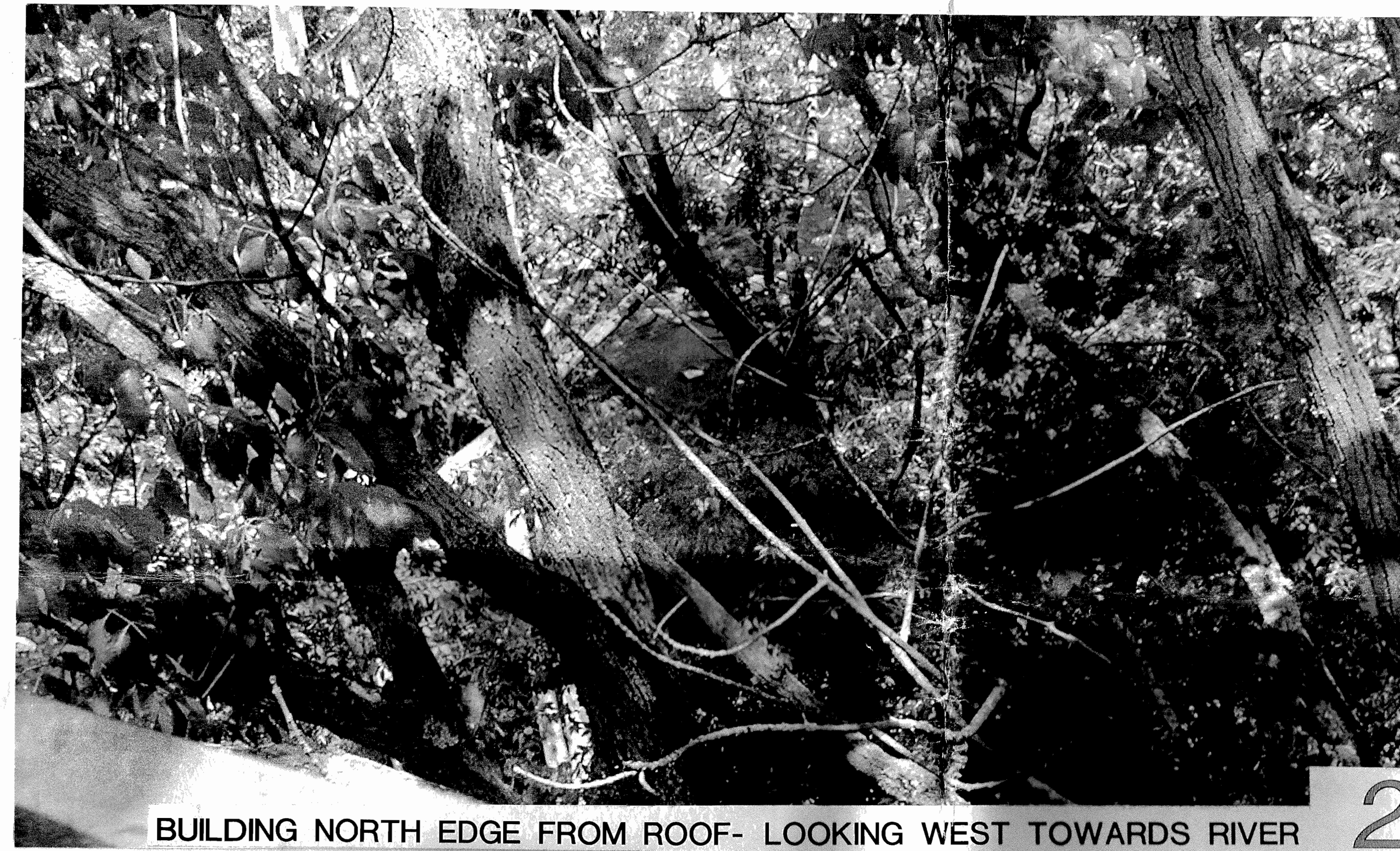
BUILDING N.W. CORNER - LOOKING N.E.

4



BUILDING NORTH END - LOOKING WEST
TOWARDS RIVER FROM 3RD FL. WINDOW

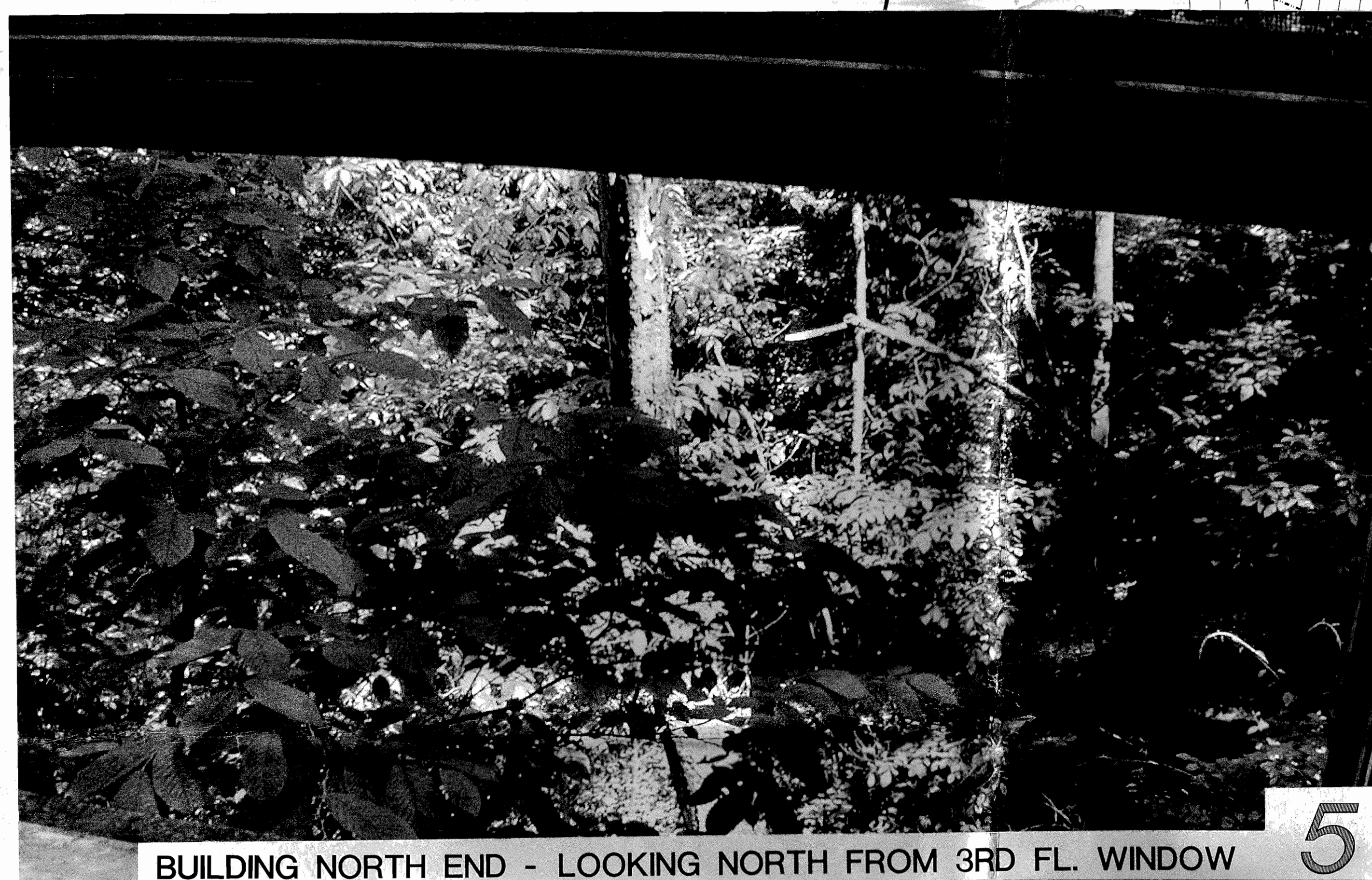
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BUILDING NORTH EDGE FROM ROOF- LOOKING WEST TOWARDS RIVER

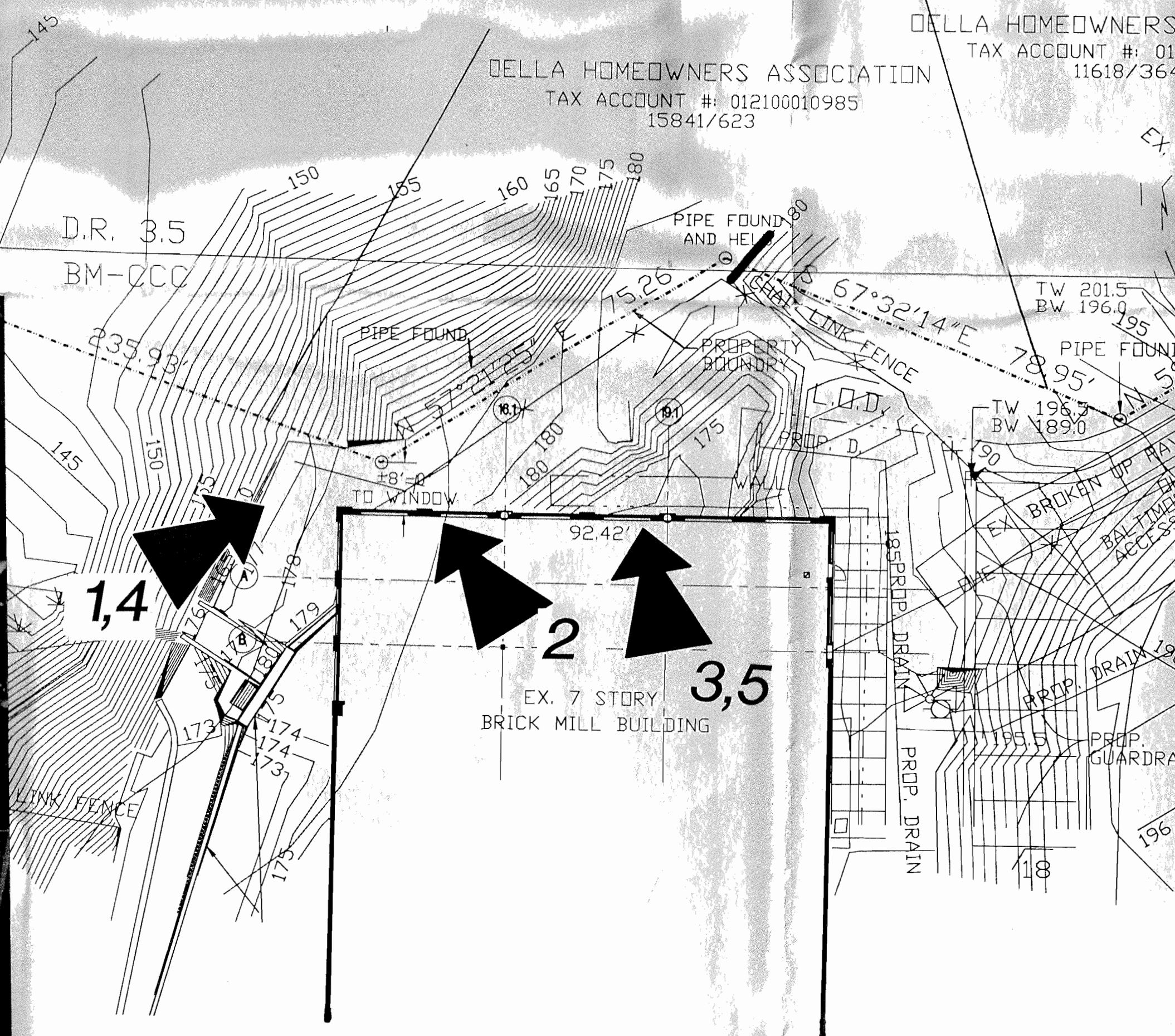
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#28
Bd of App
Pet #9



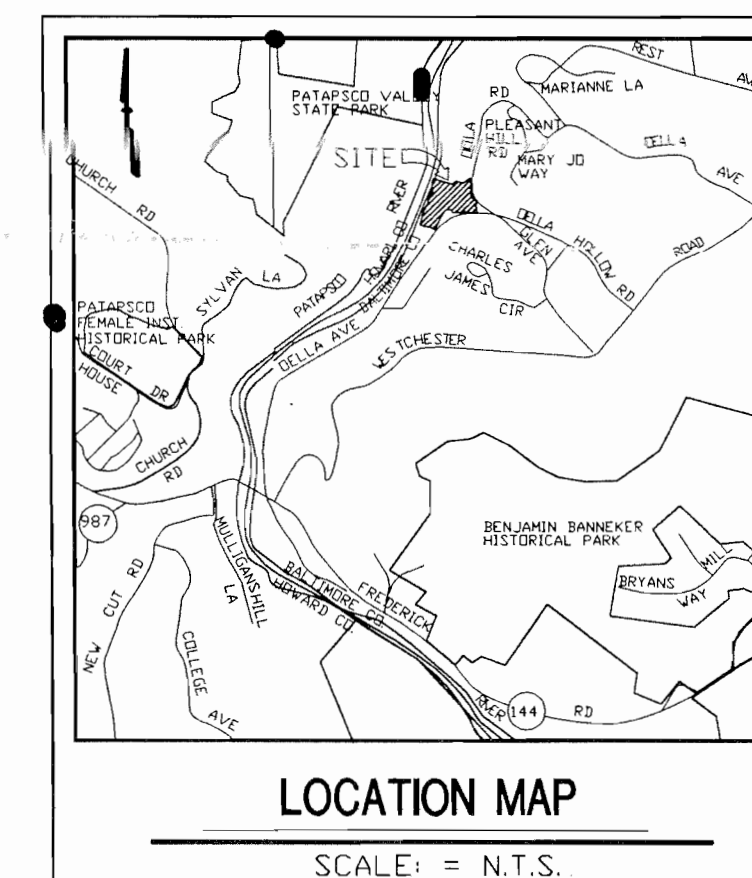
BUILDING NORTH END - LOOKING NORTH FROM 3RD FL. WINDOW

5



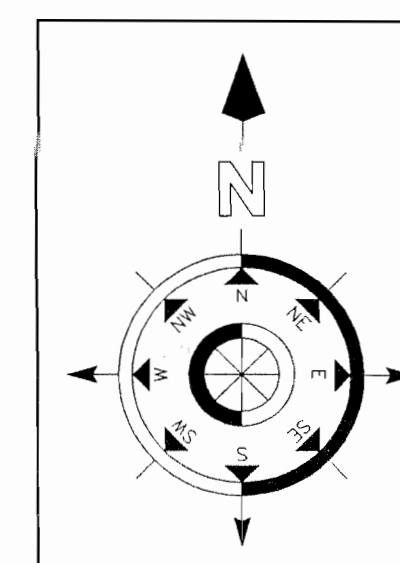
BUILDING N.W. CORNER - LOOKING NORTH

1



LOCATION MAP

SCALE: = N.T.S.



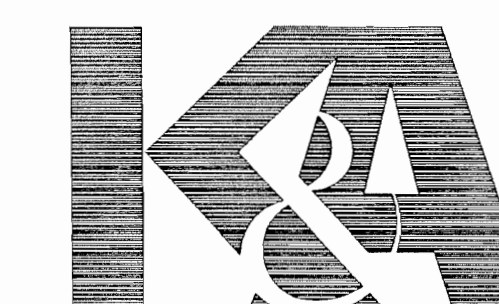
Project

THE OELLA MILLS

SCALE:

Date : JUNE 12, 2002

840 OELLA AVENUE - OELLA, MARYLAND 21043



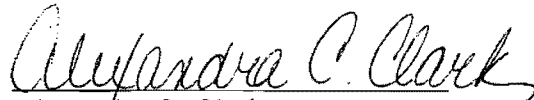
Kann and Associates Inc.
207 East Redwood Street
Fourth Floor
Baltimore, MD 21202
410 234 0900
410 539 4921 Fax

Architecture
Planning
Preservation
Interior Design

OELLA HOMEOWNERS ASSOCIATION, INC.

CERTIFICATE OF PRESIDENT

I, Alexandra C. Clark, the duly-elected President of the Oella Homeowners Association, Inc., a Maryland corporation (the "Corporation"), certify that on Thursday, May 16, 2002, I sent via electronic mail to each member of the board of directors of the Corporation the attached Notice of Special Meeting of the Board of Directors.


Alexandra C. Clark

Pet's
10

FORESTCITY

RESIDENTIAL GROUP

Jon David Wallenmeyer, AIA
Vice President East Coast Residential Development
Forest City Enterprises
5803 Nicholson Lane
North Bethesda, MD 20852
Telephone (301) 287-3234 ext. 2307 Fax (301) 287-3332
E-mail: jdw@fceinc.com

Mr. Wallenmeyer joined Forest City in 1996. As the Vice President of East Coast Development for the Residential Group, he is solely responsible for site acquisition, design, program determination, professional selection, and construction administration of the Group's East Coast development projects. Recent projects include The Grand in North Bethesda, MD, The Drake Tower Apartment Building and The Lofts at 1835 Arch Apartments in Philadelphia, PA, Emerald Palms in Miami Florida, and The American Cigar Building, Consolidated Cigar Building, and Carolina Buildings in Tobacco Row at Richmond, VA.

Prior to Forest City, CHK Architects and Planners employed Mr. Wallenmeyer from 1984 to 1993 where he was the Senior Project Manager for the Firm's larger high-rise residential projects. Local Washington Metropolitan Area buildings include: Trans-Potomac Canal Center in Alexandria, Somerset House Condominiums in Friendship Heights, Courthouse Commons in Arlington, VA, The Alexander House in Silver Spring, The Washington Hebrew Congregation addition in Washington, DC and The Lenox Park Apartments in Silver Spring. Mr. Wallenmeyer was also a partner in Starling Wallenmeyer Associates from 1993 to 1996.

Mr. Wallenmeyer holds a degree of Bachelor of Architecture from the University of Maryland. He is a member of the American Institute of Architects, The Urban Land Institute, and the Construction Specifications Institute. He is a licensed architect in Maryland, Virginia and Pennsylvania.

Pat R
11

welcome

FOREST CITY ENTERPRISES, INC.

**IS DELIGHTED TO BE THE PRINCIPAL SPONSOR OF
THE 2002 NATIONAL PRESERVATION CONFERENCE
IN CLEVELAND, OUR COMPANY'S HOMETOWN.**

Cleveland is the ideal place for the country's premier gathering of preservation enthusiasts and leaders. Our city is home to some of the most successful preservation-based housing, theater development and adaptive re-use projects in the country.

We hope you enjoy your visit to Cleveland and look forward to seeing you at the Conference.

National Preservation Conference

October 8 - 13, 2002

Renaissance Cleveland Hotel

FOREST CITY ENTERPRISES, INC.

- Founded in 1921 and publicly traded since 1960
- A \$5 billion diversified national real estate company
- Owner, developer and manager of commercial and residential real estate
- Portfolio includes retail centers, apartment communities, office buildings and hotels
- Broad geographic reach with offices in Boston, Denver, New York City, Los Angeles, Philadelphia, Washington D.C. and other major urban areas
- A management team with decades of combined real estate business and leadership experience



To find out more, contact:

David J. Levey
Executive Vice President
Forest City Residential Group
216-416-3213

david_levey@fcecinc.com
or

Kevin Ratner
Development Manager
Forest City Residential West
213-488-0010

kevin_ratner@fcecinc.com

www.fcecinc.com



FOREST CITY

RESIDENTIAL GROUP, INC.

Terminal Tower
50 Public Square, Suite 1170
Cleveland, OH 44113-2267

National Trust for Historic Preservation Member

preserving History

one story at a time.



FOREST CITY ENTERPRISES, INC.

Principal Sponsor of
2002 National Preservation Conference
Cleveland, Ohio

*Per K
12*

adaptive re-use

AND HISTORIC PRESERVATION

Under the corporate umbrella of Forest City Enterprises, Inc. are four operating groups. One of these, the Residential Group, owns, develops, manages and/or restores residential rental properties nationwide. The Residential Group succeeds with a wide range of multi-family housing projects – from planned-use developments and apartment communities to rehabilitated historic hotels and warehouses. *Our portfolio of interests boasts more than 36,000 apartments in 120 communities.*

During the past decade, historic preservation has become a growing part of the Residential Group's business. Completed so far: *nine projects totaling \$300 million and representing more than 1,800 apartments.*

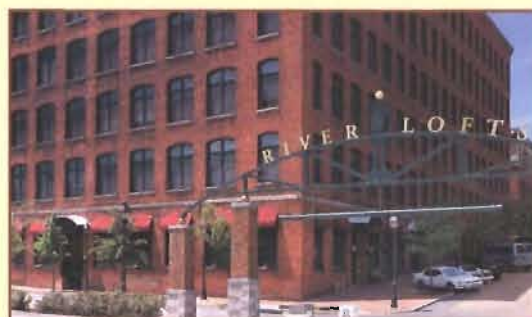
Big Buildings in Big Cities

Urban? That's us. Our Residential Group has many years of urban restoration experience. More important, our restoration experts have the skill sets needed to effectively preserve and enhance historic properties:

- Residential leadership team averaging 25 years of experience.
- A knowledge of, and commitment to, the urban environment.
- Significant experience with entitlement processes.
- A thorough understanding of federal and state historic issues.
- Proven success in applying adaptive re-use strategies to urban apartment communities using tax-advantaged financing and historic tax credits.
- A long-term vision, with long-term ownership objectives.

featured properties

FOREST CITY'S COMMITMENT TO HISTORIC PRESERVATION



built 1901

The River Lofts at Tobacco Row Richmond, Virginia

Forest City is transforming these former tobacco warehouses along the James River into 850 loft-style apartments and retail space. One hundred seventy-one units opened in 2001 in the American Cigar Company building.

The Drake Tower (cover photo – built 1929) Philadelphia, Pennsylvania

This fabulous 30-story Art Deco building was once the tallest structure in Philadelphia. A Forest City renovation returned this Center City landmark to its original grandeur and created 280 upscale residences.

Grand Lowry Lofts Denver, Colorado

This was once a World War II Air Force officers' barracks and summer retreat for former President Eisenhower. In the hands of Forest City, it has become the Grand Lowry Lofts featuring 261 exciting apartments.



built 1937



built 1875

Kennedy Biscuit Lofts Cambridge, Massachusetts

Forest City had the delicious task of turning one of New England's once-busiest bakeries – the F.A. Kennedy Steam Bakery where the first Fig Newton was baked in 1891 – into the Kennedy Biscuit Lofts with 142 apartments, townhouses and artist lofts.

The Lofts at 1835 Arch Philadelphia, Pennsylvania

For decades, it was a headquarters for the Bell Telephone Company. Thanks to Forest City, this structure now houses 191 luxury apartments.



built 1925



Baltimore County

*One of the Best-Managed
Counties in America*

Department of Economic Development

400 Washington Avenue, Towson, Maryland 21204
Tel: 410-887-8000 • Fax: 410-887-8017

September 23, 2002

Mr. Charles Marks, Chairman
Board of Appeals
400 Washington Avenue - Room No. 49
Towson, Maryland 21204

RECEIVED POST-HEARING
DAY ONE

RE: Cases Nos. I-498 & 02-412-SPHA

Dear Mr. Marks:

The Offices of Community Conservation, Planning, and the Department of Economic Development support the redevelopment of the Oella Mill Property for residential use. The proposed reuse of the property by Forest City Residential Group is creative and adaptive and in keeping with the Oella Master Plan. The extensive renovation of the property and significant landscaping and streetscape improvements will be an important step in the continued renaissance underway in Oella.

The proposed reuse of the old mill for residential use will complement the area and be a significant contributor to the charm, character and economic vitality of the area.

It is recognized that there are technical issues relative to this case however, please be aware of our conceptual support for this project.

Thank you for your consideration of this matter.

Sincerely,

Arnold F. "Pat" Keller
Director - Office of Planning

Robert L. Hannon
Director - Dept. of Economic Development

Mary E. Harvey
Director - Office of
Community Conservation

RECEIVED

SEP 27 2002

BALTIMORE COUNTY
BOARD OF APPEALS

Pat 13

MICKEY A. CORNELIUS, P.E., P.T.O.E.

Senior Vice President

Mickey Cornelius, proudly one of the first certified Professional Traffic Operations Engineers (P.T.O.E.) in the nation, is Senior Vice President of the firm, responsible for managing various aspects of the firm's traffic engineering and transportation planning studies. He is experienced in many aspects of traffic engineering and transportation planning, including traffic analysis, traffic forecasting and associated modeling, geometric design, traffic signals and signal systems evaluation/design, parking and circulation, traffic calming, and transportation systems management.

As a registered Professional Engineer, Mr. Cornelius has over 15 years experience in the highway transportation and traffic engineering profession. His experience in both the public and private sectors has provided him with a broad range of expertise in his field. Mr. Cornelius has conducted over 1,500 traffic engineering studies and has served as a transportation planner for the development of Master Plans for both private firms and public agencies. His educational and professional background has qualified him as an expert in the field of traffic engineering and transportation planning before numerous County and Municipal Planning and Zoning Boards in Maryland, as well as in Pennsylvania, New Jersey and New York.

Job History

1987 - Present

Traffic Engineering Consultant, The Traffic Group, Inc.

1984 - 1987

Traffic Engineering Consultant

1982 - 1984

Civil Engineer, Highway Construction

Educational Background

- B.S. in Civil Engineering with emphasis in Transportation
Pennsylvania State University
- Traffic Engineering Courses
Northwestern University Traffic Institute
Polytechnic Institute of New York

Affiliations

- Certified Professional Traffic Operations Engineer (P.T.O.E.)
- Registered Professional Engineer (P.E.)—DE, MD, NJ, PA, VA
- Institute of Transportation Engineers (I.T.E.)
- National Society of Professional Engineers (N.S.P.E.)
- Urban Land Institute (U.L.I.)
- Maryland Association of Engineers (M.A.E.)
- Consulting Engineers Council of Pennsylvania (CEC/PA)
- American Society of Civil Engineers (A.S.C.E.)

Examples of places where Mr. Cornelius has testified as an expert witness

MARYLAND

City of Annapolis - City Council
Anne Arundel County - Board of Appeals;
Zoning Hearing Examiner
City of Baltimore - City Council; Planning Commission

Baltimore County - County Review Group, Zoning Commissioner,
Board of Appeals; Circuit Court; District Court
Town of Bel Air - Planning Board; Town Commissioners;
Zoning Hearing Examiner
Carroll County - Board of Appeals; County Commissioners;
Planning Board
City of Bowie - Planning Advisory Board; Mayor and City Council
Cecil County - Technical Advisory Committee
Charles County - Board of Appeals
Dorchester County - Board of Appeals
Frederick County - Planning Board; County Commissioners;
Board of Appeals
Harford County - Zoning Hearing Examiner
Howard County - Planning Board; Zoning Board; Board of Appeals
Town of Indian Head - Planning Commission
Montgomery County - Planning Board; Zoning Hearing Examiner;
Board of Appeals
Town of North East - Planning Commission
Prince George's County - Planning Board; County Council
Washington County - Board of Appeals
City of Westminster - Mayor and Common Council
Wicomico County - Board of Zoning Appeals

NEW JERSEY

State Court of Administrative Law
Cumberland County - Manchester Township
Zoning Hearing Board
City of Millville - Planning Commission

PENNSYLVANIA

York County - Manchester Township Zoning Hearing Board
Shrewsbury Borough - Planning Commission

NEW YORK

Town of East Hampton - Planning Commission

THE DIMENSIONS OF PARKING

FOURTH EDITION



*Pat
15*

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

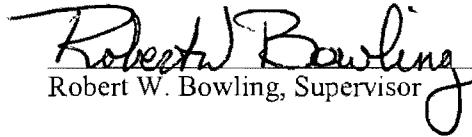
TO: Board of Appeals
400 Washington Avenue, Room 49

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

SUBJECT: *Oella Mills*

DATE: October 7, 2002

I have reviewed the plan to accompany the "Petition for Zoning Variance" for the Oella Mills project and have specifically reviewed the parking layout for the first story (lower and Mezzanine) of the Oella Mills building. It is my understanding that the drive aisles will be as narrow as 17 feet, 7 inches due to structural support columns inside the building. This parking layout is acceptable and will still provide for the safe and efficient circulation of vehicles.


Robert W. Bowling, Supervisor

RWB:RJF:jrb

cc: Edward C. Adams, Jr., Director, The Department of Public Works
Thomas H. Hamer, Deputy Director, The Department of Public Works
File


16

George E. Gavrelis

Vice President



Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21204

Phone 410 296 3333

Fax 410 296 4705

ggavrelis@dmw.com

A Team of Land Planners,

Landscape Architects,

Golf Course Architects,

Engineers, Surveyors &

Environmental Professionals



George Gavrelis is DMW's senior specialist in local planning and zoning. With extensive public-sector leadership service, he has complete knowledge of planning and zoning procedures, as well as detailed requirements and standards of zoning and development regulations. His expertise assures that projects comply with applicable standards and move expediently through the approval process.

George is recognized as an expert witness in Baltimore County planning, zoning, and land use issues, and testifies before the Zoning Commissioner, Board of Appeals, and circuit court.

Significant Projects

Towson Commons
Towson, Maryland

Mays Chapel North
Planned Unit Development
Timonium, Maryland

Caves Valley Golf Club
Baltimore County, Maryland

Hayfields
Baltimore County, Maryland

Land Owners Council,
Reciprocal Regional
Development Agreement
Owings Mills Growth Area
Baltimore County, Maryland

New Density
Residential Zones
Baltimore County, Maryland

The Guide Plan for
Baltimore County, Maryland

Professional Background

Daft-McCune-Walker, Inc.
Towson, Maryland
1984 - Present

Private Planning
Consultant
Towson, Maryland
1982 - 1984

Developers General Corp.
Towson, Maryland
1972 - 1982

Office of Planning and
Zoning, Baltimore County,
Maryland
1951 - 1972
Director, 1963 - 1972

Education

M.A. - City Planning
Harvard University
Graduate School of Design

A.B. - Architectural Sciences
Harvard College

Associations

American Institute of
Certified Planners
Charter Member

American Planning Assoc.

Civic Involvement

The Towson Partnership
Urban Design and Towson
Core Subcommittees

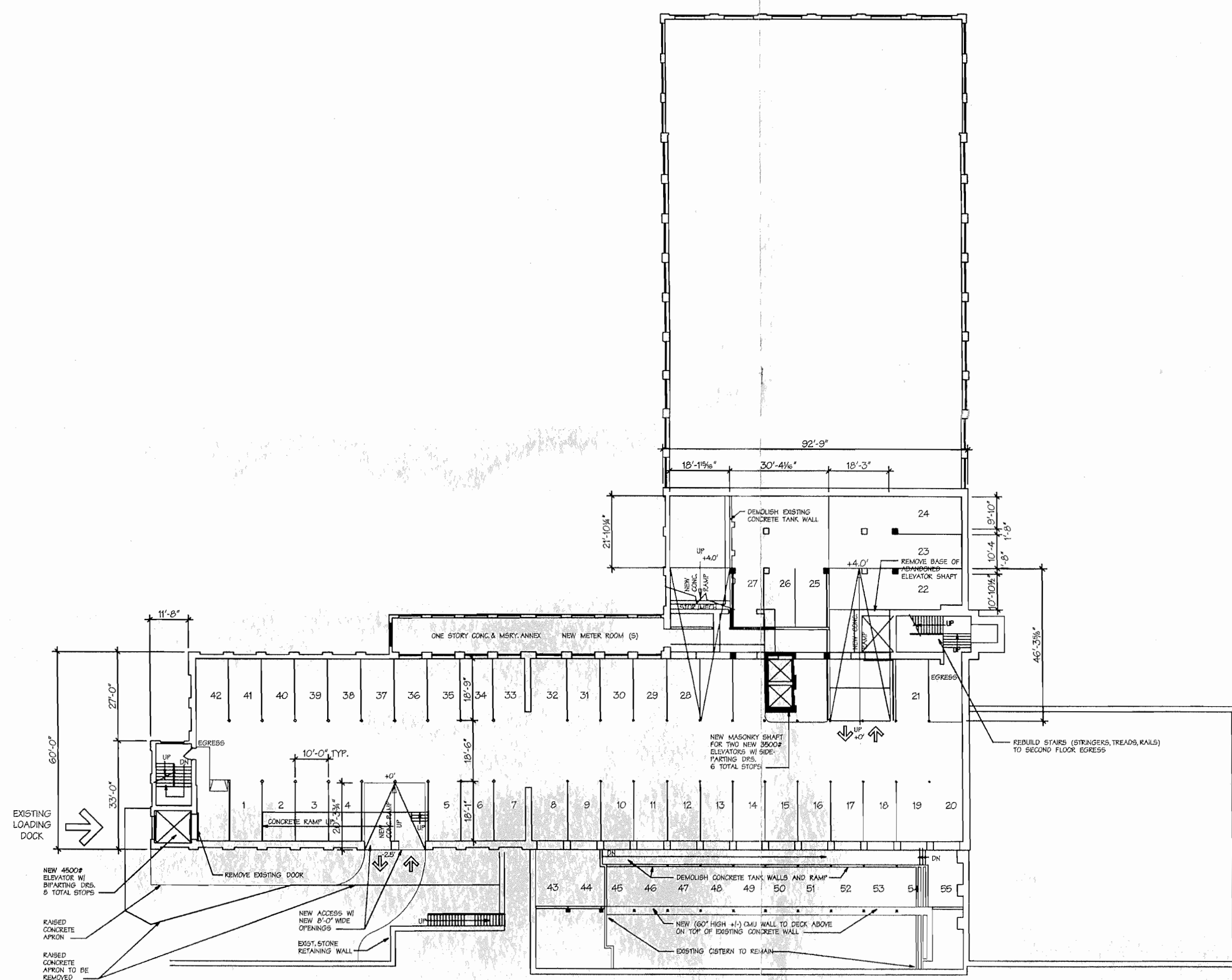
Baltimore County Master
Plan, Strategic Plan 2000
Executive Steering
Committee

Trinity Episcopal Church
Long Range Planning
Committee

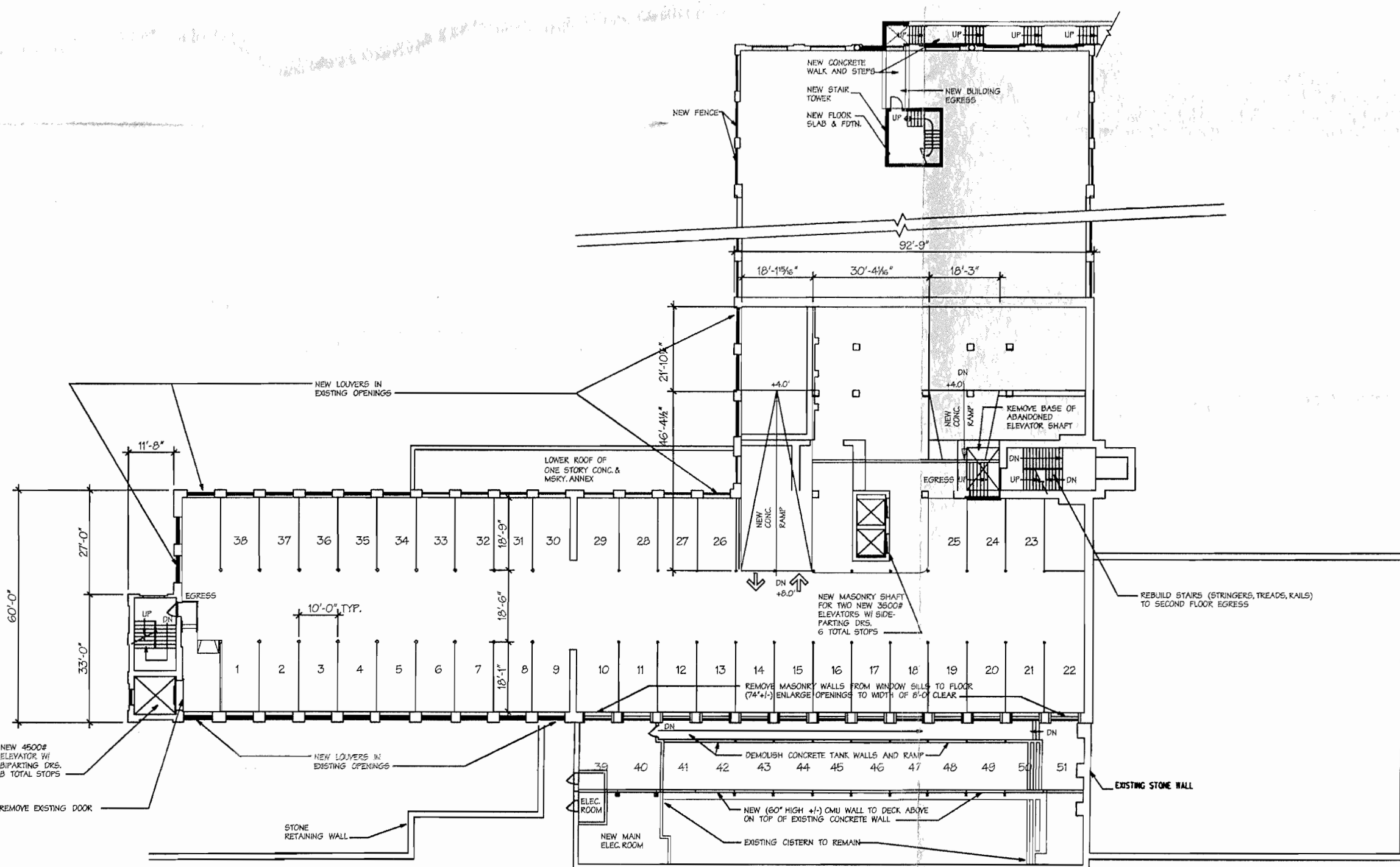
1992 Comprehensive
Zoning Map Guidelines
Advisory Group

Per
1/1

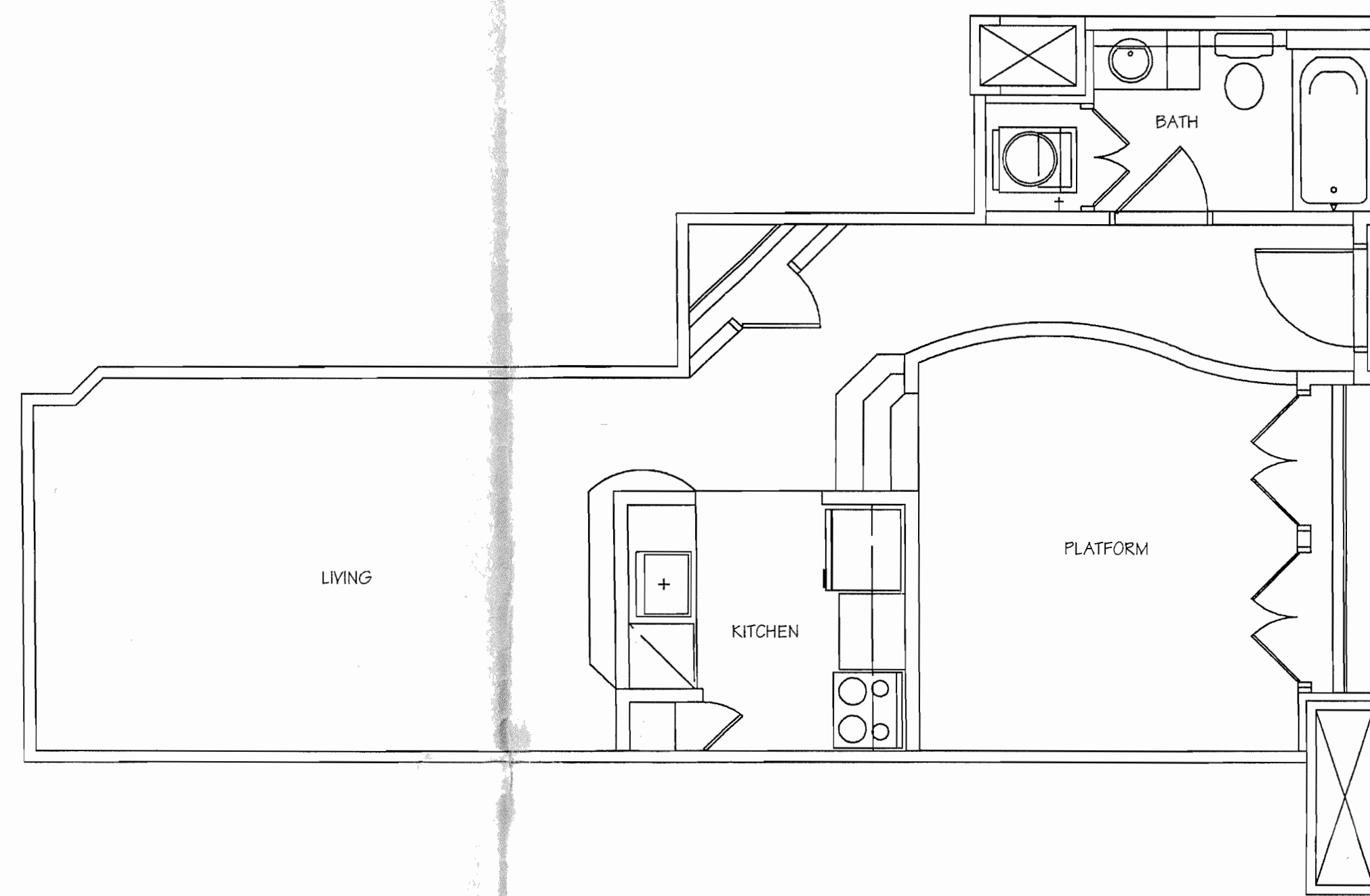
~~DMW~~



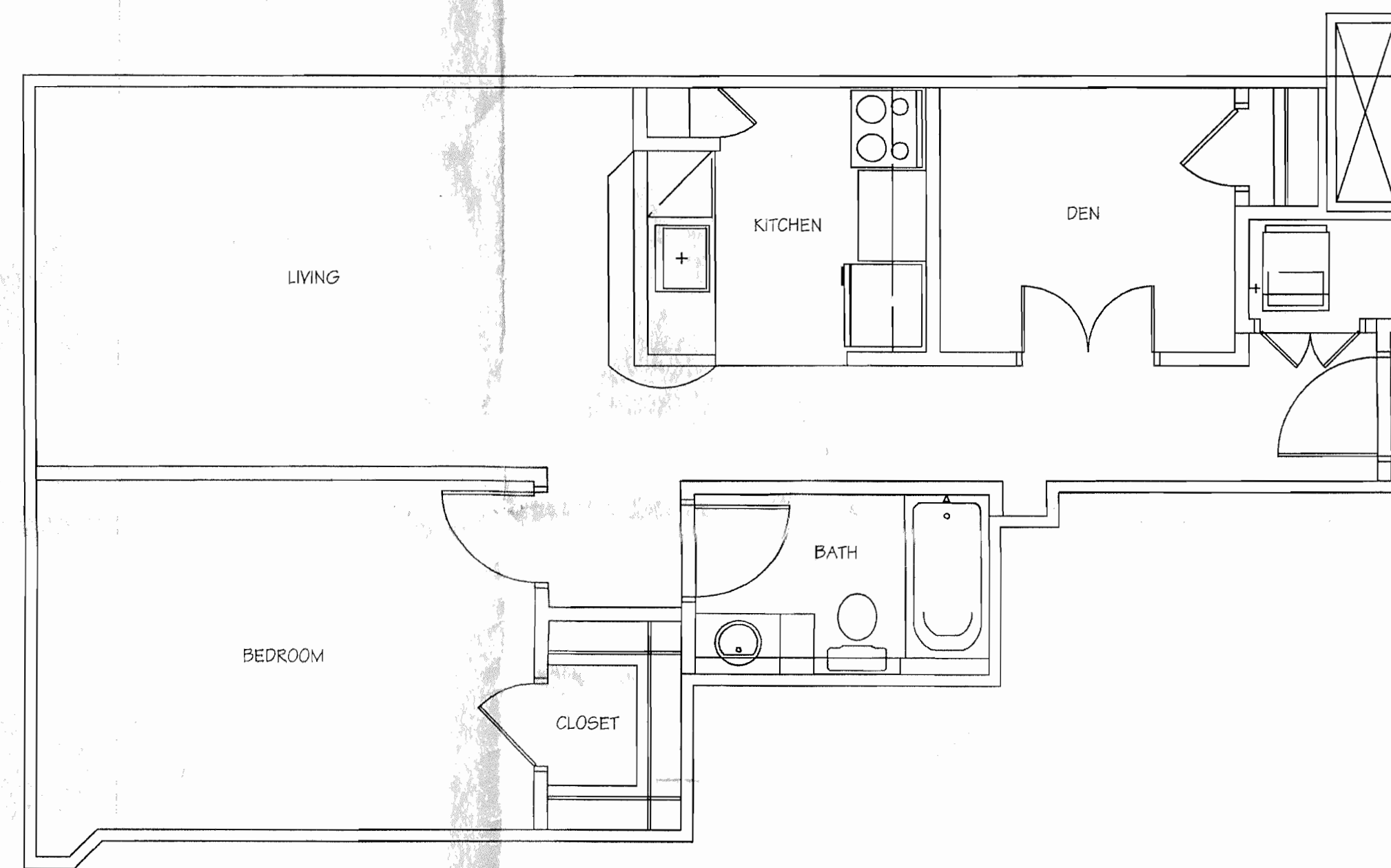
FIRST STORY
LOWER PARKING
SCALE: 1" = 30'



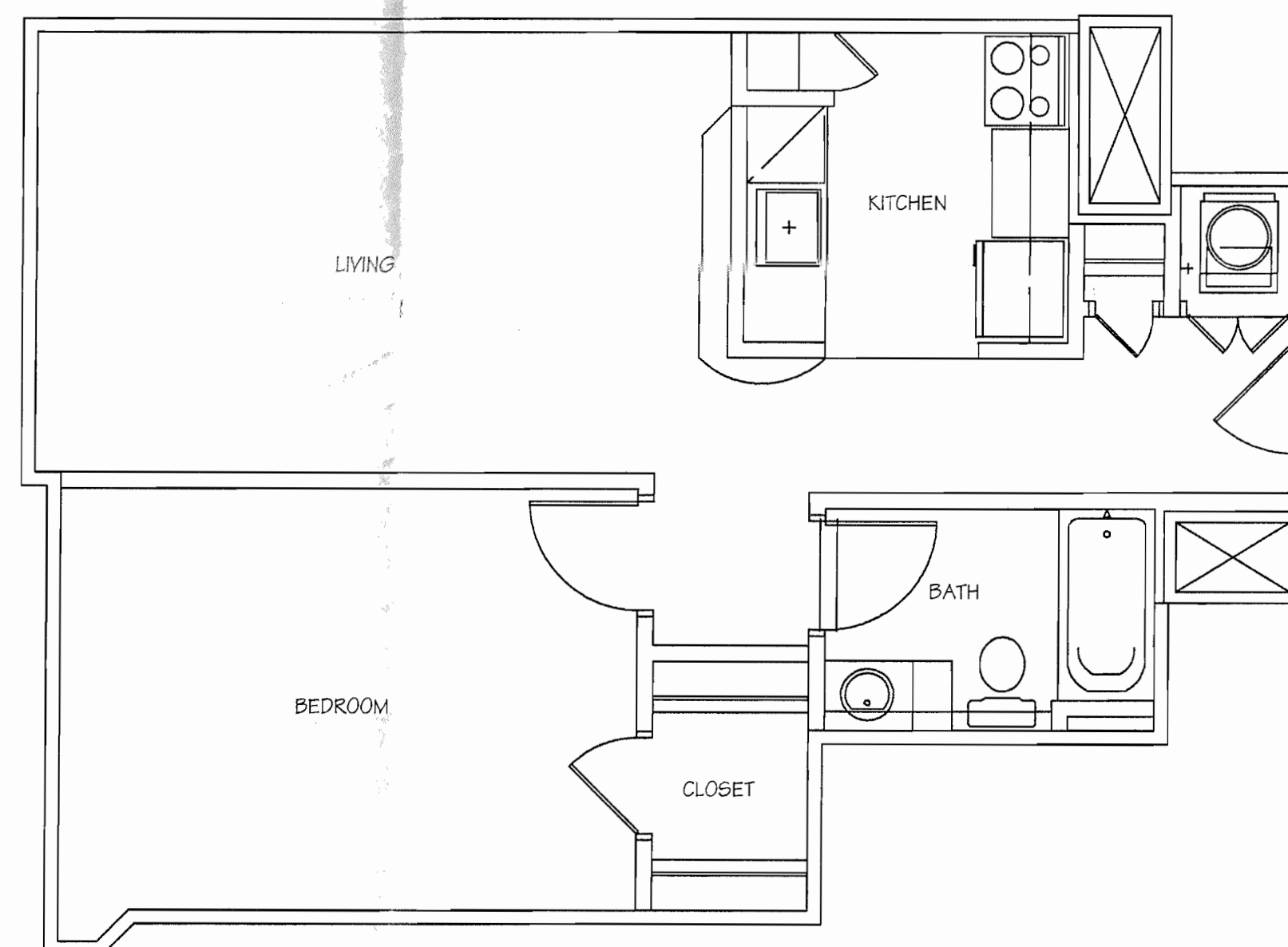
FIRST STORY
MEZZANINE PARKING
SCALE: 1" = 30'



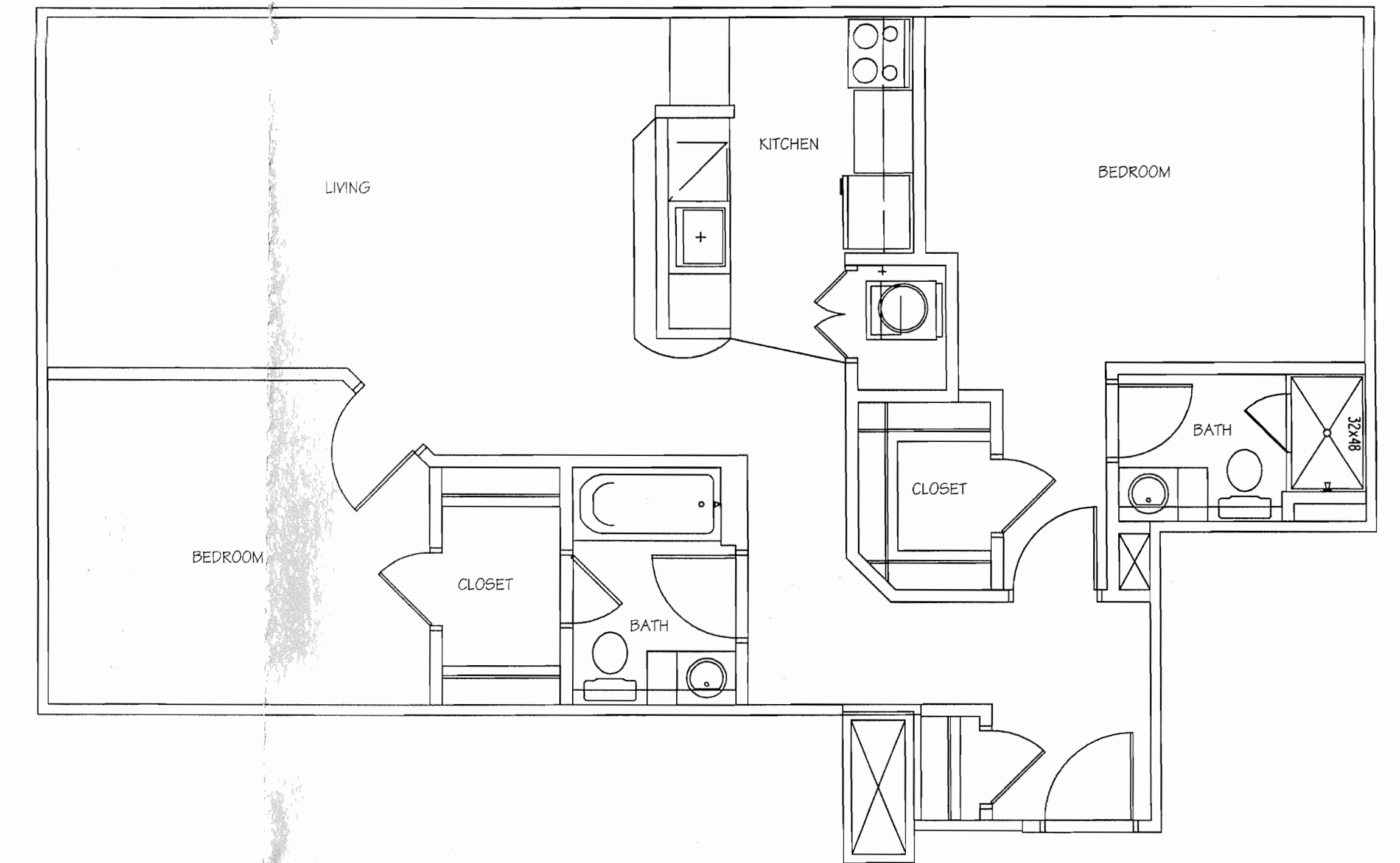
UNIT A5
SCALE: 1/4" = 1'-0"



UNIT C1
SCALE: 1/4" = 1'-0"



UNIT D2
SCALE: 1/4" = 1'-0"



UNIT E1
SCALE: 1/4" = 1'-0"

DATA SOURCES:

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners,
Landscape Architects,
Golf Course Architects,
Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING AND ZONING VARIANCE

1st ELECTION DISTRICT		BALTIMORE COUNTY, MD	
		ISSUE DATES	
		REVIEW:	_____
		BID:	_____
		PERMIT:	_____
		CONSTRUCTION:	_____
		BASE:	KMF
		DRAWN:	KANN
		DESIGNED BY:	KANN
		CHECKED BY:	GVM
		DATE CHECKED:	_____
		SCALE:	AS SHOWN
		PROJECT NO.:	01108.00
		DRAWING:	_____
		2 of 2	

GENERAL NOTES

- OWNER: OELLA MILL, LLP
840 OELLA AVE
ELLICOTT CITY, MD 21043
- DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5803 NICHOLSON LANE
NORTH BETHESDA, MD 20862
- TAX ACCOUNT NO: 16-00-006700
- AREA: 5.73 ACRES
- ZONING: BM-CCC
- CONDOMINIUM DISTRICT: 1.0/2.0/3.0/4.0/5.0/3
- WATERSHED: PATAPSCO SUBWERSHED
- MARYLAND HISTORIC TRUST INVENTORY NO: BA 2376
- THE SITE IS IN THE OELLA NATIONAL REGISTER HISTORIC DISTRICT.
- ALL SOILS ARE MIE, MANOR AND BRANDYWINE, AS SHOWN ON THE BALTIMORE COUNTY SOIL SURVEY.
- THE FOLLOWING ZONING RELIEF WILL BE REQUESTED:

SPECIAL HEARING:
SPECIAL HEARINGS TO APPROVE A WAIVER PURSUANT TO SECTIONS 26-17, 26-17(b), 26-20(a)(6), AND 26-27(b) OF THE BALTIMORE COUNTY CODE TO RENOVATE A HISTORIC STRUCTURE.

VARIANCES:
VARIANCE FROM SECTION 235A.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT APARTMENT WINDOWS FACING A PROPERTY LINE OTHER THAN A STREET LINE TO BE LOCATED AS CLOSE AS 6 FEET IN LIEU OF THE MINIMUM PERMITTED 25 FEET.
VARIANCE FROM SECTION 409A.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT 26 PARKING SPACES TO BE LOCATED SO AS NOT TO ADJOIN OR HAVE DIRECT ACCESS TO AN ABLE.
VARIANCE FROM SECTION 409A.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A MINIMUM WIDTH OF 19.5 FEET FOR TWO-WAY ABLES IN LIEU OF THE MINIMUM REQUIRED WIDTH OF 22 FEET.

12. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO HAZARDOUS MATERIALS ON THIS SITE.
13. A LETTER OF MAP AMENDMENT (LOMA) WILL BE REQUESTED TO REVISE THE FLOOD PLAIN SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) FLOOD INSURANCE RATE MAP (FIRM), PANEL # 240010 0370 B, TO AGREE WITH THE 1980 STUDY PROVIDED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS.

14. ALL SIGNS WILL COMPLY WITH SECTION 450 OF THE BALTIMORE COUNTY ZONING REGULATIONS.
15. THE FOREST CONSERVATION ACT DOES NOT APPLY SINCE NO FOREST CLEARING OR SUBDIVISION IS PROPOSED.

16. LIMITED QUANTITIES OF ASBESTOS-CONTAINING MATERIALS AND LEAD BASED PAINT ARE PRESENT AND CONVERSION TO RESIDENTIAL USE WILL REQUIRE SOME ABATEMENT.
17. ENVIRONMENTAL VARIANCES FOR CONTINUED USE OF EXISTING STRUCTURES AND PROPOSED IMPROVEMENTS IN THE FOREST BUFFER WILL BE REQUESTED.

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE REQ'D	OPEN SPACE PROP.	AVG. DAILY TRIPS	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS W/O EXC. B.C.	71	88.75						
APARTMENTS W/ EXC. B.C.	104	156		0.081 AC.	2.3 AC.	1137.9	N/A	2002
TOTAL	175	244.75	263*	0.081 AC.	2.3 AC.	1137.9		

* - 106 SPACES INSIDE OELLA MILL AND 12 SPACES INSIDE BOILER BUILDING, TOTAL 118

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED	
X		X		Topography and street grades (min 5 ft. contour approximately labeled)
X		X		Slopes greater than 25%
X				100' yr. floodplain
X				Soils mapped according to Soil Surveys, Baltimore County, Maryland
X				Streams, creeks, ponds or other water bodies shown on site and within 200ft. of site boundaries
X				Wetlands
X		X		Forest buffer limits including adjustments for stone ditches and/or erodible soils
X				Land cover on and within 200ft. of site
X	X			Significant regulated plants or wildlife communities
X	X			Wells on site and within 100ft. of site
X	X			Septic on site and within 100ft. of site
X	X			Underground fuel tanks on site and within 100ft. of site
X	X			Soil evaluation tests (per tests) performed YES (X) DATE

EXISTING BUILT CONDITIONS

EXISTING	NOT EXISTING	
X		Locations of existing buildings within 200ft. of site boundaries
X		Location of existing roads within 200ft. of site boundaries
X		Designated historic sites
X		Designated archeological sites
X		Significant view
X		Significant features (epitaphs, trees, buildings, streetscapes, etc.)
X		Land uses on and within 200ft. of site
X		Roads rights-of-way and easements

COUNTY ADOPTED PLANS

EXISTING	NOT EXISTING	IN CONFORMANCE	
X		X	Baltimore Co. Master Plan 1988-2000
X	X		Community or Revitalization Plan(s)
X	X		Recreation and Parks Plan
X	X		Streetscape Plan
X	X		Ordinance Plan
X			Other:

AMENITY OPEN SPACE PROPOSAL

Open Space Type	Acres
Active Open Space	N/A
100 yr Floodplain	1.74 ac
Forest Buffer	0.61 ac
Amenity Areas	N/A
Trails and Connections	N/A
Other	--
Total Provided	2.35 ac
Proposed Ownership	Private/Public

Undeveloped Areas	Acres
Storm Water Management	N/A
Habitat Areas	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 199,637 X 0.2=39,927 S.F. OR 0.91 AC.

SITE DATA

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROPOSED
BM-CCC	5.55 AC	NOT LIMITED	NOT LIMITED	175
DR-3.5	1.18 AC	N/A	N/A	N/A
TOTAL	6.73 AC			175

FOREST BUFFER NOTES

STANDARD NON-DISTURBANCE NOTE:

"THERE SHALL BE NO CLEARING, GRADING, OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENTS, EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

PROTECTIVE COVENANTS NOTE:

"ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

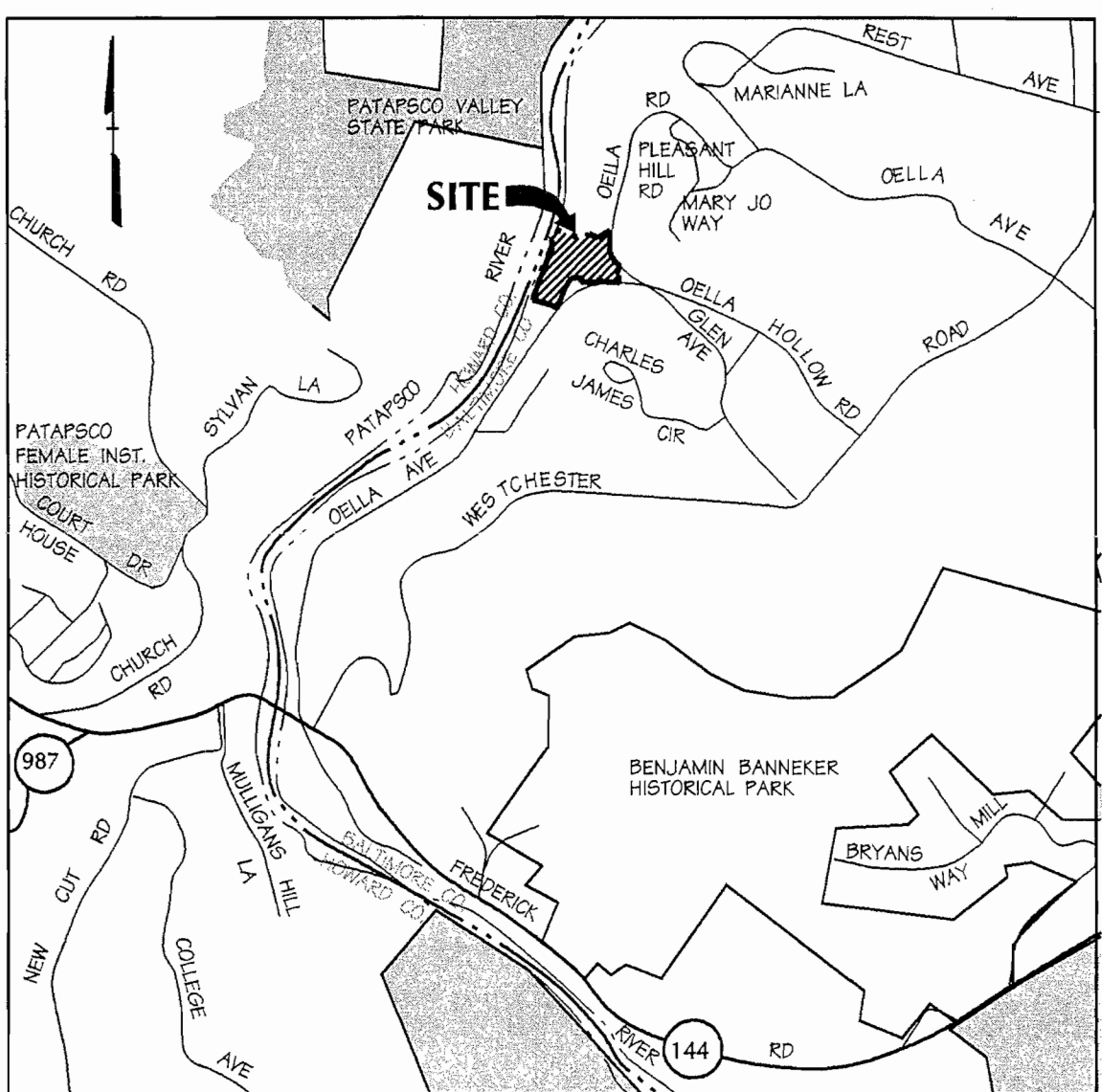
EAST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 3,225 SQ. FT.
PROPOSED IMPERVIOUS = 12,336 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 15,561 SQ. FT.
Rv = 0.95
Wv = 0.2286 AC. FT. = 1,249 FT.³
AF = 80.07 SQ. FT.
AREA OF PERIMETER SAND FILTER = 15.66 SQ. FT. = 5.1 USE 5 FILTERS

WEST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 2,782 SQ. FT.
PROPOSED IMPERVIOUS = 6,247 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 9,029 SQ. FT.
Rv = 0.95
Wv = 0.2066 AC. FT. = 723 FT.³
AF = 46.39 SQ. FT.
AREA OF PERIMETER SAND FILTER = 15.66 SQ. FT. = 2.96 USE 3 FILTERS

THE ENTIRE TREATMENT SYSTEM SHALL TEMPORARILY HOLD 75% OF THE WQ PRIOR TO FILTRATION.



LOCATION MAP

SCALE: 1" = 1000'

LEGEND

- ADJACENT PROPERTY LINE
- SUBJECT PROPERTY LINE
- EX MINOR CONTOUR (1')
- EX MAJOR CONTOUR (5')
- EX CURVE EDGE OF WALK OR PAVING
- UTILITY LINE (OH - OVERHEAD)
(UG - UNDERGROUND)
- RIVER EDGE
- EX RETAINING WALL
- ZONING LINE
- PRELIM 100 YR WATER SURFACE ELEVATION
- 100 YR FLOODPLAIN
D & U EASEMENT
- FOREST BUFFER EASEMENT
- 25' FOREST BUFFER SETBACK

- L.O.D. LIMIT OF DISTURBANCE
- PROP. CURBS & GUTTER
- PROP. 6' HIGH ORNAMENTAL SCREENING
- PROP. MINOR CONTOUR
- PROP. MAJOR CONTOUR
- EX FENCE

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

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- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

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- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECESSED)
- EX RAILROAD

GENERAL NOTES

- OWNER: OELLA MILL, LLC
840 OELLA AVE
ELLICOTT CITY, MD 21043
- DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5809 NICHOLSON LANE
NORTH BETHESDA, MD 20862
- TAX ACCOUNT NO: 16-00-006700
- AREA: 5.73 ACRES
- ZONING: BM-CC
- CONDOMINIUM DISTRICT: 1, CENSUS TRACT: 408.03
- WATERSHED: PATAPSCO SUBWATERSHED
- MARYLAND HISTORIC TRUST INVENTORY NO: BA 2375
- THE SITE IS IN THE DELLA NATIONAL REGISTER HISTORIC DISTRICT.
- ALL SOILS ARE MELANOR AND BRANDYMEAS AS SHOWN ON THE BALTIMORE COUNTY SOIL SURVEY.
- THE FOLLOWING ZONING RELIEF WILL BE REQUESTED:
SPECIAL HEARING:
SPECIAL HEARING TO APPROVE A WAIVER PURSUANT TO SECTIONS 26-17, 26-17(2), 26-203(C)(3), AND 26-275 OF THE BALTIMORE COUNTY CODE TO RENOVATE A HISTORIC STRUCTURE.
VARIANCES:
VARIANCE FROM SECTION 235A.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT APARTMENT WINDOWS FACING A PROPERTY LINE OTHER THAN A STREET LINE TO BE LOCATED AS CLOSE AS 6 FEET IN LIEU OF THE MINIMUM PERMITTED 25 FEET.
VARIANCE FROM SECTION 409A.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT 25 PARKING SPACES TO BE LOCATED SO AS NOT TO ADJOIN OR HAVE DIRECT ACCESS TO AN ASLE.
VARIANCE FROM SECTION 409A.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A MINIMUM WIDTH OF 10.5 FEET FOR TWO-WAY ASILES IN LIEU OF THE MINIMUM REQUIRED WIDTH OF 22 FEET.

- TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO HAZARDOUS MATERIALS ON THIS SITE.
- A LETTER OF MAP AMENDMENT (LOMA) WILL BE REQUESTED TO REVISE THE FLOOD PLAIN SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) FLOOD INSURANCE RATE MAP (FIRM), PANEL # 24002 C070 5, TO AGREE WITH THE 1980 STUDY PROVIDED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS.
- ALL SIGNS WILL COMPLY WITH SECTION 450 OF THE BALTIMORE COUNTY ZONING REGULATIONS.
- THE FOREST CONSERVATION ACT DOES NOT APPLY SINCE NO FOREST CLEARING OR SUBDIVISION IS PROPOSED.
- LIMITED QUANTITIES OF ASBESTOS-CONTAINING MATERIALS AND LEAD BASED PAINT ARE PRESENT AND CONVERSION TO RESIDENTIAL USE WILL REQUIRE SOME ABATEMENT.
- ENVIRONMENTAL VARIANCES FOR CONTINUED USE OF EXISTING STRUCTURES AND PROPOSED IMPROVEMENTS IN THE FOREST BUFFER WILL BE REQUESTED.

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE (SQ. FT.)	OPEN SPACE (AC.)	Avg. DAILY TRIPS	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS (NO ENG. B.R.)	71	86.75						
APARTMENTS (W/ ENG. B.R.)	104	156		0.88*	2.3 AC.	1375	N/A	2002
TOTAL	175	244.75	156*	0.88*	2.3 AC.	1375		

* 106 SPACES INSIDE OELLA MILL AND 12 SPACES INSIDE ROLLER BUILDINGS, TOTAL 118

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED	DESCRIPTION
X		X		Topography and street grades (min. 5 ft. below appropriate datum)
X		X		Slopes greater than 25%
X				100 yd floodplain
X				Soils mapped according to Soil Survey, Baltimore County, Maryland
X				Streams, creeks, ponds or other water bodies shown on site and within 200 ft. of site boundaries
X				Wetlands
X		X		Forest buffer limits including adjustments for forest types and/or wooded site
X				Land cover on and within 200 ft. of site
X				Significant regulated plants or wildlife communities
X				Wells on site and within 100 ft. of site
X				Septic on site and within 100 ft. of site
X				Underground fuel tanks on site and within 100 ft. of site
X				Soil evaluation tests (per tests) performed YES DATE

EXISTING BUILT CONDITIONS

EXISTING	NOT EXISTING	DESCRIPTION
X		Locations of existing buildings within 200 ft. of site boundaries
X		Location of existing roads within 200 ft. of site boundaries
X		Designated historic sites
X		Designated archaeological sites
X		Significant views
X		Significant structures (locations known buildings, structures, etc.)
X		Land uses on and within 200 ft. of site
X		Public utility lines and easements

COUNTY ADOPTED PLANS

EXISTING	NOT EXISTING	CONFORMANCE	DESCRIPTION
X		X	Baltimore Co. Master Plan 1989-2000
X		X	Community or Redevelopment Plan(s)
X		X	Recreation and Parks Plan
X		X	Streetscape Plan
X		X	Other

AMENITY OPEN SPACE PROPOSAL

Open Space Type	Acres
Active Open Space	N/A
100 yd Floodplain	1.75 ac
Forest Buffer	0.88 ac
Amenity Area	N/A
Trails and Connections	N/A
Other	--
Total Provided	2.63 ac
Proposed Ownership	Private/Public

Undeveloped Areas	Acres
Storm Water Management	N/A
MOAGRA Areas	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 192,637 S.F. (2.2-35,527 S.F. OR 0.88* AC.)

SITE DATA

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROVIDED
BM-CC	5.55 AC.	NOT LIMITED	NOT LIMITED	175
DR-3.5	15 AC.	N/A	N/A	N/A
TOTAL	5.73 AC.			175

FOREST BUFFER NOTES

STANDARD NON-DISTURBANCE NOTE:

"THERE SHALL BE NO CLEARING, GRADING, OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENTS EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

PROTECTIVE COVENANTS NOTE:

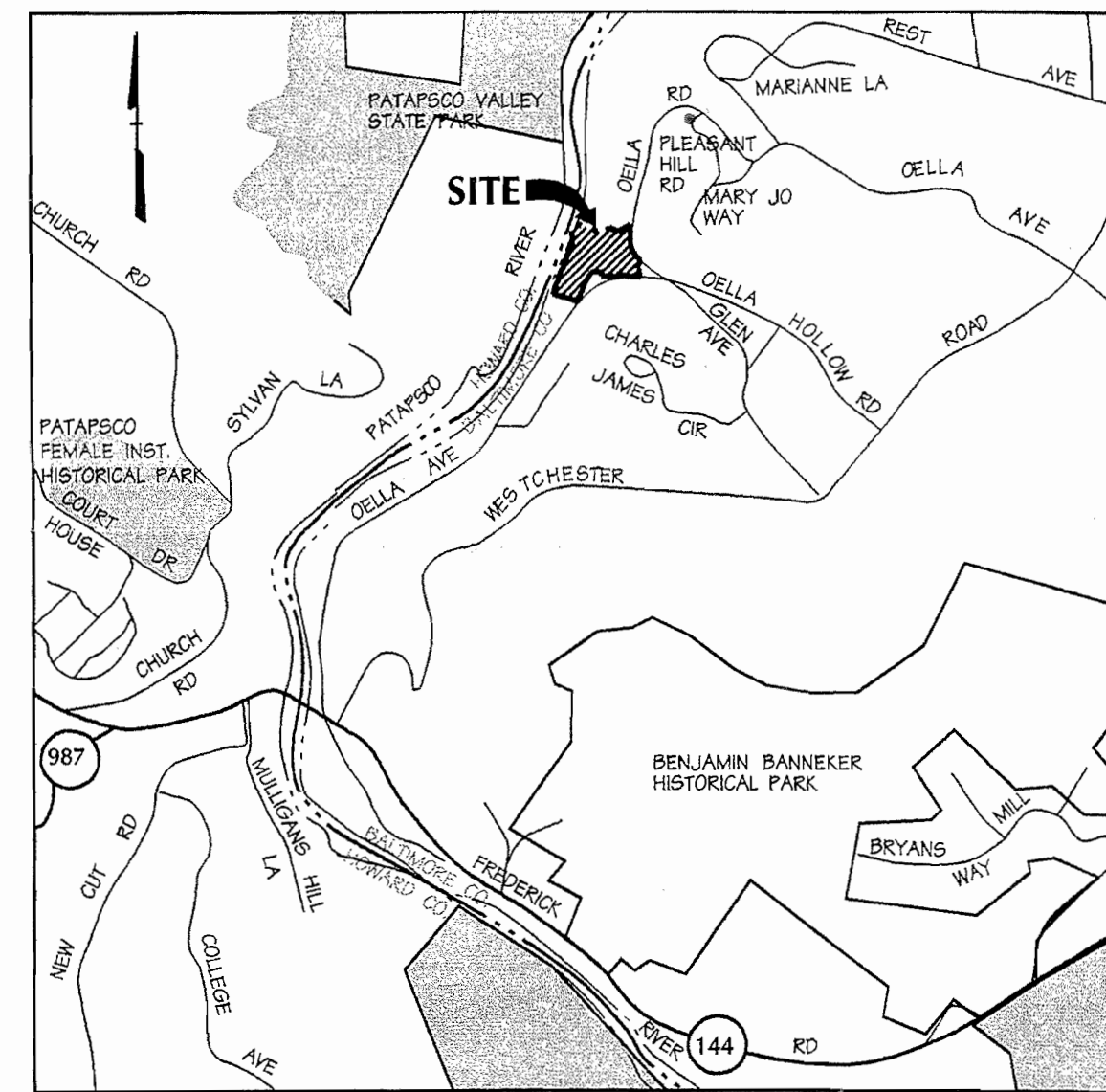
"ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESPECT DISTURBANCE AND USE OF THESE AREAS."

EAST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 3,228 SQ. FT.
PROPOSED IMPERVIOUS = 12,536 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 15,764 SQ. FT.
RV = 0.95
WQV = 0.086 AC. FT. = 1,248 FT.³
AF = 80.07 SQ. FT.
AREA OF PERIMETER SAND FILTER = 15.66 SQ. FT.
80.07 SQ. FT. / 15.66 = 5.1 USE 5 FILTERS

WEST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 2,782 SQ. FT.
PROPOSED IMPERVIOUS = 6,347 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 9,129 SQ. FT.
RV = 0.95
WQV = 0.066 AC. FT. = 723 FT.³
AF = 40.39 SQ. FT.
AREA OF PERIMETER SAND FILTER = 15.66 SQ. FT.
40.39 SQ. FT. / 15.66 = 2.56 USE 3 FILTERS
THE ENTIRE TREATMENT SYSTEM SHALL TEMPORARILY HOLD 75% OF THE WQV PRIOR TO FILTRATION.



LOCATION MAP

SCALE: 1" = 1000'

LEGEND

- ADJACENT PROPERTY LINE
- SUBJECT PROPERTY LINE
- EX. MINOR CONTOUR (1')
- EX. MAJOR CONTOUR (5')
- EX. CORNER OF WALK OR FENCE
- UTILITY LINE (ON - OVERHEAD) (UG - UNDERGROUND)
- RIVER EDGE
- EX. RETAINING WALL
- ZONING LINE
- PRELIM. 100 YR. WATER SURFACE ELEVATION
- 100 YR. FLOODPLAIN D & U EASEMENT
- FOREST BUFFER EASEMENT
- 25' FOREST BUFFER SETBACK

- L.O.D. LIMIT OF DISTURBANCE
- PROP. CURB & GUTTER
- PROP. & HIGH ORNAMENTAL SCREENING
- 100' PROP. MINOR CONTOUR
- 200' PROP. MAJOR CONTOUR
- EX. FENCE
- EXISTING STRUCTURE
- SURFACE PARKING SPACES
- COVERED PARKING SPACES (RECOVERED)
- EX. RAILROAD

LIMIT OF DISTURBANCE = 1.53 AC. ± (666,872.24 SF)

DMW
DaR-McCune-Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21206
(410) 296-3333
Fax 296-4705

A Team of Land Planners,
Landscape Architects,
Golf Course Architects,
Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

PLAN TO ACCOMPANY PETITION FOR
SPECIAL HEARING AND ZONING VARIANCE

1st ELECTION DISTRICT BALTIMORE COUNTY, MD

DATE	BY	REVISIONS	ISSUE DATES
			REVIEW: _____
DATE	BY	REVISIONS	PERMIT: _____
			CONSTRUCTION: _____
DATE	BY	REVISIONS	BASE: AJS
			DRAWN: LME
DATE	BY	REVISIONS	DESIGNED: KANN
			CHECKED BY: DM
DATE	BY	REVISIONS	DATE CHECKED: 4/16/02
			SCALE: 1"=30'
DATE	BY	REVISIONS	PROJECT NO: 01108.00
			DRAWING: _____

1 of 2

Not Mar 22 15:09:18 2002 H:\010\0108\0108\0108.dwg

ADJACENT PROPERTY OWNERS

LOT NO.	ADDRESS	OWNER	TAX ACCT. NO.	DEED REF.
1	891 OELLA AVENUE	HISTORIC OELLA LIMITED PARTNERSHIP	012300008127	
2	879 OELLA AVENUE	ROBERT & LISA BOTE	012300008128	150901266
3	877 OELLA AVENUE	CHRISTOPHER D. HARSHMAN	012300008129	15082178
4	875 OELLA AVENUE	HEATHER L. ZAHN	012300008130	149641605
5	873 OELLA AVENUE	CHRISTOPHER A. ROE	012300008131	143021108
6	871 OELLA AVENUE	ANDREAS O. WALTER & RACHEL MERRITT	012300008132	156681411
7	720 MARY JO WAY	WENDY A. WYATT & BRUCE L. ELLIOTT	012200011957	106931219
1	787 OELLA AVENUE	CHARLES L. WAGANDT	012300012472	15413777
2	783 OELLA AVENUE	ALEXANDRA C. CLARK	012200011958	143461655
7	781 OELLA AVENUE	CHARLES L. WAGANDT	012200011959	
67	780 OELLA AVENUE	STEPHEN P. SCHREINER	012200011332	156511655
66	778 OELLA AVENUE	KIMBERLY D. BRYAN	012200011331	1531216449

DATA SOURCES

1. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTA/ASME SURVEY OF OELLA MILL BY GREENHORN & OVARA DATED 10/10/01.
2. OFF SITE TOPOGRAPHY SUPPLEMENTED BY DMW FIELD VISIT DATED 11/01/02 AND HOWARD COUNTY TOPOGRAPHY 03/1983.
3. FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.P.W. DATED 1980.
4. DATING MARYLAND COORDINATE SYSTEM, HORIZONTAL NAD 83, VERTICAL NAVD 83.
5. EXISTING PUBLIC UTILITIES FROM 3RD REVISED CRG OF OELLA MILL APPROVED 4/21/92.

Oella Avenue

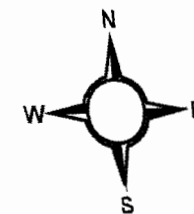
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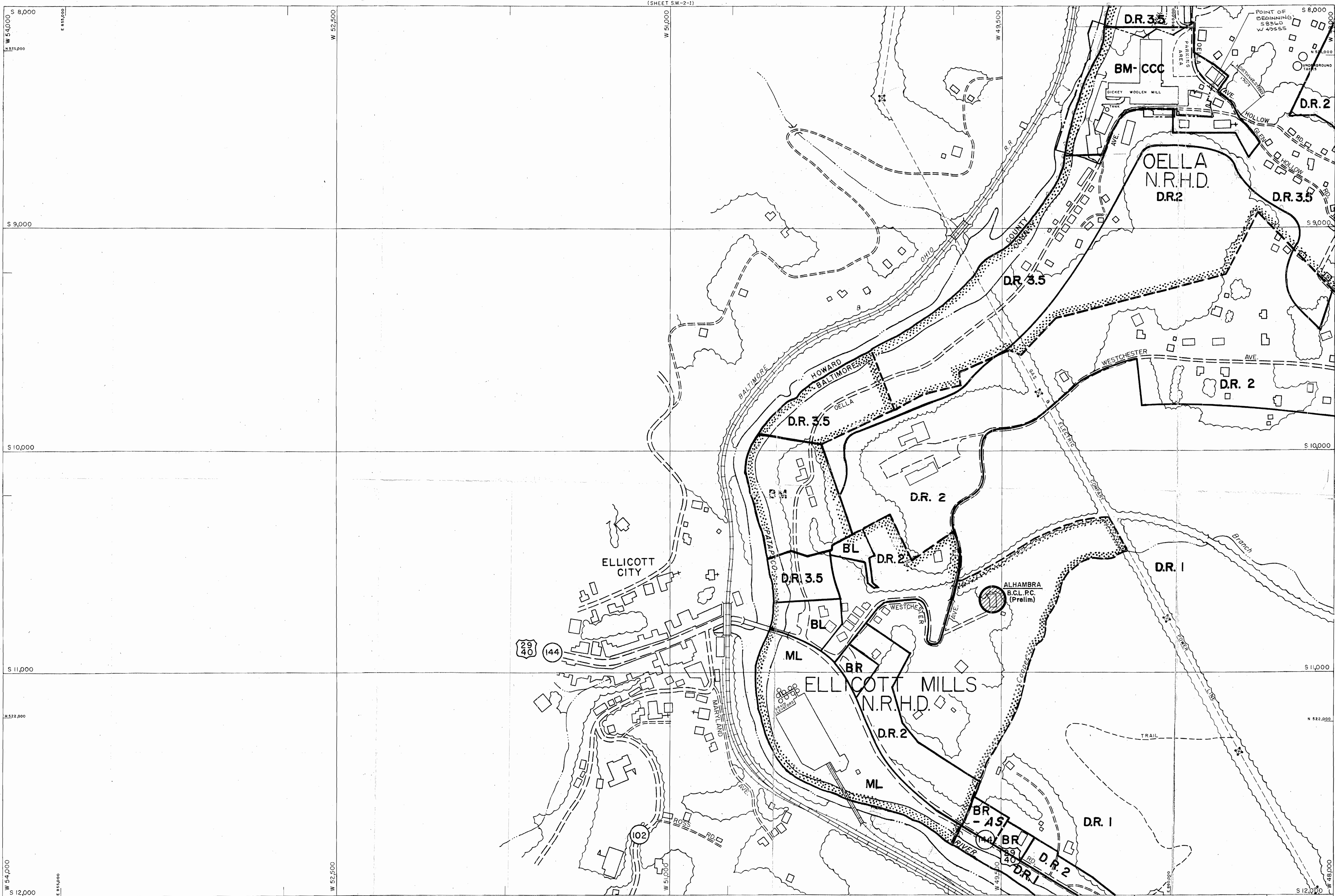
- Roads
 - NWI Wetland Classification U
 - Vegetation
 - Hydrography
 - Structures
 - Transcommunication Lines
 - Contours
- 3000
3010
3020
3030
3040
3050
3060
3070
3080



Produced
Date of
October

900 1200 Feet





H-NW
H-SW

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

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

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE 1" = 200' ±	LOCATION ELICOTT CITY	SHEET S.W. 3-1
DATE OF PHOTOGRAPHY JANUARY 1986		

SW 3 1

#412

110300

PROTESTANTS PC EXHIBITS

Oella Avenue

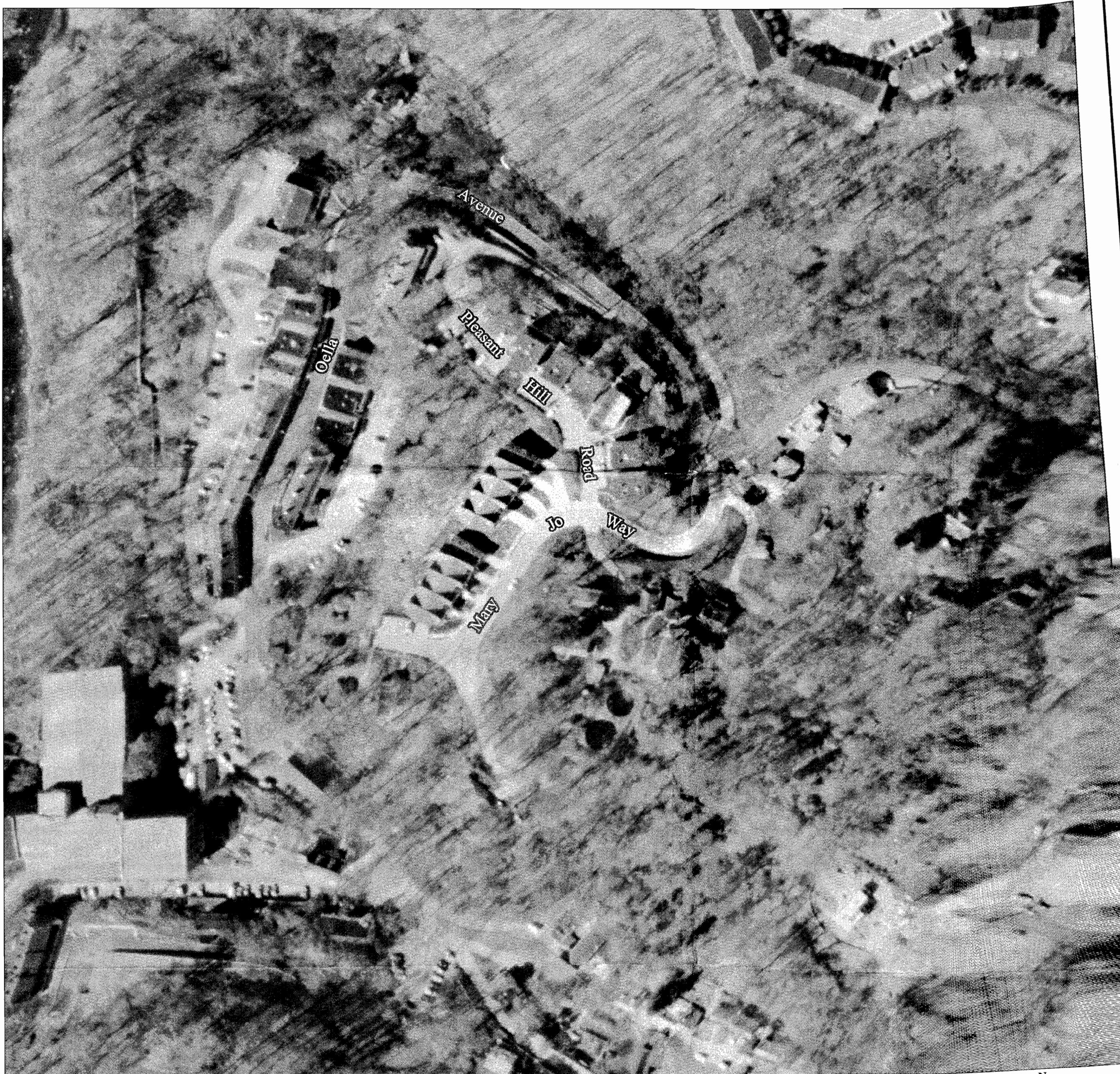


Produced by Baltimore County GIS Services Unit
Copyright 2001
VARGIS LLC Herdon, Virginia
All Rights Reserved
October 7, 2002

0 150 300 600 900 1,200 Feet



Oella Avenue



HENRY BERGER III

UNIVERSITY OF KENTUCKY
BACHELOR OF ARCHITECTURE

LEXINGTON, KY
1994

SANDERS DESIGNS, P.A.
PROJECT MANAGER

1997-PRESENT

AEC SOLUTIONS
DESIGN VISUALIZATION ARCHITECT

1994 - 1997

Design Visualization Architect. Facilitated the use of ArchiCAD and other computer applications in Mid-Atlantic A/E firms, including training and technical support. Pioneered the Mentor program as a way of smoothing the transition of a three dimensional process into architectural practice. Created numerous design simulations some of which were published, broadcast and formatted for interactive CD-ROM presentations. Integrated network systems to enhance the flow of work, quality of design and efficiency of construction.

RICHTER, CORNBROOKS GRIBBLE, INC.
INTERN ARCHITECT

SUMMER 1994

Intern. Built 3-D computer models to enable design visualization and created animation sequences for presentation. Worked in both CD and DD design phases and gathered site data for document verification

PROBST-MASON INC. ARCHITECTS.

Summers 1990-91

Intérn. Drafted construction documents for bid, built models and reviewed shop drawings, worked with Windows and AutoCAD software, also prepared presentation drawings for client consultations.

Recent Experience:

AMPORTS INTERNATIONAL

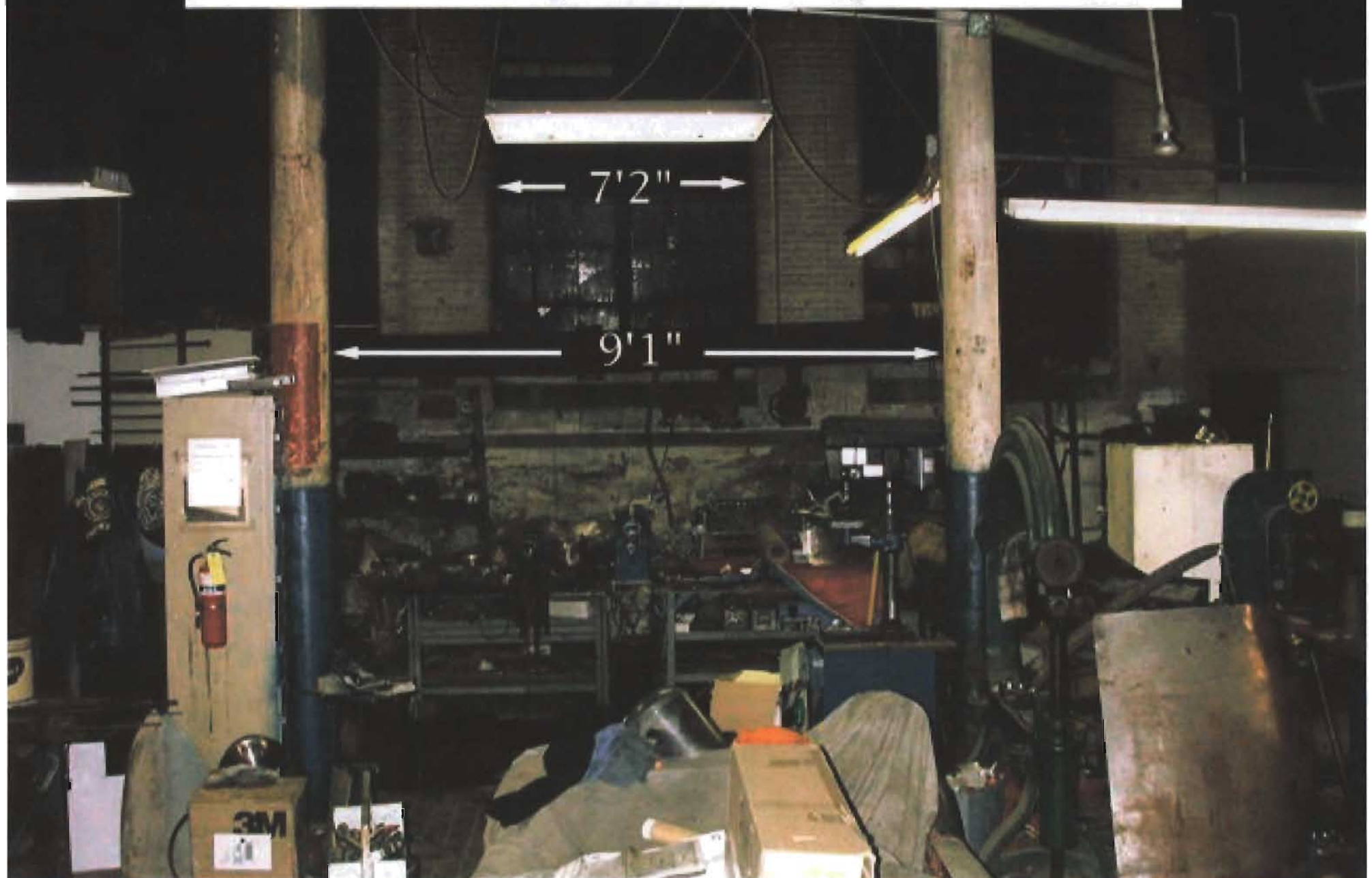
On going project manager for multiple car processing facilities for the Port of Baltimore.



Distance between poles in aisle
of lower level parking.

17'7"

Lower level parking space 10 from the poles to the window, space 45 through the window.

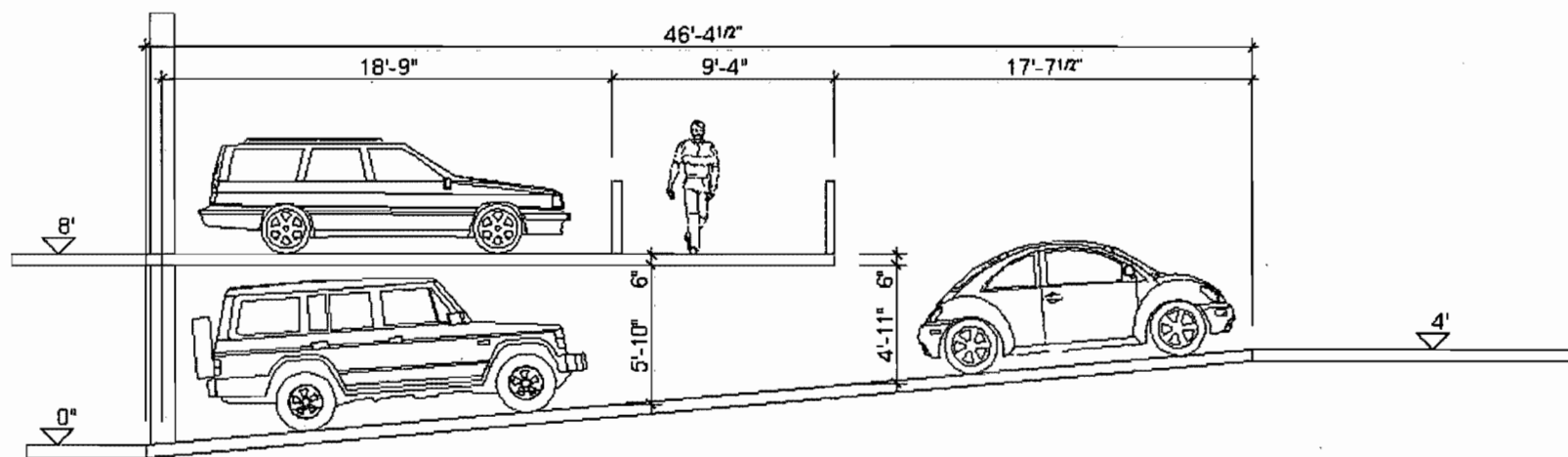




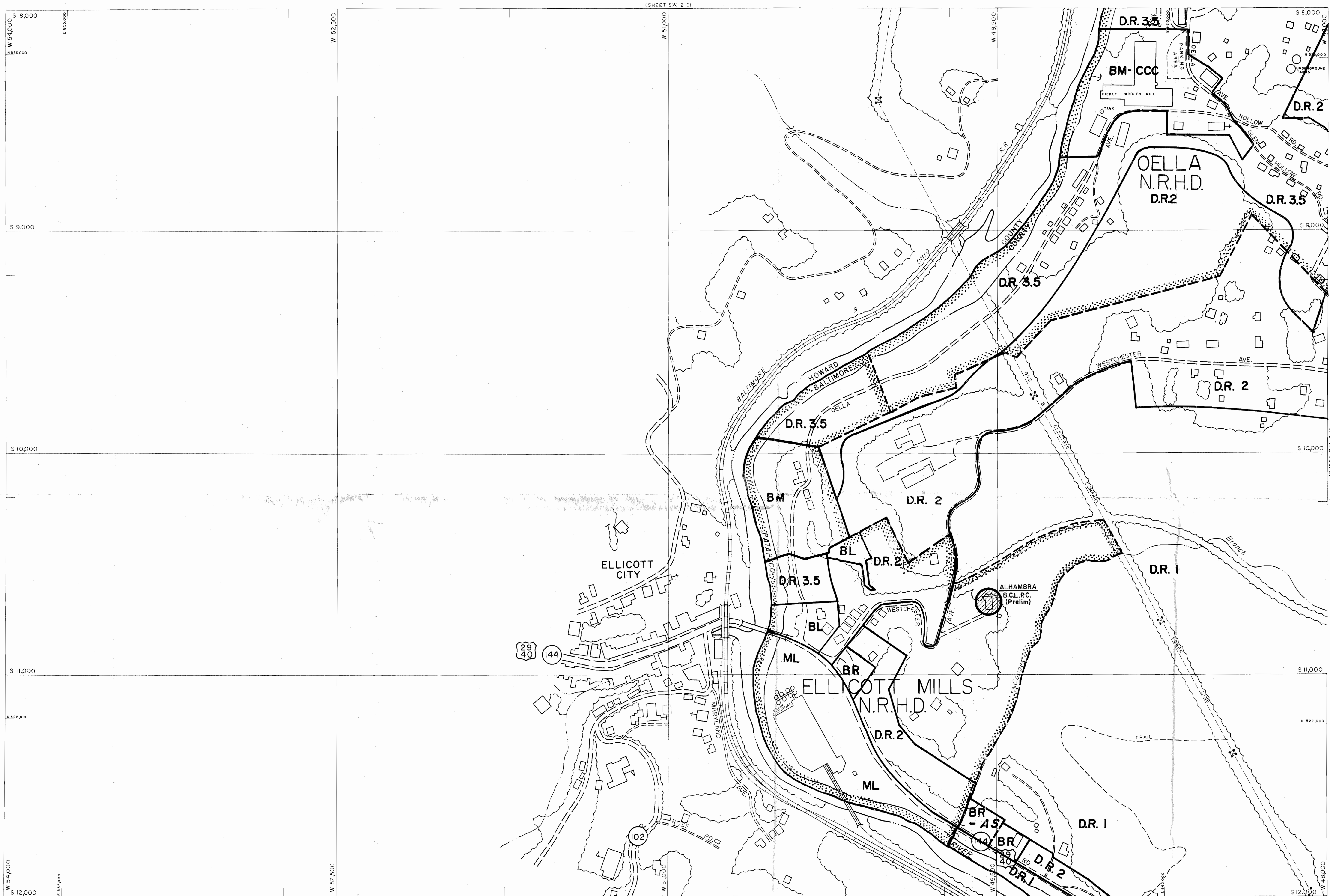
Photo



PL 5



PC
6



H-NW H-SW THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210	2000 COMPREHENSIVE ZONING MAP ADOPTED by THE BALTIMORE COUNTY COUNCIL OCTOBER 10, 2000 Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00. <i>Joseph Bartolotta</i> Chairman, County Council	BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP	SCALE 1" = 200' ± DATE OF PHOTOGRAPHY JANUARY 1986	LOCATION ELLICOTT CITY	SHEET S.W. 3-1
--	--	---	--	---------------------------------------	-------------------------------

SW 31

I-498
02-412-SPHXA



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 01 Account Number - 1600006700

Owner Information

Owner Name: OELLA MILL LLP
Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 840 OELLA AVE
 ELLICOTT CITY MD 21043-4730
Deed Reference: 1) / 6073/ 674
 2)

Location & Structure Information

Premises Address OELLA AVE
Zoning BLCCC
Legal Description 5.84 AC N & WS
 OELLA AV
 2800 NW WESTCHESTER AV

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
100	8	1089					82	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		5.84 AC	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2000	Phase-in Assessments As Of 07/01/2002	As Of 07/01/2003
Land:	228,200	228,200		
Improvements:	670,400	670,400		
Total:	898,600	898,600	898,600	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller: PATAPSCO ASSOCIATES	Date: 02/01/1996	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 6073/ 674	Deed2:
Seller: FRANK G W MCKITT RICK CO	Date: 09/10/1979	Price: \$150,000
Type: IMPROVED ARMS-LENGTH	Deed1: / 6073/ 674	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Oella Avenue

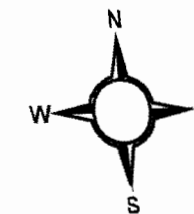
Legend

-  Roads
-  NW1 Wetland Classification U
-  Vegetation
-  Hydrography
-  Structures
-  Transcommunication Lines
-  Contours
- 3000
- 3010
- 3020
- 3030
- 3040
- 3050
- 3060
- 3070
- 3080



Produced
Date of
October

900 1200 Feet



HENRY MAESER, IV, A.I.A.

EDUCATION:

VIRGINIA POLYTECHNIC INSTITUTE VIRGINIA
MASTERS OF ARCHITECTURE 1980

VIRGINIA POLYTECHNIC INSTITUTE VIRGINIA
BACHELOR OF ARCHITECTURE 1978

PROFESSIONAL EXPERIENCE

HENRY MAESER, IV ARCHITECTS, P.A., INC.
OWNER-PRINCIPAL ARCHITECT JANUARY 2002-PRESENT

SANDERS DESIGNS
ARCHITECT AUGUST 1999 – DECEMBER 2001

AWARD WINNING RESTORATION OF HISTORIC DUPLEX IN OELLA WITH
CHARLES WAGANDT OF THE OELLA COMPANY ALONG OELLA AVENUE. 2000

HISTORIC RESTORATION OF THE MT. DESALES INFIRMARY BUILDING
WORKED EXTENSIVELY WITH BALTIMORE COUNTY LANDMARK PRESERVATION
COMMISSION AND MARYLAND HISTORIC TRUST 2000

HENRY MAESER, IV ARCHITECTS, P.A., INC.
OWNER-PRINCIPAL ARCHITECT 1992-1999

THE MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
CHIEF ARCHITECT 1980-1992

HISTORIC RESTORATION OF THE WOODLAWN MANSION IN SANDY SPRING
MARYLAND. PERIOD FEDERAL STYLE MANOR HOME DATED 1806. WORKED
WITH THE NATIONAL HISTORIC TRUST, MARYLAND HISTORIC TRUST AND
MONTGOMERY COUNTY HISTORIC PRESERVATION COMMITTEE.

LICENSED ARCHITECT, MARYLAND 8754

AMERICAN INSTITUTE OF ARCHITECTS

MASONRY INSTITUTE OF MARYLAND EXCELLENCE OF DESIGN AWARD FOR 1986

PC 10

A hand-drawn floor plan of a large hall, likely a parking garage or a large indoor arena. The plan is divided into several sections by ramps and walkways. The main area is filled with numbered stalls or parking spaces, arranged in rows. The numbering starts from the bottom right and goes up to 35. The plan includes several ramps labeled "RAMP" with arrows indicating the direction of travel (UP or DN). There are also stairs and a "WALKWAY ABOVE" indicated. The drawing is done in a simple, sketchy style with lines and arrows.

FIRST STORY
LOWER PARKING
scale: 1" = 10'-0"

EXHIBITS

20020412

OELLA MILL LLP

02-412-SPHA

840 Oella Avenue, Ellicott City, MD 21043

and

OELLA MILL PROPERTY

CBA-02-137

DEVELOPMENT PLAN

~~FILE 3 OF 4~~

~~THIS FILE CONTAINS PETITIONER'S EXHIBITS ONLY~~

LA MILL LLP

Avenue, Ellicott City, MD 21043

02-412-SPHA

LA MILL PROPERTY

CBA-02-137

MENT PLAN

3 OF 4

3 CONTAINS PETITIONER'S EXHIBITS ONLY

6

PROTESTANT'S EXHIBITS

PROTESTANTS' EXHIBITS

Exhibit No.

- | | |
|---------------|--|
| ✓1 | Flood Insurance Rate Map |
| ✓2 | School Impact Analysis |
| ✓3A | Glen RD 1/10 mi. east of Mill (photo) |
| ✓3B | Hollow RD 1/10 mi. east of Mill (photo) |
| ✓3C | Granite Hill "S" (photo) |
| ✓3D | Oella Ave. 2/10 mi. north of Mill (photo) |
| ✓3E | Granite Hill 3/10 mi. south of Mill (photo) |
| ✓4A, 4B, & 4C | School Projections from Mr. Murphy |
| ✓5A | Photo of Mill |
| ✓5B | Photo of curve in road to south of Mill |
| ✓5C | Photo of straight road |
| ✓6 | Exhibit 4 (w/markings from Murphy) |
| ✓7 | Exhibit 5(w/markings from Murphy) |
| ✓8 | Exhibit from Cornelius (2-way, 2-lane w/circleing from Murphy) |
| ✓9 | CV from K. Mammen Daniel |
| ✓10 A-G | Photographs on Board |
| ✓11 | Daniel Report (4/04/02) |
| ✓12 | SHA-Baltimore County requirements for TIS(not accepted)
FOR ID ONLY |
| ✓13 | ADC Map of Oella |
| ✓14 | SWM photos (13) |
| ✓15 | (for ID only) SWM plans (marked only) |
| ✓16 | packet to FEMA |
| ✓17 | Henry Berger III CV |
| ✓18 | Development Plan |
| ✓19 | Photos |
| ✓20 | ID only Drawings |
| ✓21 A-E | Photos |
| ✓22 | Other Forest City Apts |
| ✓23 | Osha Docs ID only |

Keith Kelley, R.S.
Natural Resource Specialist - Environmental Impact Review
Bureau of Engineering Services

Baltimore County
Department of Environmental Protection
and Resource Management
401 Bosley Avenue, Suite 416
Towson, Maryland 21204-4488

(410) 887-3980, Fax: (410) 887-4804



APPROXIMATE SCALE

1000 0 1000 FEET

DUTTON AVENUE

ZONE A

MARBETH ROAD

MAPLE AVE

ZONE C

ZONE C

ZONE A

psco State Park
A NOT INCLUDED

Prot
No
1

I, Keith Kelley certify that this
document came from Balt Co
DEPRM.

Keith Kelley

5/9/02

determine if flood insurance is available in this community,
contact your insurance agent, or call the National Flood Insurance
Program at (800) 638-6620, or (800) 424-8872.

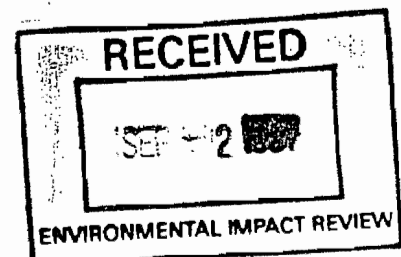
NATIONAL FLOOD INSURANCE PROGRAM

FIRM FLOOD INSURANCE RATE MAP

BALTIMORE COUNTY,
MARYLAND
(UNINCORPORATED AREAS)

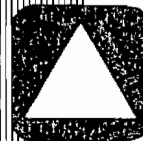
PANEL 370 OF 575

(SEE MAP INDEX FOR PANELS NOT PRINTED)



COMMUNITY-PANEL NUMBER
240010 0370 B

EFFECTIVE DATE:
MARCH 2, 1981



federal emergency management agency
federal insurance administration

SCHOOL IMPACT ANALYSIS

Form 2

Projected Pupil Yield by Development Type Office of Planning

Project Name Oella Mill Property

PDM Project Number 01108.00

Filing Date 2/8/02

Election District 1

Dwelling Type	Projected Number of Pupils			
	Number of Units	Elementary School	Middle School	High School
Single Family Detached				
Townhouse (sale)				
Townhouse (rent)				
Semi-Detached				
Condominium				
Apartments				
1 Bedroom	175	0	1	2
2 Bedroom				
3 Bedroom				
Totals*				

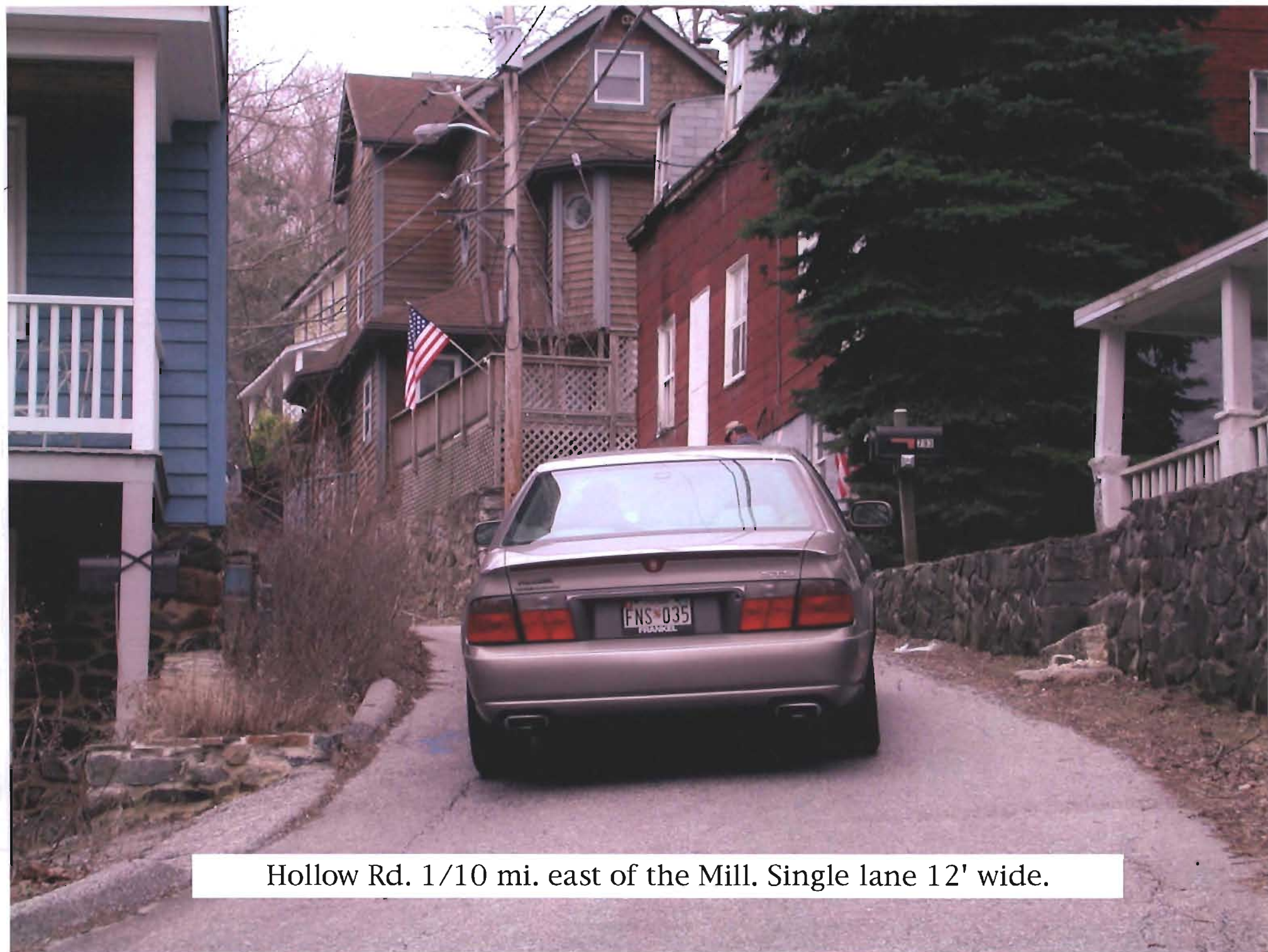
*If the calculation of the number of pupils results in a number containing a fraction, the number of pupils shall be rounded to the next highest whole number

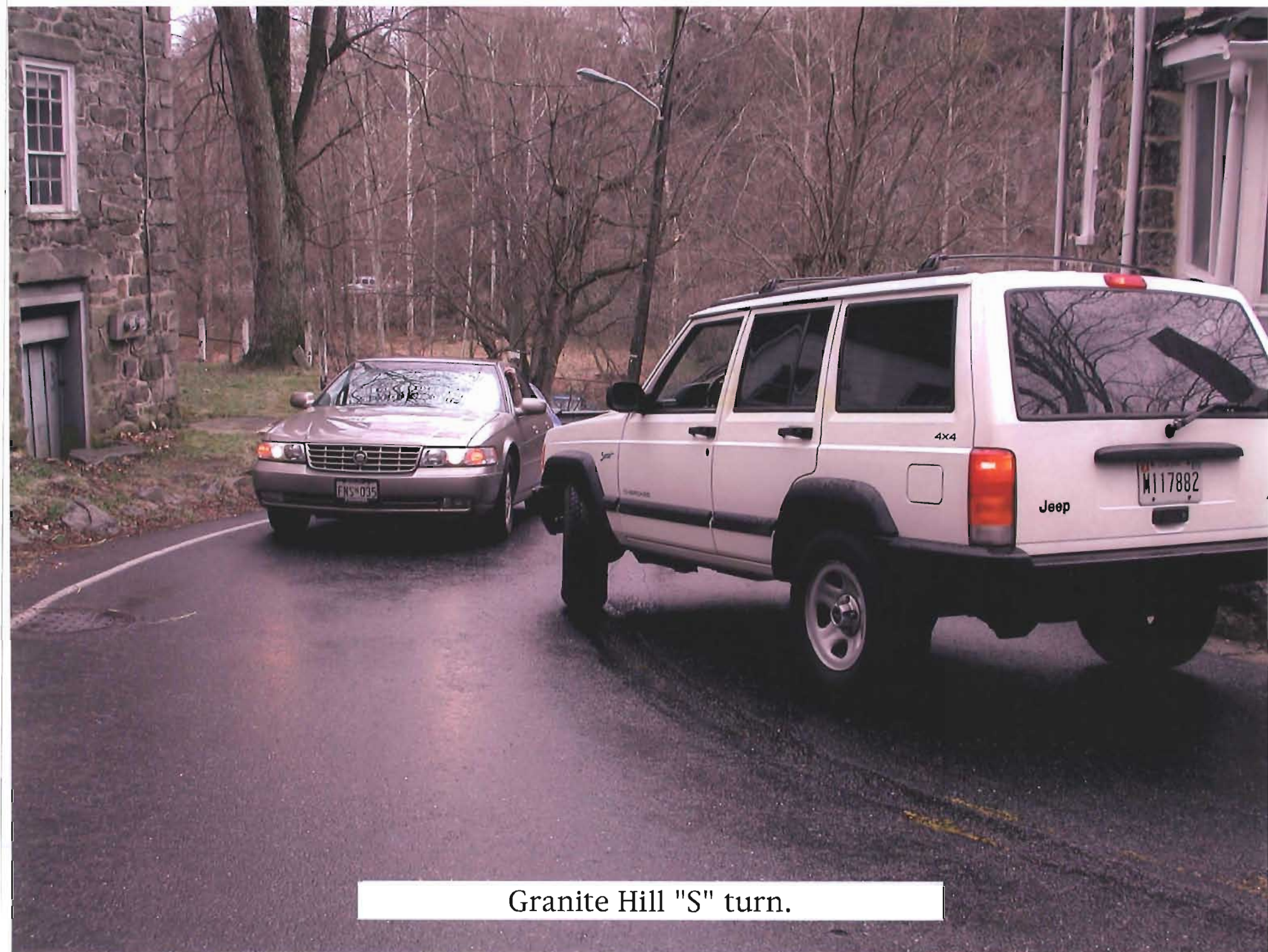
*Proterbanks
No 2*

RECEIVED
MAR 22 2002



Glen Rd. 1/10 mi. east of the Mill. Single lane 12' wide.





Granite Hill "S" turn.



Oella Ave. 2/10 mi. north of the Mill, roadway 14' wide.



Granite Hill 3/10 mi. south of Mill. 17' wide to single lane thru "s" curve.

Projections for Baltimore County Public Schools, September 30 2002-2011, Southwest Area
Revised 12/19/01

SW AREA	STATE CAPACITY	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Arbutus ES	446	470	449	445	437	423	413	408	405	396	393	394
Baltimore Highlands ES	648	578	564	547	534	523	514	509	511	518	526	544
Catonsville ES	459	406	405	411	422	431	440	451	461	471	480	487
Chadwick ES	421	509	485	491	496	498	502	506	490	488	470	466
Dogwood ES	506	607	655	632	645	637	627	615	602	595	588	590
Edmondson Heights ES	674	660	660	658	665	661	656	643	630	616	596	591
Featherbed Lane Primary	743	436	449	454	477	489	496	502	500	505	505	504
Featherbed Lane Intermediate		384	386	399	421	431	437	443	441	445	444	443
Halethorpe ES	426	417	404	409	402	389	380	375	372	365	361	363
Hebbville ES	591	532	525	563	579	576	570	572	582	576	571	570
Hillcrest ES	676	646	640	633	621	620	626	641	653	652	663	666
Johnnycake ES	593	640	625	663	685	697	709	700	699	688	678	680
Lansdowne ES	369	432	435	393	382	372	377	379	382	385	383	380
Powhatan ES	349	409	395	413	425	433	441	449	457	465	473	475
Relay ES	489	481	455	475	476	478	480	482	484	486	490	480
Riverview ES	678	500	455	453	452	433	428	413	407	404	413	415
Westchester ES	516	481	475	475	487	492	501	516	528	535	537	530
Westowne ES	584	453	450	438	429	428	433	444	453	467	483	500
Winfield ES	556	431	415	433	439	434	438	442	449	459	465	467
Woodbridge ES	489	441	425	436	426	421	419	418	427	439	437	439
Woodmoor ES	658	673	665	673	677	680	661	649	638	633	632	638
SW ELEMENTARY TOTAL	10871	10586	10417	10494	10577	10546	10546	10557	10571	10588	10588	10622
Arbutus Middle	1079	910	926	914	908	900	910	922	928	919	923	938
Catonsville Middle	615	631	628	620	623	629	640	660	675	698	719	737
Lansdowne Middle	975	770	772	765	730	747	751	757	743	741	751	765
Southwest Academy	1112	1283	1318	1306	1348	1370	1393	1376	1356	1343	1336	1340
Woodlawn Middle	1039	997	1018	1055	1085	1079	1069	1053	1045	1033	1016	1005
SW MIDDLE TOTAL	4820	4591	4662	4660	4694	4725	4763	4768	4747	4734	4745	4785
Catonsville High	1816	1405	1465	1484	1489	1509	1514	1512	1524	1528	1531	1545
Lansdowne High	1528	1213	1236	1255	1324	1335	1349	1350	1342	1339	1359	1360
Western Tech	1121	1036	1036	1036	1036	1036	1036	1036	1036	1036	1036	1036
Woodlawn High	1580	1835	1896	1960	2009	2049	2055	2071	2091	2074	2065	2050
SW HIGH TOTAL	6045	5489	5633	5735	5858	5929	5954	5969	5993	5977	5991	5991
SW AREA TOTAL	21736	20666	20712	20889	21129	21200	21263	21294	21311	21299	21324	21398

All numbers based on September 30 of given year.

Prob 5A



Prod 5B



Prob 5C



TRIP GENERATION RATES

LAND USE	FORMULA	DISTRIBUTION
Apartment Units (ITE-220, Units)		
Morning Trips = $0.497 \times \text{ksf} + 3.238$		17/83
Evening Trips = $0.541 \times \text{Units} + 18.743$		67/33
Daily Trips = $5.994 \times \text{Units} + 134.114$		
Specialty Retail (ksf, ITE-814)		
Morning Trips = $0 \times \text{ksf}$		NA
Evening Trips = $2.59 \times \text{ksf}$		43/57
Daily Trips = $40.67 \times \text{ksf}$		
General Office (ksf, ITE-710, Rates)		
Morning Trips = $1.56 \times \text{ksf}$		88/12
Evening Trips = $1.49 \times \text{ksf}$		17/83
Daily Trips = $11.01 \times \text{ksf}$		
Warehousing (ksf, ITE-150)		
Morning Trips = $0.45 \times \text{ksf}$		82/18
Evening Trips = $0.51 \times \text{ksf}$		24/76
Daily Trips = $4.96 \times \text{ksf}$		

Pro No 86
[Signature]

TRIP GENERATION TOTALS

	Morning Peak Hour			Evening Peak Hour			Daily Trips
	In	Out	Total	In	Out	Total	
Existing Use							
74,534 sf Specialty Retail Center	0	0	0	83	110	193	1,930
20,550 sf General Office	28	4	32	5	26	31	226
52,836 sf Warehousing 78%	<u>20</u>	<u>4</u>	<u>24</u>	<u>6</u>	<u>21</u>	<u>27</u>	<u>262</u>
147,920 / 190,421 Total	48	8	56	94	157	251	2,418
MEASURED	96	83		133 149	108		
Proposed Use							
176 Apartment Units	15	76	91	76	38	114	1,189
Net Change in Trips							
	-33	68	35	-18	-119	-137	-1229



EXHIBIT 4
TRIP GENERATION RATES COMPARISON
FOR OELLA MILL
(Existing Uses vs. Proposed Use)

TRIP GENERATION RATES

<u>LAND USE</u>	<u>FORMULA</u>	<u>DISTRIBUTION</u>
Apartment Units (ITE-220, Units)		
Morning Trips = $0.497 \times \text{ksf} + 3.238$		17/83
Evening Trips = $0.541 \times \text{Units} + 18.743$		67/33
Daily Trips = $5.994 \times \text{Units} + 134.114$		
General Office (ksf, ITE-710, Rates)		
Morning Trips = $1.56 \times \text{ksf}$		88/12
Evening Trips = $1.49 \times \text{ksf}$		17/83
Daily Trips = $11.01 \times \text{ksf}$		
Warehousing (ksf, ITE-150)		
Morning Trips = $0.45 \times \text{ksf}$		82/18
Evening Trips = $0.51 \times \text{ksf}$		24/76
Daily Trips = $4.96 \times \text{ksf}$		

Had No 27

TRIP GENERATION TOTALS

	Morning Peak Hour			Evening Peak Hour			Daily Trips
	In	Out	Total	In	Out	Total	
Proposed Use: Apartment Units							
176 Apartment Units	15	76	91	76	38	114	1,189

Comparison #1: 50% Warehouse & 50% General Office							
95,211 sf General Office	133	16	149	24	118	142	1,048
95,210 sf Warehousing	35	8	43	12	37	49	472
<u>190,421</u> <u>100%</u> Total	168	24	192	36	155	191	1,520
Net Change in Trips vs Apartments	153	-52	101	-40	117	77	331

Comparison #2: 75% Warehouse & 25% General Office							
47,605 sf General Office	66	8	74	12	59	71	524
142,816 sf Warehousing	52	12	64	18	55	73	708
<u>190,421</u> <u>100%</u> Total	118	20	138	30	114	144	1,232
Net Change in Trips vs Apartments	103	-56	47	-46	76	30	43



EXHIBIT 5 TRIP GENERATION COMPARISON FOR OELLA MILL (Proposed Use vs. Other Possible Uses)

TWO-WAY TWO-LANE HIGHWAY SEGMENT WORKSHEET

General Information

Analyst: **Mgraham**
 Agency or Company: **TTG**
 Date Performed: **02/13/2002**
 Analysis Time Period: **AM Peak Hour**

Site Information

Highway: **Westchester Avenue**
 From/To: **Hollow Av/Oella Av**
 Jurisdiction: **Baltimore County**
 Analysis Year: **Existing Traffic**

Input Data

Shoulder: **0 ft.**
 20 ft. / 18
 Shoulder: **0 ft.**
 Segment Length: **0.3 mi**

Highway Class - **2**
 Terrain (L,R): **Level**
 Two-way hourly volume - **121 vph**
 Directional split - **58/42**
 Peak-hour factor, PHF - **0.88**
 % Trucks and buses, Pt - **1%**
 % Recreational vehicles, Pr - **0%**
 % No-passing zone - **100%**
 Access points/mi - **20/mi**

Lead No 78

Average Travel Speed

Grade adjustment factor, f_G (Exhibit 20-7)	1
Passenger-car equivalents for trucks, E_T (Exhibit 20-9)	1.7
Passenger-car equivalents for RVs, E_R (Exhibit 20-9)	1
Heavy-vehicle adjustment factor, f_{HV}	0.993
Two-way flow rate, V_p (pc/h)	138
V_p * highest directional split proportion ² (pc/h)	80
Free-Flow Speed from Field Measurement Field measured speed, S_{FM} _____ mi/h Observed volume, V_f _____ veh/h Free-flow speed, FFS _____ mi/h Estimated Free-Flow Speed Base free-flow speed, BFFS - 45 mph Adj. for lane width and shoulder width, f_{LS} - 5.3 mph Adj. for access points, f_A - 5 mph Free-flow speed FFS_d - 34.7 mph	
Adjustment for no-passing zones, f_{np} (mi/h)	2.6
Average Travel Speed, ATS (mi/h)	31.4

Percent Time-Spent-Following

Grade adjustment factor, f_G (Exhibit 20-8)	1.00
Passenger-car equivalents for trucks, E_T (Exhibit 20-10)	1.1
Passenger-car equivalents for RVs, E_R (Exhibit 20-10)	1.0
Heavy-vehicle adjustment factor, f_{HV}	0.999
Two-way flow rate, V_p (pc/h)	138
V_p * highest directional split proportion ² (pc/h)	80
Base percent time-spent-following, BPTSF (%)	11.4%
Adj. for directional distribution and no-passing zone, $f_{d/np}$	21.8%
Percent Time-Spent-Following, PTSF (%)	33.2%

Level of Service and Other Performance Measures

Level of Service, LOS (Exhibit 20-4I for Class II)	B
Volume to Capacity ratio, v/c	0.04
Peak 15-min vehicle-miles of travel, VMT_{15} (veh-mi)	10
Peak-hour vehicle-miles of travel, VMT_{60} (veh-mi)	36
Peak 15-min vtotal travel time, TT_{15} (veh-h)	0.3

Notes

1. If $v_p \geq 3,200$ pc/h, terminate the analysis — the LOS is F
2. If highest directional split $v_p \geq 1,700$ pc/h, terminate the analysis — the LOS is F

02/13/2002

K. Mammen Daniel, P.E.
Principal

Handwritten signature: Prof No 9

EDUCATION

M.S., Villanova University, Pennsylvania
MCP, City Planning, School of Planning, New Delhi, India
B.S., Civil Engineering, University of Mysore, India

BACKGROUND

Mr. Daniel is the president and CEO of Daniel Consultants, Inc. (DCI), a multidisciplinary consulting civil and transportation engineering firm. At present DCI is one of the largest civil and traffic consulting firms in Howard County, Maryland. Under his leadership DCI does work throughout Maryland and in many other States. Today the company employs over 40 people.

Over the last 30 years, Mr. Daniel has been involved in a number of engineering projects in the capacity of principal supervisor, designer and manager. Areas of expertise cover traffic engineering, highway design, signal design, signing and marking of urban roadways including interstate systems, transportation planning, maintenance of traffic plans, environmental impact statements, design and implementation of Traffic Management Systems, civil engineering design transportation planning, design of ports and multi modal terminals. He has represented parties as an expert witness on traffic engineering, zoning and parking projects in various counties of Maryland.

RELATED EXPERIENCE

As Project Manager and Principal, Mr. Daniel manages several transportation planning and highway design projects, traffic design and operational studies for various clients of the company, such as Pennsylvania Department of Transportation, Maryland State Highway Administration, North Carolina Department of Transportation, Virginia Department of Transportation, New Jersey Department of Transportation and the Federal Highway Administration.

Served as Project Manager for the planning studies, traffic operational studies of I-695 (Baltimore Beltway) widening project. Work included interchange studies, freeway, ramp, weaving analysis, environmental documentation, and public presentation documents. Additionally, Mr. Daniel served as a project manager for the SHA Districts 2 and 5 highway accident location studies for statewide hazardous locations and projects. He served as manager for the suburban facilities planning and design of park-and-ride facilities of MTA's transit center development program. Served as project engineer for the rail improvement studies of several stations of the Northeast Corridor Rail Improvement Project. His work also included serving as project manager for several highway design projects for the VDOT. Mr. Daniel is responsible for the preparation of several traffic access study reports and parking studies of major urban generators. Related project experience includes the following:

Mr. Daniel was involved in the design and project management on highway traffic engineering related projects. These projects include preliminary design, capacity analysis, interchange analysis, geometric design, construction staging, traffic control plan, temporary and permanent signing and pavement marking, lighting, specification and cost estimate. Mr. Daniel also provides traffic engineering expert witness testimony on development related projects. Some of his experiences are listed below.

- Flea Market Special Exception - 72nd Street, Ocean City, Maryland.



Protestant
Ex. 10

①













HIDDEN
ENTRANCES

DANIEL CONSULTANTS, INCORPORATED

8950 Route 108 E, Suite 229
Columbia, Maryland 21045
(410) 995-0090
(301) 982-1550
Fax (410) 992-7038

April 4, 2002

MEMORANDUM

To: Mr. Greg Brown
709 Pleasant Hill Road
Ellicott City, Maryland 21043

From: K. Mammen Daniel, P.E. 

Reference: Oella Mill Development – Traffic Study Review

Per your request, I have reviewed the Traffic Impact Analysis prepared by The Traffic Group for the above referenced project. The study was also reviewed by two additional engineers from our office. (Dr. Manzur Elahi, P.E. Ph. D, P.T.O.E, and Larry Green.P.E for concurrence of the findings). We offer the following comments:

- State/County reviews: The study has addressed most of the requirements expected from a traffic study. Baltimore County generally does not require a detailed study of roadways and intersections unless it has significant impact on the State roadways from where the access is provided. The County generally reviews the internal roadways, parking requirements, and the primary access to the development. It appears that the SHA has not had a chance to review the study due to the fact that the access of the development is from a County road (Oella Avenue). However, in this case, significant percentage of traffic (65%) is assumed to use Oella Avenue access points with MD 144, a State road at two locations. The proposed 176 units are expected to generate 1,189 daily trips. Therefore, it is recommended that the SHA review the study through its Engineering Access Permit Division. Generally, the SHA requires the signal warrant studies and intersection analysis. Thus, it is suggested that the following be included:

1. *Signal Warrant Analysis:*

Warrant 1- Minimum Vehicular Volume
Warrant 2- Interruption of Continuous Traffic
Warrant 4- Four Hour Volumes
Warrant 10-Peak Hour Delay
Warrant 11-Peak Hour Volume

2. Since, the road segments are short (atypical of 2 lane highways), intersection impacts are more significant and should be looked at. Intersection analyses should include MD 144 with Oella Avenue (both east and west) intersections, Oella Avenue/Westchester Avenue intersection, and at Oella Avenue/Hollow Avenue/Glen Avenue.

Prod No 11

Maryland

State Highway Administration

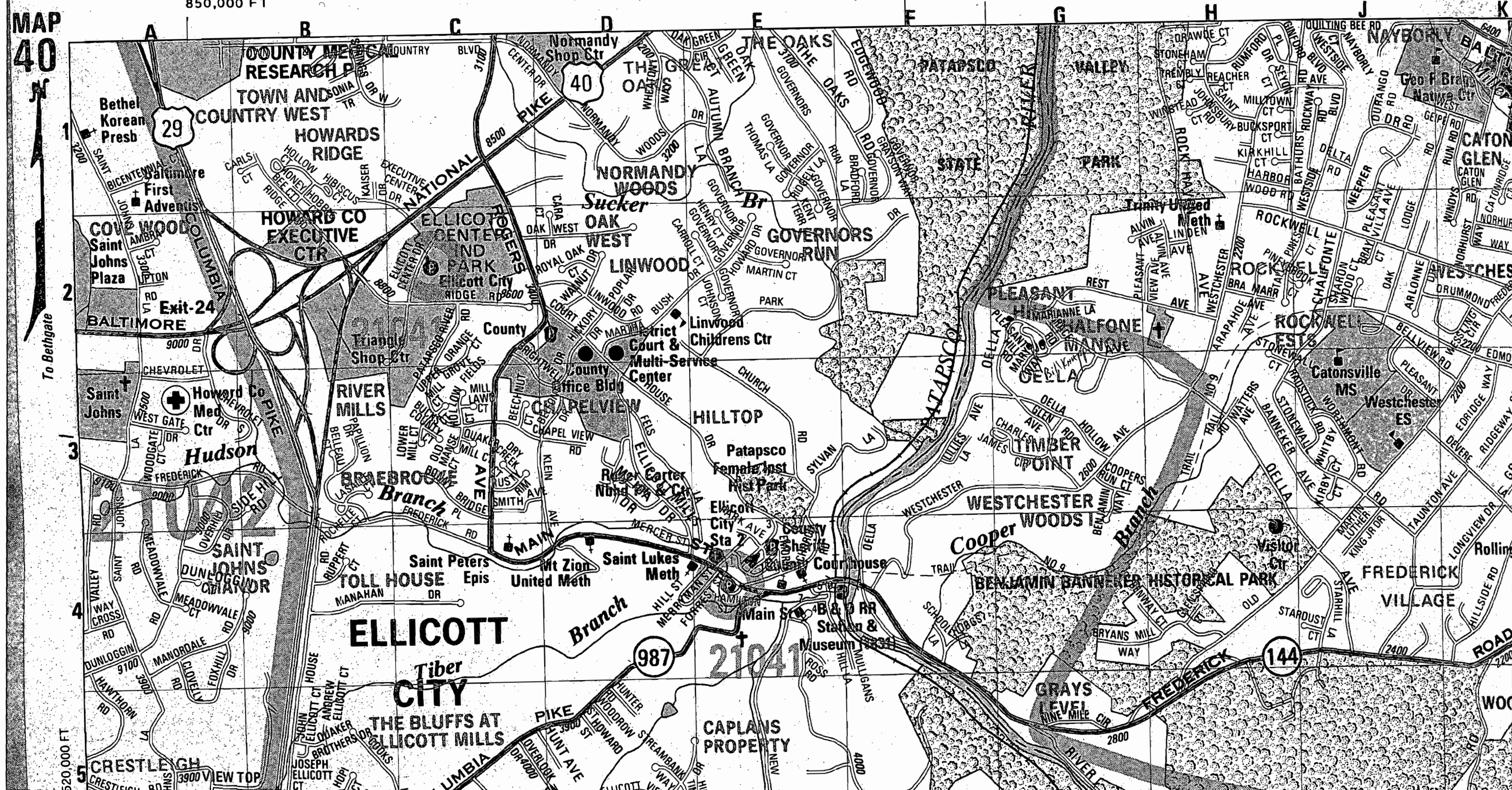
**MANUAL FOR
TRAFFIC IMPACT STUDY
REVIEW IN
Baltimore County**

July 1997

*Prod No 12
for ID
only*

850,000 FT

MAP 40



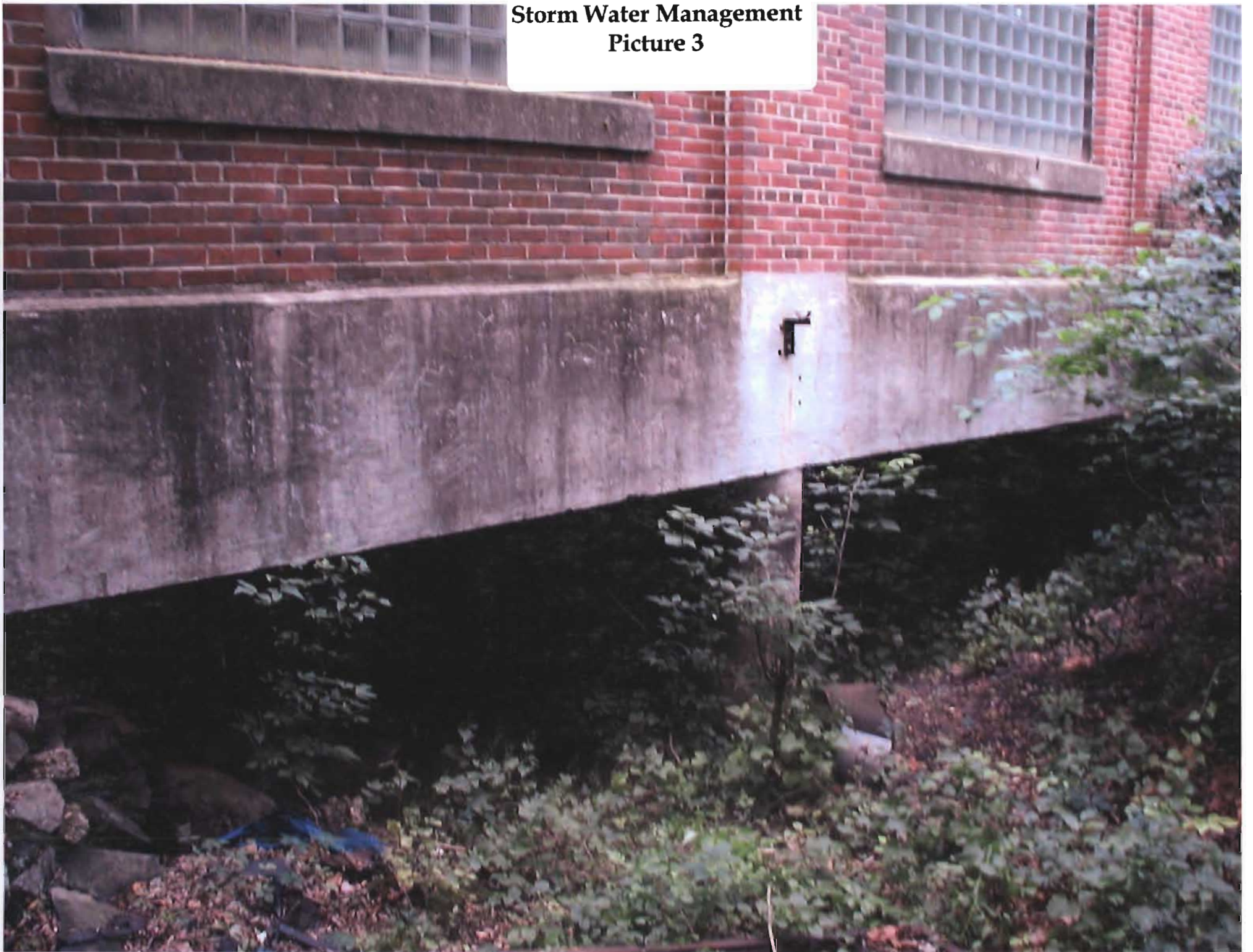
**Storm Water Management
Picture 1**



**Storm Water Management
Picture 2**



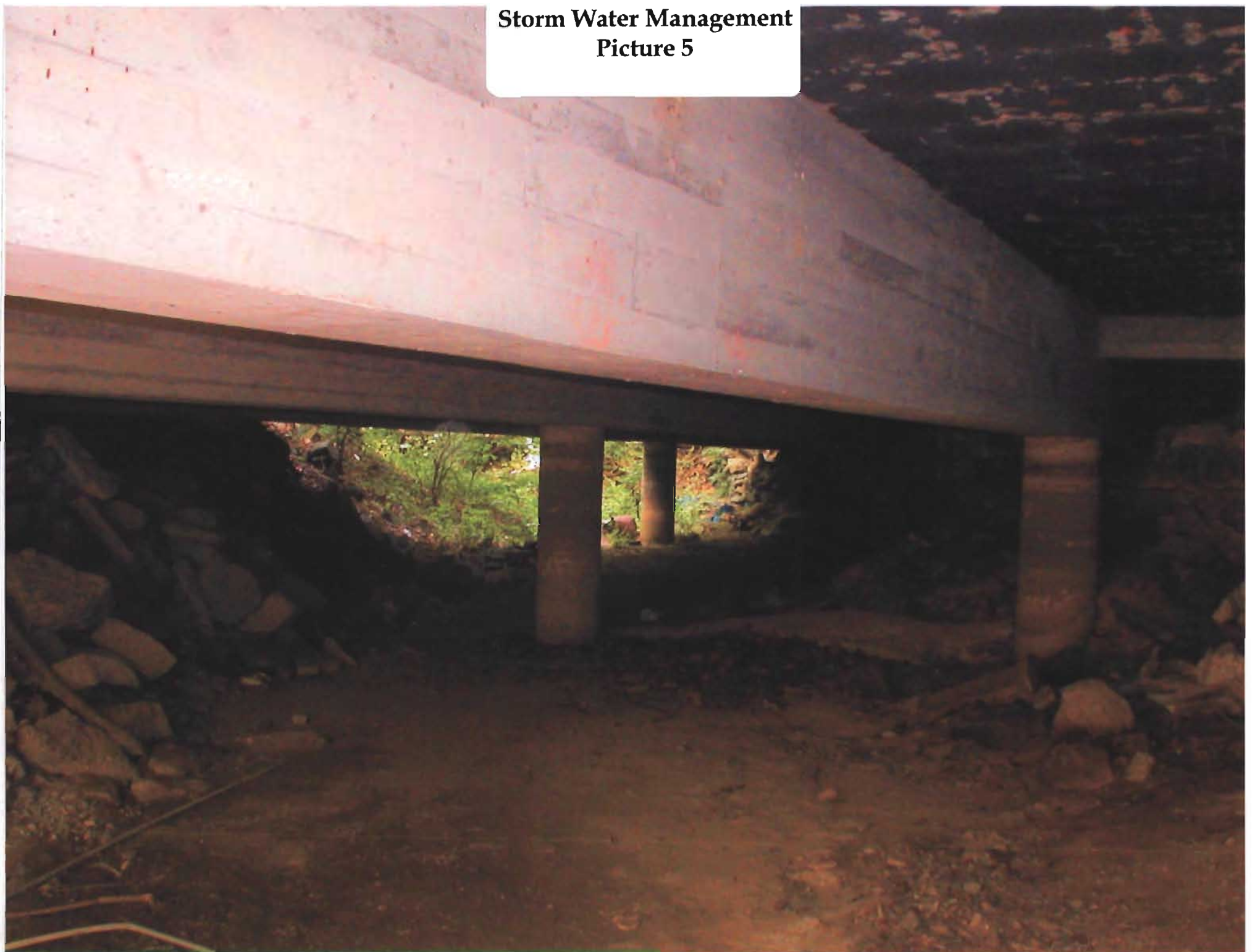
**Storm Water Management
Picture 3**



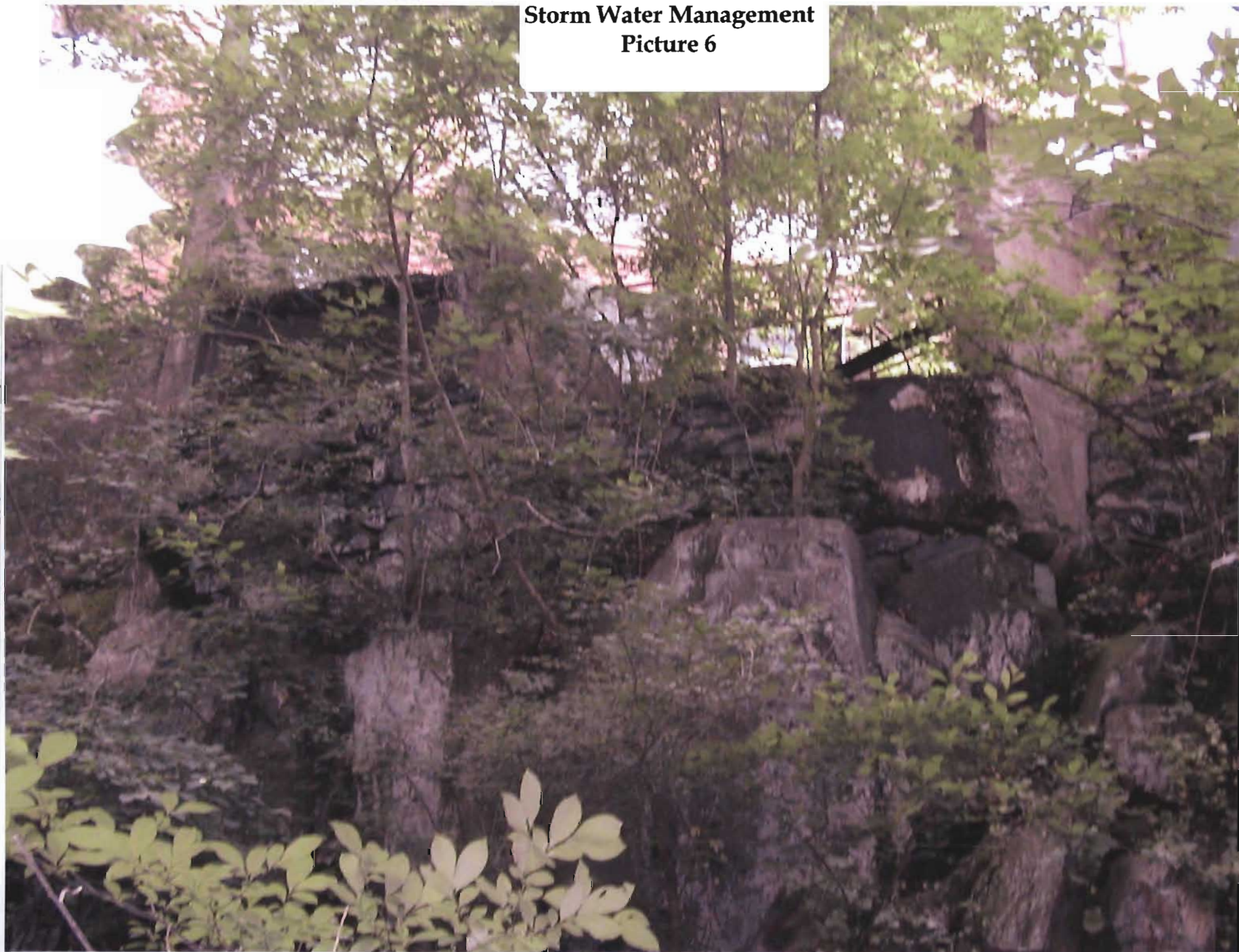
**Storm Water Management
Picture 4**

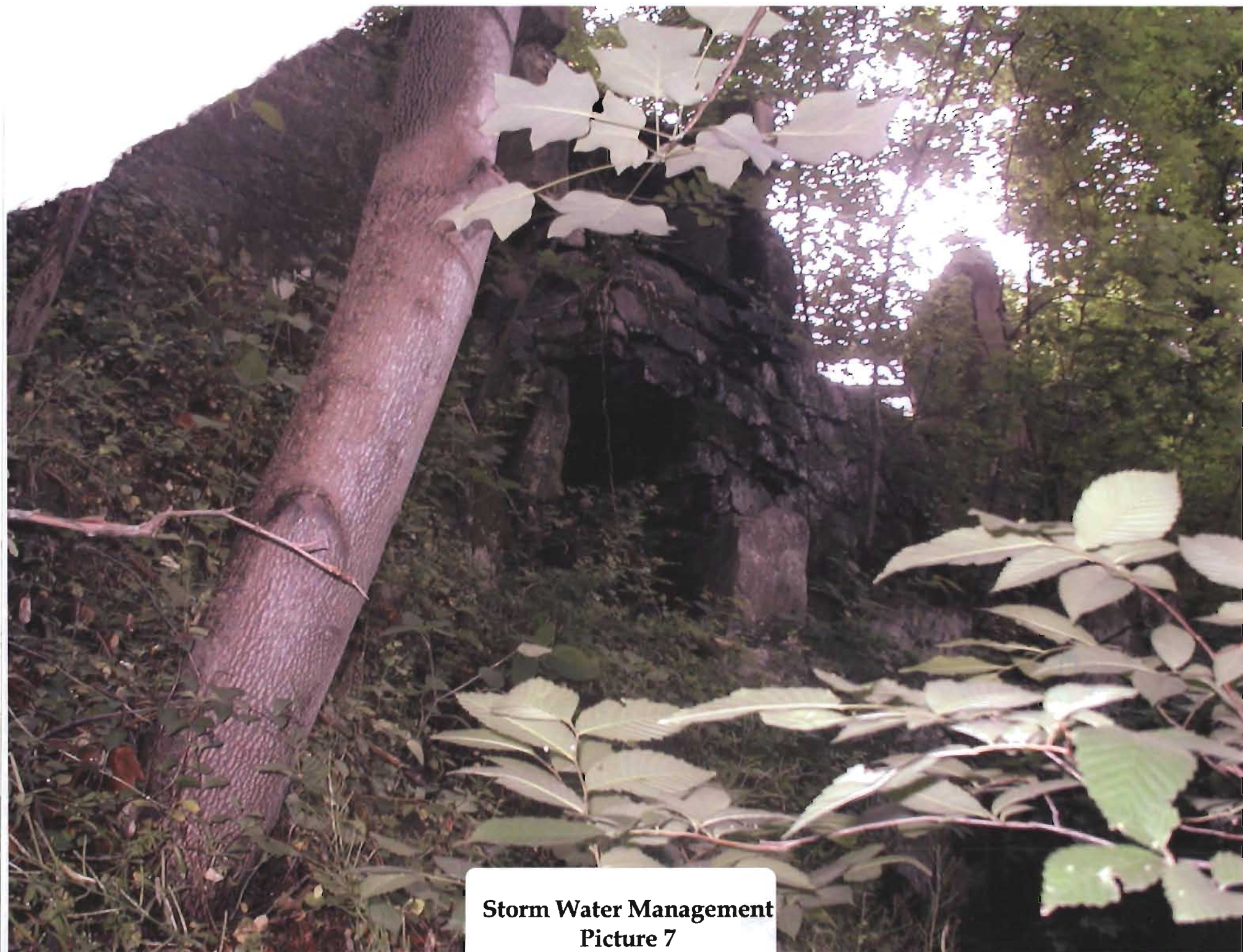


**Storm Water Management
Picture 5**

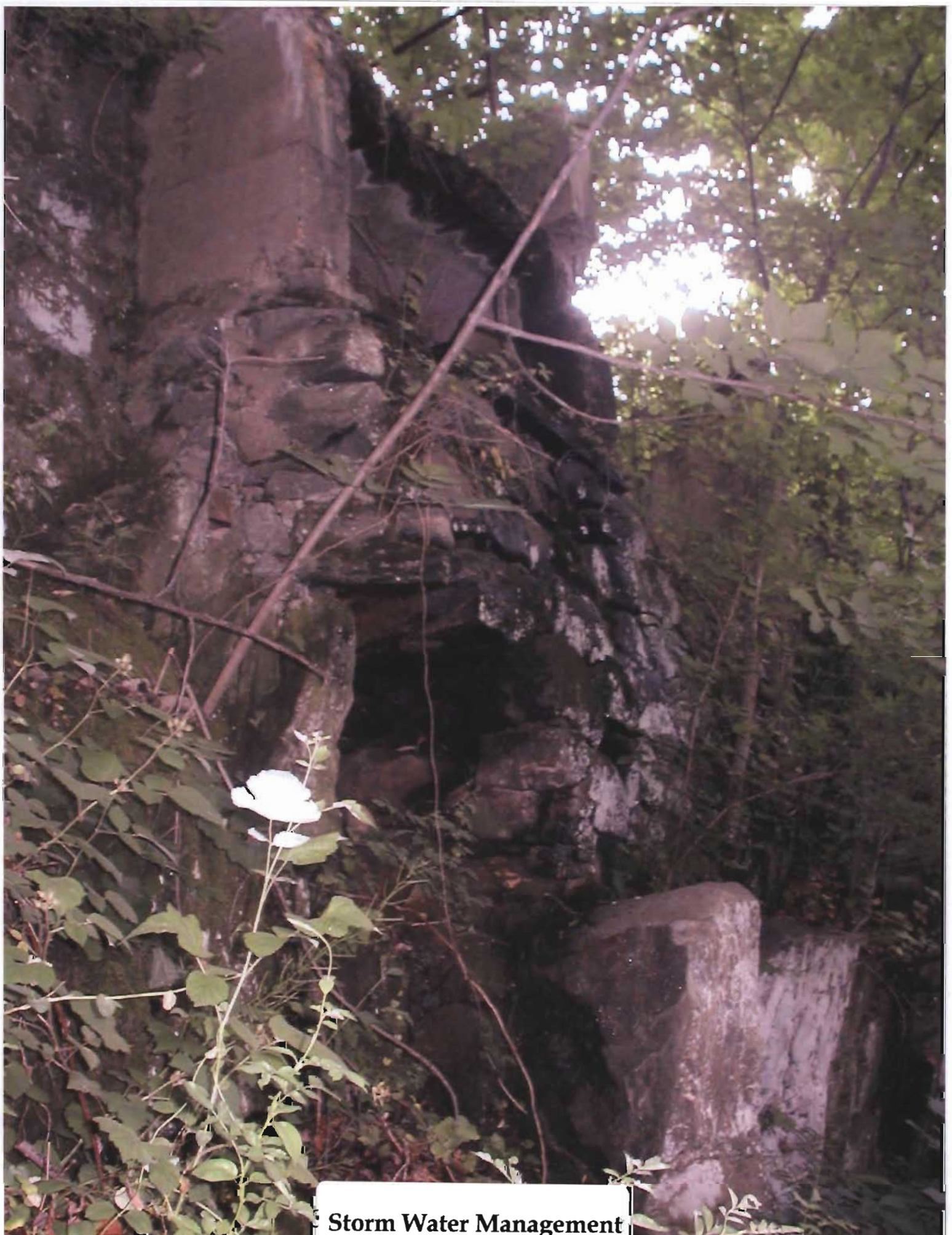


**Storm Water Management
Picture 6**

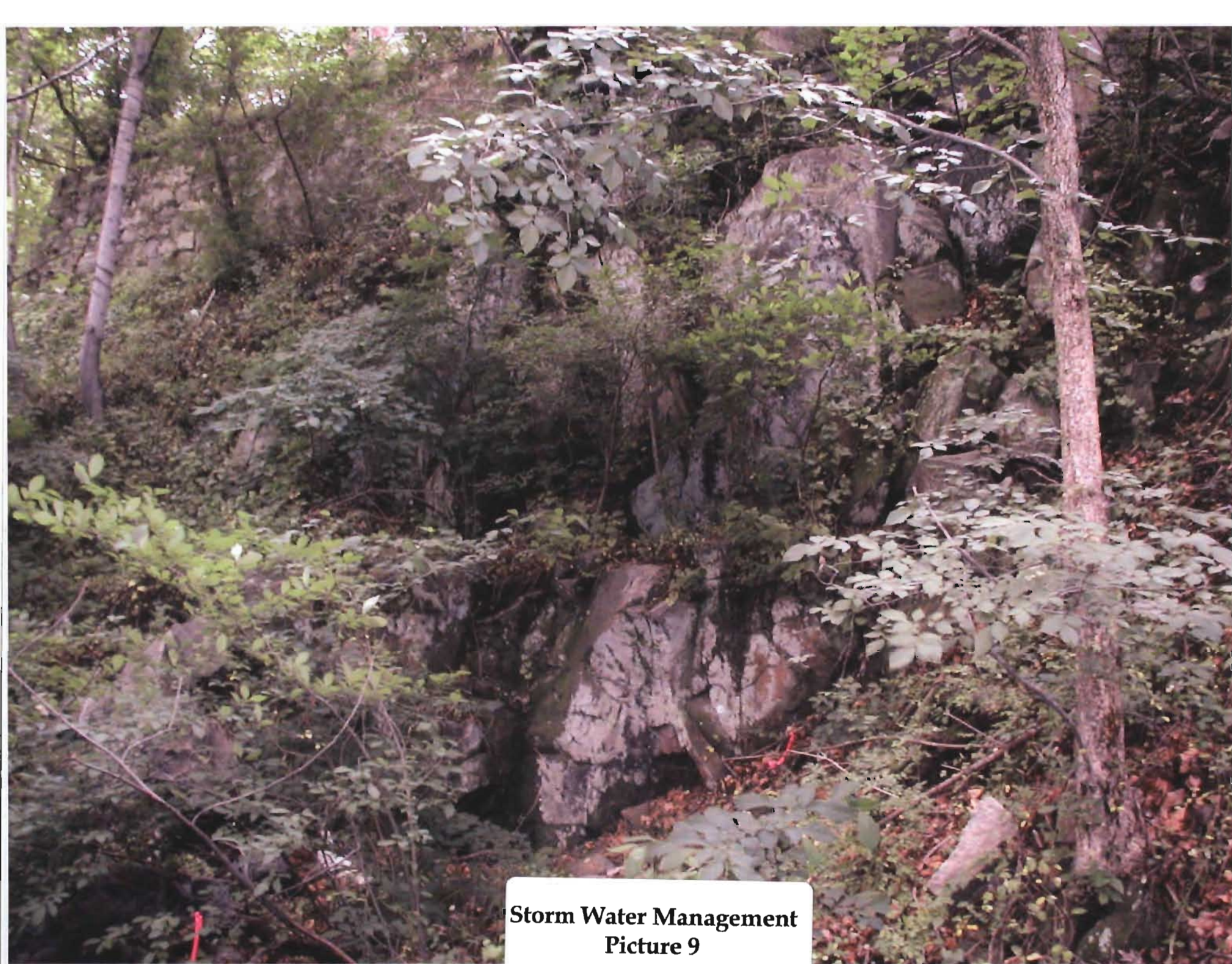




Storm Water Management
Picture 7



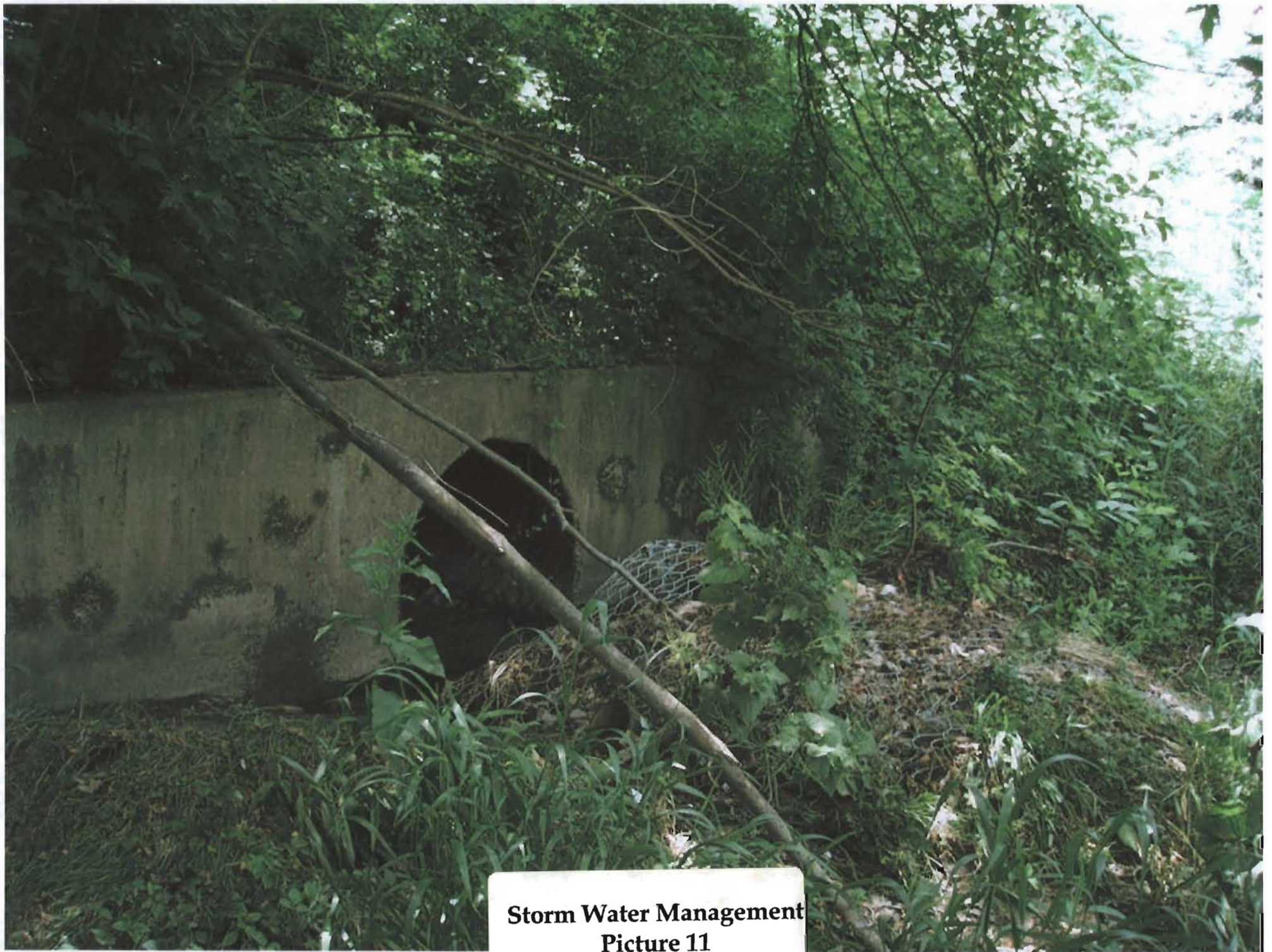
Storm Water Management
Picture 8



**Storm Water Management
Picture 9**



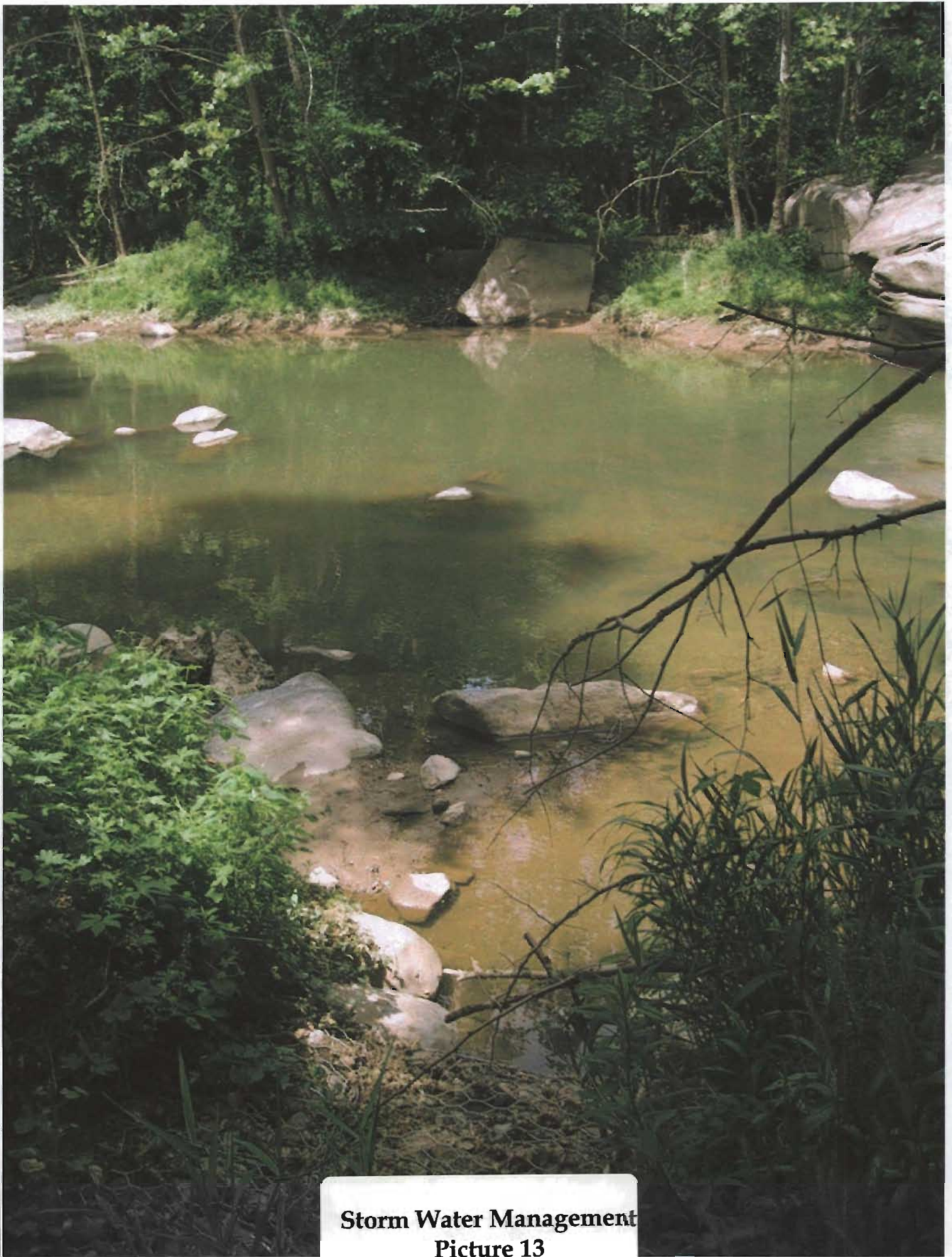
**Storm Water Management
Picture 10**



**Storm Water Management
Picture 11**



**Storm Water Management
Picture 12**



Storm Water Management
Picture 13

Gregg V. Brown
709 Pleasant Hill Road
Ellicott City, MD 21043-4725

410-418-8715

May 22, 2002

Federal Emergency Management Agency
500 C Street, S.W.
Room 423
Washington DC 20472

Attn: Mr. John Magnotti

RE: Letter of Map Amendment
LOMA No. 02031334A
Applicant: Forest City Residential Group
Flood Insurance Rate Map
Panel No. 240010 0370

[Handwritten signature]
[Handwritten signature]
16

Dear Mr. Magnotti,

I understand that you will be handling the above letter of Map Amendment and request by Forest City to move the flood plain line to exclude the Oella Mill property. Forest City has a proposed development of the property pending before the Zoning Commissioner of Baltimore County Maryland. I am writing today in opposition to the request to change the flood plain designation.

I have attached the present map which shows the existing flood plain designation. The developer has proposed to convert the boiler building and mill into apartments, much of which will be subject to flooding if the Amendment is approved. In addition, they propose to use the other parts of the property as parking for residents and the lower part of the boiler building as double stacked parking which again is subject to flooding. I have also attached several photographs of the property and some supporting data.

This portion of the Patapsco River Valley has been subject to flooding over many years. In 1972, the flood waters took out the railway bridge (shown on the first photo) which used to connect the mill with the railroad on the other side of the Patapsco River. Consequently we know the present map is accurate. The second and third photographs show the river valley immediately downstream from the mill that, as you can see, is strewn with boulders, islands and trees which raise the flood level in the mill area. Finally, the last photograph shows the flood level marker in Ellicott City, approximately one half mile downstream of the mill. The marker documents the crest of floods since 1868 and therefore the intensity of storms that have affected the valley over many years. As you can see, the 1972 storm was not the worst storm recorded.

HENRY BERGER III

UNIVERSITY OF KENTUCKY
BACHELOR OF ARCHITECTURE

LEXINGTON, KY
1994

SANDERS DESIGNS, P.A.
PROJECT MANAGER

1997-PRESENT

AEC SOLUTIONS
DESIGN VISUALIZATION ARCHITECT

1994 - 1997

Design Visualization Architect. Facilitated the use of ArchiCAD and other computer applications in Mid-Atlantic A/E firms, including training and technical support. Pioneered the Mentor program as a way of smoothing the transition of a three dimensional process into architectural practice. Created numerous design simulations some of which were published, broadcast and formatted for interactive CD-ROM presentations. Integrated network systems to enhance the flow of work, quality of design and efficiency of construction.

RICHTER, CORNBROOKS GRIBBLE, INC.
INTERN ARCHITECT

SUMMER 1994

Intern. Built 3-D computer models to enable design visualization and created animation sequences for presentation. Worked in both CD and DD design phases and gathered site data for document verification

PROBST-MASON INC. ARCHITECTS.

Summers 1990-91

Intern. Drafted construction documents for bid, built models and reviewed shop drawings, worked with Windows and AutoCAD software, also prepared presentation drawings for client consultations.

Recent Experience:

AMPORTS INTERNATIONAL

On going project manager for multiple car processing facilities for the Port of Baltimore.

Pro
#15
sent only

GENERAL NOTES

- OWNER: OELLA MILL, LLC
240 OELLA AVE
ELICOTT CITY, MD 21043
- DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5603 WOODLAWN LANE
NORTH BETHESDA, MD 20852
- TAX ACCOUNT NO: 16-00-006700
- AREA: 5.73 ACRES
- ZONING: RM-CC
- COUNCILMANIC DISTRICT: 1 CDEN-15 TRACT 4093.03
- WATERSHED: PATAPSCO SUBWATERSHED
- MARYLAND HISTORIC TRUST INVENTORY NO: BA 2375
- THE SITE IS IN THE OELLA NATIONAL REGISTER HISTORIC DISTRICT.
- ALL SOLS ARE MHE-MANOR AND BRANDYMANE AS SHOWN ON THE BALTIMORE COUNTY SOIL SURVEY
- THE FOLLOWING ZONING RELIEF WILL BE REQUESTED:
SPECIAL HEARINGS:
SPECIAL HEARINGS TO APPROVE A VARIANCE PURSUANT TO SECTIONS 26-171.26-172(9), 26-202(C)(5), AND 26-279 OF THE BALTIMORE COUNTY CODE TO RENOVATE A HISTORIC STRUCTURE.
VARIANCES:
VARIANCE FROM SECTION 220A.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT APARTMENT WINDOWS FACING A PROPERTY LINE OTHER THAN A STREET LINE TO BE LOCATED AS CLOSE AS 8 FEET IN LIEU OF THE MINIMUM PERMITTED 25 FEET.
VARIANCE FROM SECTION 409A.8 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT 26 PARKING SPACES TO BE LOCATED SO AS NOT TO ADJOIN OR HAVE DIRECT ACCESS TO AN AISLE.
VARIANCE FROM SECTION 409A.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A MINIMUM WIDTH OF 18.5 FEET FOR TWO-WAY AISLES IN LIEU OF THE MINIMUM REQUIRED WIDTH OF 22 FEET.
- TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO HAZARDOUS MATERIALS ON THIS SITE.
- A LETTER OF MAP AMENDMENT (LOMA) WILL BE REQUESTED TO REVISE THE FLOOD PLAIN SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) FLOOD INSURANCE RATE MAP (FIRM) PANEL # 24030 0370 B, TO AGREE WITH THE 1980 STUDY PROVIDED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS.
- ALL SOLS WILL COMPLY WITH SECTION 450 OF THE BALTIMORE COUNTY ZONING REGULATIONS.
- THE FOREST CONSERVATION ACT DOES NOT APPLY SINCE NO FOREST CLEARING OR SUBDIVISION IS PROPOSED.
- LIMITED QUANTITIES OF AGROBIO-CONTAINING MATERIALS AND LEAD-BASED PAINT ARE PRESENT AND CONVERSION TO RESIDENTIAL USE WILL REQUIRE SOME ABATEMENT.
- ENVIRONMENTAL VARIANCES FOR CONTINUED USE OF EXISTING STRUCTURES AND PROPOSED IMPROVEMENTS IN THE FOREST BUFFER WILL BE REQUESTED.

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE REQ'D	OPEN SPACE PROP.	AVG. DAILY TRIP	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS W/ INC. B.R.	75	88.75		0.881 AC.	2.3 AC.	137.5	N/A	2002
APARTMENTS W/ INC. B.R.	104	156		0.881 AC.	2.3 AC.	137.5		
TOTAL	179	244.75	263	0.881 AC.	2.3 AC.	137.5		

* 106 SPACES INSIDE OELLA MILL AND 12 SPACES INSIDE BOILER BUILDING, TOTAL 118

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD OBSERVATION	FIELD VERIFIED	REMARKS
X				Topography and stream grade (min. 5 ft. above stream) (see map)
X				Single greater than 25%
X				Soil mapping according to Soil Survey, Baltimore County, Maryland
X				Streams, seeps, ponds or other water bodies shown on site and within 200 ft. of site boundaries
X				Wetlands
X				Forest buffer lines including adjustments for utility easements and/or easement
X				Land cover and within 200 ft. of site
X				Significant riparian plant or wildlife communities
X				Wells on site and within 100 ft. of site
X				Septic on site and within 100 ft. of site
X				Underground fuel tanks on site and within 100 ft. of site
X				Soil evaluation tests (per 1980) performed YES DATE

EXISTING BUILT CONDITIONS

EXISTING	NOT EXISTING	IN CONFORMANCE
X		Locations of existing buildings within 200 ft. of site boundaries
X		Location of existing roads within 200 ft. of site boundaries
X		Designated historic sites
X		Designated archeological sites
X		Significant views
X		Significant historic (apartment houses, buildings, streets, etc.)
X		Land use on and within 200 ft. of site
X		Roads, rights-of-way and easements

COUNTY ADOPTED PLANS

EXISTING	NOT EXISTING	IN CONFORMANCE
X		Baltimore Master Plan 1989-2000
X		Community or Reorganization Plan(s)
X		Recreation and Parks Plan
X		Scenic/Scenic Plan
X		Greenways Plan
X		Other

AMENITY OPEN SPACE PROPOSAL

Open Space Type	Acres
Active Open Space	N/A
100 yr Floodplain	17.1 ac
Forest Buffer	0.61 ac
Amenity Areas	N/A
Trails and Connections	N/A
Other	--
Total Provided	2.31 ac
Proposed Ownership	Private/Public

Underdog Area	Acres
Storm Water Management	N/A
HONOLULU Area	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 195,637 x 0.2-3.8557 SF, OR 0.881 AC.

SITE DATA

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROPOSED
RM-CC	5.55 AC	NOT LIMITED	NOT LIMITED	175
DR-3.5	1.18 AC	N/A	N/A	N/A
TOTAL	5.73 AC			175

FOREST BUFFER NOTES

STANDARD NON-DISTURBANCE NOTE:

THERE SHALL BE NO CLEARING, GRADING, OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENTS EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.

PROTECTIVE COVENANTS NOTE:

"ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

LOCATION MAP

SCALE: 1" = 1000'

LEGEND

ADJACENT PROPERTY LINE	---
SUBJECT PROPERTY LINE	---
EX-MINOR CONTOUR (1')	---
EX-MAJOR CONTOUR (5')	---
EX-CURBSIDE OF WALK OR PAVING	---
UTILITY LINE (CH - OVERHEAD)	---
UTILITY LINE (UG - UNDERGROUND)	---
RIVER EDGE	---
EX-RETAINING WALL	---
ZONING LINE	---
PRELIM. 100 YR. WATER SURFACE ELEVATION	---
100 YR. FLOODPLAIN	---
D & U EASEMENT	---
FOREST BUFFER EASEMENT	---
25' FOREST BUFFER SETBACK	---
L.O.D.	---
LIMIT OF DISTURBANCE	---
PROP. CURB & GUTTER	---
PROP. 6' HIGH ORNAMENTAL SCREENING	---
150	---
PROP. MINOR CONTOUR	---
200	---
PROP. MAJOR CONTOUR	---
EX-FENCE	---
EXISTING STRUCTURE	---
SURFACE PARKING SPACES	---
COVERED PARKING SPACES (RECESSED)	---
EX-RAILROAD	---
EX-IMPERVIOUS AREAS	---
EX-IMPERVIOUS AREAS ON EX-IMPERVIOUS	---
PERVIOUS AREA	---
TOTAL L.O.D.	---

DATASOURCES

- BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTIMETER SURVEY OF OELLA MILL BY GREENSHAW & CHAMBERS DATED 10/05/00. OFF SITE TOPOGRAPHY SUPPLEMENTED BY DRAIN FIELD VISIT DATED 11/01/02 AND HOWARD COUNTY TOPOGRAPHY (C) 1983.
- FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.P.W. DATED 1980.
- DATUM: MARYLAND COORDINATE SYSTEM HORIZONTAL AND VERTICAL NAVD 83.
- EXISTING PUBLIC UTILITIES FROM 3RD REVISED CRG OF OELLA, MD APPROVED 4/21/92.

LIMIT OF DISTURBANCE = 1.49 AC. ± (65,091 SF)

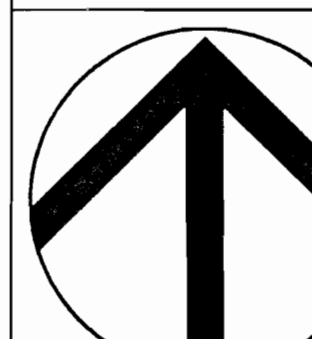
DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

SWM EXHIBIT

1st ELECTION DISTRICT



DATE BY REVISIONS

BALTIMORE COUNTY, MD

ISSUE DATES

REVIEW: 5-1-02

BID: _____

PERMIT: _____

CONSTRUCTION: _____

BASE: A/S

DRAWN: K.M.F.

DESIGNED: K.A.N.N.

CHECKED BY: C.V.M.

DATE CHECKED: _____

SCALE: 1"=30'

PROJECT NO.: 01108.00

DRAWING: 1 of 1

ADJACENT PROPERTY OWNERS

LOT NO.	ADDRESS	OWNER	TAX ACCT. NO.	DEED REF.
1	881 OELLA AVENUE	HISTORIC OELLA LIMITED PARTNERSHIP	012300008127	
2	879 OELLA AVENUE	ROBERT & LISA BOTE	012300008128	150901266
3	877 OELLA AVENUE	CHRISTOPHER D. HARSHMAN	012300008129	15082178
4	875 OELLA AVENUE	HEATHER L. ZAHN	012300008130	149641605
5	873 OELLA AVENUE	CHRISTOPHER A. ROE	012300008131	143021108
6	871 OELLA AVENUE	ANDREAS O. WALTER & KACHEL MERRITT	012300008132	15608141
7	720 MARY JO WAY	WENDY A. WYATT & BRUCE L. ELLIOTT	01220001857	106931219
1	787 OELLA AVENUE	CHARLES L. WAGANDT	012300018472	5413177
6	783 OELLA AVENUE	ALEXANDRA C. CLARK	012200018558	143461655
7	781 OELLA AVENUE	CHARLES L. WAGANDT	012200018559	
67	780 OELLA AVENUE	STEPHEN P. SCHREINER	012200013132	156511655
66	778 OELLA AVENUE	KIMBERLY D. BRYAN	012200013131	153121649

EAST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 4,735 SQ. FT.
PROPOSED IMPERVIOUS = 12,748 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 17,483 SQ. FT.
RV = 0.95
WQV = 0.034 AC. FT. = 1367.68 CU. FT.
PRETREATMENT = 341.92 CU. FT.
AREA OF PERIMETER SAND FILTER = 87.75 SQ. FT. / 15.66 SQ. FT. = 5.6 USE 6 FILTERS

Rev = 30 L.F. OF 48" PERFORATED CMP = 258.04 CU. FT.
CVP = 376.99 CU. FT. > 341.92 CU. FT.
PEAK RATE OF RUNOFF (1 YR. STORM) = 2.81 CFS > 2.0 CFS
WQV = 1274.88 CU. FT.
75% OF WQV PRETREATMENT = 653.84 CU. FT.
TOTAL = 1928.72 CU. FT.
VOL. OF 1 SAND FILTER = 87.75 CU. FT.
VOL. OF 6 SAND FILTERS = 526.50 CU. FT.
15 L.F. OF 48" PIPE = 1445.13 CU. FT.
TOTAL = 1971.33 CU. FT. > 1928.72 CU. FT.

WEST SIDE STORM WATER MANAGEMENT COMPUTATIONS

20% OF EXISTING IMPERVIOUS = 2,785 SQ. FT.
PROPOSED IMPERVIOUS = 6,347 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED = 9,132 SQ. FT.
RV = 0.95
WQV = 0.034 AC. FT. = 724.61 CU. FT.
PRETREATMENT = 156.60 CU. FT.
AREA OF PERIMETER SAND FILTER = 46.49 SQ. FT. / 15.66 SQ. FT. = 2.97 = 3 FILTERS

Rev = 15 L.F. OF 48" PERFORATED CMP = 156.60 CU. FT.
CVP = 156.60 CU. FT. > 156.60 CU. FT.
PEAK RATE OF RUNOFF (1 YR. STORM) = 1.59 CFS < 2.0 CFS
75% OF WQV PRETREATMENT = 542.85 CU. FT.
TOTAL = 899.45 CU. FT.
VOL. OF 1 SAND FILTER = 87.75 CU. FT.
VOL. OF 6 SAND FILTERS (VOL. REQ'D) = 526.50 CU. FT.



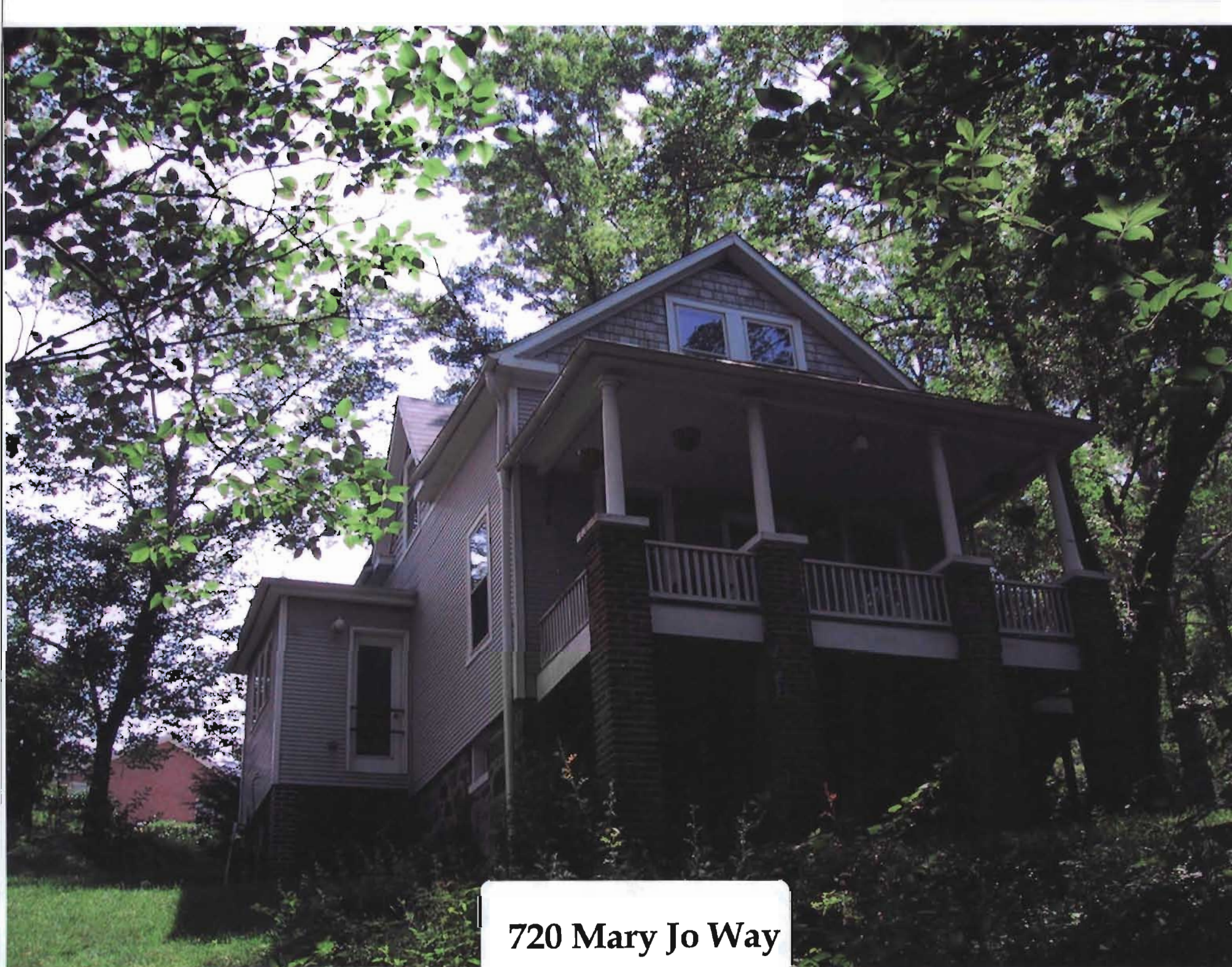
781-783 Oella Ave.



View from 781 Oella



View from 783 Oella Ave



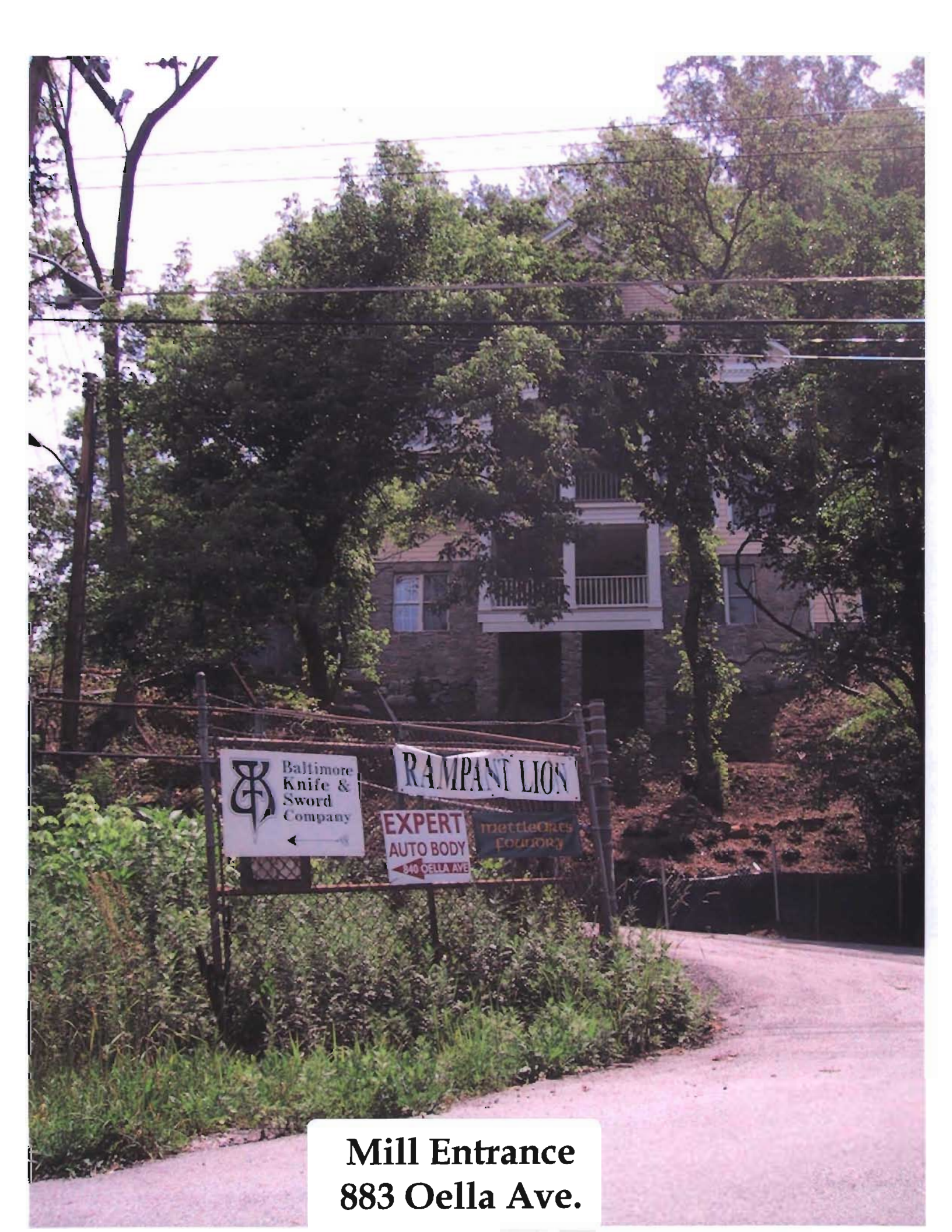
720 Mary Jo Way

802-804 Oella Ave.



Dutch Hotel Oella Mill





Baltimore
Knife &
Sword
Company
←

RAMPANT LION

EXPERT
AUTO BODY
← 840 OELLA AVE

MettleOres
Foundry

**Mill Entrance
883 Oella Ave.**

Dutch Hotel
835-837 Oella Ave.





BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21284

C. J. [Signature]
DIRECTOR

BUILDING PERMIT

J. L. R. [Signature]
BUILDINGS ENGINEER

PERMIT # 2447647 CONTROL # NR 0157 61 PREC. 01
DATE ISSUED 12/07/2000 TAX ACCOUNT # T-00012427 CLARS 02

PLANS: COMM 02 PLOT 7 R PLAT 0 DATA 0 ELEC TCA PLIN YCS
LOCATION: 835-837 DELLA AVE
SUBDIVISION: 1400 FT W WESTCHESTER AV

OWNER'S INFORMATION
NAME: ZACARDY, CHARLES
ADDR: 805 DELLA AVE

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

TECHNICAL
CONTR: CUMER
ENGR:
SELLER:
WORK:

INT. ALT. TO DEMO/INST. PARTS, REFL. FLOOR JOISTS
AS NEEDED, REPAIR F/P'S & STAIRS, INST. DEMISING
WALL IN ATTIC-3475SF, CONSTR. 2 ADDN'S ON SIDES
OF BLDG. 1ST FLR-OFFICES, PAN RM, POR RM, 2ND FLR
DIN RM, FOYER, POR RM, KITCHEN EA. 3RD FLR-2 BDRM
& 2 BATH EA. 34X20X34'-4"=1440SF EA-2880SF TOTAL

BLDG. CODE: BOCA CODE
RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: 2 FAMILY DWELLING W/INCIDENTAL OFFICES ACHORD
EXISTING USE: CHURCH & VACANT DUPLEX

TYPE OF IMPRV: ADDITION
USE: TWO FAMILY
FOUNDATION: BLAD
SEWAGE: PUBLIC PROPOSED

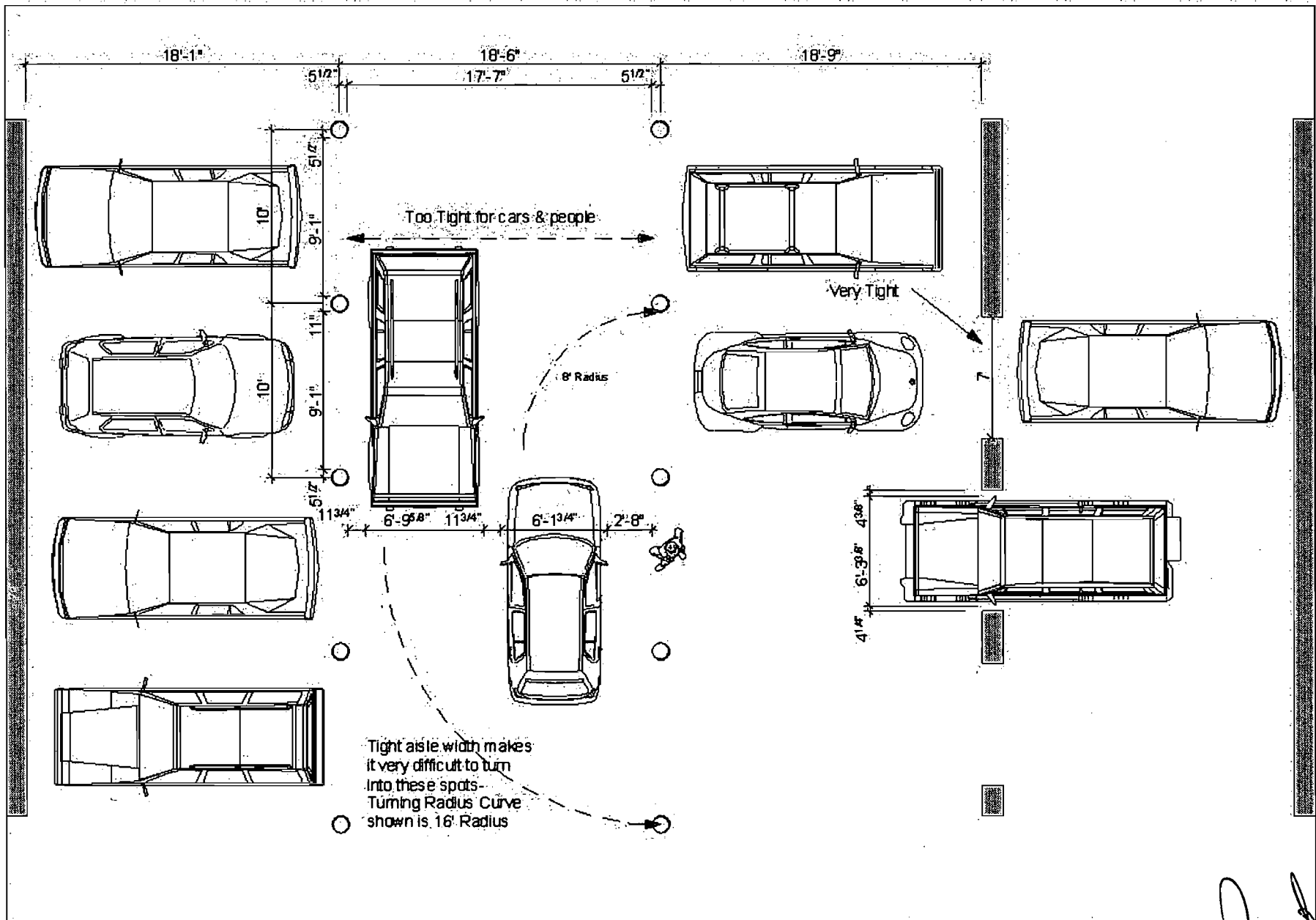
BASEMENT: NONE
WATER: PUBLIC PROPOSED

LOT SIZE AND SETBACKS

SIZE: 57,304
FRONT STREET
SIDE STREET
FRONT SETS: NC
SIDE SETS: 54'-60"
SIDE STR SETS
REAR SETS: NC

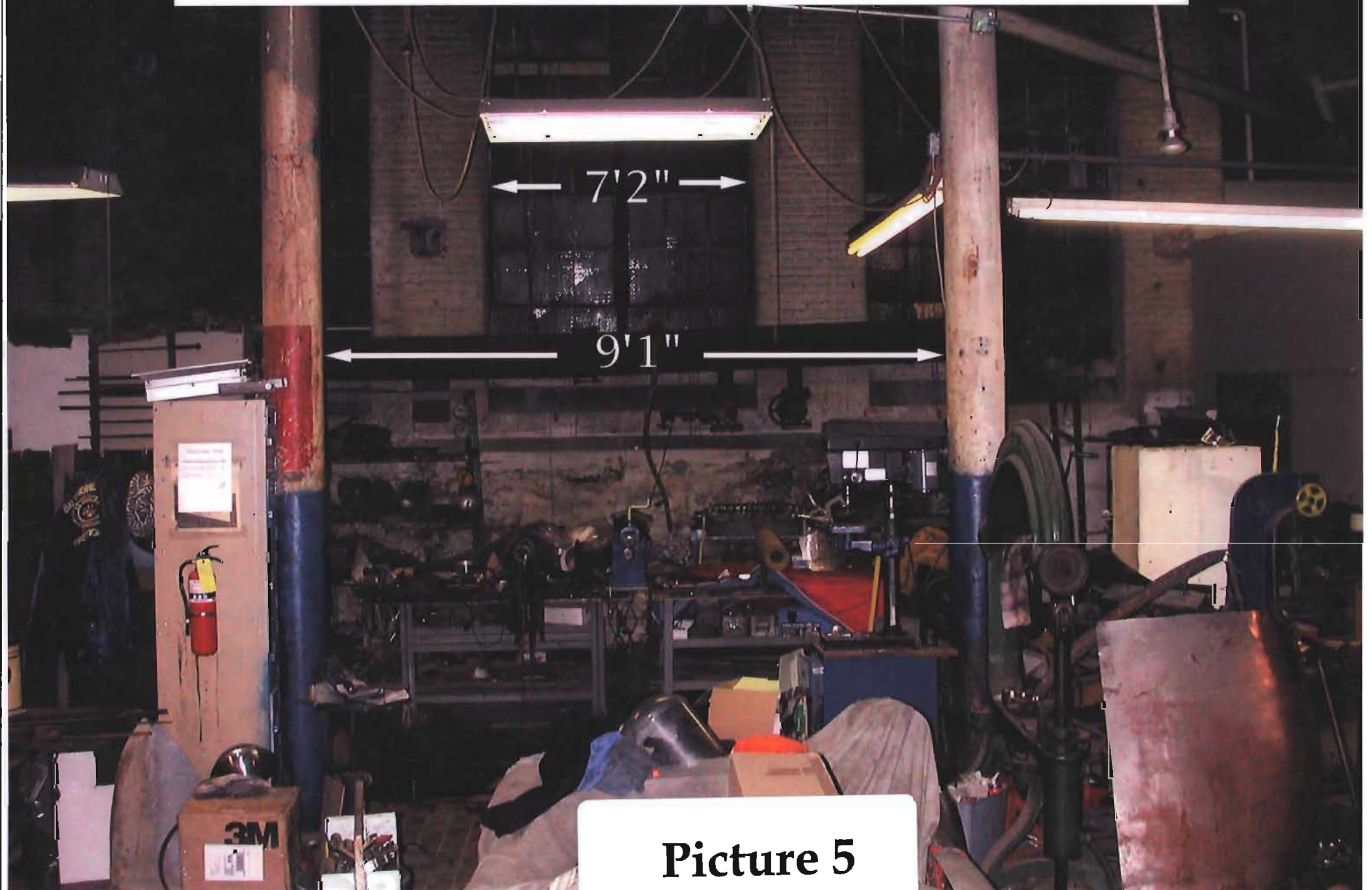
DEPARTMENT OF PERMITS AND
DEVELOPMENT MANAGEMENT
NOTICE TO BUILDERS
IS PART OF THIS PERMIT

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.



not admitted
 Proof No
 20
 SD only

Lower level parking space 10 from the poles to the window, space 45 through the window.



Picture 5

Distance between poles in aisle
of lower level parking.

17'7"

Picture 4



Picture 3



Picture 2



Picture 1



SELECT A PROPERTY ►

Residential Group

BY CATEGORY:

BY STATE:

► MAP ► CONTACT US

- ☐ Financial Information
- ☐ Corporate Profile
- ☐ Portfolio
 - ☐ Overview
 - ☐ Commercial Group
 - ☐ Residential Group
 - ☐ Land Group
 - ☐ Lumber Trading Group
- ☐ News Releases
- ☐ Job Opportunities

Conventional Properties

External Listing Key:

RentNet **R**Apartments.com **A**

Property	Location	External Listing
101 San Fernando	San Jose, CA	A
Arboretum Place	Newport News, VA	A
Bayside	San Francisco, CA	
Big Creek	Parma Heights, OH	
Boulevard Towers	Amherst, NY	
Bridgewater	Hampton, VA	A
Camelot Towers	Parma Heights, OH	
Cherry Tree	Strongsville, OH	
Chestnut Lakes	Strongsville, OH	
Chevy Chase	Chevy Chase, MD	
Clarkwood	Warrensville Heights, OH	
Classic Residence by Hyatt	Teaneck, NJ	
Colony Woods	Bellevue, WA	A
Deer Run Apartments	Twinsburg, OH	
Drake Tower	Philadelphia, PA	A
Emerald Palms	Miami, FL	R
Enclave	San Jose, CA	A
Fort Lincoln II	Washington, DC	
Fort Lincoln III	Washington, DC	
Granada Gardens	Warrensville Heights, OH	
Hamptons	Beachwood, OH	
Hunter's Hollow	Strongsville, OH	
Kennedy Biscuit Lofts	Cambridge, MA	R
Knolls	Orange, CA	
Laurels	Justice, IL	R
Lenox Club	Arlington, VA	R
Lenox Park	Silver Spring, MD	R
Liberty Hills	Solon, OH	
Metropolitan	Los Angeles, CA	R
Midtown Towers	Parma, OH	R



Print 22

10/1

OSHAOccupational Safety & Health Administration
U.S. Department of Labor

Details for the inspections listed below may be obtained in two ways. The first method is simply following the inspection activity number link. The second method is marking the check boxes for selected inspections and pressing the *Get Detail* button. Information relevant to the selected cases will be returned and may then be browsed or printed. For information on the data elements displayed below, see [definitions](#).

Please note that inspections which are known to be incomplete will have the identifying Activity Nr shown in italic. Information for these open cases is especially dynamic, e.g., violations may be added or deleted.

Search Options						
Establishment	Date Range		RID	State	Limits	Include Exclude
Forest City Enterprises	1972-07-01	2010-12-31	All	All	100/2500	

Get Detail + All Reset				Found 21 -- Processed 21 -- Selected 21 -- Displayed 21						
	Activity Nr	Open Date	Report ID	St	Type	Sc	SIC	Vio	Establishment Name	
☐	1	127094456	01/06/2000	0552652	MI	Planned	NoIn	5311	Forest City Enterprises Store 054	N176 000025388
☐	2	115207979	07/17/1998	1055320	WA	Referral	Part	6513	12 Forest City Enterprises DbA Colony Woods	000000000
☐	3	115254039	05/11/1998	1055320	WA	Planned	Part	6513	1 Forest City Enterprises Inc DbA Colony Woods	1055320
☐	4	115595019	08/30/1991	0950411	AZ	Complaint	Part	7349	2 Forest City Enterprises	0950411
☐	5	105934582	04/12/1989	0522300	OH	Complaint	Part	6512	6 Forest City Enterprises, Inc.	0522300
☐	6	101312155	01/27/1988	0522300	OH	Planned	NoIn	4225	Forest City Enterprises	0522300
☐	7	101286276	07/02/1987	0522300	OH	Planned	Comp	1522	Forest City Enterprises	0522300
☐	8	101675080	11/06/1986	0522300	OH	Complaint	Part	4225	2 Forest City Enterprises, Inc.	0522300
☐	9	101676781	06/18/1986	0522300	OH	OtherK	RcRv	5031	Forest City Enterprises, Inc.	0522300
☐	10	101676682	05/02/1986	0522300	OH	OtherK	Comp	4225	4 Forest City Enterprises, Inc.	0522300
☐	11	014594295	10/30/1984	0950411	AZ	Accident	Part	7349	Forest City Enterprises Inc	0950411
☐	12	001349588	05/31/1984	0522300	OH	Complaint	Part	5211	1 Forest City Enterprises Inc	0522300
☐	13	011284205	01/17/1980	0213400	NJ	Planned	Part	1522	2 Forest City Dillon Enterprises	0213400
☐	14	214908154	08/09/1979	0522300	OH	Complaint	Comp	5211	2 Forest City Enterprises Inc	0522300

Print 23 ID only

PETITIONER'S
EXHIBITS

PETITIONER'S EXHIBITS

Exhibit No.

- | | |
|----------------|---|
| ✓ 1 | CV – George E. Gavrelis |
| ✓ 2 | Elevation Calculations (Kann & Assoc.) |
| ✓ 3 | Cmdp (p. 28 of Residential Standards) |
| ✓ 4 | Tabco Towers information |
| ✓ 5 | Penthouse Apts. Information |
| ✓ 6A | 1976 CZMP (SW 3I) |
| ✓ 6B | 1980 CZMP (SW 3I) |
| ✓ 7(A) | Redline Development Plan |
| ✓ 7(B) | Development Plan |
| ✓ 8 | CV – Charles V. Main, II |
| ✓ 9 | CV – Jon Wallenmeyer |
| ✓ 10 | Forest City – 2000 Annual Report |
| ✓ 11 | CV – Mickey A. Cornelius |
| ✓ 12 | Traffic Group Report (2/18/02) |
| ✓ 13 | Traffic Group Report (4/17/02) |
| ✓ 14 | 3-Year Summary – accidents |
| ✓ 15 | MSHA – Guidelines for Traffic Impact Reports |
| ✓ 16 | Daniel review of Traffic Group study (3/11/02) |
| ✓ 17 | Wagandt CV |
| ✓ 18 A-D | Photos (4) |
| ✓ 19 | Venable Letter |
| ✓ 20 | Deprm's Letter |
| ✓ 21 | Items needed for Phase II analysis |
| ✓ 22 | Kann - CV |
| ✓ 23 | Oella History |
| ✓ 24 | Glazer CV |
| ✓ 25 A + B | Building Elevations (A & B) |
| ✓ 26 | Venable Letter dated April 12, 2001 |
| ✓ 27 | Power Plant |
| ✓ 28 | Photos |
| ✓ 29 | HOA Minutes |
| ✓ 30A | HOA Certificate of Secretary |
| ✓ 30B | HOA Certificate of President |
| ✓ 30C | HOA Regular Meeting of Board of Directors |
| ✓ 30D | HOA Special Meeting of the Board of HOA Members |
| ✓ 30E | HOA Special Meeting of the Board of Directors |
| ✓ 31 | Kellman – CV |
| ✓ 32 | Prior Zoning Cases |
| ✓ 33 | Record Plat |
| ✓ 34 | Oella 1 st Amended Development Plan |
| ✓ 35 A + B + C | 2 nd Amended CRG for Oella |
| ✓ 36 | Zoning Variance |
| ✓ 37 | Entire FEMA Map |

George E. Gavrelis

Vice President



Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21204

Phone 410 296 3333

Fax 410 296 4705

ggavrelis@dmw.com

A Team of Land Planners,

Landscape Architects,

Golf Course Architects,

Engineers, Surveyors &

Environmental Professionals

*Level
No 1*



George Gavrelis is DMW's senior specialist in local planning and zoning. With extensive public-sector leadership service, he has complete knowledge of planning and zoning procedures, as well as detailed requirements and standards of zoning and development regulations. His expertise assures that projects comply with applicable standards and move expeditiously through the approval process.

George is recognized as an expert witness in Baltimore County planning, zoning, and land use issues, and testifies before the Zoning Commissioner, Board of Appeals, and circuit court.

Significant Projects

Towson Commons
Towson, Maryland

Mays Chapel North
Planned Unit Development
Timonium, Maryland

Caves Valley Golf Club
Baltimore County, Maryland

Hayfields
Baltimore County, Maryland

Land Owners Council,
Reciprocal Regional
Development Agreement
Owings Mills Growth Area
Baltimore County, Maryland

New Density
Residential Zones
Baltimore County, Maryland

The Guide Plan for
Baltimore County, Maryland

Professional Background

Daft-McCune-Walker, Inc.
Towson, Maryland
1984 - Present

Private Planning
Consultant
Towson, Maryland
1982 - 1984

Developers General Corp.
Towson, Maryland
1972 - 1982

Office of Planning and
Zoning, Baltimore County,
Maryland
1951 - 1972
Director, 1963 - 1972

Education

M.A. - City Planning
Harvard University
Graduate School of Design

A.B. - Architectural Sciences
Harvard College

Associations

American Institute of
Certified Planners
Charter Member

American Planning Assoc.

Civic Involvement

The Towson Partnership
Urban Design and Towson
Core Subcommittees

Baltimore County Master
Plan, Strategic Plan 2000
Executive Steering
Committee

Trinity Episcopal Church
Long Range Planning
Committee

1992 Comprehensive
Zoning Map Guidelines
Advisory Group

Oella Mill

Elevation Calculations

Kann and Associates, Inc.

2nd Story Elevation =

182.08

A #	B Feet	C Feet	D Feet	E %	F Feet	G Feet	H Feet Weighted %
Segment	Length	High Elevation	Low Elevation	% of Total Length	Average Elevation for Segment	2nd Story minus Average	Difference from 2nd Story Elevation
1	128	180	183	10.55%	181.5	0.58	0.08
2	3	183	183	0.25%	183	-0.92	0.00
3	82	183	184	6.76%	183.5	-1.42	-0.10
4	25	182	182	2.06%	182	0.08	0.00
5	25	182	182	2.06%	182	0.08	0.00
6	25	184	184	2.06%	184	-1.92	-0.04
7	80	183	184	6.60%	183.5	-1.42	-0.09
8	19	183	183	1.57%	183	-0.92	-0.01
9	3	183	183	0.25%	183	-0.92	0.00
10	12	183	183	0.99%	183	-0.92	-0.01
11	3	183	183	0.25%	183	-0.92	0.00
12	124	183	183	10.22%	183	-0.92	-0.09
13	54	184	184	4.45%	184	-1.92	-0.09
14	21	175	183	1.73%	179	3.08	0.05
15	23	175	175	1.90%	175	7.08	0.13
16	13	175	178	1.07%	176.5	5.58	0.06
17	30	177	178	2.47%	177.5	4.58	0.11
18	16	177	177	1.32%	177	5.08	0.07
19	72	170	174	5.94%	172	10.08	0.60
20	21	174	174	1.73%	174	8.08	0.14
21	58	164	174	4.78%	169	13.08	0.63
22	27	158	158	2.23%	158	24.08	0.54
23	71	157	158	5.85%	157.5	24.58	1.44
24	36	148	157	2.97%	152.5	29.58	0.88
25	22	148	152	1.81%	150	32.08	0.58
26	27	152	152	2.23%	152	30.08	0.67
27	12	152	152	0.99%	152	30.08	0.30
28	7	152	153	0.58%	152.5	29.58	0.17
29	22	153	153	1.81%	153	29.08	0.53
30	113	153	155	9.32%	154	28.08	2.62
31	39	155	180	3.22%	167.5	14.58	0.47
1213				100.00%			8.60
							average feet below second story

Devil No 2



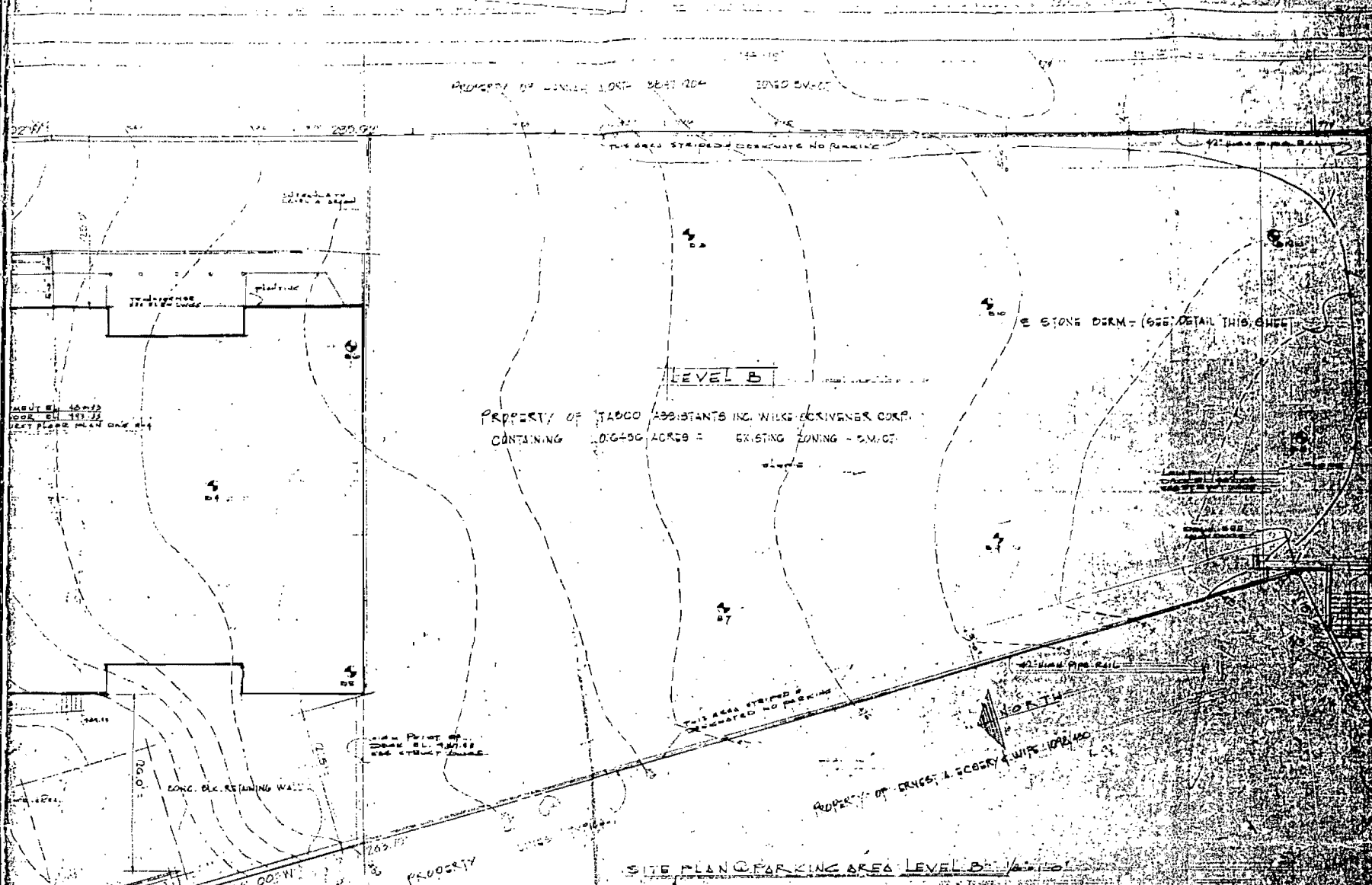
*Level
NO 3*

• Baltimore County • Focus on Community •

PART III: COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES

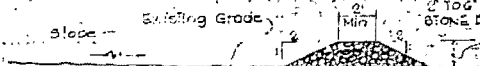
Adopted by the Baltimore County Planning Board on April 16, 1992
and with Amendments to November 1998

1975
Towers
Towers



GENERAL NOTES

1. All construction shall be in accordance with Baltimore County Standards and Specifications for Soil Erosion and Sediment Control in Urbanizing Areas, and as detailed on this sheet.
2. Structural measures, such as berms, dikes, traps, etc., will be installed and stabilized according to this plan prior to any other grading, clearing, or disturbance of the existing surface of the site.
3. Continuous inspection and maintenance of sediment control facilities shall be performed until permission for their removal has been obtained from the Baltimore County Soil Conservation Inspector.
4. Notify the Baltimore County Soil Conservation District at least 24 hours before starting any work.
5. All sediment control measures to be adjusted to meet field conditions.
6. All existing structures to be razed.
7. Elevations shown hereon are based on Baltimore County Traverse Stations: 4940, 51, 475, 619, 4, 7, 4942, 51, 494, 18.



DETAIL - STONE BERM
NOT TO SCALE

SECTION Q PARKING AREA 1/8\"/>

ZONING VARIANCE
PROPOSED 27 STORY OFFICE & APARTMENT BUILDING
305 EAST JOPPA ROAD - 9TH ELEC. DIST. - TOWSON, MD.
215 MAY 22, 1974

P. SAKI
Engineer
TREET
BYLAND

ENGINEERING ASSOCIATES, INC.
CONSULTING MECHANICAL/ELECTRICAL ENGINEERS
1047 ST. PAUL STREET
BALTIMORE, MARYLAND

BUMONT ASSOCIATES project

L. EDWARD WOLF, architect
Bumont Road, Lutherville, Maryland 21093
tel: 201-257-4154



TABCO TOWERS

sponsored by TABCO assistance, Inc. (a subsidiary of TABCO)
EUGENE M. KAROL, president
305 East Joppa Road - Towson, Maryland 21204



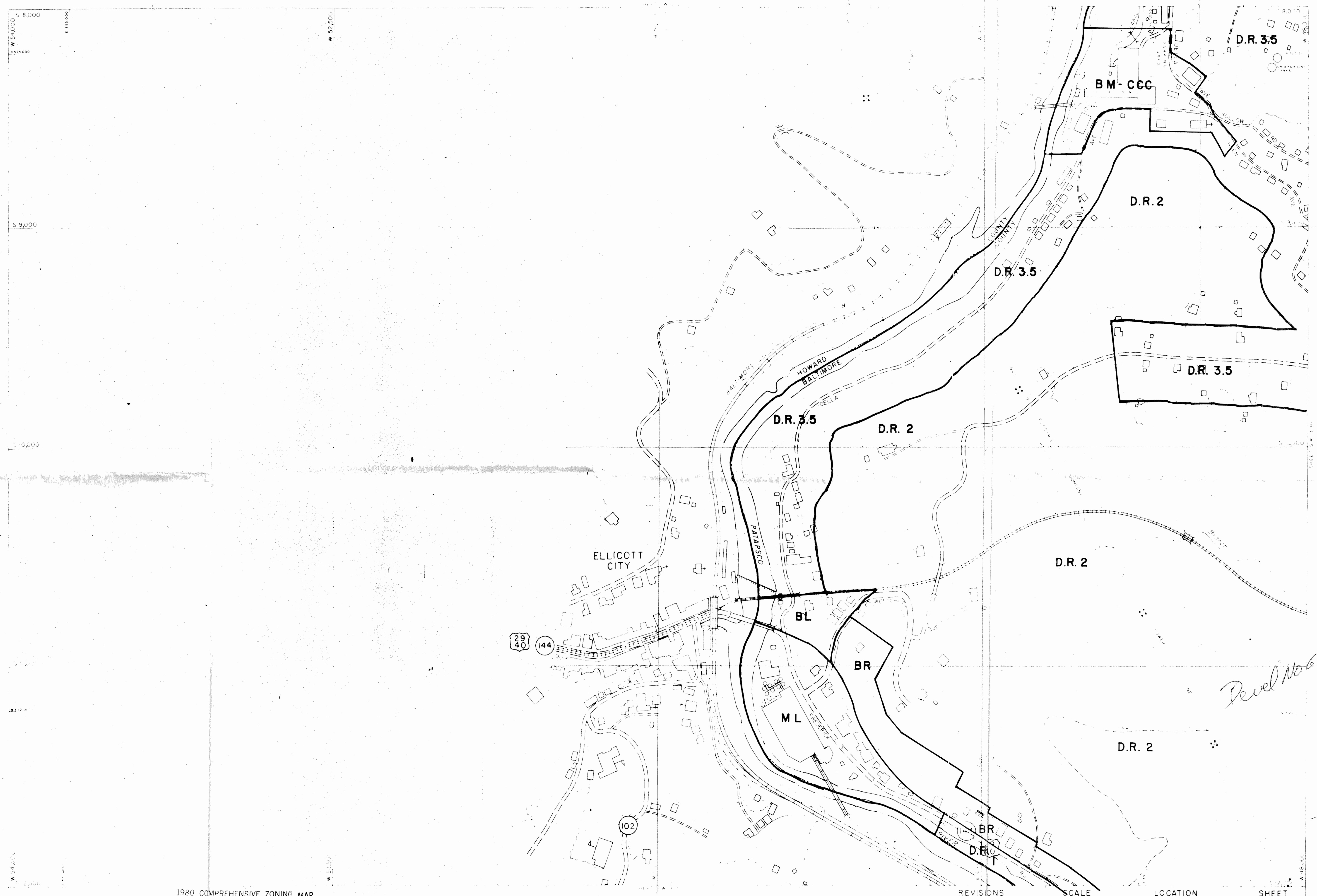
CASE #77-137-X

Level
100

Build Permit
C-423-73
C-458-73

Level
No 5

The
Pent House



Revel No 61A

H-NW
H-SW

1980 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT. 14, 1980
BILL NOS. 184-80, 185-80, 186-80,
187-80, 188-80, 189-80 AND 190-80
[Signature]
CHAIRMAN, COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA OFFICIAL ZONING MAP

REVISIONS
BY DATE
SCALE
1" = 200'

DATE OF
PHOTOGRAPHY
APRIL 1953

Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION-PHILADELPHIA, PA.

LOCATION ELICOTT CITY	SHEET S.W. 3-1
-----------------------------	----------------------

GENERAL NOTES

- OWNER: DELLA MILL, LLC
840 OELLA AVE
ELICOTT CITY, MD 21043
- DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5803 NICHOLSON LANE
NORTH BETHESDA, MD 20852
- TAX ACCOUNT NO: 16-00-006700
- AREA: 5.73 ACRES
- ZONING: BM-CCC
- CONJUGAL: DISTRICT 1, CONJUGAL TRACT 405103
- WATERSHED: PATAPSCO, SUBWATERSHED 11
- MARYLAND HISTORIC TRUST INVENTORY NO: BA 2375
- THE SITE IS IN THE DELLA NATIONAL REGISTER HISTORIC DISTRICT.
- ALL SOILS ARE MHE, MANDOR AND BRANDYWINE, AS SHOWN ON THE BALTIMORE COUNTY SOIL SURVEY.
- THE FOLLOWING ZONING RELIEF WILL BE REQUESTED:
SPECIAL HEARING:
SPECIAL HEARING TO APPROVE A WAIVER PURSUANT TO SECTIONS 26-17A, 26-17B(1), 26-203(C)(8), AND 26-27B OF THE BALTIMORE COUNTY CODE TO RENOVATE A HISTORIC STRUCTURE.
- VARIANCES:
VARIANCE FROM SECTION 235A.2 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT APARTMENT WINDOWS FACING A PROPERTY LINE OTHER THAN A STREET LINE TO BE LOCATED AS CLOSE AS 8 FEET IN LIEU OF THE MINIMUM PERMITTED 25 FEET.
VARIANCE FROM SECTION 409A.8 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT 20 PARKING SPACES TO BE LOCATED SO AS NOT TO ADJOIN OR HAVE DIRECT ACCESS TO AN AISLE.
VARIANCE FROM SECTION 409A.4 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A MINIMUM WIDTH OF 15.5 FEET FOR TWO-WAY AISLES IN LIEU OF THE MINIMUM REQUIRED WIDTH OF 22 FEET.
- TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO HAZARDOUS MATERIALS ON THIS SITE.
- A LETTER OF MAP AMENDMENT (LOMA) WILL BE REQUESTED TO REVISE THE FLOOD PLAN SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) FLOOD INSURANCE RATE MAP (FIRM), PANEL # 24020D 0370 B, TO AGREE WITH THE 1980 STUDY PROVIDED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS.
- ALL SIGNS WILL COMPLY WITH SECTION 450 OF THE BALTIMORE COUNTY ZONING REGULATIONS.
- THE FOREST CONSERVATION ACT DOES NOT APPLY SINCE NO FOREST CLEARING OR SUBDIVISION IS PROPOSED.
- LIMITED QUANTITIES OF ASBESTOS-CONTAINING MATERIALS AND LEAD-BASED PAINT ARE PRESENT AND CONVERSION TO RESIDENTIAL USE WILL REQUIRE SOME ABATEMENT.
- ENVIRONMENTAL VARIANCES FOR CONTINUED USE OF EXISTING STRUCTURES AND PROPOSED IMPROVEMENTS IN THE FOREST BUFFER WILL BE REQUESTED.

SITE DEVELOPMENT PROPOSAL

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE REQ'D	OPEN SPACE PROP'D	AVG. DAILY TRIPS	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS W/O ENC.B.R.	71	88.75						
APARTMENTS W/ ENC.B.R.	104	156		0.881 AC.	2.3 AC.	1137.5	N/A	2002
TOTAL	175	244.75	263*	0.881 AC.	2.3 AC.	1137.5		

* - 106 SPACES INSIDE DELLA MILL AND 12 SPACES INSIDE BOLIER BUILDING, TOTAL 118

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED	
X		X		Topography and street grades (min 5 ft. contour interval)
X		X		Slopes greater than 25%
X				100 yd floodplain
X				Soils mapped according to Soil Survey, Baltimore County, Maryland
X				Streams, ponds, seeps or other water bodies shown on site and within 200 ft. of site boundaries
X				Wetlands
X		X		Forest buffer limits including adjustments for steep slopes and/or erodible soils
X				Land cover on and within 200 ft. of site
X				Significant regulated plant or wildlife communities
X				Wells on site and within 100 ft. of site
X				Septic on site and within 100 ft. of site
X				Underground fuel tanks on site and within 100 ft. of site
X				Soil evaluation tests (per tests) performed YES DATE

EXISTING BUILT CONDITIONS

EXISTING	NOT EXISTING	
X		Locations of existing buildings within 200 ft. of site boundaries
X		Location of existing roads within 200 ft. of site boundaries
X		Designated historic sites
X		Designated archeological sites
X		Significant views
X		Significant features (cascades, trees, buildings, streetscapes, etc.)
X		Land uses on and within 200 ft. of site
X		Roads right-of-way and easements

COUNTY ADOPTED PLANS

EXISTING	NOT EXISTING	IN CONFORMANCE	
X		X	Balto Co. Master Plan 1989-2000
X		X	Community or Revitalization Plan(s)
X		X	Recreation and Parks Plan
X		X	Streetscape Plan
X		X	Greenways Plan
X			Other:

AMENITY OPEN SPACE PROPOSAL

Open Space Type	Acres
Active Open Space	N/A
100 yd floodplain	1.74 ac
Forest Buffer	0.65 ac
Assembly Areas	N/A
Trails and Connections	N/A
Other	--
Total Provided	2.31 ac
Proposed Ownership	Private/Public

Undeveloped Areas	Acres
Storm Water Management	N/A
HOAC/COA Areas	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 192,637 S.F. OR 0.881 AC.

SITE DATA

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROPOSED
BM-CCC	5.55 AC	NOT LIMITED	NOT LIMITED	175
DR-3.5	.18 AC	N/A	N/A	N/A
TOTAL	5.73 AC			175

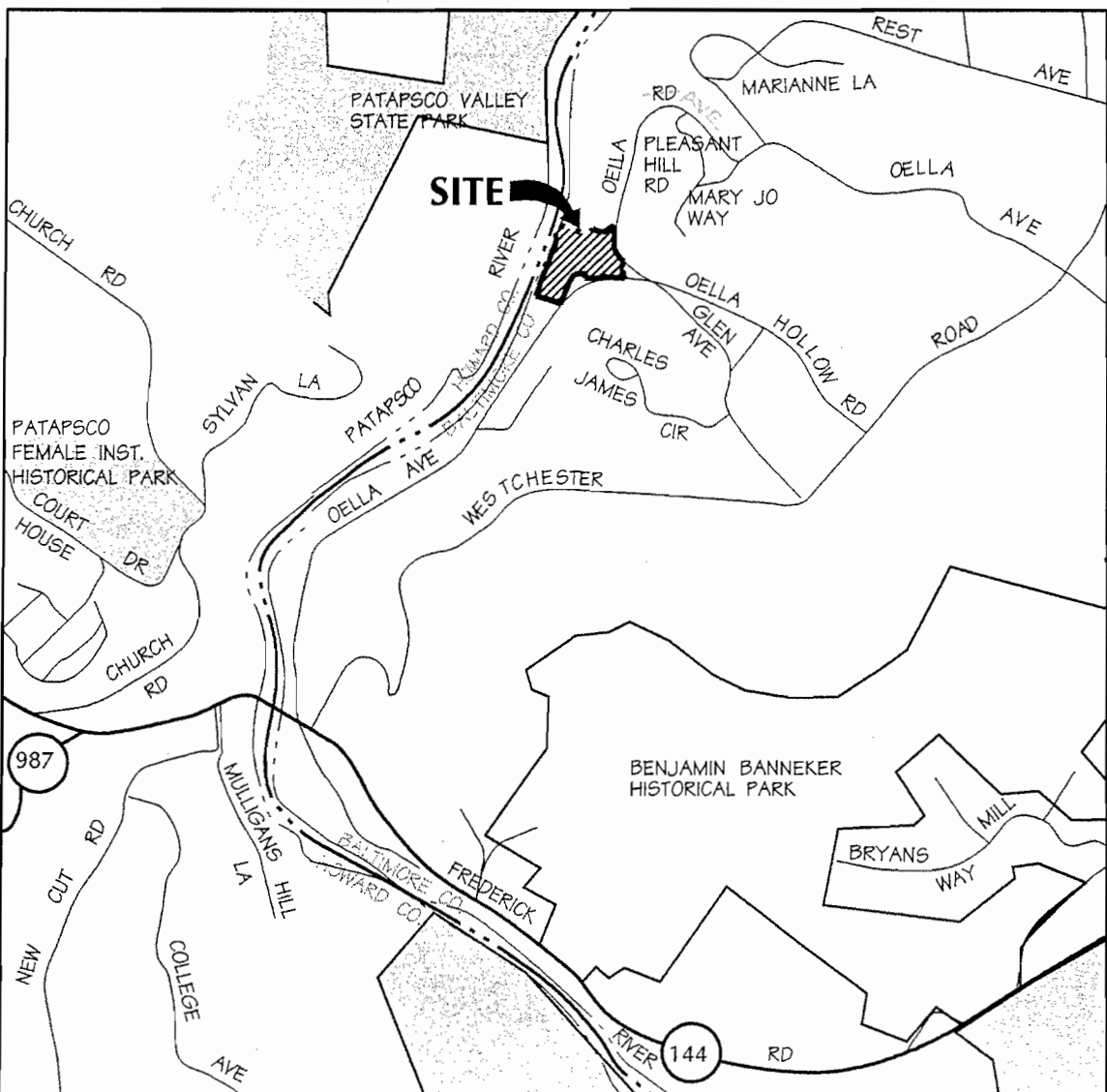
FOREST BUFFER NOTES

STANDARD NON-DISTURBANCE NOTE

"THERE SHALL BE NO CLEARING, GRADING, OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENTS, EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

PROTECTIVE COVENANTS NOTE:

"ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."



LOCATION MAP

SCALE: 1" = 1000'

LEGEND

- ADJACENT PROPERTY LINE
- SUBJECT PROPERTY LINE
- EX MINOR CONTOUR (1')
- EX MAJOR CONTOUR (5')
- EX CURBEDGE OF WALK OR PAVING
- UTILITY LINE (OH - OVERHEAD)
(UG - UNDERGROUND)
- RIVER EDGE
- EX RETAINING WALL
- ZONING LINE
- PRELU. 100 YR. WATER SURFACE ELEVATION
- 100 YR. FLOODPLAIN
- 2' & U EASEMENT
- 25' FOREST BUFFER SETBACK
- L.O.D. LIMIT OF DISTURBANCE
- PROP. CURB & GUTTER
- PROP. 6' HIGH ORNAMENTAL SCREENING
- 100' PROP. WALK CONTOUR
- 200' PROP. MAJOR CONTOUR
- EX FENCE
- EXISTING STRUCTURE
- 18' SURFACE PARKING SPACES
- 14' COVERED PARKING SPACES (RECESSED)
- EX RAILROAD
- EX FOREST
- EX. POOR QUALITY WOODS VEGETATION

DATA SOURCES

- BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTAIRAC SURVEY OF DELLA MILL BY GREENHORNE & OMARA, DATED 10/05/01, OFF SITE TOPOGRAPHY SUPPLEMENTED BY DMW FIELD VISIT DATED 11/01/02 AND HOWARD COUNTY TOPOGRAPHY CO. 1982
- FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.P.W. DATED 1980.
- DATUM: MARYLAND COORDINATE SYSTEM, HORIZONTAL NAD 83, VERTICAL NAVD 83.
- EXISTING PUBLIC UTILITIES FROM 3RD REVISED CDG OF DELLA, MD APPROVED 4/12/92.

LIMIT OF DISTURBANCE = 153 AC. ± (66687.24 SF)

DMW
Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax: 296-4705

A Team of Land Planners,
Landscape Architects,
Golf Course Architects,
Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

DEVELOPMENT PLAN

1st ELECTION DISTRICT		BALTIMORE COUNTY, MD	
		ISSUE DATES	
		REVIEW: _____	
		BID: _____	
		PERMIT: _____	
		CONSTRUCTION: _____	
		BASE: AJS	
		DRAWN: KMF	
		DESIGNED: KANN	
		CHECKED BY: CVM	
		DATE CHECKED: 3-19-02	
		SCALE: 1"=30'	
		PROJECT NO.: 01108.00	
		DRAWING: 1 of 2	

ADJACENT PROPERTY OWNERS

LOT NO.	ADDRESS	OWNER	TAX ACCT. NO.	DEED REF.
1	881 OELLA AVENUE	HISTORIC OELLA LIMITED PARTNERSHIP	012300008127	
2	879 OELLA AVENUE	ROBERT & LISA BOITE	012300008128	150901266
3	877 OELLA AVENUE	CHRISTOPHER D. HARSHMAN	012300008129	150921719
4	875 OELLA AVENUE	HEATHER L. ZAHN	012300008130	149641605
5	873 OELLA AVENUE	CHRISTOPHER A. ROE	012300008131	143021108
6	871 OELLA AVENUE	ANDREAS O. WALKER & RACHEL MERRITT	012300008132	156881411
7	720 MARY JO WAY	WENDY A. WYATT & BRUCE L. ELLIOTT	01220001857	106931219
8	783 OELLA AVENUE	ALEXANDRA C. CLARK	01220001858	143461695
9	781 OELLA AVENUE	CHARLES L. WAGANDT	01220001859	

EAST SIDE STORM WATER MANAGEMENT COMPUTATIONS	
22% OF EXISTING IMPERVIOUS =	4,735 SQ. FT.
PROPOSED IMPERVIOUS =	12,536 SQ. FT.
TOTAL IMPERVIOUS TO BE TREATED =	17,271 SQ. FT.
R ₁ =	0.35
WQ ₁ =	0.0314 AC. FT. = 1367.68 CU. FT.
PRETREATMENT =	341.92 CU. FT.
A ₁ =	977.75 SQ. FT.
AREA OF PERIMETER SAND FILTER =	15.66 SQ. FT.
46.49 SQ. FT. / 15.66 SQ. FT. = 3 FILTERS	
R ₂ =	0.2166 AC. FT. = 724.61 CU. FT.
WQ ₂ =	191.15 CU. FT.
PRETREATMENT =	191.15 CU. FT.
AREA OF PERIMETER SAND FILTER =	15.66 SQ. FT.
46.49 SQ. FT. / 15.66 SQ. FT. = 3 FILTERS	
R ₃ =	0.35
WQ ₃ =	130.64 CU. FT.
PRETREATMENT =	130.64 CU. FT.
AREA OF PERIMETER SAND FILTER =	15.66 SQ. FT.
46.49 SQ. FT. / 15.66 SQ. FT. = 3 FILTERS	
R ₄ =	0.35
WQ ₄ =	109.50 CU. FT.
PRETREATMENT =	109.50 CU. FT.
AREA OF PERIMETER SAND FILTER =	15.66 SQ. FT.
46.49 SQ. FT. / 15.66 SQ. FT. = 3 FILTERS	
R ₅ =	0.35
WQ ₅ =	109.50 CU. FT.
PRETREATMENT =	109.50 CU. FT.
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WQ ₆ =	109.50 CU. FT.
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PRETREATMENT =	



DATA SOURCES:

DMW
Daft·McCune·Walker, Inc.
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*A Team of Land Planners,
Landscape Architects,
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Engineers, Surveyors &
Environmental Professionals*

OELLA MILL PROPERTY

DEVELOPMENT PLAN

1st ELECTION DISTRICT

BALTIMORE COUNTY, MD

	ISSUE DATES
--	-------------

REVIEW: _____

BID: _____

PERMIT: _____

CONSTRUCTION: _____

BASE: _____

DRAWN: _____

DESIGNED: _____
CHECKED BY: _____

DATE CHECKED: 3-1

DATE	10/10/10
TIME	10:00

SCALE: A5 5

PROJECT NO.:	01102
DRAWING:	

2 of 2

Charles V. Main, II
Project Manager



200 East Pennsylvania Avenue
Towson, Maryland 21204
410 296 3333
Fax 296 4705
cmain@dmw.com

*A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals*



Charlie Main is responsible for feasibility studies, economic analysis, production of construction drawings, specifications and construction period services.

Thorough analysis and responsive resolution of design concerns are hallmarks of Charlie's work during both engineering and construction phases. His land development experience extends into many local jurisdictions, as well as state and federal agencies. Projects include small commercial renovations, as well as extensive mall expansions and residential subdivisions.

Significant Projects

Towson Town Center
Mall Expansion
Towson, Maryland

Villages of Wisp
Residential Subdivision
McHenry, Maryland

Al-Ray & Super Concrete
Corporation
Rubble Landfill
Lothian, Maryland

Harbor Place
Pavilion Retail Centers
Baltimore, Maryland

Grey Rock
Residential Subdivision
Pikesville, Maryland

Union Memorial Hospital
Multi-Purpose Buildings
Baltimore, Maryland

Professional Background

Daft-McCune-Walker, Inc.
Towson, Maryland
1995 - Present; 1989 - 1992

McKee & Associates, Inc.
Hunt Valley, Maryland
1992 - 1995

Greenhorne & O'Mara
Towson, Maryland
1988 - 1989

G.W. Stephens, Jr. &
Associates, Inc.
Towson, Maryland
1984 - 1988

Whitman, Requardt
and Associates
Baltimore, Maryland
1978 - 1984

Registration

Professional Engineer
Maryland
Reg. No. 20784

Education

B.A. - Mathematics
Washington College

Associations

National Society of
Professional Engineers

*American Society
of Civil Engineers*

*PE
Devel
No 8*

FORESTCITY

RESIDENTIAL GROUP

JON WALLENMEYER

Vice President, East Coast Residential Development Forest City Residential Group, Washington, D.C.

Mr. Wallenmeyer joined Forest City in 1996. As the Vice President of East Coast Development for the Residential Group, he is solely responsible for site acquisition, program determination, professional selection, and construction administration of the Group's East Coast development projects. Recent projects include The Grand in North Bethesda, MD, The Drake and Bell Apartment Buildings in Philadelphia, PA, Emerald Palms in Miami Florida, and The American Cigar Building, Consolidated Cigar Building, and Carolina Buildings in Tobacco Row at Richmond, VA.

Prior to Forest City, CHK Architects and Planners employed Mr. Wallenmeyer from 1984 to 1993 where he was the Senior Project Manager for the Firm's larger high-rise residential projects. Local Washington Metropolitan Area buildings include: Trans-Potomac Canal Center in Alexandria, Somerset House Condominiums in Friendship Heights, Courthouse Commons in Arlington, VA, The Alexander House in Silver Spring, The Washington Hebrew Congregation addition in Washington, DC and The Lenox Park Apartments in Silver Spring. Mr. Wallenmeyer was also a partner in Starling Wallenmeyer Associates from 1993 to 1996.

Mr. Wallenmeyer holds a degree of Bachelor of Architecture from the University of Maryland. He is a member of the American Institute of Architects, The Urban Land Institute, and the Construction Specifications Institute. He is a licensed architect in Maryland, Virginia and Pennsylvania.

Revel. No 9

Forest City Enterprises, Inc.

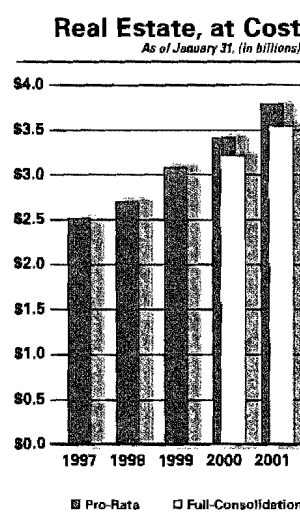
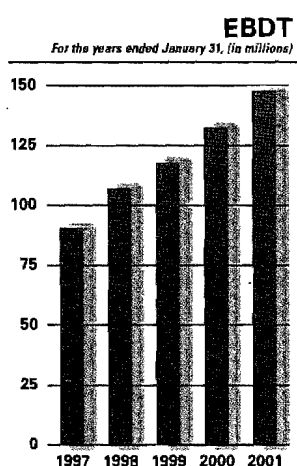
2000 ANNUAL REPORT

FINANCIAL HIGHLIGHTS

Effective January 31, 2001, Forest City Enterprises, Inc. implemented a change in the presentation of its financial results from the pro-rata method of consolidation to the full consolidation method, in accordance with the Financial Accounting Standards Board's Emerging Issues Task Force Issue No. 00-1. A discussion regarding this change is included in Note A - "Summary of Significant Accounting Policies". Prior year amounts have been re-presented under the full consolidation method.

	January 31,	
	2001	2000
	(in thousands, except per share data)	
Operating Results:		
Revenues	\$ 794,785	\$ 698,788
Earnings before depreciation, amortization and deferred taxes (EBDT) ⁽¹⁾	147,809	132,639
Net earnings	91,637	40,802
Per Share:		
EBDT ⁽¹⁾	\$ 4.87	\$ 4.40
Net earnings	\$ 3.02	\$ 1.35
Weighted average common shares outstanding	30,333	30,153
Share Price:		
Class A	\$ 41.55	\$ 26.06
Class B	42.05	30.38
Financial Position:		
Consolidated assets	\$ 4,030,470	\$ 3,666,355
Real estate, at cost	3,526,146	3,206,642
Nonrecourse mortgages	2,439,912	2,188,594
Long-term debt, including senior and subordinated debt	409,900	367,000
Consolidated shareholders' equity	456,636	386,506

(1) The Company uses an additional measure, along with net earnings, to report its operating results. This measure, referred to as Earnings Before Depreciation, Amortization and Deferred Taxes ("EBDT"), is not a measure of operating results or cash flows from operations as defined by generally accepted accounting principles and may not be directly comparable to similarly-titled measures reported by other companies. The Company believes that EBDT provides additional information about its operations and, along with net earnings, is necessary to understand its operating results. The Company's view is that EBDT is an indicator of the Company's ability to generate cash to meet its funding requirements. EBDT is defined as net earnings before extraordinary gain, excluding the following items: i) provision for decline in real estate; ii) gain (loss) on disposition of properties and other investments; iii) beginning in the year ended January 31, 2001, the adjustment to recognize rental revenues and rental expenses using the straight-line method; and iv) noncash charges from Forest City Rental Properties Corporation for depreciation, amortization and deferred income taxes.



Forest City Enterprises, Inc. is principally engaged in the ownership, development, acquisition and management of commercial and residential real estate throughout the United States. The Company owns properties in 22 states and the District of Columbia. Forest City also conducts land development projects and is one of the nation's largest lumber wholesalers. The Company's Class A and Class B common shares are listed on the New York Stock Exchange - FCEA and FCEB. The Company's primary markets include Boston, Chicago, Cleveland, Denver, Las Vegas, Los Angeles, New York, Philadelphia, Pittsburgh, Richmond (Virginia), San Francisco and Washington D.C.





MICKEY A. CORNELIUS, P.E., P.T.O.E.

Senior Vice President

Mickey Cornelius, proudly one of the first certified Professional Traffic Operations Engineers (P.T.O.E.) in the nation, is Senior Vice President of the firm, responsible for managing various aspects of the firm's traffic engineering and transportation planning studies. He is experienced in many aspects of traffic engineering and transportation planning, including traffic analysis, traffic forecasting and associated modeling, geometric design, traffic signals and signal systems evaluation/design, parking and circulation, traffic calming, and transportation systems management.

As a registered Professional Engineer, Mr. Cornelius has over 15 years experience in the highway transportation and traffic engineering profession. His experience in both the public and private sectors has provided him with a broad range of expertise in his field. Mr. Cornelius has conducted over 1,500 traffic engineering studies and has served as a transportation planner for the development of Master Plans for both private firms and public agencies. His educational and professional background has qualified him as an expert in the field of traffic engineering and transportation planning before numerous County and Municipal Planning and Zoning Boards in Maryland, as well as in Pennsylvania, New Jersey and New York.

Job History

1987 - Present

Traffic Engineering Consultant, The Traffic Group, Inc.

1984 - 1987

Traffic Engineering Consultant

1982 - 1984

Civil Engineer, Highway Construction

Educational Background

- *B.S. in Civil Engineering* with emphasis in Transportation
Pennsylvania State University
- *Traffic Engineering Courses*
Northwestern University Traffic Institute
Polytechnic Institute of New York

Affiliations

- Certified Professional Traffic Operations Engineer (P.T.O.E.)
- Registered Professional Engineer (P.E.)—DE, MD, NJ, PA, VA
- Institute of Transportation Engineers (I.T.E.)
- National Society of Professional Engineers (N.S.P.E.)
- Urban Land Institute (U.L.I.)
- Maryland Association of Engineers (M.A.E.)
- Consulting Engineers Council of Pennsylvania (CEC/PA)
- American Society of Civil Engineers (A.S.C.E.)

Examples of places where Mr. Cornelius has testified as an expert witness

MARYLAND

City of Annapolis - City Council
Anne Arundel County - Board of Appeals;
Zoning Hearing Examiner
City of Baltimore - City Council; Planning Commission

Baltimore County - County Review Group, Zoning Commissioner,
Board of Appeals; Circuit Court; District Court
Town of Bel Air - Planning Board; Town Commissioners;
Zoning Hearing Examiner
Carroll County - Board of Appeals; County Commissioners;
Planning Board
City of Bowie - Planning Advisory Board; Mayor and City Council
Cecil County - Technical Advisory Committee
Charles County - Board of Appeals
Dorchester County - Board of Appeals
Frederick County - Planning Board; County Commissioners;
Board of Appeals
Harford County - Zoning Hearing Examiner
Howard County - Planning Board; Zoning Board; Board of Appeals
Town of Indian Head - Planning Commission
Montgomery County - Planning Board; Zoning Hearing Examiner;
Board of Appeals
Town of North East - Planning Commission
Prince George's County - Planning Board; County Council
Washington County - Board of Appeals
City of Westminster - Mayor and Common Council
Wicomico County - Board of Zoning Appeals

NEW JERSEY

State Court of Administrative Law
Cumberland County - Manchester Township
Zoning Hearing Board
City of Millville - Planning Commission

PENNSYLVANIA

York County - Manchester Township Zoning Hearing Board
Shrewsbury Borough - Planning Commission

NEW YORK

Town of East Hampton - Planning Commission

Ret NO 11
(1/14/02)



*Redaction
No 12*

February 18, 2002

Mr. Geoffrey Glazer
Kann & Associates, Inc.
207 East Redwood Street
Fourth Floor
Baltimore, Maryland 21202

RE: Oella Mill
Traffic Impact Analysis
Baltimore County, Maryland
Our Job No.: 2001-1014

Dear Mr. Glazer:

As requested, The Traffic Group, Inc. has conducted a Traffic Impact Analysis related to the redevelopment of Oella Mill. The Oella Mill is located along the west side of Oella Avenue, north of MD 144 (Frederick Road) along the east side of the Patapsco River. This study addresses the impact of redeveloping the site with 176 apartment units on surrounding area traffic conditions. The following exhibits were utilized for this traffic assessment.

- EXHIBIT 1** Site Location Map
- EXHIBIT 2** Site Development Plan for Oella Mill
- EXHIBIT 3** Existing Peak Hour Traffic Volumes
- EXHIBIT 4** Trip Generation Comparison for Oella Mill
(existing uses vs. proposed use)



Ref No 13

April 17, 2002

Mr. Geoffrey Glazer
Kann & Associates, Inc.
207 E. Redwood Street
4th Floor
Baltimore, Maryland 21202

RE: Oella Mill
Traffic Assessment
Baltimore County, Maryland
Our Job No: 2001-1014

Dear Mr. Glazer:

As requested, The Traffic Group, Inc. has conducted supplemental analyses relating to the impact of the redevelopment of Oella Mill on surrounding area traffic conditions. Specifically, these supplemental analyses address existing and future intersection operations at the key intersections along the surrounding area road system.

Based upon the location of the subject property, the surrounding area road system and the projected distribution of traffic for the proposed development, the key intersections for purposes of this analysis were identified as follows:

- MD 144 and Oella Avenue (west)
- MD 144 and Oella Avenue (east)
- Oella Avenue and Westchester Avenue

Exhibit 1 provides a diagram of the surrounding area road system illustrating the existing lane use and traffic control at the key intersections in the study area.

The Traffic Group, Inc. conducted intersection turning movement counts between the hours of 7-9 AM and 4-6 PM on a weekday at the key intersections in the study area. In addition, intersection condition diagrams and photographs were prepared for these

**3 YEAR SUMMARY
1998 - 2000**

	1998	1999	2000	Total	Average
Roadways:					
*MD 144	3	2	1	6	2.0
Oella Ave	4	7	4	15	5.0
Westchester Ave	2	0	2	4	1.3
Number of Accidents	9	9	7	25	8.3
Accident Location:					
Intersection Related	2	2	0	4	1.3
Non-intersection	7	7	7	21	7.0
Accident Severity:					
Not Injured	6	5	7	18	6.0
Possible Injury	1	2	0	3	1.0
Injured	2	2	0	4	1.3
Disabled	0	0	0	0	0.0
Fatal	0	0	0	0	0.0
Weather:					
Clear/Cloudy	6	9	7	22	7.3
Raining	3	0	0	3	1.0
Other	0	0	0	0	0.0
Light:					
Daylight	6	6	6	18	6.0
Dawn/Dark	3	3	1	7	2.3
Other	0	0	0	0	0.0
Surface Condition:					
Dry	5	9	6	20	6.7
Wet	4	0	0	4	1.3
Snow/Sleet	0	0	1	1	0.3
Other	0	0	0	0	0.0
Vehicles Involved:					
Single Vehicle	4	2	3	9	3.0
Two Vehicles	4	6	3	13	4.3
Three or More	1	1	1	3	1.0

*intersections at Oella Avenue and Westchester Avenue only

*Revel
No 14*



**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

MARYLAND STATE HIGHWAY ADMINISTRATION

ENGINEERING ACCESS PERMITS DIVISION

GUIDELINES FOR

TRAFFIC IMPACT REPORTS/STUDIES

*Revel.
No 15*

Approved:

Thomas Hicks, Director
Office of Traffic and Safety

2/28/94

Date:

Neil J. Pedersen, Director
Office of Planning and
Preliminary Engineering

2/15/94

Date:

APR-15-2002 MON 03:43 PM FOREST CITY, WASH. OFC

FAX NO. 301 201 3332

P. 03

04/15/2002 15:10 4104651718

FILE NO. 235 US-22 VE F11 US-09 12-UNITED CONSULTANTS CELLA CO, INC.

PAGE 02

DCI**DANIEL CONSULTANTS, INCORPORATED**4900 Route 108 R, Suite 220
Columbia, Maryland 21046
(410) 992-4000
(301) 992-1500
Fax (410) 992-7000

March 11, 2002

To: Greater Oella Community Association

Attention: Mr. Jay Patel, President, Greater Oella Community Association

From: Mammen Daniel, P.E.

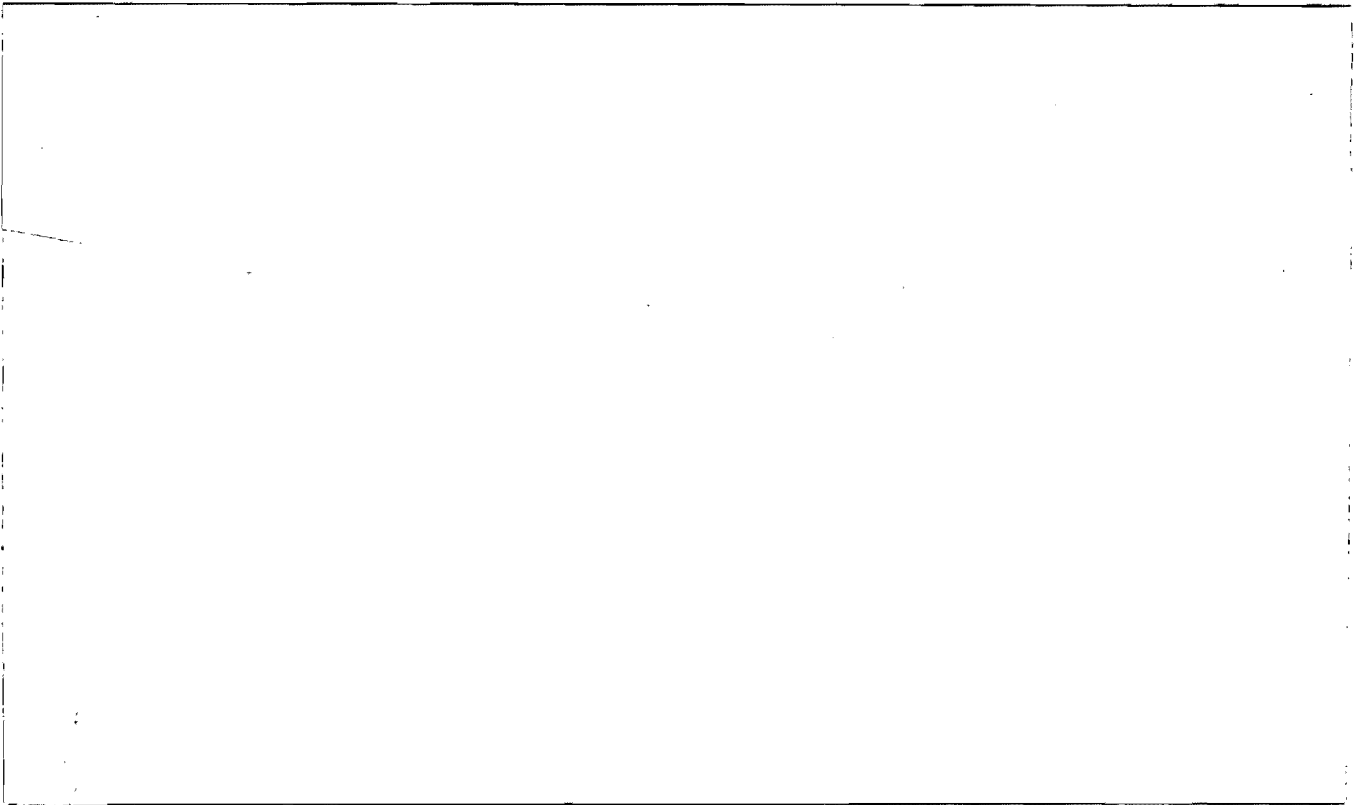
Re: Oella Mill Development- Traffic Study

I have reviewed the Traffic Study submitted by The Traffic Group in order to determine if the study has been conducted according to the standard traffic engineering principles and standards. My findings based on the trip generation are that the differential trips would be minimal to cause any adverse impact on the roadway system. The study has looked at all the elements of design features such as the intersection capacities and two lane operation and the analyses show that they will operate under acceptable conditions. Therefore traffic should not be considered as the primary cause of any objection.

Thank you for the opportunity to be of some assistance to you.

Level No
16

Oella Mills
Dev. Co. 18A-18D



The image shows the exterior of a two-story brick building. The ground floor features a large black roll-up garage door and a smaller black door to its left. The upper floor has several multi-paned windows. The brickwork is a mix of red and tan. A small white plaque is visible on the brick wall to the right of the garage door. The foreground shows a sidewalk and a street.

Design + Consign
TEL 465-6011 TEL

Devel No 18A

CPZBZC 60 1-NNNN *K* (B) (B)
120CHZ *ON>CTGT F 00

393
2/5/62





eo/sifo
E6E

Pevel No 18

5014 1515 <No>11H>054
041 014* N N N-1 NN 260243



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www.venable.com

VENABLE
ATTORNEYS AT LAW

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

Writer's Direct Number:
(410) 494-6206

pamalene@venable.com

April 12, 2002

HAND-DELIVERED

Douglas A. Swam, Permits Services Supervisor
Bureau of Building Permit Processing
Baltimore County Department of
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

*Permit No
19*

Re: Oella Mill - 840 Oella Avenue
PDM No. I-498/Case No. 02-412-SPHA

Dear Mr. Swam:

You will recall that Geoffrey Glazer of Kann and Associates, Inc., architect for the Oella Mill project, met with you and John Reisinger on March 28, 2002, to review the proposed redevelopment of the Oella Mill into 175 apartment units. At that time, you and Mr. Reisinger concluded that, based on the extent of proposed work on the exterior of the structure, the developer would not be required to obtain a waiver from the Zoning Commissioner by way of a Petition for Special Hearing to alter a historic structure.

In an abundance of caution, the developer filed such a petition in Case No. 02-412-SPHA and would like to withdraw the petition. By way of this letter, I am requesting that you confirm, by countersigning this letter below, that Baltimore County will not require the developer to proceed forward with the Petition for Special Hearing regarding the historic structure and that the petition may be withdrawn.

Very truly yours,



Patricia A. Malone

Reviewed and Approved:


Douglas A. Swam

PAM/sm
TO:POCS/135180 v1



Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

June 5, 2002

Mr. Shon L. Robbins
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Md. 21286

Re: Oella Mill Property
Forest Buffer Variance

Dear Mr. Robbins:

A request for a variance from the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains was received by this Department for the above referenced site on June 3, 2002. This request proposes to allow the continued existing use of 24,542 sq. ft. of mostly paved area in the forest buffer as well as an additional 3,530 sq. ft. of paving in the forest buffer for additional parking. In addition as per comments from Baltimore County Bureau of Land Acquisition, this variance requests to reduce the required forest buffer and area requested for continued use by 5,200 sq. ft. in order to exclude occupied buildings from the Forest Buffer Easement.

This Department has reviewed your request, and has determined that a practical difficulty/unreasonable hardship does exist, and that the potential for impacts to water quality and aquatic resources as a result of this proposal can be minimized by performing mitigative measures. Therefore, we will grant this request in accordance with Section 14-334 of the Baltimore County Code, with the following conditions:

1. As shown on the variance exhibit, the area for continued existing use shall be included in the Forest Buffer Easement (FBE), and is subject to protective covenants.
2. The Forest Buffer Easement shall be permanently posted with "Forest Buffer-Do Not Disturb" signs as shown on attached Forest Buffer Variance Exhibit prior to issuance of any permits.

Red No 20

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



BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

DATE: April 30, 2002

TO: Bruce Seeley, Supervisor, Development Coordination
Department of Environmental Protection & Resource Management

FROM: Kevin W. Koepenick, R.S., Supervisor, Ground Water Management
Department of Environmental Protection & Resource Management

SUBJECT: Oella Mill Development

I have reviewed the Phase I Environmental Site Assessment for the above-referenced site. Ground Water Management requires the following information:

1. Site Inspection reports from MDE for petroleum UST closures.
2. Site Inspection reports from ENSAT detailing procedures and observations during closure of TCE USTs.
3. Map indicating location of gasoline UST, former septic system components, and interior plumbing for floor drains.
4. Detailed description of former use and disposal practices for TCE.
5. Access to the property and buildings to conduct an inspection.

Based on the review of the above information, further investigation may be required.

Red No
21

No 22



Donald R. Kann, AIA, NCARB

Principal-In-Charge

As President of Kann and Associates Inc., Mr. Kann has guided the development of the firm since its founding in 1974. Mr. Kann has directed many of the firm's large scale, multi-disciplined projects.

He is highly involved in the planning and design efforts of the firm on a wide variety of projects, including residential, retail, hospitality, and educational development. He takes an active role in coordinating the efforts of the Design Team with the client throughout all stages of the project.

He serves on the Baltimore City Commission for Historical and Architectural Preservation, and has previously served on the Board of the American Institute of Architects. Mr. Kann serves as the President of the Maryland Association of Historical Districts Commission, an advisory board that provides technical support and policy directives to more than 40 local commissions.

EDUCATION

Bachelor of Architecture, 1965
North Carolina State University

ARCHITECTURAL REGISTRATION

Maryland, Virginia, W. Virginia, Pennsylvania, Illinois,
Delaware, District of Columbia, New York, New Jersey,
North Carolina, Georgia, N.C.A.R.B. Certified

REPRESENTATIVE PROJECTS

Historical Society of Frederick County, Frederick County, MD
Garrett Building Renovation, Baltimore, MD
Baltimore City Hall Restoration, Baltimore, MD
Clarence M. Mitchell, Jr. Courthouse Restoration, Baltimore, MD
The Meadows Restoration & Expansion, Owings Mills, MD
Centerpoint Redevelopment, Baltimore, MD
Union Wharf Redevelopment, Baltimore, MD
Eastern High School Renovation/Adaptive Use, Baltimore, MD
Druid Hill Park Master Plan Implementation, Baltimore, MD
Baltimore City Courthouse Restoration, Baltimore, MD
Johns Hopkins Hospital Exterior Restorations, Baltimore, MD
Johns Hopkins Bayview Campus, Renovation of Mason F. Lord Building,
Baltimore, MD
Paca Pratt Office Complex - Maryland National Bank, Baltimore, MD
Lloyd Street Synagogue Restoration, Baltimore, MD
Lovely Lane Church Restoration, Baltimore, MD
First & Franklin Street Church Restoration, Baltimore, MD
Westminster Chapel Restoration, Baltimore, MD

Pet. No 22

OELLA MILL REPORT May 9, 2002

*Red
No 23*



The Oella Historic District represents a truly unique resource to both Baltimore County and the region. The district is bounded on the north by the Union Dam, on the west by the Patapsco River and on the south by Cooper's Branch. The eastern boundary follows Cooper's Branch upstream to the west of the hill then west down the hill to the rear property lines along the east side of Frederick Avenue (old National Pike) then following the rear property lines on the east side of Frederick Avenue and Oella Avenue north and east following the property lines of the Union Manufacturing Company, which is the rear property line on the west side of Westchester Avenue and continuing north to include the Oella cemetery then turning west along the south side of Rest Avenue to the east side of the mill race and following the mill race north to Union Dam.

As noted in a previously written Statement of Significance and the National Register Nomination prepared in 1975, the Oella District is significant for a number of reasons.

"What survives of Oella is significant because it is a well preserved company town, one of the last such villages in Baltimore County, certainly the largest. Parts of the town are scattered in rustic settings, other parts are crowded together to form vistas and street-scapes..... The houses come in considerable variety; one long row is of yellow brick with the appearance of an English mill town." (Statement of Significance)

"The Oella Historic District is one of the major 18th and 19th century industrial centers in Maryland. The first merchant milling operation in the colonies, Ellicott's Mill, was located here where an 18th century system of automating flour milling was used. One of the earlier and more extensive cotton factories in the country, the Union Manufacturing Company, located in and chose the name of Oella. This company used water-powered looms as early as 1819. The W. J. Dickey Company, successor to the Union Company in Oella, was the largest textile firm in the South during the early decades of the 20th century. A second early cotton mill, the Granite Hill Factory, operated in Oella on the site of an Ellicott iron works." (National Register Nomination 1975)

"Oella is best known for the 19th century village of pristine workers' houses. Few counties or states possess such a well-preserved intact company town. The picturesque setting on a densely wooded hillside on the Patapsco River enhances the unpretentious, functional houses." (National Register Nomination 1975)

The major building feature of the Oella District is the extant mill complex of the W.J. Dickey Company. Its physical siting is established fully by the constraints of the surrounding site. In fact, the entire area is largely determined by the severe topography and location of the river areas.

"Topography and industry determined the appearance of Oella, situated where the Patapsco River rushes through a veritable canyon edged on both sides by

Feb No
24



Geoffrey H. Glazer, AIA, NCARB

Principal-In-Charge

The ability to simultaneously manage numerous projects puts Mr. Glazer in the project director's role at Kann and Associates Inc. He has managed the firm's design and renovations of dozens of major hospitality, and retail renovation projects throughout the Mid-Atlantic. Mr. Glazer's range, depth of experience and expertise allows him to effectively participate with our clients in evaluating marketing concepts, tenant mix options and creations of merchandising concepts.

Under his direction, the firm has received numerous awards for projects such as Roots Market and Bibelot Bookstore.

Mr. Glazer is active in the community--he is participating in the Baltimore County Leadership 2002 Program and is a board member for Healthcare for the Homeless.

EDUCATION

Bachelor of Architecture
University of Cincinnati, 1984

ARCHITECTURAL REGISTRATION

Maryland, Pennsylvania, Virginia, New Jersey, New York, Michigan
N.C.A.R.B. Certified

REPRESENTATIVE PROJECTS

Har Sinai Congregation, Baltimore, MD
Roots Market, Clarksville, MD
Oella Mill, Ellicott City, MD
Superior Market, Tobacco Row, VA
St. Mary's College, Calvert Hall
Giant Food/Carlisle, Shrewsbury, , Scranton, Kennett Square, PA
Morgan State Fine Arts Center/Holmes Hall, Baltimore, MD
Shops at Monocacy, Frederick, MD
Marriott Hotels, Interior Design Project Supervision, CA and FL
Inn at Pier 5 Hotel and Conference Center, Baltimore, MD
Broadcasting Square, Reading, PA
The Colonnade at State College, State College, PA
University of Maryland Balto. Co. Surge Bldg., Baltimore, MD
Fairgrounds Plaza, Timonium, MD
Bibelot Book Store and Donna's Café, Canton, Baltimore, MD
Paca Pratt Office Complex - Maryland National Bank, Baltimore, MD
The Meadows Office and Conference Center, Baltimore County, MD
The Sports Authority, Various Locations, MD, VA, NJ, D.C.
Glen Burnie Town Center, Glen Burnie, MD
Weinberg Gardens at Bedford Senior Housing, Pikesville, MD
White Marlin Mall, Ocean City, MD
House of Ruth Women's Residential Facility, Baltimore, MD
Hecht's Department Stores, Various Locations, MD, D.C., VA
Lorien Life Center Residential Facility, Mt. Airy, MD
643 and 701 West Pratt Street, UMMS Baltimore, MD
Towson Marketplace Renovation, Towson, MD
Timonium Mall Renovation, Timonium, MD
Giant Food Stores, Various Locations, MD, VA
Safeway Food Stores, Various Locations, MD, D.C., VA

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210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
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www.venable.com

VENABLE
ATTORNEYS AT LAW

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

Writer's Direct Number:
(410) 494-6206

pamalone@venable.com

April 12, 2002

HAND-DELIVERED

Douglas A. Swam, Permits Services Supervisor
Bureau of Building Permit Processing
Baltimore County Department of
Permits and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

*Red
No 26*

Re: Oella Mill - 840 Oella Avenue
PDM No. I-498/Case No. 02-412-SPHA

Dear Mr. Swam:

You will recall that Geoffrey Glazer of Kann and Associates, Inc., architect for the Oella Mill project, met with you and John Reisinger on March 28, 2002, to review the proposed redevelopment of the Oella Mill into 175 apartment units. At that time, you and Mr. Reisinger concluded that, based on the extent of proposed work on the exterior of the structure, the developer would not be required to obtain a waiver from the Zoning Commissioner by way of a Petition for Special Hearing to alter a historic structure.

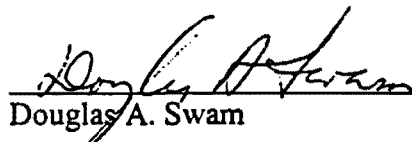
In an abundance of caution, the developer filed such a petition in Case No. 02-412-SPHA and would like to withdraw the petition. By way of this letter, I am requesting that you confirm, by countersigning this letter below, that Baltimore County will not require the developer to proceed forward with the Petition for Special Hearing regarding the historic structure and that the petition may be withdrawn.

Very truly yours,



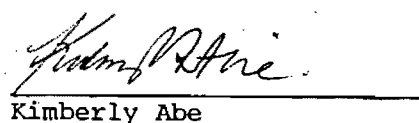
Patricia A. Malone

Reviewed and Approved:



Douglas A. Swam

Reviewed and Approved:



Kimberly Abe

PAM/sm
TOIDOC51/135180 v1

OELLA HOMEOWNERS ASSOCIATION

Feb
29

Regular Meeting of the Board of Directors

A regular meeting of the Board of Directors (the "Board") of Oella Homeowners Association (the "Association") was held on January 3, 2002 at 7:00 p.m. at the Westchester Center, pursuant to notice duly given. Each member of the Board received personal notice of the meeting.

Alexandra Clark acted as chairman of the meeting and requested Kristen VanZandt to act as secretary of the meeting.

At the meeting, the following persons were present, constituting all of the members of the board of directors and a quorum; namely: Alexandra Clark, Richard Gambrill, Todd Chapman, Charles Wagandt, Joe Pulone and Kristen VanZandt. Several members of the community were also present.

The chairman stated that the first order of business to come before the meeting was the election of New Officers. After a discussion and on a motion duly made, seconded and unanimously adopted, it was

RESOLVED: That the following persons would serve as officers until their successors are duly elected and qualify:

President: Alexandra Clark
Vice President: Richard Gambrill
Treasurer: Todd Chapman
Secretary: Kristen VanZandt

The chairman stated that the next order of business to come before the meeting of the board was a presentation by Steve Stannard regarding a workshop he would like to conduct at the next GOCA meeting January 9, 2002 regarding the Oella Mill development by Forest City. Steve answered questions posed by the Board and Homeowners present at the meeting. Steve's basic proposal is to conduct a workshop for local residents to develop goals, should the impending contract on the mill become a reality. The workshop format will be open and participatory.

The chairman stated that the next order of business to come before the meeting of the board was an update on the Mill. It was noted that at a pending meeting before the DRC, Forest City would seek to waive community input regarding the development of the Oella Mill. After discussion and on a motion duly made, seconded and unanimously adopted, it was

OELLA HOMEOWNERS ASSOCIATION, INC.

CERTIFICATE OF SECRETARY

I, Kristen VanZandt, the duly-elected Secretary of the Oella Homeowners Association, Inc., a Maryland corporation (the "Corporate"), certify that on Wednesday, May 15, 2002, I caused to be mailed by United States Mail, postage prepaid, to all members of record of the Corporation as of the close of business on May 10, 2002, the attached Notice of Special Meeting of Members.



Kristen VanZandt, Secretary

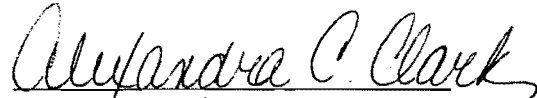
May 15, 2002

OELLA HOMEOWNERS ASSOCIATION, INC.

Ref 30B

CERTIFICATE OF PRESIDENT

I, Alexandra C. Clark, the duly-elected President of the Oella Homeowners Association, Inc., a Maryland corporation (the "Corporation"), certify that on Thursday, May 16, 2002, I sent via electronic mail to each member of the board of directors of the Corporation the attached Notice of Special Meeting of the Board of Directors.


Alexandra C. Clark

OELLA HOMEOWNERS ASSOCIATION

Regular Meeting of the Board of Directors

Feb 30-c

A regular meeting of the Board of Directors (the "Board") of Oella Homeowners Association (the "Association") was held on **May 14, 2002** at 7:00 p.m. at the Westchester Center, pursuant to notice duly given. Each member of the Board received personal notice of the meeting.

Alexandra Clark acted as chairman of the meeting and requested Kristen VanZandt to act as secretary of the meeting.

At the meeting, the following persons were present, constituting a quorum of the board of directors; namely: Alexandra Clark, Richard Gambrell, Todd Chapman, Kristen VanZandt and Gregg Brown. Several members of the community were also present.

The chairman stated that the **first** order of business to come before the meeting of the board was **approval of April's minutes**. The minutes were previously distributed to and reviewed by the board members prior to the meeting. No objections were made to content so the group unanimously approved the April meeting minutes.

The chairman stated that the **second** order of business to come before the meeting of the board was **parking assignment for 781 Oella Avenue**. It was brought to the board's attention that the current residents of 781 Oella Avenue (the Caveys) have been living/renting that house for over 30 years and have been parking in the Short Brick Row during their entire residency in Oella. In addition, one of the residents of that household has medical problems that prevent him from accessing the house's designated parking on Mary Jo Way. Mrs. Cavey expressed to individual board members her concern regarding the hardship on her handicapped husband of parking in the designated area, and his inability to access this parking area. In addition, Mrs. Cavey stated that she felt like no one cared about her and that she was being treated unfairly since she had parked in that lot for over 30 years. After a discussion and on a motion duly made by Todd, seconded by Alexandra and unanimously adopted, it was

RESOLVED: That 781 Oella Ave. will be assigned one spot in Short Brick Row., which will be temporary in nature. When the existing residents move from this residence, the spot will be returned to the HOA and parking for the residence of 781 Oella Ave. will revert to the originally designated area on Mary Jo Way.

The chairman stated that the **third** order of business to come before the meeting of the board was **parking assignments for 763 Oella Ave**. It was brought to the board's attention that the residence of 763 Oella Ave is divided into two (2) units, 763A and 763B. Concern was expressed regarding the fairness of assigning two spots to this residence when all other residences have been assigned one spot. However, it was also expressed that it would be only fair that both units of 763 should have a reserved spot 'to come home to.' Concern was also expressed of the possibility of the residence being converted into one unit in the future, which

OELLA HOMEOWNERS ASSOCIATION

Special Meeting of the Board of HOA Members

let 30 D

A special meeting of the Board of Directors (the "Board") of Oella Homeowners Association (the "Association") was held on June 5, 2002 at 7:00 p.m. at the Westchester Center, pursuant to notice duly given. Each member of the Oella HOA received written notice of the meeting.

Alexandra Clark acted as chairman of the meeting. Todd Chapman mediated the meeting assisted by Gregg Brown. Kristen VanZandt acted as secretary of the meeting.

At the meeting, the following persons were present, constituting all of the members of the board of directors and a quorum; namely: Alexandra Clark, Richard Gambrell, Todd Chapman, Kristen VanZandt, Joe Pulone, Gregg Brown and Charles Wagandt. Also present were two representatives for Forest City namely Jon Wallenmeyer and Jeff Glazer, Peter Ruff, present owner of the Oella Mill, numerous members of the Oella HOA, constituting a quorum of the HOA members, and some members of the Oella Community.

The purpose of this meeting is to inform the HOA members about proposed Oella Mill development, identify key issues of concern regarding the development, present a factual background on those issues and to vote on whether to support the sale of the Oella Mill to Forest City or not to support the sale of the Oella Mill to Forest City.

Todd Chapman presented using PowerPoint tool, see attached. Issues presented were:

Parking – Number of spaces, requirements, variances

Traffic – results of Traffic Studies, Road Capacity -v- Volume, Intersections

Environmental Concerns – Storm Water Mgmt, Flood Plain, Greenway, Forest Buffer, Open Space

Zoning – Community Zoning Classifications and Details on what is allowed in the Mill

Each issue was allotted 30 minutes in which key points were presented, facts verified or corrected by Board Members, Forest City or Peter Ruff. A Question and Answer session followed each issue in which members of the community posed numerous questions to the Oella HOA Board, Forest City representatives and Peter Ruff.

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30 E

OELLA HOMEOWNERS ASSOCIATION

Special Meeting of the Board of Directors

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The Board meeting immediately followed a Special Meeting of the Members of the HOA. The minutes of the meeting of the Members are attached hereto and incorporated by reference.

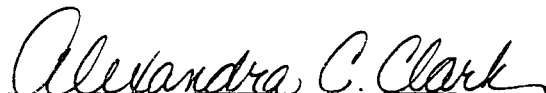
Upon completion of the count of the votes (54 in favor and 29 opposed to the Mill development by Forest City), Todd Chapman made a motion to the Board of Directors to adopt this resolution of the HOA members vote In Favor of proposed development of the Oella Mill pursuant to the current Development Plan dated March 19, 2002 submitted to Baltimore County by Forest City Residential Group. The motion was seconded and it was unanimously adopted by the directors of the Board that:

RESOLVED: The Oella HOA is In Favor of
proposed development of the Oella Mill pursuant to the
current Development Plan dated March 19, 2002 submitted
to Baltimore County by Forest City Residential Group.
Alexandra Clark will present the results of the vote to the
Hearing Officer on June 12, 2002.



Kristen VanZandt, Secretary of Meeting

Read and Approved:



Alexandra Clark, Chairman of Meeting

MITCHELL J. KELLMAN
3907 Esgarth Way
Owings Mills, Maryland 21117
(H) 410-998-9118 (W) 410-296-3333

**Education and
Associations:**

High School Diploma, 1978, Milford Mill Sr. High School, Baltimore, Maryland. Bachelors Degree, Geography and Environmental Planning, Concentration in Urban Planning, 1983, Towson State University, Towson, Maryland. Masters Degree, Geography and Environmental Planning, Concentration in Urban Planning, Proficiency Certificate in Urban Planning, 1987, Towson State University. Member of Gamma Theta Epsilon (International Geographic Honor Society), 1985-1987. Member of American Planning Association, Present.

Work Experience:

Daft-McCune-Walker, Inc.
Zoning Specialist

August 2000
to
Present

Responsibilities: Testify at Zoning and Development Hearings within Baltimore County and other jurisdictions. Process Final Development Plans and Record Plats. Represent Company at Development Review Committee Meetings. Advise clients and staff on Zoning and Development Regulations. Manage projects that are Zoning Variance, Special Hearing, Special Exception, and Zoning Reclassification Requests.

January 1988
to
August 2000

Baltimore County Office of Permits and Development Management – Development Control (formerly Baltimore County Zoning Office), Towson, Maryland.

Planner II (January 1989 to Present)

Planning and Zoning Associate III (January 1988 to January 1989)

Responsibilities: Review, approve and sign on behalf of the Director Final Development Plans and Record Plats, in accordance with Baltimore County Zoning and Subdivision Regulations and County Review Group standards and comments. Approve County Review Group plans per Zoning Office compliance. Act as Zoning Office representative for Development Review Committee (DRC). Supervise Planning Associate II's and III's on special projects. Review petitions and site plans filed for zoning hearing approvals. Develop guidelines and checklists for approval procedures within Zoning Office. Operate computer terminal for final permit processing and approval. Meet with professionals and public on development projects to be approved by the County. Meet with other Baltimore County agencies on various projects. Act as Office representative at Economic Development meetings for special projects. Negotiate timelines with developers and engineers for select projects and act as "team leader" and project manager by supervising review staff to assure compliance and deadlines are met. Act as office coordinator on building permit intake for all work within tidal and non-tidal floodplains. Coordinate with the State on possible floodplain violations. Advise the public and other County agencies on State floodplain regulations and building codes. Revise the Zoning Commissioner's Policy Manual (ZCPM).

January 1987
to
January 1988

Baltimore County Office of Planning and Zoning
Planning and Zoning Associate II

Responsibilities: Assist the public with current zoning regulations and permit processing and approval. Review miscellaneous commercial site plans and permits for approval. Research previous zoning hearing cases for relating, pending permit applications. Approve new dwelling permits and minor residential permits for final approval.

January 1984
to
May 1986

State Highway Administration, Baltimore, Maryland
Planning Technician

Responsibilities: Data input and cost analysis for the Consolidated Transportation Program (CTP) and Interstate Cost Estimate (ICE). Review computer printouts for construction, planning and engineering costs for the aforementioned projects. Light drafting and engineering. Attend meetings with supervisor and computer programmer on ways to improve existing programs and implement new ones.

Additional Education and Training:

Community Relations Seminar – 10 hours, State Highway Administration, May, 1985
Project Management Seminar – 7 hours, Baltimore County permits and Licenses, April, 1994
Floodplain Management – 14 hours, FEMA, September, 1994
Forest Buffer Seminar – 2 hours, Daft-McCune-Walker, Inc., December, 2001

No 31

CASE # 88-165-A

92-411-A

Indy 64 32

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
E & W side Oella Ave., 447 ft. *
N of Glen Ave. 3 distances to * ZONING COMMISSIONER
3 sections with multiple lots *
1st Election District * OF BALTIMORE COUNTY
1st Councilmanic District *
Historic Oella Limited *
Partnership *
Petitioner *
Case No. 92-411-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Zoning Variance from numerous sections of the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policy (C.M.D.P.) as they relate to lots 34 thru 38, (Oella Parcel A, Herring Hill) 40 thru 45 (Oella Parcel B, Long Brick Row) and lots 49 thru 67 (Oella Parcel C-1, Short Brick Row). As noted above, numerous variances are requested for numerous individual lots within this community, known as the Historic Oella District. Although all of the specific variances are fully set forth on Schedule A which is attached to the Petition for Zoning Variance, they may be characterized as requests for relief from specific standards within the regulations as they relate to setback distances, private space requirements, and parking regulations.

The above matter was set in for a public hearing and appearing at that hearing was Brenda Bodie from the Historic Oella Limited Partnership and Frederick Schuler from Whitman, Requardt and Associates, the engineering firm which prepared Petitioner's Exhibit No. 1, the site plan to accompany the Petition for Zoning Variance. The Petitioner was represented by Stuart D. Kaplow, Esquire. There were no Protestants present.

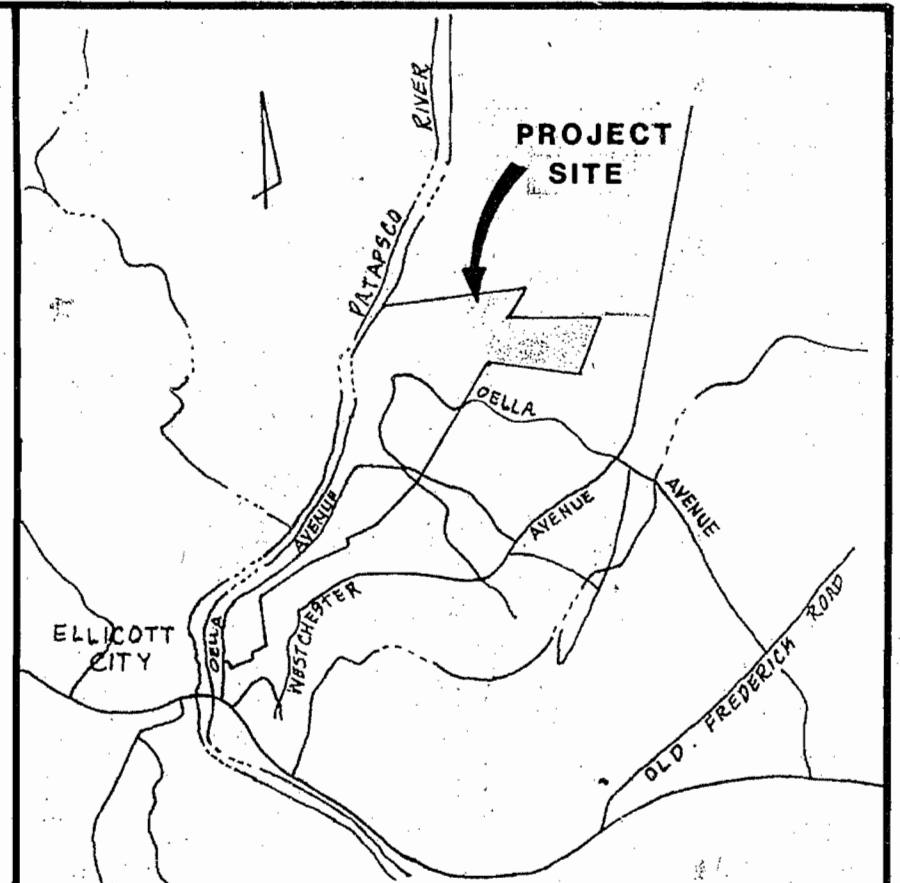
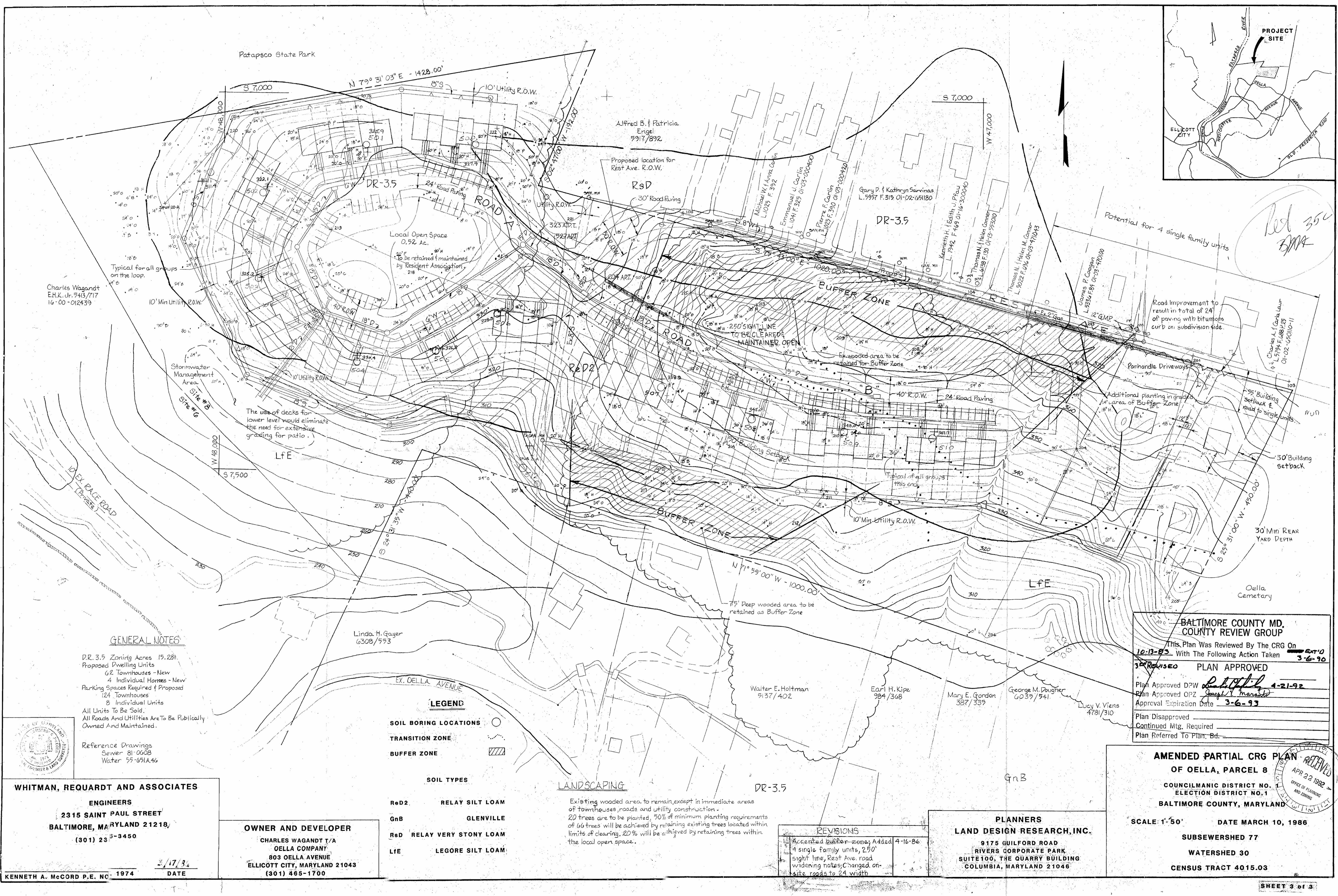
As indicated above, the subject properties are located in the historic Oella area, near the Patapsco River and Baltimore County/Howard County

ORDER RECEIVED FOR FILING

DATE

BY

2/10/92
M. G. G. G.



GENERAL NOTES

D.R. 3.5 Zoning Acres 15.281
Proposed Dwelling Units
62 Townhouses - New
4 Individual Homes - New
Parking Spaces Required & Proposed
124 Townhouses
8 Individual Units
All Units To Be Sold.
All Roads And Utilities Are To Be Publically
Owned And Maintained.
Reference Drawings
Sewer 81-0608
Water 55-651A46



WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
2315 SAINT PAUL STREET
BALTIMORE, MARYLAND 21218,
(301) 233-3450
DATE 3/17/84

OWNER AND DEVELOPER
CHARLES WAGANDT T/A
OELLA COMPANY
803 OELLA AVENUE
ELLICOTT CITY, MARYLAND 21043
(301) 465-1700

LEGEND	
SOIL BORING LOCATIONS	○
TRANSITION ZONE	▨
BUFFER ZONE	▩
SOIL TYPES	
ReD2	RELAY SILT LOAM
GnB	GLENVILLE
ReD	RELAY VERY STONY LOAM
LfE	LEGORE SILT LOAM

LANDSCAPING

Existing wooded area to remain, except in immediate areas of townhouses, roads and utility construction.
20 trees are to be planted, 50% of minimum planting requirements of 66 trees will be achieved by retaining existing trees located within limits of clearing, 20% will be achieved by retaining trees within the local open space.

REVISIONS	
1	Accepted Buffer Zone, Added 4-16-86
2	4 single family units, 250' sight line, Rest Ave. road widening notes, changed on-site roads to 24' width

PLANNERS
LAND DESIGN RESEARCH, INC.
9175 GUILFORD ROAD
RIVERS CORPORATE PARK
SUITE 100, THE QUARRY BUILDING
COLUMBIA, MARYLAND 21046

BALTIMORE COUNTY MD.	
COUNTY REVIEW GROUP	
This Plan Was Reviewed By The CRG On 10-13-83 With The Following Action Taken	
3-6-83	PLAN APPROVED
Plan Approved DPW 4-21-92	
Plan Approved OPZ 4-21-92	
Approval Expiration Date 3-6-93	
Plan Disapproved	
Continued Mtg. Required	
Plan Referred To Plan. Bd.	

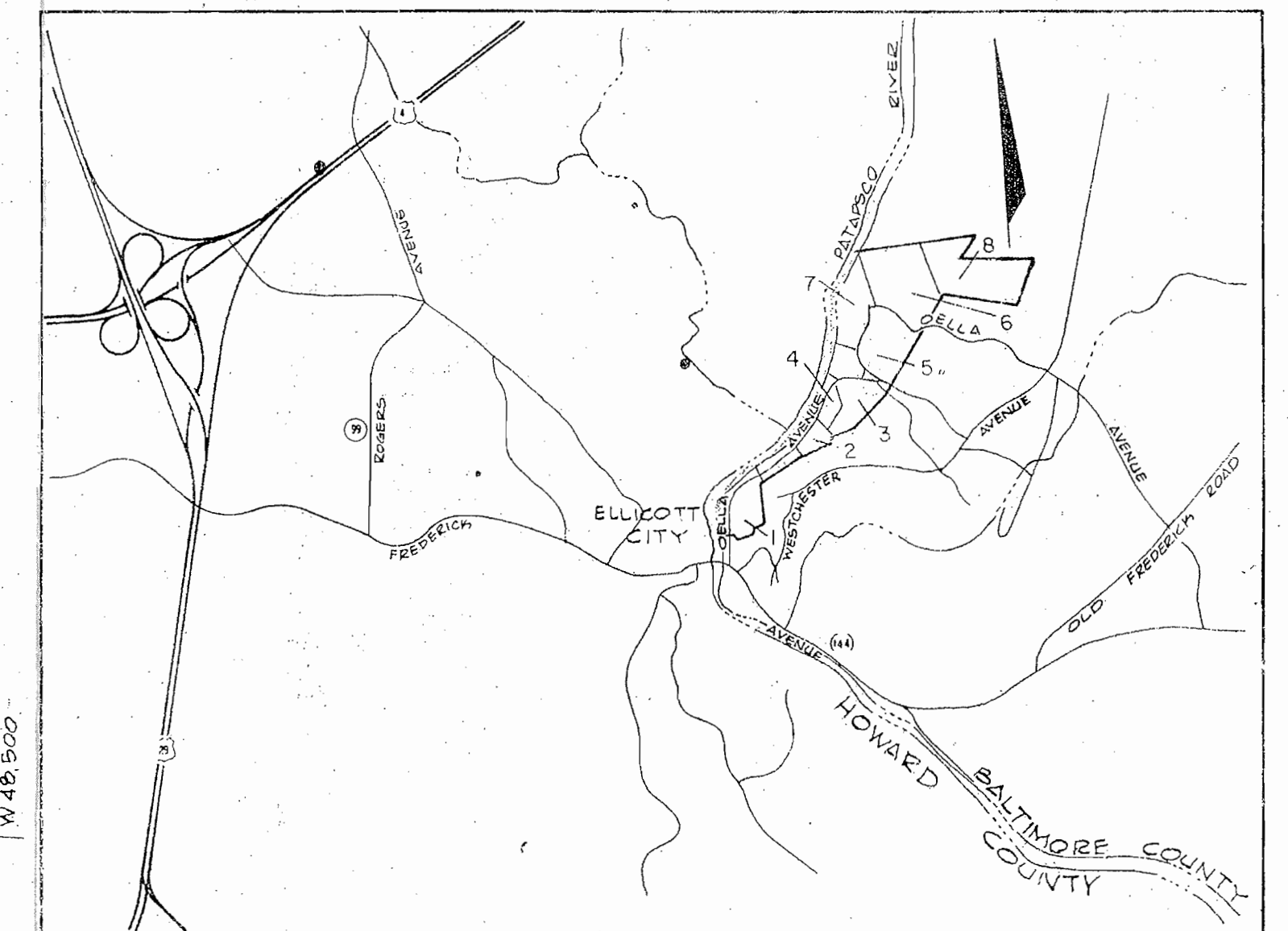
AMENDED PARTIAL CRG PLAN
OF OELLA, PARCEL 8
COUNCILMANIC DISTRICT NO. 1
ELECTION DISTRICT NO. 1
BALTIMORE COUNTY, MARYLAND
SCALE: 1"=50'
DATE MARCH 10, 1986
SUBSEWERSHED 77
WATERSHED 30
CENSUS TRACT 4015.03
SHEET 3 of 3

SITE ACREAGE					
SITE NUMBER	GROSS AREA ACRES	NET AREA ACRES	OPEN SPACE ACRES	DR-2 ZONING ACRES	DR-2B ZONING ACRES
1	3.717	3.575	2.032	0.246	3.671
2	13.819	12.246	11.055	2.226	11.523
3	10.782	10.541	8.739	7.737	3.045
4	3.583	3.247	2.171	0.221	3.362
5	10.398	7.255	5.321	0	10.398
6	6.293	6.003	3.310	0	6.293
7	3.500	3.320	2.154	0	3.500
8	15.251	15.025	11.156	0	15.251
Other	7.599	7.280	7.280	0	6.734
TOTAL	75.872	71.994	54.766	10.430	64.077

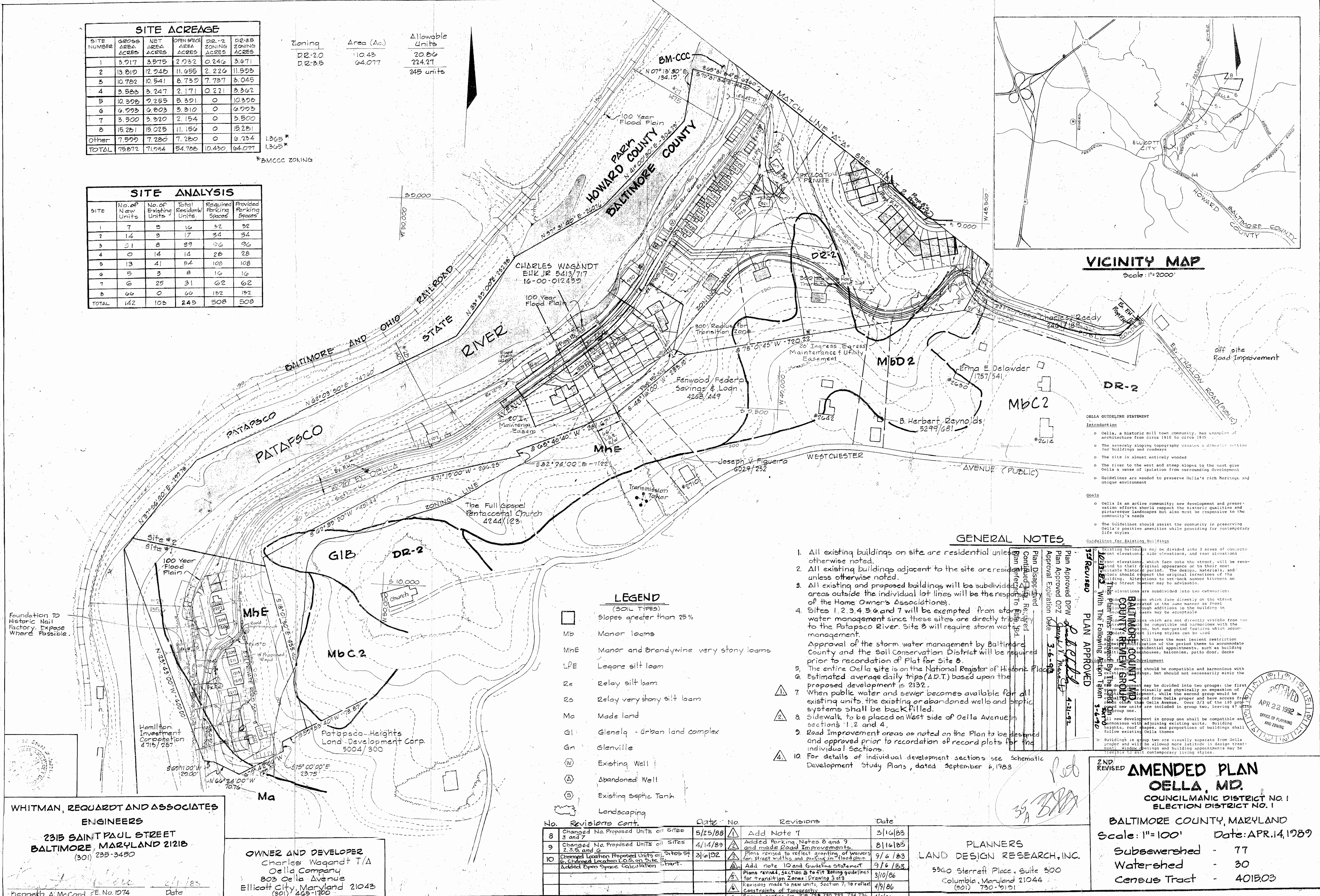
Zoning	Area (Ac.)	Allowable Units
DR-2.0	10.43	20.86
DR-2.5	64.077	224.27
		245 units

1.365*
1.365*
*BMCC ZONING

SITE ANALYSIS					
SITE	No. of New Units	No. of Existing Units	Total Residential Units	Required Parking Spaces	Provided Parking Spaces
1	7	9	16	32	32
2	14	9	23	46	46
3	31	8	39	78	78
4	0	14	14	28	28
5	13	41	54	108	108
6	5	3	8	16	16
7	6	25	31	62	62
8	66	0	66	132	132
TOTAL	142	103	245	508	508



VICINITY MAP
Scale: 1"=2000'



OELLA GUIDELINE STATEMENT
Introduction
Oella, a historic mill town community, has examples of architecture from circa 1810 to circa 1915.
The severely sloping topography creates a dramatic setting for buildings and roadways.
The site is almost entirely wooded.
The river to the west and steep slopes to the east give Oella a sense of isolation from surrounding development.
Guidelines are needed to preserve Oella's rich heritage and unique environment.
Goals
Oella is an active community; new development and preservation efforts should respect the historic qualities and picturesque landscapes but also must be responsive to the community's needs.
The Guidelines should assist the community in preserving Oella's positive amenities while providing for contemporary life styles.

GENERAL NOTES

- All existing buildings on site are residential unless otherwise noted.
- All existing buildings adjacent to the site are residential unless otherwise noted.
- All existing and proposed buildings will be subdivided into areas outside the individual lot lines will be the responsibility of the Home Owner's Association(s).
- Sites 1, 2, 3, 4, 5, 6 and 7 will be exempted from storm water management since these sites are directly tributary to the Patapsco River. Site 8 will require storm water management. Approval of the storm water management by Baltimore County and the Soil Conservation District will be required prior to recordation of Plat for Site 8.
- The entire Oella site is on the National Register of Historic Places.
- Estimated average daily trips (A.D.T.) based upon the proposed development is 2132.
- When public water and sewer becomes available for all existing units, the existing or abandoned wells and septic systems shall be backfilled.
- Sidewalk to be placed on West side of Oella Avenue in sections 1, 2 and 4.
- Road Improvement areas as noted on the Plan to be designed and approved prior to recordation of record plots for the individual Sections.
- For details of individual development sections see Schematic Development Study Plans, dated September 6, 1983.

LEGEND

- (SOIL TYPES)
- Mb Manor loams
 - MHE Manor and Brandywine very stony loams
 - LPE Leqore silt loam
 - Re Relay silt loam
 - Rs Relay very stony silt loam
 - Ma Made land
 - Gl Glenelg - Urban land complex
 - Gn Glenville
 - W Existing Well
 - A Abandoned Well
 - S Existing Septic Tank
 - Landscaping

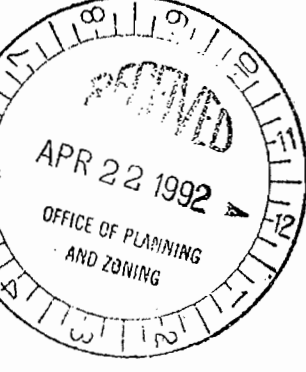
No.	Revisions cont.	Date	No.	Revisions	Date
8	Changed No. Proposed Units on Sites 3 and 7	5/25/88	1	Add Note 7	3/16/83
9	Changed No. Proposed Units on Sites 2, 3, 5 and 6	4/14/89	2	Added Parking Notes 8 and 9, and made Road Improvements	8/16/83
10	Changed Location Proposed Units on Site 5	3/10/92	3	Plans revised to reflect granting of waivers for street widths and parking in flood plain	9/6/83
	Added Open Space Calculation Chart.		4	Add Note 10 and Guideline Statement	9/6/83
			5	Plans revised, Section 2 to fit Zoning guidelines for transition Zones: Drawing 3 of 3	3/10/86
			6	Revisions made to new units, Section 7, to reflect Constraints of topography	4/9/86
			7	Revised parking for 728, 728, 730, 732, 734, 736	4/9/86

PLANNERS
LAND DESIGN RESEARCH, INC.
5540 Stierrett Place, Suite 500
Columbia, Maryland 21044
(201) 730-9121

AMENDED PLAN
OELLA, MD.
COUNCILMANIC DISTRICT NO. 1
ELECTION DISTRICT NO. 1
BALTIMORE COUNTY, MARYLAND
Scale: 1"=100' Date: APR. 14, 1989
Subsewershed - 77
Watershed - 30
Census Tract - 401503

WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS
2315 SAINT PAUL STREET
BALTIMORE, MARYLAND 21218
(301) 235-3450
Kenneth A. McCord P.E. No. 1974 Date 2/1/89

OWNER AND DEVELOPER
Charles Waqandt T/A
Oella Company
803 Oella Avenue
Ellicott City, Maryland 21043
(301) 465-1700



-- ZONING HISTORY --

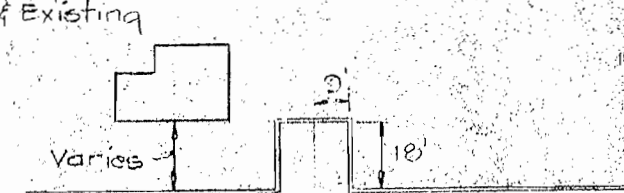
VARIANCES GRANTED

CASE NO.	DATE GRANTED	ADDRESS/LOT NO.
87-212-A	DEC. 17, 1986	702, 728, 730, 732, 734, 736, 745, 747, 749, 947, 963, 970, OELLA AVENUE
88-165-A	DEC. 9, 1987	917, 919, 921, 923, 929, 931, 933, 935, 937, 939, 941, 943, 945, OELLA AVENUE, 792 GLEN AVENUE
89-156-A	NOV. 15, 1988	LOTS 2-7, 10, 14-18, 20-30 OELLA SITE 3

ZONING CHANGE

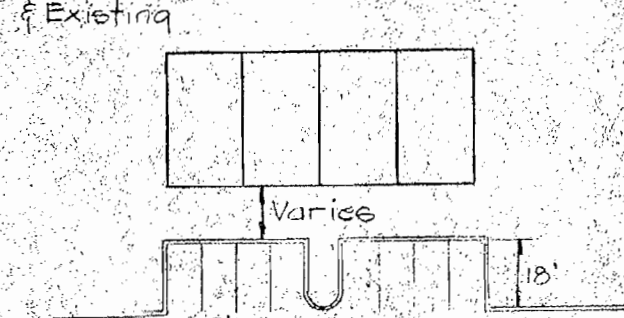
OELLA SITE 1 CHANGED FROM 3.671 ACRES OF DR-3.5 AND 0.246 ACRES OF DR-2 TO 3.917 ACRES OF BM ZONED PROPERTY THROUGH ISSUE 1-061 OF THE 1988 COMPREHENSIVE REZONING PROCESS.

Proposed
Existing



* TYPICAL DETACHED UNIT PARKING

Proposed
Existing



* TYPICAL TOWNHOUSE UNIT PARKING

* Note:
12' wide handicapped parking will be provided where applicable

TYPICAL PARKING

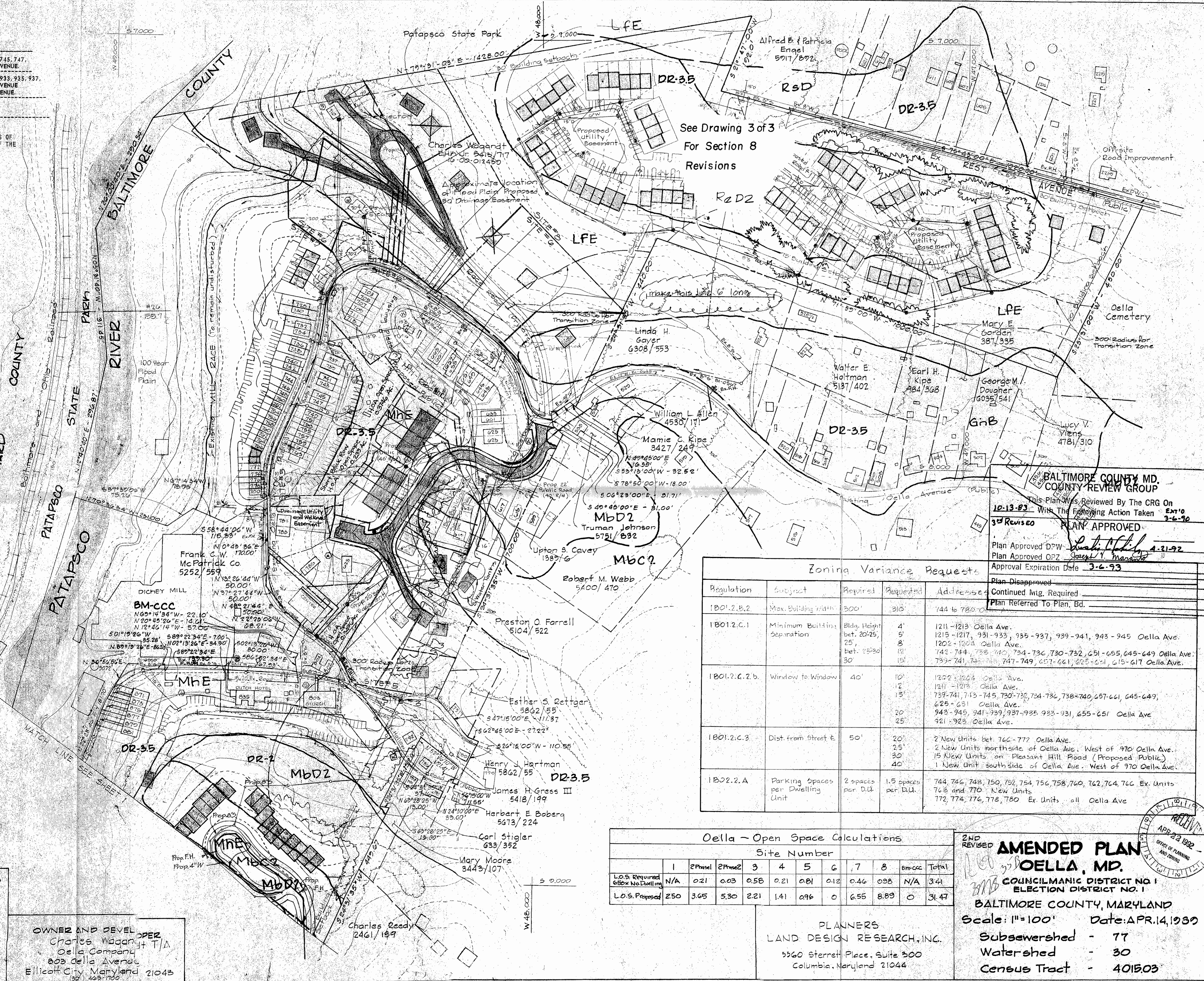
Scale: 1" = 50'

WHITMAN, REQUARDT AND ASSOCIATES
ENGINEERS

2315 SAINT PAUL STREET
BALTIMORE, MARYLAND 21218
(301) 235-3450

McCORD PE No. 1074
Date 2/11/83

OWNER AND DEVELOPER
Charles Wagandt
Oella Company
803 Oella Avenue
Ellicott City, Maryland 21043
(301) 409-1000



See Drawing 3 of 3
For Section 8
Revisions

BALTIMORE COUNTY MD.
COUNTY REVIEW GROUP

This Plan Was Reviewed By The CRG On
10-13-93 With The Following Action Taken
3rd Revision
PLAN APPROVED

Plan Approved DPW
Plan Approved OPZ
Approval Expiration Date 3-6-93
Plan Disapproved
Continued Mtg. Required
Plan Referred To Plan, Bd.

Zoning Variance Requests

Regulation	Subject	Required	Requested	Addressee
1801.2.B.2	Max. Building Height	300'	310'	744 to 780 Oella Ave.
1801.2.C.1	Minimum Building Separation	Bldg. Height bet. 20'-25', 25', bet. 25'-30', 30'	4', 5', 8', 15'	1211-1213 Oella Ave. 1215-1217, 931-933, 935-937, 939-941, 943-945 Oella Ave. 1204-1204 Oella Ave. 742-744, 738-740, 734-736, 730-732, 651-655, 645-649 Oella Ave. 739-741, 741-743, 747-749, 657-661, 625-631, 615-617 Oella Ave.
1801.2.C.2.b	Window to Window	40'	10', 12', 15', 20', 25'	1202-1204 Oella Ave. 1211-1213 Oella Ave. 739-741, 743-745, 730-732, 734-736, 738-740, 657-661, 645-649, 625-631 Oella Ave. 943-945, 941-939, 937-935, 933-931, 655-651 Oella Ave. 921-923 Oella Ave.
1801.2.C.3	Dist. from Street E.	50'	20', 25', 30', 40'	2 New Units bet. 766-777 Oella Ave. 2 New Units north side of Oella Ave. West of 970 Oella Ave. 15 New Units on Pleasant Hill Road (Proposed Public) 1 New Unit south side of Oella Ave. West of 970 Oella Ave.
1802.2.A	Parking Spaces per Dwelling Unit	2 spaces per D.U.	1.5 spaces per D.U.	744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766 Ex. Units 768 and 770 New Units 772, 774, 776, 778, 780 Ex. Units all Oella Ave.

Oella - Open Space Calculations

	1	2	3	4	5	6	7	8	bm-ccc	Total
L.O.S. Required 650' No Dwelling	N/A	0.21	0.03	0.58	0.21	0.81	0.12	0.46	0.98	3.44
L.O.S. Proposed	250	3.65	5.30	2.21	1.41	0.96	0	6.55	8.89	31.47

PLANNERS
LAND DESIGN RESEARCH, INC.
5960 Sterrett Place, Suite 300
Columbia, Maryland 21044

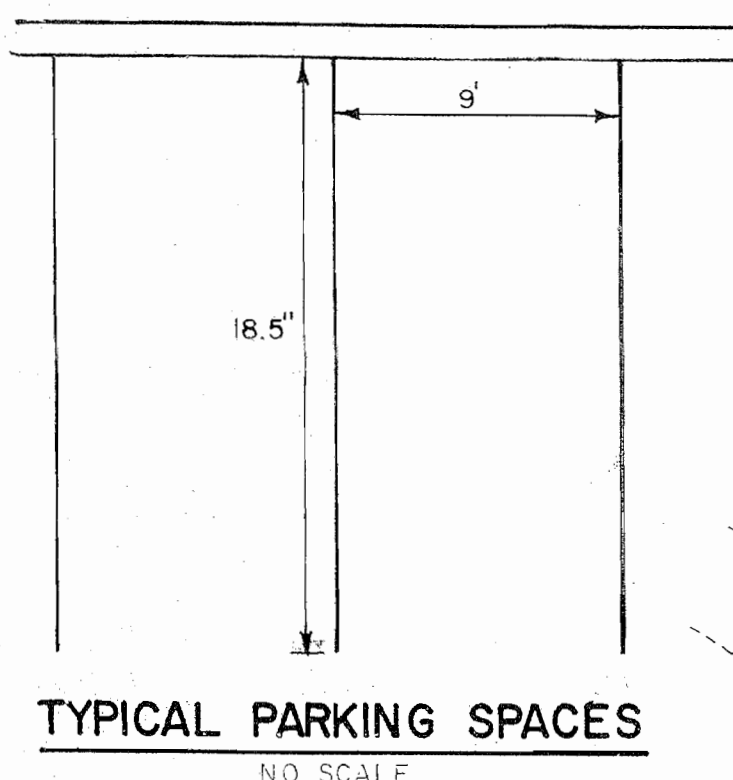
2ND
REVISED
AMENDED PLAN
OELLA, MD.

COUNCILMANIC DISTRICT NO. 1
ELECTION DISTRICT NO. 1

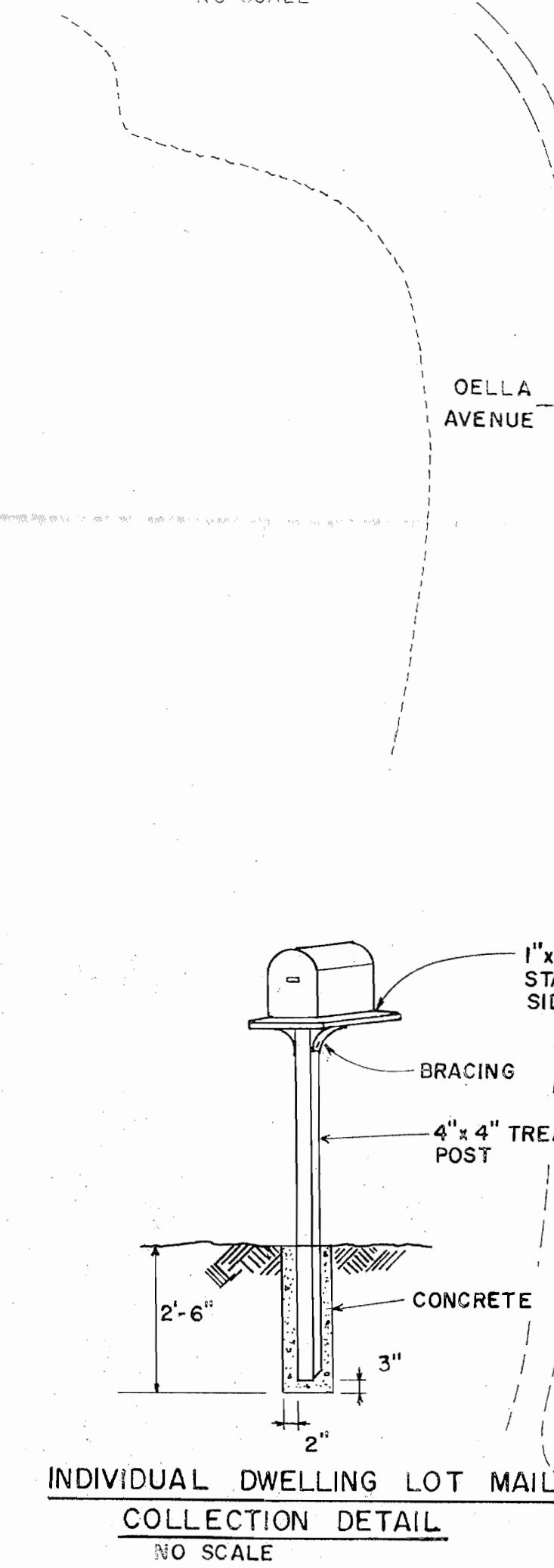
BALTIMORE COUNTY, MARYLAND

Scale: 1" = 100' Date: APR. 14, 1993

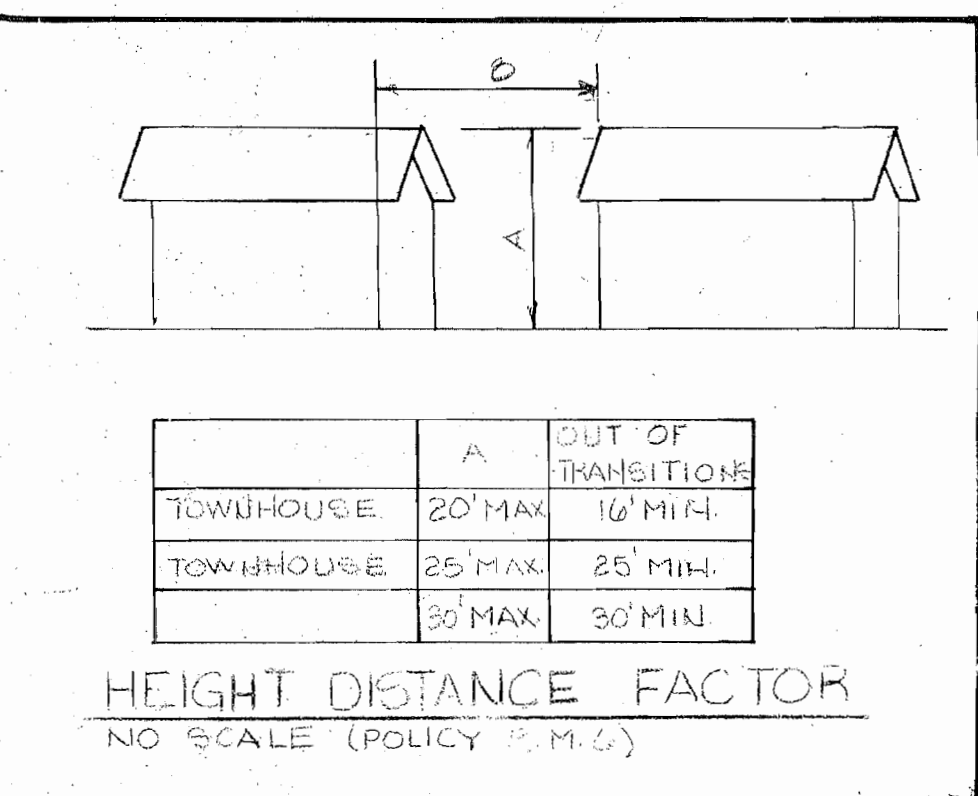
Subwatershed - 77
Watershed - 30
Census Tract - 4015.03



TYPICAL PARKING SPACES
NO SCALE



INDIVIDUAL DWELLING LOT MAIL
COLLECTION DETAIL
NO SCALE



HEIGHT DISTANCE FACTOR
NO SCALE (POLICY 2.1.2)

PATAPSCO FALLS-DENSITY CALCULATIONS											
SITE NUMBER											
	1	2	3	4	5	6	7	8	TOTALS	REMARKS	
GROSS AREA	3,917	10,619	10,440	3,563	11,066	6,703	9,270	10,571	74,969	8,873	
NET AREA	3,375	9,348	9,378	3,136	9,956	6,703	9,270	10,540	68,503	7,491	
AREA OF DR 3.5	3,671	11,926	2,207	3,028	10,797	6,703	9,270	10,571	68,174	7,491	
AREA OF DR 2	0	0	0	0	0	0	0	0	0	0	
AREA OF DMCC	0	0	0	0	0	0	0	0	0	0	
TOTAL DWELLING UNITS ALLOWED	13.34	45.53	23.20	11.71	37.79	23.46	32.45	54.50	241.98	26.22	
EX. DWELLINGS	2	3	8	14	41	3	25	0	123	27	
PROP. DWELLINGS	7	9	30	0	18	3	6	66	139	0	
TOTAL PARKING SPACE REQUIRED	32	24	76	28	118	12	62	132	484	54	
TOTAL PARKING SPACE PROVIDED	32	26	76	28	118	12	52*	132	477*	55	
L.O.S. REQUIRED 650x NO DWELLINGS	0.24	0.18	0.51	0.21	0.88	0.09	0.46	0.98	3.55	0.40	
L.O.S. PROPOSED	2.50	5.00	2.50	14.08	2.50	2.50	4.84	8.64	31.91	0.40	

* NOTE: THE C.R.S. APPROVED IN 1983, EXTENDED IN 1987 AND REVISED IN 1988 SHOWS A TOTAL OF 477 PARKING SPACES PROVIDED. VARIANCES FOR THE 10 UNITS OF LONG BRICK ROW INCLUDING A VARIANCE FOR 1.5 PARKING SPACES PER UNIT WILL BE OBTAINED WHEN THESE UNITS ARE SUBDIVIDED.

ZONING VARIANCES GRANTED											
REGULATION	SUBJECT	REQUIRED	REQUESTED	OELLA AVENUE ADDRESS							
1801.2.C.1	MINIMUM BUILDING SEPARATION	25'	5'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
104.1/1801.2.C.1	MINIMUM OPEN SPACE SEPARATION	18.75'	0'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
1801.2.C.8	WINDOW TO WINDOW	40'	5'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
1801.2.C.3	DISTANCE OF BUILDING TO STREET	50'	17'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
104.1/1801.2.C.3	DISTANCE OF OPEN PORCH TO STREET	50'	17'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
V.B.6.A	WINDOW TO STREET	25'	5'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736
V.B.6.B	WINDOW TO R	15'	5'	734-736	734-736	734-736	734-736	734-736	734-736	734-736	734-736

SPECIAL NOTE: VARIANCES FOR THE DISTANCE OF BUILDING TO STREET CENTER LINE, WINDOW TO STREET PROPERTY LINE, WINDOW TO PROPERTY LINE, WINDOW TO WINDOW, MINIMUM BUILDING SEPARATION, AND MINIMUM PRIVATE SPACE FACTOR WERE GRANTED IN CASE NO. 87-212-A BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY ON DECEMBER 17, 1987.

NOT PART OF DEVELOPMENT PLAN BUT WITHIN 500 FEET

NO	RADIUS	Δ	ARC	TAN	CHORD	BEARING
1	255.00	24°28'12"	108.9'	55.30	105.08	N1°19'46"E
2	705.00	5°55'39"	72.94'	36.50	72.90	N23°36'04"E
3	735.00	0°55'06"	11.78'	5.89	11.78	N23°30'20"W
4	210.00	20°38'40"	75.67'	38.25	75.26	N10°18'55"E
5	205.00	1°24'26"	8.61'	4.31	8.61	N1°12'39"W
6	245.00	11°27'24"	48.99'	24.58	48.91	S3°18'52"W
7	245.00	2°04'23"	10.29'	5.15	10.29	S1°12'38"E
8	100.00	18°59'10"	15.53'	98.25	140.17	S42°04'47"W
9	100.00	118°35'51"	206.99'	168.41	171.97	S56°53'05"W
10	140.00	68°55'30"	168.42'	96.08	158.44	N32°02'54"E
11	140.00	41°02'28"	102.28'	52.40	98.15	S84°20'13"E
12	420.00	10°35'43"	77.67'	38.95	77.56	S58°31'07"E
13	380.00	10°35'43"	70.21'	35.24	70.17	N58°31'07"E
14	300.00	50°30'49"	256.01'	141.85	256.48	S7°14'14"E
15	300.00	54°51'24"	287.23'	155.69	276.38	S44°47'52"W

LOT AREAS	
NO.	150 FT. ACRES
734	0.065
735	0.067
736	0.067
737	0.067
738	0.067
739	0.067
740	0.067
741	0.067
742	0.067
743	0.067
744	0.067
745	0.067
746	0.067
747	0.067
748	0.067
749	0.067
750	0.067
751	0.067
752	0.067
753	0.067
754	0.067
755	0.067
756	0.067
757	0.067
758	0.067
759	0.067
760	0.067
761	0.067
762	0.067
763	0.067
764	0.067
765	0.067
766	0.067
767	0.067
768	0.067
769	0.067
770	0.067
771	0.067
772	0.067
773	0.067
774	0.067
775	0.067
776	0.067
777	0.067
778	0.067
779	0.067
780	0.067
781	0.067
782	0.067
783	0.067
784	0.067
785	0.067
786	0.067
787	0.067
788	0.067
789	0.067
790	0.067
791	0.067
792	0.067
793	0.067
794	0.067
795	0.067
796	0.067
797	0.067
798	0.067
799	0.067
800	0.067

REASONS FOR 1ST AMENDMENT

1. LAPPED ENVELOPE FOR ADDITIONS TO THE REAR OF 728, 730, 734 OELLA AVE.
2. LOTS IN LONG BRICK ROW HAVE BEEN SOLD WITHIN 300 FEET OF THE ABOVE ADDRESSES
3. THE OWNERS OF ALL ADDRESSES HAVE SIGNED THEIR APPROVAL OF CONSENT IN THE ADJACENT SIGNATURE BLOCKS.

Charles Wagandt
OWNER OF 704, 714, 716, 718, 720, 722, 730, 732, 734, 736, 737, 738, 739, 740, 741, 742, 743, 661, AND 663 OELLA AVENUE

Liliane R. Scallan
LILIANE R. SCALLAN
SHAUN C. SCALLAN
OWNERS OF 747 OELLA AVE.

Lynette H. Kobayashi
LYNETTE H. KOBAYASHI
OWNER OF 745 OELLA AVE.

Sarah M. Moreland
SARAH M. MORELAND
OWNERS OF 702 OELLA AVE.

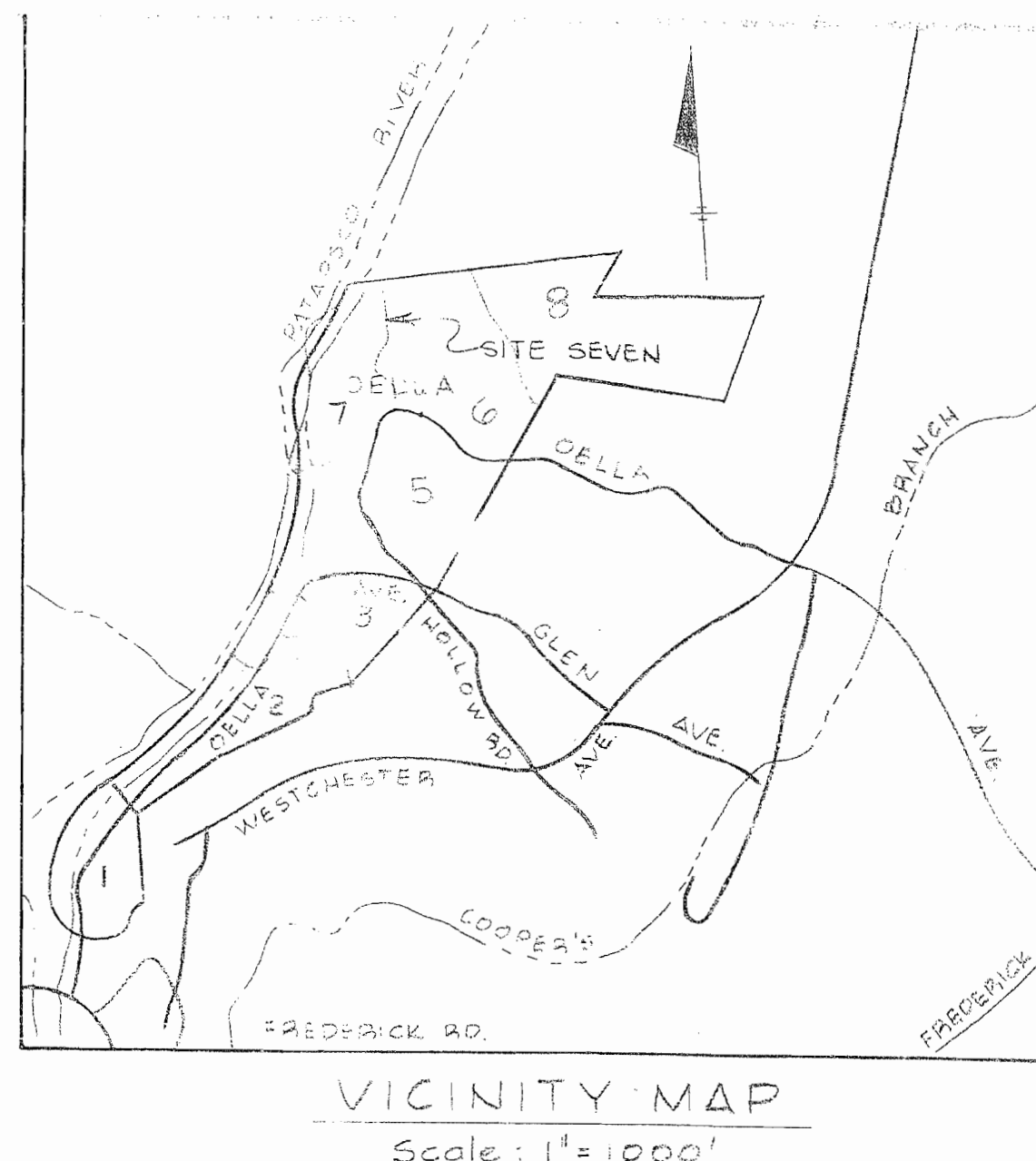
Charles Wagandt T/A
Oella Community
732 Oella Avenue
Ellicott City, Maryland 21043
301-465-1100

Kenneth A. McCord
Registered Engineer No. 1714
WHITMAN REQUARDT AND ASSOCIATES
ENGINEERS
2315 St. Paul Street
Baltimore, Maryland 21218
301-235-3450

OFFICE OF PLANNING AND ZONING
APPROVED BY
Date
Zoning Commissioner

1ST AMENDED DEVELOPMENT PLAN
OELLA - SITE 7
Councilmanic District No. 1
Election District No. 1
Baltimore County, Maryland
Scale: 1"=50'
Date: AUG 13, 1989
Sheet 1 of 1

- LEGEND
- UTILITY EASEMENT
 - ACCESS EASEMENT
 - EX. TREE LINE
 - EX. CONTOURS
 - SOIL
 - MHE - MANOR AND BRANDYWINE VERY STRONG LOAMS
 - LVE - LEGORE VALLEY VERY STONY SILT LOAM
 - FIRE HYDRANT
 - SANITARY SEWER
 - WATER LINE
 - STORM DRAIN
 - ADT
 - AVERAGE DAILY TRIPS



PROVISORY SECTION

THE PROVISORY SECTION OF THIS PARTIAL DEVELOPMENT PLAN IS NOT INTENDED NOR SHOULD IT BE UTILIZED AS A FINAL DEVELOPMENT PLAN FROM WHICH BUILDING APPLICATIONS MAY BE APPROVED OR ISSUED. ITS PURPOSE IS TO PROVIDE THOSE WHO PURCHASE HOMES WITHIN 300 FEET THEREOF WITH A REASONABLE UNDERSTANDING AS TO HOW THE DEVELOPER WILL IMPROVE ALL ADJOINING VACANT LAND THAT LIES WITHIN 300 FEET OF THE HOME.

THE DIMENSIONED BOUNDARIES OF THE "PROVISORY SECTION" AS INDICATED HEREON ARE NOT INTENDED TO SEPARATE IT FROM THE OVERALL APPROVAL OF THIS PARTIAL DEVELOPMENT PLAN INCLUDING THE "PROVISORY SECTION" MUST BE APPROVED IN ACCORDANCE WITH SECTION 1801.3.A.7, BALTIMORE COUNTY ZONING REGULATIONS.

APPROVAL OF THE "PROVISORY SECTION" IS NOT BASED ON FINAL ENGINEERED PLANS HOWEVER, IT IS INTENDED TO ESTABLISH THE FINAL LOCATION, HEIGHT, USE AND DENSITY OF BUILDINGS OR THEIR ENVELOPES TO WITHIN 25 FEET OF THEIR ENGINEERED LOCATION. THE LOCATION AND TYPE OF EXISTING MAJOR VEGETATION THAT IS TO BE RETAINED, SCREENING, PARKING AREAS AND DRIVE TO THE EXTENT POSSIBLE SO AS TO COINCIDE WITH THEIR FINAL OR PERMANENT IMPROVEMENTS, AND OTHER PERTINENT AMENITIES.

AT THE TIME OF BUILDING PERMIT APPLICATIONS THE "PROVISORY SECTION" OF THIS DEVELOPMENT PLAN MUST BE UP-DATED TO COMPLY IN ALL RESPECTS TO THE FORM AND CONTENT REQUIRED BY SECTION 1801.3 OF THE ZONING REGULATIONS.

- GENERAL NOTES
1. THE C.R.S. PLAN FOR OELLA, SITES 1 THROUGH 8 WAS APPROVED OCTOBER 13, 1983 AND EXTENDED 3/6/87. THE AMENDED PARTIAL C.R.S. PLAN AT OELLA, SITE 8, WAS APPROVED APRIL 16, 1989. A REVISED C.R.S. PLAN OF OELLA SITES THROUGH 7 WAS APPROVED ON JULY 13, 1988.
 2. THIS DEVELOPMENT PLAN COMPLIES WITH THE LUG PLAN AND ALL CRG COMMENTS.
 3. ALL LOTS ARE FOR SALE.
 4. THIS DEVELOPMENT PLAN IS APPROVED BY THE ZONING COMMISSIONER BASED ON HIS INTERVIEW WITH THE ZONING REGULATIONS, THAT IT COMPLIES WITH PRESENT POLICY, UTILITY AND BULK CONTROLS AS THEY ARE ELABORATED IN THE REGULATIONS, ANY PART OR PARCEL OF THE TRACT THAT HAS BEEN UTILIZED FOR DENSITY TO SUPPORT DWELLINGS SHOWN THEREON SHALL NOT BE FURTHER DIVIDED, SUBDIVIDED OR DEVELOPED FOR ADDITIONAL DWELLINGS OR ANY PURPOSE OTHER THAN THAT INDICATED PRESENTLY ON SAID PLAN. UTILIZATION WILL HAVE OCCURRED WHEN A DWELLING IS CONSTRUCTED AND TRANSFERRED FOR THE PURPOSE OF OCCUPANCY.
 5. WHEN OPEN LAND IS SOLD AND BELONGS TO THE DWELLING UNIT, A MIN. 100' AREA (CONTIGUOUS) OF 500 SQ. FT. IS REQUIRED. THE MINIMUM DEPTH OF THIS CONTIGUOUS AREA IS 15'. COVERED AREAS SUCH AS PORCHES CANNOT BE CALCULATED IN THIS SPACE.
 6. IF TOWNHOUSES ARE BUILT NEAR TO OR ON THE 500 SQ. FOOT ENVELOPE LINE, ON-GRADE DECKS WILL REQUIRE A ZONING VARIANCE (PUBLIC HEARING) IF THEY PROJECT MORE THAN 4'X10' AND EXTEND INTO THE REQUIRED 500 SQ. FOOT OPEN YARD SPACE. BALCONIES OR SECOND FLOOR DECKS ARE PERMITTED TO EXTEND INTO THE REQUIRED YARD SPACE IF THEY REMAIN OPEN UNDERLATH. SEE POLICY 2.11.2.3.2. CERTAIN LOTS IN THIS PLAN CONTAIN ONLY 500 SQUARE FEET OF OPEN YARD SPACE.
 7. ENVELOPES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPAL BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTING INTO YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT MUST COMPLY WITH SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS. (SUBJECT TO COMMENTS AND APPLICABLE BUILDING PERMITS).
 8. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS INTO YARD CANNOT BE LOCATED IN FLOOD PLAIN AREAS OR HYDRIC SOILS.
 9. IF DRAINAGE, UTILITY AND WALKWAY EASEMENTS ARE FENCED, THEN AT LEAST 5 FEET MUST REMAIN OPEN FOR PEDESTRIAN ACCESS.
 10. CRASH COLLECTION IS TO BE BY BALTIMORE COUNTY WITHIN THE PUBLIC RIGHT OF WAY.
 11. PRIVATE PARKING AREAS AND DRIVEWAYS SHALL BE PAVED WITH A DURABLE AND DUSTLESS SURFACE (MACADAM).
 12. THE LOCATION OF STREET LIGHTING POLES ARE INDICATED BY THE SYMBOLS.
 13. ALL LIGHTING IS TO BE INSTALLED AT THE DIRECTION OF BALTIMORE COUNTY.
 14. A LANDSCAPE PLAN MUST BE APPROVED BY THE OFFICE OF PLANNING PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
 15. ALL EXISTING VEGETATION WILL BE PRESERVED, EXCEPT IN AREAS OF PROPOSED TOWNHOUSES, PARKING LOT AND GRADING.
 16. IN COMPLIANCE WITH BILL NO. 100, AND THE COMPREHENSIVE MANUAL OF DEVELOPMENT POLICY THE FOLLOWING SETBACKS SHALL APPLY:
- A. OUT OF TRANSITION:
- | | |
|----------------------------|-----|
| WINDOW TO WINDOW | 16' |
| WINDOW TO STREET P/W | 25' |
| WINDOW TO TRACT BOUNDARY | 30' |
| WINDOW TO PROPERTY LINE | 15' |
| BUILDING TO EXISTING R/W | 25' |
| BUILDING TO EXISTING R/W & | 50' |
| BUILDING TO PROPOSED R/W | 25' |
| BUILDING TO TRACT BOUNDARY | 30' |
- HEIGHT TO HEIGHT REQUIREMENTS
- | | |
|----------|------------------|
| 0-20' | 16' SEPARATION. |
| 20-25' | 25' SEPARATION. |
| 25-30' | 30' SEPARATION. |
| 30-40' | 40' SEPARATION. |
| 40-50' | 50' SEPARATION. |
| 50-60' | 60' SEPARATION. |
| 60-70' | 70' SEPARATION. |
| 70-80' | 80' SEPARATION. |
| 80-90' | 90' SEPARATION. |
| 90-100' | 100' SEPARATION. |
| 100-110' | 110' SEPARATION. |
| 110-120' | 120' SEPARATION. |
| 120-130' | 130' SEPARATION. |
| 130-140' | 140' SEPARATION. |
| 140-150' | 150' SEPARATION. |
| 150-160' | 160' SEPARATION. |
| 160-170' | 170' SEPARATION. |
| 170-180' | 180' SEPARATION. |
| 180-190' | 190' SEPARATION. |
| 190-200' | 200' SEPARATION. |
| 200-210' | 210' SEPARATION. |
| 210-220' | 220' SEPARATION. |
| 220-230' | 230' SEPARATION. |
| 230-240' | 240' SEPARATION. |
| 240-250' | 250' SEPARATION. |
| 250-260' | 260' SEPARATION. |
| 260-270' | 270' SEPARATION. |
| 270-280' | 280' SEPARATION. |
| 280-290' | 290' SEPARATION. |
| 290-300' | 300' SEPARATION. |
| 300-310' | 310' SEPARATION. |
| 310-320' | 320' SEPARATION. |
| 320-330' | 330' SEPARATION. |
| 330-340' | 340' SEPARATION. |
| 340-350' | 350' SEPARATION. |
| 350-360' | 360' SEPARATION. |
| 360-370' | 370' SEPARATION. |
| 370-380' | 380' SEPARATION. |
| 380-390' | 390' SEPARATION. |
| 390-400' | 400' SEPARATION. |
| 400-410' | 410' SEPARATION. |
| 410-420' | 420' SEPARATION. |
| 420-430' | 430' SEPARATION. |
| 430-440' | 440' SEPARATION. |
| 440-450' | 450' SEPARATION. |
| 450-460' | 460' SEPARATION. |
| 460-470' | 470' SEPARATION. |
| 470-480' | 480' SEPARATION. |
| 480-490' | 490' SEPARATION. |
| 490-500' | 500' SEPARATION. |
16. THERE ARE NO RESIDENTIAL TRANSITION ZONES IN SITE 7.
17. THE CURRENT POLICY OF MAIL DELIVERY TO INDIVIDUAL HOUSES WILL CONTINUE.
18. UNITS 728, 730, 732, 734, 736, 738, 740 AND 742 WERE SUBDIVIDED AS SHOWN ON PLAT BOOK 51/10.75.
19. THE HOA OPEN SPACE WILL BE MAINTAINED BY THE HOA.

NO.	RADIUS	PROPERTY LINE CURVE DATA	ARC	TAN	CHORD	CH. BEARING
1	255.00'	24°28'11"	108.90'	55.30'	108.08'	N14°19'47"E
2	705.00'	05°55'39"	72.94'	36.50'	72.90'	N23°36'05"E
3	19.33'	48°02'29"	16.21'	8.61'	15.74'	S49°18'22"W
4	22.00'	85°45'51"	32.93'	20.43'	29.90'	N45°55'49"W

NO.	SOUTH	WEST	NO.	SOUTH	WEST
62	8126.60	48730.87	152	7991.64	48610.67
122	7786.67	48567.19	153	8050.04	48612.91
123	7759.67	48562.92	154	8049.29	48608.39
124	7749.80	48560.14	155	8050.98	48608.50
125	7719.25	48564.87	156	8049.29	48612.00
126	7705.00	48708.01	157	8049.29	48606.39
127	7702.00	48748.00	158	8049.29	48606.59
128	8025.01	48757.00	159	8049.29	48608.49
129	8040.00	48766.00	160	8049.29	48703.00
130	8120.41	48743.63	161	8049.29	48605.89
131	8076.46	48646.31	162	7905.75	48619.14
132	7915.92	48396.71	163	7871.64	48602.09
133	7892.00	48447.35	164	7804.83	48572.90
134	7918.22	48459.73	165		
135	7900.00	48498.32	166		
136	7868.29	48483.34	2447	7811.05	48634.90
137	7864.08	48556.32	5372	7762.73	48628.12
138	7854.89	48561.02	5395	7971.87	48707.70
139	7860.73	48567.65	5396	7971.61	48702.74
140	7929.98	48599.29			
141	7961.25	48531.32			
142	7980.70	48540.21			
143	7990.97	48552.44			
144	8002.57	48594.53			

- NOTES:
- HIGHWAY AND HIGHWAY WIDENING SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENT ACCESS EASEMENTS, FOREST BUFFER AREAS IN FEE OR EASEMENT, GREENWAY AREAS IN FEE OR EASEMENT, AND STORMWATER MANAGEMENT AREAS NO MATTER NOW ENTITLED, SHOWN HEREON, ARE RESERVED TO THE OWNER AND, EXCEPT FOR THOSE INDICATED AS PRIVATE, ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE OWNER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND, AT NO COST.
 - THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 26-216 BALTIMORE COUNTY CODE.
 - THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
 - THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.
 - ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.
 - THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY BALTIMORE COUNTY OF ANY STREET, EASEMENT, PARK OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THIS PLAT.
 - THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
 - DATE OF CRG. APPROVAL: OCTOBER 13, 1989.
DATE OF CRG. EXTENSION APPROVAL: MARCH 6, 1987.
DATE OF CRG. EXTENSION APPROVAL: MARCH 6, 1990.
 - THE APPROVAL OF THIS PLAT IS BASED UPON A REASONABLE EXPECTATION THAT THE WATER AND SEWER SERVICE WHICH IS PLANNED FOR THE DEVELOPMENT WILL BE AVAILABLE WHEN NEEDED. HOWEVER, BUILDING PERMITS MAY NOT BE ISSUED UNTIL THE PLANNED WATER AND SEWER FACILITIES ARE COMPLETED AND DETERMINED TO BE ADEQUATE TO SERVE THE PROPOSED DEVELOPMENT.
 - THERE ARE NO HYDRIC SOILS ON THIS SITE.
 - THE PARCELS SHOWN ON THIS PLAT LIE IN THE PATAPSCO SEWERED AND DRAIN TO THE PATAPSCO PUMPING STATION.
 - TRASH COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE TO BE PROVIDED TO THE STREET RIGHT-OF-WAY.
 - THOMAS J. SHAFER, MARYLAND LICENSE NUMBER 0957.
 - THE ROADS AND STORM DRAINS AS LAID OUT ON THIS PLAT HAVE BEEN DESIGNED BY A PROFESSIONAL ENGINEER.
 - THE PRIVATE INGRESS EGRESS MAINTENANCE AND UTILITY EASEMENTS ARE SHOWN ON THE PLAT.
 - VARIANCES FOR MINIMUM BUILDING SEPARATION, MINIMUM OPEN PORCH SEPARATION, BUILDING TO STREET CENTERLINE, OPEN PORCH TO STREET CENTERLINE, BUILDING TO STREET R/W/PROPERTY LINE, OPEN PORCH TO STREET R/W/PROPERTY LINE, BUILDING TO TRACT BOUNDARY, WINDOW TO STREET R/W, WINDOW TO PROPERTY LINE, PRIVATE SPACE FACTOR, WINDOW TO TRACT BOUNDARY, 2 WAY AISLE WIDTH AND PARKING SPACES WERE GRANTED ON JUNE 2, 1992 IN CASE NO. 92-411-A BY THE DEPUTY ZONING COMMISSIONER.
 - OWNER NAME:
SHORT BRICK ROW: HISTORIC OELLA LIMITED PARTNERSHIP
PLAT REFERENCE: PLAT BOOK 56 FOLIO 73
DEED REFERENCE: E.H.K., JR. 6747 FOLIO 72, 7577/46
TAX ACCOUNT NO: 19-00-013677
LONG BRICK ROW: HISTORIC OELLA LIMITED PARTNERSHIP
PLAT REFERENCE: PLAT BOOK 56 FOLIO 73
DEED REFERENCE: E.H.K., JR. 6747 FOLIO 72, 7577/46
TAX ACCOUNT NO: 19-00-013676
 - THERE ARE NO WELLS, SEPTIC SYSTEMS, OR UNDERGROUND TANKS ON SITE.
 - STAIRWAY EASEMENTS LOCATED ON LOTS 49 THROUGH 60 ARE FOR THE EXCLUSIVE PURPOSE OF PROVIDING FLOOR ACCESS WITHIN A GIVEN LOT VIA THE EXISTING STAIRS AND ARE NOT TO BE CONSTRUED AS A LICENSE TO CREATE NEW ACCESS THROUGH AN ADJOINING LOT.

LOT AREA TABULATION			
SHORT BRICK ROW		LONG BRICK ROW	
LOTS		LOTS	
40	0.0547	49	0.0289
41	0.0253	50	0.0223
42	0.0249	51	0.0205
43	0.0244	52	0.0208
44	0.0251	53	0.0199
45	0.0281	54	0.0196
H.O.A. OPEN SPACE	0.2350	55	0.0200
		56	0.0185
H.O.A. AREA		57	0.0189
EXIST. ACCESS	0.1256	58	0.0182
EASEMENT		59	0.0188
REMAINDER	0.0970	60	0.0267
		61	0.0263
		62	0.0174
		63	0.0196
		64	0.0194
		65	0.0190
		66	0.0293
		67	
		H.O.A. AREA	
		EXIST. ACCESS	0.1368
		EASEMENT	
		REMAINDER	0.5915
		TOTAL	1.1380

NOTE:
COORDINATES AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE BALTIMORE COUNTY METROPOLITAN DISTRICT AND ARE BASED ON THE FOLLOWING TRVERSE STATIONS.

POINT	SOUTH	WEST
X-6879B	8458.00	48938.12
X-6879C	8472.88	48426.40



ENGINEER	OWNER
WHITMAN, REQUARDT AND ASSOCIATES 2315 SAINT PAUL STREET BALTIMORE, MARYLAND 21218 410-215-3450	HISTORIC OELLA LIMITED PARTNERSHIP 519 NORTH CHARLES STREET BALTIMORE, MARYLAND 21201

OWNER'S CERTIFICATE
THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, HEREBY CERTIFIES THAT TO THE BEST OF HIS KNOWLEDGE, THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, HAS BEEN COMPLIED WITH, INsofar AS SAME CONCERN THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS.

HISTORIC OELLA LIMITED PARTNERSHIP
BY: STRUEVER BRO., EGGLESS AND ROUSE.
GENERAL PARTNER
BY: *Carl W. Struever*
CARL W. STRUEVER
GENERAL PARTNER
DATE: 8/2/92

SURVEYOR'S CERTIFICATE
THE UNDERSIGNED, A REGISTERED PROPERTY LINE SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR WHO PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLAT HAS BEEN LAID OUT AND THE PLAT THEREOF HAS BEEN PREPARED IN COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, PARTICULARLY INsofar AS SAME CONCERN THE MAKING OF THE PLAT AND SETTING OF THE MARKERS.

BY: *Mark A. Blush*
MARK A. BLUSH
REGISTERED PROPERTY LINE SURVEYOR NO. 508
DATE: 8/2/92

NOTE:
THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

APPROVED: BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
BY: *J. J. Dicks* 9/8/92
DIRECTOR
DATE: 9/8/92

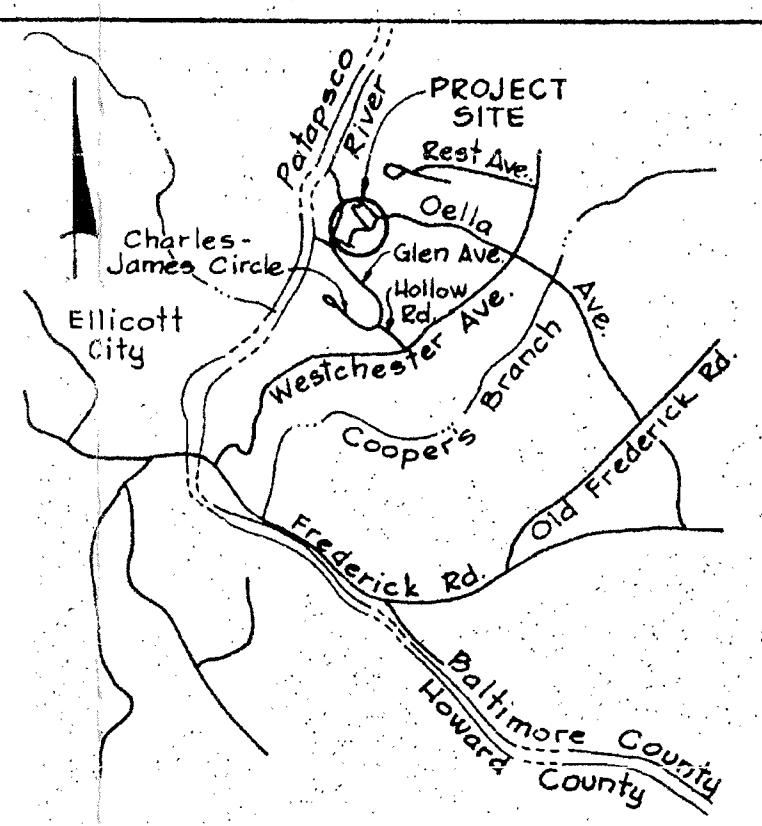
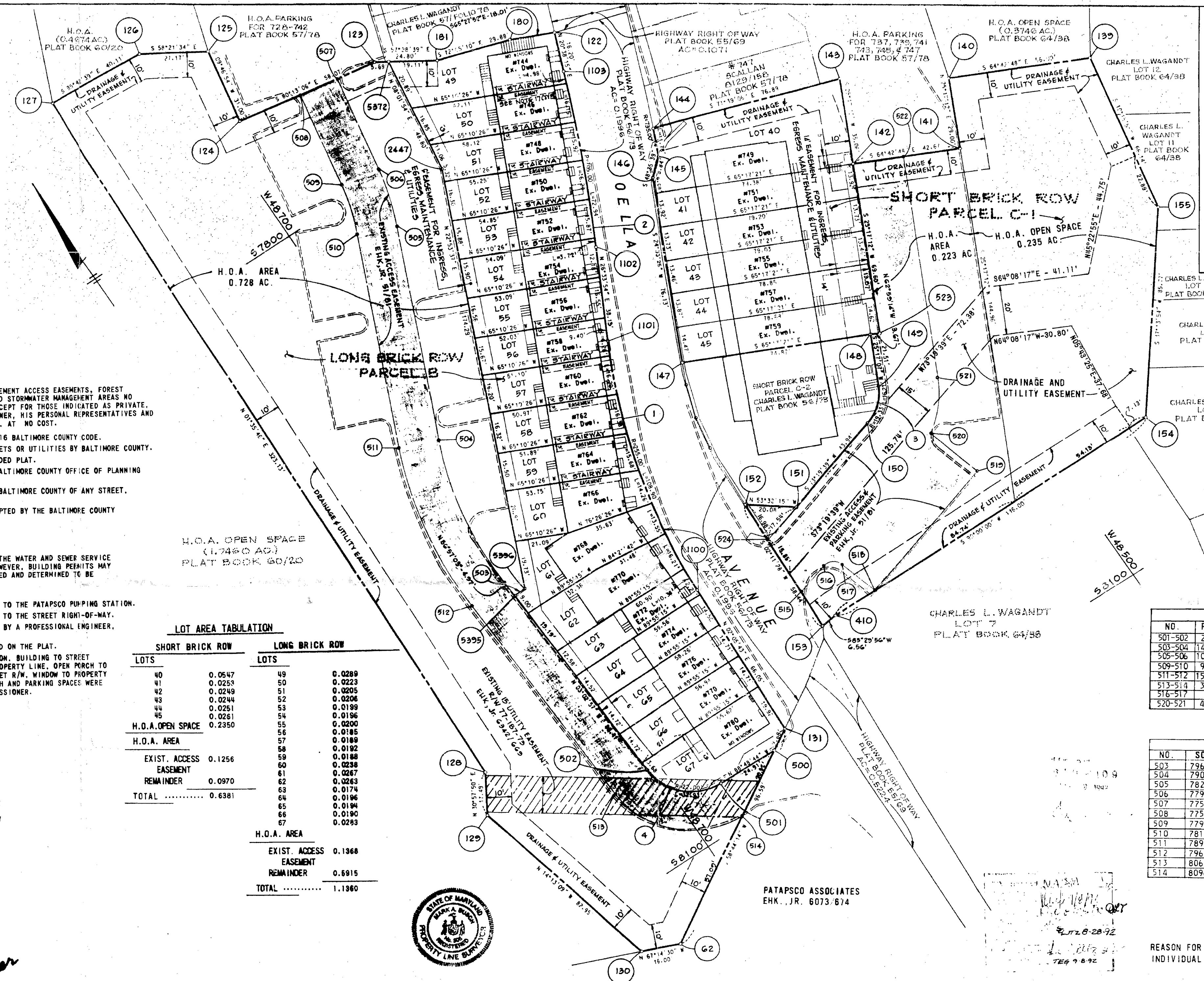
APPROVED: BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS AND THE OFFICE OF PLANNING AND ZONING
BY: *Thomas J. Shafer* 9/1/92
DIRECTOR OF PUBLIC WORKS
DATE: 9/1/92

REASON FOR RESUBDIVISION: TO SUBDIVIDE INDIVIDUAL UNITS FOR SALE.

--- OELLA ---
LONG BRICK ROW
AND
SHORT BRICK ROW

A RESUBDIVISION OF PARCELS B AND C-1 AS SHOWN ON THE PLAT OF "OELLA, AMENDED PARCELS A.B. C1 AND C2 FOR HERRING, HILL LONG BRICK ROW AND SHORT BRICK ROW" RECORDED IN S.W. 56, FOLIO 73 ON MAY 1, 1987.

ELECTION DISTRICT NO. 1
BALTIMORE COUNTY, MARYLAND
SHEET 1 OF 1
DATE: AUGUST 5, 1992
SCALE: 1" = 20'

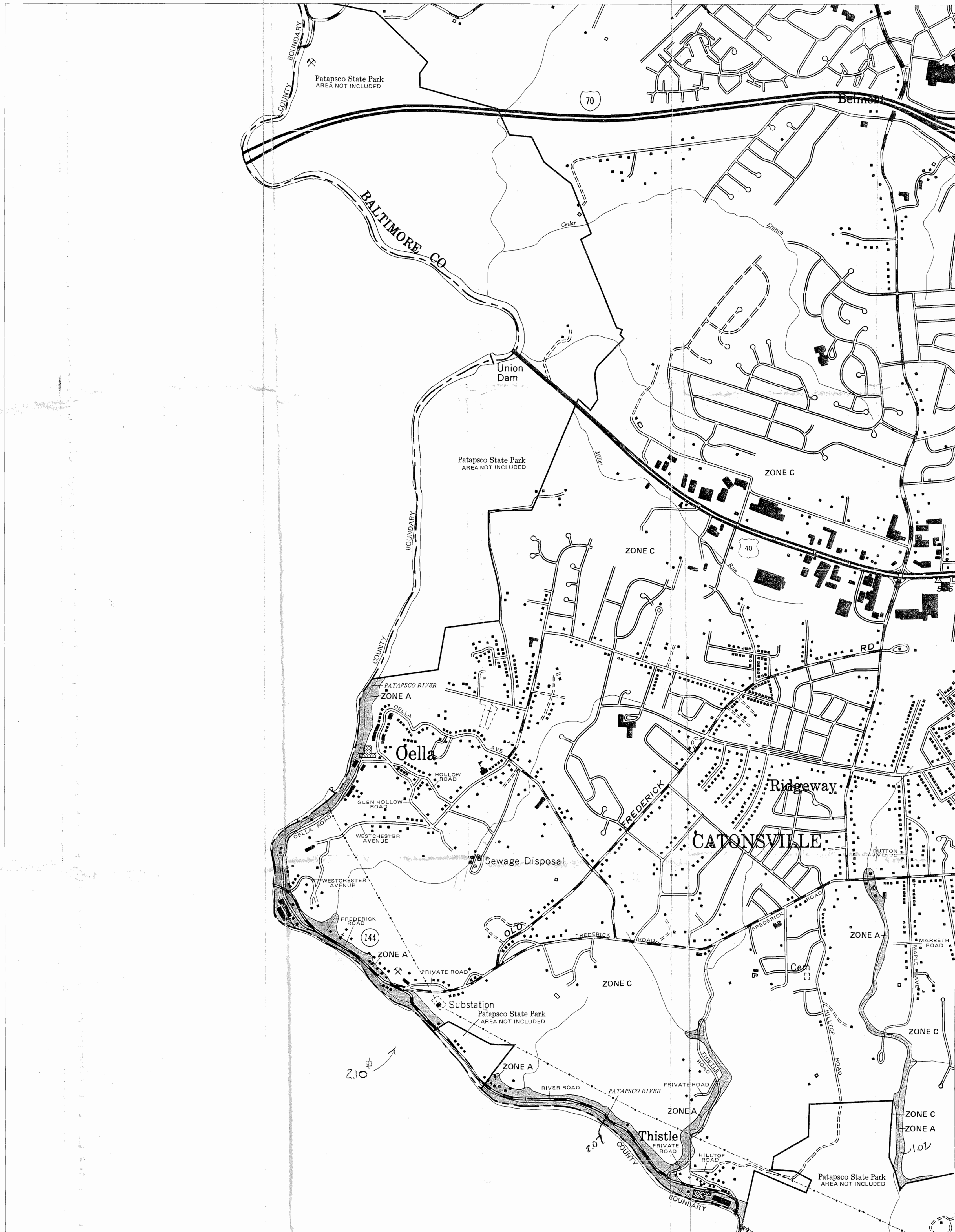


LINE	DISTANCE	BEARING
500-501	24.91'	N88°48'14"W
502-503	95.17'	N05°02'15"W
504-505	88.51'	N22°52'40"E
506-507	40.61'	N09°04'15"E
507-508	16.00'	N80°13'10"W
508-509	40.61'	S09°46'15"W
510-511	88.61'	S22°53'40"W
512-513	95.17'	S03°02'15"E
514-500	29.82'	N58°44'14"E
515-516	14.16'	N73°19'39"E
517-518	17.00'	S16°40'21"E
518-519	63.00'	N73°19'39"E
519-520	23.89'	N16°40'21"W
521-522	91.00'	N25°17'11"E
522-523	20.00'	N64°42'48"W
524-525	69.60'	S25°17'11"W
525-526	69.60'	N64°42'48"W
526-527	2.62'	N62°59'14"W
527-528	17.54'	S73°19'39"W
528-529	25.00'	S02°11'28"W

NO.	RADIUS	PROPERTY LINE CURVE DATA	ARC	TAN	CHORD	BEARING
501-502	22.00'	85°45'51"	32.93'	20.43'	29.90'	N45°55'49"W
503-504	142.00'	25°56'35"	64.50'	32.71'	63.75'	N09°55'22"E
505-506	108.00'	13°06'42"	24.72'	12.41'	24.66'	N16°20'23"E
509-510	42.00'	13°06'42"	21.05'	10.57'	21.01'	S16°20'23"W
511-512	158.00'	25°56'35"	71.54'	36.40'	70.93'	S09°55'22"W
513-514	38.00'	85°22'40"	56.61'	35.05'	51.53'	S45°44'13"E
516-517	5.00'	90°00'00"	7.85'	5.00'	7.07'	S61°40'21"E
520-521	43.00'	31°00'14"	23.27'	11.93'	22.99'	N40°47'30"E

NO.	SOUTH	WEST	NO.	SOUTH	WEST
503	7965.13	48708.06	515	8033.60	48612.28
504	7902.33	48697.08	516	8029.34	48598.72
505	7820.70	48662.60	517	8032.90	48592.50
506	7797.03	48655.67	518	8049.18	48587.62
507	7756.90	48648.75	519	8031.11	48572.27
508	7754.22	48644.52	520	8008.22	48534.12
509	7794.32	48671.43	521	7990.82	48519.10
510	7814.48	48677.34	522	7908.54	48480.23
511	7896.11	48711.82	523	7962.92	48528.04
512	7965.98	48724.04	524	8008.60	48611.32
513	8061.01	48718.98			
514	8096.98	48682.08			

MSA 55U 1236 19,047
Red No 53



KEY TO MAP					
500-Year Flood Boundary	—				
100-Year Flood Boundary	—				
Zone Designations* With Date of Identification e.g., 12/2/74	<table><tr><td>ZONE A1 DATE</td><td>ZONE B</td></tr><tr><td>ZONE A5 DATE</td><td>ZONE B</td></tr></table>	ZONE A1 DATE	ZONE B	ZONE A5 DATE	ZONE B
ZONE A1 DATE	ZONE B				
ZONE A5 DATE	ZONE B				
100-Year Flood Boundary	—				
500-Year Flood Boundary	—				
Base Flood Elevation Line With Elevation In Feet**	513				
Base Flood Elevation In Feet Where Uniform Within Zone**	(EL 987)				
Elevation Reference Mark	RM7				
River Mile	M1.5				
**Referenced to Baltimore County Datum					

*EXPLANATION OF ZONE DESIGNATIONS	
ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

NOTES TO USER

Certain areas not in the special flood hazard areas (zones A and V) may be protected by flood control structures.

This map is for flood insurance purposes only; it does not necessarily show all areas subject to flooding in the community or all planimetric features outside special flood hazard areas.

For adjoining map panels, see separately printed Index To Map Panels.

INITIAL IDENTIFICATION:
APRIL 18, 1975

FLOOD HAZARD BOUNDARY MAP REVISIONS:
JUNE 4, 1976

FLOOD INSURANCE RATE MAP EFFECTIVE:
MARCH 2, 1981

FLOOD INSURANCE RATE MAP REVISIONS:

Refer to the FLOOD INSURANCE RATE MAP EFFECTIVE date shown on this map to determine when actuarial rates apply to structures in the zones where elevations or depths have been established.

To determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program at (800) 638-6620, or (800) 424-8872.



NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

BALTIMORE COUNTY,
MARYLAND
(UNINCORPORATED AREAS)

PANEL 370 OF 575
(SEE MAP INDEX FOR PANELS NOT PRINTED)

Red No
37

COMMUNITY-PANEL NUMBER
240010 0370 B

EFFECTIVE DATE:
MARCH 2, 1981

federal emergency management agency
federal insurance administration

TRANSCRIPTS

TRANSCRIPT REQUEST

Filed: January 6, 2003

Case: *Oella*
Case No.: CBA-02-137 and 02-412-SPHA

Hearing date(s): Testimony Heard on:

9/24/02

10/03/02

10/08/02

10/30/02

Petitioner: John V. Murphy, Esquire

410-744-4967

Due Date: FEBRUARY 28, 2003

THANK YOU

January 6, 2003

IN THE MATTER OF

* BEFORE THE

OELLA MILL/PDM 1-498

* COUNTY BOARD OF APPEALS

Oella Mill LLP - Owner:

* OF

Forest City Residential Group - * BALTIMORE COUNTY

Developer

* Case No. CBA-02-137 and

* Case No. 02-412-SPHA

* October 3, 2002

* * * * *

The above-entitled matter came on for hearing
before the County Board of Appeals at the Old Courthouse,
401 Washington Avenue, Towson, Maryland 21204, at 10
o'clock a.m., October 3, 2002.

* * * * *

Reported by:

C.E. Peatt

IN THE MATTER OF

* BEFORE THE

OELLA MILL/PDM 1-498

* COUNTY BOARD OF APPEALS

Oella Mill LLP - Owner:

* OF

Forest City Residential Group -

* BALTIMORE COUNTY

Developer

* Case No. CBA-02-137 and

* Case No. 02-412-SPHA

* October 8, 2002

* * * * *

The above-entitled matter came on for hearing

before the County Board of Appeals at the Old Courthouse,

401 Washington Avenue, Towson, Maryland 21204, at 10

o'clock a.m., October 8, 2002.

* * * * *

Reported by:

C.E. Peatt

1 IN THE CIRCUIT COURT
2 FOR BALTIMORE COUNTY, MARYLAND

3 PETITION OF GREATER OELLA
4 COMMUNITY ASSOCIATION INC, et al.,

5 CASE NO. 03-C-03-0016

6 VERSUS

7 IN THE MATTER OF OELLA MILL,
8 LLP et al., FOR DEVELOPMENT PLAN
9 APPROVAL AND APPROVAL OF
10 PETITION FOR VARIANCE
11 840 Oella Avenue

12 1st Councilman District
13 1st Election District

14 CBA Nos. CBA-02-137/02-412-SPHA
15 PDM No. I-498

\$ 273.75

16 / June 12, 2003

17 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

18 BEFORE THE HONORABLE PATRICK CAVANAUGH, ASSOCIATE JUDGE

19 APPEARANCES ON BEHALF OF THE PETITIONERS/APPELLEES:

20 JOHN V. MURPHY, ESQUIRE

21 ON BEHALF OF THE RESPONDENTS:

22 JAMES A. DUNBAR, ESQUIRE
23 PATRICIA A. MALONE, ESQUIRE

24 REPORTED BY:
25 MARINA COYLE
Official Court Reporter
401 Bosley Ave., M-08
Towson, Maryland 21204

FILED OCT 17 2003

TESTIMONY

- ✓ VOLUME 1 Oella Mill Property – 5/9/02
- ✓ VOLUME II Oella Mill Property – 5/10/02
- ✓ VOLUME III Oella Mill Property – 5/13/02
- ✓ VOLUME IV Oella Mill Property – 5/15/02
- ✓ VOLUME V Oella Mill Property – 6/12/02

LOCAL OPEN SPACE

- ✓ Baltimore County Local Open Space Manual dated February 22, 2002

OTHER PERTINENT DOCUMENTS

- ✓ BM Zone Pages 2-45, 2-46
- ✓ People's Counsel v. Crown Development
- ✓ County Council of Baltimore County, MD Bill No. 173-93
- ✓ County Council of Baltimore County, MD Bill No. 110-99
- ✓ Hearing Officer's Opinion & Development Plan Order dated March 22, 1999
- ✓ County Council of Baltimore County, MD Bill No. 186-94
- ✓ Opinion
- ✓ County Council of Baltimore County, MD Bill No. 108-94

VOLUME V

IN THE MATTER OF: BEFORE THE
OELLA MILL PROPERTY BALTIMORE COUNTY
(PDM # I-498) ZONING COMMISSIONER
May 15, 2002

Testimony in the above-captioned matter
came on for hearing before the Baltimore County Zoning
Commissioner, Hearing Officer's Hearing, County Office
Building, Room 106, 111 W. Chesapeake Avenue, Towson,
Maryland 21204, commencing at 9:00 a.m., on June 12,
2002, before Susan A. Kambouris, Notary Public.

Reported by: Susan A. Kambouris

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Reported by: Susan A. Kambouris

VOLUME II

IN THE MATTER OF: BEFORE THE
OELLA MILL PROPERTY BALTIMORE COUNTY
(PDM # I-498) ZONING COMMISSIONER
May 10, 2002

Testimony in the above-captioned matter
came on for hearing before the Baltimore County Zoning
Commissioner, Hearing Officer's Hearing, County Office
Building, Room 106, 111 W. Chesapeake Avenue, Towson,
Maryland 21204, commencing at 9:00 a.m., on May 10,
2002, before Susan A. Kambouris, Notary Public.

Reported by: Susan A. Kambouris

VOLUME I

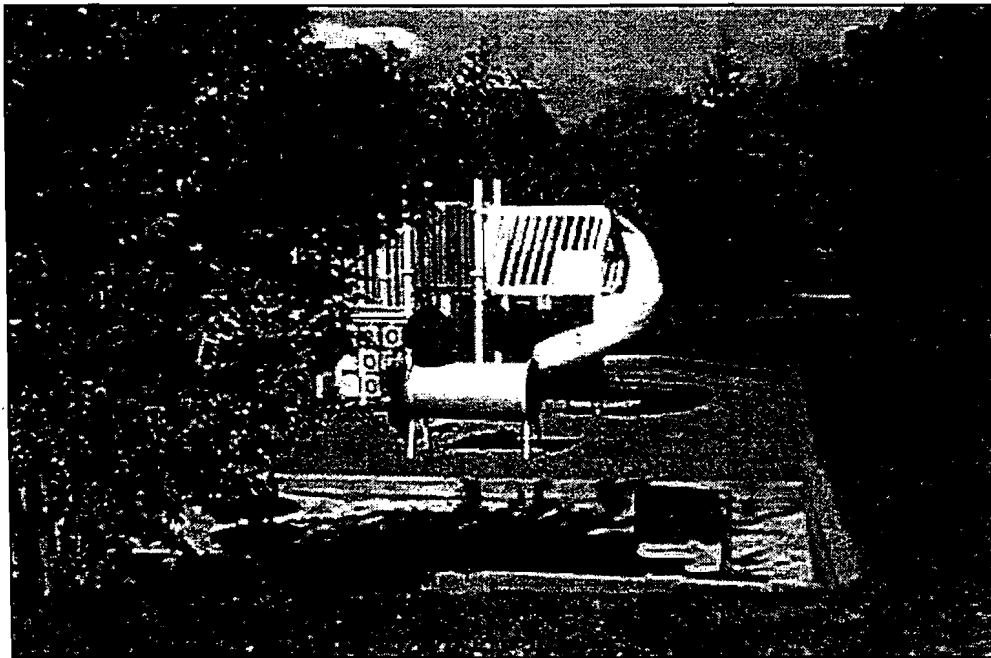
IN THE MATTER OF: BEFORE THE
OELLA MILL PROPERTY BALTIMORE COUNTY
(PDM # I-498) ZONING COMMISSIONER
May 9, 2002

Testimony in the above-captioned matter
came on for hearing before the Baltimore County Zoning
Commissioner, Hearing Officer's Hearing, County Office
Building, Room 106, 111 W. Chesapeake Avenue, Towson,
Maryland 21204, commencing at 9:00 a.m., on May 9,
2002, before Susan A. Kambouris, Notary Public.

BEFORE: LAWRENCE SCHMIDT, ZONING COMMISSIONER

REPORTED BY: Susan A. Kambouris

BALTIMORE COUNTY LOCAL OPEN SPACE MANUAL



As Adopted by the Baltimore County Council
February 22, 2000

Section 235A--SPECIAL REGULATIONS FOR C.C.C. DISTRICTS.²⁰ [Bill No. 100, 1970.]

Contrary provisions of these Zoning Regulations notwithstanding, the regulations of this section shall apply in C.C.C. districts superimposed upon B.M. zones. (All aspects of matters not governed by the following provisions of this section shall be governed by all other applicable provisions of these Zoning Regulations.) [Bill No. 100, 1970.]

235A.1--Apartments shall be permitted, but only above the first story of a building. Elderly housing facilities shall be permitted in any story of a building. [Bill No. 100, 1970; No. 36, 1988.]

235A.2--No apartment window facing a property line other than a street line shall be closer than 25 feet thereto. The minimum distance between the centers of facing windows of different apartments on the same lot shall be 50 feet. [Bill No. 100, 1970.]

235A.3--The specific number of dwelling or density units, as such, shall not be directly limited. [Bill No. 100, 1970.]

235A.4--The minimum permitted amenity open space ratio shall be 0.2. [Bill No. 100, 1970.]

235A.5--For all buildings containing apartments, there shall be provided at least 1.25 parking spaces for each dwelling unit. Up to 50 per cent of such spaces on any lot shall be counted in determining the number of spaces provided for commercial and office uses on the same lot. (See also Paragraph 409.2.d.) [Bill No. 100, 1970.]

Policy Manual

S-3 CONVERSIONS WITH DEFICIENT SETBACKS

A. When the use of an existing building changes and the setback requirements for the new use are greater than the existing building setback, existing setbacks shall not be considered as nonconforming and zoning compliance will be required. This may be accomplished by removing a portion of the building, purchasing additional property, or successfully petitioning for a variance based upon hardship or practical difficulty.

B. When the use of an existing building changes and the setback requirements for the new use are less than the existing use, existing setbacks will be considered as nonconforming.

Imposing Lawyer Sanctions (1992) which the American Bar Association adopted in 1986. Standard 4.12 provides:

"Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client."

The commentary to Standard 4.13 also states:

"Suspension or disbarment as applicable under Standards 4.11 and 4.12 and the commentary thereto is appropriate for lawyers who are grossly negligent. For example, lawyers who are grossly negligent in failing to establish proper accounting procedures should be suspended; reprimand is appropriate for lawyers who fail to follow their established procedures."

We are aware that Powell has been in private practice for over twenty years and that this is the first time he has been charged with professional misconduct. We also are aware that the funds in this case are those of a single client. The record also is replete with the many personal and familial problems confronting Powell during this period of time. Yet, despite the many problems that confronted Powell, the trial court found that Powell was a more than capable attorney during this period.

After careful consideration of this matter, we have determined that a substantial suspension is called for. Accordingly, Robert Dominick Powell will be suspended indefinitely from the practice of law with the right to reapply not less than six months from the date of the filing of this opinion.

IT IS SO ORDERED; RESPONDENT SHALL PAY ALL COSTS AS TAXED BY THE CLERK OF THIS COURT, INCLUDING THE COSTS OF ALL TRANSCRIPTS, PURSUANT TO MARYLAND RULE BV15(c) FOR WHICH SUM JUDGMENT IS ENTERED IN FAVOR OF THE ATTORNEY GRIEVANCE COMMISSION AGAINST ROBERT DOMINICK POWELL.

614 A.2d 553

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY et al.

v.

CROWN DEVELOPMENT CORPORATION.

No. 41, Sept. Term, 1991.

Court of Appeals of Maryland.

Oct. 27, 1992.

County review group granted final approval of plan for development of second tract that involved use of what was found to be unused density from originally approved subdivision. Area resident appealed. County board of appeals found that permitting transfer of density was in error and was arbitrary decision, and approved plan for second tract with restriction precluding transfer of density units. Developer that was seeking approval of development plan appealed. After grant of county people's counsel's motion to intervene, the Circuit Court, Baltimore County, J. William Hinkel, J., reversed the board's decision and ordered reinstatement of the group's approval. Area resident and people's counsel appealed, and developer cross-appealed. The Court of Special Appeals affirmed. After grant of petitions for certiorari filed by the area resident and the people's counsel, the Court of Appeals, McAuliffe, J., held that: (1) board correctly refused to permit transfer of density units from one approved subdivision tract to another tract; (2) board complied with county provision under which final action on plan is presumed correct by considering record made by county review group, affording deference to decision of the group, and exercising discretion to receive additional evidence bearing on matters that were before the group; and (3) people's counsel for county was properly permitted to intervene at circuit court level on developer's appeal from county board of appeals' refusal to allow

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1993, Legislative Day No. 20

Bill No. 173-93

Mr. C. A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, November 1, 1993

A BILL
ENTITLED

AN ACT concerning

Flood Plain Management

FOR the purpose of establishing an up-to-date Flood Plain Management Program by promulgating regulations for establishing and changing the Floodplain Area (FPA) in Baltimore County; requiring information to be shown on plats; adding requirements for impacting tidal or non-tidal wetlands; requiring permits for all development in the FPA; providing certain definitions; providing for waivers in the FPA; providing for floodplain management regulations in the development regulations and the BOCA Building Code.

BY repealing

Sections 14-116 through 14-123
Article IV. Flood Damage Prevention
Title 14 "Environmental Protection and Resource Management"
Baltimore County Code, 1988, as amended

BY adding

Sections 26-661 through 26-670
Article XI Flood Plain Management
Title 26 "Planning, Zoning and Subdivision Control"
Baltimore County Code, 1988, as amended

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

passed

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1999, Legislative Day No. 21
Bill No. 110-99

All Councilmembers
By Request of County Executive

By the County Council, November 15, 1999

A BILL
ENTITLED

AN ACT concerning

Adequate Public Facilities

FOR the purpose of prohibiting the approval of certain development plans in certain overcrowded school districts under certain circumstances; requiring the Office of Planning to make certain recommendations and prepare a map concerning overcrowded school districts; requiring certain persons to submit a school analysis; requiring the Office of Planning to adopt certain regulations by a certain date; extending development controls for elementary school capacity to a certain date; requiring the preparation of a certain plan; repealing development controls for elementary schools by a certain date; prohibiting the approval of developments plans unless an applicant meets certain requirements for water, sewer, and storm water management facilities; requiring an applicant to dedicate certain open space under certain circumstance; authorizing the Department of Recreation and Parks to allow an applicant to pay a certain fee for certain open space under certain

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter stricken from existing law.

~~Strike out~~ indicates matter stricken from bill.

Underlining indicates amendments to bill.

IN THE MATTER OF	*	BEFORE
HAR SINAI HOLDING, INC.	*	
SW/C OF WALNUT AVENUE AND	*	COUNTY BOARD OF APPEALS
GREENSPRING AVENUE	*	
4TH ELECTION DISTRICT	*	OF
3RD COUNCILMANIC DISTRICT	*	
	*	BALTIMORE COUNTY
RE: DEVELOPMENT PLAN APPROVAL	*	
	*	CASE NO. CBA-99-111

* * * * *

O P I N I O N

This case comes to the Board of Appeals of Baltimore County based on an appeal from a decision of the Hearing Officer /Zoning Commissioner in which the Hearing Officer, by order dated March 22, 1999, approved the Development Plan submitted by the Developers (Developers' Exhibits 1A and 1B), subject to conditions (A through H) incorporated therein.

A timely appeal to this Board was made on April 19, 1999 with the "Notice of Appeal" identifying the "persons aggrieved and feeling aggrieved" as prescribed by the Baltimore County Code (BCC), Section 26-209, "Appeals from final action on a plan." This Board held a public hearing on May 13, 1999; with a second day of oral argument held on May 21, 1999. The matter was publicly deliberated over the course of several hours on Friday, June 11, 1999. The BCC requires that this Board issue its Order within 15 days "following the conclusion of the hearing."

Stuart Kaplow, Esquire, presented oral arguments to the Board in opposition to the Plan; and J. Carroll Holzer, Esquire, represented the Developer in support of the Hearing Officer's order and decision.

On May 13, 1999, day #1 of the hearing, the Developer submitted the Development Plan approved by the Hearing Officer; and

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1994, LEGISLATIVE DAY NO. 20
BILL NO. 186-94

MRS. BERCHIE L. MANLEY, COUNCILWOMAN

BY THE COUNTY COUNCIL, NOVEMBER 7, 1994

A BILL
ENTITLED

AN ACT concerning

Office Zones

FOR the purpose of creating the O-3 (Office Park) zone in the Baltimore County Zoning Regulations which will permit only office and no residential development; renaming and combining the O-1 (Office Building) and O-2 (Office Park) Zones to OR-1 and OR-2 (Office Building-Residential) Zones; defining terms; establishing general provisions for all office classifications; modifying use regulations and performance standards in OR-1 and OR-2 zones; amending bulk regulations in R-O zones; conforming certain provisions of the zoning and development regulations; and generally relating to Office Zones.

BY repealing and reenacting with amendments

Section 101-Definitions, the definitions of "Office" and "Office Building,
Class B"

Baltimore County Zoning Regulations, as amended

By repealing

Section 101-Definitions, the definition of "Office Building, Class C"

Baltimore County Zoning Regulations, as amended

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

IN RE:	DEVELOPMENT PLAN HEARING	* BEFORE THE
	SWC Greenspring and Walnut	* HEARING OFFICER
	Avenues	* OF BALTIMORE COUNTY
	2905 Walnut Avenue	* Case No. IV-518
	3rd Election District	
	3rd Councilmanic District	
	Har Sinai Holding, Inc.	
	Applicant/Developer	
	* * * * *	

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before the Hearing Officer for consideration of the development plan prepared by D.S Thaler and Associates, Inc., a consulting firm of civil engineers, landscape architects, surveyors and land planners on behalf of Har Sinai Holding, Inc., Developer/Applicant/Property Owner. Har Sinai Holding, Inc. is that legal corporate entity which owns the subject property. Har Sinai Holding, Inc., is an affiliate of the Har Sinai Congregation of the City of Baltimore, a reform congregation of the Jewish faith. Har Sinai presently maintains a house of worship in Baltimore City. Seeking larger facilities in which to expand and desiring a location within proximity of many of its members, Har Sinai proposes developing the subject property with a 62,500 sq. ft. building to be utilized for religious and educational purposes. If approved, the Har Sinai Congregation will hereinafter move its house of worship to the subject location.

Obviously, in order to proceed with these plans, Har Sinai need obtain approval for the proposed development through the Development Review Regulations as codified in Title 26 of the Baltimore County Code (hereinafter "BCC"). That process is evolutionary in character and requires an Applicant to proceed through a series of steps/stages. The regulations require the Developer to institute the review process by the filing of a Concept Plan with Baltimore County. As the name suggests, the initial plan filed is schematic in nature. In this case, a Concept Plan

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1994, LEGISLATIVE DAY NO. 13
BILL NO. 108-94

COUNCILMEMBERS RUPPERSBERGER & MANLEY

BY THE COUNTY COUNCIL, JUNE 20, 1994

A BILL.

ENTITLED

AN ACT concerning

Zoning Regulations - Office Zones

FOR the purpose of providing that residential uses permitted to be located in the
O-1 or O-2 zones of the County, either by right or by special exception, are
subject to the residential transition area requirements of the Baltimore
County Zoning Regulations.

BY repealing and re-enacting, with amendments

Sections 204.3.A.1. and B.1. and 205.3.A.2. and B.

Baltimore County Zoning Regulations, as amended

WHEREAS, the Baltimore County Council prepared a final report, dated May 3,
1994, concerning the subject legislation and held a public hearing thereon on June
6, 1994, now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2. MARYLAND, that Sections 204.3.A.1. and B.1. and 205.3.A.2. and B. of the Baltimore
3. County Zoning Regulations, as amended, be and they are hereby repealed and
4. re-enacted, with amendments, to read as follows:

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

PETITION OF GREATER OELLA
COMMUNITY ASSOCIATION,
et al., FOR JUDICIAL REVIEW

IN THE MATTER OF OELLA
MILL, LLP, et al., FOR
DEVELOPMENT PLAN APPROVAL
AND APPROVAL OF PETITION
FOR VARIANCE

840 Oella Avenue

1st Councilmanic District
1st Election District

CBA Nos. CBA-02-137/
02-412-SPHA

PDM No. I-498

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

* Civil Action No. 03-C-03-0016

RECEIVED

MAY 08 2003

BALTIMORE COUNTY
BOARD OF APPEALS

* * * * *

ORDER

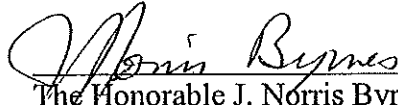
Having considered Respondents' Motion to Dismiss, any response thereto,
and argument of counsel, it is on this 1st day of May, 2003, by the
Circuit Court for Baltimore County,

ORDERED that the Motion to Dismiss the Greater Oella Community
Association, Inc. ("the Association") as a petitioner is GRANTED, and the
Association is hereby dismissed as a petitioner; and

ORDERED that the Association may participate in this proceeding for judicial
review before the Circuit Court for Baltimore County as *amicus curiae*. The
Association may, in its capacity as *amicus curiae*, file a memorandum adopting the
Petitioners' Memorandum filed on March 25, 2003, and may also file a reply

FILED MAY 07 2003

memorandum. In its capacity as *amicus curiae*, the Association, through its counsel,
may also participate in oral argument before this Court.


The Honorable J. Norris Byrnes
JUDGE, CIRCUIT COURT FOR
BALTIMORE COUNTY

True Copy Test

SUZANNE MENSCH, Clerk

Per 
Deputy Clerk

5/8/02

RE: PETITION FOR SPECIAL HEARING
PETITION FOR VARIANCE

840 Oella Avenue, W/S Oella Avenue,
190' NW of c/l Oella Hollow Road
1st Election District, 1st Councilmanic

Legal Owner: Oella Mill, LLP
Contract Purchaser: Forest City Residential Group
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-412-SPHA

* * * * *

RE: DEVELOPMENT PLAN HEARING

Oella Mill Property
W/S Oella Avenue, E of Patapsco River
1st Election District, 1st Councilmanic

Oella Mill, LLP
Applicant

* BEFORE THE
* HEARING OFFICER
* FOR
* BALTIMORE COUNTY
* Case No. I-498

* * * * *

PEOPLE'S COUNSEL'S PRE-HEARING MEMORANDUM

This project presents questions of public importance concerning the allowable residential density in business zones with a C.C.C. District overlay. The property here occupies 5.73 acres in Oella. The proposal is for 175 units, mainly in a mid-rise building. The property is zoned B.M.-C.C.C. The adjoining property is zoned D.R. 3.5.

Ordinarily, residential use in the main business zones – B.L., B.M., and B.R. – is limited to the “uses permitted and as limited in the residential zone immediately adjoining...” See BCZR 230.1, 233.1, 236.1. In each of these zones, there is also a special regulation for C.C.C. Districts. These special regulations do not open up the

MAY 8 2002

underlying business zones to unlimited density based on a C.C.C. overlay. In the present case, the allowable density is 20 unless viewed as unlimited.

The applicable special regulations for C.C.C. Districts in business zones are BCZR 232A, 235A, and 238A. While BCZR 235A applies to the B.M. zone here, it should be read in context of its companion sections.

The original source of these C.C.C. District Special Regulations is Bill 111, 1968. Subsequently, there were significant amendments in Bill 100, 1970. These were explained on Page 7 of a memorandum by Donald W. Johnson to the Director of Planning on August 13, 1973. The Planning Board Report dated September 4, 1969, Pages viii – ix, show the proposed amendments which led to Bill 100's provisions on the C.C.C. District. The above sources are attached to this Memorandum.

Mr. Johnson's history says this about the C.C.C. District:

"AMENDMENTS TO C.C.C.-DISTRICT PROVISIONS"

In 1968 the Planning Board forwarded to the County Council a final report recommending new, more liberal zoning regulations for development in 'major business centers' – that is community and town centers. The proposals for town centers were accepted and passed by the Council, thus allowing construction of high-density, combined apartment-office buildings in 'C.T.' (Commercial, Town-center) core zoning districts. But it was decided that the provisions for community-size centers – 'C.C.C.' districts – should not be enacted without further consideration of the County's future development pattern. The proposals were resubmitted, as part of Bill 100, after the preliminary 1980 Guideplan was approved.

The features of these amendments:

Increased floor area ratios. Before, the FAR had been limited to 2.0 in B.R. zones, 3.0 in B.L. zones, and 4.0 in B.M. zones. Under the amendments, the maximum permitted FAR was changed to 4.0, uniformly, for those B.R., B.L., and B.M. zones lying within C.C.C. districts.

Apartments permitted. The amendments permitted apartments in C.C.C. districts. In order to protect the retail potentials of ground-floor space, however, all apartments must be located above the first floor of any building.

Amenity open space required. In C.C.C. districts, the required amenity open space is 0.2 square foot for each square foot of floor area in buildings.

Shared parking. The parking requirement for apartments in C.C.C. districts is 1.25 spaces for each apartment, but up to 50 per cent of the residential spaces provided may be shared with businesses on the same lot. Further reductions in the overall number of required parking spaces could be allowed by the Zoning Commissioner, in accord with standards that the Planning Board is authorized to adopt."

II. PURPOSE OF THE C.C.C. DISTRICT

It is important to underline that the purpose of the C.C.C. District is to provide for mixed commercial and residential use in major business centers. It is not a mid-rise or high-rise apartment zone. These are provided for in the R.A.E. 1 and R.A.E. 2 (Elevator Apartment) zones, which allow for the density proposed here. BCZR 200.3D, 201.3D.

III. APARTMENT USE

Sections 232A.1, 235A.1, and 238A.1 all intend that residential use not be exclusive, but must come above commercial use. The statutory language which calls for apartments above the first floor intends mixed commercial/residential use. It does not envision parking on the first floor of buildings in the B.M.-C.C.C. zone. Our interpretation is confirmed by Mr. Johnson's memorandum in the short paragraph above entitled "Apartments Permitted."

IV. DENSITY

Sections 232A.3, 235A.3, and 238A.3 do not intend unlimited residential density. The language provides only that "... the specific number of dwelling or density units, as such shall not be directly limited." This means that the C.C.C. District special regulation does not itself limit density. But it does not eliminate the indirect density limits of the underlying zone which otherwise apply. In other words, the C.C.C. special regulations do not directly govern density.

This is reinforced by the observation that BCZR 232A.3 and 238A.3 both refer to limits on floor area ratio in conjunction with the statement that density shall not be directly limited as such. The absence of similar language in BCZR 235A.3 appears to be an errant technical omission. Mr. Johnson's memorandum refers to the intent to place an F.A.R. limit of 4.0 in each of three special regulations, and the 1969 Planning Board report shows this to be the case.

V. NOT AN R.A.E. ZONE IN DISGUISE

In sum, the underlying business zone controls the density, based on the adjoining residential density. The special C.C.C. District regulations control floor area ratio, which is more typically a limitation on commercial space.

If the density were unlimited, the C.C.C. District overlay would transform the business zones into elevator-apartment zones. This does not make sense in light of the specific provisions for R.A.E. zones.

VI. RECREATIONAL OPEN SPACE

The Department of Recreation and Parks memorandum dated April 17, 2002 does not comment on recreational or open space because the project is a "renovation." We do not agree that a significant change in use from commercial to high-density residential is exempt from recreational space requirements.

Bill 110-99 should apply, including the requirement of 650 square feet per unit active open space. Code Sec. 26-498. The proposal does not appear to meet this requirement.

More important, it should be recognized that properties zoned C.C.C. in business centers rarely have enough room to comply with local open space requirements if the density is high. Rather, they have "amenity open space." The point is that the legislature did not envision high-density residential use in C.C.C. Districts, particularly where they are located in proximity to low-density residential zones such as in Oella.

VII. PARKING VARIANCES

Our preliminary review of the parking variance request does not reveal any "practical difficulty." It appears that the variances are generated by the proposed high-density use of the site. The site could be developed at a lower density and with less parking spaces. This would, moreover, be more compatible with the character of Oella village and its narrow roads.



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 8th day of May, 2002 a copy of the foregoing People's Counsel's Pre-Hearing Memorandum was hand-delivered to Robert A. Hoffman, Esq., Venable, Baetjer & Howard, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioners, and was delivered via facsimile (410-744-8936) to John V. Murphy, Esq., 14 N. Rolling Road, Baltimore, MD 21228, attorney for Protestants.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

INTER-OFFICE CORRESPONDENCE

Mr. William D. Fromm
TO Director of Planning
FROM Donald W. Johnson
SUBJECT Bill 100 of 1970

Date August 13, 1973

Here is a discussion of some of the background, highlights, and details of Bill 100. As lengthy as this memorandum may seem, however, it can by no means deal with all of the essential facts. I will be glad to try answering any questions you may have with respect to matters not covered.

GENERAL BACKGROUND

In 1968 there was a culmination of interest in work on quite a number of the zoning and zoning-related projects that had been pursued over a period running back a dozen years or so. At that time, the planning agencies came to the threshold of completing the first Countywide master plan (the Guideplan). Also, the Board and staff finished work on the "cycle zoning" proposal. And, anticipating adoption of the new rezoning system, the planning agencies began scheduling work on the whole new set of zoning maps that would be required by the law. It was decided that this was the time to go forward with an extensive series of zoning amendments coordinated with these other projects—the amendments that were to become Bill 100 of 1970.

RURAL ZONING CLASSIFICATIONS

Bill 100 established two rural zoning classifications: R.D.P., to be applied to interim "holding zones," and R.S.C., to permanently restrict development in areas that should be conserved. (R.D.P. stands for "Rural Deferred Planning," and R.S.C. for "Rural-Suburban: Conservation.")

Rezoning by petition. No petition reclassification is permitted in an R.D.P. zone unless it is proved that the County plans to make sewer and water facilities available to the site within six years of the time the petition is considered. No reclassification from R.S.C. is permitted unless public sewerage and water-supply systems have been extended to the site prior to the time the petition is considered. Further, R.S.C. land within a watershed area of a public reservoir or within an area designated as a regionally significant green space on a master plan cannot be reclassified by petition.

PUD. Large-scale unit developments may be allowed in an R.D.P. zone (by the County Council), but not in an R.S.C. zone.

Relationship to URDL. R.D.P. and R.S.C. zones may be established only beyond the Urban Rural Demarcation Line, but the line can later be moved outward without affecting the status of the zoning classifications.

Uses permitted as of right. Typical permitted uses are farms and single-family detached houses. Also permitted as of right are a number of other uses that have been permitted in residential zones in Baltimore County for some time.

OFFICE COPY - DO NOT REMOVE

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman
(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations" and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Final Report of the
BALTIMORE COUNTY PLANNING BOARD

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS

Baltimore County Office of Planning and Zoning
Towson, Maryland 21204
September 4, 1969

County Council of Baltimore County Maryland

Legislative Session 1968, Legislative Day No. 13

BILL No. 111

Introduced by Mr. Bartenfelder (5th), Councilman
(By Request of the County Executive)

By the County Council, September 3, 1968.

A BILL

Entitled

AN ACT, To provide zoning regulations for apartment development, AND OTHER development in major business centers, and AUTO-MOBILE parking lot design, by deleting certain terms from section 101, "Definitions"; by adding certain terms and definitions to section 101, "Definitions"; by deleting subsection 230.10 of section 230, "Use Regulations," and substituting therefor a new subsection 230.10; by repealing and re-enacting with amendments subsection 230.11 of section 230, "Use Regulations"; by repealing and re-enacting with amendments subsection 232.5 of section 232, "Area Regulations"; by adding new section 232A, "Special Regulations for C.C.C. Districts"; and by adding new section 232B, "Special Regulations for C.T. Districts"; by adding new subsections 233.2A and 233.2B to section 233, "Use Regulations"; by repealing and re-enacting with amendments subsection 235.5, and by adding new sections SECTION 235A and 235B to section 235, "Area Regulations"; by repealing and re-enacting with amendments subsection 238.5, and by adding new sections SECTION 238A and 238B to section 238, "Area Regulations"; by repealing and re-enacting with amendments subsection 259.1 of section 259, "Districts"; and by adding new paragraph d to subsection 409.2 of section 409, "Offstreet Parking and Loading," of the Baltimore County Zoning Regulations (1963) (1955), as amended.

WHEREAS, the amendments to the Zoning Regulations which are contained in this Bill have been formulated in accordance with the procedures specified in sections 23-20 and 23-21 of the 1966 Cumulative Supplement to the Baltimore County Code, 1958, and the several public hearings required by said sections have been held in accordance therewith; now, therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland, That the Baltimore County Zoning Regulations*

FOLDER

2

CERTIFICATE OF POSTING

RE: Case No.

02-412-SPHA - Revised

Petitioner/Developer

Oella Mill, LLP

Date of Hearing/Closing

6/12/02

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

Ladies and Gentlemen:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as

Oella Mill Property - 2 signs revised

The signs were posted on

05/16/02

(Month, Day, Year)

Sincerely,



(Signature of Sign Poster and Date)

Lichuan Chang

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

ZONING NOTICE

Case No. 02-412-SPHA

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

Place: Baltimore County Office Building - Room 106
111 West Hampden Avenue
Towson, MD 21204

Date/Time: Wednesday, June 12, 2002 @ 9:00 a.m.

Request: **Special hearing** to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure.
Variance to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet; to permit 32 parking spaces to be located so as not to adjoin or have direct access to an aisle; to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE POSSIBLE.
NECESSARY - TO CONFIRM HEARING CALL 410-887-3391

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

HANDICAPPED ACCESSIBLE

ZONING NOTICE

Case No. 02-412-SPHA

Public Hearing will be held by the
Zoning Commission on Wednesday, June 12, 2002 at 9:00 a.m.

Place: Baltimore County Office Building - Room 106
111 West Hampden Avenue
Towson, MD 21204

Date/Time: Wednesday, June 12, 2002 @ 9:00 a.m.

Request: **Special hearing** to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure.

Variance to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet; to permit 32 parking spaces to be located so as not to adjoin or have direct access to an aisle; to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE POSSIBLE.
NECESSARY - TO CONFIRM HEARING CALL 410-887-3391

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

Development Plan Hearing

Orla Mill Property

Public Hearing will be held by the
Planning Board on Wednesday, June 12, 2002 at 9:00 a.m.

Place: Baltimore County Office Building - Room 106
111 West Hampden Avenue
Towson, MD 21204

Date/Time: Wednesday, June 12, 2002 @ 9:00 a.m.

Request: **Special hearing** to permit an addition of wooden steps in a riverine floodplain and to approve a waiver to renovate a historic structure.

Variance to permit apartment windows facing a property line other than a street line to be located as close as 8 feet in lieu of the minimum permitted 25 feet; to permit 32 parking spaces to be located so as not to adjoin or have direct access to an aisle; to permit a minimum width of 18.5 feet for two-way aisles in lieu of the minimum required width of 22 feet.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE POSSIBLE.
NECESSARY - TO CONFIRM HEARING CALL 410-887-3391

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

HANDICAPPED ACCESSIBLE

ZONING NOTICE Case No. 02-412-SPHA

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

Place: Baltimore County Office Building - Room 106
111 West Chesapeake Avenue
Towson, MD 21204

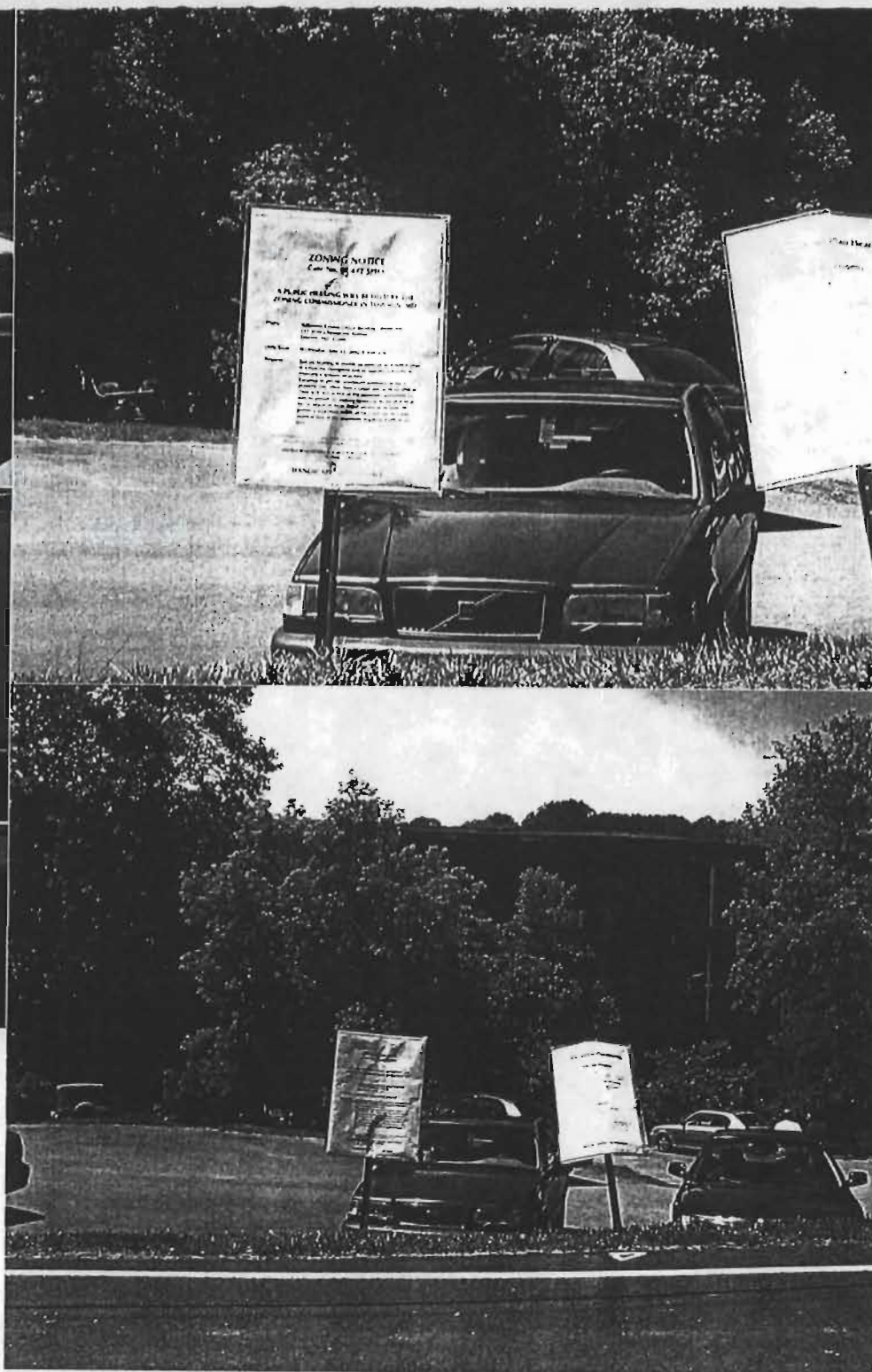
Date/Time: Wednesday, June 12, 2002 at 9:00 a.m.

Request: Special hearing to permit an addition of wooden steps
in a riverine floodplain and to approve a waiver to
renovate a historic structure.
Variance to permit apartment windows facing a
property line other than a street line to be located as
close as 8 feet in lieu of the minimum permitted 25
feet; to permit 32 parking spaces to be located so as
not to adjoin or have direct access to an aisle; to
permit a minimum width of 18.5 feet for two-way
aisles in lieu of the minimum required width of 22
feet.

POSTPONEMENTS DUE TO WEATHER OR OTHER CAUSES WILL BE ANNOUNCED
NECESSARY - TO CONTINUE HEARING - SEE CITY

DO NOT REMOVE THIS SIGN AND POST A NEW ONE ON HEARING.
UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



CERTIFICATE OF POSTING

RE: Case No. Hearing Officer's Hearing
Petitioner/Developer Oella Mill, LLP
Date of Hearing/Closing May 9 and May 10, 2002
9:00 a.m.

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

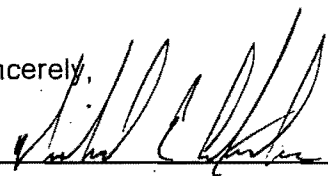
To whom it may concern:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as _____

Oella Mill Property - 2 signs posted

The signs were posted on April 10, 2002
(Month, Day, Year)

Sincerely,


10 April, 2002
(Signature of Sign Poster and Date)

Michael E Alexander

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

Public
Development Plan Hearing

for
Oella Mill Property

Date and Time: Thursday, March 20, 2003 9:00 a.m.
Friday, March 21, 2003 9:00 a.m.

Location: Baltimore County Office Building
Room 108
411 West Chesapeake Avenue
Towson, MD 21204

Developer: C&H, LLP

Property Address: 5.75 Acres

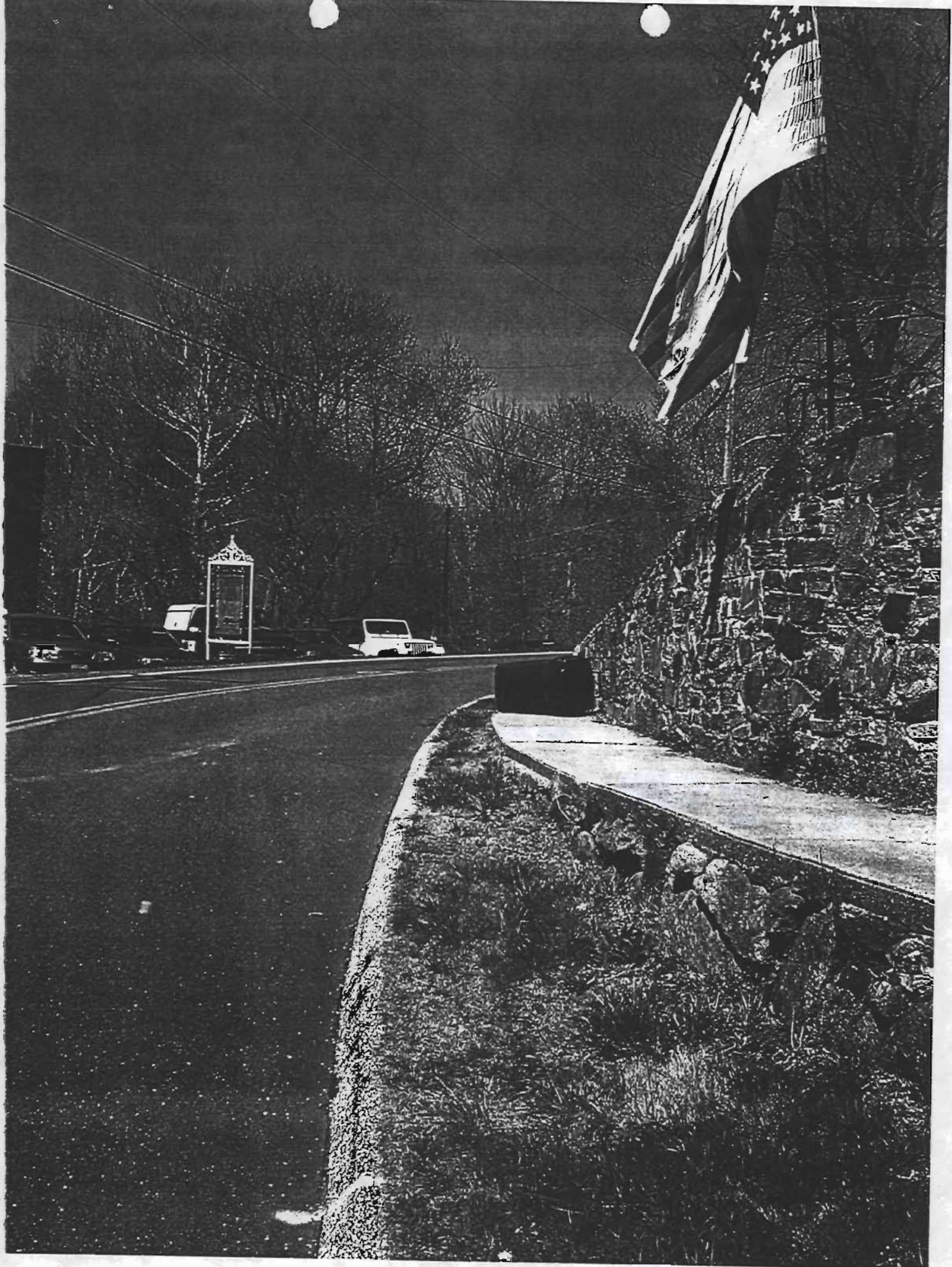
Description of Proposed Development:

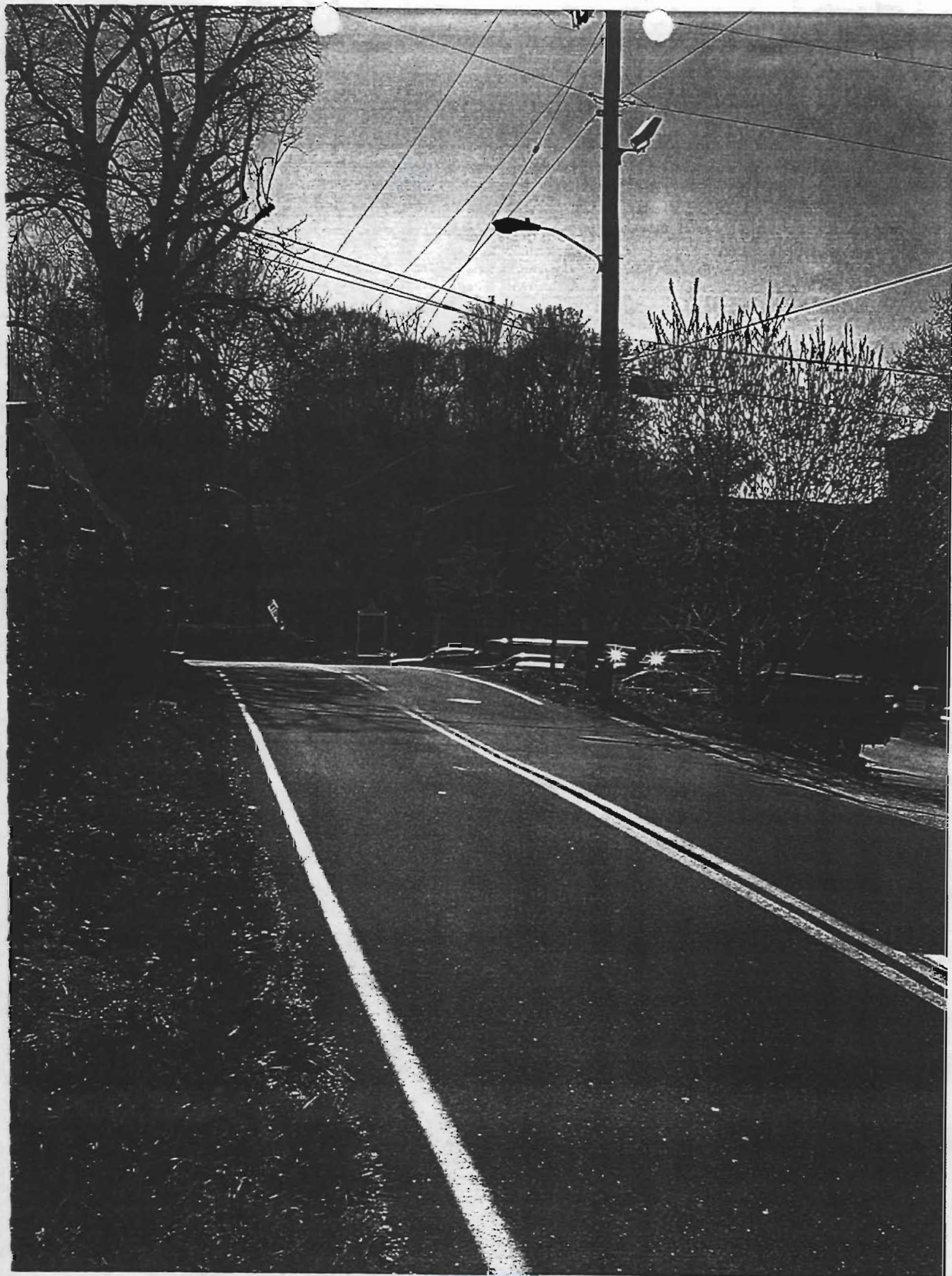
Current existing building with 177 apartments

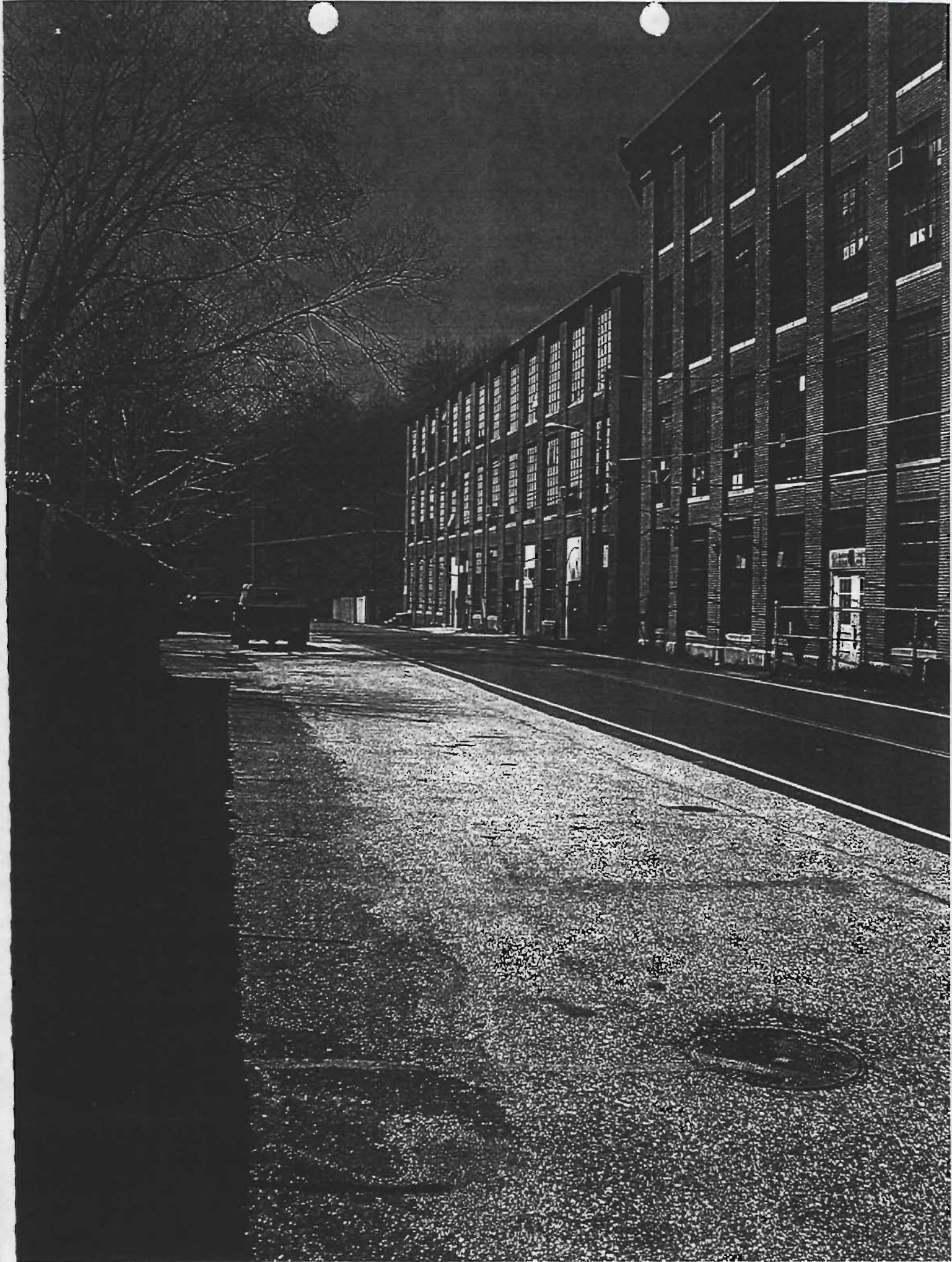
Please contact the public at (410) 386-1222 for additional information or
Department of Planning and Urban Improvement
County Office Building, Room 122
111 West Chesapeake Avenue, Towson, MD 21204
(410) 386-1222

HANDICAPPED ACCESSIBLE









CERTIFICATE OF POSTING

RE: Case No. 02-412-SPHA

Petitioner/Developer Oella Mill, LLP

Date of Hearing/Closing Thursday, May 9, 2002
9:00 a.m.

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

To whom it may concern:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as _____

Oella Mill Property - 2 signs posted

The signs were posted on _____

April 22ND, 2002
(Month, Day, Year)

Sincerely,

George Brown A. 22.02

(Signature of Sign Poster and Date)

GEORGE BROWN

(Printed Name)

Daft- McCune- Walker, Inc.

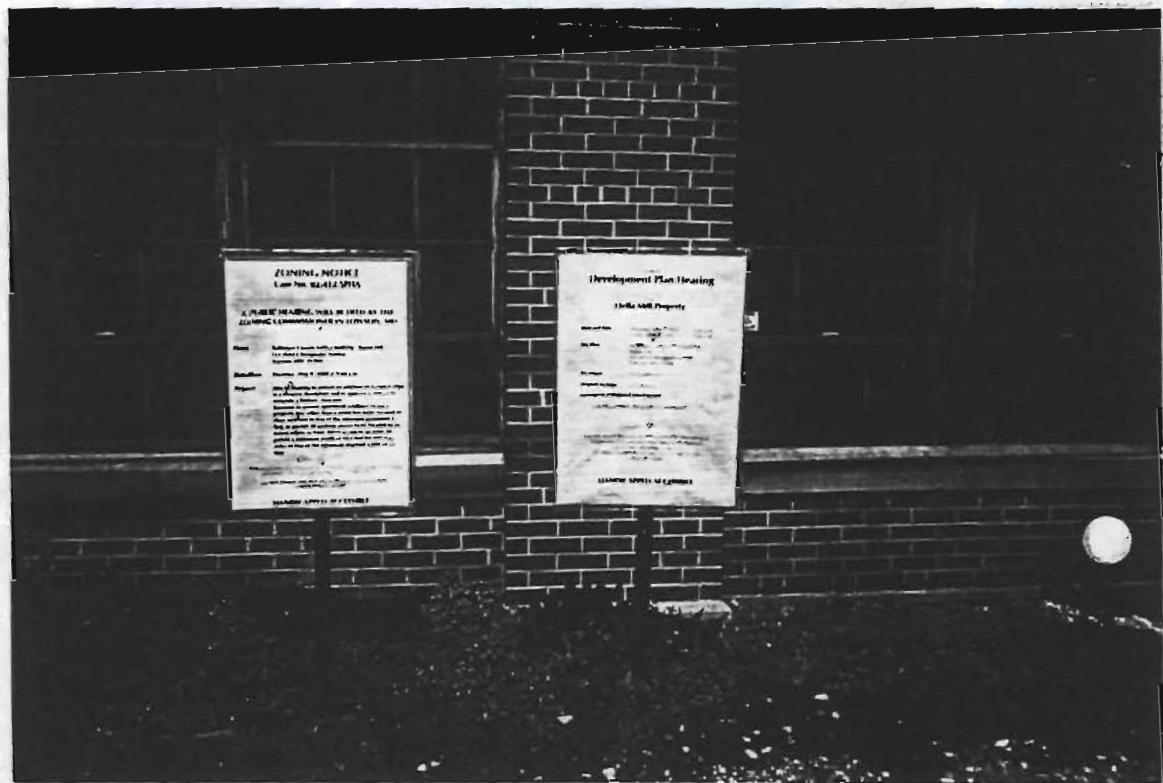
200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)



CERTIFICATE OF POSTING

RE: Case No. Community Input Meeting
Petitioner/Developer Oella Mill, LLP
Date of Hearing/Closing Tuesday, February 19, 2002
7:00 p.m.

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

Attention: Ms. Gwendolyn Stephens

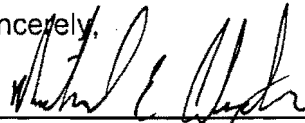
Ladies and Gentlemen:

This letter is to certify under penalties of perjury that the necessary sign(s) required by
law were posted conspicuously for the property known as

Oella Mill Property

The signs were posted on Monday, January 28, 2002
(Month, Day, Year)

Sincerely,

 28-01-02

(Signature of Sign Poster and Date)

Michael Alexander

(Printed Name)

Daft- McCune- Walker, Inc.

200 East Pennsylvania Avenue

Towson, MD 21286

(Address)

410-296-3333

(Telephone Number)

Notice of
Community Input Meeting

For
Oella Mill Property

Date and Time: Tuesday, February 19, 2002
at 7:00 p.m.

Location: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

Developer: Oella Mill, LLP

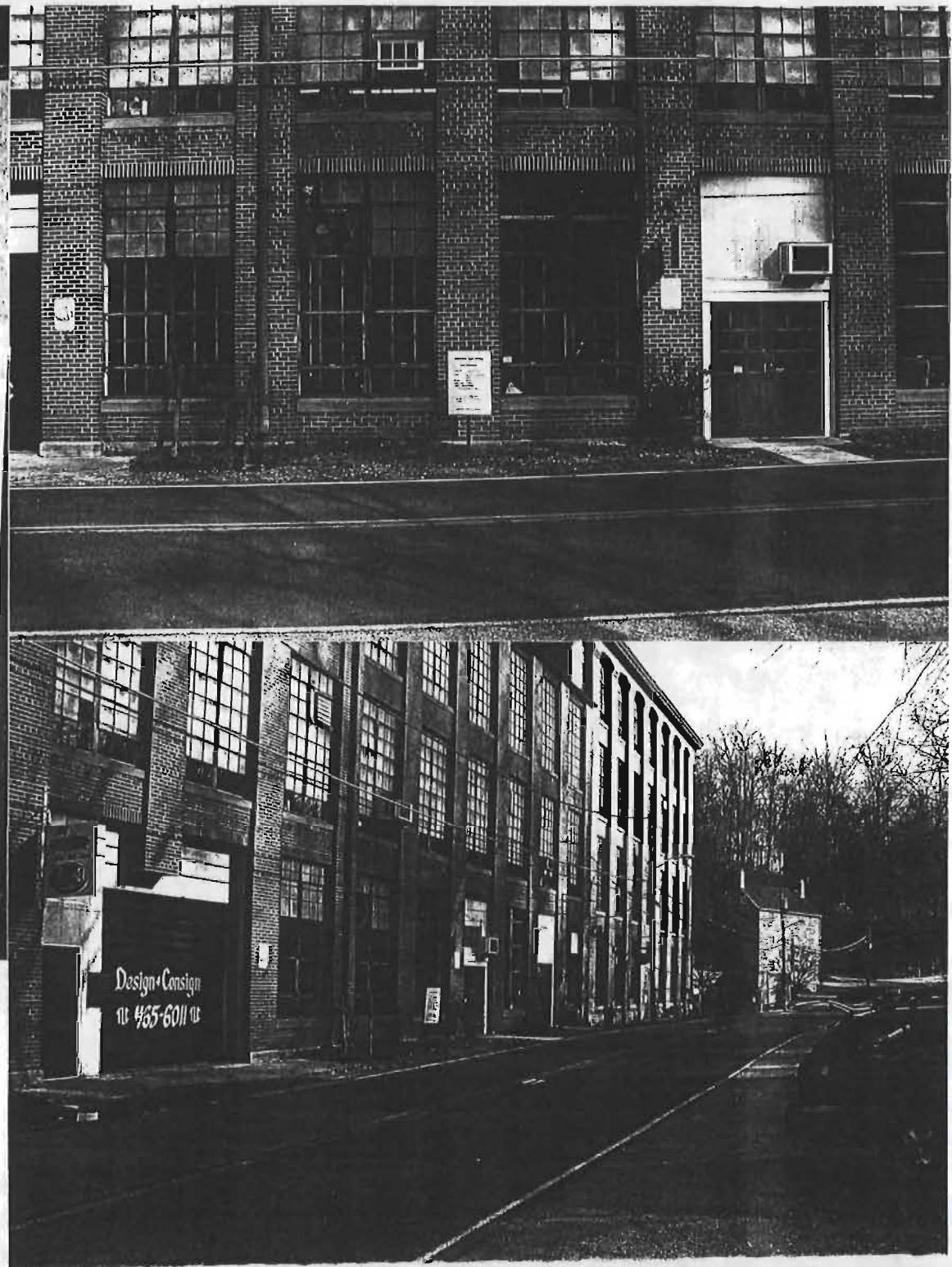
Property Acreage: 5.75 acres ±

Description of Proposed Development:

Convert existing building into 171 apartments

You may review the plans or obtain
additional information at:
Department of Permits and Development Management
County Office Building, Room 123
111 West Chesapeake Avenue, Towson, MD 21204
(410) 887-3335

HANDICAPPED ACCESSIBLE



Notice of
Community Input Meeting

For
Oella Mill Property

Date and Time: Tuesday, February 19, 2002
at 7:00 p.m.

Location: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

Developer: Oella Mill, LLP

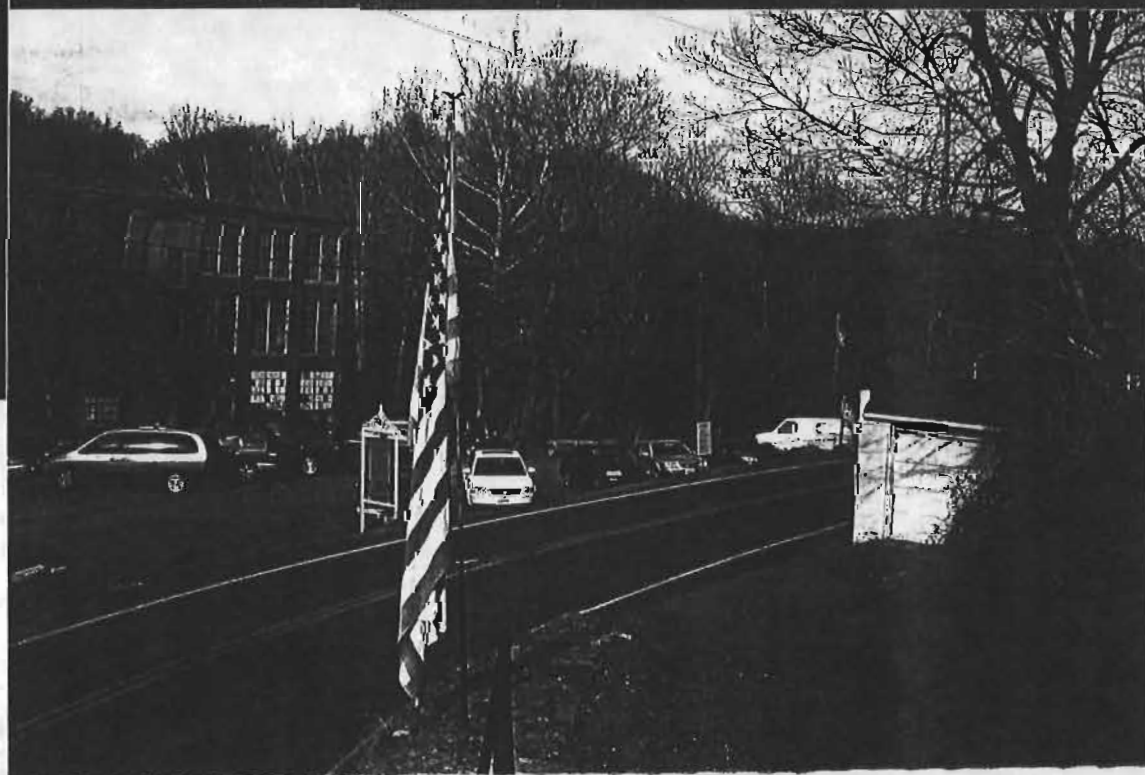
Property Acreage: 5.75 acres ±

Description of Proposed Development:

Convert existing building into 171 apartments

You may review the plans or obtain
additional information at:
Department of Permits and Development Management
County Office Building, Room 123
111 West Chesapeake Avenue, Towson, MD 21204
(410) 887-3335

HANDICAPPED ACCESSIBLE





County Board of Appeals of Baltimore County

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

October 31, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

OELLA MILL, L.L.P. /Forest City Residential Group
Case No. CBA-02-137 /PDM I-498 and Case No. 02-412-SPHA

Having concluded this matter in four days of hearing (9/24; 10/03; 10/08; and 10/30/02), deliberation has been scheduled for the following date and time:

DATE AND TIME : TUESDAY, NOVEMBER 19, 2002 at 9:00 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

**(NOTE: Closing Memos are due on Tuesday, November 12, 2002
ORIGINAL AND THREE [3] COPIES)**

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Appellants /Protestants : Lydia Temoshok
Dennis Burns and Lynette Burns
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

Counsel for Developer /Petitioner : Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Residential Group
c/o Jon Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney

c: C.M.S.

True Copy Test:

[Signature]
Chairman, County Board of Appeals





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

September 24, 2002

NOTICE OF HEARING /Day #2

CASE #: CBA-02-137 and

CASE #: 02-412-SPHA

Continued from 9/24/02

IN THE MATTER OF: Oella Mill / PDM I-498
Oella Mill LLP –Owner; Forest City Residential Group -
Developer W/s Oella Avenue, E of Patapsco River
1st Election District; 1st Councilmanic District

8/08/02 – Final Order of HO/DZC which included ruling on Motion
for Reconsideration; as well as Order dated 7/08/02 -Plan approval;
and, in Case No. 02-412-SPHA, SPH -Granted in part and dismissed
as moot in part; VAR –Granted – with restrictions.

ASSIGNED FOR:

THURSDAY, OCTOBER 3, 2002 at 10:00 a.m. /Day #2

***Additional dates:**

TUESDAY, OCTOBER 8, 2002 at 10:00 a.m.
WEDNESDAY, OCTOBER 30, 2002 at 10:00 a.m. and
WEDNESDAY, NOVEMBER 6, 2002 at 10:00 a.m.

***Above "Additional" dates to be used for completion /deliberation as required.**

As to Case No. CBA-02-137 /this matter has been assigned for hearing in accordance with Section 26-209
of the BCC ; and as to Case No. 02-412-SPHA– assigned for evidentiary hearing.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code*.

Kathleen C. Bianco, Administrator

c: Appellant

: Office of People's Counsel

Appellants /Protestants

: Lydia Temoshok
Dennis Burns and Lynette Burns
Christine Beed
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

Counsel for Developer /Petitioner

: Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Residential Group
John Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

True Copy Test:

Chairman, County Board of Appeals

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney





County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

August 27, 2002

NOTICE OF ASSIGNMENT

CASE #: CBA-02-137 and

CASE #: 02-412-SPHA

IN THE MATTER OF: Oella Mill / PDM I-498
Oella Mill LLP -Owner; Forest City Residential Group -
Developer W/s Oella Avenue, E of Patapsco River
1st Election District; 1st Councilmanic District

8/08/02 - Final Order of HO/DZC which included ruling on Motion for Reconsideration; as well as Order dated 7/08/02 -Plan approval; and, in Case No. 02-412-SPHA, SPH -Granted in part and dismissed as moot in part; VAR -Granted - with restrictions.

ASSIGNED FOR:

TUESDAY, SEPTEMBER 24, 2002 at 10:00 a.m. /Day #1

NOTE: Additional dates of Thursday, 10/03/02; Tuesday, 10/08/02; Wednesday, 10/30/02; and Wednesday, 11/06/02 are being held on the Board's docket as additional hearing dates as required. Any comments relative to these additional dates will be discussed at the 9/24/02 hearing before the Board.

As to Case No. CBA-02-137 /this matter has been assigned for hearing in accordance with Section 26-209 of the BCC ; and as to Case No. 02-412-SPHA- assigned for evidentiary hearing.

NOTE: The Board's Rules of Practice & Procedure are found in *Baltimore County Code*.

Kathleen C. Bianco, Administrator

c: Appellant

: Office of People's Counsel

Counsel for Appellants /Protestants
Appellants /Protestants

: John V. Murphy, Esquire
: Greater Oella Comm Assn, Inc. /Concerned Citizens of
Oella /Lydia Temoshok /Dennis Burns /Lynette Burns
Christen Beed (all c/o of John V. Murphy, Esquire)
Gregory Brown
Henry Berger

Kelly Clark
Mark Wilson

Counsel for Developer /Petitioner

: Robert A. Hoffman, Esquire
Patricia A. Malone, Esquire

Forest City Residential Group
John Wallenmeyer, VP /East Coast Development
Peter Ruff /Oella Mill LLP
Charles Main II, Eric Hadaway, Mitchell Kellman, Linda Jones
Daft McCune Walker, Inc.
Mickey Cornelius /The Traffic Group
Ronald Kann, Geoffrey Glazer, Peter Ruff
Kann & Associates
Pat Keller, Director /Planning

Lawrence E. Schmidt /ZC
Donald Rascoe, Development Mgr /PDM
Arnold Jablon, Director /PDM
Edward J. Gilliss, County Attorney

True Copy Test:

Chairman, County Board of Appeals

Folder
3

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

DATE: January 14, 2003

TO: Arnold Jablon, Director
Permits & Development Management
Attn: Stella Lowery

FROM: Kathleen Bianco
Board of Appeals

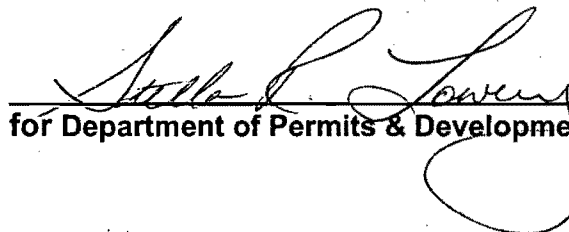
SUBJECT: **CERTIFICATION REQUEST**
Oella Mill LLC
Case No.: CBA-02-137
Petition for Judicial Review filed in the CCt /Civil Action 03-C-03-0016

Please certify the attached documents on file from your department. The Board will forward the certified package as part of the record of proceedings to the Circuit Court for Baltimore County.

Thank you for your immediate attention to this matter.

Attachment

CERTIFIED:

 01/15/03
for Department of Permits & Development Management

RE: DEVELOPMENT PLAN HEARING
Oella Mill Property
W/S Oella Avenue, E of Patapsco River
1st Councilmanic District

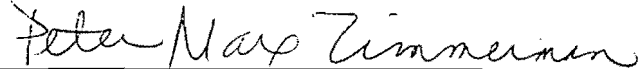
Oella Mill, LLP
Applicant

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. I-498

* * * * *

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
People's Counsel for Baltimore County



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 4th day of February, 2002 a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esq., Venable, Baetjer and Howard, 210 Allegheny Avenue, , Towson, MD 21204, attorney for Applicant.



PETER MAX ZIMMERMAN

Baltimore County Government
Department of Permits and Development Management



111 West Chesapeake Avenue
Towson MD 21204

(410) 887-3321
(410) 887-2877 (fax)

August 22, 2002

Robert A. Hoffman, Esq.
Patricia A. Malone, Esq.
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Appeal of Hearing Officer's Hearing Order
W/S Oella Ave., E of Patapsco River
Oella Mill Property
District: 1 c 1
Forest City Residential Group – Applicant
PDM #I-498 and 02-412-SPHXA

Dear Mr. Hoffman and Ms. Malone:

Please be advised that an appeal of the above-referenced case was filed in this office on August 20, 2002 by John V. Murphy, Esq. on behalf of Greater Oella Community Association, Inc., Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns. A file has already been established and sent to the Baltimore County Board of Appeals (Board). Please contact the Board regarding the date of the Hearing.

If you have any questions concerning this matter, please do not hesitate to contact the Board at (410) 887-3180.

Sincerely,

A handwritten signature in cursive script that reads "Arnold Jablon".

Arnold Jablon
Director

AJ:kw

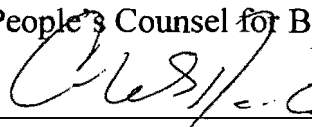
c: John V. Murphy, Esq.
Daft McCune Walker, Inc.
Forest City Residential Group
Oella Mill, LLP
People's Counsel
Baltimore County Board of Appeals
File

02 AUG 22 AM 11:39

Wherefore, People's Counsel requests that the County Board of Appeals reverse the Orders of the Hearing Officer/Zoning Commissioner, disallow the proposed development plan, and deny the requested variances.

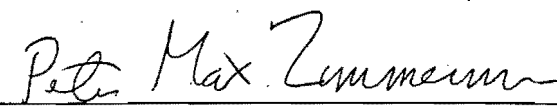
Respectfully submitted,


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


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 16th day of August, 2002, a copy of the foregoing Petition on Appeal was mailed to Robert A. Hoffman, Esquire, and Patricia A. Malone, Esquire, VENABLE, BAETJER AND HOWARD, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorneys for Developer, and to John V. Murphy, Esquire, 14 North Rolling Road, Baltimore, Maryland 21228, Attorney for Protestants


PETER MAX ZIMMERMAN



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2189

MAX ZIMMERMAN
People's Counsel

June 20, 2002

CAROLE S. DEMILIO
Deputy People's Counsel

Lawrence E. Schmidt
Zoning Commissioner and Hearing Officer
County Courts Building
Towson, MD 21204

Re: Oella Mill, LLP, Case Nos. 02-412-SPHA and I-498

Dear Mr. Schmidt,

We agree with Protestants' memorandum, and highlight these points:

1. The Floodplain Incursion Precludes Development Approval. Code Sec. 26-668 precludes development or redevelopment in the 100-year floodplain. A development plan may not be approved in conflict with the existing FEMA map. Developer has not asked for a waiver, and it could not likely get one. A request to FEMA for potential (future) amendment of the floodplain map to allow development is not a basis for "conditional" approval.

* * *

This resembles the case where a developer requests conditional approval based on future amendment of the master water and sewer plan. The Hearing Officers (Schmidt and Kotroco) have rejected this position in the Hilltop Property (I-485) and Oak Tree Hill Estates (XIII-489) cases.

2. RTA Standards Definitely Apply. The existence of the D.R. 3.5 zone on the subject property does remove any question about the applicability of the RTA, although not necessary (for reasons stated in our memorandum).
3. Recreational Space Standards (Bill 110-99) Should Be Reconsidered. Sec. 26-498(b) states: "This section applies only to residential development." Sec. 26-492(g) defines "residential development" as "the development of property for the construction of dwelling facilities." There has been argument about whether renovation of the building, and site redesign, involve "construction." Webster's Third International Dictionary was not discussed. The attached definition of "construction" includes in part 2 some very broad concepts:

"2 a the act of putting parts together to form a complete integrated object : FABRICATION (during the --- of the bridge) b (1) the form or manner in which something has been put together : DESIGN (several ships of similar ---)

(an analysis of the --- of a time bomb) (2) the science or study of building or erection (two years in college mastering ship ---) c : something built or erected : STRUCTURE (raw new ---s along a highway)."

The Oella Mill LLP development plan clearly involves residential development and is subject to Sec. 26-498 recreational space standards.

4. Special Hearing for Commercial Parking Required. The existence of the D.R. 3.5 zone also brings into play the issue of commercial parking in a residential zone and the BCZR 409.8 standards. Since the parking is for a B.M.- C.C.C. use, it is commercial parking. Ironically, the developer's position that B.M. - C.C.C. uses are not governed by residential density standards reinforces the point that the parking is for a commercial zone use. In other words, the developer cannot properly rely on the commercial zone and district to avoid residential standards, and then say the parking is residential to avoid the commercial parking standards. That would be inconsistent.
5. The Parking Variances are Unwarranted. They are purely for the developer's convenience, to maximize density and revenue. There is no practical difficulty whatsoever. Moreover, the property's location is not unique. It is one of many historic properties constrained by proximity to the river. The only arguable uniqueness would be its historic character, but that is no justification for parking variances to increase density. The property can be used without variances in a way more compatible with the low-density neighborhood.
6. Conditions: The Project Overcrowds the Property and Neighborhood. The theme which pervades these legal problems is excessiveness. The floodplain, RTA, recreational space, and parking problems have in common that they relate, directly or indirectly, to density.

* * *

The density is excessive from any point of view. Even if unlimited density is allowed generally in the C.C.C. District (as the Hearing Officer has ruled, despite our objection), it is inappropriate for this site. The development does not meet other specific requirements. Even if it did, it is a situation where a reduction in density is warranted as a condition.

Sincerely,



Peter Max Zimmerman

Cc: Robert Hoffman, Esq.;
John V. Murphy, Esq.



Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

TO: Mr. Don Rascoe, PDM, MAIL STOP-1105

April 2, 2002

FROM: LIEUTENANT JIMMIE MEZICK
BALTIMORE COUNTY FIRE MARSHAL OFFICE
MAIL STOP-1102F, PHONE (410) 887-4881

SUBJECT: SUBDIVISION REVIEW COMMENTS

PROJECT NAME: Oella Mill Property

PROJECT NUMBER: 01-498

LOCATION: Oella Ave E of Patapsco River

DISTRICT: 1

COMMENTS:

PROPOSED BUILDINGS SHALL BE DESIGNED AND CONSTRUCTED SO AS TO MEET THE APPLICABLE PROVISIONS OF THE BALTIMORE COUNTY FIRE PREVENTION CODE.

IF THE PROPOSED BUILDINGS(S) REQUIRES THE INSTALLATION OF A FIRE ALARM SYSTEM", THE DESIGN PACKAGE AS PRESENTED WITH THE BUILDING PLANS AT THE TIME OF BUILDING PERMIT APPLICATION, SHALL BE CERTIFIED BY A MARYLAND REGISTERED: LEVEL 3 OR 4 NICET ENGINEER, OR FIRE PROTECTION ENGINEER. STATING THE FIRE ALARM SYSTEM COMPLIES WITH ALL APPLICABLE CODES. IE NFPA 70, NFPA 72, NFPA 101, BUILDING CODE; BALTIMORE COUNTY BILL 167-93, AND THE BALTIMORE COUNTY FIRE PREVENTION CODE; BALTIMORE COUNTY BILL 70-01.

ALL FIRE HYDRANT SPACING SHALL BE IN ACCORDANCE WITH THE BALTIMORE COUNTY STANDARD DESIGN MANUAL, SEC 2.4.4, FIRE HYDRANTS.

A FIRE HYDRANT IS REQUIRED WITH-IN 100 FEET OF THE FIRE DEPARTMENT CONNECTION. A DISTANCE OF 200 FEET IS PERMISSIBLE IF THE TOTAL DISTANCE IS DRIVEABLE BY THE EMERGENCY APPARATUS.

THE ON-SITE FIRE HYDRANT MUST BE A MINIMUM DISTANCE OF 40 FEET FROM THE BUILDING.

SUBJECT: DEVELOPMENT PLAN COMMENT

DPC DATE: 04/17/02

FROM: PDM - ZONING REVIEW

PROJECT NAME: OELLA MILL PROPERTY
LOCATION: WS OELLA AVE E PATAPSCO RIVER

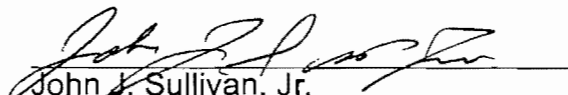
PLAN DATE: 03/19/02
DISTRICT: 1 C 1

PROPOSAL: 175 APARTMENTS

ZONING: BM-CCC

Comments:

1. The zoning issues are those which are to be decided by the Zoning Commissioner.


John J. Sullivan, Jr.
Planner II
Zoning Review

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: April 16, 2002

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

ATTN: Don Rascoe

FROM: William A. Miner, Review Appraiser
PDM, Bureau of Land Acquisition 

SUBJECT: Oella Mill Property
PDM # I-498
WS Oella Ave. E of Potapsco River
District: 1c1

A review of the Development plan for the above referenced project results in the following comments. These comments are advisory in nature and should be utilized in the preparation of a "package" for the acquisition of rights of way required for this project.

1. Offsite rights of way must be acquired prior to record plat approval.
2. Access easements, approved by DEPRM, should be shown for any storm water management facilities, forest buffers, etc.
3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.
4. On the development plan, identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, greenways and open space areas. Clearly indicate whether or not the above are to be dedicated to Baltimore County. Delineate and label required dedications for highway purposes as "Highway Widening Area," and not as "Future" regardless of whether or not highway improvements will actually be required as part of the development.
5. Additional site specific comments:
 - a. Clearly delineate the existing rights of way of Oella Avenue and Oella Road, which is shown as Avenue, and label each with deed references; plat numbers and/or RW numbers as applicable. Show any required widening's thereof and label as "Highway Widening Area". The Right of Way area shown on the drawing should be labeled as Highway Right of Way Area and arrows to the limit of the proposed Right of Way. Note if the road within the development is to be public or private. If the road is to be public, make a note that the road is to be dedicated at no cost to the county.
 - b. Adjust Forest Buffer line to exclude building and I defer to DEPRM's position on parking in Forest Buffer area.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: January 24, 2002

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

ATTN: Don Rascoe

FROM: William A. Miner, Review Appraiser
PDM, Bureau of Land Acquisition

SUBJECT: Oella Mill Property
PDM # I-498
WS Oella Ave. E of Potapsco River
District: 1cl

A review of the concept plan for the above referenced project results in the following comments. These comments are advisory in nature and should be utilized in the preparation of a "package" for the acquisition of rights of way required for this project.

1. Offsite rights of way must be acquired prior to record plat approval.
2. Access easements, approved by DEPRM, should be shown for any storm water management facilities, forest buffers, etc.
3. If offsite sight line easements are necessary per Development Plan Review's comments, the developer will be required to obtain these easements prior to record plat approval.
4. On the development plan, identify and label all existing and proposed drainage and utility easements, highway widenings and slope easements, greenways and open space areas. Clearly indicate whether or not the above are to be dedicated to Baltimore County. Delineate and label required dedications for highway purposes as "Highway Widening Area," and not as "Future" regardless of whether or not highway improvements will actually be required as part of the development.
5. Additional site specific comments:
 - a. Clearly delineate the existing rights of way of Oella Avenue and Oella Road, which is shown as Avenue, and label each with deed references; plat numbers and/or RW numbers as applicable. Show any required widening's thereof and label as "Highway Widening Area". The Right of Way area shown on the drawing should be labeled as Highway Right of Way Area and arrows to the limit of the proposed Right of Way. Note if the road within the development is to be public or private. If the road is to be public, make a note that the road is to be dedicated at no cost to the county.
 - b. If fire hydrants are to be publicly maintained, show area as a Drainage and Utility easement Area. If not public, label as private hydrant.

WS Oella Ave. E of Potapsco River

PDM # I-498

WS Oella Ave. E of Potapsco River

c. Adjust Forest Buffer line to exclude building and I defer to DEPRM's position on parking in Forest Buffer area. If Forest Buffer area is to be dedicated to Baltimore County, label as 100 year Flood Plain Easement or Reservation.

6. Comments generated by meeting:

INTER-OFFICE CORRESPONDENCE

TO: Don Rascoe MS# 1105
PDM Development Management

DATE: January 23, 2002

FROM: Linda Leake
Department of Public Works
Metropolitan District Financing & Petitions

SUBJECT: Quotation of Extinguishment Cost for
Project: **Oella Mill Property**
PWA No:
PDM No: **4-498**

Location: 5.84 ac ns Oella Avenue

Property #: 16.00.006700

See attached form(s) for -

- ☒ Existing water and sewer benefit assessments.
- ☐ Deferred water and sewer benefit assessments.
- ☒ Construction loan charges.

Benefit Assessments

Project Name: Oella Mill property

Project No.: 1-498

Water Benefit	Levy Yr	Last Yr Paid	Rem Yrs.	Exting. Rate/ft	Feet	Prin. Bal	Int. Factor	Interest	Payoff
16.00.006700	1984	2002	22	\$26.76	339	\$9,071.64		*	

Sewer Benefit	Levy Yr	Last Yr Paid	Rem Yrs.	Exting. Rate/ft	Feet	Prin. Bal	Int. Factor	Interest	Payoff
16.00.006700	1984	2002	22	\$36.03	339	\$12,214.17		*	

Total of Principle Balances

\$21,285.81

Interest

\$0.00 (To be computed at time of payment.)

Total Principle and Interest

\$0.00 (To be computed at time of payment.)

Interest is due at time of payment. For computation of interest, call Linda Leake, Metro District Financing & Petition, 410-887-2430.

Construction Loan Charges

Project Name: Oella Mill Property
Project No.: 1-498

Account #	Sewer Systm Conn Chrg	Sewer Deficit	Sewer HC Chrg	Total
16.00.006700	\$656.74		\$412.81	\$1,069.55

Total

\$1,069.55

**Interest is due at time of payment. For computation of interest,
call Alice Stevenson, Office of Finance, 410-887-4100.**

**BALTIMORE COUNTY, MARYLAND
INTEROFFICE MEMORANDUM**

TO: Taxpayer Service

FROM: Sue Hafner, Supervisor
Customer Service Division

SUBJECT: Lien Clearance/Development Projects

DATE: _____

Please complete the following information on the attached developer and return to me:

Routing Order	Account/Invoice Number	Amount Due	Comments	Account Clerk Initials & Date
Supervisor, TPS	16-00-006700	0	paid	1/30/02 BCS
Personal Property	NA	N/A	No listing in SDAT	MMH 1/22/02
Central Billing	N/A	N/A	N/A	PB 1/22/02
Construction Loan These charges are currently outstanding not delinquent. Outstanding charges must be paid in full prior to subdivision of property.	16-00-006700	\$1,069.55	plus interest	Dec. 01/22/02
Office Assistant, Customer Service. Hand carry to PDM, Room 123 – County Office Building	Received – Department of Permits and Development Management: Signature Date			

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Sue Hafner, Supervisor DATE: January 15, 2002
Customer Service Division
Office of Budget and Finance - M.S. 2113

FROM: Donald T. Rascoe, Manager
Development Management
Dept. of Permits & Development Management

SUBJECT: TAX CLEARANCE

Name of Project: NAME» Oella Mill Property

Project Number: PDM NO.: I-498

Location of Project: ADDRESS» WS Oella Avenue
E of Patapsco River

Owner's Name(s): Developer» Forest City Residential Group

Address: Developer_Address» 5803 Nicholson Lane
North Bethesda, MD 20852

Engineer's Name: Dev_Engineer». Daft McCune Walker, Inc.

ENGR; PHONE NUMBER: 410-296-3333

TAX ACCOUNT NUMBER(S): «Tax_Number» 16-00-006700

// CHARGE DUE - SEE COMMENTS BELOW

// NO CHARGES DUE

Comments: _____

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Hon. S.G. Samuel Moxley
County Council Office, District 1

FROM: Donald T. Rascoe, Project Manager
PDM Development Services

April 18, 2002

SUBJECT: **Oella Mill Property**
Development Plan Conference Comments
PDM File No. I-498

Attached please find a copy of development plan conference comments for the subject site.

If you have any questions please contact me on 3321.

Attachments

WS:ws

c: file

BALTIMORE COUNTY, MARYLAND

PDM

INTER-OFFICE CORRESPONDENCE

DEVELOPMENT PLAN CONFERENCE

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

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

DATE: April 17, 2002

PROJECT NAME: Oella Mill Property

PROJECT NUMBER: 1-498

PROJECT PLANNER: Mark A. Cunningham

GENERAL INFORMATION:

Applicant Name: Oella Mill, LLP
840 Oella Avenue
Ellicott City, MD 21043

Location: W/S Oella Avenue; E of Patapsco River

Councilmanic District: 1st

Growth Management Area: Community Conservation Area

Zoning: BM-CCC

Acres: 5.73± acres

Surrounding Zoning and Land Use:

North:	DR 3.5	Townhomes and Vacant Land
South:	DR 3.5	Residential
East:	BM-CCC & DR 3.5	Commercial and Residential
West:	N/A	Patapsco River

Project Proposal:

The applicant proposes 175 apartment units on 5.55± acres of land zoned BM-CCC and 0.18± acres of DR 3.5. Local open space of 2.30± acres is proposed. There are steep slopes greater than 25% on the subject site. Additionally, the Patapsco River runs along the western boundary of said site.

Other Anticipated Actions and Additional Review Items:

- | | | |
|--|---|--|
| ☐ Special Exception | ☒ Special Hearing | ☐ PUD |
| ☒ Variance | ☐ Compatibility | ☐ Design Review Panel |
| ☐ Waiver | ☐ Scenic Route | ☐ Other |
| ☐ RTA Modification | ☐ Referral to Planning Board | |

MEETINGS:

Concept Plan Conference	<u>01/28/02</u>	Community Input Meeting	<u>02/19/02</u>
Development Plan Conference	<u>04/17/02</u>	Hearing Officer's Hearing	<u>05/09/02</u>
Planning Board			

SCHOOL IMPACT:

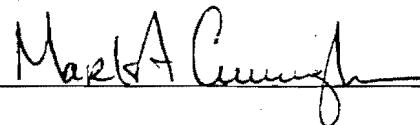
The Office of Planning has reviewed the School Impact Analysis submitted by the applicant and has determined that the proposed development is in compliance with Title 26, Article IX of the Baltimore County Code.

RECOMMENDATION

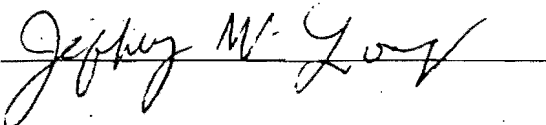
The Office of Planning has reviewed the Development Plan for conformance with Concept Plan comments of January 28, 2002 and recommends the Development Plan be **APPROVED** subject to the listing below:

1. Building elevation drawings shall be submitted to this office for review and approval prior to the issuance of any building permits.
2. Indicate the reference system associated with the north arrow shown on the plan.
3. List the plat reference/deed reference number.
4. Identify the tax map, grid and parcel number for the subject site.
5. Indicate the census tract, regional planning district, school district, watershed, and sub-sewershed associated with the subject site.
6. If the property was the subject of any previous zoning hearing, list the case number, decision, and any conditions or indicate if there is no zoning case history.

Prepared By:



Section Chief:



MAC:kma

**BALTIMORE COUNTY,
MARYLAND**

Subject: Development Plan Conference Comments

Date: April 17, 2002

From: Department of Recreation and Parks

Project Name: Oella Mill Property

Project Number: 01-498

Zoning: BM-CCC

Location: W/S of Oella Avenue E of the Patapsco River

Districts: Elec. 1 Counc. 1

Comments:

The Department of Recreation and Parks has no comment regarding Local Open Space requirements for this project since it is a renovation of an existing building.

However, the Patapsco River is a Master Plan designated Recreational Greenway. Assuming the forest buffer variance is granted, a Recreational Greenway Reservation of the 100-year floodplain shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management."

For the portion of the Greenway between the 100-year floodplain and the forest buffer a Recreational Greenway Easement shall be dedicated to Baltimore County. The Recreational Greenway Easement shall be clearly delineated and labeled "Baltimore County Recreational Greenway Easement." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Easement, access by Baltimore County, or its assigns, for public safety or maintenance is allowed, subject to approval by the Department of Environmental Protection and Resource Management."

Should the forest buffer variance be denied, a Recreational Greenway Reservation to the limits of the forest buffer shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation." A note shall be added to the plan to read: "Within the area shown as 'Baltimore

County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management."

Refer to Section II.C of the Baltimore County Local Open Space Manual, dated February 22, 2000, for 'Goals and Objectives for Greenways' and Section IV for 'Greenway Standards.'

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



BUREAU OF WATER AND WASTEWATER
WATER AND WASTEWATER ENGINEERING DIVISION
900 Abel Wolman Municipal Building
Baltimore, Maryland 21202

January 28, 2002

Mr. Bowling, P.E.
Chief
Development Plans Review Division
Baltimore County Department of Permits &
Development Management
County Office Building
Towson, Maryland 21204

Dear Mr. Bowling:

This is in response to your letter dated January 15, 2002, concerning Oella Mill Property. Service may be obtained from the Oella Fourth Zone.

The proposed development may be served by the existing 12-inch main in Oella Avenue. Additionally, pressure will exceed 80 PSI below the elevation of 205 feet and we suggest that pressure reducing valves be installed to provide service to all lots below that elevation.

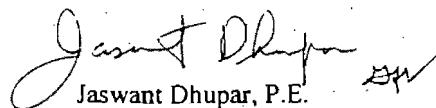
Our records indicate an existing active service on the project site. The developer is responsible for determining if the existing services are adequate for his needs. Please note the following exception: no modifications will be allowed on any existing service. It is also the developer's responsibility to apply for the abandonment of any of the services, which are not needed.

It is recommended that the developer arrange to have a fire flow test made to determine if the water available is adequate for fire protection and domestic service. Arrangements for a fire flow test can be made by contacting Mr. Alex Rabinovich, Bureau of Water and Wastewater, Ashburton Filtration Plant, 3001 Druid Park Drive, (410) 396-0239.

All mains not in the public roads will not be serviced or maintained by the City. Installation of meters in either roadways or driveways will not be permitted.

JD:bs

Very truly yours,


Jaswant Dhupar, P.E.

Cc: Mr. Bruce Keller
Mr. Warren Williams
Mr. Alex Rabinovich
Mr. Bob Suri
C/SUR/01/Oella Mill Property

**Greater Oella Community Association
Concept Plan Concerns
January 24, 2002**

Oella is centered on an established community of people who choose to live here and partake in the quality of life this community provides. The winding narrow scenic roads and historical properties give an austere sense of living in a one of a kind, get to know your neighbor, small town place. We feel the Oella Mill Development will jeopardize the quality of life and beauty this community has to offer.

The proposed residential development of the Oella Mill has caused a great deal of concern and will create many problems in the community if not closely monitored by your agency. The following outline details those concerns:

ENVIRONMENTAL

Industrial Contamination

The Oella Mill site is an industrial site. When the mill operated as a textile factory, tanks would hold chemical dyes for wool. The dye tanks are located at the southern end of the mill which, according to maps from the Maryland Department of the Environment, is in the flood plain of the Patapsco River. Built into the foundation, the dye tanks are under an area now used as artist studios. Wool would be removed from the tanks dripping with chemical dyes that most likely drained onto the soil and into the river. Residents remember a "rainbow" colored Patapsco River at the Oella Mill Site during this time. Any major construction as proposed by Forest City could easily disturb the soil and any chemicals in the soil.

Patapsco River Flood Plain

According to the maps we have obtained from the Maryland Department of the Environment, some of the construction and parking proposed would occur in the 100 year flood plain. Trees and other underbrush would be disturbed as well.

Erosion/Sediment Control

Large-scale development on that pristine area of the Patapsco River could be detrimental to the natural beauty of the river as well as create problems downstream. A great deal of sediment from construction in the area has already taken its toll. Whatever steps can be taken to prevent further erosion damage to the steep riverbank upon which the mill sits.

Asbestos Removal/Lead Abatement

The removal of lead paint and asbestos at this large industrial site over one hundred years old located adjacent to existing residential dwellings needs to be actively monitored.

ZONING ISSUES

Construction

Oella residents are concerned this huge construction project will create a huge impact on the community. Oella Ave. is a two-lane road at best and fire and police vehicles need to be able to access all areas to address safety concerns. Construction noise and containment also needs to be addressed with the close proximity of area residences.

Concept Plan Design & Proposal

The feasibility of the concept plan is of great concern. As a residential development, the community is concerned with 24 hour traffic issues, rental property issues, site construction, parking, environmental etc. This community would like to see the Oella Mill remain a commercial and artistic center for the Oella neighborhood. Forest City does have a commercial development division that should look into the feasibility of a commercial plan. The concept plan does not detail the grades for the parking and any changes made in grading.

PLANNING

Density

The Oella Community is comprised of approximately 820 homes. Adding 177 additional housing units will increase the communities overall density by more than 20%. This does not appear to us as smart growth. The new Westchester Elementary School is already at capacity. A large reduction in units would be advisable.

Rental Properties

If not enough parking is provided we feel the Oella Mill apartments project cannot happen. No one will pay that kind of rent if parking is not available. A large rental community parking area can increase crime in the area such as burglaries, and car thefts. Oella does not have a crime problem now and we need to keep it that way.

Property Values

With the Westchester School and Benjamin Banneker Historical Park Developments, our taxes have increased as high as the tax laws allow over the last five years. More traffic from the mill development will lower property values. The winding road will be more dangerous and it will not be safe for pedestrians with the increased traffic.

ROADWAY SAFETY

Parking

The proposed parking would allot for 258 parking spaces for 177 apartments. Forest City needs to understand that in this area each apartment will utilize at least two spaces. Forest City is acclimated to developing in urban areas where public transportation and other amenities such as groceries are in walking distance. None of these amenities exist in a safe walking distance from the mill. According to Forest City, the rental price of the units will start in the \$1,400 range for a one bedroom. The proposed apartments would have some of the highest rental prices in this area and will most likely require two people afford the price of one apartment and those two people will most likely have two cars. 354 parking spaces would be necessary or a reduction in units to 110 for the 258 parking

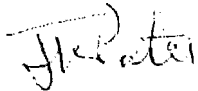
spaces proposed would be advisable. With no room for roadside parking on Oella Ave. for guests/visitors, more than two spaces per apartment would give space for the guest/visitors.

Traffic

Oella Ave. on a good day is a traffic nightmare. Winding narrow roads, pedestrian traffic, no room for road widening, and no sidewalks are issues that need to be addressed. This area needs sidewalks. The 1000 extra trips per day calculated by the Forest City Developers would turn a quiet, scenic road where people walk or ride bikes now precariously into an even more dangerous situation. From the Western end of Oella Ave. to the Oella Mill the road actually has a blind curve at the Granite Hill Inn, where both directions must yield and narrows to almost one lane shortly beyond that.

We at the Greater Oella Community Association ask that you and your department take a careful look at our concerns and ask pertinent questions of Forest City at the Concept Plan Meeting on Monday, January 28th.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay Patel", is written over a light blue horizontal line.

Jay Patel
President of GOCA

CONCEPT PLAN CONFERENCE

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

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

DATE: January 28, 2002

PROJECT NAME: Oella Mill Property – **REVISED COMMENTS**

PROJECT NUMBER: I-498

PROJECT PLANNER: Mark A. Cunningham

GENERAL INFORMATION:

Applicant Name: Oella Mill, LLP
840 Oella Avenue
Ellicott City, MD 21043

Location: W/S Oella Avenue; E of Patapsco River

Councilmanic District: 1st

Land Management Area: Community Conservation Area

Zoning: BM-CCC

Acres: 5.73 ± acres

Surrounding Zoning and Land Use:

North:	DR 3.5	Townhomes and Vacant Land
South:	DR 3.5	Residential
East:	BM-CCC & DR 3.5	Commercial and Residential
West:	N/A	Patapsco River

Project Proposal:

The applicant proposes 175 apartment units on 5.55± acres of land zoned BM-CC and 0.18± acres of DR 3.5. Local open space of 2.30± acres is proposed. There are steep slopes greater than 25% on the subject site. Additionally, the Patapsco River runs along the western boundary of said site.

☐ Special Exception	☒ Special Hearing	☐ PUD
☐ Variance	☐ Compatibility	☐ Design Review Panel
☐ Waiver	☐ Scenic Route	☐ Other
☐ RTA Modification	☐ Referral to Planning Board	☐

PARTIES TO BE NOTIFIED BY APPLICANT:

ALL ADJACENT PROPERTY OWNERS

Greater Oella Community Association
Attn.: Jay Patel
425 Oella Avenue
Baltimore Maryland 21228

West Catonsville Community Association
Attn.: Steve McCleary
2015 Windys Run Road
Catonsville, Maryland 21228

MEETINGS:

Concept Plan Conference	<u>01/28/02</u>	Community Input Meeting	<u> </u>
Development Plan Conference	<u> </u>	Hearing Officer's Hearing	<u> </u>
Planning Board	<u> </u>		

COMMENTS:

The receipt of additional information from the Community Input Meeting or other sources may generate further comments at the Development Plan Conference.

GREENWAYS:

The Patapsco River is designated as a Recreational Greenway in *Master Plan 2010* (see Map 18 on page 114). The Department of Recreation and Parks should address the delineation and acquisition of a recreational greenway along the Patapsco River.

MASTER PLAN:

The *Master Plan 2010 Land Management Area Plan* designation for the subject area is "Community Conservation Area." The proposed use as indicated on the Proposed Land Use Map of Baltimore County is "Single Family Attached."

SCHOOL IMPACT:

This development is subject to the requirements of Bill 110-99, Adequate Public Facilities. A school impact analysis is required with development plan submittal. Information is available on the Baltimore County Office of Planning's Web Page:

<http://www.co.ba.md.us/bacoweb/services/planning/html/planof.htm>.

1. The structure located at 840 Oella Avenue (W. J. Dickey Mill), is listed as MHT # BA 2375 on the Maryland Historic Trust Inventory (MHT) as a contributing structure in the Oella National Register Historic District. Please note that exterior alterations may involve a Special Hearing per Section 26-278 on the Baltimore County Code. No historic review is required for changes in the use of the structure.
2. All exterior modifications/alteration should be shown on the concept plan to include covered walks, stair towers, pedestrian drop-offs, entry tower, etc.
3. All proposed accessory structures such as gazeboes should be identified on the concept plan.
4. Building elevation drawings shall be submitted to this office along with the development plans.
5. Sidewalks should be provided along Oella Avenue wherever possible.
6. Indicate the location of the 110 parking spaces proposed for the Mill Building, and the 4 spaces proposed for the Boiler Building.
7. Clearly delineate all structures to be razed, and note when and who is responsible to raze said structures.
8. Indicate the reference system associated with the north arrow shown on the plan.
9. List the plat reference/deed reference number.
10. Identify the tax map, grid and parcel number for the subject site.
11. Indicate the census tract, regional planning district, school district, watershed, and sub-sewershed associated with the subject site.
12. Seal and sign the plan.
13. Note the tax account number of all adjoining properties.
14. Provide a break-down of the parking calculations on the plan.
15. Indicate the proposed use for, and/or any proposed modification to the existing one (1) story building adjacent to the Mill Building.
16. If the property was the subject of a zoning hearing, list the case number, decision, and any conditions or indicate if there is no zoning case history.

Prepared By:

Mark A. Cunniff

Section Chief:

Jeffrey W. Long

MAC:kma

**BALTIMORE COUNTY,
MARYLAND**

Subject: Concept Plan Conference Comments

Date: January 28, 2002

From: Department of Recreation and Parks

Project Name: Oella Mill Property

Project Number: 01-498

Zoning: BM-CCC & DR-3.5

Location: W/S of Oella Avenue E of the Patapsco River

Districts: Elec. 1 Counc. 1

Comments:

This project is subject to the Adequate Public Facilities Act, Bill No. 110-99. The comments generated herein reflect the requirements of Bill No. 110-99 and the Baltimore County Local Open Space Manual, as adopted by the Baltimore County Council on February 22, 2000.

Local Open Space is required for this development.

The Local Open Space required is based on the total amount of dwelling units. The 'Site Development Proposal' chart should state the number of dwelling units.

The Local Open Space required for 175 units is 175,000sf or 4.02 acres +/- . A note shall be added to the Development Plan to read "Open Space Required - 113,750sf Active and 61,250sf Passive or a combination thereof as specified in Section III.D.3; Open Space Provided - 113,750sf Active and 61,250sf Passive."

The 'Site Development Proposal' and 'Open Space Proposal' charts show 2.3 acres of Open Space within the 100-year floodplain and forest buffer to be provided. Local Open Space cannot be located within environmentally constrained areas. The amount shown in the 'Open Space Proposal' chart for 'Amenity Areas' is 'N/A', however, the note below the chart shows the calculation for Amenity Open Space. Clarification is needed on the plan to state the purpose of these conflicting notes.

The open space shall, at a minimum, meet the requirements and standards as described in Section III of the Baltimore County Local Open Space Manual. The Active Open Space shall be provided in parcels of not less 20,000sf each. Refer to Sections III.C.1 & III.D.2. The open space shall have finished grades less than 4% for the active and 10% or less for the passive and labeled "HOA Open Space, Active" and "HOA Open Space, Passive" with square footage and proposed grades shown for the parcel. The Open Space shall be unencumbered by easements, clearly delineated with

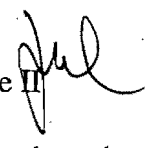
...of screening, and a minimum of 75' in width (with the exception of passive open space as described in Section III.C.3). For any lots adjacent to the open space, screening and/or fencing shall be provided along the property lines to deter encroachment and to define the open space limits.

The required notes in Section V.B.1 and the following notes shall be added to the development plan:

1. No utilities, whether public or private, including, but not limited to, telephone, cable television, gas and electric, water, sewer, and storm drains shall be placed or constructed on or within the areas labeled as open space without prior written consent from Baltimore County Department of Recreation and Parks.
2. The design, construction and installation of all amenities shown on the development plan shall be the responsibility of the developer.

A declaration of covenants and restrictions assuring the existence and maintenance of the open space in perpetuity must be submitted to and approved by this office prior to the recordation of the plats, see Section V.E.2.a.

In addition to the Open Space requirements, the Patapscu River is a Master Plan designated Recreational Greenway. A Recreational Greenway Reservation of the 100-year floodplain or forest buffer, whichever is greater, shall be dedicated to Baltimore County. The Recreational Greenway Reservation shall be clearly delineated and labeled "Baltimore County Recreational Greenway Reservation and Forest Buffer Easement." A note shall be added to the plan to read: "Within the area shown as 'Baltimore County Recreational Greenway Reservation', permitted uses may include: public access for hiking, bicycling, fishing, nature/environmental studies, and Baltimore County supervised trail improvements and maintenance, subject to approval by the Department of Environmental Protection and Resource Management." A 20' access shall be provided between the greenway and the subdivision's Open Space. Refer to Section II.C for 'Goals and Objectives for Greenways' and Section IV for 'Greenway Standards.'

Jan M. Cook
Engineer Associate II 
410-887-3807
e-mail: jmcook@co.ba.md.us



Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 23, 2002

TO: DON RASCOE, PDM, MAIL STOP-1301

FROM: LIEUTENANT JIMMIE MEZICK
BALTIMORE COUNTY FIRE MARSHAL OFFICE
MAIL STOP-1102F, PHONE (410) 887-4881

SUBJECT: SUBDIVISION REVIEW COMMENTS

PROJECT NAME: OELLA MILL PROPERTY

PROJECT NUMBER: 01-498

LOCATION: WS OELLA AVE E OF PATAPSCO RIVER

DISTRICT: 1C1

COMMENTS:

3. PROPOSED BUILDINGS SHALL BE DESIGNED AND CONSTRUCTED SO AS TO MEET THE APPLICABLE PROVISIONS OF THE BALTIMORE COUNTY FIRE PREVENTION CODE.

5. IF THE PROPOSED BUILDINGS(S) REQUIRES THE INSTALLATION OF A FIRE ALARM SYSTEM", THE DESIGN PACKAGE AS PRESENTED WITH THE BUILDING PLANS AT THE TIME OF BUILDING PERMIT APPLICATION, SHALL BE CERTIFIED BY A MARYLAND REGISTERED: LEVEL 3 OR 4 NICET ENGINEER, OR FIRE PROTECTION ENGINEER. STATING THE FIRE ALARM SYSTEM COMPLIES WITH ALL APPLICABLE CODES. IE NFPA 70, NFPA 72, NFPA 101, BUILDING CODE; BALTIMORE COUNTY BILL 167-93, AND THE BALTIMORE COUNTY FIRE PREVENTION CODE; BALTIMORE COUNTY BILL 70-01.

SUBJECT: CONCEPT PLAN COMMENTS

CPC DATE: 1/28/02

FROM: PDM - ZONING REVIEW

PDM 01-498

PROJECT NAME: Oella Mill Property

PLAN DATE: 1/14/02

LOCATION: W/S Oella Avenue E of Patapsco River

DISTRICT: 1st ED

PROPOSAL: 175 Apartments

ZONING: BM-CCC

Comments:

The proposed use is permitted subject to compliance with all regulations and policies, Section 235A.1 permits apartments. 235A.2 requires a 25 feet facing windows to property line other than a street line show the street line and label it.

Designate the proposed uses on all structures on site or note that they are to be removed and when. Put dimensions on all existing and proposed buildings.

Some future development plan comments: Be aware that the historic designation of the site requires compliance with all historic property regulations and this may involve hearings before the zoning commissioner. Contact the Office of Planning for details.

Parking or buildings/additions must be designated and shown to comply with all zoning regulations and policies show compliance on plan.

The dwelling type designations on the plan do not clearly fit the parking as listed in Section 409.6.A.1, which lists "no separate bedroom" not without enclosed bedroom. Clarify and comply and show actual calculations with number of bedrooms and typical apartment floor plans with areas designated by use and square footage.

Show what uses are proposed for the building and include parking calculations including loading areas per Section 409.11.

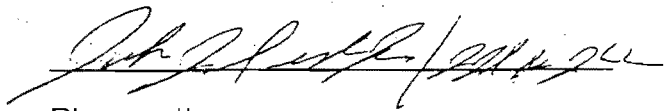
On the 33 parking spaces to the east of the building classify what is meant by "on lower level". Is this a new parking garage? If so, show outline dimensions and 409 compliance for all parking standards and the total number of parking spaces within.

141 parking spaces are shown on site, clarify how the remaining 114 spaces noted in buildings comply with 409 standards. Typical parking space details are acceptable.

now compliance with Section 405 Baltimore County Zoning Regulations for the existing (if to remain) and proposed signs. Put scaled details with dimensions square footage and illumination on plan.

Further comments will be made once the revised plans for the DPC are received.

John J Sullivan/John Lewis
Planner II
Zoning Review

A handwritten signature in black ink, appearing to read "John J. Sullivan/John Lewis", written over a horizontal line.

Planner II
Zoning Review

Development Management



111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

March 26, 2002

Forest City Residential Group
5803 Nicholson Lane
North Bethesda, MD 20852

Re: Oella Mill Property
PDM Number I-498

Dear Sir or Madam:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation.

DEVELOPMENT PLAN CONFERENCE:

Date: Wednesday, April 17, 2002

Time: 9:00 AM

Location: Room 123, County Office Building; 111 West Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:

Time: 9:00 AM

Dates and Location:

Thursday	May 9, 2002	Room 106	County Office Building; 111 West Chesapeake Ave.
Friday	May 10, 2002	Room 106	Towson, MD 21204

A copy of a public notification letter of the Development Plan Conference and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of the development plan, and notify all interested parties of the conference and hearing. Also, it is the developer's responsibility to post the property. Please note the property must be posted by **April 11, 2002**. A county authorized sign posting company must post the sign(s). A list of authorized sign posters is available in Room 123 of the County Office Building. A certificate of posting and photograph of the sign must be forwarded to this office prior to the Hearing Officer's Hearing.

Sincerely,

Donald T. Rascoe/dak

Donald T. Rascoe
Project Manager

DTR:dak
c: Daft-McCune-Walker, Inc.

DEVELOPMENT PLAN CONFERENCE AND HEARING OFFICER'S HEARING NOTIFICATION

Name of Development:

Location:

Dear Sir or Madam:

In anticipation of a public hearing on the above referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing, if required), scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date: _____ Time: _____

Hearing Location: Room _____ of the _____
Towson, MD 21204

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable State and County regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on _____ (date _____) at _____ (time _____) in Room 123 of the County Office Building (COB), 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer, however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses and recommendations as required by the County Code will be available in the official file in Room 123 of the COB until five (5) days preceding the public hearing. At that time the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at 410-887-3335.

Respectfully yours,

Enclosure: Development Plan

PDM/Development Management; 111 W. Chesapeake Avenue; Towson: MD 21204.

DEVELOPMENT PLAN CONFERENCE and HEARING OFFICER'S HEARING
NOTIFICATION

NAME of DEVELOPMENT: Oella Mill Property

LOCATION: North and west side Oella Avenue

Dear Sir or Madam:

In anticipation of a public hearing on the above-referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing if required) scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date and Time: Thursday, May 9, 2002 9:00 a.m.
Friday, May 10, 2002 9:00 a.m.

Hearing Location: Baltimore County Office Building
111 West Chesapeake Avenue
Towson, MD 21204
Room 106

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable state and county regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on Wednesday, April 17, 2002, at 9:00 a.m. in Room 123 of the County Office Building (COB), 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer; however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses, and recommendations as required by the County Code will be available in the official file in Room 123 of the COB, until five (5) days preceding the public hearing. At that time, the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at (410) 887-3335.



Baltimore County
Department of Permits and
Development Management

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

DEVELOPMENT PLAN CHECKLIST

(See Section 26-203, Baltimore County Code)

The plan shall be filed within 12 months after the final Community Input Meeting is concluded. It shall be drawn to an appropriate scale in a clear and legible manner and shall be filed with the Department of Permits and Development Management.

1. The plan shall contain the following background information:

- ☒ Vicinity map showing site location and a note identifying election and councilmanic districts
- ☒ Census tract, watershed and subsewershed
- ☒ Subdivision name and applicant's name and address
- ☒ Name and address of person who prepared the plan
- ☒ Current zoning of the subject property and surrounding properties, including the location of any residential transition areas
- ☒ Ownership of the subject property and adjacent properties, including deed reference(s) and tax account number(s), as shown on the most recent tax maps as published by the Department of Assessments and Taxation, or on the basis of more current information if the same is available to the applicant
- ☒ Existing buildings and access points on property adjacent to the subject property
- ☐ Petitions for variances, special exceptions, special hearings, Chesapeake Bay Critical Area variations, or requests for waivers from county regulations or standards
- ☐ Limitations established by the courts, County Board of Appeals, Planning Board and/or Zoning Commissioner or restrictive covenants recorded with individuals or groups which would limit proposed development on the site
- ☒ The plan shall contain a certification under oath that there are no delinquent accounts for any other development with respect to any of the following: the applicant, a person with a financial interest in the proposed development, or a person who will perform contractual services on behalf of the proposed development
- ☒ The plan shall be signed and sealed by the surveyor, engineer, architect, or landscape architect as appropriate indicating that the plan is accurate and has been

2. The plan shall identify the following existing site conditions information:

- ☒ Existing topography, and existing topography for adjacent properties as shown on Baltimore County photogrammetric plats or more recent information where available
- ☒ Existing streams, bodies of water and springs
- ☒ Soil types in accordance with the Soil Survey, Baltimore County, Maryland, including identification of prime and productive soils
- ☒ Existing wooded areas
- ☒ Existing buildings on the property
- ☒ One hundred-year floodplains or flood areas for both riverine and tidal areas
- ☒ Wetlands
- ☒ Identification of any building, property or site within or contiguous to the proposed development included on the Maryland Historical Trust Inventory of Historic Properties, the Baltimore County Preliminary or Final Landmarks List, the National Register of Historic Places, the Maryland Archaeological Survey, or identification of any Baltimore County Historic District, or National Register District covering the proposed development
- ☒ Designated areas of critical state concern identified as such under the procedures of Section 5-611 of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and as mapped and available for inspection in the Office of Planning
- ☒ As known to the applicant, location and description of hazardous material as defined by Section 7-101 of the Environmental Article of the Annotated Code of Maryland, as from time to time amended.

3. The plan shall contain the following development proposal information:

- ☒ Proposed lot or building layout with parking and loading area
- ☒ Proposed street layout with existing and future paving and right-of-way widths indicated included pedestrian walkways
- ☒ Location of existing and proposed easements or rights-of-way, public and private
- ☒ Existing and proposed county, state and private streets, along with estimated proposed average daily trips attributable to the development in the plan
- ☒ Transit services when appropriate as per the Maryland Mass Transit Administration's Access by Design publication
- ☒ Proposed and existing water and sewer lines
- ☒ Proposed and existing well and septic areas
- ☒ Proposed and existing utility systems and fire hydrants
- ☒ General schematic proposals for grading and retaining walls, including the anticipated alteration or removal of vegetation or other natural features or a designated limit of disturbance line
- ☒ Storm water management areas supported by preliminary budget

- ☒ A hydrogeological study and an environmental effects report if required by the Department of Environmental Protection and Resource Management
- N/A For developments with lots to be served by individual water supplies, evidence of compliance with Article II of Title 35 of the Baltimore County Code (BCC)
- ☒ Proposed location and use of open space and acreage in accordance with the open space manual
- ☒ A chart indicating required and proposed area of open space and parking spaces and indicating the number of units permitted and proposed

In the case of a plan involving a use in a residential transition area, the following:

- ☐ The residential transition area and existing and proposed uses therein
- ☐ The proposed buildings
- ☐ Proposed building setbacks and the distance between principal buildings
- ☐ Existing and proposed vegetation and buffer areas
- ☐ Existing and proposed lighting

- NA When required by the Baltimore County Zoning Regulations (BCZR), the plan shall indicate the expected levels of potential emanations, including but not limited to smoke, noise, dust, odors, vibrations, glare, and heat, and the means to continuously control such emanations
- ☒ A schematic landscape plan showing existing vegetation and proposed planting, including street trees (location and quantity) shall be submitted for all development, except in RC-2 and RC-4 zones
- NA The plan may show the location of a precise building envelope in lieu of the precise location of a building; may show precise maximums and minimums in lieu of fixed values; may set forth reasonable lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth
- ☒ All additional information contained on the critical area findings plan as specified in Section 26-442(b), BCC

When required by the BCZR or the Comprehensive Manual of Development Policies, the Director of Planning may require the following additional items:

- ☒ Layout of the site as it relates to the surrounding roads, and public transit systems, buildings, open space, and environmental features
- NA Architectural features such as scale, height, bulk, and general massing of buildings, major facade divisions, size and placement of openings, roof treatment, stylistic features and themes and materials
- ☒ Design and placement of signage, lighting and fencing

N/A Specific design information shall be in the form of building elevations, perspective drawings, building and site cross-sections and large scale drawings of specific site development details as required by the Director of Planning

- ✓ The plan shall clearly identify any comment raised or condition requested or proposed to the concept plan by a party if such comment or condition is unresolved at the time of filing the development plan
- ✓ At the time of filing the plan, the applicant shall file any request for combined hearing under Section 26-206.1. The plan shall contain a notation that such a request has been filed

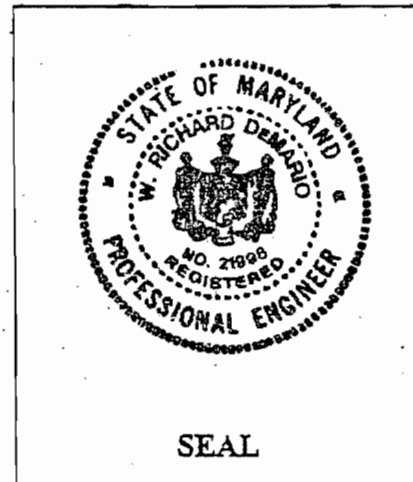
*A check mark (✓) indicates pertinent information that has been shown or noted on the plan. N/A denotes information not applicable to this development project.

W. Richard Demario

Signature of Engineer

3-19-02

Date



in the process before the Community Input Meeting and, eventually, before the Hearing Officer Hearing.

CONCEPT PLAN REQUIREMENTS-CHECKLIST

Generally, the concept plan consists of two separate maps, a site constraints map and a site proposal map. Depending upon a site's size, features, or configuration, the two maps may be combined, but only if this is requested at a pre-concept plan conference and approved by all reviewing agencies.

SITE CONSTRAINTS MAP

GENERAL

- ☒ name and address of the developer
- ☒ name and address of the preparer of the plan
- ☒ tax account numbers
- ☒ location or vicinity map, preferably at 1"=1000' scale
- ☒ property boundaries from deed or tax map information
- ☒ zone lines

NATURAL ENVIRONMENT ASSESSMENT *

Approximate location of the following:

- ☒ existing topography as shown on county photogrammetric maps, highlighting slopes greater than 25%
- ☒ 100-year floodplain limits as shown on FEMA maps, county studies, or computed using approximate methods
- ☒ soils mapped and labeled in accordance with the Soil Survey, Baltimore County, Maryland
- ☒ streams, seeps, ponds, or other water bodies on and within 200 feet of the development site
- ☒ wetlands
- ☒ forest buffer limits, including adjustments for steep slopes and/or erodible soils in accordance with DEPRM's Policies, Rules, and Regulations Manual. It is not necessary to prepare the formal evaluation as set forth in Section III and IV of the Manual, unless DEPRM field verification is requested
- ☒ existing land cover (e.g., forest, meadow, agriculture, etc.) on and within 200 feet of the development site
- ☒ NA significant regulated plant or wildlife communities using DEPRM or Maryland Department of Natural Resource data
- ☒ NA existing well and sewage disposal systems on and within 100 feet of the development site
- ☒ NA soil evaluation tests (perc tests)

NA existing underground fuel and chemical storage tanks on and within 100 feet of the development site

BUILT ENVIRONMENT ASSESSMENT

Approximate location of the following:

- ☒ existing buildings and roads on and within 200 feet of the development site
- ☒ designated historic structures or sites as per the Landmarks Preservation Commission or the Maryland Historical Trust Inventory
- NA designated sites as per the Maryland Archeological Survey
- ☒ significant views that may affect the development proposal
- ☒ significant features (e.g., specimen trees, buildings, streetscaping, etc.) that may affect the development proposal
- ☒ existing land uses (e.g., commercial, single-family residential, townhouse residential, etc.) on and within 200 ft. of the development site
- ☒ road rights-of-way and easements

CONSISTENCY WITH COUNCIL ADOPTED PLANS

- ☒ Baltimore County Master Plan 1989-2000
- NA Community or Revitalization Plans
- NA Recreation and Parks Plan
- NA Streetscape Plan
- ☒ Greenways Plan

* Although not required, it is strongly recommended that the location of these features be field delineated by the applicant for the concept plan. Field delineations will be required for the development plan, and if the delineations are significantly different from those on the concept plan, the development plan will not be accepted for filing and another Community Input Meeting may be required.

SITE PROPOSAL MAP

- ☒ zoning, with maximum permitted dwelling units or square footage
- ☒ proposed number, type, and locations of dwelling units
- NA proposed square footage and location and use of nonresidential structures
- ☒ proposed road network and sidewalks or pathways
- ☒ proposed open space network and calculations
- ☒ proposed parking areas and calculations
- ☒ proposed stormwater management facilities
- ☒ * proposed landscape concept and planting unit calculations
- ☒ average daily trips
- ☒ identification of significant changes to topography
- ☒ location of permanent project identification signs

- NA other anticipated actions needed by the Zoning Commissioner or Hearing Officer such as variances, waivers as part of the development plan, or special exceptions or hearings
- ✓ consistency with design manuals such as the Comprehensive Manual of Development Policies
- NA preliminary phasing and development schedule

The required information and the key should be organized and formatted as indicated on the attachment.

If you have any questions about concept plan requirements, please contact the Office of Planning, Development Review Section at 887-3211 or the Department of Permits and Development Management at 887-3335.

A checkmark (✓) indicates pertinent information that has been shown or noted on the plan.
N/A denotes information not applicable to this development project.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property
Project Location: Oella Avenue
Date of Meeting: April 17, 2002
Reviewer(s): John Russo, Bruce Seeley *MS*

ENVIRONMENTAL IMPACT REVIEW

- X The following requirements have not been provided and/or approved:
- A Wetlands Delineation Report.
 - A steep slopes and soils analysis.
 - X A variance in accordance with Article IX, Section 14-334.
 - X An alternatives analysis in accordance with Article IX, Section 14-342(b)(1).
- X The Development Plan cannot be approved by EIR until such time as the requirements indicated above have been met.
- X The following corrections must be made to the Development Plan prior to approval:
- X The Forest Buffer and/or Forest Conservation area must be labeled as an Easement or Reservation.
 - X A Forest Buffer and/or Forest Conservation Access Easement must be provided. The access should be labeled "Baltimore County Access Easement".
 - X Add the standard Forest Buffer and/or Forest Conservation Easement or Reservation notes.
 - X Show a building setback of 25 feet from the Forest Buffer and/or Forest Conservation area.

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: April 17, 2002

_____ Show existing wells, septic systems and underground storage tanks; if there are none, add a note indicating that there are none.

X The Forest Buffer and/or Forest Conservation area must be recorded as an Easement or a Reservation.

X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

X EIR needs to review the following plans during Phase II:

X Grading and Sediment Control Plans.

X Final mitigation plans (must be reviewed and approved prior to Grading Plan approval and be included in the Grading Plan.).

X Additional Comments:

1. An alternatives Analysis/ Forest Buffer Variance is required for the proposed continued use in the Forest Buffer and the proposed additional impacts from the trail, wooden steps with attached pavilion and the additional paving for the parking lot.
2. Show the limit of the existing forest on-site. The proposed wooden stairs in the Forest Buffer must address the clearing of forest in the Forest Buffer/Floodplain and General Note # 15 may have to be revised. Submit a Single Lot Declaration of Intent.
3. Label the existing mill race (to remain undisturbed) on the plan and add the following note:

"The existing mill race onsite may be regulated by the U.S. Army Corps of Engineers (COE) as Waters of the U.S. in accordance with recent guidance found in the 2000 Nationwide Permit. These same areas may or may not be regulated by the Baltimore County Code. COE Permits may be required to impact these channels. Based on these refined criteria, the COE can take jurisdiction on projects, including those under construction, and issue stop work orders and/or violation notices."

DEVELOPMENT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: April 17, 2002

DEVELOPMENT COORDINATION

As stated in the Concept Plan comments, prior to approval of the Development Plan, the property must be investigated for hazardous materials and be in compliance with MDE requirements. A Phase I Environmental Site Assessment will be reviewed when received.

Has been rec'd by Perrin, per BS.
4/17/02

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Don Rascoe MS# 1105 DATE: ~~January 23, 2002~~
PDM Development Management Revised: April 9, 2002

FROM: Linda Leake *sl*
Department of Public Works
Metropolitan District Financing & Petitions

SUBJECT: Quotation of Extinguishment Cost for
Project: **Oella Mill Property**
PWA No:
PDM No: **4-498**

Location: 5.84 ac ns Oella Avenue

Property #: 16.00.006700

See attached form(s) for -

- ☒ Existing water and sewer benefit assessments.
- ☐ Deferred water and sewer benefit assessments.
- ☒ Construction loan charges.

LGL/lgl

c: file

Alice Stevenson MS 2111

subplatreviews.xls/lgl

CONCEPT PLAN COMMENTS

Project Name: Oella Mill Property
Project Location: Oella Avenue
Date of Meeting: January 28, 2002
Watershed: Patapsco River
Reviewer(s): John Russo, Bruce Seeley *MS*

ENVIRONMENTAL IMPACT REVIEW

- X This project must conform to the requirements of Article IX, Section 14-331 through Section 14-350 of the Baltimore County Code: Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. The following must be approved by this Department prior to submitting the Development Plan:
- X A wetland delineation report.
- X A steep slopes and erodible soils analysis to determine the extent of the Forest Buffer on this site.
- X Add the standard Forest Buffer and/or Forest Conservation Easement notes to the plan.
- X A Forest Buffer and/or Forest Conservation Access Easement approved by EIR staff must be provided. The access should be labeled "Baltimore County Access Easement".
- X A building setback of 35 feet must be applied from the Forest Buffer and/or Forest Conservation areas.
- X Storm Water Management pond embankments must be at least 15 feet from Forest Buffer and/or Forest Conservation areas.

CONCEPT PLAN COMMENTS

Project Name: Oella Mill Property

Date of Meeting: January 28, 2002

 X In accordance with Article IX, Section 14-334 of the Baltimore County Code, a variance is required for this proposal. The variance must be granted prior to Development Plan submittal.

 X In accordance with Article IX, Section 14-342(b)(1) of the Baltimore County Code, an alternatives analysis must be provided for any stormwater management facilities, roads, utilities and/or grading proposed in the Forest Buffer.

 X The Forest Buffer and/or Forest Conservation areas must be recorded as Easements or Reservations.

 X An Environmental Agreement (EA) must be submitted prior to building or grading permits.

 X An Environmental Effects Report and a Hydrogeological Study must be submitted with the Development Plan.

 X Any existing wells, septic systems, and underground storage tanks on-site must be shown on the Development Plan; if there are none, a note must be added to the plan.

 X Additional Comments:

1. Based on current GIS information and our site visit, the edge of the Patapsco River and adjacent topography shown on the plan is inaccurate. Revise the plan to show the existing 100 year Floodplain and Forest Buffer.
2. Show a Public Works approved 100 year Floodplain Drainage and Utility Easement. In addition, show the Forest Buffer 25 feet off this limit where applicable.
3. A Forest Buffer Variance is required for the proposed continued existing use, and expanded or altered uses in the buffer.
4. Clarify how and where Storm Water Management will be addressed.
5. Prior to Development Plan approval, the property must be investigated for hazardous materials, and be in compliance with the Maryland Department of the Environment.

PROJECT TEAM CONFERENCE
Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue East of Patapsco River
January 28, 2002 @ 9:00 AM

STORM WATER MANAGEMENT COMMENTS:

1. The Storm Water Management Act:
 - A. The Developer is responsible to address the requirements of the Baltimore County Code, Title 14, Article V.
 - B. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before Development Plan approval is given.
 - C. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.
2. General Engineering Requirements:
 - A. Water quality storage volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, extreme flood protection (Q_f) or 100 year peak management may also be required.
 - B. Please refer to the 2000 Maryland Stormwater Design Manual, Volumes I & II for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.
 - C. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands.
 - D. Storm water management facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

Project No. 12770000

OELLA MILL PROPERTY

- E. Storm water management facilities which either outfall to a Baltimore County storm drain system or for which a public road will serve as a pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.
- F. Site design must maintain, to the extent possible, predevelopment drainage patterns and characteristics. Diversion of drainage is discouraged and DEPRM reserves the right to prohibit drainage diversions it finds detrimental.
- G. Refer to Chapter 5.0 Stormwater Credits for environmentally sensitive designs. Use of these credits shall be documented at the initial (concept) design stage, documented with submission of final grading and verified with As-Built Certification for grading

3. Maintenance Requirements:

- A. Storm water management facilities may be maintained by Baltimore County if the following conditions are met, subject to approval of the Department of Environmental Protection and Resource Management:
 - (1) Residential subdivision in which all lots are for sale in fee.
 - (2) Requirements for public facilities given in the Baltimore County Department of Public Works Design Manual are all met.
 - (3) Storm water management facility is enclosed in a reservation shown on the record plat to allow the facility to be deeded in-fee to Baltimore County.
- B. Private maintenance of SWM facilities is acceptable. A Deed of Declaration and Easement must be executed by the developer guaranteeing maintenance of and County access to SWM facilities before SWM permit security may be released. Storm water management facilities in residential subdivisions to be maintained privately by a Homeowners Association shall be designed according to the requirements for public facilities.

4. Guidelines for Development Plan Approval:

- A. Show type, size and location of all Best Management Practices (BMP) on the Development Plan. Preliminary unified stormwater sizing criteria should be provided to verify that the SWM area(s) on the plan are adequate.

OELLA MILL PROPERTY

- B. Show that all outfalls from BMP facilities and bypass areas are "suitable" as defined by the Baltimore County Department of Public Works and the Department of Environmental Protection and Resource Management.
- C. Show that the BMP facilities do not create a hazard. An example of a hazard would be an embankment dam located so that in the event of a breach failure, down stream life or property is endangered.
- D. List on development Plan any waiver or variance and give date of approval by Baltimore County.

5. Site - Specific Comments:

In addition to the above, each project will be given a brief review by the DEPRM's Stormwater Management , and a set of specific comments will be provided. The developer is responsible for address these site specific comments, which are enumerated as follows:

- A. Water quality volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are required.
- B. All site runoff must be conveyed to a suitable outfall without affecting the receiving wetland, watercourse, waterbody, storm drain or adjacent property.
- C. Provide BMP volume computations, stormwater credits and drainage area maps, indicating any by-pass areas.
- D. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.

Edward M. Schmaus

01/17/02

concept.swm
OELLA M SWM

BALTIMORE COUNTY, MARYLAND

SUBJECT: Concept Plan Review Comments
For January 28, 2002

DATE: January 23, 2002

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: *Oella Mills*

P.D.M. NO.: *I-498*

LOCATION: *Oella Avenue*

DISTRICT: *1C1*

*We have reviewed the subject plan dated January 14, 2002
and have the following comments.*

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

A Public Works Agreement will be required.

Sidewalks are required along Oella Avenue.

Oella Avenue is substandard in many areas; however, due to the severe limitations imposed by dwellings, masonry walls, steep grades and severe side slopes, areas where improvements can physically be made are limited. The developer will be required to provide as much improvement along the frontage as is possible in accordance with the following:

preferred pavement width – 24 feet with concrete curb and gutter along frontage

minimum pavement width after development – 20 feet with concrete curb and gutter along frontage

ultimate right-of-way width – 40 feet

Drainage facilities will be needed with the road improvements.

Offsite right-of-way must be acquired before plats or permits will be approved.

show right-of-way and pavement widening on the plan.
Concrete aprons will be required at all entrances.

Trash dumpster locations must be shown on the plan.

TRAFFIC ENGINEERING COMMENTS:

One-hundred-fifty-foot sight line for the westernmost perpendicular parking and 100-foot sight line for the easternmost parking spaces need to be shown along Oella Avenue. Some parking spaces may have to be eliminated.

A traffic-impact study must be submitted and reviewed **prior** to submittal of the development plan.

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site **is/is not** within a traffic deficient area.*

Prior to development plan submittal, this office shall be contacted to schedule a field visit for the location of the proposed access(es).

RWB:DAK:jrb

cc: File

Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue East of Patapsco River
January 28, 2002 @ 9:00 AM

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

1. Grading Requirements & Sediment Control Guidelines

- A. The developer is responsible to address the grading requirements of Baltimore County Code 14, Article VI and Baltimore County Department of Environmental Protection and Resource Management.
- B. A grading permit and security is required for any site having greater than 5,000 square feet of disturbed area. A security is required for sites having more than 20,000 square feet of disturbed area.
- C. An erosion and sediment control plan must be approved by the Soil Conservation District and a separate approved final grading plan is required for any site having greater than 20,000 square feet of disturbed area. These plans must be approved by DEPRM prior to obtaining a grading permit.
- D. Sites having less than 20,000 square feet of disturbed area may be exempt from the approved erosion and sediment control plan requirement and may qualify to use standard sediment control plan measures. Contact Inspection and Enforcement at (410) 887-3226 for additional information

2. General Engineering Requirements

- A. Erosion and sediment control plans for sites having greater than 20,000 square feet of disturbed area must be reviewed and approved by the Baltimore County Soil Conservation District (SCD). Upon such approval, plans are then returned to the Department of Environmental Protection and Resource Management for microfilming. Grading plans will not be approved prior to SCD signature on erosion and sediment control plans.
- B. Final grading plans for sites having greater than 20,000 square feet of disturbed area must be submitted for approval to Stormwater Management along with the site erosion and sediment control plans. Final grading plans must show all proposed grading, storm drain inlets and their connections to main storm drain system up to outfall, building locations, first floor elevations, septic reserve areas, sidewalks and driveways. Proposed sanitary and water lines and their connections

Project I.D. #D990385
OELLA MILL PROPERTY

to existing systems must be shown on final grading plan. Sediment control devices should not be shown on the final grading plan. Mass grading plans are not acceptable unless a waiver to this standard is granted by Stormwater Management. Final grading must reflect the proposed condition of storm water management hydrology. Refer to Baltimore County Code Title 14; Article VI.

- C. Erosion and sediment control devices must be perimeter type devices and must be located sufficiently outside of proposed grading, therefore, proposed grading should not be shown to the limits of property lines, wetlands, floodplains or buffers. Erosion and sediment control plans must be designed for all work shown on the final grading plan.
- D. Proposed storm water management ponds must be used as temporary sediment basins unless prohibited as such by the Stormwater Management's project engineer.
- E. Grading plan must be in compliance with Development Plan.
- F. Erosion and sediment control devices may not outfall concentrated flow onto adjacent properties without the property owner's written permission or acquisition of Easements.
- G. All floodplains, wetlands, and buffers must be shown on final grading plans and should be shown on the sediment control plans. Erosion and sediment control devices may not be located within such areas except as allowed by DEPRM. Sediment traps outfalling into such areas must provide two times the normally required storage.
- H. Sediment trapping device must be located outside the septic reserve areas. Show location of septic reserve area on grading plan in absence of sanitary sewer line.
- I. Stormwater credits shall be documented with submission of final grading plans and verified with As-Built certification

3. Outlines for Development Plan Approval:

- A. Proposed grading, especially filling, should not be shown up to limits of property lines, floodplains, wetlands, or buffers. There should be adequate room for perimeter sediment and erosion control devices and for movement of construction equipment.

OELLA MILL PROPERTY

- B. Proposed grading must not exceed slope requirements of 2:1 maximum on commercial properties and 3:1 maximum on residential lot areas and 4:1 within 25 feet down slope of septic reserve areas.
- C. All swales shall be designed to Department of Public Works Design Standards.
- D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management

4. Site Specific Comments:

- A. Refer to the preceding pages for general requirements.

Edward M. Schmaus

01/17/02

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CONCEPT GRD

PROJECT TEAM CONFERENCE
Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue east of Patapsco River
April 17, 2002

STORM WATER MANAGEMENT COMMENTS:

1. The Storm Water Management Act:

- A. The Developer is responsible to address the requirements of the Baltimore County Code, Title 14, Article V.
- B. Provisions for exemptions, waivers and variances for Storm Water Management (SWM) are described in this document. Exemptions, waivers and variances should be applied for and granted (or denied) by the County before Development Plan approval is given.
- C. Conditions for recording plats and granting grading and building permits as related to SWM are also described in this document. The developer is advised to be aware of these conditions and include them in planning the project to avoid unnecessary delays to construction.

2. General Engineering Requirements:

- A. Water quality storage volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are normally required. If the development is in certain designated inter-jurisdictional watersheds or, if deemed necessary by Baltimore County, extreme flood protection (Q_f) or 100 year peak management may also be required.
- B. Please refer to the 2000 Maryland Stormwater Design Manual, Volumes I & II for general design criteria. Hydrology shall be in accordance with the June 1986 version of TR-55.
- C. The developer is responsible for addressing all applicable requirements of agencies whether within or outside of Baltimore County having jurisdiction over water quality, streams or wetlands.
- D. Storm water management facilities are also subject to review and approval by the Baltimore County Soil Conservation District.

OELLA MILL PROPERTY

- E. Storm water management facilities which either outfall to a Baltimore County storm drain system or for which a public road will serve as a pond embankment will be reviewed and approved concurrently by the Department of Public Works and the Department of Environmental Protection and Resource Management.
- F. Site design must maintain, to the extent possible, predevelopment drainage patterns and characteristics. Diversion of drainage is discouraged and DEPRM reserves the right to prohibit drainage diversions it finds detrimental.
- G. Refer to Chapter 5.0 Stormwater Credits for environmentally sensitive designs. Use of these credits shall be documented at the initial (concept) design stage, documented with submission of final grading and verified with As-Built Certification for grading

3. Maintenance Requirements:

- A. Storm water management facilities may be maintained by Baltimore County if the following conditions are met, subject to approval of the Department of Environmental Protection and Resource Management:
 - (1) Residential subdivision in which all lots are for sale in fee.
 - (2) Requirements for public facilities given in the Baltimore County Department of Public Works Design Manual are all met.
 - (3) Storm water management facility is enclosed in a reservation shown on the record plat to allow the facility to be deeded in-fee to Baltimore County.
- B. Private maintenance of SWM facilities is acceptable. A Deed of Declaration and Easement must be executed by the developer guaranteeing maintenance of and County access to SWM facilities before SWM permit security may be released. Storm water management facilities in residential subdivisions to be maintained privately by a Homeowners Association shall be designed according to the requirements for public facilities.

4. Guidelines for Development Plan Approval:

- A. Show type, size and location of all Best Management Practices (BMP) on the Development Plan. Preliminary unified stormwater sizing criteria should be provided to verify that the SWM area(s) on the plan are adequate.

OELLA MILL PROPERTY

- B. Show that all outfalls from BMP facilities and bypass areas are "suitable" as defined by the Baltimore County Department of Public Works and the Department of Environmental Protection and Resource Management.
- C. Show that the BMP facilities do not create a hazard. An example of a hazard would be an embankment dam located so that in the event of a breach failure, down stream life or property is endangered.
- D. List on development Plan any waiver or variance and give date of approval by Baltimore County.

5. Site - Specific Comments:

In addition to the above, each project will be given a brief review by the DEPRM's Stormwater Management , and a set of specific comments will be provided. The developer is responsible for address these site specific comments, which are enumerated as follows:

- A. Water quality volume (WQ_v), Recharge storage volume (Re_v) and Channel protection volume (Cp_v) are required for the new construction.
- B. All site runoff must be conveyed to a suitable outfall without affecting the receiving wetland, watercourse, waterbody, storm drain or adjacent property.
- C. Provide BMP volume computations, stormwater credits and drainage area maps, indicating any by-pass areas at least four weeks prior to Development Plan Conference date.
- D. This project is subject to the new stormwater management requirements that Baltimore County adopted on July 1, 2001.
- E. The proposed disturbed area should be shown on the plan. Any existing impervious areas within the disturbed area will be considered re-development and 20% of this impervious will need to be removed or water quality equivalent to a 20% removal provided.

Edward M. Schmaus

04/01/02

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oella swm

PROJECT MEETING CONFERENCE
Project I.D. #D990385
OELLA MILL PROPERTY
Oella Avenue east of Patapsco River
April 17, 2002

GRADING, EROSION & SEDIMENT CONTROL COMMENTS:

1. Grading Requirements & Sediment Control Guidelines

- A. The developer is responsible to address the grading requirements of Baltimore County Code 14, Article VI and Baltimore County Department of Environmental Protection and Resource Management.
- B. A grading permit and security is required for any site having greater than 5,000 square feet of disturbed area. A security is required for sites having more than 20,000 square feet of disturbed area.
- C. An erosion and sediment control plan must be approved by the Soil Conservation District and a separate approved final grading plan is required for any site having greater than 20,000 square feet of disturbed area. These plans must be approved by DEPRM prior to obtaining a grading permit.
- D. Sites having less than 20,000 square feet of disturbed area may be exempt from the approved erosion and sediment control plan requirement and may qualify to use standard sediment control plan measures. Contact Inspection and Enforcement at (410) 887-3226 for additional information

2. General Engineering Requirements

- A. Erosion and sediment control plans for sites having greater than 20,000 square feet of disturbed area must be reviewed and approved by the Baltimore County Soil Conservation District (SCD). Upon such approval, plans are then returned to the Department of Environmental Protection and Resource Management for microfilming. Grading plans will not be approved prior to SCD signature on erosion and sediment control plans.
- B. Final grading plans for sites having greater than 20,000 square feet of disturbed area must be submitted for approval to Stormwater Management along with the site erosion and sediment control plans. Final grading plans must show all proposed grading, storm drain inlets and their connections to main storm drain system up to outfall, building locations, first floor elevations, septic reserve areas, sidewalks and driveways. Proposed sanitary and water lines and their connections

OELLA MILL PROPERTY

to existing systems must be shown on final grading plan. Sediment control devices should not be shown on the final grading plan. Mass grading plans are not acceptable unless a waiver to this standard is granted by Stormwater Management. Final grading must reflect the proposed condition of storm water management hydrology. Refer to Baltimore County Code Title 14, Article VI.

- C. Erosion and sediment control devices should be perimeter type devices and must be located sufficiently outside of proposed grading, therefore, proposed grading should not be shown to the limits of property lines, wetlands, floodplains or buffers. Erosion and sediment control plans must be designed for all work shown on the final grading plan.
- D. Proposed storm water management ponds should be used as temporary sediment basins unless prohibited as such by the Stormwater Management's project engineer.
- E. Grading plan must be in compliance with Development Plan.
- F. Erosion and sediment control devices may not outfall concentrated flow onto adjacent properties without the property owner's written permission or acquisition of Easements.
- G. All floodplains, wetlands, and buffers must be shown on final grading plans and should be shown on the sediment control plans. Erosion and sediment control devices may not be located within such areas except as allowed by DEPRM. Sediment traps outfalling into such areas must provide two times the normally required storage.
- H. Sediment trapping device must be located outside the septic reserve areas. Show location of septic reserve area on grading plan in absence of sanitary sewer line.
- I. Stormwater credits shall be documented with submission of final grading plans and verified with As-Built certification

3. Outlines for Development Plan Approval:

- A. Proposed grading, especially filling, should not be shown up to limits of property lines, floodplains, wetlands, or buffers. There should be adequate room for perimeter sediment and erosion control devices and for movement of construction equipment.

OELLA MILL PROPERTY

- B. Proposed grading must not exceed slope requirements of 2:1 maximum on commercial properties and 3:1 maximum on residential lot areas and 4:1 within 25 feet down slope of septic reserve areas.
- C. All swales shall be designed to Department of Public Works Design Standards.
- D. Proposed grading must not adversely impact the adjacent properties. Runoff must be discharged at locations of suitable outfalls. Diversion of natural runoff pattern from ultimate outfall for more than 1,000 feet by proposed grading is not acceptable unless approved by Department of Environmental Protection & Resource Management

4. Site Specific Comments:

- A. Refer to the preceding pages for general requirements.

Edward M. Schmaus

04/01/02

oella.grd
CONCEPT GRD

BALTIMORE COUNTY, MARYLAND

SUBJECT: Development Plan Review Comments

DATE: April 12, 2002

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review
Dept. of Permits and Development Mgmt.

PROJECT NAME: Oella Mills

P.D.M. NO.: 01-498

LOCATION: Oella

DISTRICT: 1C1

We have reviewed the subject plan dated March 19, 2002 and have the following comments.

GENERAL COMMENTS:

All construction will be accomplished in accordance with Baltimore County Standard Specifications and Details for Construction (February, 2000, as amended) and Baltimore City Standard Details.

Security shall be posted prior to the issuance of building permits unless the posting of said security is deferred. The security shall be posted prior to the recording of the plat.

A *Public Works Agreement* must be executed by the owner and Baltimore County for the required public improvements.

In accordance with *Bill No. 18-90, Section 26-276*, dredging, filling or construction in any wetland is prohibited.

Any manmade embankment over 10-feet vertically shall be designed and/or approved by a soils engineer. The following note is to be placed on the sediment control plans and grading plans before approval will be given:

- *"All manmade embankments have been designed and/or certified for stability by a soils engineer".*

The developer shall be responsible for damages to the county's facilities, such as water meters, manholes, curbs and gutters and inlets within his subdivision and for any damages caused by his construction equipment outside of his subdivision. Occupancy permits will be withheld until such damages have been corrected.

The contours on the plan reveal rather excessive grading. The developer's engineer is cautioned not to exceed the maximum set by Baltimore County standards. Benching requirements shall be in accordance with *Section 41.02, Item 3* of the *1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control*. Retaining walls that are proposed along road rights-of-way shall be located away from the right-of-way a distance that is at least equal to the height of the wall.

Offsite rights-of-way are necessary for roads, storm drains or other utilities. The developer is hereby advised that the final plat and/or building permits will not be approved until the offsite right-of-way is acquired.

The developer and his engineer shall be responsible for investigating the need for and obtaining the necessary permits for the facilities serving this site that may require a "*Corps of Engineer's Permit*", a "*Water Resources Permit*", a "*Water Quality Certification*", and any other federal or state permits.

The developer shall not allow any cable television cables to be installed in this subdivision without the required county permits being obtained. Baltimore County will not assume any rights-of-way, easements, or maintenance of any public improvements, where such cables have been installed without a permit until the cables are satisfactorily located.

When an *Irrevocable Letter of Credit* is posted as security and the County's ability to draw on or otherwise call the *Letter of Credit* is negatively impacted for any reason (*bank default, receivership, etc.*), it shall be the sole responsibility of the developer to obtain a replacement *Letter of Credit* under the same terms and conditions.

Test pits within county roads require a utility cut permit obtained from the *Bureau of Highways and Equipment Maintenance*.

All drawings must be based on the Maryland Coordinate System (MCS) and North American Vertical Datum of 1988 (NAVD88).

HIGHWAY COMMENTS:

Oella Avenue is an existing road which shall ultimately be improved as a 20-foot street cross section on a 40-foot right-of-way; however, due to the natural and manmade obstructions along this frontage, the required improvements shall be as indicated in the Site-Specific Comments below.

The developer's responsibilities along the existing road frontage of the subdivision shall be as follows:

- a) *The submission of detailed construction drawings to extend a minimum distance of 200 feet beyond the limits of the subdivision or as may be required to establish line and grade.*
- b) *The submission of full cross sections is deemed necessary for design and/or construction purposes. The sections are to be taken at 25-foot intervals and are to be shown on standard cross-section paper at 1"=5' horizontal to 1"=5' vertical scale.*
- c) *The preparation of the right-of-way plat for, and the dedication of, any widening and slope easements at no cost to the county.*
- d) *The preparation of the right-of-way plats for any offsite road right-of-way required to make the necessary improvements.*
- e) *The grading of the widening and the existing road to the established grade. Where adjacent properties are adversely affected by the improvements, the developer shall be financially responsible for the necessary repairs to these properties.*
- f) *The relocation of any utilities or poles as required by the road improvements.*
- g) *The construction of combination curb and gutter in its ultimate location and a maximum of 18.5 feet of paving adjacent thereto along the frontage of the property. The paving thickness shall conform with Baltimore County standards.*

It shall be the responsibility of the developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

Guardrails are required along the public road and/or the storm drain reservation and shall be the developer's responsibility. The guardrails shall be constructed in accordance with Baltimore County standards.

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.

In accordance with *Bill No. 32-72*, street lights are required along all road frontages of subdivisions. The developer will be responsible for the full cost of installation of the cable, poles and fixtures. Along new roads, the county will assume the cost of the power when the roads have been accepted for county maintenance. Along existing roads, the county will assume the cost of power after installation.

Sidewalks are required on both sides of the streets within this subdivision and/or along the frontage of all existing streets including state roads. The walks shall be wide enough to meet ADA standards and be installed to conform to Baltimore County standards.

Screening shall be placed so as to prevent headlights within the parking areas from interfering with the traffic on the adjacent road.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The developer is responsible for the total actual cost of drainage facilities required to carry the storm water runoff through the property to be developed to a suitable outfall. The developer's cost responsibilities include the acquiring of easements and right-of-way both onsite and offsite and the deeding in-fee of said right-of-way at no cost to the county. Preparation of all construction, right-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the county overhead both within and outside the development are also the responsibilities of the developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the developer's responsibility.

The developer must provide necessary drainage facilities (*temporary or permanent*) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result due to improper grading or improper installation of drainage facilities will be the full responsibility of the developer.

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of topsoil.

In accordance with *Baltimore County Council Grading, Sediment Control and Forest Management Ordinance (Bill No. 33-88)*, a grading plan shall be approved and a *Performance Bond* posted prior to issuance of a grading permit. A sediment control plan is required. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

The developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road right-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the *Baltimore County Sediment Control Manual*. Minimum acceptable stabilization measures will be as specified in the *Baltimore County Sediment Control Manual* under "*Critical Area Stabilization (With Semi-Permanent Seedings)*". Failure by the developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

The 100-year flood plain shall be dedicated to Baltimore County in-fee or as an easement, at no cost to the county.

The rear of buildings may not be constructed within 20 feet of the flood plain as established for a 100-year flood level with a 1-foot freeboard. *See Plate D19 in the Baltimore County Design Manual.*

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

In accordance with *Bill No. 18-90, Section 26-276*, filling within a flood plain is prohibited.

The developer is responsible for the cost of temporary structures and measures required in the event of sectional development.

WATER AND SANITARY SEWER COMMENTS:

Baltimore City water comments are attached.

The developer is responsible for the entire cost of any relocation of the existing public water main and/or sanitary sewer, including the preparation and the cost of construction drawings and right-of-way plats required, all right-of-way acquisition and/or release costs and recordation charges.

Permission to obtain a metered connection from the existing main may be obtained from the *Department of Permits and Development Management*.

The developer is responsible for the cost of capping or plugging any existing house connections not used to serve the proposed site.

Permission to connect to (*or to connect additional sanitary fixtures to*) the existing public sanitary sewer may be obtained from the *Department of Permits and Development Management*.

Water and sanitary sewer service connections shall be installed by a utility contractor prior to the road improvements and shall be included in the *Public Works Agreement*.

The total water and/or sanitary sewer system connection charge is determined, and payable, upon application for the plumbing permit, or prior to the execution of a utility or right-of-way agreement.

The determination of the water system connection charges will be predicated on the established relationship using a 5/8-inch water meter at a cost of \$575.00 per living unit. The sewer system connection charge, likewise, is based on a 5/8-inch water meter at a cost of \$875.00 per living unit.

However, living units designed for one bedroom or less, excluding those units designed for one bedroom and den, shall be charged a system connection charge for each unit equivalent to 75% of the minimum charge using the rate for a 5/8-inch water meter.

Water mains outside of public right-of-way serving a proposed site improvement are considered private and shall be the developer's full responsibility for construction and maintenance.

Onsite private water mains with fire hydrants shall be metered at the public source. The size and design of the meters shall conform with Baltimore City standards.

Fire hydrant spacing and location are subject to review and approval by the *Fire Protection Section of the Fire Department*.

The developer shall contact the *Department of Permits and Development Management* at 410-887-3321 for information on obtaining water service where the meter required is less than 3", or the *Bureau of Development Plans Review* at 410-887-3751 for water service requiring meters 3" or larger.

TRAFFIC ENGINEERING COMMENTS:

Confirm and then add this note to the development plan:

- *"Bureau of Traffic Engineering and Transportation Planning" has confirmed that the subject site is/is not within a traffic deficient area.*

All subsequent plans, including record plats, must note that the areas between the sight line and the curb line must be cleared, graded, and kept free of any obstructions.

A traffic impact study has been submitted to, and reviewed by, the Department of Public Works, Bureau of Traffic Engineering.

SITE-SPECIFIC COMMENTS:

Because of retaining walls, steep slopes and other physical constraints, the right-of-way line along the frontage may be determined as 20 feet from the pavement centerline or 30 feet from the opposite right-of-way line, whichever will be less restrictive to the site. The required pavement width is generally shown correctly on the plan as proposed curb and gutter and will be at least 18 feet. Sidewalk will be continuous along the frontage of this site.

Some storm drain work may be needed along with the pavement widening and new curb and gutter.

* * * * *

RWB: DAK
attachment

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

DATE: April 8, 2002

TO: Don Rascoe
Manager

FROM: Janice M. Kemp
House Numbers and Road Names Section

SUBJECT: Oella Mill Property Development Plan
PDM No. I-498

1. Show address, as 880 Oella Avenue and the Mill can remain 840 Oella Avenue.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:

OELLA MILL, L.L.P.
Case No.: CBA-02-137/PDM I-498
and Case No.: 02-412-SPHA

DATE:

November 19, 2002

BOARD/PANEL:

Charles L. Marks	CLM
Melissa Moyer Adams	MMA
Lawrence S. Wescott	LSW

RECORDED BY:

Theresa R. Shelton / Legal Secretary

PURPOSE:

To deliberate the Petition for Special Hearing filed by Oella Mill, LLP to approve a waiver of the Baltimore County Code to renovate a historic structure and a special hearing for a waiver to permit the addition of wooden steps in a floodplain; and all other issues with regards to Oella Mill.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

MOTION FOR RECONSIDERATION

- Legal issues that involved land use
- Was there sufficient evidence presented at zoning hearing to justify the outcome
- issue of traffic that were external issues would be excluded from the internal variance issues
- the development proceeding was held for 5 days
- traffic issues are primary to zoning hearings
- issues of safety, traffic, etc. was addressed extensively in the order
- did the community have ample time to respond to the traffic issues at zoning levels
- all traffic concerns were addresses at development/zoning level
- limitation on parking spaces was considered in zoning
- traffic studies do not need to be reconsidered by the Appeal Board
- if the County feels that there should not be any more development in an area – then there should not be
- people did testify with regards to traffic (generic concerns)
- can not expect the developer to re-route the roads
- Cornelius/Daniels reports discussed

True Copy Test:

ALS
Chairman, County Board of Appeals

- did the zoning commissioner have enough information with regards to traffic analysis
- give deference to expertise
- community had opportunity below to address issues
- Board will only determine with regards to variances within the building

GREATER OELLA COMMUNITY INVOLVEMENT

- Appeal was withdrawn by Mr. Murphy
- Yo-yo Affect / in-out-in
- to permit re-instatement would create chaos
- can not let individual/group come in at end of case and want to let testimony in
- Board is very lenient with hearing times and can not be expected to re-open hearing when witnesses are late and come in after hearing is closed
- Board was correct in not re-opening hearing
- Board is not responsible for in-house conflict with associations

DEVELOPMENT ISSUES

USE OF FIRST FLOOR

- Section 235.A1
- Zoning does permit parking
- Since no qualification in law, first floor could be used for parking
- Is the law self-explanatory?
- There is a "potential" for retail on first floor
- Law does not say that first floor should be reserved for retail
- There is no specific law that first floor has to be used for retail
- There is no commercial or retail in the immediate area

RECREATIONAL OPEN SPACE

- Rec and Parks called PDM for opinion as to whether project was development or renovation
- PDM view was renovation not development
- Decisions should have been made independent of divisions
- if construction; then open space has to be provided for under law
- Section 235.A /A.4 open space ratio is 0.2% of total square ft.
- Section 235.a – unlimited density
- If you apply one section of 235.A – you have to apply all
- In any renovation you have construction
- Building is on historical list

- Patapsco State Park is adjacent
- Trolley trail/rural area
- Was zoning commissioner's interpretation correct in that is considered this a renovation and not construction
- Density was not limited
- Baltimore County has followed the approach that density is not limited.

PARKING

- Parking in residential zone
- parking was used for residence prior to 1988
- Non-conforming use
- Spaces located on other side could be used

RTA REQUIREMENTS (RESIDENTIAL TRANSITION AREA)

- Har Sinia case discussed
- Can not have a RTA without a DR zoning
- RTA does not apply to this site
- RTA does not apply in non-residential; zones

FLOODPLAINE ISSUE

- Oak Hill case cited
- Phase II of Development plan could take care of this issue during this time period
- Developments were approved on basis that County Council would amend on water and sewer
- this is an on-going process
- Monkton case discussed
- Phase I and Phase II discussed
- Section 26-663 – dispute between the Federal government and the County should not hold the project up

ZONING RELIEF - VARIANCE

WINDOWS/PARKING

- Property is unique
- Practical difficulty (traffic-safety)
- Width of isle is due to columns to hold up building
- Historical building can not be altered on outside – windows can not be altered

- building is deteriorating rapidly
- building is currently being used by craft people
- best possible use discussed
 1. retail (splitting up of inside – more traffic)
 2. office (splitting up of inside – generate more traffic)
 3. warehouse (truck traffic)
 4. apartments (best use of building)
- best use of building would be apartments which would add approximate 175-200 people to Oella
- apartment is least offensive of all best use scenarios
- apartments is the only utilization that has been proposed
- people will not be coming and going at the same time (as with offices)
- testimony supports difficulty
- the configuration will generate greatest usage and upkeep
- if you close off windows it will leave one-half of the building is empty

DECISIONS BY BOARD MEMBERS:

CLM - AFFIRM Zoning Commissioner's Order

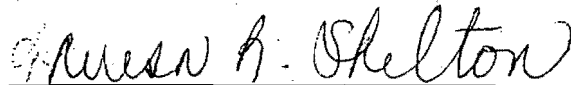
LSW - AFFIRM Zoning Commissioner's Order

MMA - AFFIRM Zoning Commissioner's Order

FINAL DECISION: Unanimous decision by the Board of Appeals to AFFIRM the Zoning Commissioner's Order and that the Opinion by the Board will include floodplain language.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,



Theresa R. Shelton
County Board of Appeals



COMMUNITY INPUT MEETING MINUTES

Development Name: Oella Mills
Location: Westchester Elementary School
District: C1

Date: February 19, 2002
PDM File No: I-498

Donald T. Rascoe, Development Manager for Baltimore County, opened the meeting and described the development process in Baltimore County. He then introduced Jeffery Glazer, an architect with Kann & Associates, architects with the project. Mr. Glazer then introduced Jon Wallenmeyer, vice president of east coast development for the Forest City Residential Group, contract purchasers of the property. Mr. Glazer also introduced Robert Hoffman of Venable, Baetjer and Howard, attorney for the project, Mickey Cornelius from the Traffic Group, traffic consultants for the project and Charles Main, representing the engineers and land planners for the project, DAFT McCune Walker, Inc. of Towson.

Mr. Glazer stated the project was for the renovation of the existing Oella Mill on Oella Avenue in southwest Baltimore County. He pointed out the existing features of the property, including the location of the loading dock, which will be converted to a drop off point for persons exiting and entering the building. The access points to the property will be retained as part of this new development. No new entrances will be added, but the existing ones will be modified. There will be first floor parking in the building and the existing surface parking on the site will remain, but be re-configured.

He said he and representatives of Forest City, developers of the project, have been meeting with representatives of the Oella Community Association on a monthly basis. Mr. Glazer pointed out Jay Patel, president of the Oella Community Association in the audience. Mr. Patel then introduced members of his association who have been involved in the meetings.

Mr. Glazer stated the conversion of the existing mill to residential units will create 171 units in the main building and four units in what used to be the power plant for the mill, for a total of 175 units. There will be 110 parking spaces on the first floor of the building and 145 surface parking places on the existing lot.

The renovation of the building will include cleaning and repairing the windows and generally

Mr. Glazer then opened the floor to questions.

A resident asked what county agencies and community representatives Mr. Glazer's group has been meeting with regarding this project. Mr. Glazer stated the county representatives who review the plans as well as the Oella Community Association. A representative of the merchants in the existing mill stated they would like to be kept informed of the discussions with the developer and the Oella Community Association. Mr. Patel stated he would be in contact with them.

A resident asked if the developer believes he can demand as much as \$3,000.00 in rent for units in this area. Mr. Wallenmeyer stated marketing studies have been done that give him confidence the units can be rented at that price. His company owns 36,000 rental units across the United States and has done similar, large projects such as this before. His company has done "high end" historic renovations before and referred to large projects in Richmond, Philadelphia and Denver. People who will be renting this property are "renters by choice." These individuals could afford home ownership, but choose to rent properties. A resident asked what would happen if they can't rent the units at the proposed rates. Mr. Wallenmeyer stated they would do the best they can. He said this project will be market driven and he believes he can achieve the projected rents.

Some residents stated they believe the rents were too high and above market value. Mr. Wallenmeyer stated the units would rent for approximately \$1.60 per square foot per month. He said many of the units would rent for much less than the \$3000 per month that has been mentioned. A resident asked about the developer's due diligence phase of the process. Mr. Wallenmeyer stated they are in that phase now.

A resident asked if the parking for the new units would be gated. Mr. Wallenmeyer stated he is leaning towards not gating the parking areas and not fencing the property at this time. A resident asked about the parking requirements for this project. Mr. Glazer stated 1.25 parking spaces is required for each unit without an enclosed bedroom (studio apartment) and 1.5 parking spaces for each unit with one or two enclosed bedrooms. Mr. Wallenmeyer stated he would build as many parking spaces as is feasible on the site. Mr. Wallenmeyer stated he believes the 257 parking spaces proposed will meet the needs of the residents of the units and their guests.

A resident asked how the developer would be complying with requirements for recreation and parks. Mr. Glazer stated they are in discussions with recreation and park representatives about their requirements and they will address this at the time the development plan is submitted.

A neighbor asked if any variances would be needed to complete this job. Mr. Glazier stated some variances may be requested. Mr. Rascoe pointed out that if zoning variances requiring a public hearing are required; that hearing can be done at the same time as the development plan is considered by the hearing officer.

A resident stated he is concerned about the environmental impact of this project. Mr. Glazer stated Baltimore County's Department of Environmental Protection and Resource Management (DEPRM) has reviewed the concept plan and will review the development plan, when submitted. He said the existing environmental buffers will remain and no trees need to be removed for this project.

A representative of the community asked if a traffic study has been conducted. Mr. Glazer

Page 3

A resident expressed a general concern for traffic in the area stating the roads are too narrow for this project.

A resident asked how the developer is going to preserve the quality of life for the existing residents. Mr. Wallenmeyer stated they have a concern for the safety of the area and seek to renovate the existing historic mill building. He said they have met with representatives of the Department of Public Works to discuss the feasibility of sidewalks and how to enhance pedestrian traffic around the site. Mr. Glazer called the old mill building a "jewel of a building."

A resident asked if there would be a health club in the facility for use by the residents. Mr. Wallenmeyer stated a health club facility is being proposed.

A resident expressed concern for the 16-foot wide roads in the area. He wanted to know if the roads would be widened or possibly made one-way. Mr. Glazer stated the county traffic-engineering group and other public works representatives would review the plan and comment on any changes or improvements.

A questioner asked if a pedestrian walkway is being proposed along the river frontage of the property. Mr. Wallenmeyer stated he is considering the possibility of such a walkway.

A resident asked if Mr. Wallenmeyer's company is proposing to acquire additional property in Oella to further expand. Mr. Wallenmeyer stated he was not aware of other property to acquire.

In response to a question, Mr. Wallenmeyer stated there is no chance these rental units will turn into federally subsidized units. He said a project similar to this in Richmond, Virginia, called "Tobacco Road" was projected to command rents of \$1.05 per square foot per month and are actually getting \$1.35 per square foot per month.

A resident in attendance stated she drove to Richmond last weekend to visit the Tobacco Road project and found it to be a "classy project, one she wouldn't mind living in if she didn't need the homeownership tax credits."

A resident asked how long the construction phase of this project would take. Mr. Glazer stated it would take 12-18 months to complete the project. He said workmen at the site would work reasonable hours as not to disturb the community early in the morning or late at night. He said he would work with the community to come up with reasonable time frames.

A resident asked about the parking area on the north side of the building. Mr. Glazer stated they are still evaluating that issue, but the parking will not be above the existing Oella Avenue grade and the parking will not be covered.

A resident asked for a prediction as to the amount of traffic that this project will generate. Mr. Glazer referred residents to the traffic study, which will be submitted to the county for review and will be provided to Oella Community Association representatives. He said the average daily trips would be approximately 1100.

Other community representatives raised issues of the capacity of Oella Avenue to handle this project and the overall density of the project. Others raised issues of guest parking.

Other representatives voiced support for renovation of the mill building and want to see it completed.

A resident asked Mr. Wallenmeyer to compare the Oella Mills proposal to a list of 48 federally subsidized housing projects shown on the Forest City website. Mr. Wallenmeyer stated that this project is nothing like those projects. He said some of those projects were acquired after they were built. Oella Mills is a high-end project and there will be no federal subsidy other than monies made available for historic renovations, which are more expensive than scratch built projects.

A resident of Rockwell Avenue, off-site from this project, stated he was concerned about the traffic that will be generated by this project and its effect on his neighborhood.

In response to a question, Mr. Wallenmeyer stated the property will not be fenced and that there will be no reserved parking spaces for the tenants. He said they are looking at ways of resolving parking concerns for both existing property owners and new tenants.

A resident asked for a breakdown of units being proposed and Mr. Wallenmeyer stated there will be 71 studio apartments (no enclosed bedrooms) and 104 units with one or two enclosed bedrooms.

A resident asked when the developer expects to submit the development plan that will go before the hearing officer. Mr. Glazer stated that plan should be submitted within two weeks.

Mr. Wallenmeyer was asked if the proposed health club will be available to residents other than mill tenants. Mr. Wallenmeyer stated he would make that a consideration.

A resident expressed concern that the flood plain shown on the concept plan was inaccurate. Mr. Glazer stated they will work with Baltimore County environmental and public works representatives to show the limits of the flood plain accurately and consistent with the Federal Emergency Management Administration (FEMA) maps.

A resident asked if they would be provided a copy of the development plan when submitted. Mr. Rasoce stated those persons who signed on the sign-in sheet will receive a copy of the development plan submitted for review and notification of the time, date, and place of the public hearing before the hearing officer.

A community representative stated he was concerned for the traffic that presently exists in Ellicott City (Howard County) and asked if there have been discussions with Howard County representatives about this project. Mr. Glazer stated they have not met with Howard County government officials, but have met with Ellicott City representatives.

A resident asked if height would be added to the existing power plant building. Mr. Glazer stated it might be raised 2-4 feet, but not substantially.

A question was asked about privacy screening around the mill building. Mr. Glazer stated a low privacy screening of 42-48 inches would be used.

A resident stated he believes a community plan was approved by the Baltimore County Planning Board and Baltimore County Council. Mr. Main stated he was not aware of any community plans, but would follow up with the Office of Planning.

A resident asked Mr. Wallenmeyer to describe the demographics of this project. Mr. Wallenmeyer stated their experience has shown a development of this type will not include a large

A resident asked if the sale of the building is complete. Mr. Wallenmeyer stated the sale is contingent upon approval of a development plan.

A neighbor asked if the developer is looking at other sites. Mr. Wallenmeyer stated he is looking at other sites in Virginia, Philadelphia and Florida.

A resident asked Mr. Wallenmeyer to give his best sales pitch for this project to the community. Mr. Wallenmeyer stated it will be a first class facility, it will have long-term owners, and Forest City representatives will work with existing residents to make the project a part of the Oella community.

A community representative spoke of an existing S curve on Oella Road and expressed concern about accidents at that location and concern for general safety for all residents who use the road.

A resident stated she believes the building can be renovated, but believes the area is too small to support this size use.

A resident expressed concern for landscaping to be used at this facility and another resident expressed concern for the businesses that will be displaced when the mill renovation begins. Mr. Rascoe suggested existing businesses in the mill building should contact the Baltimore County Department of Economic Development to see if any programs exist that might assist displaced businesses.

In response to a question, Mr. Wallenmeyer stated the developer would apply for federal tax credits that are available to any developer doing renovation of existing historic buildings.

A resident asked if the hearing dates will be published. Mr. Rascoe stated the hearing dates will be published on the Baltimore County web site (www.co.ba.md.us) as well as in local media such as the **Catonsville Times**.

A resident expressed concern for access to the facility by the Baltimore County Fire Department. It was pointed out that the fire department presently has access to the facility.

A resident asked if a new community association would be created for the new residents or if they would be joining the current homeowner's association. Mr. Wallenmeyer stated that in new projects such as this, the residents would join existing associations.

In response to a question, Mr. Glazer stated public water and sewer services are already available to the existing building and no new infrastructure would be needed. He said the existing capacity is available without causing negative impact to existing services.

An existing resident pointed out that a coal train passes through the area each day at 4 AM which could cause disturbance to new tenants.

A resident expressed concern for the density of the new project. Mr. Wallenmeyer stated the average one bedroom unit would have 800-900 square feet of living space.

A follow-up question asked how many people would likely live in the facility. Mr. Wallenmeyer stated those one-bedroom units usually house one person and two bedrooms can accommodate two

A resident asked about the potential increase in crime. Mr. Wallenmeyer stated the demographics would suggest low crime rates. He said a resident-manager would be on the site at all times.

A resident expressed concern for guest parking if and when each unit held a party at the same time. Mr. Wallenmeyer stated that was unlikely and that he believes guest parking will be adequate.

In response to a question, Mr. Wallenmeyer stated construction could begin by fall 2002.

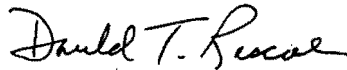
A resident asked if there was an appeals process. Mr. Rascoe stated appeals of the hearing officer's decision could be made to the Baltimore County Board of Appeals and ultimately through the court system.

A resident expressed concern for water run-off. Mr. Glazer stated the developer would work with agencies of the county to meet regulations.

A resident expressed a general concern for the potential for change of what she called the "uniqueness" of Oella.

With no further questions, Mr. Rascoe described the development process from this point forward and adjourned the meeting at approximately 9:30 PM meeting.

Respectfully submitted,



Donald T. Rascoe
Project Manager

c: Hon. Samuel S. G. Moxley, County Council, M.S. 2201
Dev: Forest City Residential Group, 5803 Nicholson Lane, North Bethesda, MD 20852
Eng.: DMW, Inc., 200 E. Pennsylvania Avenue, Towson, MD 21286

Reviewing Agencies: OPZ, PDM, R&P, DPR, DEPRM, EDC, CDC, Bd. of Ed., Fire, SHA- Please distribute as necessary within your agency.

Contact Persons

The following persons will receive a copy of these minutes and be notified of the time, date, and place of the Hearing Officer's Hearing.

Henry Berger
734 Pleasant Hill Road
Ellicott City, MD 21043

Andrei Trach
8404 North Point Ct.
Bowie, MD 20708

Some current
Conditions in the
Auto Mill.



COPIES OF LETTERS AND
NOTES TO THE EDITOR

393
2/15/62

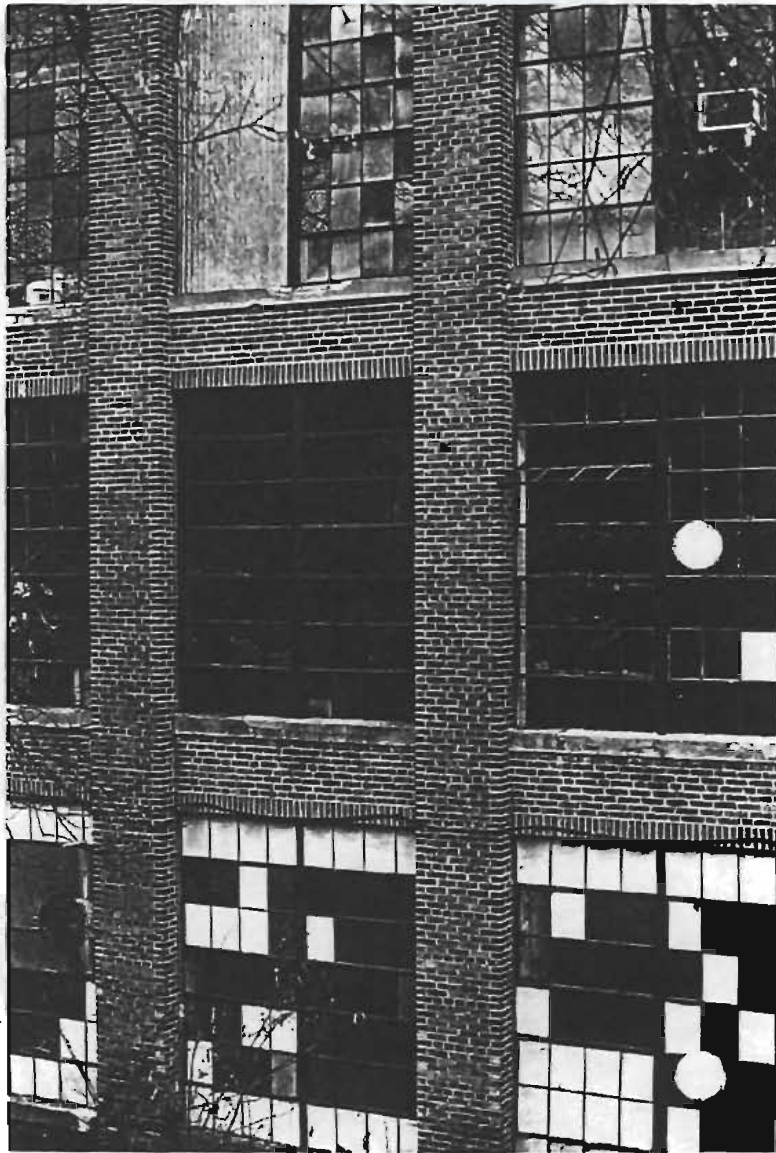


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2/15/02

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2/15/02



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COMMUNITY INPUT MEETING

Development: Oella Mill

Date: 2-19-02

Place: Westchester

Attendance Record

Name	Address	Zip	Phone
------	---------	-----	-------

* R. Kent Adams	778 Hollow Road	21043-4718	410-750-0766
* Marjorie Valin	840 Oella Ave / FRANK + ASSOCIATES	21043	410-203-1228 x 22
* EDWIN H. THOMAS III	2205 Rock Haven Ave	21228	443-324-0559
* JOHN COTTELL	2313 Westchester Ave	21228	410-465-4506
* Rigi Gochel	1013 Lillian Lane	21043	410-465-0662
* James Pettit	1010 Oella Ave	21043	410-203-2535
* Curtis Rose	873 Oella Ave	21043	410-750-3025
* Heather Zahn	875 Oella Ave	21043	410-480-0606
* Don Horowitz	795 Hollow Rd	21043	410-418-5305
* Ken McNaughton	3778 College Ave EC	21043	410-418-9340
* DENNIS BURNS	715 RACE RD. ELICOTT CITY, MD	21043	410-480-0432
* ROBERT SHUGARS	739 Hollow Rd	21043	410-418-5163
* Pam Philip	2407 Westchester Ave	21043	410-203-9369
* JIM LOBELL	2409 Westchester Ave	21043	410-480-3928
* R. Hamlet	720 Oella Ave	21043	410-480-0074
* Pamela DeAngelis	603 Pleasant Hill Rd	21043	410-750-3659
* Jill Johnston Price	604 Pleasant Hill Rd	21043	410-750-1436
* AL Granger	2401 Westchester Ave	21043	410-203-1113
* Oswald	2212 Westchester Ave	21228	410-411-1111

HOH additions 4/9/02

Ellicott City, MD 21043

Ellicott City, MD 21043-4729

Charles Wagandt
803 Oella Avenue
Ellicott City, MD 21043-6076

Historic Oella Partnership
519 N. Charles Street
Baltimore, MD 21201

Robert & Lisa Bote
879 Oella Avenue
Ellicott City, MD 21043-4729

Christopher D. Harshman
877 Oella Avenue
Ellicott City, MD 21043-4729

Heather L. Zahn
875 Oella Avenue
Ellicott City, MD 21043-4729

Alfred C. Roe
873 Oella Avenue
Ellicott City, MD 21043-4729

Andreas O. Walter
Rachel Merritt
871 Oella Avenue
Ellicott City, MD 21043-4729

Oella Homeowners Assoc., Inc.
P.O. Box 0802
Ellicott City, MD 21041-0802

Gregory & Lorena Green
755 Oella Avenue
Ellicott City, MD 21043-4727

Wendy A. Wyatt
Bruce L. Elliott
720 Mary Jo Way
Ellicott City, MD 21043

Alexandra C. Clark
783 Oella Avenue
Ellicott City, MD 21043-4727

John & Deborah Cartney
716 Oella Avenue
Ellicott City, MD 21043-4728

Mark K. Ford, Jr.
714 Oella Avenue
Ellicott City, MD 21043-4728

Regina M. Frank
Alan F. Stubbs
718 Oella Avenue
Ellicott City, MD 21043

Rita J. Hamlet
720 Oella Avenue
Ellicott City, MD 21043-4728

Scott A. Sandler
749 Oella Avenue
Ellicott City, MD 21043

W. Scott McClurg
753 Oella Avenue
Ellicott City, MD 21043

Matthew G. Hershfeld
755 Oella Avenue
Ellicott City, MD 21043

Kimberley J. Parr
757 Oella Avenue
Ellicott City, MD 21043-4727

Joanna M. Finnel
759 Oella Avenue
Ellicott City, MD 21043

Kelly G. Reeves
Gavin S. McPhail
744 Oella Avenue
Ellicott City, MD 21043-4728

Kristen Van Zandt
746 Oella Avenue
Ellicott City, MD 21043-4728

Mark & Sandra Johnson
750 Oella Avenue
Ellicott City, MD 21043

Rachel A., Gordon E. & M. Suzanne
Merritt
752 Oella Avenue
Ellicott City, MD 21043

Joan McClurg

Stephen W. & Sheri L. Cohen

Frank M. Callahan

Nora Rogers & Matthew Day
508 Oella Avenue
Ellicott City, MD 21043

Anne Altemus
774 Oella Avenue
Ellicott City, MD 21043

Alexandra Clark
783 Oella Avenue
Ellicott City, MD 21043

Catherine Jones
431 Oella Avenue
Ellicott City, MD 21043

Cheryl Jones
432 Oella Avenue
Ellicott City, MD 21043

Frank S. Yensan
2414 Rockwell Avnue
Catonsville, MD 21228

Gavin McPhail & Kelly Reeves
744 Oella Avenue
Ellicott City, MD 21043

Leslie Lewart
755 Hollow Road
Ellicott City, MD 21043

Jim Odgers
840 Oella Avenue
Ellicott City, MD 21043

Anne Kernan
789 Hollow Road
Ellicott City, MD 21043

Debbie Cartney
716 Oella Avenue
Ellicott City, MD 21043

Dennis Grove & Patricia Connolly-Grove

Jett Kenebel & Laura Vozzella
945 Oella Avenue
Ellicott City, MD 21043

George & Becky Rhodes
16 Benjamin Way
Ellicott City, MD 21043

Mark Wilson
2642 Westchester Ave.
Ellicott City, MD 21043

Linda Smith
768 Oella Avenue
Ellicott City, MD 21043

Julia Graham
730 Oella Avenue
Ellicott City, MD 21043

Kathy Carpenter
732 Oella Avenue
Ellicott City, MD 21043

Anne Whelan
704 Charles James Circle
Ellicott City, MD 21043

Megan Marcin
792 Glen Ave.
Ellicott City, MD 21043

Liz Fitzsimmons
2820 Westchester Ave.
Ellicott City, MD 21043

Laura Steele
728 Oella Avenue
Ellicott City, MD 21043

Norman Taubenfeld
610 Marianne Lane
Catonsville, MD 21228

Kevin Lockie

5 Cooper Run Ct.
Ellicott City, MD 21043

Robert Bote
879 Oella Avenue
Ellicott City, MD 21043

Anne Chairs
12 Benjamin Way
Ellicott City, MD 21043

Ryan Thomas
2219 Rock Haven Ave.
Catonsville, MD 21228

David Thomas
736 Pleasant Hill Road
Ellicott City, MD 21043

Nancy Pascale
703 Pleasant Hill Road
Ellicott City, MD 21043

Mark A. Clark
109 Oella Avenue
Ellicott City, MD 21043

Bill Knapp
703 Pleasant Hill Road
Ellicott City, MD 21043

Bruce Elliott
720 Mary Jo Way
Ellicott City, MD 21043

Rachael & Andreas Walter
871 Oella Avenue
Ellicott City, MD 21043

Betsy James
438 Oella Avenue
Ellicott City, MD 21043

Steve Schreiner

Brian Stafford
2500 Westchester Ave.
Ellicott City, MD 21043

Andy Phillip
2407 Westchester Ave.
Ellicott City, MD 21043

Rev. W. Veasel
2800 Westchester Ave.
Ellicott City, MD 21043

David Nicolaou
602 Pleasant Hill Rd.
Ellicott City, MD 21043

Janet Miller
777 Glen Ave.
Ellicott City, MD 21043

Mike Nunn
607 Alyia Ct.
Catonsville, MD 21228

Andrew Funk
2637 Westchester Ave.
Ellicott City, MD 21043

Matt Pittroff
701 Pleasant Hill Road
Ellicott City, MD 21043

Joe Pulone
809 Charles James Circle
Ellicott City, MD 21043

Lydia Temoshok
513 Oella Avenue
Ellicott City, MD 21043

Ken Hixon
413 Westside Blvd.
Catonsville, MD 21228

Scott McClung

Anne McLaughlin
1686 Alice Ct.
Annapolis, MD 21401

R. Kent Adams
778 Hollow Road
Ellicott City, MD 21043

Marjorie Valin
840 Oella Avenue
Ellicott City, MD 21043

Edwin H. Thomas, III
2205 Rockhaven Ave.
Catonsville, MD 21228

John Cofell
2313 Westchester Ave.
Catonsville, MD 21228

Rici Yockel
1013 Lillies Lane
Ellicott City, MD 21043

James Pettit
1010 Oella Avenue
Ellicott City, MD 21043

Chris Roe
873 Oella Avenue
Ellicott City, MD 21043

Heather Zahn
875 Oella Avenue
Ellicott City, MD 21043

Don Horwitz
792 Hollow Road
Ellicott City, MD 21043

Ken McNaughton
3778 College Ave.
Ellicott City, MD 21043

Dennis Burns

Robert Snugars
739 Hollow Road
Ellicott City, MD 21043

Pam Phillip
2407 Westchester Ave.
Ellicott City, MD 21043

Jim Lobell
2409 Westchester Ave.
Ellicott City, MD 21043

R. Hamlet
720 Oella Avenue
Ellicott City, MD 21043

Pamela DeAngelis
603 Pleasant Hill Road
Ellicott City, MD 21043

Jill Johnston Price
604 Pleasant Hill Road
Ellicott City, MD 21043

Al Granger
2401 Westchester Ave.
Ellicott City, MD 21043

Mark H. Oswald
2212 Westchester Ave.
Catonsville, MD 21228

John A. Beed
917 Oella Avenue
Ellicott City, MD 21043

Marcia Ames
743 Oella Avenue
Ellicott City, MD 21043

John Handy
2607 Westchester Ave.
Ellicott City, MD 21043

Susie Saunders

Brennan Daley
724 Marianne Lane
Catonsville, MD 21228

Geoff Baker
741 Oella Avenue
Ellicott City, MD 21043

Richard & Barbara Gambrill
1015 Lillies Lane
Ellicott City, MD 21043

Ros Pettit
1010 Oella Avenue
Ellicott City, MD 21043

Todd Chapman
764 Oella Avenue
Ellicott City, MD 21043

Ken Ingels
766 Oella Avenue
Ellicott City, MD 21043

Sue Bassler
2013 Edmondson Ave.
Catonsville, MD 21228

Gail Debaugh
2505 Westchester Ave.
Ellicott City, MD 21043

Russ Hatch
707 Race Road
Ellicott City, MD 21043

Kurt Ordakowski
610 Hollow Road
Ellicott City, MD 21043

Cheryl Duvall-Harden
8374 Chestnut Farm Road
Ellicott City, MD 21043

Kern Stagner

Ernie & Linda Zampelli
10 Benjamin Way
Ellicott City, MD 21043

Clint Gosnell
719 Pleasant Hill Road
Ellicott City, MD 21043

Gerry Mesard
605 Pleasant Hill Road
Ellicott City, MD 21043

Susan Monks
2401 Westchester Ave.
Ellicott City, MD 21043

Richard Pearl
739 Oella Avenue
Ellicott City, MD 21043

J. W. Odgers
112509 Silverbirth Lane
Laurel, MD 21043

Shane Morris
816 Charles James Circle
Ellicott City, MD 21043

C. E. Cates
5687B Harpers Farm Road
Columbia, MD 21044

J. Seiss
Councilman Sam Moxley's Office
M.S. 2201

Karen Hearn
1040 Hull Street, #200
Baltimore, MD 21230

Tom & Ros Cronin
726 Mary Jo Way
Ellicott City, MD 21043

Ron Carter
539 Oella Avenue
Ellicott City, MD 21043

Charles Moxley

Baltimore County Public Schools Pupil Yield Factors by Election District

Elementary School Yields

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Single Family	0.286	0.237	0.180	0.230	0.246	0.246	0.246	0.319	0.156	0.232	0.334	0.117	0.173	0.141	0.236
Townhouse (Sale)	0.136	0.186	0.150	0.266	---	---	---	0.192	0.187	---	0.236	0.281	0.171	0.235	0.285
Townhouse (Rent)	0.444	0.166	---	0.194	---	---	---	0.316	---	---	0.277	---	0.232	---	0.421
Semi-detached	0.192	0.235	---	0.100	---	---	---	---	0.025	---	0.223	---	0.232	0.071	---
Condominium	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005
1-bedroom Apartment	0.000	0.005	0.007	0.014	---	---	---	0.000	0.006	---	0.015	0.000	0.000	0.045	0.017
2-bedroom Apartment	0.030	0.131	0.046	0.116	---	---	---	0.052	0.044	---	0.109	0.103	0.082	0.081	0.122
3-bedroom Apartment	---	0.269	0.135	0.345	---	---	---	0.082	0.048	---	---	0.374	---	---	0.535

Middle School Yields

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Single Family	0.104	0.138	0.124	0.151	0.165	0.165	0.165	0.155	0.065	0.125	0.136	0.034	0.073	0.088	0.071
Townhouse (Sale)	0.035	0.085	0.122	0.131	---	---	---	0.055	0.086	---	0.075	0.170	0.063	0.132	0.142
Townhouse (Rent)	0.206	0.144	---	0.102	---	---	---	0.127	---	---	0.137	---	0.037	---	0.154
Semi-detached	---	0.088	---	0.050	---	---	---	---	0.042	---	0.116	---	0.037	0.071	---
Condominium	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005
1-bedroom Apartment	0.003	0.003	0.002	0.018	---	---	---	0.000	0.002	---	0.000	0.003	0.000	0.030	0.014
2-bedroom Apartment	0.023	0.079	0.008	0.074	---	---	---	0.033	0.018	---	0.040	0.034	0.059	0.051	0.069
3-bedroom Apartment	---	0.228	0.088	0.252	---	---	---	0.092	0.030	---	---	0.200	---	---	0.209

High School Yields

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Single Family	0.102	0.110	0.169	0.215	0.196	0.196	0.196	0.146	0.084	0.157	0.224	0.074	0.095	0.093	0.107
Townhouse (Sale)	0.040	0.092	0.129	0.140	---	---	---	0.090	0.103	---	0.077	0.203	0.068	0.102	0.180
Townhouse (Rent)	0.181	0.094	---	0.167	---	---	---	0.051	---	---	0.141	---	0.037	---	0.094
Semi-detached	0.096	0.235	---	0.000	---	---	---	---	0.092	---	0.161	---	0.037	---	---
Condominium	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005	0.005
1-bedroom Apartment	0.007	0.005	0.002	0.008	---	---	---	0.008	0.005	---	0.000	0.006	0.023	0.015	0.026
2-bedroom Apartment	0.023	0.097	0.043	0.082	---	---	---	0.060	0.024	---	0.040	0.057	0.046	0.066	0.036
3-bedroom Apartment	---	0.252	0.171	0.349	---	---	---	0.225	0.047	---	---	0.311	---	---	0.302

File
copy

MURPHY & MURPHY, L.L.C.

COPY

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

August 20, 2002

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

Re: Notice of Appeal
Development Plan Hearing
and Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412- SPHA

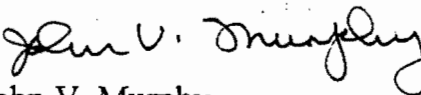
Dear Mr. Jablon:

The Protestants, Greater Oella Community Association Inc, Concerned Citizens of Oella, and Lydia Temoshok, Gregory Brown, Henry Berger, Christen Beed, Dennis Burns, and Lynnette Burns, individually, hereby appeal to the Board of Appeals the final decision of the Hearing Officer/Zoning Commissioner dated August 8, 2002 incorporating the Hearing Officer/Zoning Commissioner's Order of July 8, 2002 granting approval of the requested variances and the Development Plan for this project.

Checks for appeal fees in the amount of \$250.00 and \$385.00 are attached.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

Enclosures

cc: Robert Hoffman, Esq
Peter Zimmerman, Esq.
Protestants

Aug 20 2002

1/28/02

Dear Sir or Madam:

Baltimore County enacted legislation that substantially revised the County's Development Regulations. A Community Input Meeting (CIM) is one of the initial mandatory prerequisites to the development approval process.

The Baltimore County Office of Planning and Zoning requested that you, as a representative of an organization or adjacent neighbor of the property, be invited to the CIM scheduled as follows:

Proposed Development: Oella Mill Property
Location: North and west side Oella Avenue
Meeting Date/Time: February 19, 2002 7:00 p.m.
Meeting Place: Westchester Elementary School Library
2300 Old Frederick Road
Baltimore, MD 21228

The purpose of the CIM is to share our development proposal and development constraints within the context of Baltimore County's regulations and guidelines with you, and to provide a forum for the discussion and possible resolution of community concerns.

The CIM will be conducted by a representative of the Office of Permits and Development Management, Baltimore County, who will record minutes and prepare a list of comments or conditions raised by any party at the meeting. This information will become a part of the permanent file for this development.

The format of the meeting will include our presentation of the enclosed schematic concept plan for the proposed development that is generally in compliance with Baltimore County standards. The concept plan outlines the major features of the development and will be used as the basis for discussion at the CIM. Your participation will assist the county and us in achieving resolution to any development matters that may arise early enough so that we may integrate your concerns into the planning process.

Subsequent to the CIM, a Development Plan Hearing will be scheduled and notice of it posted in accordance with county law before any final decision is rendered by a Hearing Officer on the development. Please understand that no decision regarding the merits of the project will be rendered by the county at the CIM. The CIM simply provides an opportunity for the community to share in the discussion well in advance of the preparation of a Development Plan.

There are several aspects of the proposed conversion of the former Dicky/Ellicott Mill to a 175 unit apartment complex which are troubling. No realistic assessment of a project can be made without specific information regarding certain aspects and details of the project. To that end, answers to the following questions about the project are relevant to making an accurate assessment, whether individual or as a community group.

- 1) When will specific plans of the project be available to the public? These plans should include:
 - a) floor plans for all levels in the mill, depicting areas for living accommodations (including the number of bedroom types and square footage per unit, storage, vehicle parking spaces, etc.;
- 2) exterior site plans showing location of parking spaces (to include any out-buildings used for same);
- 3) an environmental impact statement, to include any past site removals or ameliorations, and any currently needed;
- 4) a traffic study to determine the impact of same on:
 - a) both Oella and the surrounding communities, and
 - b) should include the "quality of life aspects/prospects" of current and future Oella residents;
- 5) amount of open space allocated, and any accompanying accoutrements;
- 6) any historic preservation and renovation planned for the building or the site;
- 7) the exclusion of any office/retail/workshop space in the complex, as per recommendations contained in the "Comprehensive Plan for Oella" (Murphy/Williamis study, approved by the County Council for inclusion in the County's Master Plan, November, 1976);
- 8) specific amounts of any public funds to be utilized, and the government (s) supplying same;
- 9) funding source (s) from the private sector and amount (s);
- 10) future plans for the site upon completion, i.e., conversion to condominiums at some future date, and
- 11) plan (s) to address handling the building and properties, in the event of inadequate occupancy, or other business failure. As indicated, all answers should be quantitative as well as qualitative.

The most important of the above listed items is the quality of life affect which the addition of 175 living units (a potential of 325-350 people) will have on the Oella community. Even at this relatively early stage of the development process, current property-owning residents should be fully alerted as to the potentially deleterious aspects of this project proposal. Only with the fullest cooperation of the developer, the various County agencies and elected County officials involved working in consort with the community, can this project produce an acceptable impact on Oella. At this time, I am not optimistic as to a successful conclusion for the community for the following reasons.

- I) First and foremost, existing County development and zoning regulations do not devolve around a community's "quality of life", not withstanding occasional lip service to the contrary. The bottom line is that we will have to live with the end results of the final decisions of the panoply of County agencies involved.
- II) The developer has already proposed parking spaces in excess of County requirements. Since none of the intersections which provide access to Oella fall into the category of "decayed intersections" (and it is highly unlikely that County Traffic Engineering will conduct its own community survey, but instead will rely on the developer's to identify any existing or potential problems. Any resulting traffic congestion will be addressed only when it becomes intolerable. Experience demonstrates that after-the-fact remedies seldom provide the same protection as exercising the six P's.
- III) Change of the mill's current use to exclusive residential purposes will annually net hundreds of thousands of dollars in tax benefits for the county from several sources: from the higher annual property taxes on the mill building itself, and from the personal income taxes paid by the tenants. Additional peripheral tax gains are generated when the new residents make purchases and use local services, etc.. Not to be morbid but only realistic, an additional tax benefit also includes the final payment made by the tenant (or his/her estate): the death taxes. Again, the bottom line is that Oella residents will probably get short-changed because of the dynamics of the situation; an out-of-state developer with a successful track record in several areas of our state promises to enhance both the local government and the State's tax coffers within the limits of existing County development regulations. It doesn't appear that local resident concerns will have much of a chance against such a formidable dynamic.

In human experience, change is inevitable. There are changes over which we currently have no real control; the weather, aging, and the eventual cessation of our earthly existence. For all else, we can, to varying degrees, take an active part in determining how things go; keep that in mind when it comes time to determine both yours and the community's position regarding conversion of the mill to an apartment building.

R. Kent Adams, a 24 year resident of Oella, at 778 Hollow Road.

Community Concerns & Issues regarding the Oella Mill Development

General

1. What is the projected construction cost?
2. Approximately how long will you be here? in years? 5,10,20?

Traffic & Parking

1. The community is extremely concerned about the proposed 258 parking spaces for the 175 units.
2. Where does overflow parking go? i.e. a resident has a party
3. What will be done about overflow parking from the complex into our neighborhood parking spaces?
4. There is NO on street parking anywhere nearby. Where will the guests of the mill park?
5. Gates are being proposed for the mill parking areas? We are concerned that this will exacerbate the traffic problem. What is Forest City's response to this issue?
6. How will the HOA protect residents parking?
7. Is Forest city willing to increase the number of parking spaces for 175 Units?
8. How accurate is the 1137.5 count of average daily trips mentioned on the concept plan?
9. Has the Traffic study been completed? If so, how soon will the community be able to view it?
10. How does the traffic study influence the permit approval process?
11. How does the existing vehicle traffic factor into the proposed development?
12. What intersections were analyzed?
13. Can the current road adequately handle the traffic from the proposed development?
14. What about the S-Curve and 1012 Oella where 2 cars can barely pass safely?
15. How will Forest city resolve left turn conflicts.
16. From what access point will the vehicles get to the parking within the building? How will that point be modified to handle the increased vehicle load?
17. Will major intersections a slight distance from the property need to be modified? ? i.e. Frederick Road, Westchester Avenue?
18. Will school buses have accessible access to the property?
19. Will the roads need to be widened? How is that possible?
20. Safe pedestrian walkways are crucial to the protection of current and future residents. Will there be new sidewalks? Where?
21. What are the Solutions to Pedestrian traffic with increased vehicular traffic?
22. Will there be painted crosswalks?
23. If traffic & parking is such a big issue here.... Is Forest City willing to lower the number of units in this project? Thus lowering the amount of parking and traffic.
24. If not, Why?

Environment

1. What is the Environmental Impact of this project?
2. Specifically, what Environmental Enhancements will be made?
3. How will the existing topography/grades be affected?
4. This is an Industrial property will all issues such chemical dyes, asbestos, lead paint etc. be dealt with appropriately? Is the EPA or other environmental agencies aware that some of these issues exist? Is Forest City working with them?
5. Will there be any public park/recreation space included in the development?
6. How will the exterior of the Mill be illuminated?
7. Where will the HVAC units be located? How will the noise affect current neighboring residents?
8. Where will the trash area be for the residents? How will the noise from trucks affect current neighboring residents? Will rodent control be an issue?
9. Will there be a storm water management pit required for this development? If so, where will it be located?
10. The currently defined 100-year flood plain according to Baltimore County maps differs from the Proposed concept plan? Why?
11. Will the 100-year flood plain line be changed? Does that affect the insurance of local residents?
12. There was a bridge that connected the mill to the railroad, it was destroyed due to Hurricane Agnes, how do circumstances like this affect a change in the 100-year flood plain?
13. Is there adequate sewage and drainage for the proposed development? Are upgrades necessary?
14. How does the Patapsco Heritage Greenway fall into Forest City's plans?

Architectural Concerns

1. What will be the main entrance to the mill?
2. Will public access be restricted around the mill property?
3. If not, what kind of public pedestrian access will be available around the mill property? And where?
4. Are there any public easement/right of way issues?
5. What kind of gates, walls & security measures will be involved in this project?

Real Estate

1. Will our real estate taxes increase due to this development?
2. Will our property values increase due to this development?
3. Ownership is generally desirable. Why rental properties and not condominiums?
4. Could this development become condos in the future? What would be the timeframe?

HOA

1. Will the mill be included in the HOA?
2. Does Forest City wish to be included in the HOA?
3. How will the HOA property adjacent to the mill be impacted?
4. The HOA has common areas that that dues pay for upkeep and insurance. Will Forest City help to maintain the HOA land if impacted?
5. Will Forest City be willing to contribute to that fund so that their residents can enjoy that space as well?

Mixed Use

1. This has been and continues to be the historic town center. How will this project engage the community?
2. Can the scope/use be changed to incorporate other functions? With a variance?
3. Is it feasible? If not, why?

Quality of Life

1. The fabric of Oella is projected to change due to this project. Currently there is a very strong sense of community, and a certain uniqueness about this area. It has natural, cultural, artistic and historic features that make it special. How will this project improve the quality of life through out the neighborhood? Other than the building will be in much better physical shape?
2. What will happen to the antique/artist/commercial spaces?
3. What is Forest City's view on the Population Change?
4. How will local schools be affected?

Construction

1. How long will construction take to complete the project?
2. Will major utilities need to be upgraded to support this project? How long will it affect us?
3. How much of the existing vegetation/trees will be destroyed during construction?
4. How will sediment control be dealt with during construction?

DRC Related

1. There are community members among us who have been following this project move through the DRC process. There were comments made by the DRC at the Concept Plan Conference as to the 100yr flood plain location, forest buffer, Greenway easement, & various Open Space requirements. How have these requirements been fulfilled? If they are not, how will Baltimore County be able to let this project move forward? Is there some sort of grandfather clause available to this building?
2. The DRC commented on keeping 100 & 150 ft site lines. Where are these sight line locations? Has Forest City been able to fulfill these requirements?

Lastly

1. Of all the issues mentioned above what concerns/input/options are truly viable changes that can be implemented in the development plan from Forest City's viewpoint?
2. Would Forest City be willing on to hold a 2nd CIM so that the people will be able to see how their comments/input have been implemented into to the plans?

**Greater Oella Community Association
2414 Westchester Avenue
Box 13
Ellicott City, MD 21043**

May 1, 2002

Mr. Don Rascoe
Project Manager
111 W. Chesapeake Ave.
Towson, MD 21204

Dear Mr. Rascoe:

As of today we were made aware that an adjacent property owner of the Oella Mill Project was not notified in writing of the pending Hearing Officer Hearing on May 9th and May 10th. We were also made aware that this oversight on the part of the developer will cause the pending Hearing Officer Hearing to be postponed. In fact this property is not listed on the adjacent property owner list on any of the plans submitted by the Forest City Developer throughout this process. The property is located at 780 Oella Ave. and abutts the Oella Mill property line.

We are asking that full and fair consideration be given to this oversight. We are aware of other such oversights in the Catonsville area (Hilltop Development) in which a postponement was granted when all adjacent property owners were not notified properly by the developer. Our understanding is that the developer has a legal obligation to notify all adjacent property owners of all hearings, variances, and community input meetings in writing.

If you need further information please feel free to contact 410-461-3118 or 410-750-2290. Thank you for your prompt attention to this matter.

Sincerely,



Jay Patel, President
Greater Oella Community Association



Kelly L. Chullin-Clark, Zoning Chairperson
Greater Oella Community Association

Cc: Larry Schmidt, Zoning Commissioner
Robert Bowling, Permits & Dev. Management

**Greater Oella Community Association
2414 Westchester Avenue
Box 13
Ellicott City, MD 21043**

May 1, 2002

Mr. Don Rascoe
Project Manager
111 W. Chesapeake Ave.
Towson, MD 21204

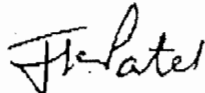
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Kelly L. Chullin-Clark, Zoning Chairperson
Greater Oella Community Association

Cc: Larry Schmidt, Zoning Commissioner
Robert Bowling, Permits & Dev. Management

Ho
5/9**bccdistrict1@comcast.net**

From: "Brendan J Kennedy" <BJKennedy@compuserve.com>
To: <bccdistrict1@comcast.net>
Sent: Wednesday, May 08, 2002 5:16 PM
Subject: Oella Mills

I just stopped by your office in Catonsville for the first time and wanted to mention first of all how helpful Bryan Sheppard was. He talked to me for some time and helped me understand the problem I came about.

The reason I was at your office was to look at the plans for the **Oella Mill** redevelopment project. I have two main concerns. One is about the impact on the stream there with that many people. The other is about the traffic. These are tiny, twisty roads there! I know the traffic consultants say that according to the numbers the roads will be OK as they are. One, I don't believe it; and two, widening the roads later will prove to be near impossible. I assume you have driven through Ellicott City during rush hour. Think about what that is like, and then picture that with another 250 plus cars in the mix. Surely no one thinks they can widen Frederick Road in the historic district. The only solution to this problem is foresight to prevent it from happening. Bryan told me that no zoning system is perfect. He is right about that, which is why it is important for someone to stand up at times and say: "Hey, this just doesn't make sense". The traffic consultants only want to know about numbers, but people that have driven through the area a few times know the story more accurately from a better perspective. I hope you can persuade someone in planning to take a second look at this whole thing.

Thank you for listening!
Brendan J Kennedy
246 Blakeney Road
Baltimore, MD 21228
(410) 744-3661
BJKennedy@compuserve.com

5/9/2002



COUNTY COUNCIL OF BALTIMORE COUNTY

COURT HOUSE, TOWSON, MARYLAND 21204

S.G. SAMUEL MOXLEY
COUNCILMAN, FIRST DISTRICT

DISTRICT OFFICE:
764 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
410-887-0896
FAX: 410-887-1012
COUNCIL OFFICE: 410-887-3196

FACSIMILE TRANSMISSION

Lawrence E. Schmidt
Zoning Commissioner
FAX: 3468

May 9, 2002

TO: _____

DATE: _____

Bryan Sheppard

FROM: _____

Confidentiality Notice:

Unauthorized interception of this telephone communication could be a violation of Federal and State law. The document accompanying this telefax transmission contains confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telefax in error, please notify us by telephone to arrange for return of the original documents to us.

COMMENTS:

This came in today from E-mail last night. Wanted you to have a copy of it as I know you are reviewing the case.

2

This transmission consists of _____ page(s) including the cover page. If there are any discrepancies or problems upon receipt, please contact 410-887-0896.

May 10 2002

Shane G.W. Morris
816 Charles James Circle
Ellicott City MD 21043
Ph 410-203-1803
Email shane@audiotoy.com

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson MD 21204
Room 106

Dear Commissioner

I object in the strongest way to the proposed development, Oella Mill Property.

My objections are based on the following:

1. Schools
2. Noise
3. Traffic

Objective point of view:

I was born in Tasmania, Australia. It is the small island to the south east of the mainland of Australia. It is commonly known as the green island. It is the last stop before Antarctica. The air is clean, the water fresh, and in some areas no human has walked.

There is development in Tasmania, mining, logging, wood-chip, zinc works to name a few industrial areas. Along side this there is a large rural community. Tourists play a big roll in the economy. It has a unique balance that tends to maintain the environment in a natural state. It is a beautiful island.

Here in Maryland and more specifically Baltimore City and Baltimore County over the years there has been a complete disregard for the controlled development of industry, housing and roadways.

I believe that the Oella Mill Property development proposed by Forest City is yet another developmental catastrophe about to slip into our lives. The end result of this being lower property values, traffic congestion and an increase in noise.

To make this even more obnoxious the developers want millions of dollars support from the county to make it profitable.

1. Schools

The proposed number of units is approximately 176, is it possible that 50% of the new tenants have middle school age children? If so, at today's count the Catonsville Middle school would be over crowded by the state guidelines. In more general terms the developers cannot discriminate on the grounds of children. The impact on school facilities in the area should be reviewed. 176 households instantly being built needs adequate area schools for all ages. DO NOT be fooled by the developer's suggested demographic numbers of tenants.

2. Noise

We live on the hill directly southwest of the mill. What concerns me is the increase in noise will be generated by the heat pump / AC units. At the moment the evening noise level is approximately 20dB below the minimum acceptable level for the evening hours (10pm to 7am local time). We live next to a state park. From the Maryland Department of the Environment title 26, the maximum noise at the receiving residential property is 55dBA. This noise level is prosecutable by law. There is also another table in the title that suggests that a noise level of 45dBA is the goal for residential receiving properties. What ever is constructed, the noise will be more than what currently exists, or doesn't as is the case. I refer you to the Maryland Noise Statutes.

Other disturbing noise can be created by late night parties, people shouting there way back to their car, and other associated disturbances that accompany large residential properties.

All of the above will be more than what is in existence now and I do not want to hear any of it.

3. Traffic

Lets not forget the age of some of the roads in Oella. None of the access roads to the development area have consistent curb and guttering. At a point on Oella Ave. immediately adjacent the proposed development the road width is only 15.250 feet. A school buss is 8 feet wide. A 24' moving truck is 8 feet wide not counting the rear vision mirrors, which protrude an extra 8 inches on each side of the truck.

The proposed 176 units may have 246 parking spaces filled with cars. It would not be out of realm of possibility that 120 cars have to leave the property between the hours of 7am and 9am. If there are 176 units the number of moving vans will be one every two days max.

In the morning and afternoon there are school buses. Do we need to go back to a one way Oella Ave to allow the busses to run safely ? I think not.

The following is a summary of the access roads and their condition:

Traveling east on Fredrick Rd. just over the bridge there is no left turn lane to Oella Ave. Traffic backs up over the bridge back into Old Ellicott City.

Traveling east on Fredrick Rd. just over the bridge there is no left turn lane to Westchester Ave. Traffic can get by if the turning vehicle is on the double yellow.

Traveling east on Fredrick Rd. there is no left turn lane to Old Fredrick Rd. There is a double lane.

Traveling east on Fredrick Rd. there is no left turn lane to Oella Ave. Traffic can get by if the turning vehicle is on the double yellow. This intersection is just over a rise and there is a short distance from the crest of the hill to the intersection. Exiting Oella to go east on Fredrick is very difficult because of the crest of the hill.

Traveling east on Old Fredrick Rd. there is no left turn lane to Rockwell Ave. Exiting Rockwell to go east on Old Fredrick you have to encroach the on coming traffic lane to be able to see traffic traveling east on Old Fredrick Rd.

Oella Ave. from Fredrick Rd. has the famous "S" curve that is one way. Following Oella Ave toward the proposed development the roadway is undulating and is sinking on the riverside of the pavement.

Oella Ave has weight restrictions between Old Fredrick Rd. and Westchester Ave.

Westchester Ave is one way near Fredrick Rd. and has a weight restricted one way bridge. There are deep gullies on each side of Westchester Ave.

Hollow road and Glen Ave. both are single lane roads at best.

I think it is clear that the road system around Oella is NOT capable of supporting such a large increase in the type and volume of traffic.

If the mill in Oella was a human heart then we are in for a major coronary heart attack. Forget the traffic study handed in by the developer. It suggests roads of a level nature and an average speed of 33mph (illegal by the way).

Please consider the ramifications of this development in the areas I have presented. I cannot emphasize enough the permanent damage to the area that will occur if this development goes ahead.

Thank you for this opportunity to present my point of view.

A handwritten signature in black ink, appearing to read "Harris", is located at the bottom left of the page.

Oella Mills

To: Mr. Donald Rosco
Design Review Committee

From: Bill Knapp
Nancy Pascale
703 Pleasant Hill Rd.
Ellicott City, Md. 21043

Dear Mr. Rosco,

As homeowners in the community of Oella Maryland my wife and I want to voice our objection to granting Forest City Enterprises a limited exemption from community input toward the development of the Oella Mill. This community was founded well over 100 years ago and the infrastructure was never intended to support the number of homes that already exist in the neighborhood. The intended project would nearly double the number of people and vehicles already using the narrow roads that wind through our neighborhood.

Another concern of ours is that Forest City's plan is to create only 220 parking spaces for 177 apartment units. There is no on street parking in Oella. After the Mill's lot is full, the only parking areas left are private parking lots for the homeowners of the community.

We realize that the developer has only to fulfil the guidelines that the county has set up, but our community was designed before the guidelines were drawn up. Our homes were built on the edge of the roads with no room for widening. We ask that you hold Forest City to a plan that would fit with our century old community and not their present plan that addresses only their bottom line.

Thank You,

Bill Knapp
Nancy Pascale

701 Pleasant Hill Road
Ellicott City, MD 21043
410.203.2803

January 3, 2002

Mr. Donald Rascoe
Development Manager
Baltimore County
Department of Permits & Development Management
111 West Chesapeake
Towson, MD 21204

Dear Mr. Rascoe:

Happy New Year. I am writing to express my concern about a first councilmanic request on the agenda for the January 7, 2002 DRC meeting. The request is for a limited exemption for the THE OELLA MILL project.

As an Oella homeowner, I am concerned about how this project could negatively impact our historic village (which sits on the edge of state park land) - particularly if no community input is required. Specifically, I'm worried about how the development will impact:

- a) vehicle, pedestrian and bicycle safety; and
- b) the ecological health and related water quality of the Patapsco River.

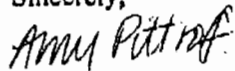
I know that the development company and it's team of architectural and landscape architectural firms are reputable, and that is somewhat comforting. What makes me nervous, however, is the fact that a few months ago, in a presentation given to the Greater Oella Community Association (GOCA), the development team expressed a strong desire to work with the community, yet now, they are quietly seeking a limited exemption.

I realize that change is inevitable. I also believe that there are some developers who truly have the best intentions. I just ask that you and the DRC please consider requiring the developer to involve the existing Oella community (through GOCA and the Homeowners' Association) in the process.

Community involvement will help the County ensure that the historic nature of the village of Oella, the health and safety of its residents, and the environmental richness of the area will be preserved. Please don't shut us out by granting a limited exemption for this project.

Thank you so much for your attention.

Sincerely,



Amy Pittroff

**Greater Oella Community Association
Concept Plan Concerns
January 24, 2002**

1/28/12 - Oella Mills
TO DO
for file
1-498

Oella is centered on an established community of people who choose to live here and partake in the quality of life this community provides. The winding narrow scenic roads and historical properties give an austere sense of living in a one of a kind, get to know your neighbor, small town place. We feel the Oella Mill Development will jeopardize the quality of life and beauty this community has to offer.

The proposed residential development of the Oella Mill has caused a great deal of concern and will create many problems in the community if not closely monitored by your agency. The following outline details those concerns:

ENVIRONMENTAL

Industrial Contamination

The Oella Mill site is an industrial site. When the mill operated as a textile factory, tanks would hold chemical dyes for wool. The dye tanks are located at the southern end of the mill which, according to maps from the Maryland Department of the Environment, is in the flood plain of the Patapsco River. Built into the foundation, the dye tanks are under an area now used as artist studios. Wool would be removed from the tanks dripping with chemical dyes that most likely drained onto the soil and into the river. Residents remember a "rainbow" colored Patapsco River at the Oella Mill Site during this time. Any major construction as proposed by Forest City could easily disturb the soil and any chemicals in the soil.

Patapsco River Flood Plain

According to the maps we have obtained from the Maryland Department of the Environment, some of the construction and parking proposed would occur in the 100 year flood plain. Trees and other underbrush would be disturbed as well.

Erosion/Sediment Control

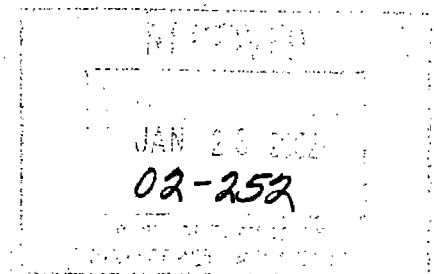
Large-scale development on that pristine area of the Patapsco River could be detrimental to the natural beauty of the river as well as create problems downstream. A great deal of sediment from construction in the area has already taken its toll. Whatever steps can be taken to prevent further erosion damage to the steep riverbank upon which the mill sits.

Asbestos Removal/Lead Abatement

The removal of lead paint and asbestos at this large industrial site over one hundred years old located adjacent to existing residential dwellings needs to be actively monitored.

ZONING ISSUES

Construction



Oella residents are concerned this huge construction project will create a huge impact on the community. Oella Ave. is a two-lane road at best and fire and police vehicles need to be able to access all areas to address safety concerns. Construction noise and containment also needs to be addressed with the close proximity of area residences.

Concept Plan Design & Proposal

The feasibility of the concept plan is of great concern. As a residential development, the community is concerned with 24 hour traffic issues, rental property issues, site construction, parking, environmental etc. This community would like to see the Oella Mill remain a commercial and artistic center for the Oella neighborhood. Forest City does have a commercial development division that should look into the feasibility of a commercial plan. The concept plan does not detail the grades for the parking and any changes made in grading.

PLANNING

Density

The Oella Community is comprised of approximately 820 homes. Adding 177 additional housing units will increase the communities overall density by more than 20%. This does not appear to us as smart growth. The new Westchester Elementary School is already at capacity. A large reduction in units would be advisable.

Rental Properties

If not enough parking is provided we feel the Oella Mill apartments project cannot happen. No one will pay that kind of rent if parking is not available. A large rental community parking area can increase crime in the area such as burglaries, and car thefts. Oella does not have a crime problem now and we need to keep it that way.

Property Values

With the Westchester School and Benjamin Banneker Historical Park Developments, our taxes have increased as high as the tax laws allow over the last five years. More traffic from the mill development will lower property values. The winding road will be more dangerous and it will not be safe for pedestrians with the increased traffic.

ROADWAY SAFETY

Parking

The proposed parking would allot for 258 parking spaces for 177 apartments. Forest City needs to understand that in this area each apartment will utilize at least two spaces.

Forest City is acclimated to developing in urban areas where public transportation and other amenities such as groceries are in walking distance. None of these amenities exist in a safe walking distance from the mill. According to Forest City, the rental price of the units will start in the \$1,400 range for a one bedroom. The proposed apartments would have some of the highest rental prices in this area and will most likely require two people afford the price of one apartment and those two people will most likely have two cars.

354 parking spaces would be necessary or a reduction in units to 110 for the 258 parking

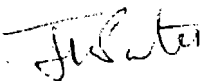
spaces proposed would be advisable. With no room for roadside parking on Oella Ave. for guests/visitors, more than two spaces per apartment would give space for the guest/visitors.

Traffic

Oella Ave. on a good day is a traffic nightmare. Winding narrow roads, pedestrian traffic, no room for road widening, and no sidewalks are issues that need to be addressed. This area needs sidewalks. The 1000 extra trips per day calculated by the Forest City Developers would turn a quiet, scenic road where people walk or ride bikes now precariously into an even more dangerous situation. From the Western end of Oella Ave. to the Oella Mill the road actually has a blind curve at the Granite Hill Inn, where both directions must yield and narrows to almost one lane shortly beyond that.

We at the Greater Oella Community Association ask that you and your department take a careful look at our concerns and ask pertinent questions of Forest City at the Concept Plan Meeting on Monday, January 28th.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay Patel", is written over the printed name.

Jay Patel
President of GOCA

Daniels

PHOTOGRAPHY STUDIO

803 OELLA AVENUE • ELICOTT CITY, MD 21043

(410) 461-2779

February 19, 2002

To Whom It May Concern:

I own a photography business at 803 Oella Avenue. I have been in this location for six (6) years. I favor the proposal to develop the Oella Mill into luxury apartments.


Arvil A. Daniels



The Furniture Solution

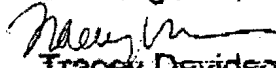
787 Oella Ave ~ Ellicott City, MD 21043
Phone 410 480-1484 ~ Fax 410 418-8545 ~
Email FurnitureSolution@peoplepc.com

February 19, 2002

To Whom it May Concern,

As I am unable to attend the meeting this evening concerning the development of the Oella Mill, I would like to express my support for this project in writing. I have owned a business in Oella since 1997 and understand that its quiet charm is a large part of its appeal. As a former tenant I realize that the Mill is an important part of Oella and is in need of serious repair. I believe the mill can be developed residentially without changing the atmosphere of the neighborhood. Forest City Enterprises is a company interested in preserving the character of the mill and restoring it in a high quality manner; their work in other areas speaks for itself. The residential development of the mill can only improve the quality of life in Oella and benefit all who live and work there. I am highly supportive of this project.

Best regards,


Tracey Davidson

**Memorandum on Mill Development for Community Input Meeting
At Westchester Elementary School – 2/19/02**

My name is Charles Wagandt. My great grandfather, William J. Dickey, bought the mill and the village of Oella at an auction in 1887. The Dickeys ran the mill until 1972, when it was sold along with the machinery. The following year I purchased the company houses and the adjacent land but of course acquired no interest in the mill where I had been employed for many years. I formed the Oella Company and brought in engineers and planners to work for the rebirth of the community.

Meanwhile, Oella gained recognition by being listed on the National Register of Historic Places. After many years of struggle, public water and sewer came to Oella in 1984. I had four objectives in addition to eliminating dependence on wells and outhouses. They were: preservation of the architectural integrity of the streetscape, rehabilitation and upgrading of the housing, sensitive infill development, and a program to make it possible for those mill workers who lived here to continue renting their homes – now with indoor plumbing--as long as they wished at rents affordable to them.

We are approaching the final phase of our restoration and development. The Oella Company has rehabbed most of its houses and subdivided into clusters the great majority of its allowable dwelling units. Town homes have been built in these clusters, enabling a large expanse of open space to emerge. We planned and performed smart growth before the term was being used. But there is one element over which we have had no control, and that is the mill. It is the largest and most prominent structure in the village. The County-financed Murphy-Williams plan of the mid 1970s called for its rehab and upgrading. See the accompanying drawing. This is an objective that I have hoped for many years to see fulfilled. In the process I have met and talked with many developers. Just 1½ years ago a Washington developer explored the project but dropped it because the financial numbers did not work for him. Now Baltimore County has a remarkable opportunity to welcome the investment of \$24 million in the mill by an excellent multi-billion dollar company. Like other developers who have looked at the mill, Forest City Enterprises plans to restore the mill and create upscale, infill housing. This is such a desirable project that many political jurisdictions would provide financial incentives to make it possible.

But, as so often happens in America, many folks love infill housing for other people but not in their back yard. Tonight you will hear a litany of complaints because it is always the opposition that turns out for meetings such as this. Ironically, none of the property owners living in the old mill village would be here if it were not for the housing rehabilitation that has taken place since 1984. Some of the recent arrivals, however, want to stop the evolution of the plan for Oella at the point when they bought their house. They do not want to see trails or any more people. Basically, they have their piece of this community and don't want to share it with anyone else.

Three issues have been raised by those opposed to converting the mill into upscale loft housing: 1) traffic, 2) parking, 3) change in use of the building. As to traffic, there have been comments that the road just cannot take it. It may be interesting for some of the new Oella homeowners to know that until 1972 the mill was functioning as a leading fabricator of woolen cloth. Hundreds of people were working within the confines of the mill around the clock. Tractor-trailers were moving yarn and other material between the Oella mills and three other Dickey operations. Trucks transported wool, oil, dyes, yarns, etc. and carried finished cloth. Salesmen and other business people visited the operations. Obviously, the roads accepted the traffic, traffic far greater than what has transpired since or proposed now.

A traffic study is now underway. I doubt that there will be a meaningful change in traffic generated by the proposed apartments over what was present when the present owners had close to approximately hundred tenants. One of the offices in the mill employed as many as eleven employees. Now the number of tenants has dropped significantly because of the uncertainty of the future of the mill. As to parking, it must meet County requirements. Certainly Forest City Enterprises, the contract purchaser, cannot get the high rents it seeks for luxury apartments if it fails to provide adequate parking for its tenants.

One wonders if traffic and parking are really the issue because there are apartment opponents who have requested Forest City to look at the feasibility of a commercial plan. If the company built 180,000 sq. ft. of commercial in the 200,000 sq. ft. mill, it would require 900 parking spaces and greatly increased traffic. Obviously, that is not practical. Basically, many Oella residents do not want more people living in the community.

Then there is the third issue – change in use of the building. Since its founding in 1808, the mill has produced textiles. Changing market conditions, synthetics, and imports shut the mill down in 1972. After the mill was sold, it became a warehouse that "blight[ed] the riverfront with the parked trucks, stacked crates and other debris which now characterize its operation." That is the way Murphy-Williams described the operation when they wrote their report. Certainly we don't want that to happen again.

Later the current owners bought the building but emptied it in 1988 for a Philadelphia developer that planned upscale apartments. Settlement never occurred because the developer went bankrupt. The current owners then introduced craft shops, art studios, offices, storage, and auto repair. Now the owners would like to sell the mill to Forest City Enterprises, Inc., which has a legal right to develop the building as upscale apartments. Those who oppose want to tell the sellers and buyers what they can and cannot do with their mill even though the plans meet zoning requirements, etc.

How many opponents have stopped to consider what will happen if Forest City is not allowed to develop the mill in a financially viable way? Here are some of the uses that the mill legally can be converted into: more auto repair and racing car businesses, elderly housing, printing plant, subsidized housing, warehousing, incubator businesses, auctions, etc. If a strong, successful firm such as Forest City cannot succeed because of a group of

local opponents, then probably no one can be successful with market rent apartments. A different course would be subsidized housing that would offer a developer housing tax credits in addition to historic rehab credits. This would accomplish my objective of seeing the mill restored and improved. It would also see the mill used for a socially beneficial purpose that may be more difficult for local opponents to stop. Another alternative would be for the current owners to put additional uses in the building and cause traffic and parking problems without any opportunity for the community to express their concern. They can do it incrementally as in the past. This, however, would not restore the building. The current owners have been unwilling to invest substantial amounts of money in the building. Forest City is offering to do that – spend \$24 million to buy and renew the mill for a purpose that would benefit the County and the community. Rather than oppose the development, the community should think in terms of working with the developers to create the best possible facility for everyone. There are issues such as trail/sidewalk systems, HOA (Home Owners Assoc.) land, screening along Oella Avenue, etc., that should be addressed in a cooperative way. Restoration of the mill will eliminate the disimprovements that have intruded on the architectural integrity of the building since the Dickeys sold it. See the accompanying photographs. The mill needs a major investment to restore it. I am convinced that Forest City is the right company at the right time.

Public officials should visit Forest City's apartments on Tobacco Row in Richmond. I have made the trip and been impressed by the quality of the undertaking. Call William E. Harrell, Deputy City Manager in Richmond, who has worked with Forest City. He praises the Tobacco Row project and calls it a "hallmark project." The County should encourage Forest City to proceed. Putting housing in the mill is a winner. This is not only infill development but also a unique situation in which the new housing is encased within an existing structure. The approximately 171 units in the 200,000 sq. ft. building require no excavation for new apartments.

If Baltimore County does not endorse the project, it in effect rejects the policy of smart growth and encourages development of farm land. The Forest City project will gain the County a tax bonanza and a crown jewel in the center of Oella. Let us celebrate the future by restoring and converting the mill in Oella. As one whose family has played an active role in Oella since 1887, I urge support for creating out of the mill a very special and exciting place to which all of us can point with pride.

Charles L. Wagandt
February 19, 2002

Note: I have no financial interest in Forest City and have no contractual arrangement with the company.

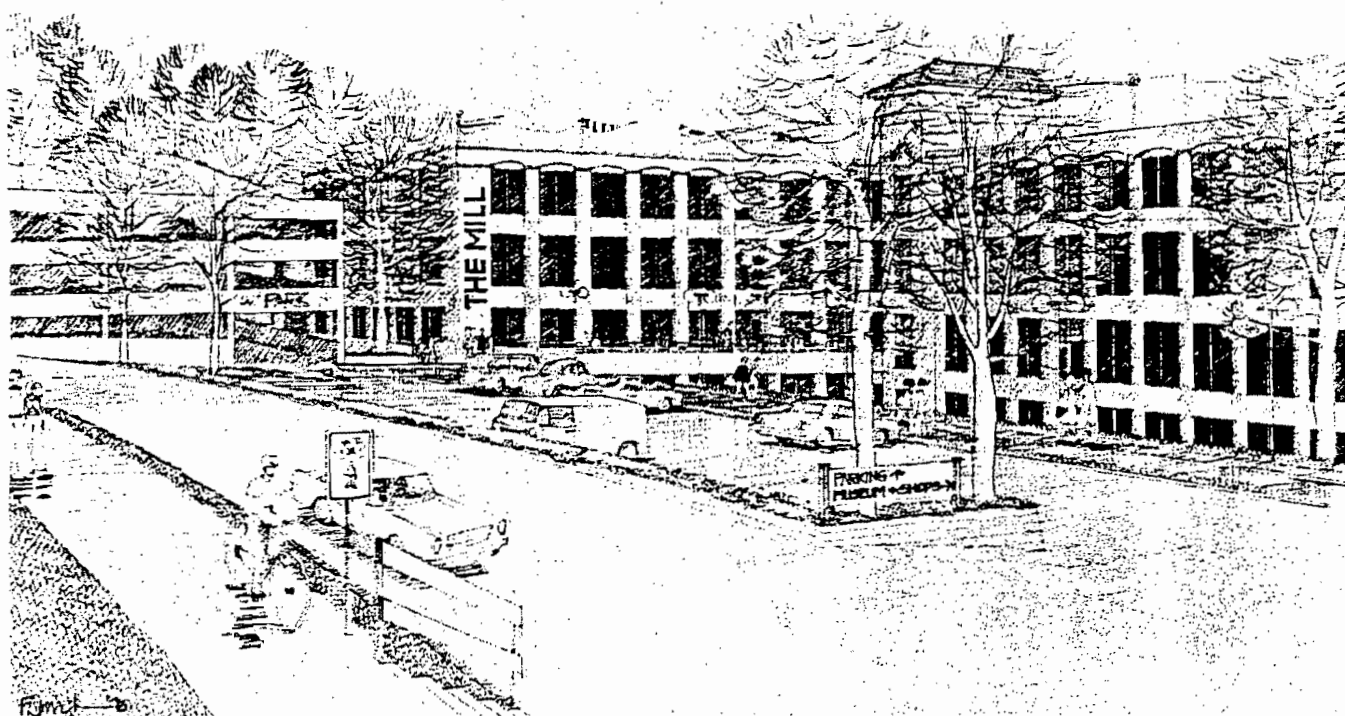


ILLUSTRATION OF POSSIBLE DICKEY MILL RESTORATION

Figure 1

Murphy-Williams Comprehensive Plan for Oella - 1977.



MERIT AWARD

THE RIVER LOFTS AT TOBACCO ROW

Richmond, Va.

AFTER A 20-YEAR, ON AGAIN OFF AGAIN redevelopment, the century-old American Cigar Co. building has a new lease on life.

Home to 171 rental units overlooking the James River, this former tobacco warehouse is now Richmond, Va.'s first large-scale loft project.

Historic tax credits and the conservative nature of the marketplace resulted in some restrictions on the design: The architects were required to keep the exterior intact. "We tried to play off the existing materials," says architect Jeff Henne-

man, who replaced the original 10-foot-by-7-foot arched wood windows with new ones identical in style and proportion. The sophisticated interiors, on the other hand, are modern and industrial, with 14- and 17-foot ceilings, sandblasted exposed brick, and lots of natural stone, wood, and metal. "It's an eclectic look because we wanted to honor the history yet add some modern elements."

The units appeal to singles, couples, and empty-nesters, and rents have set the pace for the Richmond market. Initially priced at \$1 per square foot, the units now go for \$1.35



per square foot and were 100 percent pre-leased months ahead of schedule. — C.W.

Category: ADAPTIVE RE-USE; **Entrant/Architect/Land planner/Landscape architect:** BARTON & ASSOCIATES, PLYMOUTH MEETING, PA.; **Builder/Developer:** FOREST CITY RESIDENTIAL GROUP, BETHESDA, MD. (see page 148)

PHOTOS: JEROME BLESSING



Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*

Mark Clark, *Vice-President*

Jim Lobell, *Treasurer*

Susan Jouan, *Recording Secretary*

Paul Mandl, *Corresponding Secretary*

RECEIVED

NOV 13 2002

**BALTIMORE COUNTY
BOARD OF APPEALS**

5 November, 2002

Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204
FAX 410.887.3182

RE: Request to reinstate GOCA as a Protestant on this Appeal, and to enter into the record the attached vote tallies and Rule 8 documents, Petition for Development Plan and Special Hearing (The Oella Mill Property)
Case nos. I-498 & 02-412-SPHXA.

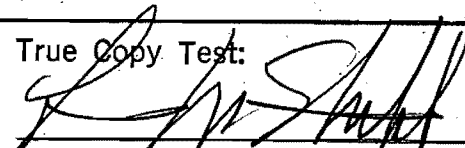
Dear Mr. Marks:

The Board of Directors of the Greater Oella Community Association (GOCA) is deeply concerned by your decision at the October 30 hearing date to not allow testimony by the Association's President, Dr. Lydia Temoshok. GOCA has a right to appear as a party in these proceedings and has been wrongfully excluded. Dr. Temoshok had been authorized by the Board of Directors to represent GOCA's position regarding the Oella Mill case according to Rule 8 (see attached documents). Dr. Temoshok was prepared and ready to testify on October 30 at 1 pm (she had a full and unalterable schedule of patients scheduled at the University of Maryland, Baltimore, but had rescheduled her afternoon patients in order to be present at the hearing).

If allowed to testify, the President would have reported the Association's critical vote on October 28 on four issues concerning the above-referenced case, including the significant majority vote (120 to 78) against the current development plan of the Forest City Residential Group and the strong majority vote (111 to 82) to reinstate GOCA on the Appeal (see attached ballot and vote tallies). It would not have harmed the Petitioners in any way to have GOCA's President present the views of the Association on the proposed Oella Mill development plans, nor would it prejudice the Petitioners to have GOCA back on the Appeal.

In order to rectify this situation in which the voice of an 800-person community association which is intrinsically and centrally involved in any decision concerning the proposed Oella Mill development has been unfairly excluded, we respectfully request that GOCA be reinstated as a Protestant on this Appeal, or at the very least to be recognized as a Party of Interest. We request that affidavits concerning the October 28 vote and Rule 8 documents (attached) be added to the official record and file on the above-referenced case. Because GOCA's President has not allowed to testify, we request that her Proffer be entered into the official record.

True Copy Test:


Chairman, County Board of Appeals

It has been reported to us that the reason given by the Appeal Board for not allowing Dr. Temoshok to testify on behalf of GOCA is that the Association had allegedly withdrawn from the appeal. We would like to point out that at the time of the initial letter to the Board sent by the corresponding secretary on September 18, the membership had not had sufficient time to consider the issue of the appeal, and that a hasty, late-in-the-evening motion where this issue was not on the agenda was considered unanimously by GOCA's Board of Directors *not* to reflect the will of the majority of GOCA members. Indeed, GOCA's Board sent the Appeal Board a letter dated September 26 to be entered into the record, stating that the vote by the 44 members remaining in the meeting was not a representative vote, and was in our opinion, largely the result of members feeling intimidated by statements made in the meeting about a possible "SLAPP" suit against GOCA and its members should GOCA remain on the appeal.

To correct this situation, the Board of Directors decided to call a special meeting of the membership to have an official vote on the questions of whether members were for or against (1) the current plan by the developers for 175 apartments (2) a modified plan of 85 apartments (or something else), (3) reinstating GOCA's name on the appeal, and (4) approval of the Concerned Citizens Action Committee as an Ad Hoc Committee of GCA to deal specifically with zoning and legal issues connected with the Oella Mill. Written materials were sent out to all GOCA members prior to the vote stating positions for and against these questions, (where positions in favor of the developer's plan were elicited from and quoted directly from statements written by Mr. Charles Wagandt.

The Board of Directors is concerned about what seems to be a pattern of arbitrary decisions by the Appeal Board (1) to reject hearing the results of an official vote of the Greater Oella Community Association on Oella Mill development issues, including having its name on the Appeal; (2) to disallow testimony on this vote by the Association's President; (3) to dismiss a letter from the entire Board of Directors indicating that a previous vote by only 44 members was flawed and not representative of the will of the majority of GOCA members, and (5) to ignore the fact of a more valid vote by almost 200 members on October 28 reversing the earlier, flawed one.

We would like to make the further point that the Greater Oella Community Association has over 800 members. Its jurisdiction encompasses the area of the Oella Mill and of the Oella Homeowner's Association (HOA). We are concerned that the Appeal Board has entered into the record the vote of the HOA in favor of the current mill development plan, but that the Board appears to be prejudicially excluding the voice of GOCA, which is the much larger, older, umbrella association. Because all members of the HOA are also *de facto* members of GOCA, it is not a matter of one association having one opinion, and another association having another opinion; *the views of those members of the HOA who are in favor of the current mill development plan are included in GOCA's membership votes, and they are distinctly in the minority.* Thus, if the Board of Appeals is truly interested in having an accurate understanding of the views of the wider community that will be affected by the proposed Oella Mill development, then we would argue that it is necessary to have in the record the official vote by GOCA on October 28 and to give it appropriate weight.

We would appreciate hearing from you at your earliest convenience about our requests.

Very truly yours,

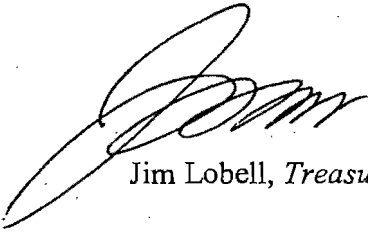


Lydia Temoshok, Ph.D., *President*

home (410) 480-9383; cell (410) 303-5477; office (410) 480-9383



Mark Clark, *Vice-President*



Jim Lobell, *Treasurer*



Susan Jouan, *Recording Secretary*



Paul Mandl, *Corresponding Secretary*

cc: Robert Hoffman, Esq., Peter Zimmerman, Esq., Protestants, Murphy & Murphy, L.L.C.,



Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*
Mark Clark, *Vice-President*
Jim Lobell, *Treasurer*
Susan Jouan, *Recording Secretary*
Paul Mandl, *Corresponding Secretary*

Affadavit Regarding Rule 8

The Greater Oella Community Association (GOCA), formerly the Oella Community Improvement Association, founded April 3, 1974 and incorporated by the State of Maryland on July 29, 1988 as the Greater Oella Community Association is a non-stock, non-religious, non-profit organization.

Resolved: That the position of the Greater Oella Community Association as adopted by the Board of Directors on the zoning matter known as the Oella Mill Development Case (based on an official vote of the general membership on October 28, 2002) is that the Association is (1) AGAINST the current plan of the proposed developer (Forest City Residential Group) to turn the Mill into a 175-unit apartment complex; and (2) IN FAVOR of a modified plan for approximately 85 apartments with the rest commercial use.

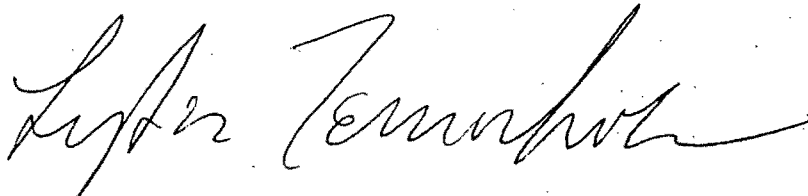
As President of the Greater Oella Community Association and as specified in the By-laws, Lydia Temoshok, Ph.D. is authorized to speak for and represent the views of the Association. Dr. Temoshok has accurate knowledge of the number of members in the Greater Oella Community Association and the geographical limits of the Association.

Responsibility for review and action on all zoning matters are placed on the Board of Directors and the Zoning Committee by an annual election vote of the Association members. The vote this year was June 12, 2002.

In addition, by a Special Membership Meeting vote on October 28, 2002, The Concerned Citizens Action Committee was established and approved by the membership as an Ad Hoc Committee of the Association, to be chaired by Henry Berger III, with the following objectives and duties (1) to assist the Zoning Committee in researching Baltimore County's zoning codes as they pertain specifically to the Oella Mill; (2) to help ensure that any development plan for the Oella Mill adheres to these codes and is consistent with GOCA's by-laws; (3) to raise and disperse funds for legal representation in the process of appealing the developer's current plan to turn the Mill into 175 apartments; and (4) to communicate with appropriate agencies and to discuss any modifications of the 175-unit development plan, as needed, with representatives of Forest City Residential Group.

Thus, by this vote, the Board of Director resolves that, in addition to the President Dr. Lydia Temoshok, Mr. Henry Berger as Chair of the Concerned Citizens Action Committee of the Greater Oella Community Association, is also authorized to speak for and represent the views of the Association in zoning matters concerning the Oella Mill Development Case. Mr. Berger has accurate knowledge of the number of members in the Greater Oella Community Association and the geographical limits of the Association.

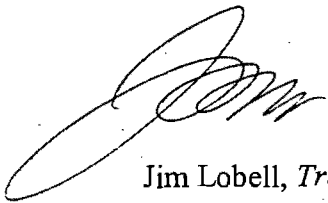
Signed by the Board of Directors of GOCA, November 5, 2002

A cursive handwritten signature in black ink, appearing to read "Lydia Temoshok".

Lydia Temoshok, Ph.D., *President*

A cursive handwritten signature in black ink, appearing to read "Mark A. Clark".

Mark A. Clark, *Vice-President*

A cursive handwritten signature in black ink, appearing to read "Jim Lobell".

Jim Lobell, *Treasurer*

A cursive handwritten signature in black ink, appearing to read "Susan Jouan".

Susan Jouan, *Recording Secretary*

A cursive handwritten signature in black ink, appearing to read "Paul Mandl".

Paul Mandl, *Corresponding Secretary*

Greater Oella Community Association

OFFICIAL BALLOT

October 28th, 2002

Tally of Votes

QUESTION A:

Are you in favor of or against the current plan of the proposed developer (Forest City Residential Group) to turn the Mill into a 175-unit apartment complex?

78

IN FAVOR OF

120

AGAINST

QUESTION B:

If you voted AGAINST on Question A above, then would you be in favor of or against a modified plan, suggested by many GOCA Members, that the number of apartments would be determined by the number of already existing outside parking spaces at the Mill (about 123), making the number of apartments approximately 85?

76

IN FAVOR OF

66

AGAINST

Would you prefer something else? Please describe on the back of this ballot →

MOTION C:

"The Greater Oella Community Association wishes to be reinstated as a protestant in the Petition of Appeal of Forest City's current plan to turn the Oella Mill into a 175-unit apartment complex (or if reinstatement is not accepted, then to be an "interested party" opposed to the proposed development plan)."

111

YES

82

NO

MOTION D:

The Concerned Citizens Action Committee (CCAC) is hereby established as an Ad Hoc Committee of the Association, with the following objectives and duties:

(1) to assist the Zoning Committee in researching Baltimore County's zoning codes as they pertain specifically to the Oella Mill; (2) to help ensure that any development plan for the Oella Mill adheres to these codes and is consistent with Goal #2 of GOCA's By-Laws ("preserving the historical and rural atmosphere of the community"); (3) to raise and disperse funds, through the Special Fund established at the Membership Meeting of June 12, for legal representation in the process of appealing the developer's current plan to turn the Mill into 175 apartments; (4) to communicate with appropriate agencies and to discuss any modifications of the 175-unit development plan, as needed, with representatives of Forest City Residential Group. Henry Berger (long-time GOCA Member who has devoted a great deal of time, effort, and expertise in researching zoning codes and the current development plan) is hereby appointed as Chairman of CCAC.

97

YES

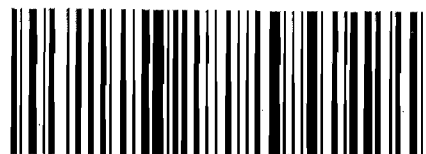
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NO

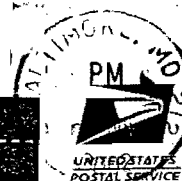


Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

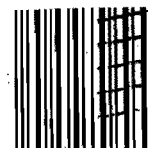
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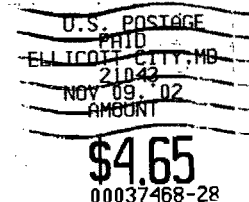
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21204



Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

21204+4821 25





Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, President

Mark Clark, Vice-President

Jim Lobell, Treasurer

Susan Jouan, Recording Secretary

Paul Mandl, Corresponding Secretary

RECEIVED POST-HEARING
DAY ONE

26 September, 2002

Charles L. Marks, Chairman
County Board of Appeals of Baltimore County
401 Washington Avenue, Room 49
Towson, MD 21204

RE: Request to enter this letter into the record, correcting letter sent 18 September, 2002 by Paul Mandl regarding Greater Oella Community Association (GOCA),
PETITION FOR DEVELOPMENT PLAN AND SPECIAL HEARING,
Case nos.: I-498 & 02-412-SPHXA.

Dear Chairman Marks:

The 18 September letter referred to above, which was sent by Paul Mandl, Corresponding Secretary of the Greater Oella Community Association (GOCA), contains several arguable interpretations in its first paragraph. Unfortunately, Mr. Mandl did not clear his letter with the President of GOCA, nor discuss it with any other Board member prior to sending it. The Board of Directors of GOCA held a meeting tonight, 23 September 2002, to discuss how to remedy this situation. The Association Officers, signed below, agreed that the current letter be delivered to you with the request to enter this letter into the record for the above-referenced case.

While Mr. Mandl was authorized to write a letter which reported the vote of the GOCA membership on 18 September, his justification of the outcome of that vote expresses an opinion which was not voted or agreed upon at the GOCA meeting, and which was not authorized to be communicated in any written document. Therefore, we request that the entire first paragraph of Mr. Mandl's letter be struck from the record regarding the above-referenced case.

The action of adding GOCA's name to the Petition for Special Hearing/Variance was and is consistent with (1) the will of a 2/3 majority of GOCA members who indicated in a mail poll that they were 191 to 89 against the current development plan as proposed by the Forest City Residential Group, (2) the results of research by GOCA's Zoning Committee and by the GOCA members known collectively as the Concerned Citizens of Oella, and (3) GOCA's by-laws concerning Goals of the Association which state that "Association policy shall be dedicated to...preserving the historical and rural atmosphere of the community..." (Article I, Section D, Number 2).

True Copy Test:

Chairman, County Board of Appeals

RECEIVED

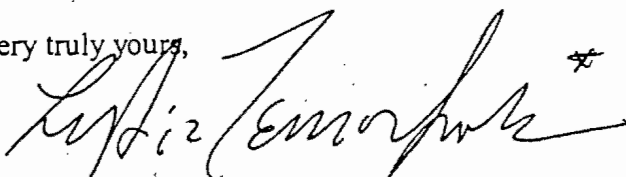
SEP 30 2002

BALTIMORE COUNTY
BOARD OF APPEALS

It was unfortunate that during the September 18 General Membership Meeting of GOCA, a number of statements were made that having GOCA's name on the Appeal would make the Association and even its individual members vulnerable to a "slap suit" or other possible legal action by the developers, and a motion was made to withdraw GOCA from the Appeal. Whether or not these statements were intended to intimidate the members of GOCA from expressing their opinions and views, such statements certainly had the effect of influencing a number of those members left in the room at the protracted meeting to vote (28 to 16) for removing GOCA's name as a Protestant in the above case, as stated in Mr. Mandl's letter. Thus, although a vote to remove GOCA's name was indeed carried, GOCA's Board of Directors feels that this vote (1) does not reflect the will of the large majority of GOCA members; and (2) in our opinion, and based on discussions with a number of GOCA members who were present at that meeting, was the result of GOCA members feeling intimidated by the statements about a "slap suit" against GOCA and its members, should we keep GOCA's name on the Appeal.

In principle, we are certainly not against development of the Mill, nor do we wish to impede the progress of any developers in this regard. For GOCA to support the project, however, we would require a negotiated agreement on size and scope of the project so that it would not damage the historic and rural nature of the community, nor endanger the safety and welfare of Oella's residents, as we feel the currently proposed 175-unit apartment complex would.

Very truly yours,

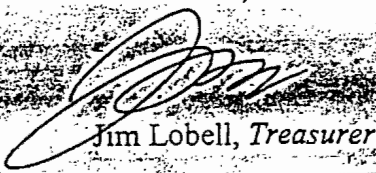


Lydia Temoshok, Ph.D., President

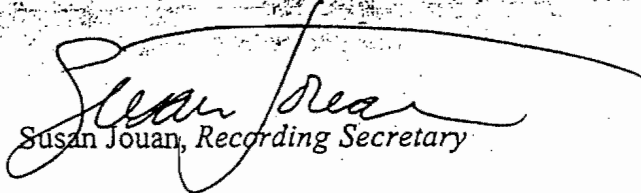
home (410) 480-9383; cell (410) 303-5477; office (410) 480-9383



Mark Clark, Vice-President



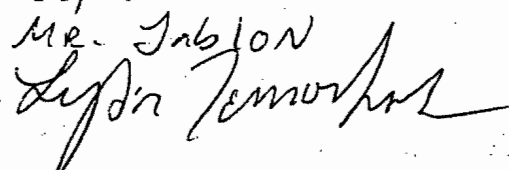
Jim Lobell, Treasurer



Susan Jouan, Recording Secretary



Paul Mandl, Corresponding Secretary

* Original signatures
in letter sent
24 September
to Mr. Jablon


RECEIVED POST-HEARING
DAY ONE

cc: Peter Zimmerman, Esq.



9/23/02
af
Jul 7 appeals

Greater Oella Community Association
2414 Westchester Avenue, Ellicott City, MD 21043

Lydia Temoshok, *President*

Mark Clark, *Vice-President*

Jim Lobell, *Treasurer*

Susan Jouan, *Recording Secretary*

Paul Mandl, *Corresponding Secretary*

18 September 2002

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

Re: Request for Removal as Protestants
Development Plan Hearing and
Petition for Special Hearing/Variance
(The Oella Mill Property)
Case no. I-498 & 02-412-SPHA

Dear Mr. Jablon:

Whereas the Membership of the Greater Oella Community Association (GOCA) has never made formal motions nor taken formal votes to appeal the final decision of the Hearing Officer/Zoning Commissioner in the above case, nor approved of GOCA's inclusion in any other protestants' appeals related to this case; and whereas GOCA's inclusion as a Protestant in the attached Appeal of August 20, 2002, was initiated improperly and without the Membership's approval (as required by our By-Laws); and whereas the Membership, at today's regular Membership Meeting, has specifically voted to remove GOCA as a Protestant from the attached Appeal,

We hereby request that GOCA be removed as a Protestant in the above case, effective immediately.

It is our understanding that the Hearing on the attached Appeal is set for Tuesday, September 24, 2002, and is therefore imminent, and so we respectfully ask for your prompt attention to this request.

If you have any questions about the meaning or intent of this letter, or about the legitimacy of this request, please let me know.

Very truly yours,

Paul Mandl

Paul Mandl, *Corresponding Secretary*
(410) 707-1411
(410) 418-5237

True Copy Test:

[Signature]
Chairman, County Board of Appeals

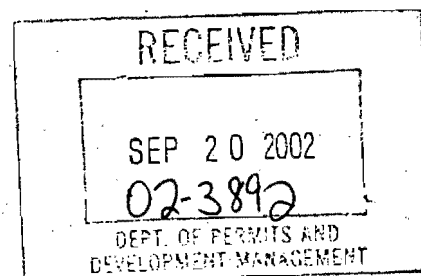
Attachment

cc: Murphy & Murphy, L.L.C.
Robert Hoffman, Esq.
Peter Zimmerman, Esq.
Protestants

RECEIVED

SEP 24 2002

BALTIMORE COUNTY
BOARD OF APPEALS



Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

H:WPWTNOL...

RE: DEVELOPMENTAL PLAN HEARING
AND PETITION FOR SPECIAL HEARING
W/S Oella Avenue, E of Patapsco River,
190' NW of c/1 Oella Hollow Road
(The Oella Mill Property)

1st Election District
1st Councilmanic District

Oella Mill, LLP, Owner
Forest City Residential Group,
Developer

- * BEFORE THE ZONING
- * COMMISSIONER/HEARING
- * OFFICER OF BALTIMORE
- * COUNTY
- * CASE NOS.: I-498 AND 02-412-SPHA
- *
- *

* * * * *

PETITION ON APPEAL

The Protestants, Greater Oella Community Association Inc, Concerned Citizens of Oella and hristen Beed, Henry Berger, Gregory Brown, Dennis Burns, Lynnette Burns, and Lydia emoshok, individually, by John V. Murphy, and Murphy & Murphy, L.L.C., pursuant to altimore County Code Sec. 26-209 (a)(1), and zoning Regulations of Baltimore County Section 01.6 file this petition to accompany appeal to the Board of Appeals regarding the final decision of e Hearing Officer/Zoning Commissioner dated August 8, 2002 incorporating the Hearing fficer/Zoning Commissioner's Order of July 8, 2002 granting approval of the requested variances d the Development Plan for this project. and state:

1. The proposed development exceeds the maximum density allowable in the Business Major one (BCZR 233.1, 230.1), which is limited by the density in the adjoining D.R. 3.5 Zone. The C.C. district regulation (BCZR 235 A.3) is not intended to override the limitation, but rather notes that this regulation does not directly limit density.

2. The proposed development violates the mixed use intent if BCZR 235 A1 that commercial s occupy at least the first floor in C.C.C. Districts, with apartments allowed above the first floor.

3. The proposed development violates the County's recreational space law by failing to vide active open space required under Code Sec. 26-498 (Bill 110-989).

4. The proposed development violates the buffer and setback requirements of the residential sition area (RTA) standards in BCZR 1B01.1B.

5. The proposed development violates the zoning regulations because being partly on land d D.R. 3.5, the developer is required to apply for a use permit for commercial parking in a ential zone (BCZR 409.8) because the primary use is based on the C.C.C. district (BCZR 409.8).

6-12-02

6-12-02

SIGN-IN SHEET

Petitioner's

[illegible]

Case Number

CITIZEN

SIGN-IN SHEET

Revised 4/17/00

5-13-02

PLEASE PRINT LEGIBLY

SIGN-IN SHEET

Revised 4/17/00

Oella Mills
5-10-02

PLEASE PRINT LEGIBLY

~~CITIZEN'S~~ SIGN-IN SHEET

Revised 4/17/00

Case Number _____

PLEASE PRINT LEGIBLY

Oella Mills
5-10-02

CITIZEN'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
JOHN V. MURPHY	14 N. ROLLING RD	BAKTO MD	21228
CHERYL DUVALL	8374 CHESTNUT FARM LN	ELLICOTT CITY, MD	21043
PETER MAX ZIMMERMAN	PEOPLE'S COUNSEL	TOWSON	21204
Gregg Brown	709 Pleasant Hill Rd	Ellicott City	21043
Joseph Kershner	718 Longview Ave.	Westminster	21157
MARCIA AMES	(Catonsville Town) 747	Oella Ave Ellicott City	21043
MARY TAUBENFELD	610 MARIANNE LN	CATONSVILLE MD	21228
NORMAN TAUBENFELD	610 MARIANNE LN	CATONSVILLE MD	21228-4700
XXXXXXXXXX			
LYNETTE BURRAS	715 Race Rd	Oella	21043
Mike Stone	410 West Lombard St. apt 614	Baltimore Md	21201
Cliff Woodruff	803 Oella Ave	Baltimore	21201
Shane Morris	816 Charles Jones Cir	Ellicott	21043
HENRY BERGER	734 PLEASANT HILL ROAD	ELLICOTT CITY	21043
Kelly Clark	109 Oella Ave	Oella MD	21228
Mark Clark	109 Oella Ave	Oella MD	21228

Case Number _____

5-9-02

[illegible]

PLEASE PRINT LEGIBLY

Oella Mills
5-9-02

~~GREEN~~ **GREEN'S SIGN-IN SHEET**
County Agency

Revised 4/17/00

Folder
4

IN RE: DEVELOPMENT PLAN HEARING * BEFORE THE
S/S White Marsh Road, N of Bucks *
Schoolhouse Road (Church Property) * ZONING COMMISSIONER
14th Election District *
6th Council District * OF BALTIMORE COUNTY

St. Peter's Lutheran Church * Case No. XIV-392
of Fullerton, Owners; *
Prestige Development, Inc. *
Contract Purchaser/Developer *

MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL HEARING

Prestige Development, Inc. ("Prestige"), Contract Purchaser/Developer, submits this Memorandum in support of its Petition for Special Hearing and requests the following relief: an amendment to the previously approved Development Plan and Order in Case Number XIV-392 to waive the requirement of Article 5, Division 4, "General Design Standards and Requirements," of the Baltimore County Zoning Code to permit the approved active H.O.A. open space to remain in its current undisturbed condition and be classified as passive H.O.A. open space and that the fee in lieu of providing active local space be waived. Also petitioner asks to permit grades of a portion of the passive open space to exceed 10%.

I. BACKGROUND

In the November 22, 2000 Order, the Zoning Commissioner approved the proposed Development Plan subject, inter alia, to the following conditions:

1. Developer shall be required to pay a fee to the County inasmuch as the open space provided does not meet Department of Recreation & Parks (R&P) standards. This fee shall be determined R&P in accordance with the Adequate Public Facilities Law and the Local Open Space Manual.
2. The Developer shall maintain the active open space and passive open space areas as shown on the Plan in their current, natural state. There shall be no clearing and/or grading of those areas.

*Entered as
examples in
Della*

IN RE: DEVELOPMENT PLAN HEARING	*	BEFORE THE
S/S White Marsh Road, N of Bucks		
Schoolhouse Road (Church Property)	*	ZONING COMMISSIONER
14 th Election District		
6 th Council District	*	OF BALTIMORE COUNTY
St. Peter's Lutheran Church	*	Case No. XIV-392
of Fullerton, owners:		
Prestige Development, Inc.	*	
Contract Purchaser/Developer		

**BALTIMORE COUNTY'S RESPONSE TO PRESTIGE'S
MEMORANDUM IN SUPPORT FOR SPECIAL HEARING FILED JUNE 25, 2001**

The Motion for Reconsideration was filed by Prestige Development, Inc. ("Prestige") on December 27, 2000. The Hearing Officer ruled on December 27, 2000 that:

The Developer shall be required to provide areas of open space acceptable to the Department of Recreation and Parks, in accordance with the requirements contained in the presently enacted Open Space Manual.

The Hearing Officer should uphold his December 27, 2000 ruling as we will explain.

Prestige is prohibited by the Baltimore County Code and the Local Open Space Manual from paying a fee to the local open space account in lieu of dedicating the active open space.¹ Section 26-498 provides for the circumstances when a fee may be paid:

- (d) Unless the development is adjacent to a county or state park, if the residential development contains 20 or fewer dwelling units, an applicant may pay a fee to the local open space revenue account instead of dedicating the first 650 square feet as required in subsection (c)(2) of this section.
- (e) (1) The department of recreation is adjacent to a county or state park, if the residential development contains 20 or fewer dwelling units, an applicant may pay a fee to the local open space revenue account instead of dedicating the first 650 square feet as required in subsection (c)(2) of this section if:
 - (i) the development is located in a CT district, a RAE zone or the development is an elderly housing facility as defined in the zoning regulations or dormitories for the housing of not less than 50 students attending an accredited higher education institution; and

¹The County Council adopted the Local Open Space Manual on February 22, 2000.

IN THE MATTER OF

* BEFORE THE

OELLA MILL/PDM 1-498

* COUNTY BOARD OF APPEALS

Oella Mill LLP - Owner:

* OF

Forest City Residential Group - * BALTIMORE COUNTY

Developer

* Case No. CBA-02-137 and

* Case No. 02-412-SPHA

* October 3, 2002

* * * * *

The above-entitled matter came on for hearing
before the County Board of Appeals at the Old Courthouse,
401 Washington Avenue, Towson, Maryland 21204, at 10
o'clock a.m., October 3, 2002.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF

* BEFORE THE

OELLA MILL/PDM 1-498

* COUNTY BOARD OF APPEALS

Oella Mill LLP - Owner:

* OF

Forest City Residential Group - * BALTIMORE COUNTY

Developer

* Case No. CBA-02-137 and

* Case No. 02-412-SPHA

* October 30, 2002

* * * * *

The above-entitled matter came on for hearing
before the County Board of Appeals at the Old Courthouse,
401 Washington Avenue, Towson, Maryland 21204, at 10
o'clock a.m., October 30, 2002.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

MURPHY & MURPHY, L.L.C.

Attorneys At Law
14 NORTH ROLLING ROAD
CATONSVILLE, MARYLAND 21228-4848
Tel (410) 744-4967
Fax (410) 744-8936

January 9, 2003

Carolyn Peatt
216 Clarendon Avenue
Pikesville MD 21208

Re: Oella Mill Transcript
case no. CBA 02-137 and 02-412-SPHA

Dear Carolyn:

Enclosed please find my client's check for \$700.00 as the deposit to order the transcript of the Oella hearings. I understand from our conversation that day 1 has not been transcribed but involved only argument of the attorneys on the legal issues of the case. I will not need day 1 transcript.

I further understand that testimony began on day 2 and that day and day 3 have already been transcribed. Consequently the cost to my clients is \$1.25 per page for 400 pages or \$500.00 for copies of these two days transcript.

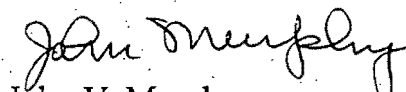
Finally day 4 has not been transcribed and will cost my client \$3.15 per page for 160 pages or \$504.00. The total cost of the testimony transcript will be \$1004.

You were kind enough to give us a further \$150 discount, so that we will owe you \$1004 - \$700 - \$150 = \$154 on completion. I realize that the actual page count may vary somewhat on the last day so that this is an estimate only.

As you know I have 60 days to file the record in this case, so I would appreciate your earliest attention to this matter.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

RECEIVED
FEB 10 2003
BALTIMORE COUNTY
BOARD OF APPEALS

JVM:pam

Enclosures

cc: Lydia Temoshok
H:\WP\WINDAILY\SUVM\Jan03\JAN9.02

True Copy Test:

Chairman, County Board of Appeals

EXHIBIT "A"

IN THE MATTER OF

* BEFORE THE

OELLA MILL/PDM 1-498

* COUNTY BOARD OF APPEALS

Oella Mill LLP - Owner:

* OF

Forest City Residential Group - * BALTIMORE COUNTY

Developer

* Case No. CBA-02-137 and

* Case No. 02-412-SPHA

* October 8, 2002

* * * * *

The above-entitled matter came on for hearing
before the County Board of Appeals at the Old Courthouse,
401 Washington Avenue, Towson, Maryland 21204, at 10
o'clock a.m., October 8, 2002.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE REQ'D.	OPEN SPACE PROP.	AVG. DAILY TRIPS	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS W/O ENC. B.R.	71	88.75						
APARTMENTS/ W/ ENC. B.R.	104	156	258*	0.88* AC.	2.3 AC.	1137.5	N/A	2002
TOTAL	175	244.75	258*	0.88* AC.	2.3 AC.	1137.5		

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED	
X		X		Topography and street grades (min.5 ft. contour appropriately labelled)
X		X		Slopes greater than 25%
X				100 yr.floodplain
X				Soils mapped according to Soil Survey, Baltimore County,Maryland
X				Streams, seeps, ponds or other water bodies shown on site and within 200ft. of site boundaries
X				Wetlands
X		X		Forest buffer limits including adjustments for steep slopes and/or erodible soils
X				Land cover on and within 200ft. of site
	X			Significant regulated plant or wildlife communities
	X			Wells on site and within 100ft. of site
	X			Septic on site and within 100ft. of site
	X			Underground fuel tanks on site and within 100ft. of site
	X			Soil evaluation tests (perc tests) performed YES NO DATE

EXISTING	NOT EXISTING	
X		Locations of existing buildings within 200ft. of site boundaries
X		Location of existing roads within 200ft. of site boundaries
X		Designated historic sites
X		Designated archeological sites
X		Significant views
X		Significant features (specimen trees, buildings, streetscapes, etc.)
X		Land uses on and within 200ft. of site
X		Roads rights-of-way and easements

EXISTING	NOT EXISTING	IN CONFORMANCE	
X		X	Balt. Co. Master Plan 1989-2000
	X		Community or Revitalization Plan(s)
	X		Recreation and Parks Plan
	X		Streetscape Plan
X			Greenways Plan
			Other: _____

Open Space Type	Acres
Active Open Space	N/A
100 yr Floodplain	178 ac
Forest Buffer	0.6± ac
Amenity Areas	N/A
Trails and Connections	N/A
Other	--
Total Provided	234± ac
Proposed Ownership	Private

Undeveloped Areas	Acres
Storm Water Management	N/A
HOA/COA Areas	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 192,637 X 0.2=38527 S.F. OR 0.88± AC

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROPOSED
BM-CCC	5.55 AC	NOT LIMITED	NOT LIMITED	175
DR-3.5	1.18 AC	N/A	N/A	N/A
TOTAL	5.73 AC			175

ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

OWNER: CELLA MILL LLP
840 CELLA AVE
ELLCOTT CITY, MD 21043

DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5803 NICHOLSON LANE
NORTH BETHESDA, MD 20852

TAX ACCOUNT NO:16-00-006700

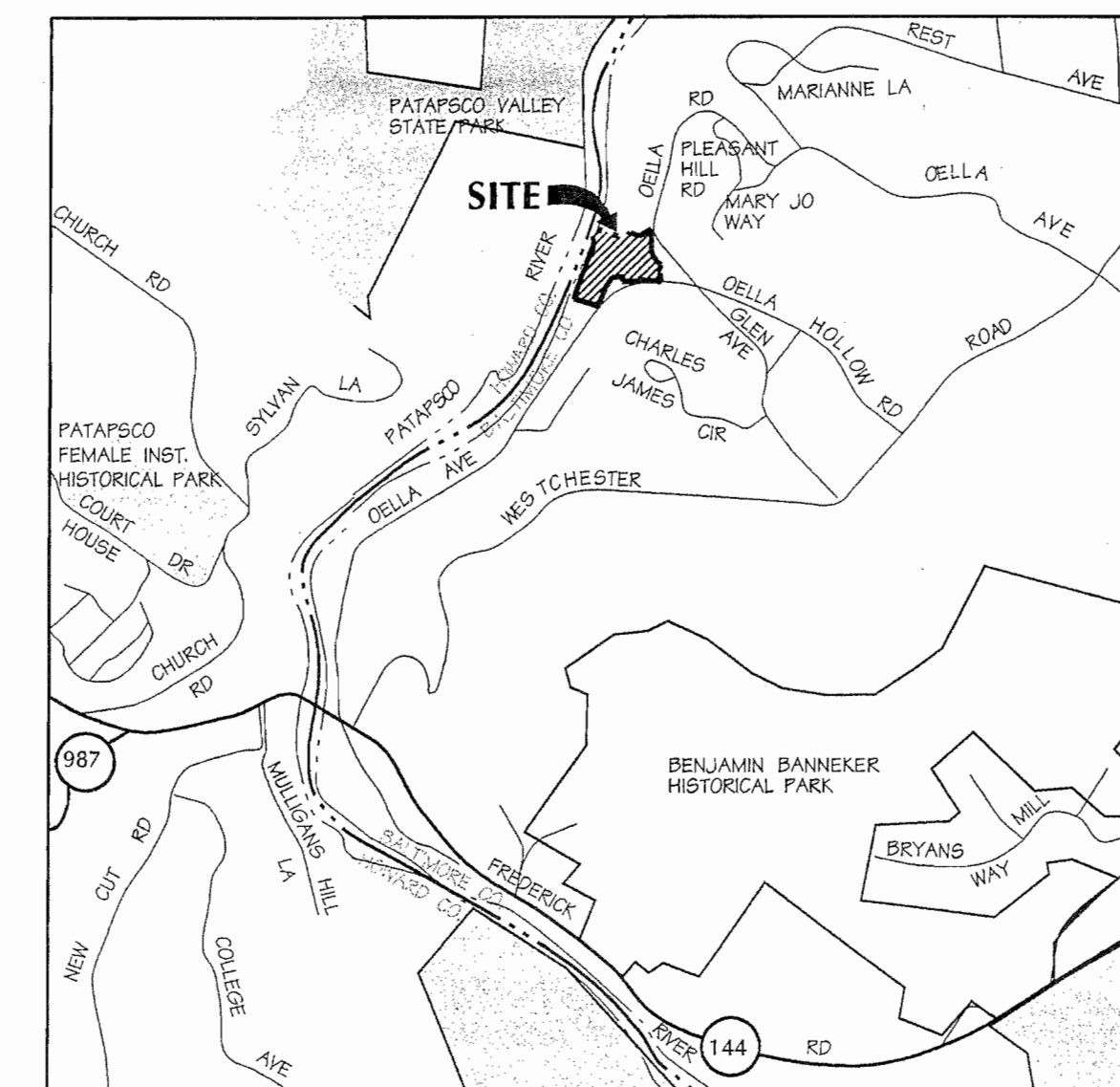
AREA: 5.73 ACRES

ZONING: BM-MCC

CELLA MILL
MARYLAND HISTORIC TRUST INVENTORY NO. 21

The site is in the Celina National Register Historic
Allison are Vine, Manor and Brainards, as shown
the Baltimore County Soil Survey.

Stormwater management will be provided underground
if necessary.



COPYRIGHT ADC - THE MAP PEOPLE, PERMITTED USE No. 20995366

SCALE: 1" = 1000'

 ADJACENT PROPERTY LINE
 SUBJECT PROPERTY LINE

 EX-MINOR CONTOUR (1')
 EX-MAJOR CONTOUR (5')

 EX-CURB/SIDE OF WALK OR PAVEN
 UTILITY LINE (OH - OVERHEAD)
 (UG - UNDERGROUND)
 RIVER EDGE
 EX-RETAINING WALL
 ZONING LINE

 PRELIM. FOREST BUFFER
 25' FOREST BUFFER SETBACK

 PRELIM. 100 YR. FLOOD PLAIN

 EX-FENCE

 EXISTING STRUCTURE

 SURFACE PARKING SPACES

 COVERED PARKING SPACES (RECESSED)

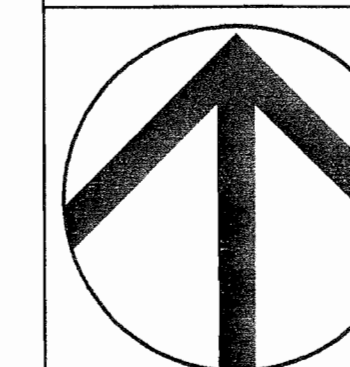
 EX-RAILROAD

1. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTA/SCM SURVEY OF CELLA MILL BY GREENHORNE & OMARA DATED 10/05/01. OFF SITE TOPOGRAPHY SUPPLEMENTED BY DMV FIELD VISIT DATED 11/02/02 AND HOWARD COUNTY TOPOGRAPHY CD, 1993.
2. FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.P.W. DATED 1980.
3. DATUM: MARYLAND COORDINATE SYSTEM, HORIZONTAL NAD 83, VERTICAL NAVD 88.

200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

CONCEPT PLAN
SITE PROPOSAL MAP

BALTIMORE COUNTY, MD



REVIEW: 1/14/02

PERMIT: _____

BASE:

DESIGNED:

DATE CHECKED: 1/

SCALE	18 3
-------	------

SCALE: 1 = 30

PROJECT NO.:	0110
DRAWING:	

DRAWING: 2

2 of 2

OWNER: CELLA MILL, LLP
840 CELLA AVE
ELLCOTT CITY, MD 21043

2. DEVELOPER: FOREST CITY RESIDENTIAL GROUP
5003 NICHOLSON LANE
NORTH BETHESDA, MD 20862

3. TAX ACCOUNT NO.: 16-00-006700

4. AREA: 8.75 ACRES

5. ZONING: BA-GCC

6. COUNCMANING DISTRICT: CENSUS TRACT: 4015.03
7. WATERSHED: PATAPUSCO SUBWATERSHED

8. MARKLAND HISTORIC TRUST INVENTORY NO.: BA 2375

9. THE SITE IS IN THE NATIONAL REGISTER HISTORIC DISTRICT.

10. ALL SOLS ARE MIE, MANOR AND BRANDYME, AS SHOWN ON THE BALTIMORE COUNTY SOIL SURVEY.

11. THE FOLLOWING ZONING RELIEF WILL BE REQUESTED:
SPECIAL HEARINGS:

SPECIAL HEARING TO AFFRIVE A WAIVER PURSUANT TO SECTIONS 26-17L, 26-172(b), 26-203(C)(9), AND 26-275 OF THE BALTIMORE COUNTY CODE TO RENOVATE A HISTORIC STRUCTURE.

VARIANCES:

VARIANCE FROM SECTION 235A(2) OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT PERMANENT WINDOWS FACING A PROPERTY LINE OTHER THAN A STREET LINE TO BE LOCATED AS CLOSE AS 8 FEET IN LIEU OF THE MINIMUM PERMITTED 25 FEET.

VARIANCE FROM SECTION 409A(3) OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT 26 PARKING SPACES TO BE LOCATED SO AS NOT TO ADJORN OR HAVE DIRECT ACCESS TO AN AISLE.

VARIANCE FROM SECTION 409A(3) OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT PERMANENT WITH 20.65 FEET FOR TWO-WAY AISLES IN LIEU OF THE MINIMUM REQUIRED WIDTH OF 22 FEET.

12. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO HAZARDOUS MATERIALS ON THIS SITE.

13. A LETTER OF MAP AMENDMENT (LOMA) WILL BE REQUESTED TO REVISE THE FLOOD PLAIN SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT ASSOCIATION'S (FEMA) FLOOD INSURANCE RATE MAP PANEL # 26060 (275) TO BE ACREE WITH THE 1980 STUDY PROVIDED BY BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS.

14. ALL SIGNS WILL COMPLY WITH SECTION 40.6 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

15. THE FOREST CONSERVATION ACT DOES NOT APPLY SINCE NO FOREST CLEARING OR SUBDIVISION IS PROPOSED.

16. LIMITED QUANTITIES OF ASBESTOS-CONTAINING MATERIALS AND LEAD BASED PAINT ARE PRESENT. CONVERSION TO RESIDENTIAL USE WILL REQUIRE SOME ABATEMENT.

17. ENVIRONMENTAL VARIANCES FOR CONTINUED USE OF EXISTING STRUCTURES AND PROPOSED IMPROVEMENTS IN THE FOREST BUFFER WILL BE REQUESTED.

DWELLING TYPE	PROPOSED UNITS	PARKING REQUIRED	PARKING PROVIDED	OPEN SPACE REQ'D.	OPEN SPACE PROP.	AVG. DAILY TRIPS	PHASE	DEVELOPMENT SCHEDULE
APARTMENTS W/O ENC.B.R.	71	86.75						
APARTMENTS W/ ENC.B.R.	104	156		0.88 ^a AC	2.3 AC	1137.5	N/A	2002
TOTAL	175	244.75	263 ^a	0.88 ^a AC	2.3 AC	1137.5		

ENVIRONMENTAL INFORMATION

EXISTING	NOT EXISTING	FIELD DELINEATED	FIELD VERIFIED	
X		X		Topography and street grades (min 5 ft. contour appropriately labeled)
X		X		Slopes greater than 25%
X				100 yr. floodplain
X				Soils mapped according to Soil Survey, Baltimore County, Maryland
X				Streams, seeps, ponds or other water bodies shown on site and within 200ft. of site boundaries
X				Wetlands
		X		Forest buffer limits including adjustments for steep slopes and/or erodible soils
X				Land cover on and within 200ft. of site
	X			Significant regulated plant or wildlife communities
	X			Wells on site and within 100ft. of site
	X			Seeps on site and within 100ft. of site
	X			Underground fuel tanks on site and within 100ft. of site
	X			Soil evaluation tests (perc tests) performed YES ☒ DATE

EXISTING	NOT EXISTING	
X		Locations of existing buildings within 200ft. of site boundaries
X		Location of existing roads within 200ft. of site boundaries
X		Designated historic sites
X		Designated archeological sites
X		Significant views
X		Significant features (specimen trees, buildings, streetscapes, etc.)
X		Land uses on and within 200ft. of sites
X		Roads right-of-way and easements

EXISTING	NOT EXISTING	IN CONFORMANCE	
X		X	Balto. Co. Master Plan 1989-2000
	X		Community or Revitalization Plan(s)
	X		Recreation and Parks Plan
	X		Streetscape Plan
X			Greenways Plan
			Other: _____

Open Space Type	Acres
Active Open Space	N/A
100 yr Floodplain	1.7 ^a ac
Forest Buffer	0.6 ^a ac
Amenity Areas	N/A
Trails and Connections	N/A
Other	--
Total Provided	2.3^a ac
Proposed Ownership	Private/Public

Undeveloped Areas	Acres
Storm Water Management	N/A
MOA/COA Areas	N/A
Other	--
Total Provided	N/A

AMENITY OPEN SPACE: 192,637 X 0.2-38527 S.F. OR 0.88± AC.

ZONE	ACRES	UNITS ALLOWED	DENSITY UNITS	UNITS PROPOSED
BM-CCC	5.55 AC	NOT LIMITED	NOT LIMITED	175
DR-3.5	.18 AC	N/A	N/A	N/A
TOTAL	5.73 AC			175

ADIACENT PROPERTY OWNERS

LOT NO.	ADDRESS	OWNER	TAX ACCT. NO.	DEED REF.
1	881 OELLA AVENUE	HISTORIC OELLA LIMITED PA FARMERS	012300008127	
2	879 OELLA AVENUE	ROBERT & LISA BOTE		150901266
3	877 OELLA AVENUE	CHRISTOPHER D. HARESHMAN	012300008129	15082776
4	875 OELLA AVENUE	HEATHER L ZAHN	012300008130	149641605
5	873 OELLA AVENUE	CHRISTOPHER A. ROE	012300008132	143021001
	871 OELLA AVENUE	ANDREAS D. WALTER & RACHEL MERKITT	012300008133	146682418
5	720 MARY JO WAY	WENDY A WARRITT & BRIAN L. ETT	012300001857	10693519
6	793 OELLA AVENUE	ALEXANDRA C. CLARK	0122000101958	143461695
7	781 OELLA AVENUE	CHARLES J. WAGANDT	0122000101959	

20% OF EXISTING IMPERVIOUS = 3,225 SQ.FT.
 PROPOSED IMPERVIOUS = 12,536 SQ.FT.
 TOTAL IMPERVIOUS TO BE TREATED = 15,761 SQ.FT.
 $R_v = \frac{15,761}{15,761} = 0.95$
 $WQ_v = \frac{0.0286}{0.95} \text{ AC.FT.} = 1,248 \text{ FT.}^3$
 $AF = \frac{1,248}{15,761} = 0.079 \text{ SQ.FT.}$
 AREA OF PERIMETER SAND FILTER = 15.66 SQ.FT.
 $\frac{0.079 \text{ SQ.FT.}}{15.66 \text{ SQ.FT.}} = 0.0051$ USE 5 FILTERS

20% OF EXISTING IMPERVIOUS = 2.782 SQ. FT.
 PROPOSED IMPERVIOUS = 6.347 SQ. FT.
 TOTAL IMPERVIOUS TO BE TREATED = 9.129 SQ. FT.
 $R_v = 0.95$
 $WQv = 0.0166$ AC. FT. = 723 FT.³
 $A^* = 46.39$ SQ. FT.
 AREA OF PERIMETER SAND FILTER = 15.66 SQ. FT.
 46.39 SQ. FT. / 15.66 SQ. FT. = 2.96 USE 3 FILTERS

THE ENTIRE TREATMENT SYSTEM SHALL TEMPORARILY HOLD 75% OF THE WQV PRIOR TO FILTRATION.

SCALE: 1" = 1000'

_____	ADJACENT PROPERTY LINE
_____	SUBJECT PROPERTY LINE
_____	EX-MINOR CONTOUR (1')
_____	EX-MAJOR CONTOUR (5')
_____	EX-CURB/EDGE OF WALK OR UTILITY LINE (OH - OVERHEAD US - UNDERGROUND)
_____	RIVER EDDY
_____	EX RETAINING WALL
_____	ZONING LINE
_____	PREFORM. 100' YR. WATER SURFACE ELEVATION
_____	100' YR FLOODPLAIN
_____	D & U EASEMENT
_____	FOREST BUFFER EASEMENT
_____	25' FOREST BUFFER SETBACK
L.O.D.	
	LIMIT OF DISTURBANCE
_____	PROP. CURB & GUTTER
=====	PROP. 6' HIGH ORNAMENTAL SCREENING
188	PROP. MINOR CONTOUR
200	PROP. MAJOR CONTOUR
X X	EX. FENCE
	EXISTING STRUCTURE
(18)	SURFACE PARKING SPACES
(14)	COVERED PARKING SPACES (REVERSED)

1. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTA/CASM SURVEY OF OELLA MILL BY GREENHORN & O'MARA DATED 10/05/01. OFF SITE TOPOGRAPHY SUPPLEMENTED BY DNM FIELD VISIT DATED 11/02 AND HOWARD COUNTY TOPOGRAPHY CD, 1993.
2. FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.P.W. DATED 1980.
3. DATUM: MARYLAND COORDINATE SYSTEM, HORIZONTAL NAD 83, VERTICAL NAVD 83.
4. EXISTING PUBLIC UTILITIES FROM 3RD REVISED CRG OF OELLA, MD APPROVED 4/21/92

LIMIT OF DISTURBANCE = 1.53 AC. $\pm$ (66687.24 SF)

DMW
Daft·McCune·Walker, Inc.

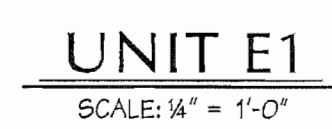
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

DEVELOPMENT PLAN

1st ELECTION DISTRICT



DATE		BY	REVISIONS	DESIGNED: <u>KANN</u>
				CHECKED BY: <u>CYM</u>
				DATE CHECKED: <u>3-19-02</u>
				SCALE: <u>1"=30'</u>
				PROJECT NO.: <u>01108.00</u>
				DRAWING:
				1 of 2



DATA SOURCES:

DMW
Daft•McCune•Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

*A Team of Land Planners,
Landscape Architects,
Golf Course Architects,
Engineers, Surveyors &
Environmental Professionals*

OELLA MILL PROPERTY

DEVELOPMENT PLAN

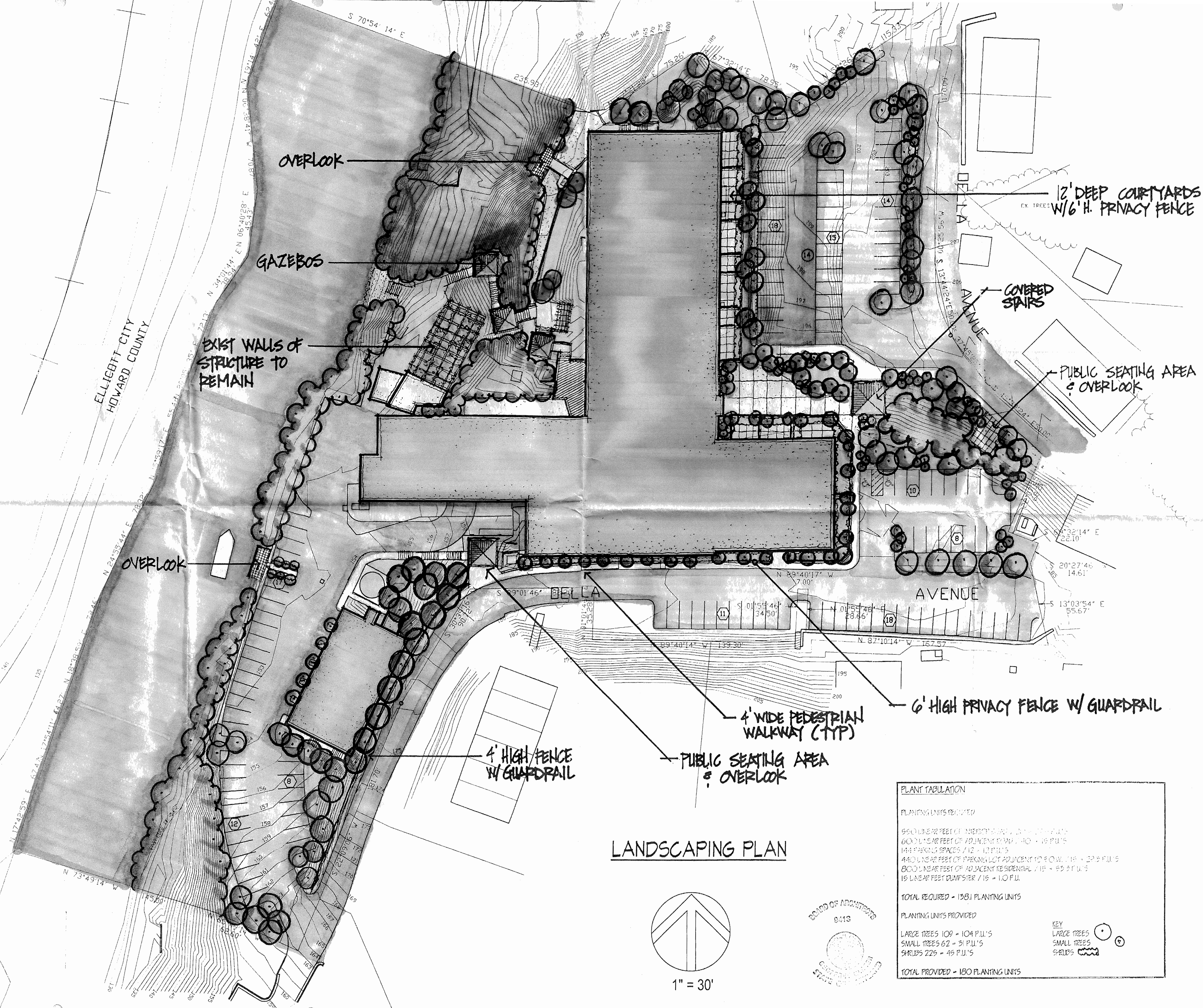
1st ELECTION DISTRICT

BALTIMORE COUNTY, MD



ISSUE DATES	
REVIEW:	_____
BID:	_____
PERMIT:	_____
CONSTRUCTION:	_____
BASE:	KMF
DRAWN:	KANN
DESIGNED:	KANN
CHECKED BY:	CVM
DATE CHECKED:	3-19-02
SCALE:	A5 SHOWN
PROJECT NO.:	01108.00
DRAWING:	

[illegible]



Project Architect

Kann & Associates
207 East Redwood Street
Baltimore, MD 21202
410.234.0900

Design Architect

Henneman & Associates
10705 Charter Drive
Suite 440
Columbia, MD 21044
410.992.4417

Civil Engineer

DMW
200 E. Pennsylvania Ave.
Towson, MD 21286
410.296.3333

Landscape Architect

Andropogon
10 Shurs Lane
Philadelphia, PA 19127
215.487.0700

Landscaping Plan

**Oella Mill
Apartments**

Oella, MD

Forest City
Residential Group

North Bethesda, MD

FOREST BUFFER NOTES

STANDARD NON-DISTURBANCE NOTE:

"THERE SHALL BE NO CLEARING, GRADING, OR DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENTS EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT."

PROTECTIVE COVENANTS NOTE:

"ANY FOREST BUFFER EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS."

GENERAL NOTES

OWNER: OELLA MILL, LLP

840 OELLA AVE

ELLICOTT CITY, MD 21043

DEVELOPER: FOREST CITY RESIDENTIAL GROUP

5603 NICHOLSON LANE

NORTH BETHESDA, MD 20852

TAX ACCOUNT NO: 16-00-006700

AREA: 5.73 ACRES

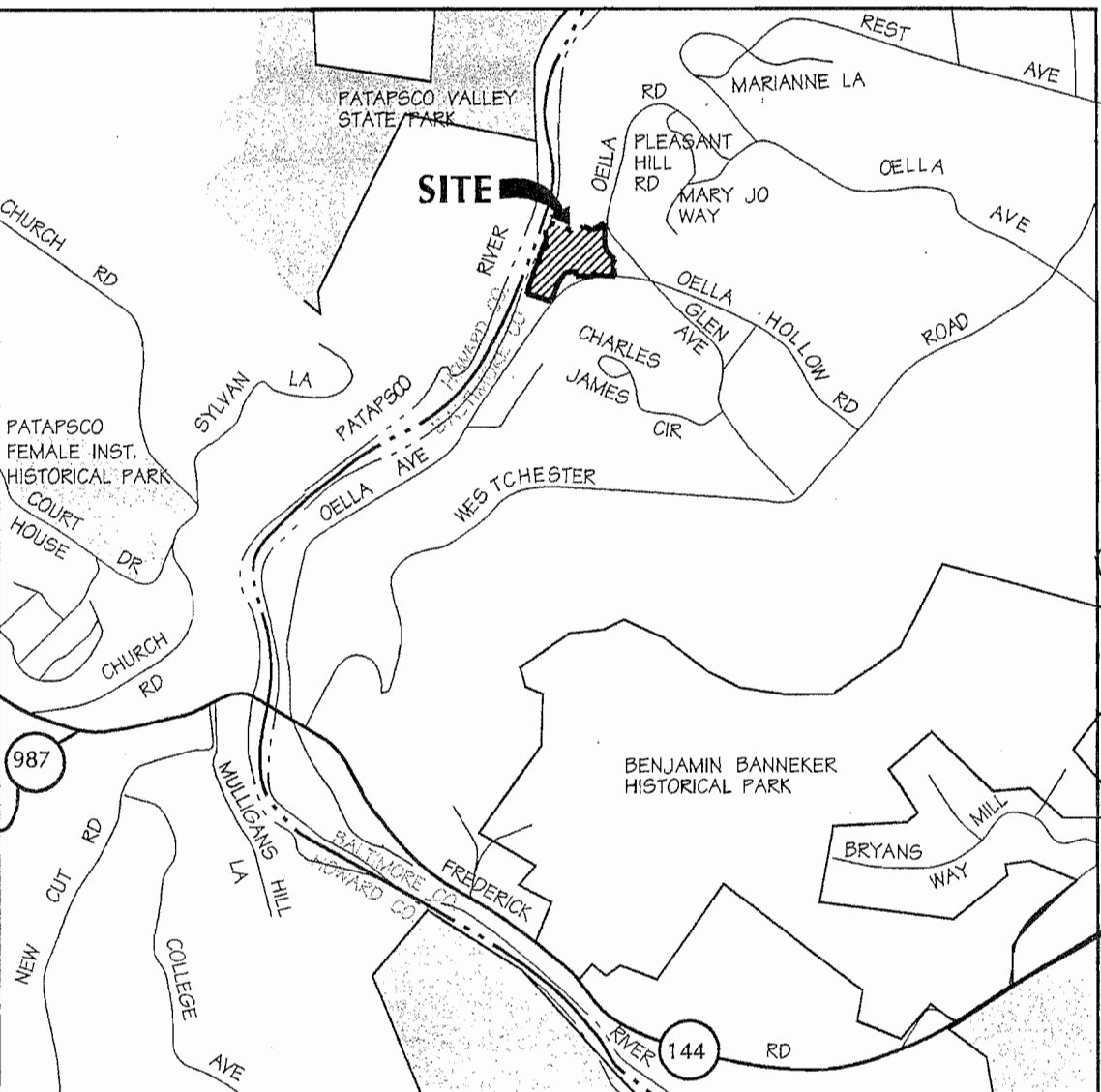
ZONING: BM-CCC

OELLA MILL MARYLAND HISTORIC TRUST INVENTORY NO: BA 2375

The site is in the Oella National Register Historic District.

All soils are VbE, Manor and Brandwile, as shown on the Baltimore County Soil Survey.

Stormwater management will be provided underground, if necessary.



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LOCATION MAP

SCALE: 1" = 1000'

LEGEND

- ADJACENT PROPERTY LINE
- SUBJECT PROPERTY LINE
- EX MINOR CONTOUR (1')
- EX MAJOR CONTOUR (5')
- EX CURBEDGE OF WALK OR PAVING
- UTILITY LINE (OH - OVERHEAD)
(UG - UNDERGROUND)
- RIVER EDGE
- EX RETAINING WALL
- ZONING LINE
- BM-CCC
- PRELIM FOREST BUFFER
- 25' FOREST BUFFER SETBACK
- PRELIM 100 YR FLOODPLAIN
- EX FENCE
- EXISTING STRUCTURE
- SLOPES (25%+)
- EXISTING RAILROAD

DATA SOURCES:

- BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN ON SITE IS TAKEN FROM AN ALTAIR SURVEY OF OELLA MILL BY GREENHORNE & OMAKA DATED 10/06/01. OFF SITE TOPOGRAPHY SUPPLEMENTED BY DMW FIELD VISIT DATED 1/10/02 AND HOWARD COUNTY TOPOGRAPHY CD, 1993.
- FLOODPLAIN STUDY PROVIDED BY BALTIMORE COUNTY D.F.W. DATED 1980.
- DATUM: MARYLAND COORDINATE SYSTEM, HORIZONTAL: NAD 83, VERTICAL: NAVD 83.

DMW
Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue
POTOMAC, Maryland 21228
(410) 296-3333
Fax 296-4705

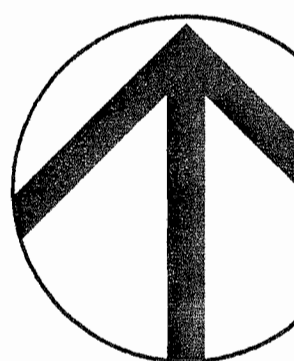
A Team of Land Planners,
Landscape Architects,
Civil Engineers, Surveyors &
Environmental Professionals

OELLA MILL PROPERTY

CONCEPT PLAN
CONSTRAINTS MAP

PDM # I-498

1st ELECTION DISTRICT



DATE	BY	REVISIONS

BALTIMORE COUNTY, MD

ISSUE DATES

REVIEW:	1/14/02
BID:	
PERMIT:	
CONSTRUCTION:	
BASE:	AJS
DRAWN:	AJS/BKC
DESIGNED:	KANN
CHECKED BY:	CYM
DATE CHECKED:	1/14/02
SCALE:	1"=30'
PROJECT NO.:	01108.00
DRAWING:	