IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
SE/S Thelma Street, 159' SW of York Road	*	DEPUTY ZONING COMMISSIONER
8th Election District	*	OF BALTIMORE COUNTY
3rd Councilmanic District (3 Thelma Street)	*	CASE NO. 02-533-SPHA
Mimiba, LLC *Petitioners*	*	

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owner of the subject property, Mimiba, LLC. The Petitioner is requesting a special hearing to approve business parking in a residential zone. In addition, variance relief is being requested from Sections 1B01.1.B.1.e(2) and 409.8.B.2.a of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a parking lot to be as close as 10 ft. in lieu of the required 75 ft. and to allow it to exist as close as 10 ft. in lieu of the required 50 ft. buffer, and to allow the parking facility not to enjoin or be across an alley or street from a business involved.

Appearing at the hearing on behalf of the special hearing and variance requests were John Mitcherling and Dorsey Baldwin, representing the owners of the property, Kenneth Wells, the property line surveyor who prepared the site plan of the property, and F. Vernon Boozer, attorney at law, representing the Petitioner. Appearing in opposition to the Petitioner's request were Larry Townsend and Lou Miller, representing the Greater Timonium Community Council (GTCC), Richard Sammis and his attorney, C. William Clark. Also attending were Ed Blizzard and Richard Chilcoat, both in opposition to the Petitioner's request.

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Date 8/22/02
By

Testimony and evidence indicated that the property, which is the subject of this zoning request, consists of 0.19 acres, more or less, zoned D.R.3.5. The subject property is located on the south side of Thelma Street, west of its intersection with York Road. The property is unimproved at this time, but was formerly improved with a single-family residential dwelling. That dwelling has been razed by the Petitioner herein. In lieu thereof, the Petitioner is requesting permission to utilize the now vacant property as a parking lot for their employees. The owner of this property also owns "The Stihl" restaurant, which is located across York Road from the subject property. The Stihl restaurant is an extremely popular eating establishment which becomes very crowded on the weekends. In order to relieve traffic congestion on the parking lot of the restaurant, the property owner is interested in creating an accessory parking lot for employees only. They have chosen this site for that purpose. This would offer a place for employees to park, while freeing up additional parking spaces on the restaurant's parking lot. The employees would have to cross York Road in order to go back and forth to work.

The Petitioner proposes to landscape and screen the parking lot in the fashion depicted on the site plan submitted into evidence. Furthermore, the Petitioner has proposed to regularly maintain and supervise the use of the parking lot, so as to only allow it to be utilized by their employees. In order to proceed with the use of this vacant lot as a parking lot for employees, the special hearing and variance relief are necessary.

As stated previously, appearing in opposition to the Petitioner's request were several residents of the surrounding community, particularly Lou Miller and Larry Townsend, representatives of GTCC. These citizens are strongly opposed to any utilization of residential property in the West Timonium Heights community for commercial purposes. These residents are extremely concerned that the granting of the special hearing relief would permit commercial

ORDER RECEIVED FOR FILING
Date 8/22/02
By

encroachment into that residential neighborhood. They are also concerned over the safety of those employees who would park their vehicles on this property thereby having to cross 5 lanes of traffic along York Road in order to get to and from work.

An issue similar to this request was recently heard by Commissioner Schmidt and the Board of Appeals. That matter involved Michael's restaurant, another very popular eatery located in Timonium. In that case, the Commissioner as well as the Board denied that applicant's request to locate a commercial parking lot on a residential parcel of land. Of particular concern to the Board was the fact that the parking lot in question was too far removed from the restaurant location. The language of the BCZR which authorizes commercial parking in a residential zone requires that the parking lot be located either adjacent to or be across a street or alley from the business involved.

In this application, the parking lot in question is located on the opposite side of York Road from the business involved and is located on the perimeter of the West Timonium Heights Community. Representatives of that community have battled hard to preserve the residential integrity of that neighborhood. The intrusion of business uses into that community has challenged the residential quality of life therein and has had a negative impact on the concept of community conservation. Accordingly, this particular request to allow business parking on this residential lot should be denied. The lot at issue is too far removed from the business use it supports. Those who park thereon are faced with the potential danger of having to cross York Road. Finally, the use of this property as proposed would have a detrimental impact on surrounding residential properties.

After considering the testimony and evidence offered at the hearing, both in support and in opposition to this request, I find that the special hearing request to approve a business parking

ORDER RECEIVED FOR FILING
Date 8/22/02
By

lot in a residential zone should be denied. Inasmuch as the special hearing request is denied, so too must the variance relief be denied.

THEREFORE, IT IS ORDERED this 22nd day of August, 2002, by this Deputy Zoning Commissioner for Baltimore County, that the Special Hearing request to approve business parking in a residential zone, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Petition for Variance relief from Sections 1B01.1.B.1.e(2) and 409.8.B.2.a of the B.C.Z.R., to permit a parking lot to be as close as 10 ft. in lieu of the required 75 ft. and to allow it to exist as close as 10 ft. in lieu of the required 50 ft. buffer, and to allow the parking facility not to enjoin or be across an alley or street from a business involved, be and is hereby DENIED.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

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Date 8/22/02
By R. Johnson

IN THE MATTER OF THE APPLICATION OF GLEN I. KENDRICK, ET AL -LEGAL OWNER; DINING OUT ENTERPRISES, INC., MICHAEL DELLIS -C.P. FOR SPECIAL HEARING AND VARIANCES ON PROPERTY LOCATED ON THE CORNER NW/S TIMONIUM ROAD, SW/S GERARD AVENUE (18 TIMONIUM ROAD) 8TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 96-340-SPHA

* * * * * * * * *

OPINION

This case comes before the Board of Appeals based on a denial by the Zoning Commissioner on June 3, 1996 of a special hearing to approve a commercial parking area in a residential area; accompanied by a variance request for a 10-foot setback and buffer in lieu of 75 feet and 50 feet, respectively, for a parking lot within the Residential Transition Area (RTA).

Prior to hearing the Appellants' case-in-chief, the Board members heard oral argument concerning a Motion to Dismiss filed by People's Counsel. This Motion requested dismissal of the case based on the specific requirements set forth under Section 409.8.B of the Baltimore County Zoning Regulations (BCZR), and a decision rendered by the Maryland Court of Appeals interpreting this regulation in the Bloede v. MacNabb case, 231 Md. 452 (1963). Following these arguments, the Board decided to reserve its decision on the Motion until the conclusion of the hearing.

Mr. Joseph Larson testified on behalf of the Appellants. He is a Professional Engineer with Spellman, Larson & Associates, having 24 years experience in the engineering and land surveying fields. He was acknowledged by both counsel to be an expert in his

respective fields, and he stated that Spellman, Larson & Associates had prepared the plat and subject site plan admitted into evidence as Petitioner's Exhibit No. 2. He described the site as 18 Timonium Road at the corner of Gerard Avenue located approximately 460 feet from the entrance to Michael's Restaurant.

The site is currently zoned D.R. 5.5 and consists of 0.32 acre. He stated that he previously had been involved in Case No. 95-221-SPH, which was heard in 1995, and in which the Deputy Zoning Commissioner had granted commercial parking in a residential zone by way of a shared parking plan between Petitioner and the neighboring Gerard Building, subject to certain restrictions specified in the Order. Petitioner's Exhibit No. 3 was admitted into evidence reflecting an aerial composite of the general community surrounding the restaurant which was generally commented upon by Mr. Larson. A substantial number of photographs taken in April 1996 were submitted into evidence by Petitioner (Petitioner's Exhibit No. 1A through W). These were generally described by Mr. Larson as they were individually submitted; and, reflected various sites around the restaurant and proposed site. Mr. Larson opined that the existing structure on the proposed parking site would be razed if the special hearing were granted, and the site would be used to provide 28 parking spaces for valet parking and some employee parking. It would not be used for any general public parking. Mr. Larson stated that the site was well within the 500 foot requirement mandated by Section 409 of the Baltimore County Zoning Regulations (BCZR), and that his review of the existing

properties in the general neighborhood led him to the conclusion that the parking proposal would not be in conflict with the general nature and character of the surrounding neighborhood. Petitioner's Exhibit No. 4 was allowed into evidence. Mr. Larson stated that his firm had prepared the plat and that the subject site was peculiar in size, configuration, and location, and, while zoned D.R. 5.5, it was out of character with the residential properties in the area by reason of its exceptionally large frontage and peninsular shape. He also proceeded to state his reasons why the variances were being requested and that the current RTA requirements would not have permitted the Kelly and the Gerard buildings, which already exist, if they were built today. He also cited the presence of the gas station and Royal Farm Store in proximity to the subject site.

On cross-examination by Ms. Demilio, Mr. Larson testified that the property site was between Gerard Avenue and Timonium Road with residential dwellings fronting on Timonium Road. He also stated that he had testified in 1995 that the shared parking arrangement agreed to by the community and subsequently granted by the Deputy Zoning Commissioner would be sufficient to satisfy the needs of Michael's Restaurant. He additionally stated that between the subject site and York Road existed six residential properties, and, again, that the existing home on the subject site would be demolished. He also restated his belief that the site was not a typical corner lot because it did not have a front or rear yard, and further stated that the house in question had never been used

for any other purpose than a residential dwelling, and that the Office of Planning and Zoning for Baltimore County had issued an unfavorable opinion as to the request for the commercial parking permit.

Mr. William F. Kirwin also testified for Petitioner. He is a Landscape Architect in the fields of land planning and engineering design, and has previously served as Chairman of the Baltimore County Planning Board. He was accepted as an expert in these fields by both counsel. Mr. Kirwin testified that he had physically visited the site and that the property had an entrance on the east side rather than the front. He further stated that the property was situated on a lot not typically associated with a "T" intersection and described the recommendations that his firm had proposed to make the site acceptable for use as a commercial parking lot in accordance with those requirements that would be dictated by Baltimore County, if the parking lot were approved by the Board. These were quite adequately described by Mr. Kirwin to the Board members as per Petitioner's Exhibit No. 5, the landscaping plan as proposed by Mr. Kirwin. That concluded the Petitioner's case in chief.

Mr. Eric Rockel testified in opposition to the special hearing and variance requests. He is president of the Greater Timonium Community Council. Rule 8 papers were presented and accepted. He resides at 1610 Riderwood Drive, about 3/4 mile away from the proposed site. The Greater Timonium Community Council is an umbrella group representing 22 local community associations. He

stated that he had also lived in the area all of his life and the resolution passed by the community association requesting denial of the special hearing and variance request was passed by the Council in the firm belief that the parking site would be an intrusion into what was essentially a residential community, and that the Community Council was desirous of maintaining the residential integrity of the area, limiting commercial development to the York Road corridor. He further stated that the Master Plan for Baltimore County has specifically designated Timonium as a Community Conservation Area, which encourages residential usage in such areas and discourages any commercialization that would create any additional non-residential traffic and increased noise levels, along with light disturbances. He cited specifically the 1995 Michael's case in which the restaurant had represented to the community that the shared plan, if approved at that time, would satisfy the parking requirements of the restaurant, and, for that reason, the association had not strenuously objected to the proposal. Mr. Rockel expressed concern that the 1995 Deputy Zoning Commissioner's Order imposing conditions had not been adhered to, and that he had grave doubts that the proposed screening and landscaping on the property would not satisfy neighboring concerns dealing with the general health, safety and welfare issues called for in the zoning regulations.

Mr. Louis Miller, 44 E. Timonium Road, also testified in opposition. He stated that he has lived on this property for 40 years, and he is about 500 feet away from the proposed site. He

stated that while he was zoning chairman for the Yorkshire /Haverford community, he was at the hearing solely as an individual. He opined that the house at 18 E. Timonium Road was quite typical of others in the immediate neighborhood which are generally split foyers or ranchers in design. He stated that, as a long-time resident, he did not believe the subject site to be either unusual, unique, or different, and that it was similar to the other residences within the community. He also testified that the house at Timonium Road had been built in the late 1950s and that the same family had lived there until 1980, followed by another family until Mr. Dellis purchased the property and that it was currently being used as a residential dwelling. Mr. Miller related as to the other residential properties between Timonium Road and Gerard Avenue and what he believed to be severe problems relative to additional lighting and noise concerns if the commercial permit were granted. He also stated that, because of the topography, even the proposed screening would not be sufficient to shield the neighboring property. A number of exhibits (People's Counsel Nos. 6 through 11) were admitted into evidence and reviewed by Mr. Miller in depth. These included a letter from the Office of Planning & Zoning to the Zoning Commissioner recommending denial of the special hearing and variances as having a detrimental effect on the community, traffic violation records (People's Counsel Exhibits Nos. 8 and 9), and a number of photographs taken by Mr. Miller on April 15, 1996 (People's Counsel Exhibit No. 11). This series of photographs were each individually discussed by Mr. Miller. The

community, he stated, was developed between 1955 and 1956, with the gas station in proximity built in 1958, then the Timonium Shopping Center started in 1961.

Mr. Dennis Kundratic also spoke in opposition to the special hearing and variance request. He is president of the Yorkshire/Haverford Community Association. That association has about 200 members. Rule 8 papers were presented and accepted. He stated that the association opposed the parking lot essentially because the property was residential in nature and that the association viewed this parking lot as a commercial encroachment into what was an area residential in character. He further stated that no other residential sites in the area were used for parking; and that any approval would be inconsistent with the spirit and intent of the BCZR and goals of the community conservation plans. He stated that the subject site was not unique and that several other properties in the area had characteristics both in size and shape similar to the subject property and pointed these out on the 50 scale map when requested by Mr. Brooks.

Ms. Debra C. Watkins also testified in opposition to the proposal. She resides at 18808 Hillcrest in Parkton, Maryland, and owns the property located at 16 E. Timonium Road. She stated that the property was purchased in 1986; and, that her father had been the original owner since the early 1950s. While she currently rents out the property, she stated that it had always been used as a residence; and further that 18 E. Timonium Road had also always served as a private residence. She stated that if the request for

commercial parking was granted, her property front would face the parking lot, causing what she considered to be a loss in value; and that additional noise, light and trash problems would inevitably result. She questioned how any restrictions or conditions that might be imposed could be controlled if the proposed commercial lot were approved. She further testified as to the residential character of the neighborhood, admitting to two office buildings across on Gerard Avenue and that she had never requested any zoning change in her property. Ms. Diana Amrhein, 10 Edgemoor Road, also testified and essentially concurred with the testimony of the other protestants, that the house at 18 E. Timonium Road was in excellent condition, attractive, and that the proposed use was simply inappropriate in keeping with the residential nature of the surrounding community.

Mrs. Julia Weiss, 19 E. Timonium Road, testified and stated that she concurred with the previous statements made by the prior protestants testifying. Her porch faces the subject site, and her concerns centered around the additional noise, lighting, traffic, and automobile fume issues previously expressed.

Mr. Guy Kerns, 17 E. Timonium Road, testified that he had measured the distance from the restaurant to the subject site with a measuring tape, and found the distance factor to be 478 feet. In order to do this, he stated that he went along the sidewalk and then perpendicular across Gerard Avenue to the back door of the restaurant.

A number of other residents attending the hearing were also

prepared to testify against the special hearing and variance. In order to avoid duplication, Ms. Demilio proffered these residents as being opposed to the project; and, if allowed to testify, they would be in concurrence with the testimony of the prior protestants. Those present and in agreement with Ms. Demilio's statement so stated that position by raising their hands.

The burden in a special hearing rests upon the Petitioner to establish by the weight of the testimony and evidence produced at the hearing that the requirements of Section 502.1 (a) through (h) of the BCZR are satisfied. These provisions relate to the request, and whether or not the proposed use would be detrimental to the health, safety or general welfare of the locality involved; involve other issues related to traffic, fire, panic hazards, land overcrowding, adequate light and air issues, and any inconsistences with the purpose of the property's zoning classification, and that it would not in any way be inconsistent with the spirit and intent of the zoning regulations.

The Board is charged with the responsibility of reviewing the testimony and evidence presented, along with statutory and case law, to reach its conclusions as to whether or not the proposed use should be granted. The Petitioner comes before the Board acknowledged as the owner of a successful and popular restaurant in the Timonium area. That popularity has dictated a heavy demand for additional parking in the immediate area. To accommodate his clientele, Petitioner purchased a residential property nearby and seeks to raze the existing dwelling, and replace it with a parking

lot for exclusive use in connection with valet and employee parking. Since the property exists in a D.R. 5.5 zone, a special exception is required in addition to a request for a variance to seek relief to the parking problem. Petitioner has produced two acknowledged expert witnesses in support of the special hearing and variance requests. A substantial number of community leaders and neighbors opposed the request.

In reaching its decision not to approve the commercial parking in a residential zone and request for variance, several salient factors must be considered. Initially the decision made in 1995 to approve the shared parking arrangement with the owners of the Gerard Office Building is quite material. There is no question but that this arrangement was to have solved the parking problems of the Petitioner as to his future needs; and based on those representations, the community appeared satisfied as to the order issued by the Deputy Zoning Commissioner in the February 15, 1995 decision, subject to restrictions contained therein. There was also testimony produced by the protestants at the hearing that some of the conditions imposed by the Order have not been adhered to in good faith by the Petitioner. The property in question is zoned D.R. 5.5 and has always existed as a residence. It exists on a favorable residential lot, located in an area designated by Baltimore County as both a Residential Transition Area (RTA) and Community Conservation Area by County officials. While it is bordered by heavily commercial businesses to the north, there are a substantial number of existing homes that are purely residential

in nature. The existing property is well kept, attractive, and other than for parking on the Kelly lot to the east, does serve as an anchor for other homes on the north side of Timonium Road. The County has established Community Conservation Areas in communities, such as this area, that are threatened by encroaching enterprises. In so doing, the County has recognized that communities within that designation have experienced stress in recent years due to a variety of reasons. Areas that were once primarily residential are now being threatened as newer commercial development evolves. Frequently the newer development is not compatible with existing surrounding communities. To preserve and enhance community conservation in the area, development or redevelopment must be very sensitive to issues of compatibility, traffic, noise and general neighborhood character. Essentially it should not be detrimental to the existing surrounding community's well-being.

The restaurant currently fronts the east side of York Road bordered on the north by Gerard Avenue, and is about 460 feet +/- from the subject lot, which is zoned D.R. 5.5 and contains 0.32 acre. Numerous photographs admitted into evidence clearly indicate that the surrounding neighborhood existing on the south side of Gerard Avenue consists of three single-family dwellings opposite the restaurant before coming to the subject property's site. On the same side of Gerard Avenue as the restaurant is a parking lot used by Petitioner for additional parking (the Gerard Office Building), and then the Kelly Building, which is at the end of Gerard Avenue, bordering Timonium Road. On Timonium Road heading

west are several single-family homes after the subject site; and on the south side of Timonium Road, a number of single-family dwellings. To the south of the intersection of Gerard Avenue and Timonium Road is a heavily predominant residential area, again of single-family homes. On the north side of Timonium Road near the Kelly Building, heading east, is a Citgo Service Station and Mini-Mart. Timonium Road is a heavily travelled east-west roadway. The distance from the restaurant to the proposed site, based on testimony, is roughly 460 feet, longer than the distance involved in a football playing field.

The Board, based on the testimony and evidence produced at the hearing, has reached the conclusion that the destruction of the property currently existing, which is well-kept, attractive and quite suitable for rent or sale as a residence, and conversion into a commercial parking lot would neither enhance the site nor assist the County in its efforts to stabilize the area. The Board concurs that to grant the request for commercial parking would be totally out of character for the immediate area, and, indeed, would only exacerbate a problem that the County is attempting to solve, that is the flight of its residents to other surrounding counties.

While the Petitioner has indicated limited use of the subject property for valet and employee parking, the objections raised by a substantial number of nearby residents and community activists cannot be overlooked as to the impact of such a parking lot in the community as it relates to additional noise, lighting, disturbances and possible devaluation of existing properties between the lot and

York Road. No matter how viewed, a parking lot, even if well-buffered and landscaped, is not as conducive to an existing residential area as an already existing single-family home. If the house were destroyed, the homes along Timonium Road on the same side of the street would indeed become an island surrounded by commercial properties; and less desirable for residential purposes. This Board concludes that Petitioner has not met the burden of proof required for any approval being granted by the Board, even with restrictions, that would enable this Board to approve the request. The request is simply inconsistent with the property's current zoning and the spirit and intent of the zoning regulations as they relate to community character issues in Section 502.1 of the BCZR.

As to the request for variance, the Board must be governed by Section 307.1 of the zoning regulations and court decisions that relate thereto. Conditions must be present that are peculiar to the land or structure; and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship that warrants consideration of a variance. Before getting into any issue of practical difficulty, the Petitioner must first establish that the property is "unique." The Court of Special Appeals has held that, in the zoning context, the unique aspect of a variance requirement does not relate to the extent of the improvements upon the property or neighboring properties but rather to the uniqueness of the land itself. Additionally, the "duties given to the Board are to judge whether the neighboring properties

in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan." Schultz v. Pritts, 291 Md. 1 (1981) Petitioner produced two experts that look at the site and composite plat and see it as a unique and different land area as opposed to that which is viewed by a large number of local residents and community leaders, who simply see the subject site as no different or unusual than numerous other residential sites in the immediate area.

The Board has reviewed the site plan, aerial photographs and composite plat on several different occasions and different times in an unbiased light; and while there is a peninsular aspect to the property, the Board does not see it so uniquely different from other properties, many of which are corner properties, irregular in shape and size, that would justify the granting of the variances requested. For the reasons so stated, the requests for special hearing and variance are denied.

O R D E R

THEREFORE, IT IS THIS 18th day of April, 1997 by the County Board of Appeals of Baltimore County

ORDERED that the request to allow a commercial parking area in a residential zone be and is hereby **DENIED**; and it is further

ORDERED that requested relief from Section 1B01.1.B.1 of the BCZR to permit a 10-foot setback and buffer in lieu of the required 75 feet and 50 feet for a parking lot within a residential

transition area (RTA) be and the same is hereby DENIED.

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 of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Acting Chairman

Margaret Worrall

Harry E. Buchheister, Jr.

672 A.2d 173

Leo J. UMERLEY, et ux.

v.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

No. 802, Sept. Term, 1995.

Court of Special Appeals of Maryland.

March 1, 1996.

Residents, neighborhood improvement association, and others appealed decision of county board of appeals that granted special exception and variances to landowners. The Circuit Court, Baltimore County, J. Norris Byrnes, J., reversed, and landowners appealed. The Court of Special Appeals, Bishop, J., held that landowners' trucking facility was not unique and thus was not entitled to variances.

Affirmed.

1. Zoning and Planning ⚷605

Order of county zoning authority must be upheld on review if it is not premised on error of law and if its conclusions reasonably may be based upon facts proven.

2. Administrative Law and Procedure ⚷781, 791, 796

When reviewing agency order, court first determines whether agency recognized and applied correct principles of law governing case, next examines agency's factual findings to determine if they are supported by substantial evidence, and finally examines how agency applied law to facts.

3. Administrative Law and Procedure ⚷781, 790

In reviewing how agency has applied law to facts, court accords great deference to agency; test is whether reasoning mind could reasonably have reached conclusion reached by agency, consistent with proper application of controlling legal principles.

4. Appeal and Error ⚷856(1)

Reviewing court may search record for evidence to support trial court's judgment and may sustain that judgment for a reason plainly appearing on record, even if that reason was not relied on by trial court.

5. Administrative Law and Procedure ⚷753, 784.1

Court of Special Appeals may not uphold agency's decision unless it is sustainable on agency's findings and for reasons stated by agency.

6. Zoning and Planning ⚷496

Variance may only be granted after two-step inquiry: first, zoning authority must determine whether subject property is unique and unusual in a manner different from nature of surrounding properties such that uniqueness or peculiarity of property causes zoning provision to have disproportionate impact upon property; if such finding is made, zoning authority must then determine whether unreasonable hardship results from disproportionate impact of ordinance.

7. Zoning and Planning ⚷502.1

Trucking facility was not unique, and thus owners of facility were not entitled to variances to legalize their use of land, which had been in violation of zoning regulations for 17 years; only evidence presented by landowners was that their operations predated regulations that they had violated, that their facility had always been in violation of those regulations, that their operations could not comply with those regulations, and that their operation was important to economy of county and state, but landowners failed to take advantage of window of opportunity opened by exemptions to regulations. Baltimore County, Md., Zoning Regulations, § 307.1.

8. Zoning and Planning ⚷481

"Special use exception" grants permission to engage in use that appropriate legislative authority has sanctioned under certain conditions; special exception is an acknowledgement by appropriate zoning authority that those conditions have been met.

9. Zoning and Planning ⚷481

A "variance" grants permission to engage in use that appropriate legislative authority has otherwise proscribed; it represents a determination by appropriate zoning authority that adherence to letter of applicable zoning regulations would result in extreme hardship to property owner.

Robert L. Hanley, Jr. (Stephen J. Nolan and Nolan, Plumhoff & Williams, Chtd. on the brief), Towson, for appellants.

Peter Max Zimmerman (Carole S. Demilio, on the brief), Towson, for appellees.

Argued before MOYLAN, BISHOP and EYLER, JJ.

BISHOP, Judge.

Appellants, Leo and Wanda Umerley, filed a petition requesting that the zoning commissioner of Baltimore County grant a special exception for a Class II Trucking Facility and certain variances. The Commissioner denied the petition for a special exception and dismissed the variances.

The Umerleys filed a timely appeal to the Board of Appeals of Baltimore County. After a *de novo* hearing, the Board of Appeals granted the requested special exception and variances.

Appellees, the People's Counsel for Baltimore County, the Nottingham Improvement Association, residents of the Nottingham neighborhood, and Gary Hoffman, owner of a business property adjacent to that of the Umerleys, filed an appeal of the Board of Appeals's decision to the Circuit Court for Baltimore County. Following oral argument, the circuit court reversed the Board of Appeals's decision, and the Umerleys noted an appeal to this Court.

ISSUE

The Umerleys raise a single issue on appeal, which we subdivide and rephrase:

I. Did the Board of Appeals properly grant the variances?

II. Did the Board of Appeals properly grant the special exception?

FACTS

The subject of this appeal consists of 8.5 acres that were acquired by the Umerleys over a period of thirty-one years. The property lies northeast of Baltimore City, and is bordered by Philadelphia Road to the north, by a line of the Baltimore & Ohio Railroad to the south, and by unimproved, wooded property to the east and west. The property is primarily zoned Manufacturing Light, Industrial Major ("M.L.-I.M."), and lies directly across Philadelphia Road from the residential neighborhood of Nottingham. Philadelphia Road itself is a two-lane artery that lies between U.S. Interstate 95 and U.S. Route 40 (Pulaski Highway); the land to its north is generally zoned for residential use, while the land to its south is zoned for industrial use.

The Umerleys acquired the first part of the 8.5 acre parcel in the mid-1950s. That lot, which consists of 2.5 acres, was improved by a two-bay garage in 1958. In 1961, the garage was expanded to four bays, and in 1982, an office complex was constructed next to the garage. The lot is mostly paved and is used for "employee automobile parking, truck parking, and frontage landscaping."

In 1982, the Umerleys acquired the second part of the 8.5 acre parcel. That lot, which consists of 2.8 acres, is almost entirely paved and is used for truck and trailer parking.

In 1989, the Umerleys acquired the third part of the 8.5 acre parcel. That lot consists of 3.2 acres and is vacant and wooded.

In 1976, the Baltimore County Council passed regulations designed to minimize the impact of trucking facilities on environmentally sensitive and residential areas. Recognizing the adverse effect of the regulations on existing trucking facilities, the council included provisions that allowed such

trucking facilities to exempt themselves from the new laws. We paraphrase these exemptions as follows:

1) All existing Class II trucking facilities had to file plans demonstrating their "layout and operation of use" with the county within one year of the passage of the law. (BCZR 410A.1.A.1, 410A.1.A.2, 410A.3.C.1).

2) Within one year of the date those plans were filed, the Zoning Commissioner was required to determine if they complied with selected provisions of the new regulations, or whether they were permissibly exempt from those regulations. (BCZR 410A.1.B.1, 410A.1.B.2, 410A.1.B.3).

3) If the Zoning Commissioner determined that the filed plans did not comply with the appropriate regulations, and were not permissibly exempt from those regulations, the trucking facility was required to file:

a) a program of compliance showing that the appropriate regulations would be met within twenty-seven months (BCZR 410A.1.C.1); or

b) a petition requesting that the facility not be required to meet the appropriate regulations because "conformance with the provision would cause undue hardship and would not be in the general interest of the community. . . ." (BCZR 410A.1.C.2).

4) Failure of a trucking facility to file plans with the county at all (in conformance with BCZR 410A.1.B.1 or 410A.1.B.2) meant that the facility lost the right to exist as a trucking facility three years from the date the new law was passed. (BCZR 410A.1.D.1 and 410A.1.D.2). Failure of a nonconforming trucking facility to file either a program of compliance or a petition for noncompliance (in conformance with BCZR 410A.1.C.1 or 410A.1.C.2) meant that the facility lost its right to exist as a trucking facility three years after the determination of noncompliance by the Zoning Commissioner. (BCZR 410A.1.D.3). If a trucking facility failed to comply with the applicable exemption provisions and thus lost the right to exist as a trucking facility, it could only continue operations by qualifying as a new use.

The Umerleys operated a trucking facility on the original 2.5 acre parcel at the time the 1976 regulations were passed; and their facility violated those regulations. The Umerleys never complied with the exemption provisions of the new law, and lost the right to maintain a trucking facility on the property. In spite of this fact, the Umerleys never shut down their facility; they actually expanded it in 1982 and 1988. For the 1982 expansion, the Umerleys obtained a permit from the county's Department of Permits and Licenses. On the application for that permit, the Umerleys represented that the land was to be used for the operation of a contracting business, rather than a trucking facility.

In the late 1980s, as a result of complaints from nearby businesses and residents, the county authorities finally noted the Umerleys' zoning violations. In response, the Umerleys moved to legalize the use of their land by filing a petition for the following:

1) A special exception to allow a Class II trucking facility in the M.L.–I.M. zone. (BCZR 253.2.A.6, 410, 410A).

2) A variance to allow a trucking facility within 300 feet of residential zones or residences. (BCZR 410A.2).

3) A variance to allow a trucking facility within 200 feet of wetlands. (BCZR 410A.2).

4) A variance to allow a trucking facility within 200 feet of Philadelphia Road. (BCZR 253.4).

5) A variance to allow automobile parking within 25 feet of a residential zone. (BCZR 410A.2).

6) A variance to allow the percentage of the facility devoted to truck and trailer parking to be 35.5 percent of the site used for trucking operations as opposed to the required 75 percent. (BCZR 410A.3.B.3).

7) A variance requesting a reduction of the sideyard building setback from fifty feet to seven feet within the increased setback area. (BCZR 243.2).

As stated *supra*, the zoning commissioner denied the Umerleys' petition, but the Board of Appeals of Baltimore County reversed that decision after a *de novo* hearing, and the Circuit

Court for Baltimore County reversed the Board of Appeals's decision.

DISCUSSION

Standard of Review

[1] The order of a county zoning authority "must be upheld on review if it is not premised upon an error of law and if [its] conclusions 'reasonably may be based upon the facts proven.'" *Ad + Soil, Inc. v. County Commissioners of Queen Anne's County*, 307 Md. 307, 338, 513 A.2d 893 (1986) (citing *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 399, 396 A.2d 1080 (1979)). *See also Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, 96 A.2d 261 (1953) (zoning authority must properly construe controlling law); *Northampton Corp. v. Prince George's County*, 273 Md. 93, 101, 327 A.2d 774 (1974) (action of zoning authority is "fairly debatable" if based on substantial evidence); *Board of County Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988) (fairly debatable test "accords with the general standard for judicial review of the ruling of an administrative agency, which [is] defined as 'whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.'"); *Ocean Hideaway Condominium Ass'n. v. Boardwalk Plaza Venture*, 68 Md.App. 650, 665, 515 A.2d 485 (1986) (no substantial evidence to support factual findings of zoning authority; because of the lack of substantial evidence, zoning authority's decision was not fairly debatable, and thus was "arbitrary, capricious and a denial of due process of law.").

[2, 3] An application of the above standard requires that we undertake the three-step analysis set forth by this Court in *Comptroller v. World Book Childcraft*, 67 Md.App. 424, 508 A.2d 148 (1986):

1. First, the reviewing court must determine whether the agency recognized and applied the correct principles of law

governing the case. The reviewing court is not constrained to affirm the agency where its order "is premised solely upon an erroneous conclusion of law."

2. Once it is determined that the agency did not err in its determination or interpretation of the applicable law, the reviewing court next examines the agency's factual findings to determine if they are supported by substantial evidence, *i.e.*, by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. . . .

3. Finally, the reviewing court must examine how the agency applied the law to the facts. This, of course, is a judgmental process involving a mixed question of law and fact, and great deference must be accorded to the agency. The test of appellate review of this function is "whether . . . a reasoning mind could reasonably have reached the conclusion reached by the [agency], consistent with a proper application of the [controlling legal principles]."

Id. at 438–39, 508 A.2d 148 (citations omitted).

[4, 5] Also, unlike our review of a trial court's judgment, we will only uphold the decision of an agency on the basis of the agency's reasons and findings. *United Steelworkers of America AFL–CIO v. Bethlehem Steel Corp.*, 298 Md. 665, 679, 472 A.2d 62 (1984). We may search the record for evidence to support a trial court's judgment; and we may sustain that judgment for a reason plainly appearing on the record, even if the reason was not relied on by the trial court. *Id.* But we may not uphold an agency's decision "unless it is sustainable on the agency's findings and for the reasons stated by the agency." *Id.*

I. Variances

The zoning commissioner of Baltimore County and the Board of Appeals of Baltimore County are given the power to grant variances by BCZR 307.1, which provides as follows:

The zoning commissioner of Baltimore County and 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.

In the appeal before the circuit court, the parties clashed over the following question: whether the regulations from which the Umerleys seek variances are "height and area" regulations or "use" regulations. Under BCZR 307.1, a variance may only be granted from "height and area" regulations. "Height and area" regulations establish "area, height, density, setback, or sideline restrictions," while "use" regulations restrict the use to which a piece of property may be put. *Anderson v. Board of Appeals,* 22 Md.App. 28, 37–38, 322 A.2d 220 (1974). The circuit court ruled that there was substantial evidence to support a finding by the Board of Appeals that the regulations from which the Umerleys seek variances are "height and area" regulations. An examination of the requested variances reveals that there is substantial evidence to support the Board of Appeals's conclusion that the subject

regulations are "height and area" regulations. Thus, we turn to the question of whether the Board of Appeals properly granted the requested variances.

[6] A variance may only be granted after a two-step inquiry. First, the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property. *Cromwell v. Ward*, 102 Md.App. 691, 721, 651 A.2d 424 (1995). If such a finding is made, the zoning authority must then determine whether an unreasonable hardship results from the disproportionate impact of the ordinance. *Id.* These general rules are recognized by BCZR 307.1, which provides that a variance may only be granted if there are "special circumstances or conditions ... peculiar to the land ... and [if] strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

The "uniqueness" requirement has a rather specialized meaning. As this Court established in *North v. St. Mary's County*, 99 Md.App. 502, 638 A.2d 1175 (1994),

> 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 have 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. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

Id. at 514, 638 A.2d 1175.

A reading of the Board of Appeals's opinion shows that it failed to apply properly the law governing variances. On

pages sixteen and seventeen, the Board sets forth, verbatim, the requirements of BCZR 307.1—the regulation governing the granting of variances in Baltimore County. But then the Board goes on to ignore the first prong of the variance test—whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate effect on the property. For each of the requested variances, the Board only addresses whether the Umerleys' compliance with the applicable regulation would cause them practical difficulty or undue hardship—the second prong of the variance test.

Ordinarily, the Board of Appeals's failure to consider the first prong of the regulation would mandate that we vacate and remand for further proceedings. We shall assume, however, that the Board of Appeals did find, implicitly, that there was sufficient evidence to support uniqueness, and, for that reason, moved on to consider the second prong of the variance test. Our review of the evidence that was produced before the Board and the considerable amount of argument presented by the parties in this appeal on the issue of uniqueness convinces us, as a matter of law, that there is no substantial evidence to support a finding of uniqueness; and, therefore, it cannot be said that such a finding would be "fairly debatable." As this Court said in *Ocean Hideaway Condominium Ass'n. v. Boardwalk Plaza Venture,* 68 Md.App. 650, 515 A.2d 485 (1986), "[W]hen a Board's finding cannot be said to be 'fairly debatable,' it is arbitrary, capricious and a denial of due process of law." *Id.* at 665, 515 A.2d 485. As in *Ocean Hideaway,* in which the record clearly indicated that the special exception should not have been granted, we hold that the requirements of Maryland law on variances were not met, and the circuit court was correct in reversing the Board's decision.

[7] As the Umerleys correctly assert, our inquiry on this issue focuses on whether there is substantial evidence in the record to support a finding that the subject property is

"unique." *See Cromwell,* 102 Md.App. at 726, 651 A.2d 424 (zoning authority held to have erred in granting variance when no evidence submitted to indicate that subject property was "unique"). In their briefs, the Umerleys fail to point to any evidence that would support a finding that their property is "unique" within the meaning of Maryland case law and BCZR 307.1. The Umerleys only point to evidence that shows that their operations predate the 1976 trucking facility regulations, that their facility has always been in violation of those regulations, that their operations cannot comply with those regulations, and that their operation is important to the economy of both Baltimore County and the State of Maryland. Because the uniqueness requirement mandates that the subject property "have an *inherent* characteristic not shared by other properties in the area," such evidence cannot support a finding that the Umerleys' property is unique within the meaning of Maryland law. A review of the record fails to reveal any other evidence that would support such a finding.

The Umerleys make much of the fact that their operation contributes substantially to the area economy, and that they will be forced to close their business if the requested variances and special exception are not granted. They also make much of the fact that the Baltimore County Council explicitly stated that part of the purpose of the 1976 trucking facility regulations is to "accommodate trucking activities, in recognition of their importance to the economy of the County and the nation." BCZR 410A.4.B.7. The Umerleys argue that this provision shows that the Baltimore County Council did not intend to force trucking operations out of business with the 1976 regulations, and that we should effectuate that intent by upholding the Board of Appeals's ruling.

We agree that the Baltimore County Council did not intend to drive legitimate trucking operations out of business with the 1976 trucking regulations. That is why it included the exemption provisions in those regulations. The Umerleys failed to take advantage of the window of opportunity opened by those exemption provisions; as a result, their operation has been in violation of the law for the past seventeen years. The

only way for them to comply with the law is to petition for variances and a special exception. Because the Umerleys failed to produce substantial evidence showing that their property is "unique" within the meaning of applicable Maryland law, their variance requests must be denied.

As a final matter, we note that the Umerleys might have been able to undertake their 1980s expansion activities legally had they properly complied with the exemption provisions of the 1976 regulations. Under BCZR 410A.1.E.1, a nonconforming trucking facility that existed at the time the 1976 regulations were passed and that properly complied with the applicable exemption provisions is allowed to expand its activities "to the minimum extent necessary to comply with the standards of Subsection 410A.3" as long as the zoning commissioner determines that "the expansion would be in the interest of the general welfare of the community. . . ." Regulation 410A.3 provides, in relevant part, that all trucking facilities must be located on lots that are at least five acres (BCZR 410A.3.B.1), and that all trucking facilities must contain "adequate rest-room facilities, a drivers' room, and telephone service for the truck drivers and other personnel. . . ." BCZR 410A.3.B.8. In the 1980s, the Umerleys: 1) expanded their lot on which they conducted their trucking operations from 2.5 acres to 5.3 acres; and 2) constructed a two-story office building on the original 2.5 acre site. Given the provisions of BCZR §§ 410A.1.E.1, 410A.3.B.1, and 410A.1.B, such activities might have been proper had the Umerleys properly complied with the exemption provisions of the 1976 regulations.

II. Special Exception

When a use district is established, applicable regulations allow two types of uses: 1) those permitted as of right; and 2) those permitted only on a showing that certain conditions have been met. *Schultz v. Pritts*, 291 Md. 1, 20–21, 432 A.2d 1319 (1981). A person wishing to engage in the latter type of use must petition the appropriate zoning authority in order to do so, and the petition must show that all of the applicable conditions are met. *Id.* If all of the required conditions are

satisfied, the petitioner is given permission, otherwise known as a special exception, to engage in the conditional use. *Id.*

[8, 9] The difference between a special exception and a variance lies in the legislative approval of the underlying use. A special exception grants permission to engage in a use that the appropriate legislative authority has sanctioned under certain conditions. The special exception is an acknowledgement by the appropriate zoning authority that those conditions have been met. A variance, by contrast, grants permission to engage in a use that the appropriate legislative authority has otherwise proscribed. It represents a determination by the appropriate zoning authority that adherence to the letter of the applicable zoning regulations would result in extreme hardship to the property owner. *See Cromwell, supra,* 102 Md.App. at 699–703, 651 A.2d 424.

In the case *sub judice,* the Umerleys petitioned for a special exception to operate a Class II trucking facility on the subject property. For such a special exception to be granted, the Umerleys must show that all of the conditions established by the Baltimore County Council for operation of a Class II trucking facility are met.

The Umerleys cannot meet several of the applicable conditions. Accordingly, they have applied for variances from those conditions. As noted in the preceding section, however, the petition for those variances will not be successful. As stated *supra,* because the Umerleys failed to produce substantial evidence showing that the subject property is "unique," their variance requests must fail.

Whether the Umerleys could have obtained the special exception had they succeeded in obtaining the variances is an interesting question, and one that we recently noted. *See Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County,* 103 Md.App. 324, 336, 653 A.2d 532 (1995) (asking, "Does the legislative intent that the [conditional] use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance?"; also noting that, under such circumstances, "the pre-

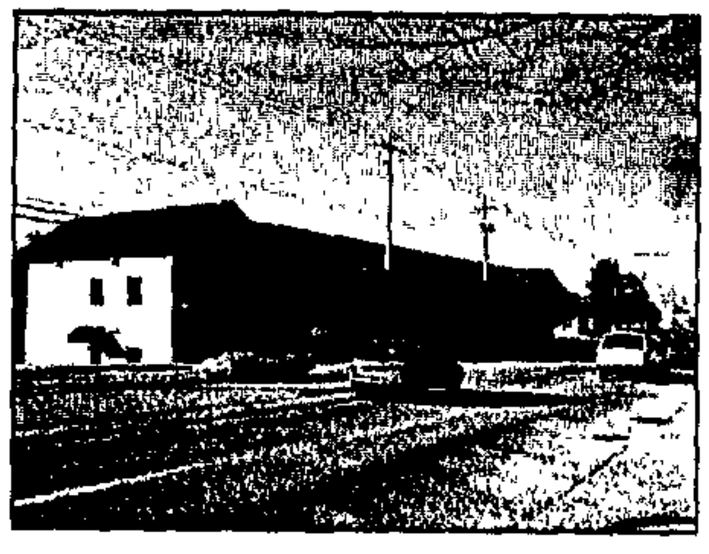
sumption that a conditional use is permitted may well fall by the wayside."). In *Chester Haven,* however, we did not reach that question because the petitioner was unable to acquire the requested variances. We said that, once "the variance process fails, the entire application fails." *Id.*

In the case *sub judice,* the Umerleys have failed in their attempt to acquire variances from the restrictions that must be met in order to operate a Class II trucking facility. Accordingly, their petition for a special exception to operate such a facility must also fail.

JUDGMENT AFFIRMED. APPELLANTS TO PAY THE COSTS.

Pcot Ex #9A

West Timonium Heights



Commercial Corridor Plan

Draft

December 2001

Appendix B

Table of Contents

Introduction 1

Background 2

Purpose of the Plan 4

Key Issues 5

- Traffic 5
- Land-use and Zoning 7
- Design Guidelines and Site Planning 12

Conclusion and Summary 15

Appendices 17

- Appendix A: Council Resolution 18
- Appendix B: 1998-2000 CZMP Issues 20
- Appendix C: Comprehensive Zoning Issues 22

List of Figures

Figure 1: Study Area 3

Figure 2: Land-use & Zoning 8

Figure 3: Permitted & Current Uses 9

West Timonium Heights single family residence.

INTRODUCTION

This document constitutes a plan for the West Timonium Heights Commercial Corridor. The plan was prepared in response to County Council Resolution 25-01 (see Appendix A). The resolution requested the Baltimore County Planning Board to prepare a West Timonium Heights Commercial Corridor Plan as a revision and update to the Hunt Valley/Timonium Master Plan. This plan will serve as a guide for the redevelopment of commercially and residentially zoned properties within the plan area. A citizen's advisory group representing local community associations, residents and property owners played an important role in developing the recommendations contained within the plan.

The plan area is located in the central sector of Baltimore County and is included in the Hunt Valley/ Timonium Master Plan, adopted by the Baltimore County Council on October 19, 1998. The plan covers an area of 19.8± acres. The plan area is a very linear one; its boundaries are York Road on the east, Padonia Road on the north, Broad Street to Roosevelt Street and an area approximately 120' west of York Road to Highview Street and continuing to Landstreet Road on the south (see Figure 1).

The West Timonium Heights community adjoins the plan area. It is a medium density residential community of about 100 single-family dwellings, platted as a 50± acre subdivision, of which approximately 12.4 acres have never been developed.

The plan consists of two basic sections. The first section provides a framework of background information and the purpose of the plan. The second section contains a discussion of five key issues within the West Timonium Heights Commercial Corridor area.

BACKGROUND

The Baltimore County Master Plan 2010 designates the Hunt Valley/Timonium (HV/T) area as a major employment center. More than 40,000 people are currently employed in the HV/T area and Loveton employment centers as of 2001. The York Road commercial corridor is a fairly continuous strip of commercial and office land uses that extends approximately eight miles from Towson to Hunt Valley. The portion of the York Road commercial corridor that is adjacent to the plan area provides major retail shopping opportunities. The corridor serves not only the Timonium area but the broader community as well.

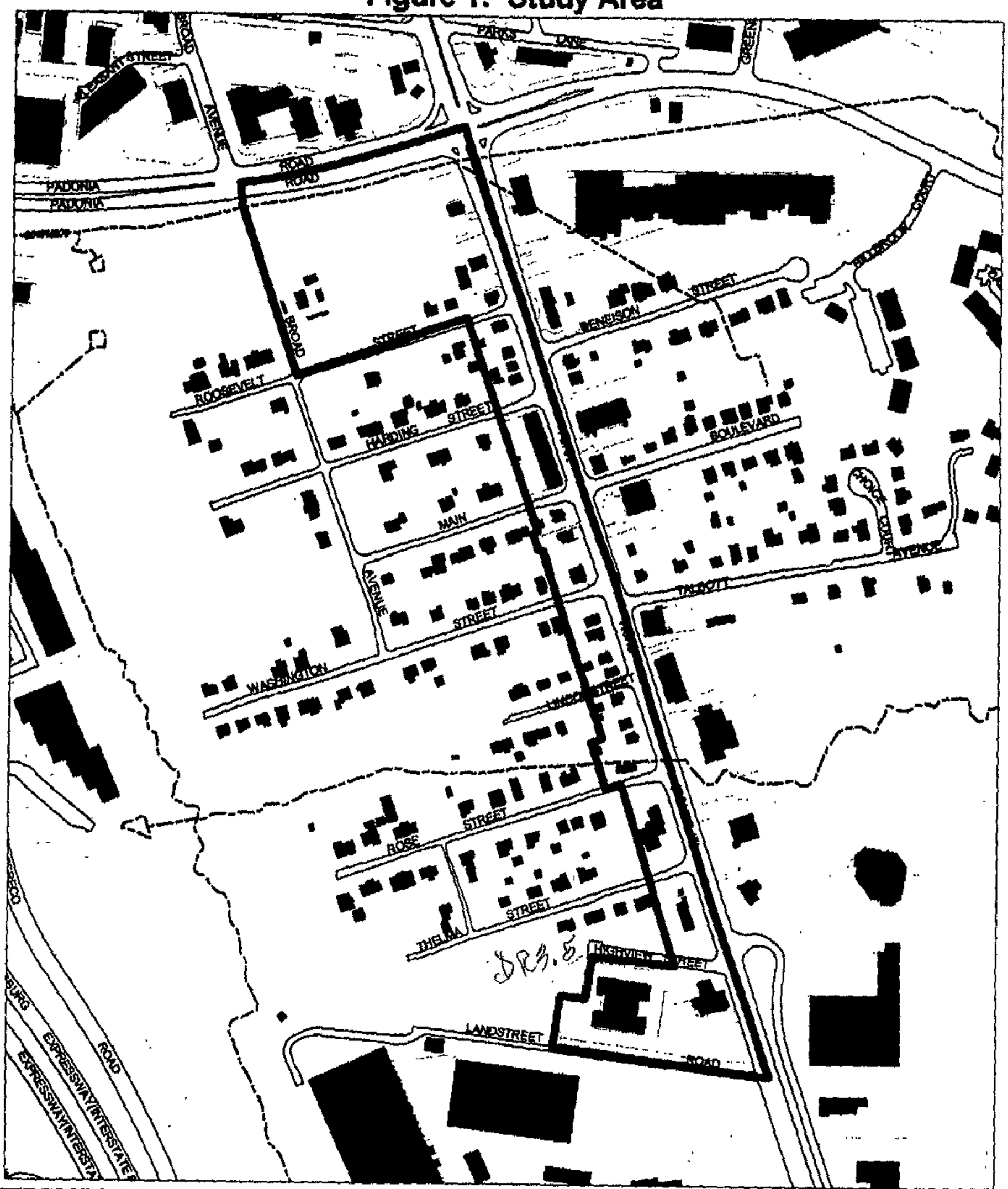
Hunt Valley/Timonium employment center.

Commercial development has flourished on the York Road commercial corridor since 1996. Fueled by a strong economy and the perception that the York Road corridor is a highly desirable location, there have been a number of "big box" retail uses developed such as Best Buys, Petco, Target, Wal-Mart, Lowe's, Sam's Club, and Home Depot. There has also been new development and redevelopment of major shopping centers such as Broad Street Market, Foxtail Center, and Fairgrounds Plaza as well as single use sites like the National Tire and Battery (NTB) and Salvo Auto Parts. In recent years, the Hunt Valley/Timonium area has experienced increasing pressure to convert Manufacturing (M) zoned properties to Business (B) zones to accommodate interest in retail redevelopment.

Target is one of several "big box" developments along York Road.

There have been 31 rezoning requests in the plan area dating back to 1988 (see Appendix B). The rezoning requests involved rezoning from Residential Office, (RO) to Business zones (B zones) or rezoning from a less intensive B zone to a more intensive B zone. Ten of these requests were approved.

Figure 1: Study Area



Scale
200 0 200 Feet

Prepared by
Baltimore County Office of Planning
401 Bosley Avenue
Towson, Maryland 21204
August, 2001

Legend
Study Area Boundary
Paved Roads
Unpaved Roads
Paved Parking / Driveways
Hydrographic Features
Buildings

N

Data Sources
Planimetric Data: Baltimore County OIT GIS Services Unit (1:2400)
Study Area: Baltimore County Office of Planning (1:2400)

Coordinate System
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1996
Scale of Data Capture: 1" = 100'

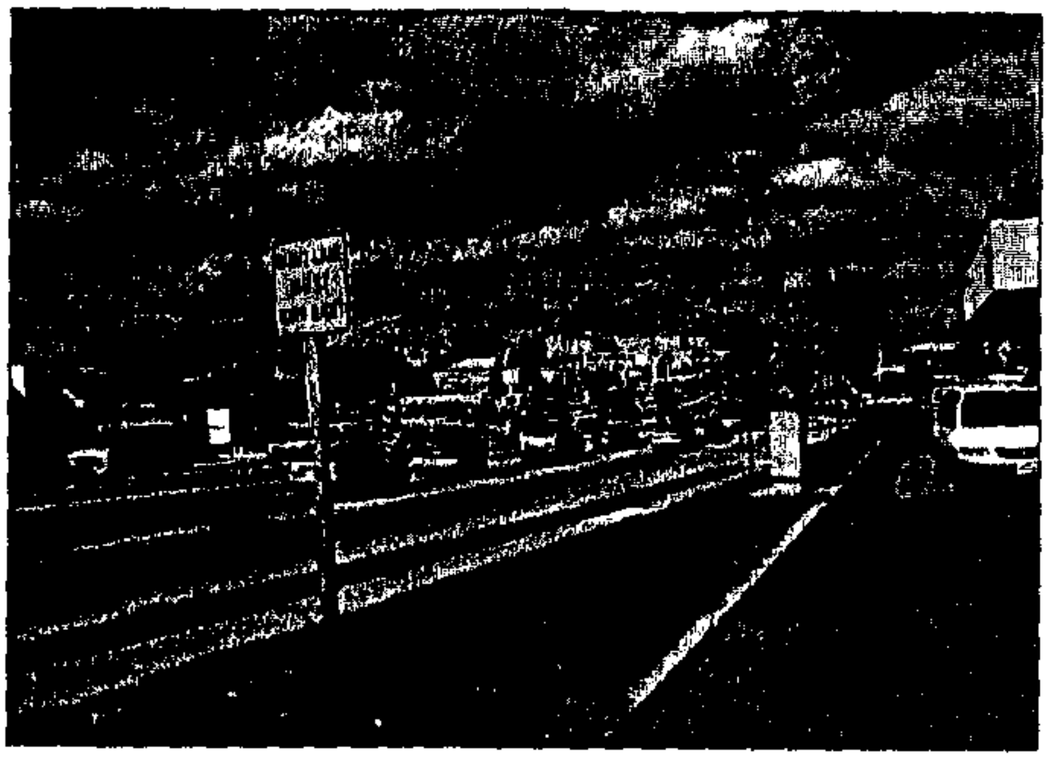
However, in the 2000 Comprehensive Zoning Map Process (CZMP), five rezoning requests were made and none were granted pending this update to the Hunt Valley/Timonium Master Plan.

The Broad Street Market.

PURPOSE OF THE PLAN

The purpose of the plan is to provide opportunities for reasonable redevelopment of residentially and commercially zoned properties along the corridor while ensuring that such redevelopment enhances and strengthens the existing residential community of West Timonium Heights. The plan builds on a concept that is central to the county's community conservation strategy, as expressed in the "Commercial Corridor" section of Master Plan 2010, that a well balanced community consists of both strong and viable residential and commercial areas. The appearance and liveliness of the commercial corridor can impact the quality of life in the adjacent residential areas.

It is anticipated that revisions to the adopted 2000 Comprehensive Zoning Map Process will occur concurrent with the adoption of this plan by the Baltimore County Council as an amendment to the Master Plan 2010.



Intersection of York Road and Padonia Road

KEY ISSUES

The advisory group identified five key issues within the West Timonium Heights Commercial Corridor areas (traffic, land use, zoning, design guidelines, and site planning).

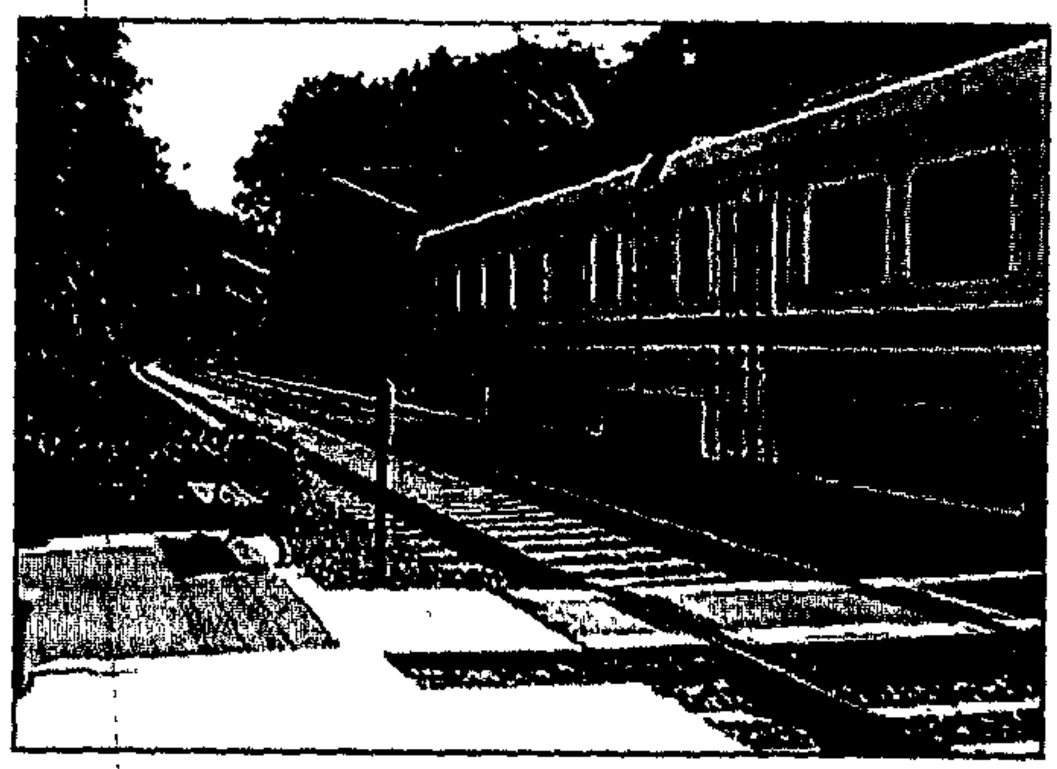
TRAFFIC

York Road, MD 45, is one of the county's major arterial highways. The York Road commercial corridor is a fairly continuous strip of commercial and office land uses that extends approximately eight miles from Towson to Hunt Valley. It is an automobile oriented corridor. York Road carries approximately 36,000 Average Daily Trips in the Timonium area. The intersection of York Road and Timonium Road is currently operating at a Level of Service C while the intersection of York Road and Padonia Road is operating at a Level of Service D as shown on the 2001 Basic Services Transportation Area Map.

Numerous transportation enhancements have been constructed and/or planned within the last ten years in the overall Hunt Valley/Timonium Plan area. They are as follows:

1. Beaver Dam Road extension, (1998)
2. Warren Road interchange with I-83, (1993)
3. Upgrade of the I-83 interchange at Padonia Road,
4. Upgrade of Padonia Road from Deerco Road to York Road,
5. Double tracking of the Central Light Rail Line,
6. A new traffic signal at the northern Fairgrounds entrance on York Road.

However, in spite of these transportation enhancements, traffic congestion continues to be a major concern to residents of West Timonium Heights. While the Central Light Rail line has been a benefit to commuters traveling to Baltimore City or to Hunt Valley, mass transportation within the corridor has not been effective at reducing short trips and local commuting trips. Given the variety of work schedules of commuters, it is difficult to encourage car pooling without strong employer based incentives. Single occupant vehicles are the preferred mode of transportation, which adds to traffic congestion.

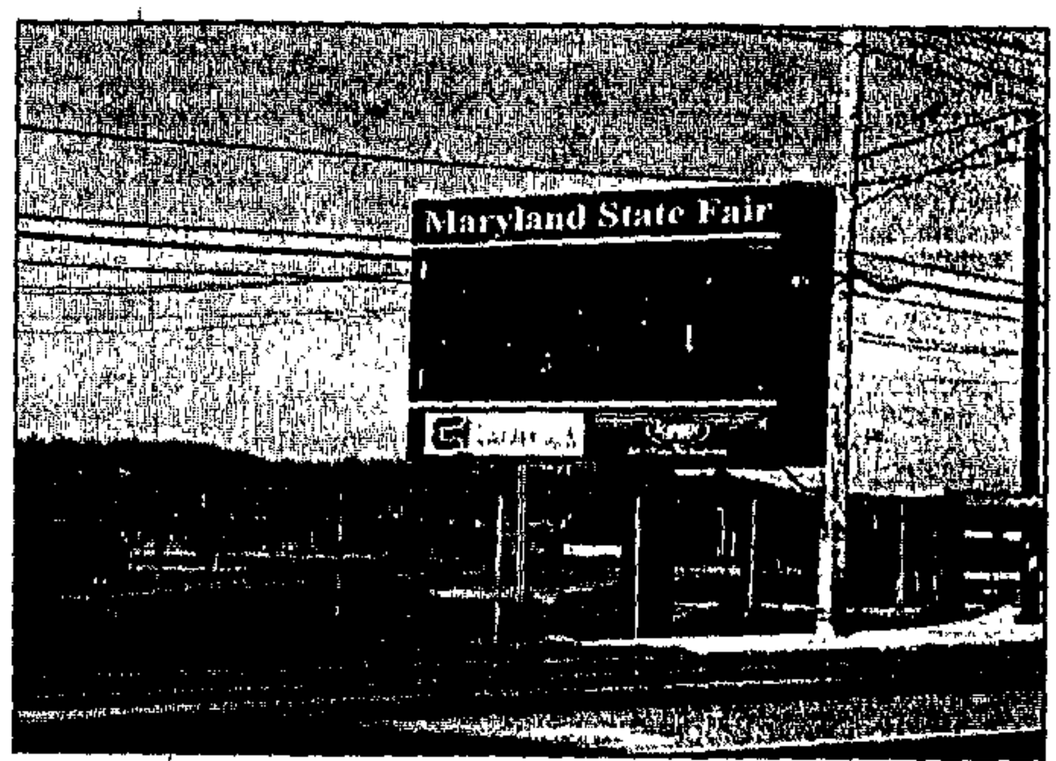


The Timonium Business Park light rail station.

As for the relationship between future land uses and traffic congestion, traffic volumes may be somewhat reduced for small retail/service businesses that are located within reasonable walking distance to the residential community.

Goal: Reduce traffic flow along York Road within the West Timonium Heights area.

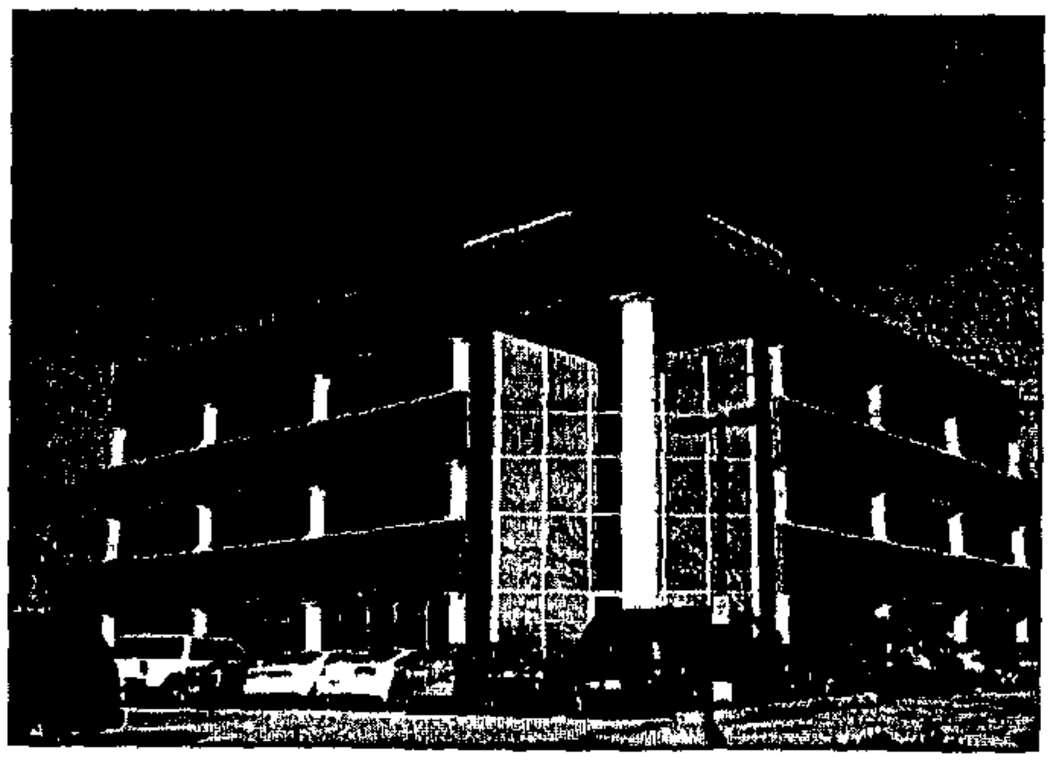
Action: The Baltimore County Bureau of Traffic Engineering and Transportation Planning in conjunction with the State Highway Administration (SHA) should conduct a traffic study of the York Road corridor from Timonium Road to Padonia Road. The study should include traffic counts and turning movement data, origin and destination analysis and suggest alternative routes to York Road.



The York Road entrance to the Maryland State Fairgrounds.

Goal: Minimize traffic impacts due to the Maryland State Fairgrounds events.

Action: The Fairgrounds will continue to work with the community, Baltimore County and the SHA to insure safe and efficient ingress and egress and to explore additional techniques and methods of traffic management.



Office building located on the northeast side of York Road.

LAND USE AND ZONING

Existing Zoning and Land Uses

There are five zones and one district within the plan area, (see Figure 2, page 8).

As shown in Figure 3 (page 9), the plan area consists of a mixture of zones and uses. A majority of the existing businesses are located in single family dwellings that have been converted into office/retail space. The buildings are generally one or two story buildings with brick facades. Some of these businesses have landscaping in the front yard and paved parking areas in the rear yard. Some lots contain accessory structures used for storage. Signage consists of a variety of pole mounted signs.

There are one to four story office buildings with brick facades located on the northeast side of York Road, adjacent to the plan area. These buildings have either front or rear yard parking, landscaping, and ground or building wall mounted signs. Additionally, there are service/retail uses within this portion of the York Road corridor.

Proposed Zoning and Land Use

The residential communities that adjoin the York Road commercial corridor have become concerned about the over-saturation of the market with "big box" retail uses, the proliferation of commercial zoning and the corresponding increases in traffic. The perception is that commercial establishments are slowly encroaching into the existing residential community. In order to provide an effective transition between the residential communities and York Road, where rezoning is desirable, office zoning is pre-

Figure 2: Land Use & Zoning

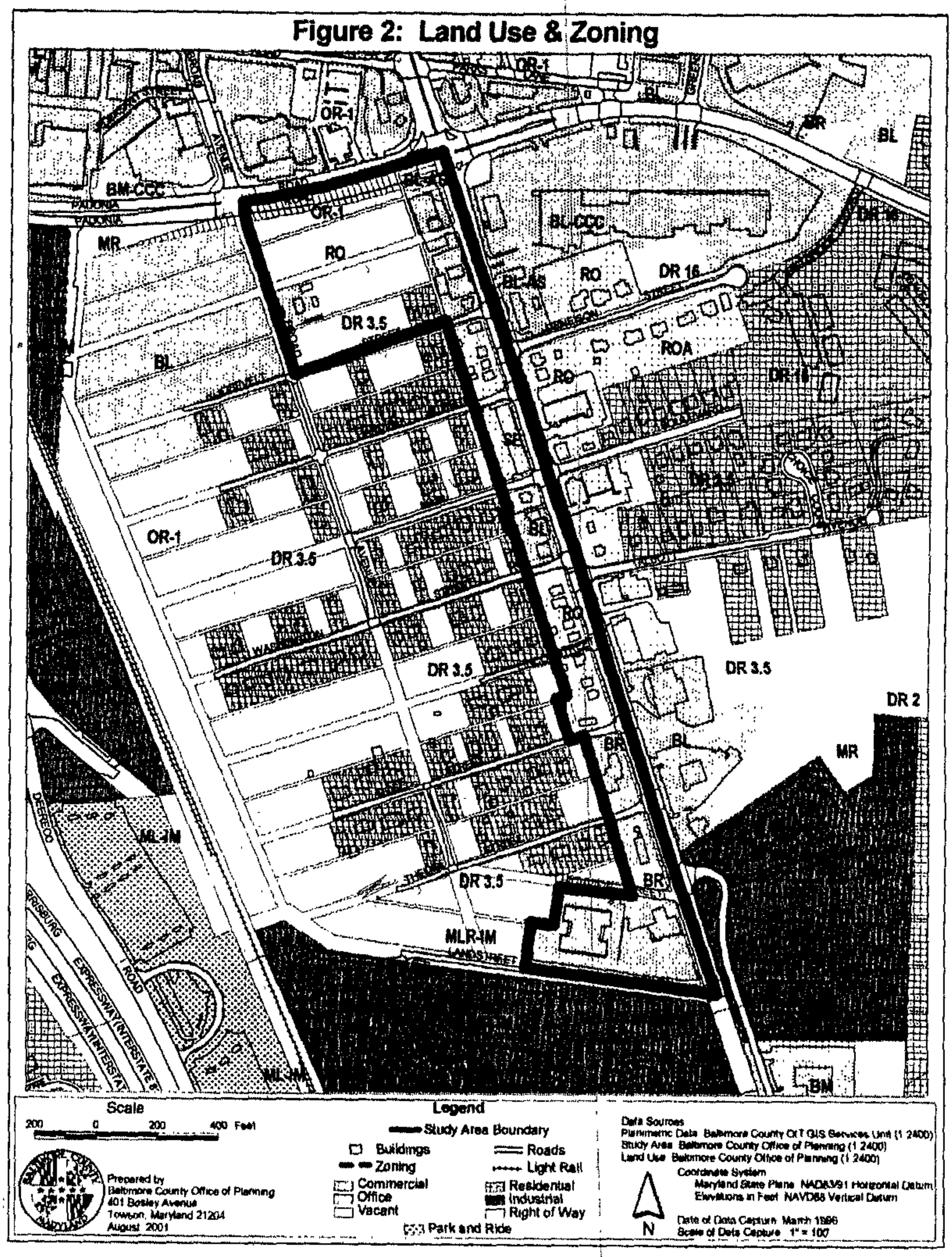


Figure 3

Zone	Permitted Uses	Current Uses
BL, Business Local	Retail and service businesses	Clothing store, nail salon
BL-AS, Automotive Service	Retail, service businesses and Automotive services	Health facility (V)* Service station (V) *
RO, Residential Office	Residential uses, Class A office Medical office <25% gross floor area	Travel agency (V) * Plumbing, podiatrist Interior design,
	Class B office by Special Exception	Construction company (2) single family homes
SE, Service Employment	Light manufacturing, offices, printing, laboratory	Office building
BR, Business Roadside	All commercial uses, retail and/ or service	Used car lot, liquor store, restaurant, offices
DR 3.5, Density Residential	Single family residential A-SST. LIVING	Vacant

* (V) Vacant

CB -

HARDING

ferred. Clearly defined limits to the commercial and/or office zoning are needed.

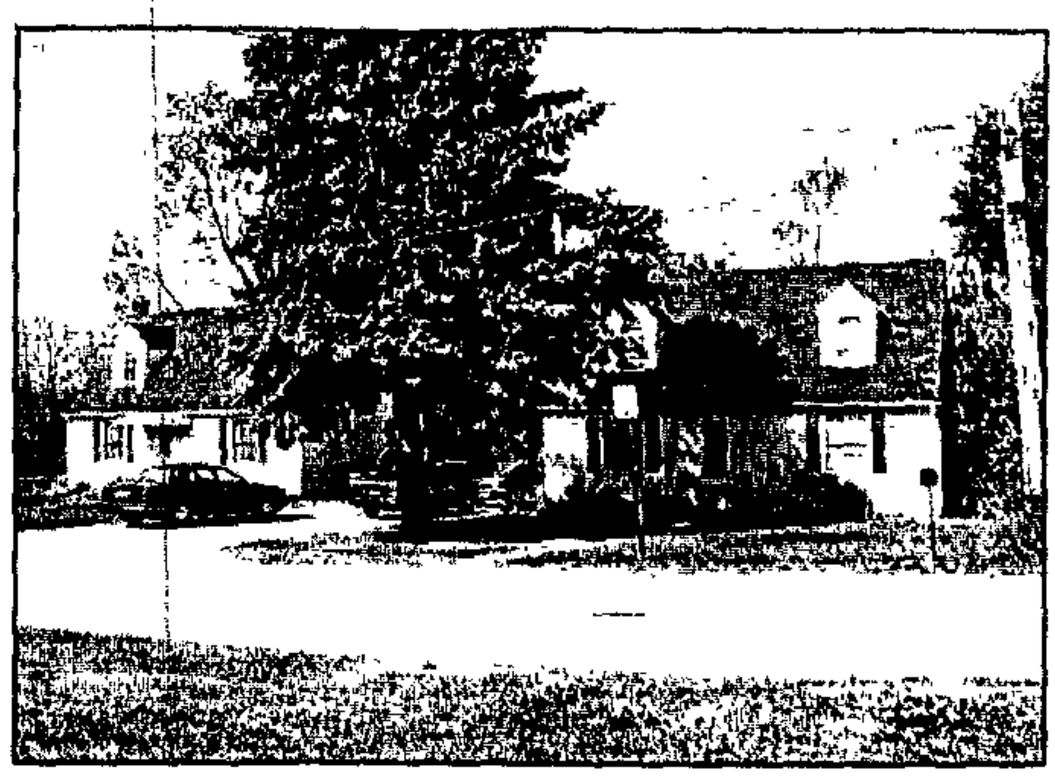
The OR-2 zone is intended to allow the selective development of well landscaped office buildings with accessory commercial uses or residential development with the density of DR 10.5. Amenity open space is required and the maximum floor area ratio allowed is .5. Performance standards should be met to insure a high quality of development that is compatible with the area.

Goal: Maintain low impact uses within the area while enhancing the marketability of commercial properties. Provide effective transitional zoning between the West Timonium Heights Community and the York Road Corridor.

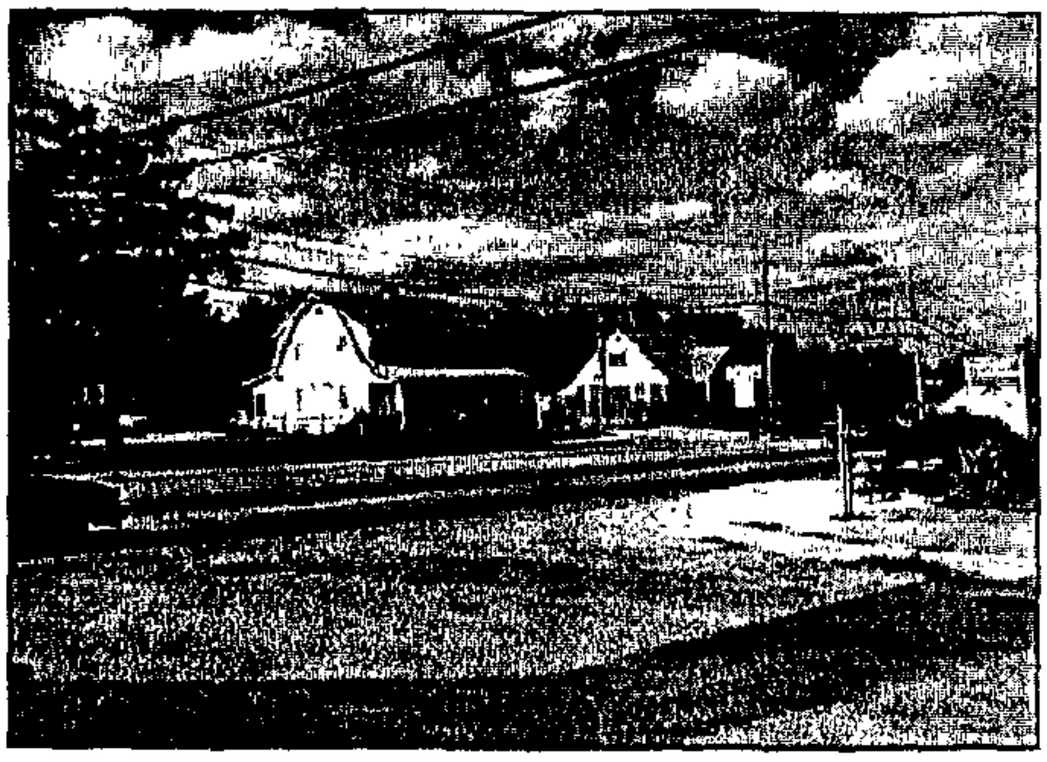
Action: The following zoning recommendations should be adopted as part of the corridor plan (see Appendix C).

Issue WTH-01: Rezone properties located at 2 and 4 Roosevelt Street in addition to the adjoining undeveloped property extending to Broad Street (2.66± acres). These properties are currently zoned DR 3.5 and should be rezoned to OR 2. The properties are adjacent to the BL-AS zoned York Road commercial corridor, a BL zoned shopping center, and a stormwater management pond. The properties are no longer suitable for residential use. OR 2 will allow for development for office use. A compatibility finding will be required prior to development plan approval.

Issue WTH-02: The properties located at 2412, 2414 & 2416 York Road contain .42± acres and are between Roosevelt Street and Harding Street. They



The properties located at 2 and 4 Roosevelt Street.



2418 and 2420 York Road.

are three contiguous 50' x 125' lots currently zoned RO and should retain the RO zoning at this time.

Issue WTH-03: The property located at 2418 York Road consists of .14± acres and is on the southwest corner of York Road and Roosevelt Street. The property consists of a single lot, 50' x 125', currently zoned RO and should retain the RO zoning at this time.

The recommendation to retain the RO zoning for issues 02 and 03 is based on a recent property sale which indicates marketability of RO zoned properties on York Road. It is recommended, however, that the Office of Planning create a "staff issue" for the above mentioned properties (WTH 01, 02 and 03), as well as 3 Roosevelt Avenue in the 2004 CZMP to further evaluate a possible zoning change to the SE classification.

Issue WTH-04: The property located at 2420 & 2424 York Road is between Padonia Road and Roosevelt Street. It consists of .21± acres and is zoned BL-AS. The property contains an abandoned service station and vacant health clinic. In light of the fact that there are numerous operable service stations in the area, the AS district should be removed from this site. This will allow for future re-use as retail, office or service use.

2430 York Road.

Issue WTH-05: The property located at 2430 York Road is on the corner of Padonia Road and York Road. The property consists of .26± acres and is currently zoned BL-AS. It is recommended the AS be removed from this site. The existing use is a hair salon/barber shop, which is a permitted use in the BL zone.

DESIGN GUIDELINES AND SITE PLANNING

The adopted HV/T Master Plan contains recommendations for a high quality of design in keeping with the positive image of one of the county's premier employment centers. This plan incorporates the HV/T design guidelines for buildings, open space, water quality management, and transit oriented design. Appropriate buffers need to be established between the residential community and York Road. The HV/T design guidelines for screening and buffering should be modified in accordance with this plan. Adequate maintenance of commercial and office zoned properties is another important aspect of assuring that the area will continue to be an attractive, desirable environment to live, work and shop.

An outdoor courtyard.

Goal: Promote a high quality in building design and materials in both new building construction and exterior alterations of existing buildings.

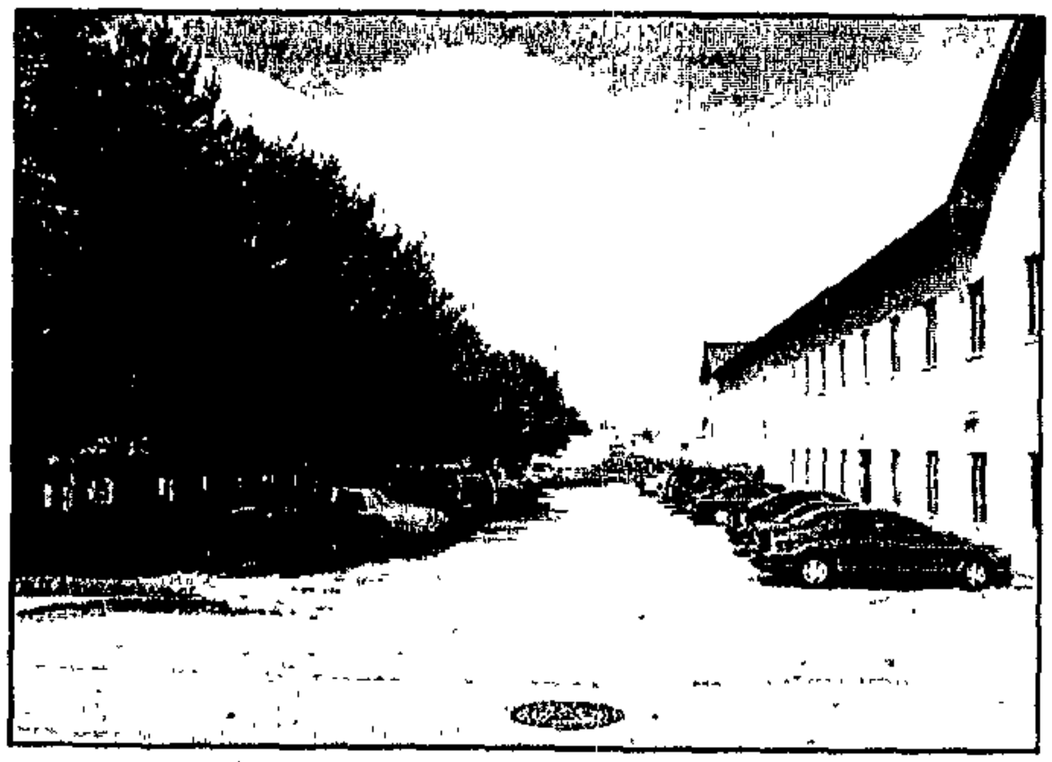
Action 1: Building materials, finish, articulation and design standards should be in accordance with the adopted HV/T Master Plan.

Action 2: Height and scale of buildings should be compatible with the surrounding area.

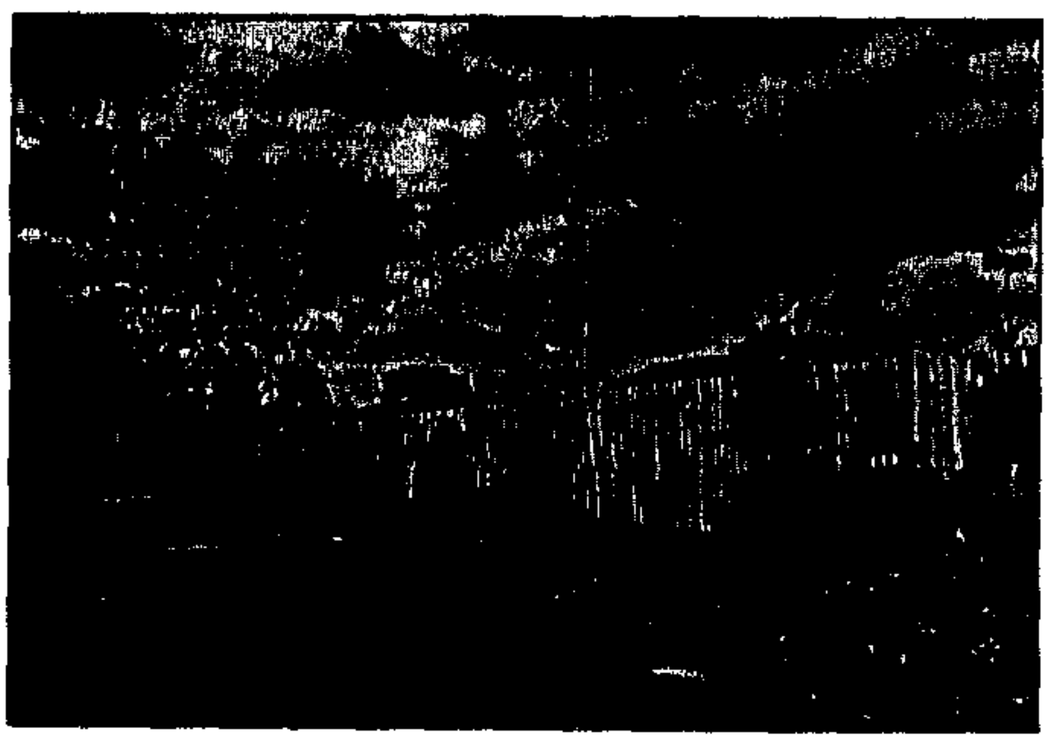
Action 3: Buildings should be oriented to the public street. Loading and service areas should not be visible from public streets.

Goal: Provide open space amenities in conjunction with new development.

Action 1: Open space amenities such as picnic tables, benches, and outdoor courtyards for active



Example of an effective residential buffer at 2400 York Road.



Existing buffer and landscaping along Roosevelt Street.

and passive use by employees should be provided in conjunction with new development.

Goal: Provide water quality management techniques to infiltrate storm water runoff.

Action 1: Use "Low Impact Development" techniques where feasible to infiltrate or detain stormwater runoff.

Goal: Implement the pedestrian and transit oriented design guidelines within the adopted HV/T Master Plan.

Action 1: Provide street trees adjacent to public rights-of-way to help separate pedestrian from motorized traffic.

Action 2: Provide paved, lit, and landscaped sidewalks. Direct pedestrian access to buildings with minimal crossings through parking lots and driveways.

Action 3: When adjacent to a transit stop, incorporate benches, trash receptacles with lids, lighting, shelters and, where appropriate, bus pull-outs into the overall development plan.

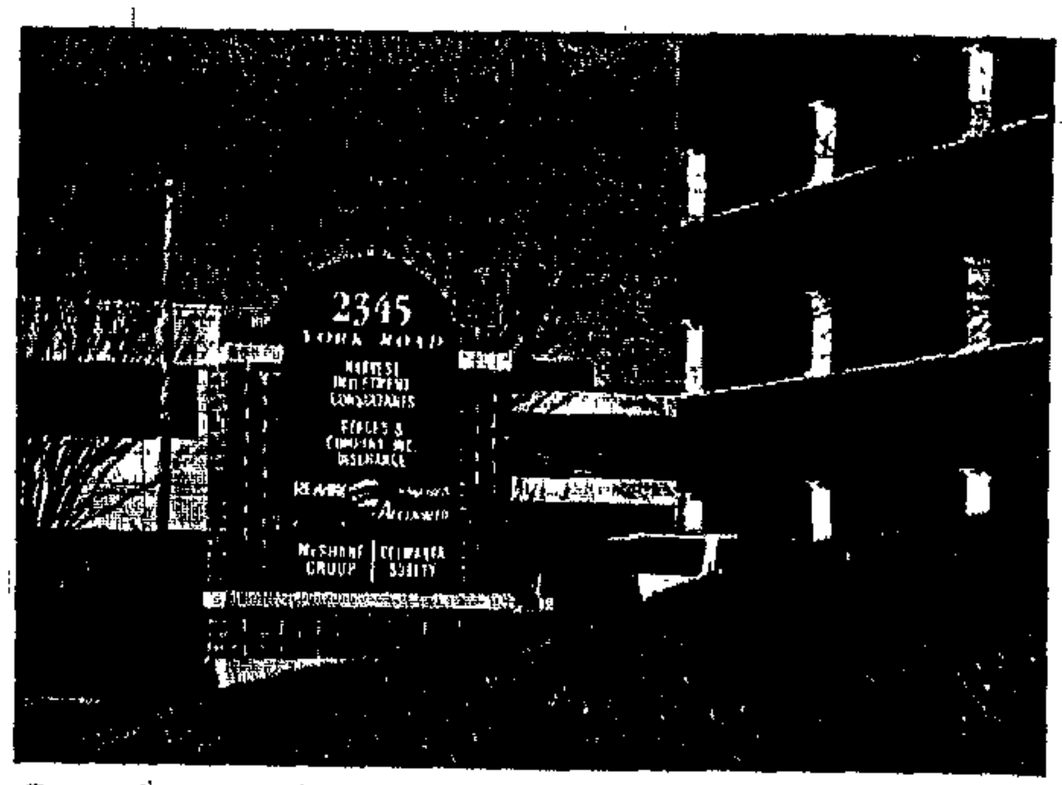
Buffers serve to establish clear limits to the commercial and office uses and may prevent future commercial encroachment. Master Plan 2010 states that adequate buffers are needed between commercial and residential areas in order to maintain an attractive overall appearance and high quality of life in the community. The HV/T guidelines build upon the master plan concept.

Goal: Protect the community's residential character by providing effective buffers

between the residential community and commercial/office use.

Action 1: A six foot high solid wood fence and a ten to twenty foot wide landscaped buffer with berm and heavy vegetation should be provided for all commercial or office property adjacent to any residential uses.

Action 2: Establish a eight foot high solid wood fence and thirty foot landscape buffer with berm and heavy vegetation between Maryland State Fairgrounds property and the adjacent residential community. The buffer will extend along Landstreet Road to enclose the Fairgrounds property up to Thelma Street.



Ground mounted sign on York Road.

HOLD TILL PLANS

Action 3: The property owner should extend the existing fence and buffer along Roosevelt Street to enclose the vacant 2.5± acre property located at #2 and #4 Roosevelt Street

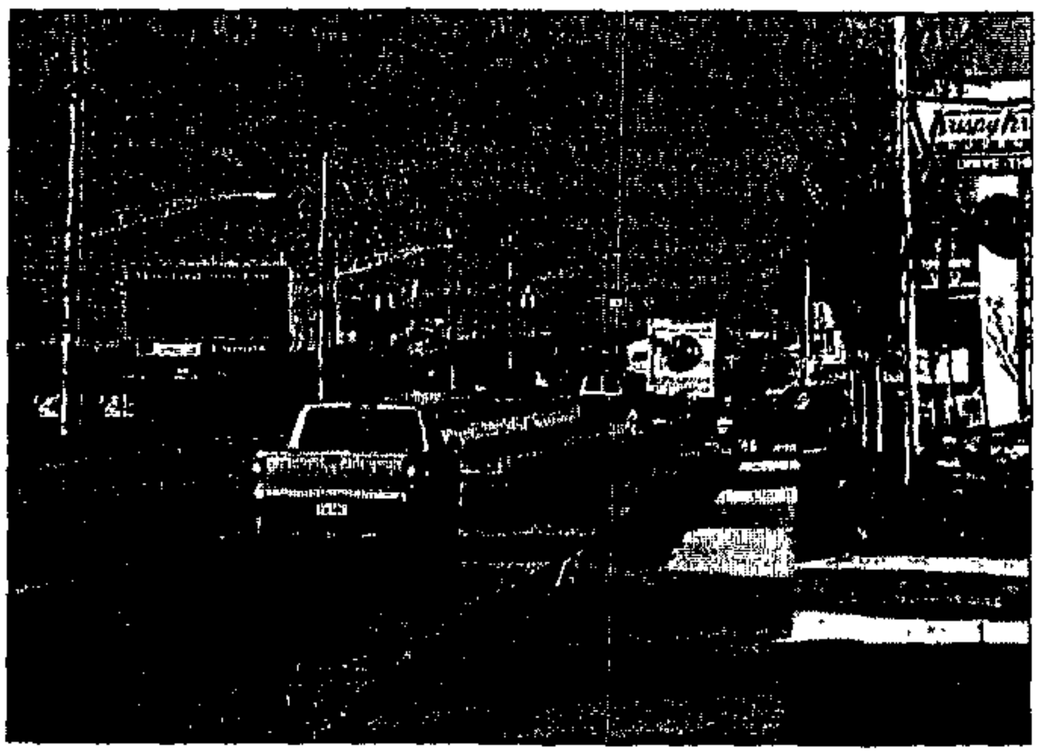
The adequate maintenance of the improvements on the existing and proposed commercial/office properties effects the quality of life within the area.

Goal: Maintenance of commercial and office properties is needed in order to improve the appearance of the area.

Action 1: Provide parking lots that meet the requirements of Section 409 of the Baltimore County Zoning Regulations. All parking lots should be striped and paving should be adequately maintained.

Action 2: Accessory buildings should be adequately maintained. Those buildings that are not being utilized for storage should be removed.

Goal: Upgrade the appearance of free standing signs.



2100 York Road.

Action 1: New free standing signs should be ground mounted or low pole mounted with landscaping treatment at the base. Refer to the adopted HV/T Master Plan for recommendations.

CONCLUSION/SUMMARY

The rezoning recommendations contained within this plan will allow for reasonable redevelopment opportunities on parcels that are significantly impacted by existing commercial uses. Future zoning change requests will be evaluated on a case by case basis for consistency with the goals and objectives of this plan.

Providing effective buffers between the existing and proposed commercial/office uses and the residential community will help to stabilize the area. Compliance with the design standards, the pedestrian and transit oriented standards, and adequate maintenance of all improvements will upgrade the appearance of the commercial corridor and at the same time enhance the overall area. The design guidelines for buildings, open space, water quality management, and transit oriented design will be applicable upon redevelopment of any property.

A comprehensive traffic study of the plan area should be conducted by the Baltimore County Bureau of Traffic Engineering and Transportation Planning. This study should evaluate and recommend traffic improvements and management strategies to minimize the traffic impact on the West Timonium Heights community.

Funding may be available to implement some of the plan's recommendations for streetscape, buffers and other amenities through the State of Maryland's Smart Growth program. Baltimore County should

Appendices

Appendix A: Council Resolution 18
Appendix B: 1998-2000 CZMP Issues 20
Appendix C: Comprehensive Zoning Issues 22

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 4

Resolution No. 25-01

Mr. Wayne M. Skinner, Councilman

By the County Council, February 20, 2001

A RESOLUTION of the Baltimore County Council requesting the Baltimore County Planning Board to prepare a Timonium Heights West Commercial Corridor Plan.

WHEREAS, the County Council adopted the Hunt Valley/Timonium Master Plan as part of the Baltimore County Master Plan on October 19, 1998 (Res. 75-98); and

WHEREAS, the County Council recognizes that the west side of York Road, from the northern boundary of the Timonium Fairgrounds property to Padonia Road, has a mix of residentially and commercially zoned properties; and

WHEREAS, the County Council recognizes the need to explore ways to strengthen the existing community of Timonium Heights West; and

WHEREAS, the County Council recognizes the need to explore the current zoning along this corridor to ensure that its future redevelopment enhances the existing commercial development; and

WHEREAS, the County Council believes that further evaluation, review, and public input are necessary in order to prepare, consider, and adopt a Plan for the reasonable redevelopment of residentially and commercially zoned properties along this corridor of the Fourth Councilmanic District consistent with the Hunt Valley/Timonium Plan and the Master Plan and in the best interest of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Planning Board be and it is hereby authorized, pursuant to Sections 26-123 and 26-124 of the Baltimore County Code, to prepare a Timonium Heights West Commercial Corridor Plan as a revision and update to the Hunt Valley/Timonium Plan and the Master Plan, which will serve as a guide for the redevelopment of

commercially and residentially zoned properties, as depicted on the attached map, and to recommend implementing legislation and programs, including the review and revision of the official Comprehensive Zoning Map for the Fourth Councilmanic District, and including recommendations for land use controls such as overlay districts and design guidelines, and to report its finds and recommendations and proposed Plan to the County Council no later than August 31, 2001.

1988 -2000 CZMP Issues For West Timonium Heights

Issue #	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning And Acres	Planning Board Recommendations	County Council Decisions
1988						
3-017	Englemeyer	2350 York Rd	RO / .16	BL / .16	RO / .16	BL / .16
3-051 3-079	Gehring	W side of York Rd, S of Padonia	DR3.5 / .43	O-1 / .43	RO / .43	RO / .43
3-062	Neurick	2418 York Rd	RO/ .11	BL / .11	RO/ .11	RO / .11
3-073	Dunn	S of Highview St, N of York Rd	DR 3.5 / .11	BR / .11	BR / .11	BR / .11
3-124	George & Bronstien	Roosvelt Ave and Washington St	DR 3.5 / 17.40	O-1 / 17.40	O-1 / 17.40	O-1/ 17.40
3-129	DiNenna	NW cor. of York Rd and Rose Ave	RO / .26 DR 3.5 / .10	BL / .26	RO / .26 DR 3.5 / .10	RO / .26 DR 3.5 / .10
3-140	Plumhoff & Williams	2334 York Rd	RO / .11 DR 3.5 / .15	BL RO / .26	RO / .11 DR 3.5 / .15	RO / .11 DR 3.5 / .15
3-233	MD State Fair	N Side of Landstreet Rd, N of York	DR 3.5 / 1.34	MLR / 1.34	MLR -IM / 1.34	MLR -IM / 1.34
3-317	Staff	N Estella St, E of York Rd	DR 3.5 / .56	O-1 / .56	RO / .56	RO / .56
3-365	County Council	2336 York Rd	RO/ .13	BL / .13	RO / .13	RO / .13
3-366	County Council	9712 York Rd	BL-CCC / .60	BR / .60	BL-CCC / .60	BL-CCC / .60
3-256 3-255	Brewer Brewer	2416 & 2414 York Rd 3 Roosvelt St	RO/ .35 DR 3.5 / .87	BM, BL / .35 BM, BL, RO / .87	BL / .35 DR 3.5 / .87	RO / .35 DR 3.5 / .87
3-260	El-Jen Inc	W York Rd, N Main Blvd	RO/.69	ML / .69	RO/.69	RO/.69
1992						
3-120	DiNenna, ESQ	2400 York Rd	RO / .69	BL / .69	RO / .69	SE / .69
3-150	Rafalides	2334 York Rd	DR 3.5 / .28	RO / .28	DR 3.5 / .28	DR 3.5 / .28
3-151	Williams ESQ	2424/2454 Broad Ave	DR 3.5 / .28 MLR / 4.48 O-1 / 1.51	ML-IM / 6.57	ML-IM / 6.57	DR 3.5 / .28 MLR / 4.48 O-1 / 1.51
3-152	Williams ESQ	201 Padonia Rd	MLR / 2.00 O-1 / 1.10	ML-IM / 3.10	ML-IM / 3.10	ML- IM / 1.10 MLR / 2.00

Issue #	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning And Acres	Planning Board Recommendations	County Council Decisions
3-154	DiNenna, ESQ	NE/SE Corner of Thelma St and Landstreet Rd	MLR-IM / .12 DR 3.5 /.68	BR / .80	MLR-IM / .12 DR 3.5 /.68	MLR-IM / .12 DR 3.5 /.68
1996						
4-022	Brewer	2412, 2414 & 2416 York Rd	RO / .55	BL, BLR / .55	RO / .55	RO / .55
4-001	Baker Land Co.	S/W corner of Padonoa Rd and Broad Ave	DR 3.5 / .190 OR 1/ 1.780 MLR / 4.600	BM / 6.570	BLM / 6.570	BL / 6.570
4-009	Staff	Roosvelt St., W of Broad St	OR 1 / .930	BM / .930	BLR / .930	BL / .930
4-013	Wheatly Carnes Kaufman	Intersection of Highview and York Rd	DR 3.5 /2.00	BL, BR, ML / 2.00	DR 3.5 /2.00	DR 3.5 /2.00
4-014	Staff	Intersection of Highview and York Rd	DR 3.5 / 1.2	Dr 3.5,MLR-IM /1.2	DR 3.5 / 1.2	DR 3.5 / 1.2
4-021	Lawerence	Intersection of Highview and York Rd	DR 3.5 /.120	BL, BR, ML / .120	DR 3.5 /.120	DR 3.5 /.120
4-029	American Legion	N/S of Thelma St, W of Broad Ave	DR 3.5 / .680 MLR- IM / .120	BR, ML / .800	DR 3.5 / .680 MLR- IM / .120	DR 3.5 / .680 MLR- IM / .120
4-051	County Council Member	N/W corner of Roosvelt St and Broad Ave	DR 3.5 / 1.050	BM / 1.050	BLR / 1.050	BL / 1.050
2000						
4-014	Staff	West side of York Rd between Highview st and Rose St	BR / 1.0	BLR /1.0	BR / 1.0	BR / 1.0
4-041	Neurick	2418 York Rd	RO /.1	BM, BL / .1	RO /.1	RO /.1
4-055	RJ Rentals, LLC	2330 York Rd	RO /.2	BM, BL / .2	RO/.2	RO /.2
4-063	Staff	NE side of Conrail North side of Highview St	DR 3.5 / 4.9	MLR-IM / 4.9	DR 3.5 / 4.9	DR 3.5 / 4.9
4-067	Staff	2119 York Rd	BR-AS / .5	BR / .5	BM /.5	BM/ .5

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2002, Legislative Day No. 8

Bill No. 43-02

Councilmembers Wayne M. Skinner and T. Bryan McIntire

By the County Council, April 15, 2002

A BILL
ENTITLED

AN ACT concerning

The Comprehensive Zoning Map - West Timonium Heights Commercial Corridor Area

FOR the purpose of repealing a portion of the existing zoning map for the Fourth Councilmanic District and to adopt an official zoning map for the portion of the Fourth Councilmanic District of Baltimore County known as the West Timonium Heights Commercial Corridor, such map to be known as the Official Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of Baltimore County and to supersede any previous zoning maps approved by the County Council of Baltimore County for that particular area, all pursuant to the provisions of the West Timonium Heights Commercial Corridor Plan.

WHEREAS, the County Council approved Resolution 28-02 adopting and incorporating the West Timonium Heights Commercial Corridor Plan into the Baltimore County Master Plan 2010 to be a guide for the development of the West Timonium Heights Commercial Corridor area

---

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.

of the County; and

WHEREAS, the Plan includes land use and zoning recommendations and specifically recommends that new zoning be enacted outside of the County's four year comprehensive zoning process; and

WHEREAS, the County Council adopted Bill 51-94 which authorized a comprehensive zoning process in designated portions of the County within the URDL in conjunction with revisions or updates to the Master Plan, after receipt of recommendations from the Planning Board and in accordance with certain procedures set forth in the Bill; and

WHEREAS, the County Council approved Resolution 25-01 which authorized the Baltimore County Planning Board to review the existing zoning maps in effect in the West Timonium Heights Commercial Corridor area of Baltimore County and to recommend to the County Council such comprehensive revisions thereof as the Board deemed advisable in conjunction with the recommendations contained in the West Timonium Heights Commercial Corridor Plan; and

WHEREAS, under the provisions of Sections 26-123 and 26-124 of the Baltimore County Code, 1988, the County Council has received a final report of the Planning Board on the Board's proposed Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of Baltimore County and has held public hearings thereon after giving at least 10 working days' notice thereof in a newspaper of general circulation throughout the County; and during the period of such notice the final report of the Planning Board, with accompanying maps and supporting exhibits, were shown and exhibited in the Office of Planning, in the Fourth Councilmanic District, and at such other public places as designated by the County Council; and

after the expiration of such period of notice and hearings, the County Council made certain changes in the Comprehensive Zoning Map for the Fourth Councilmanic District of Baltimore County which the County Council deemed appropriate pursuant to the West Timonium Heights Commercial Corridor Plan; now therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the portion of the official zoning map of Baltimore County referred to in Section 100.2 of the Baltimore County Zoning Regulations and now in effect, including any amendments thereto and comprehensive revisions of portions thereof as it pertains only to the West Timonium Heights Commercial Corridor Area of the Fourth Councilmanic District of Baltimore County, be and it is hereby repealed, and that the boundaries of zones and districts, as established by the Baltimore County Zoning Regulations as shown on the Official Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of Baltimore County accompanying this act, are hereby established.

SECTION 2. AND BE IT FURTHER ENACTED, that the accompanying Official Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of Baltimore County is hereby adopted and declared to be a part of this act to the same extent as if it were incorporated herein. The Official Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor area is a series of maps drawn to the scale of 1"=200', and for the authentication each map of the series shall be signed by the chairman of the Baltimore County Council. When this act stands enacted, the secretary of the County Council shall deliver the official Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of Baltimore County to the Director of Permits and Development Management who shall

1 thereupon have legal custody of said map.

2 SECTION 3. AND BE IT FURTHER ENACTED, that the dimensions of any zone or
3 district boundary shall be determined by use of the map scale, shown on the zoning map, scaled to
4 the nearest foot. The Director of Permits and Development Management and the County Board
5 of Appeals shall conclusively determine the location and dimensions of zone and district
6 boundaries from the official 200 scale zoning map.

7 SECTION 4. AND BE IT FURTHER ENACTED, that in case it be judicially determined
8 that any word, phrase, clause, sentence, paragraph or section of this act, or that the application
9 thereof, or the application of any portion of the Official Comprehensive Zoning Map for the West
10 Timonium Heights Commercial Corridor Area of Baltimore County, accompanying this act, to
11 any person, property, or circumstance is invalid, the remaining provisions of this act and the
12 application of such provisions, and the application of the remaining portions of said
13 Comprehensive Zoning Map for the West Timonium Heights Commercial Corridor Area of
14 Baltimore County to other persons, properties, or circumstances shall not be affected thereby; the
15 County Council of Baltimore County, Maryland, hereby declares that it would have ordained the
16 remaining provisions of this act and the remaining portions of said map without the provisions or
17 portion or the application thereof so held invalid.

18 SECTION 5. AND BE IT FURTHER ENACTED, that this Act shall take effect forty-
19 five days after its enactment.

westtimonheights.wpd

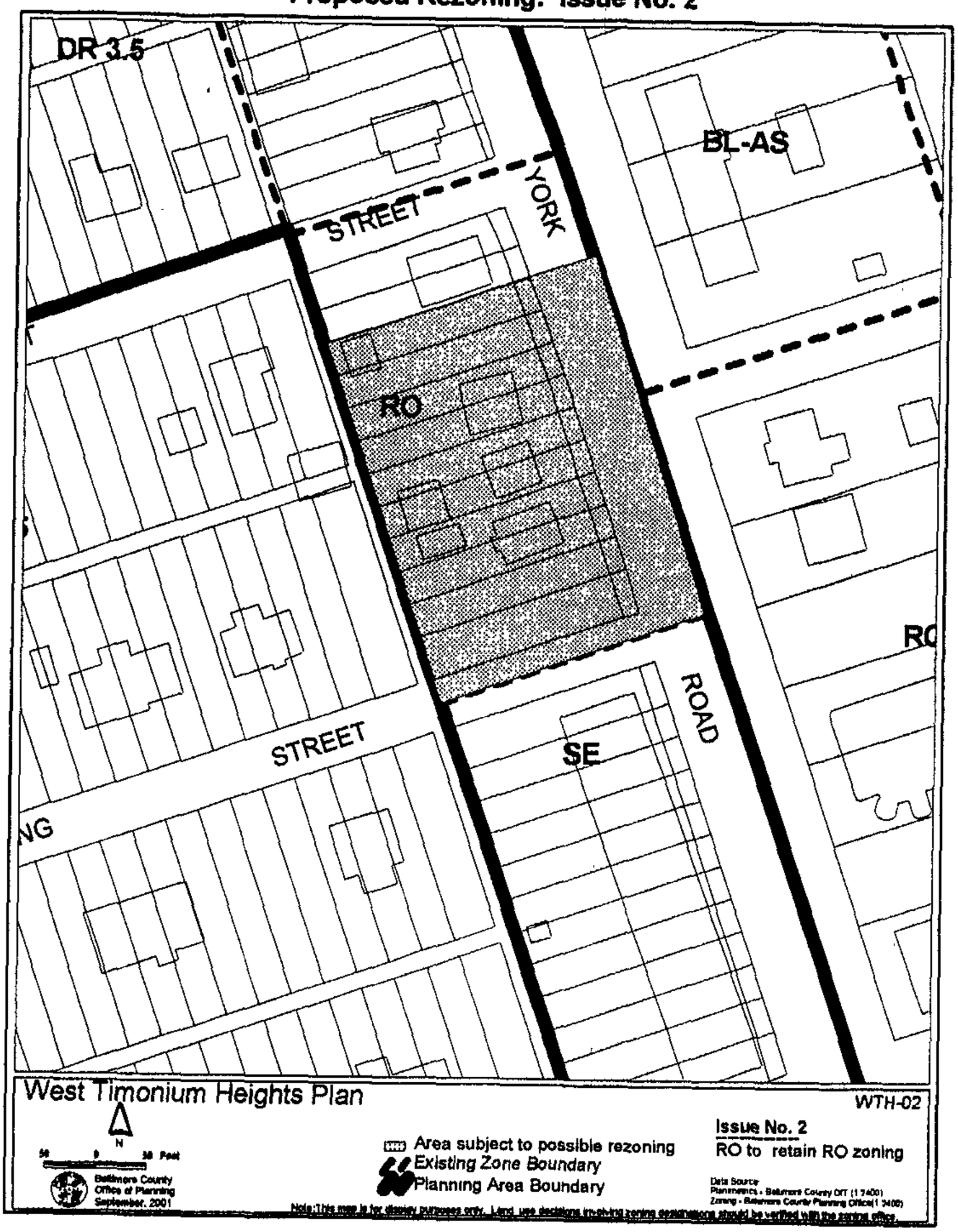
WEST TIMOMIUM HEIGHTS COMMERCIAL CORRIDOR PLAN
Comprehensive Zoning Issues
Planning Board Recommendations

01-Nov-01

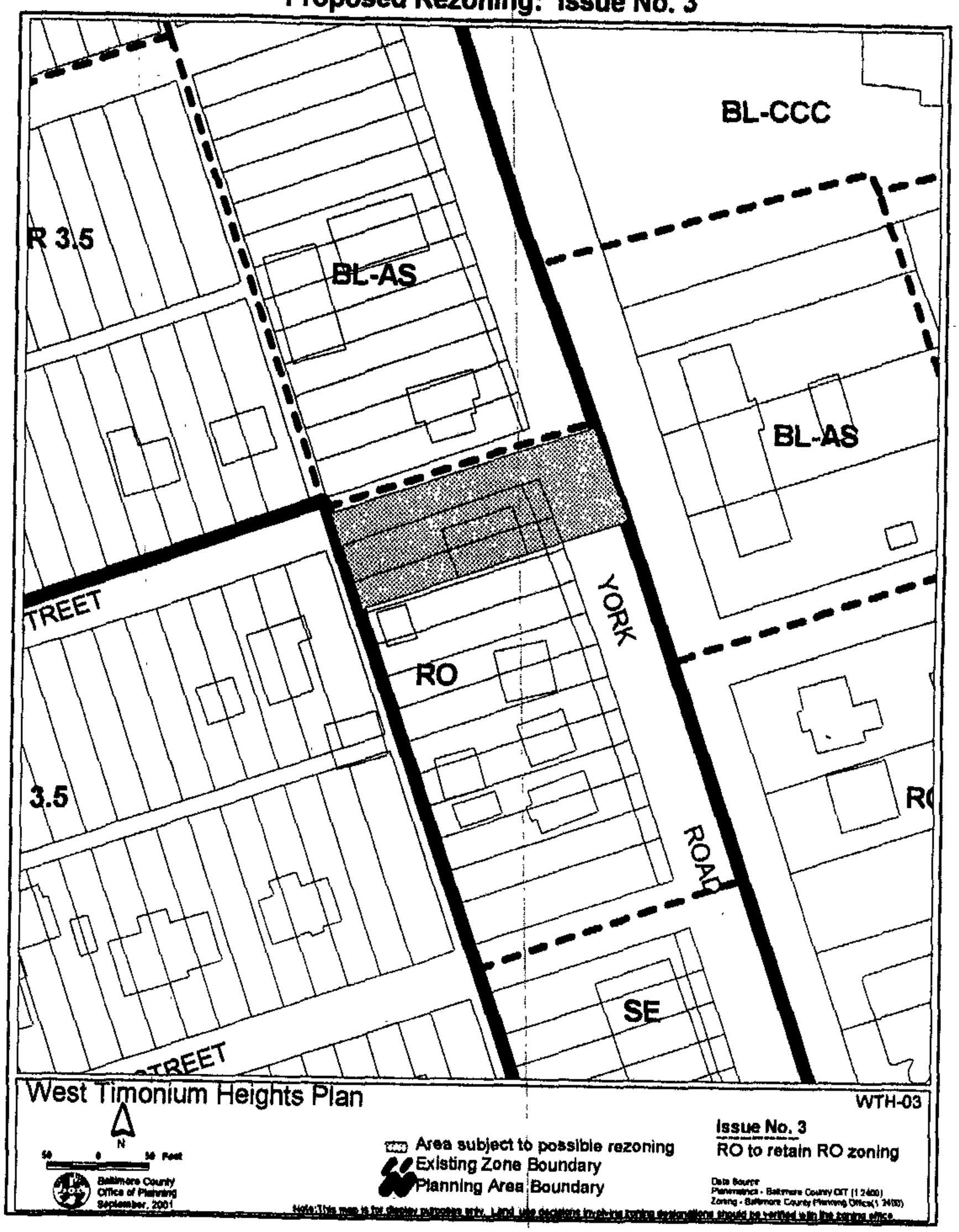
Issue #	Owner, Petitioner	Location	Existing Zoning and Acres	Proposed Zoning And Acres	Staff Recommendation
WHT-01	Brewer	2 Roosevelt St * 3 Roosevelt St * OUT 4 Roosevelt St	DR 3.5 / 2.66	OR-2	OR-2
WHT-02	Brewer	2412, 2414 & 2416 York Rd	RO / .55	RO	RO
WHT-03	Neurick	2418 York Rd	RO /.1	RO	RO
WTH-04	Exxon Corporation	2424-2420 York Rd	BL- AS/ .21	BL	BL
WTH -05	Gennuso	2430 York Rd	BL-AS/ .26	BL	BL

Proposed Rezoning: Issue No. 1

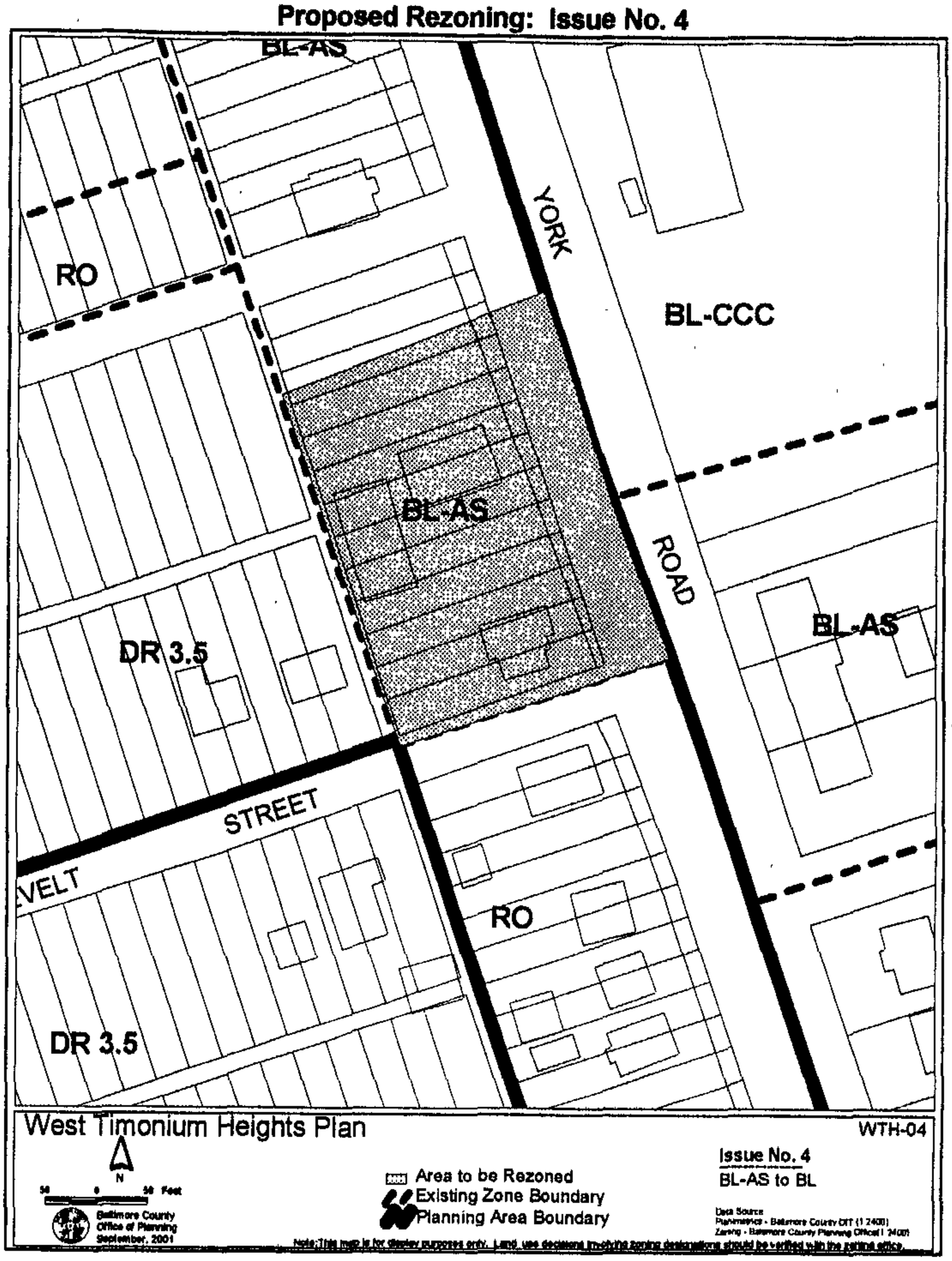
Proposed Rezoning: Issue No. 2



Proposed Rezoning: Issue No. 3



Proposed Rezoning: Issue No. 4



Proposed Rezoning: Issue No. 5

Baltimore County
Office of Planning
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

http://www.co.ba.md.us

1101.OR8

Pet
2B

GTS# 3037
Parcel I.D. 08-17-00-010462

Protest #1

THIS DEED, Made this 15th day of November, in the year Two Thousand One, by and between William Ross Coale and Michelle Beecher, parties of the first part, and MIMIBA, LLC, a Maryland Limited Liblity Corporation, party of the second part.

WITNESSETH, that in consideration of the sum of One Hundred Thirty-Five Thousand and 00/100 ($135,000.00) Dollars, receipt whereof is hereby acknowledged, the said parties of the first part, do grant and convey to the said parties of the second part, his/her personal representatives and assigns, in fee simple, all that lot of ground situate in Baltimore County, Maryland and described as follows, that is to say:

> BEGINNING for the same and being known and designated as lots nos. 17, 18, 19, Section B, as shown on the plat entitled, "Timonium Heights", which Plat is recorded among the Land Records of Baltimore County in plat book WPC 5, folio 82.
>
> The improvements thereon being known as N0. 3 Thelma Street.
>
> BEING the same property described in a Deed dated December 23, 1999, and recorded among the Land Records of Baltimore County, Maryland in Liber 14269, folio 559, from Sherrie Lynn Coale unto William Ross Coale party of the second part, an undivided three-quarter interest, and Michelle Beecher party of the third part, an undivided one-quarter interest.

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

TO HAVE AND TO HOLD the said described lot of ground and premises to the said party of the second part, his/her personal representatives and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hand(s) and seal of said grantor(s).

WITNESS:

Valerie Kuestes

Valerie Kuestes

Valerie Kuestes

William Ross Coale (SEAL)
William Ross Coale
Grantor

Michelle Beecher (SEAL)
Michelle Beecher
Grantor

MIMIBA, LLC

BY: MIMIBA, LLC (SEAL) (MEMBER)
William W. Mitcherling, Member
Grantee

STATE OF Maryland
Baltimore County, TO WIT;

I Hereby Certify, That on this 15th day of November, 2001, before me, the subscriber, did personally appear William Ross Coale and Michelle Beecher, known to me or satisfactorily proven to be the persons whose names is/are set forth in the within deed, and did further acknowledge that they executed the foregoing deed for the purposes therein contained.

WITNESS MY HAND AND NOTARIAL SEAL.

My Commission Expires:
07/01/05

Valerie Kuesta
NOTARY PUBLIC

STATE OF Maryland
Baltimore County, TO WIT;

I Hereby Certify, That on this 15th day of November, 2001, before me, the subscriber, did personally appear MIMIBA, LLC, a Maryland Limited Libility Corporation,** known to me or satisfactorily proven to be the persons whose names is/are set forth in the within deed, and did further acknowledge that they executed the foregoing deed for the purposes therein contained. **by William W. Mitcherling, Member

WITNESS MY HAND AND NOTARIAL SEAL.

My Commission Expires:
07/01/05

Valerie Kuesta
NOTARY PUBLIC

I certify that this instrument was prepared under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland.

David L. McGill Esq.
David L. McGill, Esquire

TITLE INSURER: Chicago Title Insurance Co.
CASE # 3037
REMIT TO: Government Title Services, Inc.
724 Dulaney Valley Road, Suite 3
Towson, MD 21204

File No: 3037

FIRST TIME HOMEBUYER AFFIDAVIT

(M-DEED.RID)

Tax-Property Article 13-203(b)(4) provides as follows:

To qualify for the exemption under paragraph (3) of this subsection, each grantee shall provide a statement that is signed under the oath by the grantee stating that:

_____ (i) 1. the grantee is an individual who has never owned in the State residential real property that has been the individual's principal residence; and

2. the residence will be occupied by the grantee as the grantee(s) principal residence; or

_____ (ii) 1. the grantee is the co-maker or guarantor of a purchase money mortgage or purchase money deed of trust as defined in 12-108(l) of this article for the property; and

2. the grantee will not occupy the residence as the co-maker's or guarantor's principal residence.

Witness:

MIMIBA, LLC a Maryland Limited Liability Corporation

MIMIBA, LLC, a Maryland Limited Liability Corporation
By William W. Mitcherling, Member

STATE OF &MD&, CITY/COUNTY OF &CITY&, TO WIT:

I Hereby Certify, That on this 15th day of November, 2001, before me, the subscriber, did personally appear MIMIBA, LLC, a Maryland Limited Liability Corporation,* known to me or satisfactorily proven to be the persons whose names is/are set forth in the within deed, and did further acknowledge that they executed the foregoing deed for the purposes therein contained. *By William W. Mitcherling, Member

WITNESS MY HAND AND NOTARIAL SEAL.

My Commission Expires:
July 1, 2005

NOTARY PUBLIC

file #GTS3037

EXHIBIT A

BEGINNING for the same and being known and designated as lots nos. 17, 18, 19, Section B, as shown on the plat entitled, "Timonium Heights", which Plat is recorded among the Land Records of Baltimore County in plat book WPC 5, folio 82.

The improvements thereon being known as N0. 3 Thelma Street.

BEING the same property described in a Deed dated December 23, 1999, and recorded among the Land Records of Baltimore County, Maryland in Liber 14269, folio 559, from Sherrie Lynn Coale unto William Ross Coale party of the second part, an undivided three-quarter interest, and Michelle Beecher party of the third part, an undivided one-quarter interest.

Property Tax ID# 08-17-00-010462

lcg

00015792 648

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

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

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

Circuit Court Clerk Recording Validation

INTFD SURE $	5.00
RECORDING FEE	20.00
TRANSFER TAX STATE	675.00
TOTAL	700.00
Rec'd By: BA02	Rcpt # 87411
SM CR	Blk # 2879
Nov 27, 2001	10:00 am

1 Type(s) of Instruments — (Check Box if Addendum Intake Form is Attached.)

☒ Deed ☐ Mortgage ☐ Other _____ ☐ Other _____

☒ Deed of Trust ☐ Lease

2 Conveyance Type Check Box — ☐ Improved Sale Arms-Length [1] ☐ Unimproved Sale Arms-Length [2] ☐ Multiple Accounts Arms-Length [3] ☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (If Applicable) Cite or Explain Authority

Recordation:

State Transfer:

County Transfer:

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only — Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	$ 135,000.00		
Any New Mortgage	$ 122,500.00	Transfer Tax Consideration	$
Balance of Existing Mortgage	$	X ( ) % =	$
Other:	$	Less Exemption Amount —	$
		Total Transfer Tax =	$ 2025.00
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$ 675.00
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$ 20.00	$ 20.00
Surcharge	$ 5.00	$ 5.00
State Recordation Tax	$ 675.00	$
State Transfer Tax	$ 675.00	$
County Transfer Tax	$ 2025.00	$
Other	$	$
Other	$	$

Agent: CB

Tax Bill: Pd 99694

C.B. Credit: —

Ag. Tax/Other: N —

6 Description of Property — SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOT ☐(6)
08	17 00-010462	14269/562			

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)

Location / Address of Property Being Conveyed (2): 3 Thelma St.

Other Property Identifiers (if applicable): | Water Meter Account No.:

Residential ☒ or Non-Residential ☐ Fee Simple ☒ or Ground Rent ☐ Amount: 225

Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred: 675.00

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
William Ross Coale Michelle Beecher	MINIBA, LLC
Doc. 1 Owner(s) of Record, if Different from Grantor(s)	Doc. 2 Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
MINIBA, LLC	Bank of America

New Owner's (Grantee) Mailing Address: SAME

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

This Instrument Submitted By or Contact Person — RETURN TO

Name: GOVERNMENT TITLE SERVICES, INC.

Firm:

Address: 724 DULANEY VALLEY ROAD, SUITE 3

TOWSON, MD 21204 Phone: (410) 825-1107

☒ Return to Contact Person

☐ Hold for Pickup

☐ Return Address Provided

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?

☐ Yes ☒ No Does transfer include personal property? If yes, identify: _____

☐ Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Initial Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification

Transfer Number: Date Received: Deed Reference: Assigned Property No.:

Total	20	20	Geo.	Map	Sub.	Block
Land			Zoning	Grid	Plat	Lot
Improvements			Use	Parcel	RECORD AGGRAVATION NOT PROCESSED	
Total			Town Cd.	Ex. St.	Direct to Revenues and Finance	

BALTIMORE COUNTY, MARYLAND

T.P. ART. 12-108

DOC # (2) 3 4 5

Initials:

Distribution: White - Clerk's Office; Canary - SDAT; Pink - Office of Finance; Goldenrod - Preparer

Revised 10/99 (6/98)

Date 11/21/01

PAID RECEIPT

ACTUAL TIME

11/23/2001 12:51:03

DREAMER RBOS LRB DREAMER 3

CHLN

RECORDATION TAXES

017 2,700.00

RECPT TOT .00 CA

Baltimore County, Maryland

Prot Ex #2

as revised, if situated on property owned by the county, state or federal government or by a governmental agency. **[Bill No. 220-1981]**

17. Transit facilities. **[Bill No. 91-1990]**

18. Accessory uses or buildings other than those permitted only by special exception, including, but not limited to:

    a. Accessory radio or television receiving antennas.

    b. Wireless transmitting and receiving structures, provided that any such structure: is a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission; if it is an independent structure, shall be subject to the same requirements as are applied to buildings under Section 400; if it is a rigid-structure antenna, shall be no higher than 50 feet above grade level and with no supporting structure thereof closer than 10 feet to any property line; and does not extend closer to the street on which the lot fronts than the front building line.[1]

    c. Home occupations, as defined in Section 101.[2]

    d. Parking spaces, including accessory garage spaces.

    e. Offices for the conduct of business incidental to the rental, operation, service or maintenance of apartment buildings.

    f. Signs, subject to Section 450. **[Bill No. 89-1997]**

    g. Swimming pools, tennis courts, garages, utility sheds, satellite receiving dishes (subject to Section 429) or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). **[Bill No. 71-1987]**

19. Commercial film production, subject to Section 435. **[Bill No. 57-1990]**

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.

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[1] **Editor's Note: Former Item c, which followed this item and permitted automotive-service stations, was repealed by Bill No. 172-1993.**

[2] **Editor's Note: Former Item e, which followed this item and permitted offices of certain professional persons as an accessory use to their residences, was repealed by Bill No. 105-1972, effective 8-26-1982.**

(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: **[Bill No. 2-1992]**

(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.

c. Variance of RTA. **[Bill No. 2-1992]**

(1) Notwithstanding the provisions of Section 307, the hearing officer, upon the recommendation of Public Works, Planning, Environmental Protection and Resource Management, Permits and Development Management, Recreation and Parks, Community Development or the Economic Development Commission, may determine the amount of RTA in cases where a single tract is more than two acres, is vacant, or contains no more than one single-family detached, semidetached or duplex dwelling.

(2) The RTA for a tract may be modified as directed by findings pursuant to Sections 26-206 and 26-282 of the Baltimore County Code, 1988 Edition, as revised. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

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.

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.

(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.

(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.

f. Any subdivision of land or PUD that has received CRG approval or reclamation plan approval or has been accepted for filing prior to the date of adoption of Bill No. 2-92 or 3-92 is subject to the laws in effect at the time of the approval or filing. **[Bill No. 2-1992]**

g. Exceptions to residential transition. The restrictions contained in Paragraphs a through e above, of this Subsection B.1, do not apply to: **[Bill Nos. 109-1982; 40-1992]**

(1) A proposed dwelling to be placed in a RTA containing existing dwellings of the same type, or, if two or more types of dwellings exist, a proposed dwelling of the same type as the existing dwelling with the fewest number of dwelling units. Such dwellings shall be governed by the applicable laws, zoning regulations and policies otherwise applicable. As used herein, a "dwelling of the same type" means a dwelling which has the same or lesser number of dwelling units and party walls as the existing dwelling units. **[Bill Nos. 109-1982; 40-1992]**

(2) Public utility uses (except public utility service centers and storage yards). Such uses shall be governed by the provisions of Sections 411 and 502 and such other applicable sections of these regulations. **[Bill 40-1992]**

(3) Notwithstanding the provisions of Section 104, the reconstruction of an existing church, community building or other structure devoted to civic, social, recreational, fraternal or educational activity which is destroyed by fire or other casualty. However, such reconstruction may not increase the size or ground floor area

PM 9/27/96
Recv 9/28/96 Dy
B

Pet Ex 6B

U.S. POSTAGE
SEP 27 '96
$0.29 5
PITNEY BOWES

Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

Hearing Room - Room 48 (410) 887-3180
Old Courthouse, 400 Washington Avenue

September 24, 1996

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), BOARD'S RULES OF PRACTICE & PROCEDURE, APPENDIX C, BALTIMORE COUNTY CODE.

CASE NO. 96-340-SPHA

GLEN I. KENDRICK, ET AL -LEGAL OWNER; DINING OUT ENTERPRISES, INC., MICHAEL DELLIS, PRINCIPAL /CONTRACT PURCHASER -PETITONERS
Corner NW/s Timonium Road, SW/s Gerard Avenue
(18 Timonium Road)
8th Election District
4th Councilmanic District

SPH -Approval of commercial parking area in residential zone; VAR -10' setback and buffer in lieu of 75' and 50' respectively for parking lot within RTA.

6/03/96 -Z.C.'s Order in which Petition for Special Hearing was DENIED.

ASSIGNED FOR: TUESDAY, DECEMBER 10, 1996 at 10:00 a.m.

cc: Charles E. Brooks, Esquire — Counsel for Appellant /Petitioner
Michael S. Dellis /Michael's Restaurant /Dining Out Enterprises — Appellant /Petitioner
Mr. & Mrs. Glenn I. Kendrick — Owners /Petitioners
Joseph S. Larson /Spellman, Larson & Assoc.

Dennis Kundratic
Debra C. Watkins
Eric Rockel /Greater Timonium Comm. Council
Louis Miller
John Mannion

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

Kathleen C. Bianco
Legal Administrator

Printed with Soybean Ink on Recycled Paper

Return by 3/19

Hearing 7/2/96 2:00PM

#330

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 18 TIMONIUM ROAD

which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

96-340 SPHA

A request to allow a commercial parking area in a residential zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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

Contract Purchaser/Lessee:

DINING OUT ENTERPRISES INC
(Type or Print Name)

MICHAEL S. DELLIS
Signature

2119 YORK ROAD
Address

TIMONIUM MD 21093
City State Zipcode

Legal Owner(s):

GLENN I. KENDRICK
(Type or Print Name)

Glenn I. Kendrick
Signature

ANN L. KENDRICK
(Type or Print Name)

Ann L. Kendrick
Signature

18 TIMONIUM ROAD 252-0883
Address Phone No.

TIMONIUM MD 21093
City State Zipcode

Attorney for Petitioner:

CHARLES E. BROOKS, ESQ.
(Type or Print Name)

Signature

610 BOSLEY AVE. 296-2600
Address Phone No.

TOWSON MD 21204
City State Zipcode

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

CHARLES E BROOKS, ESQ.
Name

610 BOSLEY AVE 296-2600
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 3 hr.

unavailable for Hearing

the following dates _____ Next Two Months

ALL ✓ OTHER _____

REVIEWED BY: ZDK DATE 3/6/96

Zoning Administration & Development Management

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 18 TIMONIUM ROAD

which is presently zoned DR 5.5

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

1B01.1.B.1. to permit a 10' setback and buffer in lieu of 75' and 50', respectively, for a parking lot within the R.T.A.

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

The property because of it's unique configuration cannot be used as requested without the granting of the variances thereby creating practical difficulty and undue hardship.

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

Contract Purchaser/Lessee:

DINING OUT ENTERPRISES INC.
(Type or Print Name)

MICHAEL S. DELLIS
Signature

2119 YORK ROAD
Address

TIMONIUM MD 21093
City State Zipcode

Attorney for Petitioner:

CHARLES E. BROOKS, ESQ.
(Type or Print Name)

Signature

610 BOSLEY AVE 296-2600
Address Phone No.

TOWSON MD 21204
City State Zipcode

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

Legal Owner(s):

GLENN I. KENDRICK
(Type or Print Name)

Signature

ANN L. KENDRICK
(Type or Print Name)

Signature

18 TIMONIUM RD. 252-0883
Address Phone No.

TIMONIUM MD 21093
City State Zipcode

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

CHARLES E. BROOKS, ESQ.
Name

610 BOSLEY AVE 296-2600
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 3 hr.

unavailable for Hearing

the following dates _____ Next Two Months

ALL ✓ OTHER _____

REVIEWED BY: MJK DATE 3/6/96

Zoning Administration & Development Management

Printed with Soybean Ink on Recycled Paper

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

Account Identifier: **District** - 08 **Account Number** - 1700010462

Owner Information

Owner Name:	MIMIBA LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	3 THELMA ST LUTH-TIMONIUM MD 21093-2209	**Deed Reference:**	1) /15792/ 644 2)

Location & Structure Information

Premises Address
3 THELMA ST

Zoning

Legal Description
LT 17-18-19
3 THELMA ST
TIMONIUM HEIGHTS

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:	
51	23	378			B	17	81	**Plat Ref:**	5/ 82

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1976		8,316.00 SF	04

Stories	Basement	Type	Exterior
SPFOY		SPLIT FOYER	SIDING

Value Information

	Base Value	Value As Of 01/01/2002	Phase-in Assessments As Of 07/01/2001	As Of 07/01/2002
Land:	38,070	44,070		
Improvements:	0	0		
Total:	38,070	44,070	38,070	40,070
Preferential Land:	0	0	0	0

Transfer Information

Seller:	COALE WILLIAM ROSS	**Date:**	11/27/2001	**Price:**	$135,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/15792/ 644	**Deed2:**	
Seller:	COALE ROYSTON GREENE,SR	**Date:**	01/19/2000	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/14269/ 559	**Deed2:**	/14269/ 555
Seller:	BEECHER SHARON COALE	**Date:**	05/22/1986	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 7171/ 118	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2001	07/01/2002
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

Prot Ex # 3

Plot Ex #4

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 4

Resolution No. 25-01

Mr. Wayne M. Skinner, Councilman

By the County Council, February 20, 2001

A RESOLUTION of the Baltimore County Council requesting the Baltimore County Planning Board to prepare a Timonium Heights West Commercial Corridor Plan.

WHEREAS, the County Council adopted the Hunt Valley/Timonium Master Plan as part of the Baltimore County Master Plan on October 19, 1998 (Res. 75-98); and

WHEREAS, the County Council recognizes that the west side of York Road, from the northern boundary of the Timonium Fairgrounds property to Padonia Road, has a mix of residentially and commercially zoned properties; and

WHEREAS, the County Council recognizes the need to explore ways to strengthen the existing community of Timonium Heights West; and

WHEREAS, the County Council recognizes the need to explore the current zoning along this corridor to ensure that its future redevelopment enhances the existing commercial development; and

WHEREAS, the County Council believes that further evaluation, review, and public input are necessary in order to prepare, consider, and adopt a Plan for the reasonable redevelopment of residentially and commercially zoned properties along this corridor of the Fourth Councilmanic District consistent with the Hunt Valley/Timonium Plan and the Master Plan and in the best interest of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Planning Board be and it is hereby authorized, pursuant to Sections 26-123 and 26-124 of the Baltimore County Code, to prepare a Timonium Heights West Commercial Corridor Plan as a revision and update to the Hunt Valley/Timonium Plan and the Master Plan, which will serve as a guide for the redevelopment of commercially and residentially zoned properties, as depicted on the attached map, and to recommend implementing legislation and programs, including the review and revision of the official Comprehensive Zoning Map for the Fourth Councilmanic District, and including recommendations for land use controls such as overlay districts and design guidelines, and to report its findings and recommendations and proposed Plan to the County Council no later than August 31, 2001.

r02501 bil

ADVISORY BY MAY-JUNE TO PLN BD 6/7
PLAN BD W/PLAN PUBHEAR 7/9 7/21

1/22/2002 PED INTRO [illegible]
[illegible] 6/2001 SR [illegible] OF 11/6/2001
6/4/2001 LTR TO PLANNING BOARD
6/6/2001 ADV HTG [illegible] NO CB
5/14/2001 ADV HTG
4/10/2001 ADV HTG

Baltimore County
Department of Permits and
Development Management

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

January 31, 1996

Prot Ex 7

Charles E. Brooks, Esquire
Law Offices of Brooks & Spicer
610 Bosley Avenue
Towson, MD 21204

RE: Michael's Cafe/Gerard Building
2119 York Road
New Business Parking in
Residential Zone Petition
#86-377-A, #95-221-SPH
8th Election District

Dear Mr. Brooks:

Reference is made to your meeting with Arnold Jablon, Director of Permits and Development Management, and your letter dated January 16, 1996 which has been referred to me for reply. On behalf of your client, "Michael's", you have requested confirmation and/or certification of the zoning regulations applicable to additional business parking in a residential zone on the southside of Gerard Avenue. You have also stated that this proposed parking would be used by employees and not patrons.

Simply stated, Arnold Jablon verified the information provided by the zoning staff that a public hearing was required. Provided that all of the general requirements for parking in a residential zone are met, the application would include a variance to the RTA requirements and a special hearing for the parking use permit.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact John Lewis or myself at (410) 887-3391.

Very truly yours,

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:scj

#334

Pet Ex #8

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Glen I. Kendrick, et al -Legal Owners; Dining Out Enterprises, Inc. /Michael Dellis - Contract Purchaser -Petitioners
Case No. 96-340-SPHA

DATE : January 28, 1997 @ 9:30 a.m.

BOARD /PANEL : Charles L. Marks, Acting Chairman (CLM)
Margaret Worrall (MW)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Legal Administrator

Among those present at the deliberation were Charles E. Brooks, Esquire, Counsel for Appellant /Petitioner; Louis Miller, Protestant; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

PURPOSE --for public deliberation of matter on appeal in Case No. 96-340-SPHA; testimony and evidence received at hearing on December 10, 1996.

CLM: Good morning. The Board is assembled in accordance with the Notice sent out to deliberate Case No. 96-340-SPHA, which involves approval of commercial parking in a residential area, and requests for variances in connection therewith.

For those present not familiar with our procedures, we are required by the open meetings law passed by the General Assembly to deliberate and discuss matters at hand, and we will do that today. I would like to state that in the several weeks which intervened since the hearing, individual Board members have had an opportunity to review the testimony offered, the exhibits submitted, statutory law that may have been involved, and case law. The Board members have not discussed the matter among themselves. What you hear today is their own conclusions drawn from the testimony and evidence submitted at hearing some time ago.

I would also like to state that the hearing today is the conclusions that have been reached by individual Board members and that the Board will issue a final Opinion and Order, and it is from the date that the Opinion and Order is issued that any party may appeal the decision of the Board to the Circuit Court for Baltimore County.

Having said that, as is my customary procedure, I would prefer that the other members go first, with Mrs. Worrall to go

first.

MW: Since we did the evidentiary hearing de novo, I will offer the following comments.

Section 409.8B.1.e(2) of the BCZR states that the granting of such a permit for commercial parking in a residential zone must be conditioned upon the "...character of the surrounding community and the anticipated impact of the proposed use on that community." It is my opinion that the evidence presented is uncontroverted that the residential neighborhood is adversely impacted by razing a house used as a residence and turning it into a paved commercial parking lot.

I was persuaded by Arnold Keller's comments. He identified this as a community conservation area where the goal is to preserve the residential character of the neighborhood. Mr. Keller also indicated that the required adequate screening and landscaping could not be done.

Then on to the requested variances. Even if the subject property meets permit requirements, which I do not believe, there is no justification for granting the variances under the three-prong test of Cromwell v. Ward. It fails the first element; there's nothing unique about this lot at 18 E. Timonium Road. It's similar to others in the neighborhood and others of this zone in the County.

Although there's no necessity to have to utilize the second and third parts, I also believe there is no practical difficulty that is not self-imposed by previous modifications, and grant of such variance would have an adverse impact on the surrounding properties. I also believe that Michael's Restaurant may have other options for employee and valet parking with no negative impact.

With regard to People's Counsel's Motion to Dismiss -- that brings us to what appears to be elementary fact -- Section 409.8B specifies that standards should be considered; 409.8B.2.a states that land so used must adjoin or be across the street or alley of the business involved. By virtue of the plan submitted -- Petitioner has not met this burden; lot cannot be considered across the street or alley; and it does not adjoin the restaurant's property. I would be inclined to grant People's Counsel's Motion to Dismiss.

For the reasons stated, I would certainly deny the encroachment on a residential lot.

HEB: Listening to the testimony at the hearing, I was impressed

with the design of the lot as proposed by the Petitioner; the measures he is planning to take to make this site not intrusive on the community, the homes in the immediate area, seem to be a rather sincere effort on their part. The lot has been argued to be peculiar, unique in size and configuration, from the others in the area. Mr. Kirwin testified there is no well-defined rear, side or front yard. The subject site--I believe it was argued that only one side is adjacent to the neighbor's property; and is basically opposite two large commercial buildings. However, Protestants point out that utilizing this residential property in this fashion would be an encroachment, and intrusion into what is basically, entirely, a residential community.

The point that whether or not the property is directly across the street, actually it's a couple hundred feet down the street, even though it's within the Baltimore County regulation of 500 feet, it's on the opposite side of the street, not the same side.

Testimony came before this Board that the Master Plan of 1989-2000, that this area is a Community Conservation Area, to preserve as a quiet location, and nonresidential activities should be discouraged. In the previous year, I think it was 1995, the Zoning Commissioner determined at that time that the parking was more than adequate. The surrounding community associations did not take exception to the expansion of the restaurant's parking at that time because they were to utilize parking facilities of the Gerard Building. Now they still need more parking.

I drove by this site two or three weeks ago. There's no question they have a parking problem. This was about 12:30. I overhead a conversation by the president of a women's club -- it was a wonderful meal, everything perfect, but the parking was terrible. The restaurant has a very special need for parking, I presume. But this has been granted in previous years, and I think that the telling factor in this is how we apply Section 409. The fact of whether it's unique or unusual, I think that it's not. The telling point perhaps is that regardless, they need a variance. And the variance that's needed is there to meet residential setback in RTA and to have a variance to satisfy that requirement is not acceptable.

Therefore, I think this should be denied.

CLM: This case comes before the Board and involves a successful and popular restaurant operation in the Timonium area, and it's need for additional parking in restaurant area by way of a

special hearing and request for variances from certain setbacks and buffer area.

Counsel for the Appellant produced two expert witnesses; the Protestants, a substantial number of residents, are opposed to the request. This Board, after receiving testimony, evidence, appropriate law, and decisions, is charged with the responsibility of making a decision consistent with those elements; that these requests are in accordance with established law.

The legislative body, the County Council, enacted legislation for off-street parking under limited and controlled conditions subject to certain requirements of the BCZR relative to design standards and overall requirements more specifically set forth in 409.8B. One of the key elements is whether or not the land so used adjoins or is across alley or street from the business or industry involved. Because of the proposed location of the subject lot, the term "across an alley or street from the business or industry involved" is key element. If the lot is not so situated, the request must be denied on its face. The Appellant has indicated that parking is needed to accommodate his restaurant business, and razing the existing single-family dwelling at 18 E. Timonium Road for parking spaces for cars placed there by valet and other spaces used by employees of the restaurant.

Property fronts the east side of York Road, bordered by Gerard Avenue; zoned D.R. 5.5; .32 acre. Numerous photographs were entered indicating the subject area. There are three single-family dwellings opposite the restaurant before coming to the subject site, on the same side of Gerard as the parking lot used by Appellant; Gerard Building and Kelly Building. On Timonium Road heading west, there are several single-family homes, and on the south side, a number of single-family dwellings. To the south of the intersection, it's heavy predominantly residential area of single-family homes. To the north side is a Citgo and Mini-mart. Timonium Road is a heavily travelled east-west road. The distance from the restaurant to the site is longer than the distance involved in a football playing field.

Section 409.7B of the BCZR provides for off-site parking spaces for uses other than residential and lodging provided they are located within 500 ft. - walking distance. The County Council, in passing the legislation, obviously recognized that if parking did not adjoin the business or industry, that allowance be made for customers to walk to same within reasonable limits, and established the 500 ft. requirement.

Is the restaurant across from alley or street it seeks to serve? The site is not directly across the street, but is across to Gerard approximately 460 feet. While People's Counsel argues that the McNabb case decided in 1963 is on-point, my reading of that case does not come to the same conclusion. The County Council did not opt to use "directly opposite" in enacting the legislation, but across alley or street -- across Gerard Avenue. However, special hearings are governed by Section 502.1 -- these are additional concerns to be satisfied before the request can be granted:

- Will it be detrimental to the area
- Create traffic congestion
- Potential for fire, panic, interference with schools, parks
- Or where inconsistent with the zoning regulations, or in any way inconsistent with the spirit and intent of the zoning regulations

We have differing viewpoints. The property is zoned D.R. 5.5; has single-family dwelling existing on favorable residential lot in area designated for RTA and community conservation area by County officials. While it's bordered by heavy commercial business on the north, residential homes characterize it as residential; attractive property.

Community conservation area are the County's method of preserving established and endangered communities. These communities have experienced stress in recent years. They are areas predominantly residential which are now threatened as newer commercial development evolves. To preserve and enhance community conservation areas, development or re-development must be consistent to issues. It should not be detrimental to the surrounding community's well-being.

Baltimore County needs to encourage business development to increase the tax base, but it must be tempered not to destroy or interfere with residences necessary so as to force the community to be subordinate. There must be mutual planning and accommodating.

I have reviewed this case considerably more than others because of its location and recognition that area involved accommodates both residences, office buildings, and public service establishments. There is no doubt but that the destruction of the present structure to render it into a parking lot will neither enhance the site or assist the County in stabilizing the area. Also, there is no doubt but that to grant the request for parking would be totally out of character with the immediate area and would exacerbate the

problems the County is attempting to solve -- the flight of residents to other counties.

While the Appellant has indicated a limited use for valet and employee parking, objections raised by nearby residents and community leaders cannot be overlooked as to the impact on the community as it relates to additional noise, lighting and disturbances, and possible devaluation of properties. No matter how you view it, a parking lot, no matter how well buffered or landscaped is not as conducive to the area as a single-family home. If the house were destroyed, homes along Timonium Road would become islands surrounded by commercial properties and less desirable as residences.

The Appellant has not met his burden of proof. Even with restrictions, the request is simply inconsistent with the property's zoning and the spirit and intent of the zoning regulations as related to community issues.

As to the request for variances, the Board must be governed by Section 307.1, and the Court decisions that relate thereto. Conditions must be present peculiar to the land, where strict compliance would result in practical difficulty or unreasonable hardship that warrant consideration of the variance.

Before getting into practical difficulty, you must establish "unique." The Court of Special Appeals has held that in the zoning context "unique" does not refer to the existence of improvements of the property or neighboring properties. The Appellant has had two experts that look at the plan and see a unique and different land area than do the neighbors and community leaders. This is no different or unusual than other dwellings in the area; what you see is often what you want to see.

I have reviewed the site plan, and while I do see the peninsula aspect of the property, it's not so uniquely different from other properties to justify the granting of a variance. There was adequate and substantial testimony at the hearing that approval by the Deputy Zoning Commissioner in 1995 would satisfy the parking problem, and the conditions imposed to satisfy the community's concerns are not being adhered to. An inordinate amount of space is available to the north of the restaurant. Appellant would be well-advised to seek out some arrangement with the owners of the property to assist with his parking problem. There is a definite parking problem.

However, for the reasons stated, I would deny the special

hearing and variance requests.

I believe that the Board is in agreement with the fact that the request should be denied along with the variance. Margaret and I disagree as to what "across the street" means.

MW: I look at the aerial and the plan and it simply does not satisfy my plan of what "across the street" is. My interpretation is that the definition refers to two properties separated by a street. I agree they do not use "directly." It seems to me that this is just my idea of "across the street." It certainly does not adjoin it. Using the word "adjoining" coupled with "across the street" -- it gives me the picture that it would either touch -- two pieces which touch each other or simply be separated by a street. So that is the basis for my interpretation. We're looking at several lots down; does not seem to me to satisfy that definition. "Directly across the street" would have straightened it out.

HEB: I agree with you, Chuck. The defining key in this whole thing is the intrusion of commercial activity on residential location coupled with all the many protests that were made -- key reason why it should be denied.

MW: I would agree that saying it's "across the street" or "down the street" is not as important as the other elements -- community conservation area and so forth.

CLM: Are you writing a minority opinion on "across the street"?

MW: No.

CLM: The Board will issue a formal opinion and order in very short order. Any party may appeal to the Circuit Court within thirty days of date of issuance.

Thank you for your attendance.

* * * * * * * *

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Legal Administrator

Prot Ex #9B

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Members, Planning Board **DATE:** February 21, 2002

FROM: Nicole Dozier
Second District Community Planner

SUBJECT: Agency Comments-Revision of Appendix B and Appendix C
West Timonium Heights Commercial Corridor Plan

Attached you will find revised copies of Appendix B (pgs. 21 and 22) and Appendix C (pg. 23) of the West Timonium Heights Commercial Corridor Plan. These revisions were based upon comments made at the public hearing on February 7, 2002. The revisions are as follows:

- Appendix B 1998-2000 Comprehensive Zoning Map Process Issues for West Timonium Heights-2000 Comprehensive Zoning Map Process Issues 4-023, 4-024 and 4-030 were added.

- Appendix C Comprehensive Zoning Issues, Planning Board Recommendations-WTH-01, 3 Roosevelt Street was deleted.

These revisions constitute the staff recommended amendments to the December, 2001 draft of the West Timonium Commercial Corridor Plan.

In addition, agency comments have also been enclosed for your review and information.

ND:lsn

Attachments

Issue #	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning And Acres	Planning Board Recommendations	County Council Decisions
3-154	DiNenna, ESQ	NE/SE Corner of Thelma St and Landstreet Rd	MLR-IM / .12 DR 3.5 /.68	BR / .80	MLR-IM / .12 DR 3.5 /.68	MLR-IM / .12 DR 3.5 /.68
1996						
4-022	Brewer	2412, 2414 & 2416 York Rd	RO / .55	BL, BLR / .55	RO / .55	RO / .55
4-001	Baker Land Co.	S/W corner of Padonoa Rd and Broad Ave	DR 3.5 / .190 OR 1/ 1.780 MLR / 4.600	BM / 6.570	BLM / 6.570	BL / 6.570
4-009	Staff	Roosvelt St , W of Broad St	OR 1 / .930	BM / .930	BLR / .930	BL / .930
4-013	Wheatly Carnes Kaufman	Intersection of Highview and York Rd	DR 3.5 /2.00	BL, BR, ML / 2.00	DR 3.5 /2.00	DR 3.5 /2.00
4-014	Staff	Intersection of Highview and York Rd	DR 3.5 / 1.2	Dr 3.5,MLR-IM /1.2	DR 3.5 / 1.2	DR 3.5 / 1.2
4-021	Lawerence	Intersection of Highview and York Rd	DR 3.5 /.120	BL, BR, ML / .120	DR 3.5 /.120	DR 3.5 /.120
4-029	American Legion	N/S of Thelma St, W of Broad Ave	DR 3.5 / .680 MLR- IM / .120	BR, ML / .800	DR 3.5 / .680 MLR- IM / .120	DR 3.5 / .680 MLR- IM / .120
4-051	County Council Member	N/W corner of Roosvelt St and Broad Ave	DR 3 5 / 1.050	BM / 1.050	BLR / 1.050	BL / 1.050
2000						
4-014	Staff	West side of York Rd between Highview st and Rose St	BR / 1.0	BLR /1.0	BR / 1.0	BR / 1.0
4-023	Estate of May Colgate Brewer	2412-2416 York Rd	RO / .6	BM , BL / .6	RO / .6	RO / .6
4-024	Estate of May Colgate Brewer	3 Roosvelt St	DR 3.5 / .9	RO, OR-2,BL,BM / .9	DR 3.5 / .9	DR 3.5/ .9
4-030	Estate of May Colgate Brewer	Timonium Heights,N/E corner of Roosvelt Ave and Broad Ave	DR 3.5 / 2.2	BM / 2.2	DR 3 5 / 2.2	DR 3.5 / 2.2
4-041	Neurick	2418 York Rd	RO /.1	BM, BL / .1	RO /.1	RO /.1
4-055	RJ Rentals, LLC	2330 York Rd	RO /.2	BM, BL / .2	RO/.2	RO /.2

WEST TIMOMIUM HEIGHTS COMMERCIAL CORRIDOR PLAN
Comprehensive Zoning Issues
Planning Board Recommendations

01-Nov-01

Issue #	Owner, Petitioner	Location	Existing Zoning and Acres	Proposed Zoning And Acres	Staff Recommendation
WTH-01	Brewer	2 Roosevelt St 4 Roosevelt St	DR 3.5 / 2.66	OR-2	OR-2
WTH-02	Brewer	2412, 2414 & 2416 York Rd	RO / .55	RO	RO
WTH-03	Neurick	2418 York Rd	RO /.1	RO	RO
WTH-04	Exxon Corporation	2424-2420 York Rd	BL- AS/ .21	BL	BL
WTH -05	Gennuso	2430 York Rd	BL-AS/ .26	BL	BL

Maryland Department of Transportation
State Highway Administration

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

Please Reply to:
Office of the District Engineer
Highway Engineering District 4
Baltimore and Harford Counties
2323 West Joppa Road
Brooklandville MD 21022
410-321-2800; 1-800-962-3077
Fax # - 410-321-2808

Protex #9c

February 13, 2002

Mr. Arnold F. "Pat" Keller, III
Director, Office of Planning
Baltimore County
County Courts Building
Towson MD 21204

MD 45 - Draft of West Timonium Heights
Commercial Corridor Plan
Baltimore County

Dear Mr. Keller: Pat

Thank you for providing us an opportunity to review the draft of the West Timonium Heights Commercial Corridor Plan located in Baltimore County. We are forwarding a copy of the study to Ms. Mary Deitz of the State Highway Administration's Office of Planning and Preliminary Engineering for their review.

Our preliminary comments pertain more to the existing operational aspect of the MD 45 corridor and near term efforts to improve traffic safety and operations. Although there has not been a traffic study performed for this specific section, there was an operational traffic study along MD 45 including the corridor done in 1999. As a result, the signals along MD 45, including the MD 45 at Padonia Road signal, were updated with new signal controllers and modifications made to the signal timing. We are presently altering the signal cycle length on weekends to accommodate the extra traffic generated by events at the Fairgrounds. These signals are owned by the State Highway Administration and maintained by Baltimore County.

Additionally, the MD 45 at Padonia Road intersection is a candidate intersection in our Congested Intersection Program. This is a long-term process. We are only requesting engineering design funding at this time. We will provide you with an update of our efforts by the end of June.

There are existing sidewalks on MD 45 in the study corridor. Ramps meeting the requirements of the Americans with Disabilities Act were added last year.

Thank you for including our input. If there are any questions, please contact Mr. Bob Steffy at 410-321-2786.

Sincerely,

David J. Malkowski
Metropolitan District Engineer
Baltimore and Harford Counties

DJM/RCS/rlb

cc: Ms. Mary Deitz w/attachment
BH037-02

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Prot Ex #9D

DATE: January 24, 2002

Darrell Stone
Forward to
Pat Keller

TO: Ed Adams, Jr., Director
Department of Public Works

FROM: Darrell Wiles, Chief
Bureau of Traffic Engineering and Transportation Planning

SUBJECT: Timonium Heights Commercial Corridor Plan
York Road

We have reviewed the draft plan and offer the following comments.

- We have met with SHA and Fairgrounds management to suggest strategies for reducing the impacts of Fairground's events on the adjacent road system. We plan to continue that working relationship.

- The goal to reduce general traffic on York Road is unrealistic and the requested traffic study is likely a mostly unproductive exercise. Obviously some counts are appropriate and will likely be done routinely.

DAW:dll

\\PW_NW1\VOL2\Bureaus\Traffic\2002 Documents\ad-Wiles\Memos\daw012402c1 Timonium Heights Commercial Corridor Plan.York Rd.doc

RECEIVED
JAN 25 2002

The Baltimore County Council

BALTIMORE COUNTY, MARYLAND
NOTICE OF PUBLIC HEARING

Prot Ex 9E

NOTICE is hereby given pursuant to the provisions of the Baltimore County Charter and Baltimore County Code that the County Council of Baltimore County will hold a public hearing at the date, time and place indicated below on the following issues:

1. **LOCHEARN - FOREST GARDEN - HAYWOOD HEIGHTS COMMUNITY ACTION PLAN (Adopted by the Planning Board, November 15, 2001)**

2. **MASTER PLAN AMENDMENT - WEST TIMONIUM HEIGHTS COMMERCIAL CORRIDOR PLAN (Adopted by the Planning Board, February 21, 2002)**

3. **MASTER PLAN AMENDMENT - KENILWORTH DRIVE CORRIDOR PLAN (Adopted by the Planning Board, February 7, 2002)**

The public hearing will be held on:

DATE: **MONDAY, APRIL 1, 2002**
TIME: **7:30 P.M. (OR IMMEDIATELY FOLLOWING COUNCIL MEETING)**
LOCATION: **COUNTY COUNCIL HEARING CHAMBER**
SECOND FLOOR - COURT HOUSE
TOWSON, MARYLAND 21204

****** SPEAKER REGISTRATION WILL BEGIN AT 6:30 P.M.******

Copies of the proposed reports of the Planning Board are available for public inspection at the Office of Planning, County Courts Building, Towson, Maryland 21204; County Council Office, Second Floor Court House, Towson, Maryland and in each Councilmanic District at the following locations:

1st District:	Catonsville Library
2nd District:	Randallstown and Pikesville Libraries
3rd District:	Reisterstown and Cockeysville Libraries
4th District:	Towson Library
5th District:	Essex and Perry Hall Libraries
6th District:	Parkville Library
7th District:	North Point Library

Back To Council Home Page

ated with light rail. In conjunction with the Maryland Stadium Authority, the Baltimore Convention bureau and the Maryland State Fair, the Baltimore County Department of Economic Development has analyzed the market demand and timing for expanded exhibition space at the Timonium Fairgrounds site. Recognizing the need to support the primary effort of marketing the Baltimore City Convention Center, expansion has been deferred until 2001-2002. At that time, however, a new 100,000 square foot exhibition space to accommodate an expanded schedule of local and regional events is expected to be constructed.

If the fairgrounds becomes available for other types of uses, consideration of retail, office, recreation or higher density residential development may be appropriate. Community concerns for intensifying development at the fairgrounds site will need to be addressed by any redevelopment. Very intensive uses may also require a reconfiguration of the interchange at Timonium Road and I-83.

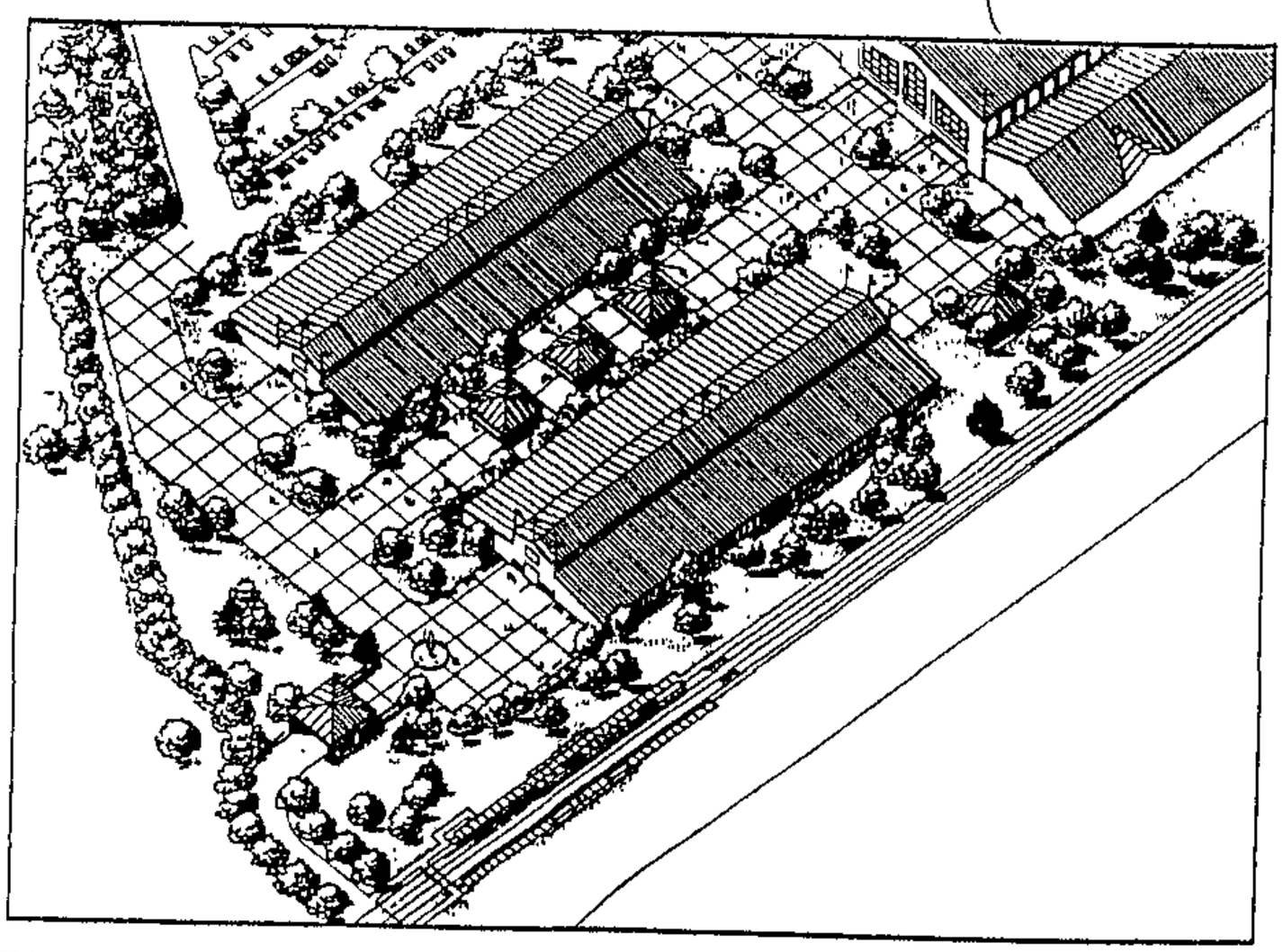
West Timonium Heights: This is a residential community of about 100 single family residences. The community is platted as a 50-acre subdivision, of which about 20 acres have never been developed.

Because of its existence as a residential enclave surrounded by nonresidential uses, and its direct access to the light rail, this area seems to present redevelopment opportunities for higher density mixed use/residential uses.

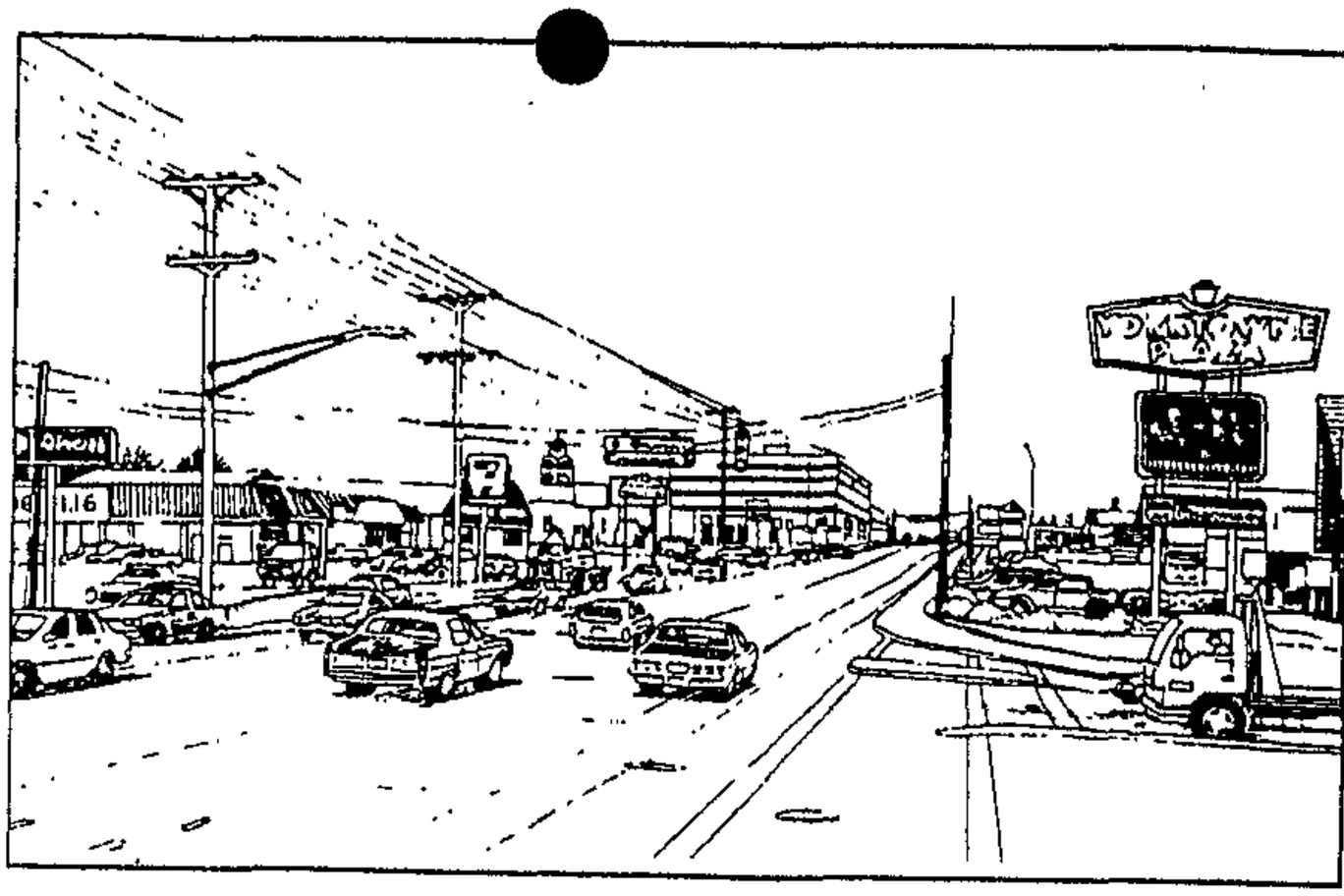
A number of development projects have been proposed. A shopping center is being planned along Padonia Road to the north. The Timonium Fairgrounds is planning an expansion on some of the vacant land to the south. Also, Baltimore County has plans to construct a regional stormwater management facility in this area.

Residents of the West Timonium Heights community have recently formed a community association, and are in the process of developing a plan for their community. The County will work with the community to determine appropriate land uses and zoning, and to implement the recommendations of their plan.

As a community conservation measure, strong buffers should be developed along the perimeter of the residential community, including fencing and dense landscaping, particularly along the edges bordering the fairgrounds property and all commercial property.



The Timonium State Fairgrounds could expand to become a major exhibition and convention center.



The visual appearance of the York Road corridor could be improved to make it more appealing to shoppers.

Action 3: Discourage sign variances along York Road and encourage stricter enforcement of the signage regulations along York Road.

Action 4: The Office of Planning will support local businesses and community groups who institute an annual contest for the business property with the best or most improved appearance.

Community Conservation

Community conservation has been an important element of the Baltimore County Master Plan since 1989. In 1995, the Office of Community Conservation was established to support comprehensive, intensified initiatives dedicated to preserving, stabilizing and enhancing the human, physical and economic condition of the County's urban communities. Within the HV/T area, the nature and size of this regional employment and commercial center can create conflicts with the needs of the residents.

Issue: Protecting and Enhancing the Existing Residential Communities

The general goal of protecting and enhancing existing residential communities within the impact area will involve the implementation of a number of actions:

Action 1: Insure that the future redevelopment of sites in the HV/T area does not create negative impacts on existing communities.

Action 2: Restrict nonresidential land uses from encroaching into residential areas. In general, limit further rezoning of residential parcels to nonresidential use. Employ RO or ROA residential office zones in areas requiring a greater buffer between disparate uses. The CB (Community Business) zone may be appropriate at some locations. Identify parcels between the commercial nodes which may be suitable for assisted living/elderly housing.

Action 3: Permit only small day care facilities with improved standards within residential areas. Larger facilities should be located within the employment area.

Action 4: Monitor home based business occupations within DR zones to insure that negative impacts are minimal.

Action 5: Discourage traffic in the neighborhood which is unrelated to the residences.

Action 6: Reduce the amount of traffic congestion on York Road to make it easier for residents to access their neighborhood by encouraging shared access/parking arrangements.

Action 7: Improve the visual quality of the York Road corridor. As part of a York Road Streetscape Study:

- Formulate commercial corridor design guidelines for inclusion in the CMDP. Include larger setbacks and buffers between residential and nonresidential uses. Incorporate themes to promote neighborhood identity, and consider making the corridor a Design Panel Review Area.

- Existing commercial properties should be brought into conformance with the County's Landscape Manual.

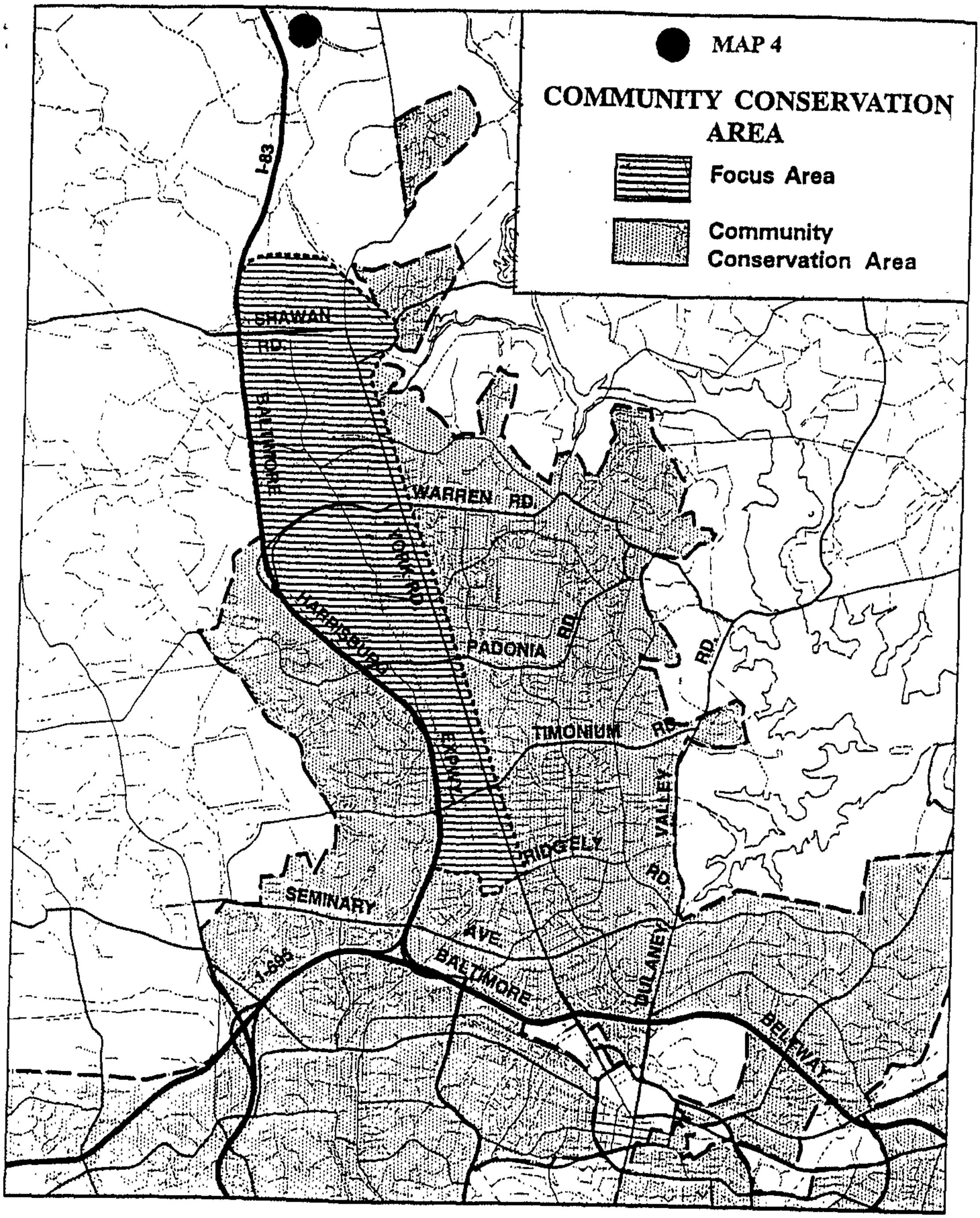
Action 8: Attempt to match existing uses with the appropriate zoning along the York Road corridor where the zoning permits more intensive uses than those uses that presently occupy the property.

Action 9: Protect the historic Cockeysville school grounds between Bosley and Matthews Avenues as one of the few common open space areas along the corridor. Current plans for the site include senior housing and a senior center, and retention of most of the open space for continued recreational uses.

Action 10: Continue support for the Cockeysville commercial area as a small, historic shopping locality. Designation of these few blocks as a revitalization area would provide a funding program for development of an attractive streetscape and other amenities to assure that the character of Cockeysville remains. Business owners should be encouraged to participate in the County's facade improvement program.

Action 11: Create community action plans in order to document issues and provide a mechanism for implementation.

Action 12: Encourage the formation of a roundtable consisting of business representatives and community associations to address issues and assure implementation of plan actions.


MAP 4
COMMUNITY CONSERVATION AREA
Focus Area
Community Conservation Area
I-83
SHAWAN RD.
WARREN RD.
PADONIA RD.
TIMONIUM RD.
RIDGELY RD.
VALLEY RD.
SEMINARY AVE.
BALTIMORE
BULANEY
BELTWAY
I-695

LOUIS W. MILLER, PAST PRESIDENT
GREATER TIMONIUM COMMUNITY COUNCIL, INC.
44 E. TIMONIUM RD., TIMONIUM, MD. 21093
410-252-3444 - EMAIL: LEABO@AOL.COM

Prot Ex 9F

February 2, 2002

Chairman and Planning Board Members
Baltimore County Planning Board
407 New Courts Building
Towson, Md. 21204

Re: West Timonium Heights Commercial
Corridor Plan, Council Resolution 25-01

Planning Board Members:

We favor the adoption of the draft report dated December 1, 2001 before you with the following minor corrections:

Page 4 - Background: There were **seven**, not **five**, CZMP request in the year 2000 cycle.

4-014 - Highview & Rose from BL to BLR - **BL stayed**
Zoning Commissioner allowed used car lot.
Covenant signed for redevelopment to use BLR standards and recorded.

4-023 - 2412, 2414, 2416 Harding & Roosevelt, From RO to "B" - **RO stayed.**
4-024 - 3 Roosevelt St., From DR 3.5 to RO or "B", - **DR 3.5 stayed.**
4-030 - N/S Roosevelt St. 2.2 acres, From DR 3.5 to "B", - **DR 3.5 stayed.**
4-055 - 2330 York Rd., From RO to "B"- **RO stayed.**
These six properties are owned by Brewer family.

4-041 - 2418 York Rd., From RO to "B", - **RO stayed.**
This property owned by Neurick **was in violation of the RO zoning.**
This property has subsequently sold for RO use as an insurance office.

4-056 - 120 ft west of York Rd. at Estelle St., From RO to "B", - **RO stayed.**

Page 14 - Action 3: Recommend the fence and buffer along the north side of Roosevelt St. to enclose the recommended OR-2 zoning.

"GTCC suggests this recommendation be held pending the development of **actual plans for use of the property**. We believe more than one entrance
a and exit should be provided due to the heavy traffic on Padonia Rd and Broad Street and the intersection of Padonia and York Road."

Continue-

LOUIS W. MILLER, PAST PRESIDENT
GREATER TIMONIUM COMMUNITY COUNCIL, INC.
44 E. TIMONIUM RD., TIMONIUM, MD. 21093
410-252-3444 - EMAIL: LEABO@AOL.COM

Page 21 - The actual CZMP requests should be noted on Page 21.

Page 22 - WTH-01 **should not** include 3 Roosevelt St. This is the home property of the Brewer family and is recommended for SE zoning in the 2004 CZMP cycle.

Attached is a letter dated **June 14, 2001**, to Nicole Dozier, 4th District Planner, following the last Advisory Committee meeting, for your review of our position on this resolution.

GTCC has worked with West Timonium Heights Community Association. We assisted with their Constitution and By Laws, supported them in each of their time consuming effort at residential protections, from both the south, north, and eastern boundary lines.

We support the report, subject to the minor corrections noted above.

Sincerely yours,

Louis W. Miller, Past President, GTCC

File: GTCC WTH Plan 12-01-01

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

(410) 887-2188

ORIGINAL
L. MILLER

Prot Ex #10

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 30, 1995

Mr. Robert O. Schuetz, Chairman
Board of Appeals of Baltimore County
Room 49 Courthouse
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petitions for Special Exception
and Zoning Variance
42 East Timonium Road - 8th Election
District, 6th Councilmanic
Petitioners - FATEMEH FALAHI and
MOHAMMAD HAERIAN
Case No. 94-271-XA

Dear Chairman Schuetz:

This is the first in a series of combination special exception and variances for principal use Class B Group Child Care Centers in D.R. (density residential) zones involving Residential Transition Areas (RTA's). See BCZR 424.5A. Upon review of the applicable statutes and case law, it appears that the use cannot properly be allowed.

Bill 200-90 (enclosed) amended the child care center law. As a result, BCZR 1B01.1B1g (10a) allows such special exceptions, "provided... that the proposed improvements are planned in such a way that compliance with the bulk standards of Section 424.7 will be maintained. ..." BCZR 424.7 provides the specific bulk standards for minimum lot size, setbacks, parking, height, and impervious surface area for group child care centers in all D.R. zones.

The present special exception presents multiple variances of BCZR 424.7. Even were there no special exception, it does not appear that the requested variances meet the "uniqueness" standard of BCZR 307.1 and Cromwell v. Ward, 102 Md.App. 691 (1995) (excerpt enclosed). The presence of the combination special exception/variance is a second bar to approval. See Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County, 103 Md.App. 324 (1995).

The specific statutory prerequisite under BCZR 1B01.1B1g (10a) of BCZR 424.7 compliance for group child care centers in the RTA is yet a third layer of preclusions.

This office is thus interested in the defense of the zoning maps in this case. In view of the clear legal issue, the undisputed material facts about the proposal, and the presence of counsel for other parties, we do not find it necessary to present additional testimony.

We also enclose an outline of relevant excerpts from the Cromwell and Chester Haven cases.

Please accept this letter as a memorandum in lieu of oral argument.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/caf
Enclosures

cc: Michael P. Tanczyn, Esquire

J. Carroll Holzer, Esquire

bcc: Mr. Lou Miller

Variance: Self-Created Hardship

Cromwell v. Ward:

Quoting Ad + Soil, Inc. v. County Comm'rs:

"The essence of AD + Soil's argument .. is that the setback requirements ...would cause...unwarranted hardship because it had obtained its first state permit and constructed its transfer station before it learned of these local requirements... The Board declined to grant the variances, concluding that Ad + Soil's 'hardship' was self-inflicted...and therefore not the kind of hardship cognizable under the Zoning Ordinance." Page 439

Quoting Pollard v. Board of Zoning Appeals:

"Self-inflicted or self-created hardship ...is never considered proper grounds for a variance....[W]here the applicant creates a nonconformity, the board lacks power to grant a variance." Page 439

Judge Cathell concludes:

"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. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted." 439-40.

Xanthos v. Board of Adjustment:

"...although the dwelling itself prior to the construction of the duplexes was a nonconforming use and was therefore entitled to be maintained as it was absent new construction, city ordinances and policy did not allow the structure to be made illegal or more nonconforming by additional construction."

In the Matter of Umerley Circuit Court for Baltimore County (Byrnes, J.)

"Uniqueness cannot be created by the owner." Page 6

"There is nothing unusual about the shapes of lots 2 and 5. They are rectangles." Page 9

The Chester Haven Case: Prohibition of Special Exceptions with Variances Discussion of Grandfathered Development

Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County

"All of its variance requests concern what it perceives to be a necessary to meet the requirements of a change in its development plan from single family to group or cluster living necessitated by the current demand, not of zoning codes, but of environmental regulations (and economic conditions), especially the requirements of complying with the Chespeake Bay Critical Area regulations. We are not unsympathetic to the plight of a property owner caught between local zoning codes and environmental regulations. We later herein suggest the correct method of addressing this issue. But, an offer to build below density, if a conditional use acceptable to environmental regulators changing the character of the use of the property is granted does not satisfy the requirement of variance law that the land itself be inherently unique and different from the remainder of the land in the area." Page 7

"The Board noted that, in addition to the conditional use [special exception] - or really, in order to qualify to apply for the conditional use - the applicants had to get a variance from the six unit per cluster conditions and from the provisions of the density percentages, and addtional variances from the conditions for which the ordinance required satisfaction in order to be entitled to a conditional use. In other words, the Board perceived, correctly, that the subject project could not meet the requirements the ordinance established for the granting of the conditional use. Therefore, the applicants were attempting to eliminate the conditions by obtaining variances therefrom."

"The attempt to follow this procedure creates fundamental and conceptional problems with the generally accepted proposition that if the express conditions necessary to obtain a conditional use are met, it is a permitted use because the legislative body has made that policy decision. Does the legislative intent that the use be permitted remain if the conditions are not met but are eliminated by an administrative body granting a variance? Upon such an occcurrence, the application for a conditional use becomes dependent upon the granting of the variances. Under those circumstances, the presumption that a conditional use is permitted may well fall by the wayside. The policy that establishes certain uses as permitted is predicated upon the satisfaction, not avoidance, of conditions. Conditions the legislative body attaches to the granting of a conditional use normally must be met in accordance with the statute - not avoided. In any event, even if such a procedure would pass muster, if the variance process fails, the entire application fails." Page 11-12 (Emphasis supplied)

Variance Standards

Cromwell v. Ward: 651 A.2d 424

Quoting 2 Rathkopf, The Law of Zoning and Planning,

"Where property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions...hardship arises...The restrictions of the ordinance taken in conjunction with the unique circumstances *affecting the property* must be the proximate cause of hardship...[T]he hardship, arising as a result of the act of the owner... will be regarded as having been self-created, barring relief." Page 431-32

Quoting Bowman v. City of York:

"[A] variance [may be granted] ... only if strict application of the regulation, because of the unusual physical characteristics of the property existing at the time of the enactment, [of the zoning ordinance] 'would result in peculiar and exceptional practical difficulties." Page 434-35

Quoting Shafer v. Board of Appeals:

"There was no evidence...regarding 'soil conditions, shape or topography of [the property] but not affecting generally the zoning district in which it is located"....The ...argument that the insufficient width ...constitutes a special circumstance of "shape" is unpersuasive, particularly as the deficiency is one which they themselves produced through subdivision of the land they originally owned at a time when the 125 foot width requirement pertained." Page 435.

Quoting St. Clair v. Skagit County:

"The court added that 'the 75-foot width and aggregation requirements do not put a burden on [appellant's] property which does not apply to other properties in the vicinity..."

Continuing in Cromwell: "In the case sub judice, the Baltimore County fifteen foot height limitation for accessory buildings does not affect Ward's property alone; it applies to all of the properties in the neighborhood." Page 435

Variance Standards: Cromwell v. Ward (Continued)

Quoting Xanthos v. Board of Adjustment:

"...in order to justify a variance...the applicant [must] show...that there are special conditions with regard to the property...:

> 'What must be shown...is that the property itself contains some special circumstance that relates to the hardhship complained of....
>
> '...The property is neither unusual topographically or by shape, nor is there anything extraordinary about the piece of property itself. Simply having an old building on land upon which a new building has been constructed does not constitute special circumstances." Page 436

Quoting Prince William County Board of Zoning Appeals v. Bond:

"...the hardship allegedly created by the ordinance must "not [be] shared shared generally by other properties in the same zoning district and the same vicinity.'...[It then held] "The limitation imposed by the zoning ordinance is one shared by all property owners in the A-1 district." Page 437.

Quoting McQuillin, Municipal Corporations:

"It is *fundamental* that the difficulties or hardships must be unique to justify a variance; theymust be peculiar to the application of zoning restrictions *to particular property* and not general in character...[I]t is not uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion...." Page 438 (Excerpt of quotation)

Judge Cathell concludes:

"We conclude that the law in Maryland and in Baltimore County under its charter and ordinance remains as it always has been - a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." Page 439

Baltimore County Zoning Commissioner
Office of Planning
Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204

Photographs
02-533-SPHA
Protestant's Ex. # 11-A
thru 11-H

Printed with Soybean Ink

Greater Timonium Community Council, Inc.
9b Ridgely Rd.
Lutherville, Md. 21093
Email: Leabo@aol.com Web Page: www.gtccinc.com Phone: 410-252-3444

Prot Ex #12

TRAFFIC DATA:

Latest study available to GTCC dated 2/26/92
Baltimore County Traffic Dept. estimates a 2% increase in York Rd traffic per year.

Summary of the 2/26/92 traffic counts for north and south York Rd.

BUSY TIMES:
A.M. 6:15-9:00 SEE ATTACHMENT
Total counts north bound= 5677
Total counts south bound= 4484
Totals at Timonium Rd =10161
10161/165 min. = 61.58 per min.
Traffic Dept est. increase =120%
Adjusted counts per min. = 73.90 per min.
Adjusted counts per sec. = 1.23 per sec.

P.M. 3:15-6:00 SEE ATTACHMENT
Total counts north bound= 5732
Total counts south bound= 7425
Totals at Timonium Rd. =13157
13157/165 min. = 79.74 per min.
Traffic Dept est. increase = 120%
Adjusted counts per min. = 95.69 per min.
Adjusted counts per sec. = 1.60 per sec.

ESTIMATED AVERAGE DAILY TRIPS. SEE ATTACHMENT
Total counts north bound= 32115
Total counts south bound= 32361
Total at Timonium Rd. = 64476
64476/24 per hour = 2686
Traffic Dept est. increase = 120%
Adjusted counts per hour = 3223
Adjusted counts per min. = 53.72
Adjusted counts per sec. = .89
THIS SHOWS A DECIDED SAFETY FACTOR TO THE PUBLIC.

TURNING MOVEMENT COUNT DATA

LOCATION TIMONIUM RD + YORK RD — County Signal Number 53

Recorder CT — Weat. DRIZZLE — Road Surf. WET — Day of the Week WEDNESDAY — Date of Count 2/26/92

ROAD NAME	YORK RD N BOUND				YORK RD S BOUND				N+S BOUND	TIMONIUM RD E BOUND				TIMONIUM RD W BOUND				E+W BOUND	GRAND
A.M. COUNT	L	S	R	TOTAL	L	S	R	TOTAL	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	TOTAL	TOTAL
6:00-6:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:15-6:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:30-6:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:45-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7:00-7:15	67	187	5	261	3	103	39	145	406	28	33	22	83	18	123	12	153	236	642
7:15-7:30	63	216	5	284	2	137	40	179	463	32	47	28	107	20	152	9	131	288	751
7:30-7:45	69	230	7	306	4	198	35	237	543	49	39	36	124	40	182	12	234	358	901
7:45-8:00	62	249	11	322	9	170	35	214	536	53	41	51	145	51	160	10	221	366	902
8:00-8:15	115	247	18	380	4	243	31	278	658	84	56	74	214	50	177	15	242	456	1114
8:15-8:30	68	223	26	317	1	170	30	201	518	80	41	48	169	37	124	5	166	335	853
8:30-8:45	62	169	22	253	14	179	59	252	505	50	44	57	151	36	118	5	159	310	815
8:45-9:00	62	146	16	224	18	212	47	277	501	74	47	68	189	36	126	11	173	364	865
A.M. HOUR TOTALS																			
6:00-7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6:15-7:15	67	189	5	261	3	103	39	145	406	28	33	22	83	18	123	12	153	236	642
6:30-7:30	130	485	10	545	5	240	79	324	869	60	80	58	198	38	278	21	334	524	1393
6:45-7:45	199	635	17	851	9	438	114	561	1412	107	119	86	314	76	457	33	568	882	2294
7:00-8:00	261	884	29	1173	18	608	149	775	1948	162	160	137	459	129	617	43	789	1248	3196
7:15-8:15	309	942	41	1292	19	748	141	908	2200	218	183	189	590	161	671	46	878	1468	3668
7:30-8:30	314	949	62	1325	13	781	131	930	2255	266	177	209	652	178	643	42	863	1515	3770
7:45-8:45	307	888	77	1272	28	762	155	945	2217	267	182	230	679	174	579	35	768	1467	3684
8:00-9:00	307	785	82	1174	37	684	167	1088	2182	288	168	247	723	161	545	36	742	1465	3647

5617 — 4484 = 1016 / 16.5 min = 61.58 X 120% = 73.90 / 1.23 Per Sec.

Recorder CT — Weat. CLEAR — Road Surf. DRY — Day of the Week WEDNESDAY — Date of Count 2/26/92

ROAD NAME	YORK RD N BOUND				YORK RD S BOUND				N+S BOUND	TIMONIUM RD E BOUND				TIMONIUM RD W BOUND				E+W BOUND	GRAND
P.M. COUNT	L	S	R	TOTAL	L	S	R	TOTAL	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	TOTAL	TOTAL
3:00-3:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3:15-3:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3:30-3:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3:45-4:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4:00-4:15	39	187	20	246	11	316	86	413	659	87	109	53	249	27	53	8	88	337	996
4:15-4:30	60	227	45	332	20	323	102	425	757	120	131	54	305	36	54	9	99	434	1161
4:30-4:45	45	186	29	260	21	237	67	325	585	89	115	70	274	25	56	12	93	367	952
4:45-5:00	63	249	32	344	26	291	119	436	780	109	146	46	301	42	94	6	144	445	1225
5:00-5:15	77	274	51	402	27	316	147	490	892	126	173	90	389	45	94	9	148	537	1429
5:15-5:30	48	204	32	284	25	258	80	363	647	78	143	54	275	26	85	12	123	400	1047
5:30-5:45	71	227	46	344	25	310	133	468	812	112	163	81	356	32	68	6	106	464	1276
5:45-6:00	46	174	26	246	12	179	92	283	529	90	114	60	264	26	40	6	72	336	865
P.M. HOUR TOTALS																			
3:00-4:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3:15-4:15	39	187	20	246	11	316	86	413	659	87	109	53	249	27	53	8	88	337	996
3:30-4:30	99	414	65	578	31	619	188	838	1416	207	240	187	554	63	107	17	187	741	2157
3:45-4:45	144	620	94	858	52	856	255	1163	2021	296	355	177	828	88	163	29	280	1108	3129
4:00-5:00	207	849	126	1182	78	1147	374	1599	2781	405	531	223	1129	130	257	37	424	1553	4334
4:15-5:15	245	936	157	1338	94	1147	435	1676	3014	444	545	268	1267	148	298	38	484	1753	4767
4:30-5:30	233	910	144	1290	99	1102	413	1614	2904	402	577	268	1239	140	329	41	510	1749	4653
4:45-5:45	259	954	161	1374	103	1175	479	1757	3131	425	625	271	1321	147	341	37	525	1846	4977
5:00-6:00	240	875	135	1250	89	1067	452	1608	2858	426	593	265	1284	131	287	35	453	1737	4617

5732 — 4445 = [illegible] / 1.65 = 72.94 X 120% = 95.69 / 1.60 Per Sec.

LOCATION TIMONIUM RD + YORK RD — County Engineer Number: 5C

	Recorder	Weather	Road Surface	Day of Week	Date of Count
A.M.	CT	DRIZZLE	WET	WEDNESDAY	2/26/92
P.M.	CT	CLEAR	DRY	WEDNESDAY	2/26/92

PERCENTAGE TURNING MOVEMENTS & TOTAL VOLUMES

ROAD NAME		YORK RD N BOUND				YORK RD S BOUND				TIMONIUM RD E BOUND				TIMONIUM RD W BOUND				N+S+E+W
		L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	TOTAL
%TURNING	A.M.	24%	71%	5%	100%	3%	79%	18%	100%	38%	29%	32%	100%	19%	76%	5%	100%	N/A
MOVEMENT	P.M.	18%	70%	11%	100%	5%	69%	26%	100%	34%	45%	21%	100%	30%	62%	6%	100%	N/A
TOTAL	A.M.	562	1669	116	2347	55	1412	316	1783	450	348	384	1182	290	1162	79	1531	6843
VOLUMES	P.M.	449	1728	281	2458	157	2210	826	3203	811	1294	308	2413	261	544	72	877	6574
GRAND TOTAL		1017	3397	391	4805	222	3622	1142	4986	1261	1442	892	3595	551	1706	151	2408	15794

ESTIMATED ADT'S NORTH 32115 + SOUTH 32361 = EAST 14633 WEST 24459

ESTIMATED CARS ENTERING THE INTERSECTION ----------> 51784

64476 × 120% = 77,371 / 24 = 3223 Per HR (24)
3223/60 = 53.73 Per MIN
53.73/60 = .89 Per SECOND

INTERSECTION: TIMONIUM RD + YORK RD

DESC. YORK RD IS A FOUR LANE UNDIVIDED STATE RD WITH LEFT TURN LANES AND ARROWS I BOTH DIRECTIONS. TIMONIUM RD IS AN UNDIVIDED COUNTY RD WITH A LEFT AND STRAIGHT LANE AND STRAIGHT AND RIGHT LANE W/B. TIMONIUM RD E/B HAS A LEFT, LEFT-STRAIGHT AND STRAIGHT LANE WITH A RIGHT YIELD.

The signal functions as a 6 phase light. The cycle lenghts in the morning averages 118 seconds and in the afternoon the cycle length averages approximately 129.
The peak hours were 7:30 to 8:30 A.M. and 4:45 to 5:45 P.M. The peak flow occurs on the N/B direction of YORK RD during the A.M. peak hour and occurs on the S/B direction of YORK RD during the P.M. peak hour.

LOADED CYCLES:

	N/B	S/B	E/B	W/B
% LOADS	4%	N/A	N/A	4%
TIME(A.M.)	730-830	*	*	730-830
% LOADS	N/A	7%	7%	12%
TIME(P.M.)	*	415-515	445-545	430-530

REMARKS

THE LEVEL OF SERVICE IS C

A = 0 % C = 11 - 30 % E = 71 - 85 %
B = 1 - 10 % D = 31 - 70 % F = 86 - 100 %

For Updated List Y N DATE REVIEWED: _____ APPROVED BY: _____ CHECKED BY: _____

Prot Ex 3

Seni 7/16

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 5, 2002

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

JUN - 6 2002

SUBJECT: 3 Thelma Street

INFORMATION:

Item Number: 02-533

Petitioner: Mimiba, LLC

Zoning: DR 3.5

Requested Action: Special Hearing/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has determined that the subject request does not comply with the West Timonium Heights Commercial Corridor Plan adopted on May 20, 2002. The plan specifically notes that clear limits between commercial and residential use must be set in order to prevent future commercial encroachment. As such, this office does not support the request to allow a commercial parking lot in a residential zone, and recommends that said request be **DENIED**.

Prepared by: Mark A Cummings

Section Chief: Lynn Lochner

AFK/LL:MAC:

Pet Ex #4

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2001, Legislative Day No. 4

Resolution No. 25-01

Mr. Wayne M. Skinner, Councilman

By the County Council, February 20, 2001

A RESOLUTION of the Baltimore County Council requesting the Baltimore County Planning Board to prepare a Timonium Heights West Commercial Corridor Plan.

WHEREAS, the County Council adopted the Hunt Valley/Timonium Master Plan as part of the Baltimore County Master Plan on October 19, 1998 (Res. 75-98); and

WHEREAS, the County Council recognizes that the west side of York Road, from the northern boundary of the Timonium Fairgrounds property to Padonia Road, has a mix of residentially and commercially zoned properties; and

WHEREAS, the County Council recognizes the need to explore ways to strengthen the existing community of Timonium Heights West; and

WHEREAS, the County Council recognizes the need to explore the current zoning along this corridor to ensure that its future redevelopment enhances the existing commercial development; and

WHEREAS, the County Council believes that further evaluation, review, and public input are necessary in order to prepare, consider, and adopt a Plan for the reasonable redevelopment of residentially and commercially zoned properties along this corridor of the Fourth Councilmanic District consistent with the Hunt Valley/Timonium Plan and the Master Plan and in the best interest of the public.

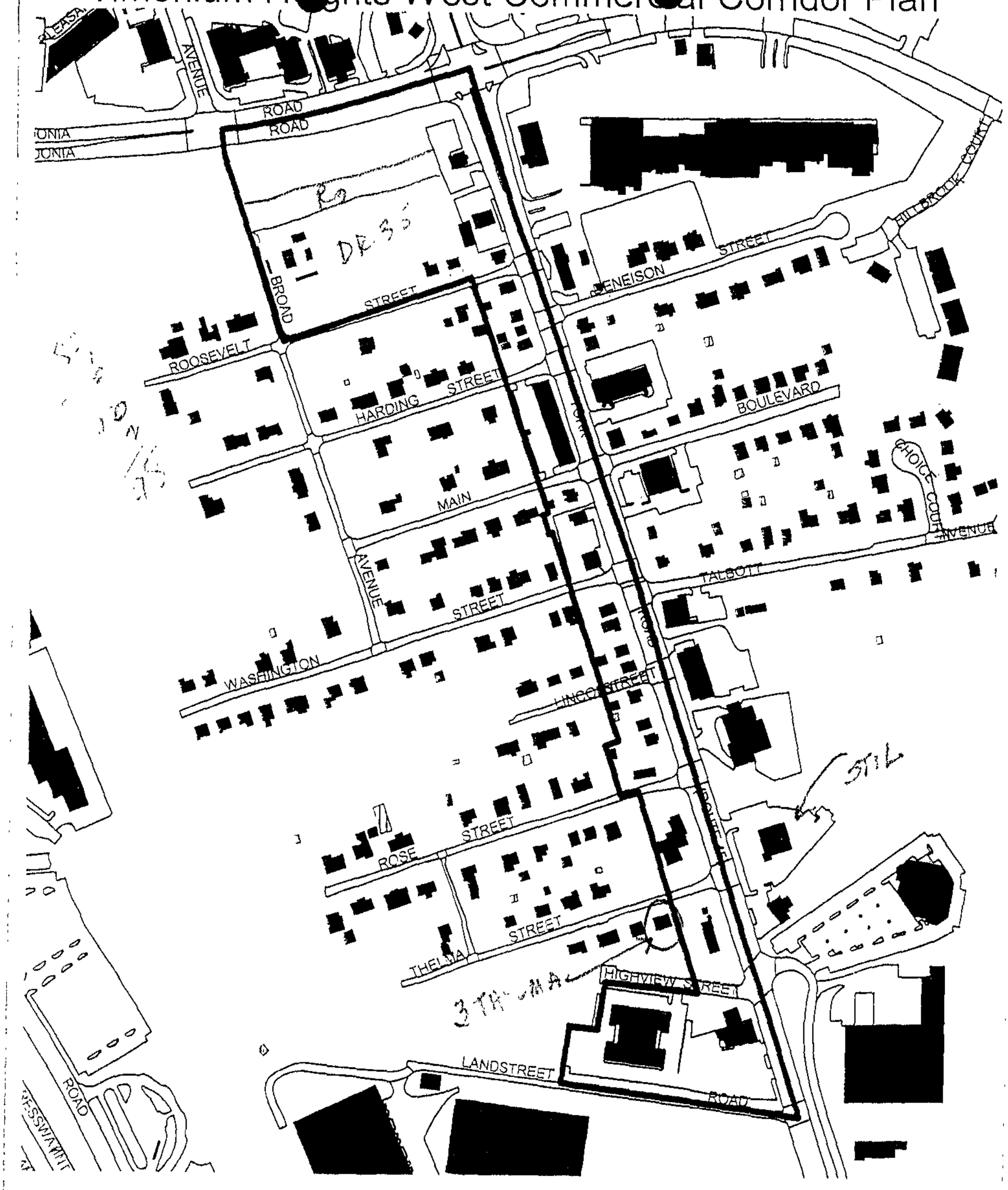
NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Planning Board be and it is hereby authorized, pursuant to Sections 26-123 and 26-124 of the Baltimore County Code, to prepare a Timonium Heights West Commercial Corridor Plan as a revision and update to the Hunt Valley/Timonium Plan and the Master Plan, which will serve as a guide for the redevelopment of commercially and residentially zoned properties, as depicted on the attached map, and to recommend implementing legislation and programs, including the review and revision of the official Comprehensive Zoning Map for the Fourth Councilmanic District, and including recommendations for land use controls such as overlay districts and design guidelines, and to report its findings and recommendations and proposed Plan to the County Council no later than August 31, 2001.

r02501 bil

ADVISORY BY MAY-JUNE TO PLAN BD 6/7
PLAN BD W/PLAN PB BHEAR 7/19 7/21

1/3/2002 PBD INTRO OF REPORT
11/6/2001 SK OFFICE USE REPORT OF 11/6/2001
6/4/2001 LTR TO PLANNER (NICOLE)
6/6/2001 ADV MTG. LOU NO CB
5/2/2001 ADV MTG
4/19/2001 ADV MTG

Timonium Heights West Commercial Corridor Plan



Prepared by
the Baltimore County
Office of Planning

Data Sources:
Study Boundry: Office of Planning (1:2400)
Buildings: OIT (1:2400)
Casdral: OIT (1:2400)

200 0 200 400 Feet

West Timonium Heights Commercial Corridor: Planimetric Data

Scale

200 0 200 Feet

Prepared by,
Baltimore County Office of Planning
401 Bosley Avenue
Towson, Maryland 21204
April, 2001

Legend

- Study Area Boundary
- Paved Roads
- Unpaved Roads
- Paved Parking / Driveways
- Hydrographic Features
- Buildings
- *Vegetation*

N

Data Sources:
Planimetric Data: Baltimore County OIT GIS Services Unit (1:2400)
Study Area: Baltimore County Office of Planning (1:2400)

Coordinate System.
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1996
Scale of Data Capture . 1" = 100'

GREATER TIMONIUM COMMUNITY COUNCIL, INC.
9B RIDGELY RD., BOX 276, LUTHERVILLE, MD. 21093
PHONE: 410-252-3444, EMAIL: LEABO@AOL.COM, WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

Prot Ex #5

June 14, 2001

Nicole Dozier, Fourth District Planner
Baltimore County Planning Department
401 Bosley Ave.
Towson, Md. 21204

Reference: West Timonium Heights Planning

Dear Ms Dozier:

Thank you for attending our scheduled Board meeting on June 13, 2001 at the Ridgely School. Although our attendance was small due to competing schedules, public hearing on redistricting of Baltimore County, ball game at Camden Yards, vacations, and many other demands on our members time, those in attendance discussed this subject.

Your comments on the advisory committee discussion were appreciated.

The West Timonium Heights Community Association was revitalized during the 1996 Comprehensive Zoning cycle by Mr. Bob Welsh. Greater Timonium Community Council assisted in the revitalization. We addressed the community group about being involved in land use decisions affecting their area, assisted in development of their revised by-laws, included their representative on our Board of Directors. They began to participate in the protection of their area and as part of the GTCC geographic area.

They tried to seal off further commercial intrusion into the residential zoned areas. They were successful at the southern boundary bordering the Fair Grounds, the easterly boundary bordering York Road, and the north boundary at Padonia Road.

The 2000 year Comprehensive Zoning cycle again raised zoning change issues:
4-014-West side York Rd between Highwiew & Rose Sts.
Planning recommended a BLR code from BR. The southern lot was used as a garden center but the lessee died. The new lessee requested a special exception to utilize the former service/garden station as a used car lot. The Zoning Commissioner's office approved that use with eleven variances, restricting it to just a used car display and sales lot.

The northern lot, Covahey property, agreed with GTCC for a covenant to be assigned on the deed that any redevelopment follow the BLR requirements but remain a BR property. That covenant is recorded with the deed.

4-023-2412-2416--West side York Rd between Harding St. on the south and Roosevelt St. on the north.
Planning recommended no change for these properties. They currently are RO but

GREATER TIMONIUM COMMUNITY COUNCIL, INC.
9B RIDGELY RD., BOX 276, LUTHERVILLE, MD. 21093
PHONE: 410-252-3444, EMAIL: LEABO@AOL.COM, WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

Continued:

wanted BM or BL for the .6 acres. GTCC opposed these requests for change. These three properties are owned by the Brewer family.

4-024--3 Roosevelt St, 120 feet west of York Rd., .9 acres zoned DR3.5
Planning recommended no change in the zoning. GTCC opposed these request for change. The request was to change the DR3.5 zoning to RO, Or2, BL, or BM. This property is owned by the Brewer family (it is the home property)

4-030--North of Roosevelt St from alley behind Gas Station on York Rd., except for two residential houses at that location, westward to Broad Ave., consisting of 2.2 acres of undeveloped land, except for a small service area on the western boundary used as a service area for the business of the Brewer family.
Planning recommended no change in the zoning. GTCC opposed these request for change. The request was to change the DR3.5 zoning to BM. The 2.2 acres is owned by the Brewer family.

4-055--2330 York Rd. south of Lincoln Ave., .2 acres zoned RO.
Planning recommended no change in the zoning. GTCC opposed the request for change from RO to BM or BL. This property is listed as RJ Rentals, LLC. This property is owned also by the Brewer family.

4-041--2418 York Rd. corner of York Rd & Roosevelt St., .1 acre.
Planning recommended no change in the zoning. GTCC opposed the request for change from RO to BM or BL. **This property was being used as a retail establishment in violation of its zoning. A major fine was instituted for this violation.** The property is now listed for sale. Property is owned by Ms. Neurick.

4-062--2334 York Rd., S/W corner of York and Lincoln Rds., .3 acres is DR3.5, .1 acre is RO.
Planning recommended no change in zoning. GTCC opposed the request for change from .3 acres of DR3.5 to RO, and .1 acre from RO to BL. This property is owned by Thomas & Maria Rafaildes who also requested a change for issue 4-061 at 1200 York Rd. at Cavan Drive for .2 acres from DR5.5 to RO.

4-056--Estelle St., 120 feet from York Rd., .6 acres zoned RO to BL
Planning recommended no change in zoning. GTCC opposed the request for change in zoning at the corner of York Rd and Padonia Rd. southwest corner.

Notes to the above issues:
The issues listed above were reviewed by GTCC Board with the leaders of the West Timonium Heights Community Association. Special maps were drawn by the Department of Planning to show the effect of these requests. Those maps were received and reviewed by GTCC and

GREATER TIMONIUM COMMUNITY COUNCIL, INC.
9B RIDGELY RD., BOX 276, LUTHERVILLE, MD. 21093
PHONE: 410-252-3444, EMAIL: LEABO@AOL.COM, WEB: HTTP://GTCC.HYPERMART.NET/GTCC.HTML

the President of West Timonium Heights Community Association, who held a meeting with the residents. The Community voted to oppose any change in those issues. In addition, these issues were discussed and voted upon at the March 8, 2000 General Meeting of GTCC. GTCC voted to oppose any change in the zoning. The basic reasoning for opposing any change to the zoning as proposed was to preserve the boundaries of the residential community, to encourage consolidation of properties on York Road and north side of Roosevelt Ave. so compatible office, low impact type uses would occur, rather than commercial business of the "B" or CB" types. "SE" types with covenants were recommended to the owners, who refused, and stated they "will have" commercial type zoning approved.

At each step during the eighteen month Comprehensive Zoning cycle for 2000, GTCC reviewed issues with petitioners, had them at Board and General meetings, had special meetings to come to reasonable conclusions for zoning changes requested. GTCC asked for development plans, types of business or activity to occur if change was approved. GTCC have had separate meetings on specific issues with the petitioner and their legal representatives.

No reasonable alternative were resultant from these efforts except for two issues. On those covenants were place on the lease or deed for retention of the zone or change to accommodate the leasee. There were 24 issues in the Fourth District and 4 in the Third District.

As stated in the first meeting of the advisory committee, GTCC does not and will not attempt to do zoning is a vacuum. The regional area of GTCC must be considered in all zoning change requests. Regardless of the resolution to study the commercial corridor of West Timonium Community Heights, nothing has changed since the Comprehensive Zoning Cycle of 2000. The same discussions were had then and as of now. The owners want "top dollar" to lease their land for uses not compatible to the area, which would cause further problems for the public at large. They have produced no definative plans for the zone changes requested.

Based on the three meetings held, GTCC does not recommend the "B" or "CB" type zoning for the Brewer or the Neurick properties. We recommend only low impact uses, such as "SE" or "OR2" types with covenants as to the uses to be marketed.

Please call if we may be of further assistance to you in this matter.

Sincerely yours,

Louis W. Miller, President

File: GTCC-WTH-Plan.wps

Prot Ex # 6A

RE: PETITION FOR SPECIAL HEARING PETITION FOR VARIANCE 18 Timonium Road, Corner NW/S Timonium Road, SW/S Gerard Avenue, 8th Election District, 4th Councilmanic	*	BEFORE THE COUNTY BOARD OF APPEALS OF
Legal Owner: Glenn I. and Ann L. Kendrick Contract Purchaser/Lessee: Dining Out Enterprises, Inc./Michael S. Dellis	*	BALTIMORE COUNTY Case No. 96-340-SPHA
Petitioners	*	

* * * * * * * * * * *

MOTION TO DISMISS

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY moves for dismissal of the appeal filed by Petitioner Dining Out Enterprises, Inc., and for reasons states:

1. Petitioner Dining Out Enterprises, Inc., filed for Special Hearing relief for a special permit under Baltimore County Zoning Regulations (BCZR) §409.8.B for commercial parking in a residential zone for its restaurant business, and for two (2) variances for setbacks for the residential site.

2. Both the Special Hearing and Variances were denied by the Deputy Zoning Commissioner, and Petitioner appealed.

3. The Office of People's Counsel entered its appearance on April 2, 1996.

4. The hearing before the County Board of Appeals is scheduled for December 10, 1996 at 10:00 a.m.

5. BCZR §409.8.B sets forth specific requirements beyond the general parking requirements under §409. Such specific standards must be satisfied before a permit may be considered for commercial parking in a residential zone; the applicable regulation is attached hereto.

6. The Baltimore County Zoning Regulations have included a provision for commercial parking in a residential zone since 1955; the prior regulations are attached hereto.

7. The instant Petition on its face does not qualify for the special permit for the following reasons:

A. The Petitioner's business fronts on the east side of York Road, and on the north side of Gerard Avenue; approximately 475 feet to the east is the residential site, which fronts on the north side of Timonium Road, and backs up to Gerard Avenue.

B. The residential site on which the Petitioner requests commercial parking neither "adjoins" nor is "across an alley or street" from the restaurant business; Petitioner's site plan, which is included in the CBA file, fails to locate the requested parking within the standards required by BCZR §409.8.B; the aerial map in the CBA file illustrates the two sites.

C. Case law has applied the words "immediate adjacent", "adjoin", and "abut" interchangeably to denote contiguous or bordering. See 7 A.L.R. 4th 750.

D. The term "across" has been defined as "from one side to the opposite side of", or "crosswise", or "at angle with the length, duration or course of." Gramanco v. Fairlands, 218 So.2d 345. See Words & Phrases, "Across", Vol. 1A, West Publishing Co.

E. The phrase "across an alley or street" is not intended to expand the parking area for a business beyond either the sites contiguous to the business or contiguous sites separated only by a street or alley; otherwise, commercial intrusion into a residential neighborhood would be limitless. See Gruver-Cooley Jade Corp. v.

Perlis, 252 Md.684 (1969), where the Court defined the term "adjoining" to include contiguous property and property separated by a street, but excluded properties separated by a lot or lots which could be put to residential use.

F. The phrase "directly opposite" as used in other cases is analogous to "across the street or alley" in the Baltimore County Zoning Regulations; "directly opposite" refers to those tracts of land on the opposite side of the street with only the street intervening, or refers to both sides and the front of the subject site. See 7 A.L.R. 4th 750.

G. The Maryland Court of Appeals has interpreted this Regulation in Bloede v. MacNabb, 231 Md. 452 (1963) (copy attached hereto), a Baltimore County zoning case which is on point with the case at hand; in Blede, the Court reversed a special permit for commercial funeral home parking on a residential site; the Court ruled that a residential site, north of and on the opposite side of Frederick Avenue from the business, next to a State highways right-of-way for an I-695 exit ramp, is not "across the street" from the business; moreover, it was conceded that the unimproved residentially zoned lot could not be used for residential purposes.

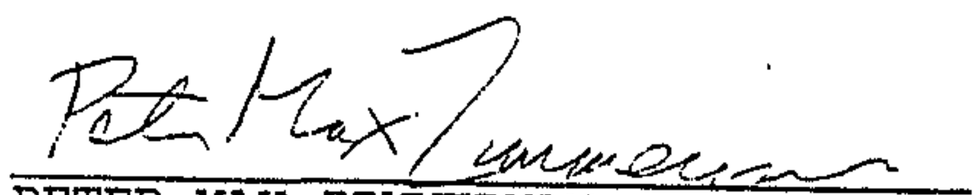
8. The proposed parking site is zoned D.R.-5.5 and located in the residential community of Yorkshire/Haverford in Timonium; it is surrounded by single family homes, zoned and used as residences.

9. There is no dispute that the Petitioner in the instant case complies with the required number of parking spaces for its business, without expansion onto the residential site. The expansion of Petitioner's business and concomitant parking requirements were

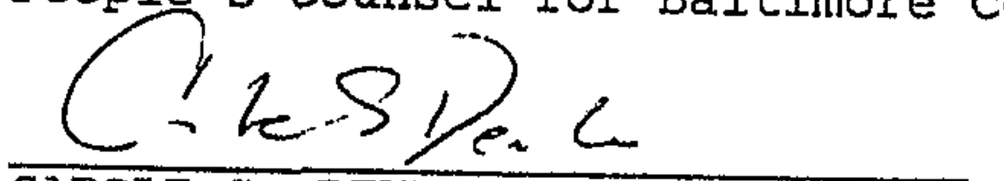
addressed in prior Case No. 95-221-SPH. There is no hardship or unusual condition. See Marek v. Baltimore County Board of Appeals, 218 Md. 351 (1958).

10. In conclusion the terms "adjoining" or "across the street or alley" as used in §409.8.B must be read as a whole and refer to properties having a common boundary or properties which would have a common boundary but for an intervening street or alley.

WHEREFORE, People's Counsel requests that the County Board of Appeals dismiss the Petitioners' appeal.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November, 1996, a copy of the foregoing Motion to Dismiss was mailed to Charles E. Brooks, Esq., 610 Bosley Avenue, Towson, MD 21204, attorney for Petitioners Dining Out Enterprises, Inc./Michael S. Dellis, and to Glenn I. and Ann L. Kendrick, 18 Timonium Road, Timonium, MD 21093, Petitioners.

CAROLE S. DEMILIO

IN THE MATTER OF THE APPLICATION OF MIMIBA LLC; WILLIAM MITCHERLING - LEGAL OWNER FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SE/S THELMA STREET, 159' SW OF YORK RD (3 THELMA STREET) 8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 02-533-SPHA

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals by way of an appeal filed by F. Vernon Boozer, Esquire, and COVAHEY & BOOZER, on behalf of Mimiba, LLC, Petitioner, from a decision of the Deputy Zoning Commissioner dated August 22, 2002 in which the requested Petitions for Special Hearing and Variance were denied.

WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed September 15, 2004 by F. Vernon Boozer, Esquire, on behalf of Mimiba, LLC, Appellant /Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of September 15, 2004,

IT IS ORDERED this 21st day of September 2004 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 02-533-SPHA be and the same is hereby **DISMISSED**.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

Edward W. Crizer, Jr.

Margaret Brassil, Ph.D.

County Board of Appeals of Baltimore County

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

September 21, 2004

F. Vernon Boozer, Esquire
James V. McFaul, Esquire
COVAHEY & BOOZER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: In the Matter of: *Mimiba, LLC; William W. Mitcherling*
- Legal Owner /Case No. 02-533-SPHA

Dear Mr. Boozer:

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

Very truly yours,

Kathleen C. Bianco /trs

Kathleen C. Bianco
Administrator

Enclosure

c: William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin
C. William Clark, Esquire
H. William Schaefer, Jr. c/o C. William Clark, Esquire
Richard Sammis
Ed Blizzard
Kenneth Wells
Richard Chilcoat
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM
Larry Townsend /GTCC
Louis Miller /GTCC

Printed with Soybean Ink
on Recycled Paper

COVAHEY & BOOZER, P.A.
ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-823-9441

FAX 410-823-7530

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. FATE
STACIE D. TRAGESER
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
YONA OPENDEN

*ALSO ADMITTED TO D.C. BAR

September 15, 2004

Via Facsimile - 410-887-3112 & First Class Mail

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RE: Case No. 02-433-SPHA
3 Thelma Street
Hearing - 09/21/04, 10:00 am

Dear Ms. Bianco:

Please dismiss the above appeal.

Thank you for your attention and cooperation in this matter. If you have any questions, do not hesitate to contact my office.

Very truly yours,

F. VERNON BOOZER

cc: C. William Clark, Esq
Office of People's Counsel
Drs. William & John Hatcherling

0915ldr01

RECEIVED
BALTIMORE COUNTY
BOARD OF APPEALS

File copy

Baltimore County
Zoning Commissioner

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

August 22, 2002

F. Vernon Boozer, Esquire
Covahey, Boozer, Devan & Dore
614 Bosley Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No. 02-533-SPHA
Property: 3 Thelma Street

Dear Mr. Boozer:

Enclosed please find the decision rendered in the above-captioned case. The petitions for special hearing and variance have been denied in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Timothy Kotroco

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Printed with Soybean Ink
on Recycled Paper

Copies to:

John Mitcherling
1900 E. Northern Pkwy, Suite 108
Baltimore, MD 21239

Dorsey N. Baldwin
807 Malibu Court
Ruxton, MD 21204

Kenneth Wells
7403 New Cut Road
Kingsville MD 21087

Larry Townsend
GTCC
1111 Longbrook Road
Lutherville, MD 21093

Louis Miller
GTCC
44 E. Timonium Road
Timonium, MD 21093

C. William Clark, Esquire
502 Washington Avenue
Towson, MD 21204

Richard Sammis
2312 York Road
Timonium, MD 21093

Ed Blizzard
5 Thelma Street
Timonium, MD 21093

Richard Chilcoat
7 Harding Street
Timonium, MD 21093

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 3 Thelma Street

which is presently zoned DR 3.5

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

Business parking in a residential zone.

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/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

Mimiba, LLC
Name - Type or Print

Signature

William W. Mitcherling, Managing Member
Name - Type or Print

Signature

3 Thelma Street — 443-463-5955
Address — Telephone No.

Timonium — Md — 21093
City — State — Zip Code

Attorney For Petitioner:

F. Vernon Boozer
Name - Type or Print

Signature

Covahey, Boozer, Devan & Dore
Company

614 Bosley Avenue — 410-828-9441
Address — Telephone No.

Towson — Md — 21204
City — State — Zip Code

Representative to be Contacted:

Same as Attorney for Petitioner
Name

Address — Telephone No.

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1/2 HR

UNAVAILABLE FOR HEARING —

Reviewed By JC Date 5/28/02

Case No. 02 533 SPHA

REV 9/15/98

ORDER RECEIVED FOR FILING
Date 8/22/02
By

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 3 Thelma Street

which is presently zoned DR 3.5

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)

1B01.1.B.1.e (2) (Residental Transition Area)

409.8.B.2.a (Parking Facilities Requirements)

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

To allow as close as a 10 foot setback in lieu of the required 75 feet for a parking lot and to allow as close as a 10 foot ~~foot~~ in lieu of the required 50 foot buffer (as the Residential Transition Area setbacks and buffer would encompass the entire parcel.)

To allow the parking facility not adjoin or be across an alley or street from the business involved.

PRACTICAL DIFFICULTY/HARDSHIP TO BE DETERMINED AT 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/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

F. Vernon Boozer

Name - Type or Print

Signature

Covahey, Boozer, Devan & Dore

Company

614 Bosley Avenue — 410-828-9441

Address — Telephone No.

Towson — Md — 21204

City — State — Zip Code

Legal Owner(s):

Mimiba, LLC

Name - Type or Print

Signature

William W. Mitcherling, Managing Member

Name - Type or Print

Signature

3 Thelma Street — 443-463-5955

Address — Telephone No.

Timonium — Md — 21093

City — State — Zip Code

Representative to be Contacted:

Same as Attorney for Petitioner

Name

Address — Telephone No.

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1/2 HR

UNAVAILABLE FOR HEARING

Reviewed By JL Date 5/28/02

Case No. 02 533 SPHA

REV 9/15/98

ORDER RECEIVED FOR FILING

Date

By

533

kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
email: kjWellsInc@msn.com

7403 New Cut Road
Kingsville, Md. 21087-1132

April 16, 2002

Zoning Description
For
3 Thelma Street
Baltimore County
Maryland

Election District: 8th
Councilmanic District: 3rd

Beginning at a point on the southeast side of Thelma Street, which is 30 feet wide, at a distance of 159 feet southwest from the centerline of York Road, which is 66 feet wide.

Being Lots 17, 18 and 19 in Block 'C' in the subdivision of "Timonium Heights" as recorded in Baltimore County Plat Book 5 folio 82.

Containing 8,316 square feet or 0.19 acres of land more or less.

STATE OF MARYLAND
KENNETH JAMES WELLS
No. 236-B
REGISTERED
PROPERTY LINE SURVEYOR

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 10032

DATE 9/19/02 ACCOUNT 001 006 6150

AMOUNT $ 385.00

RECEIVED FROM: F VERNON BOOZER
COVAHEY + BOOZER

FOR: APPEAL SPECIAL HEARING + VARIANCE
MIMIBA LLC
3 THELMA STREET

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTUAL TIME
9/20/2002 9/19/2002 14:02:50
REG W304 WALKIN DDOL DMD DRAWER 2
RECEIPT # 195894 9/19/2002 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 016832
Recpt Tot $385.00
385.00 CK .00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

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: #02-533-SPHA
3 Thelma Street
SE/S Thelma Street, 159' SW of York Road
8th Election District - 3rd Councilmanic District
Legal Owner(s): Mimiba LLC, William W. Mitcheriing

Special Hearing: for business parking in a residential zone. Variance: to allow as close as a 10 foot setback in lieu of the required 75 feet for a parking lot and to allow as close as a 10 foot in lieu of the required 50 foot buffer and to allow the parking facility not adjoin or be across an alley or street from the business involved.

Hearing: Tuesday, July 16, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/7/623 July 2 C548238

CERTIFICATE OF PUBLICATION

7/3/, 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 7/2/, 2002.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 02-533-SPHA

Petitioner/Developer: MINIBA LLC,

WILLIAM W. MITCHELL INC.

Date of Hearing/Closing: 7/16/02

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 3 THELMA STREET

The sign(s) were posted on 6/30/02
(Month, Day, Year)

Sincerely,

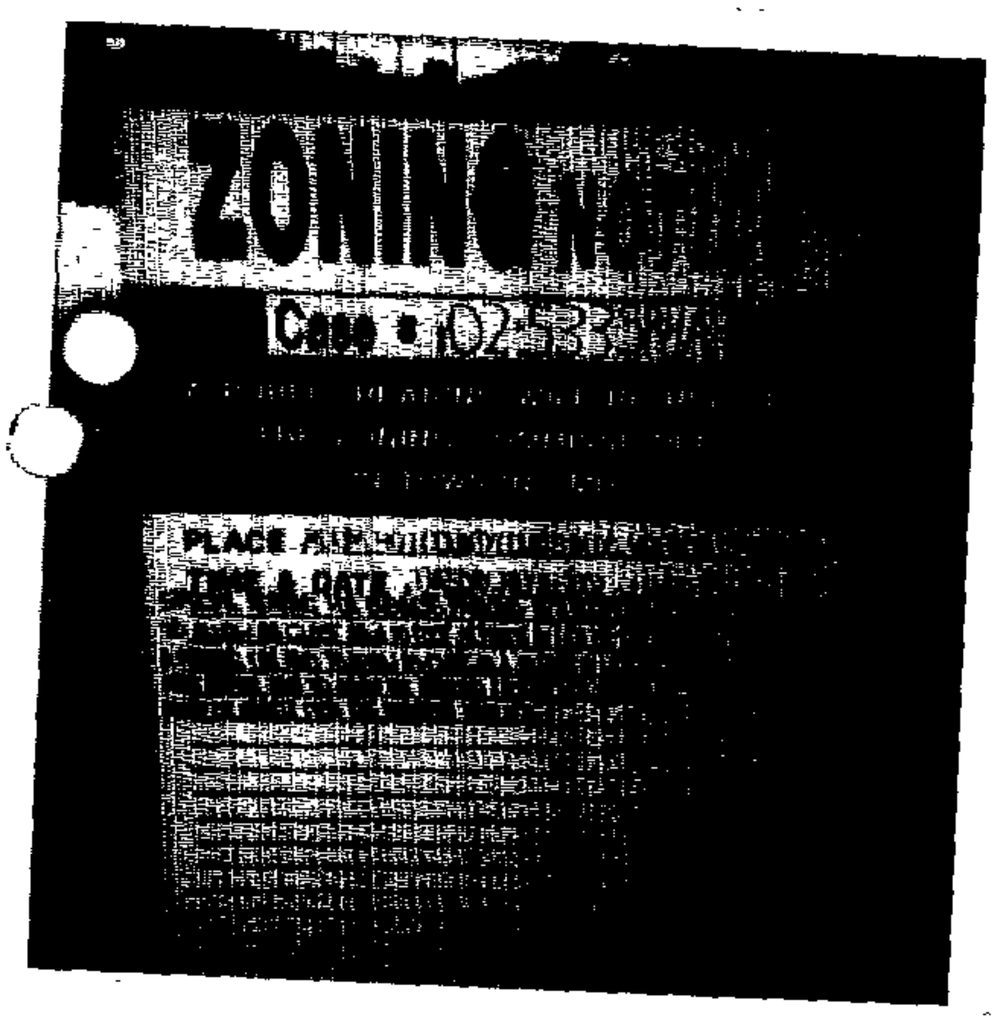
6/30/02
(Signature of Sign Poster and Date)

SSG ROBERT BLACK
(Printed Name)

1508 Leslie Rd
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)



APPEAL SIGN POSTING REQUEST

CASE NO.: 02-533-SPHA

Mimiba, LLC – William W. Mitcherling - LEGAL OWNERS

3 Thelma Street, Timonium, MD 21093

8th ELECTION DISTRICT APPEALED: 9/19/02

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

**********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.: 02-533 SPHA

Petitioner/Developer:

Mimiba LLC

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

_____

The sign was posted on 10/8, 2002

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-533-SPHA

Mimiba, LLC – William W. Mitcherling - LEGAL OWNERS

3 Thelma Street, Timonium, MD 21093

8th ELECTION DISTRICT APPEALED: 9/19/02

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

Baltimore County
Department of Permits and
Development Management

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

September 20, 2002

Mr. Larry Townsend
GTCC
1111 Longbrook Road
Lutherville MD 21093

RE: Case No. 02-533-SPHA, 3 Thelma Street

Dear Mr. Townsend:

Please be advised that an appeal of the above-referenced case was filed in this office on September 19, 2002 by F. Vernon Boozer on behalf of Mimiba LLC. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: C. William Clark Esquire, 502 Washington Avenue, Towson 21204
Richard Sammis, 2312 York Road, Timonium 21093
Ed Blizzard, 5 Thelma Street, Timonium 21093
Richard Chilcoat, 7 Harding Street, Timonium 21093
Louis Miller GTCC, 44 E Timonium Road, Timonium 21093
People's Counsel

Printed with Soybean Ink
on Recycled Paper

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: ~~MIMIBA LLC~~ 02 533 SPHA

Petitioner: MIMIBA LLC

Address or Location: #3 THELMA ST.

PLEASE FORWARD ADVERTISING BILL TO:

Name: AN POITIN-STIL, INC.

Address: 2323 YORK RD.
TIMONIUM MD 21093

Telephone Number: 410-560-7900

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 2, 2002 Issue – Jeffersonian

Please forward billing to:
An Poitin-Stil Inc
2323 York Road
Timonium MD 21093

410 560-7900

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: 02-533-SPHA
3 Thelma Street
SE/S Thelma Street, 159' SW of York Road
8th Election District – 3rd Councilmanic District
Legal Owner: Mimiba LLC, William W Mitcherling

Special Hearing for business parking in a residential zone. Variance to allow as close as a 10 foot setback in lieu of the required 75 feet for a parking lot and to allow as close as a 10 foot in lieu of the required 50 foot buffer and to allow the parking facility not adjoin or be across an alley or street from the business involved.

HEARING: Tuesday, July 16, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDZ
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.

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

June 11, 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: 02-533-SPHA
3 Thelma Street
SE/S Thelma Street, 159' SW of York Road
8th Election District – 3rd Councilmanic District
Legal Owner: Mimiba LLC, William W Mitcherling

Special Hearing for business parking in a residential zone. Variance to allow as close as a 10 foot setback in lieu of the required 75 feet for a parking lot and to allow as close as a 10 foot in lieu of the required 50 foot buffer and to allow the parking facility not adjoin or be across an alley or street from the business involved.

HEARING: Tuesday, July 16, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ
Director

C: F. Vernon Boozer, Covahey, Boozer Devan & Dore, 614 Bosley Avenue, Towson 21204
Mimiba LLC, William W Mitcherling, 3 Thelma Street, Timonium 21093

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 1, 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.

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County Board of Appeals of Baltimore County

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

pp'd by req. of Counsel for Petitioner 8/12/03

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

March 12, 2003

NOTICE OF ASSIGNMENT

CASE #: 02-533-SPHA

IN THE MATTER OF: ***Mimiba LLC; William W. Mitcherling*** – Legal Owner; 3 Thelma Street 8th E; 3rd C

8/22/02– Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

ASSIGNED FOR: **TUESDAY, MAY 20, 2003 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin

Counsel for Protestant (Sammis) : C. William Clark, Esquire
Protestant : Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

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County Board of Appeals of Baltimore County

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

pp'd to 12/04/03
Req. of Petitioner
no obj.

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 3, 2003

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-533-SPHA — **IN THE MATTER OF:** ***Mimiba LLC; William W. Mitcherling*** – Legal Owner; 3 Thelma Street 8th E; 3rd C

TO BE HEARD WITH:
Case No. 02-165-A — 8/22/02– Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

which had been assigned for hearing on 5/20/03 has been **POSTPONED** at the request of Counsel for Petitioner; and, without objection by People's Counsel, has been **reassigned to be heard with Case No. 02-165-A**; and has been

REASSIGNED FOR: **WEDNESDAY, AUGUST 13, 2003 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
~~Dorsey N. Baldwin~~

Counsel for Protestant (Sammis) : C. William Clark, Esquire
Protestant : Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

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on Recycled Paper

County Board of Appeals of Baltimore County

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

pp'd to 9/21/04 upon confirm w/ all parties. Req. by Boozer - Counsel for Petitioner

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 25, 2004

FOURTH NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-533-SPHA **IN THE MATTER OF:** ***Mimiba LLC; William W. Mitcherling*** – Legal Owner; 3 Thelma Street 8th E; 3rd C

8/22/02 – Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

which was reassigned for hearing on 5/27/04 has been **POSTPONED and REASSIGNED** at the request of Counsel for Adjoining Property Owner due to client's schedule conflict; and has been

REASSIGNED FOR: **TUESDAY, AUGUST 3, 2004 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin

Counsel for Adjoining Property Owner : C. William Clark, Esquire
Adjoining Property Owner : H. William Schaefer, Jr. c/o C. William Clark, Esquire
Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

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

W/D by Appellant 9-15-04 Order of Dismissal to be issued.

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 4, 2004

FIFTH NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-533-SPHA **IN THE MATTER OF:** ***Mimiba LLC; William W. Mitcherling*** – Legal Owner; 3 Thelma Street 8th E; 3rd C

8/22/02– Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

which was reassigned for hearing on 8/03/04 has been **POSTPONED and REASSIGNED** at the request of Counsel for Petitioners (clients will be out of State); and, upon **CONFIRMATON OF REASSIGNMENT DATE WITH ALL PARTIES TO THIS MATTER**, has been

REASSIGNED FOR: **TUESDAY, SEPTEMBER 21, 2004 at 10:00 a.m.**

NO FURTHER POSTPONEMENTS WILL BE GRANTED IN THIS MATTER EXCEPT IN EXTRAORDINARY CIRCUMSTANCES OR BY JOINT REQUEST OF ALL PARTIES.

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin

Counsel for Adjoining Property Owner : C. William Clark, Esquire
Adjoining Property Owner : H. William Schaefer, Jr. c/o C. William Clark, Esquire
Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

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

PP'd on 12/04/03 - to be reassigned

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

July 28, 2003

SECOND NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 02-533-SPHA — **IN THE MATTER OF:** ***Mimiba LLC; William W. Mitcherling*** – Legal Owner; 3 Thelma Street 8th E; 3rd C

(Scheduled same day as Case No. 02-165-A) — 8/22/02– Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

which had been reassigned for hearing on 8/13/03 has been **POSTPONED** at the request of Counsel for Petitioner; and has been

REASSIGNED FOR: **THURSDAY, DECEMBER 4, 2003 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin

Counsel for Protestant (Sammis) : C. William Clark, Esquire
Protestant : Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Set in for 5/27/04

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County Board of Appeals of Baltimore County

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

PP'd to 8/03/04 Reg. of Service for Protestant (Clark)

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 19, 2003

THIRD NOTICE OF REASSIGNMENT

CASE #: 02-533-SPHA **IN THE MATTER OF:** ***Mimiba LLC; William W. Mitcherling*** -
Legal Owner; 3 Thelma Street 8th E; 3rd C

8/22/02– Petition for Special Hearing and Petition for Variance DENIED by D.Z.C.

which was reassigned for hearing on 12/04/03 has been **REASSIGNED** as indicated on 12/04/03; and has been

REASSIGNED FOR: **THURSDAY, MAY 27, 2004 at 10:00 a.m.**

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

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

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

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

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : F. Vernon Boozer, Esquire
Appellant /Petitioner : William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin

Counsel for Protestant (Sammis) : C. William Clark, Esquire
Protestant : Richard Sammis

Ed Blizzard
Kenneth Wells
Richard Chilcoat

Larry Townsend /GTCC
Louis Miller /GTCC

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

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Prot Ex 11A

HB

11C

Н Н

Baltimore County
Department of Permits and
Development Management

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

July 12, 2002

F Vernon Boozer
Covahey Boozer Devan & Dore
614 Bosley Avenue
Towson MD 21204

Dear Mr. Boozer:

RE: Case Number: 02-533-SPHA, 3 Thelma Street

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 28, 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

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

WCR: gdz

Enclosures

c: Mimiba LLC, William W Mitcherling, 3 Thelma Street, Timonium 21093
People's Counsel

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 5, 2002

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

SUBJECT: 3 Thelma Street

INFORMATION:

Item Number: 02-533

Petitioner: Mimiba, LLC

Zoning: DR 3.5

Requested Action: Special Hearing/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has determined that the subject request does not comply with the West Timonium Heights Commercial Corridor Plan adopted on May 20, 2002. The plan specifically notes that clear limits between commercial and residential use must be set in order to prevent future commercial encroachment. As such, this office does not support the request to allow a commercial parking lot in a residential zone, and recommends that said request be **DENIED**.

Prepared by: Mark A Cummings

Section Chief: Lynn Lochar

AFK/LL:MAC:

RECEIVED
JUN 7 2002
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

Sent 7/16

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 19, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For June ~~10,~~ 2002
Item No. 533

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

If the Hearing Officer approves the business parking lot in a residential zone, the developer will be required to construct a commercial entrance per *Standard Plate R-32A*, of the *Department of Public Works*, to its ultimate location along Thelma Street.

Thelma Street is an existing road which shall ultimately be improved as a 30-foot street cross section on a 50-foot right-of-way.

RWB:CEN:jrb

cc: File

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 5.4.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 533 JL

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,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

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

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

Sent 7/16

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley RBS 17/07

DATE: July 15, 2002

Zoning Petitions

Zoning Advisory Committee Meeting of June 3, 2002

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

511-514, 516,517,519-525, 527, 529-531, 533

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

June 5,2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF June 3, 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:

533

524-534

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

RECEIVED
JUN
DEPT OF PERMITS AND
DEVELOPMENT MANAGEMENT

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on Recycled Paper

RE: PETITION FOR SPECIAL HEARING and VARIANCE 3 Thelma Street 159 ft SW of York Road	*	BEFORE THE
	*	ZONING COMMISSIONER
8th Election District 3rd Councilmanic District	*	FOR
Legal Owner: Mimba, LLC, William W. Mitcherling Managing Member Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No 02-533-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 of other proceedings in this matter and of the passage of any preliminary or final Order.

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 June, 2002 a copy of the foregoing Entry of Appearance was mailed to F Vernon Boozer, COVAHEY, BOOZER, DEVAN & DORE, 614 Bosley Avenue, Towson, Md, 21204, attorney for Petitioner(s)..

PETER MAX ZIMMERMAN

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
FAX COVER SHEET

DATE: April 3, 2003

TO:	Bud Clark	***FAX***	: 410-296-2765
		TELEPHONE	: 410-823-7850
FROM:	Kathi Bianco	***TELEPHONE:***	410-887-3180
		FAX	: 410-887-3182

RE: Postponement Request from V. Boozer – *Mimiba LLC*

Bud –

I'm sorry for any confusion my telephone call may have caused you. Attached for your information and file is a copy of the postponement letter filed by Mr. Boozer.

If you need any additional information, either about the postponement or about Case No. 02-165-A, please let me know.

I'll be sending out a Notice of PP and Reassignment some time today regarding 02-533-SPHA (from 5/20/03 to 8/13/03).

Thanks for your understanding.

Kathi

Number of pages including this page: Two (2)

Original copy to follow : Yes ___ No __X__

IMPORTANT MESSAGE

FOR Betty Kobin

DATE 8/12 TIME 9:45 A.M. P.M.

M Judith Berger

OF

PHONE 410-944-0808
AREA CODE NUMBER EXTENSION

☐ FAX

☐ MOBILE
AREA CODE NUMBER TIME TO CALL

TELEPHONED	X	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Wants copy of decision in #02-~~570-XA~~-533-
8/2 hearing
3801 Lochearn Drive
Balt, MD 21207-6363

SIGNED

TOPS FORM 3002P MADE IN U.S.A.

Send copy of "The Still" decision

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

DATE: November 30, 2004

TO: Timothy Kotroco, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton TRS
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
03-609-A	*03-609-A*	JAMES AND JOELLEN TRADER	201 ELIZABETH AVENUE
CR-02-153	*CR-02-153 CYCLE II 2001/2002 ITEM #1*	THE KENT-MAR CORPORATION	RECLASS PLEASANT HILL ROAD
02-533-SPH	*02-533-SPH*	MIMIBA LLC WILLIAM MITCHERLING	3 THELMA STREET

Attachment: SUBJECT FILE(S) / EXHIBIT(S) ATTACHED;

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

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

May 20, 2004

RECEIVED
MAY 2 0 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence S. Wescott, Chairman
Board of Appeals for Baltimore County
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Mimiba, LLC
02-533-SPHA

Dear Chairman Wescott:

Our office continues to have an interest in this case. The proposed use permit for commercial parking in a residential zone is subject to BCZR 409.8B, which, among other things, incorporates special exception standards under BCZR 502.1. The key facts involve the location of the parking lot. It is on Thelma Street, west of its intersection with the west side of York Road. The "Stil" restaurant, which it would serve, is on the east side of York Road. As a result, the location is contrary to the spirit and intent of BCZR 409.8B2a, which provides:

> **"In addition to all other applicable requirements, such parking facilities shall be subject to the following conditions:**
>
> **a. The land so used must adjoin or be across an alley or street from the business or industry involved. "**

In addition, the placement of a parking lot across a busy arterial road from the restaurant would create a dangerous condition. There is no traffic signal at or near the site.

There is also a concern that the location does not meet residential transition area standards. It is close to several single-family residences. There does not appear to be any justification for the requested variances.

While this case is de novo at the Board of Appeals, we concur with the reasoning of the Deputy Zoning Commissioner' August 2, 2002 decision denying the Petition for Special Hearing. We also enclose the Board of Appeals' decision April 18, 1997 in The Matter of Glen I. Kendrick, et al., Case No. 96-340-SPHA. There, the Board of Appeals denied a somewhat

similar request for expanded parking for Michael's Restaurant even where the proposed parking was on the same side of York Road.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman by CSD

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S Demilio

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

Enclosure

cc: F. Vernon Boozer, Esquire
C. William Clark, Esquire
Mr. Louis Miller, President of GTCC

Baltimore County
Department of Permits and
Development Management

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

September 20, 2002

Mr. Larry Townsend
GTCC
1111 Longbrook Road
Lutherville MD 21093

RE: Case No. 02-533-SPHA, 3 Thelma Street

Dear Mr. Townsend:

Please be advised that an appeal of the above-referenced case was filed in this office on September 19, 2002 by F. Vernon Boozer on behalf of Mimiba LLC. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

AJ: gdz

c: C. William Clark Esquire, 502 Washington Avenue, Towson 21204
Richard Sammis, 2312 York Road, Timonium 21093
Ed Blizzard, 5 Thelma Street, Timonium 21093
Richard Chilcoat, 7 Harding Street, Timonium 21093
Louis Miller GTCC, 44 E Timonium Road, Timonium 21093
People's Counsel

Printed with Soybean Ink
on Recycled Paper

APPEAL

Petition For Special Hearing & Variance
3 Thelma Street
SE/S Thelma Street, 159' SW of York Road
8th Election District – 3rd Councilmanic District
Mimiba LLC, William W Mitcherling - Legal Owner
Case No.: 02-533-SPHA

Petition for Special Hearing & Variance (dated 05/28/02)

Zoning Description of Property

Notice of Zoning Hearing (dated 06/11/02)

Certification of Publication (The Jeffersonian issue dated 07/02/02)

Certificate of Posting (dated 06/30/02 posted SSG Robert Black)

Entry of Appearance by People's Counsel (dated 06/19/02)

Petitioner(s) Sign-In Sheet (1 sheet)

Protestant(s) Sign-In Sheet (1 sheet)

Citizen(s) Sign-In Sheet (none)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plan To Accompany A Petition For A Special Hearing & Variance (dated 04/15/02)
2. Photographs (2 pages, 13 pictures)

Protestants' Exhibits:

1. This Deed (dated 11/15/01)
2. Baltimore County Zoning Regulations
3. Maryland Department of Assessments & Taxation (Baltimore County) and Plat of Timonium Heights (dated 10/29/20)
4. County Council Of Baltimore County, Maryland (resolution No. 25-01 (dated 02/20/01)
5. Letter to Nicole Dozier, Fourth District Planner from Louis W. Miller, President, (dated 06/14/01)
6. (A) Motion to Dismiss (dated 11/26/96) (B) Notice of Assignment (dated 09/24/96)
7. Letter to Charles E. Brooks, Esquire from W. Carl Richards, Jr, Zoning Supervisor (dated 01/31/96)
8. County Board of Appeals of Baltimore County (Minutes of Deliberation) (dated 01/28/97)

9. (A) West Timonium Heights Commercial Corridor Plan (dated 12/01) (B) Baltimore County Maryland Inter-Office Correspondence To Members, Planning Board, From Nicole Dozier, Second District Community Planner (dated 02/21/02) (C) Letter to Mr. Arnold F. "Pat" Keller, III Director Office of Planning from David J Malkowski (dated 02/13/02) (D) Baltimore County Maryland Inter-Office Correspondence to Ed Adams, Jr., Director, Department of Public Works from Darrell Wiles, Chief, Bureau of Traffic Engineering and Transportation Planning (dated 01/24/02) (E) Baltimore County Maryland Notice of Public Hearing (dated 02/21/02) (F) Letter to Chairman and Planning Board Members from Louis W. Miller, Past President, GTCC (dated 02/02/02

10. Letter to Mr. Robert O Schuetz, Chairman, Board of Appeals of Baltimore County from Peter Max Zimmerman, People's Counsel for Baltimore County (dated 06/30/95

11. Photographs (8 pictures)

12. Traffic Data (latest study dated 02/26/92)

13. Inter-Office Correspondence, Comment (dated 06/05/02)

Miscellaneous (Not Marked as Exhibits):

- Umerley v. People's Counsel (dated 03/01/96)

Deputy Zoning Commissioner's Order (dated 08/22/02 - DENIED)

Notice of Appeal received on 09/19/02 from F. Vernon Boozer (Covahey & Boozer) on behalf of Mimiba LLC

c: F. Vernon Boozer Covahey & Boozer, 614 Bosley Avenue, Towson 21204
C. William Clark Esquire, 502 Washington Avenue, Towson 21204
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

date sent 9/20/02 gdz

APPEAL

Petition For Special Hearing & Variance
3 Thelma Street
SE/S Thelma Street, 159' SW of York Road
8th Election District – 3rd Councilmanic District
Mimiba LLC, William W Mitcherling - Legal Owner
Case No.: 02-533-SPHA

RECEIVED
SEP 2 0 2002
BALTIMORE COUNTY
BOARD OF APPEALS

✓ Petition for Special Hearing & Variance (dated 05/28/02)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (dated 06/11/02)

✓ Certification of Publication (The Jeffersonian issue dated 07/02/02)

✓ Certificate of Posting (dated 06/30/02 posted SSG Robert Black)

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✓ Petitioner(s) Sign-In Sheet (1 sheet)

✓ Protestant(s) Sign-In Sheet (1 sheet)

✓ Citizen(s) Sign-In Sheet (none)

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibits:

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✓ 2. Baltimore County Zoning Regulations

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'E

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11. Photographs (8 pictures)

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Miscellaneous (Not Marked as Exhibits):

- Umerley v. People's Counsel (dated 03/01/96)

✓ Deputy Zoning Commissioner's Order (dated 08/22/02 - DENIED)

✓ Notice of Appeal received on 09/19/02 from F. Vernon Boozer (Covahey & Boozer) on behalf of Mimiba LLC

c: F. Vernon Boozer Covahey & Boozer, 614 Bosley Avenue, Towson 21204
C. William Clark Esquire, 502 Washington Avenue, Towson 21204
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

* F. VERNON BOOZER, ESQUIRE
COVAHEY & BOOZER, PA
614 BOSLEY AVENUE
TOWSON MD 21204 → 4/7 returned tzs

* WILLIAM W. MITCHERLING
3 ~~THELMA STREET~~
~~TIMONIUM MD 21093~~ ← sent to Vernon

MR. ED BLIZZARD
~~5 THELMA STREET~~ → P.O. Box 373 Cockeysville 21030
TIMONIUM MD 21093 — 4/28 addressed & returned

DR. JOHN MITCHERLING
1900 EAST NORTHERN PARKWAY
SUITE 108
BALTIMORE MD 21239

MR. LARRY TOWNSEND
GTCC
1111 LONGBROOK ROAD
LUTHERVILLE, MD 21093 — 3/18/03 returned no such #

MR. DORSEY N. BALDWIN sent to Vernon
~~807 MALIBU COURT~~
~~RUXTON MD 21204~~

C. WILLIAM CLARK, ESQUIRE
502 WASHINGTON AVENUE
TOWSON, MD 21204 — Counsel for R. Sammis

MR. KENNETH WELLS
7403 NEW CUT ROAD
KINGSVILLE MD 21087

MR. RICHARD SAMMIS
~~2312 YORK ROAD~~
~~TIMONIUM MD 21093~~ → 1304 Musgrove Rd Lutherville 21093

MR. LOUIS MILLER
GTCC
44 EAST TIMONIUM ROAD
TIMONIUM MD 21093

MR. RICHARD CHILCOAT
7 HARDING STREET
TIMONIUM MD 21093

Case No. 02-533-SPHA

In the Matter of: Mimiba, LLC; William W. Mitcherling, Managing Member 3 Thelma Street 8th E; 3rd C

SPH – To approve business parking in residential zone;
VAR – To permit parking lot to be as close as 10' ilo req'd 75; and to allow it to exist as close as 10' ilo required 50' buffer; and to allow parking facility not to enjoin or be across alley or street from business involved.

8/22/02 –D.Z.C.'s decision in which SPH and VAR were DENIED.

3/12/03 –Notice of Assignment sent to following; assigned for hearing on Tuesday, May 20, 2003 at 10 a.m.:

F. Vernon Boozer, Esquire
William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin
C. William Clark, Esquire
Richard Sammis
Ed Blizzard
Kenneth Wells
Richard Chilcoat
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Larry Townsend /GTCC
Louis Miller /GTCC

3/28/03 – Letter from F. Vernon Boozer, Counsel for Petitioner, requesting postponement of this matter from 5/20/03 to 8/13/03; to be heard with Case No. 02-165-A; no objection to this request per P. Zimmerman this date; to be postponed and reassigned as requested.

4/03/03 – Notice of PP and Reassignment sent to parties; case to be heard on Wednesday, August 13, 2003 at 10:00 a.m. with Case No. 02-165-A as requested.

7/25/03 – Letter dated 7/24/03 received from F. Vernon Boozer, Esquire – requesting postponement of 8/13/03 hearing – parties are continuing in negotiations; both parties are in agreement to this request. Also postponement of 02-165-A scheduled for same date.
-- Conversation with P. Zimmerman this date; he has no objection to this PP request being granted.

7/28/03 – Second Notice of PP prepared; to be reassigned to Thursday, December 4, 2003 at 10:00 a.m.

12/04/03 – Board convened for hearing this date; Case No. 02-165-A to be heard starting at 10 a.m. with this matter to follow (Marks, Adams, Crizer)
- 12 noon this date – Mr. Clark stopped in the Board's administrative office; the Board has granted a postponement of this matter; case 02-165-A is still in progress; therefore, this matter will be reassigned to the next available date on the Board's schedule with same panel presiding (5-6-7)

12/19/03 – Third Notice of Reassignment sent to parties; case reassigned to Thursday, May 27, 2004 at 10:00 a.m.

5/20/04 – Letter from Office of People's Counsel setting forth its position in this matter.

Case No. 02-533-SPHA

In the Matter of: Mimiba, LLC; William W. Mitcherling, Managing Member 3 Thelma Street 8th E; 3rd C

SPH – To approve business parking in residential zone;
VAR – To permit parking lot to be as close as 10' ilo req'd 75; and to allow it to exist as close as 10' ilo required 50' buffer; and to allow parking facility not to enjoin or be across alley or street from business involved.

8/22/02 –D.Z.C.'s decision in which SPH and VAR were DENIED.

3/12/03 –Notice of Assignment sent to following; assigned for hearing on Tuesday, May 20, 2003 at 10 a.m.:

F. Vernon Boozer, Esquire
William W. Mitcherling, Managing Member
Mimiba, LLC
Dr. John Mitcherling
Dorsey N. Baldwin
C. William Clark, Esquire
Richard Sammis
Ed Blizzard
Kenneth Wells
Richard Chilcoat
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM
Larry Townsend /GTCC
Louis Miller /GTCC

3/28/03 – Letter from F. Vernon Boozer, Counsel for Petitioner, requesting postponement of this matter from 5/20/03 to 8/13/03; to be heard with Case No. 02-165-A; no objection to this request per P. Zimmerman this date; to be postponed and reassigned as requested.

4/03/03 – Notice of PP and Reassignment sent to parties; case to be heard on Wednesday, August 13, 2003 at 10:00 a.m. with Case No. 02-165-A as requested.

7/25/03 – Letter dated 7/24/03 received from F. Vernon Boozer, Esquire – requesting postponement of 8/13/03 hearing – parties are continuing in negotiations; both parties are in agreement to this request. Also postponement of 02-165-A scheduled for same date.
-- Conversation with P. Zimmerman this date; he has no objection to this PP request being granted.

7/28/03 – Second Notice of PP prepared; to be reassigned to Thursday, December 4, 2003 at 10:00 a.m.

12/04/03 – Board convened for hearing this date; Case No. 02-165-A to be heard starting at 10 a.m. with this matter to follow (Marks, Adams, Crizer)
- 12 noon this date – Mr. Clark stopped in the Board's administrative office; the Board has granted a postponement of this matter; case 02-165-A is still in progress; therefore, this matter will be reassigned to the next available date on the Board's schedule with same panel presiding (5-6-7)

12/19/03 – Third Notice of Reassignment sent to parties; case reassigned to Thursday, May 27, 2004 at 10:00 a.m.

5/25/04 – T/C from C. William Clark – Ownership of adjoining property has changed – now H. William Schaefer, Jr., who is unavailable for the scheduled hearing date of 5/27/04; Mr. Sammis is also unavailable due to wife's surgery. Requesting postponement; no objection by Mr. Boozer; Mr. Clark will contact Mr. Miller regarding this request.

- T/C to Mr. Miller regarding this request. Expressed concern about additional postponement; also requested that he be contacted in the future as a party to the case when considering changes in scheduling, etc.
- Fourth Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, August 3, 2004 at 10:00 a.m.

5/25/04 – T/C from C. William Clark – Ownership of adjoining property has changed – now H. William Schaefer, Jr., who is unavailable for the scheduled hearing date of 5/27/04; Mr. Sammis is also unavailable due to wife's surgery. Requesting postponement; no objection by Mr. Boozer; Mr. Clark will contact Mr. Miller regarding this request.

- T/C to Mr. Miller regarding this request. Expressed concern about additional postponement; also requested that he be contacted in the future as a party to the case when considering changes in scheduling, etc.
- Fourth Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, August 3, 2004 at 10:00 a.m.

6/02/04 – Letter requesting postponement filed by Mr. Boozer via FAX (hard copy received 6/03/04); clients, William and John Mitcherling, will be out of State on previously scheduled vacation.

-- T/C to Mr. Clark regarding request with available dates; T/C to Mr. Miller regarding postponement request and available dates for reassignment; T/C to Mr. Boozer regarding dates on which parties to this matter are available. Awaiting confirmation from all parties as to dates (possible 9/21 or 9/22; Mr. Boozer's clients are unavailable during month of August).

-- Mr. Clark is available 9/21 or 9/22; checking with client; Mr. Miller is available on either date; Mr. Boozer is okay. Mr. Clark checking with clients.

6/04/04 – Fifth Notice of PP and Reassignment sent to parties; case reassigned to Tuesday, September 21, 2004 at 10:00 a.m. (t/c from Mr. Clark this date; 9/21/04 is better date). Notice indicates that no further postponements will be granted except in extraordinary circumstances or by joint request of all parties.

9/15/04 – Letter of withdrawal of appeal filed via FAXby F. Vernon Boozer, Esquire. Order of Dismissal to be issued. Case pulled for schedule; Mr. Miller notified this date by telephone.

9/16/04 – Original letter of dismissal of appeal received from F. Vernon Boozer, Esquire.

COVAHEY & BOOZER, P. A.
ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 410
828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER

* ALSO ADMITTED TO D. C. BAR

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

September 18, 2002

Hand Delivered
Arnold Jablon, Director
Departments of Permits and
Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Petitions for Special Exception and Variance
SE/S Thelma Street, 159 feet, SW of York Road
(3 Thelma Street), 8th Councilmanic District
Legal Owner: Mimiba, LLC
Case No. 02-533-SPHA

Dear Mr. Jablon:

Please enter an appeal for the Petitioner, Mimiba, LLC to the County Board of Appeals from the Findings of Fact and Conclusions of Law of the Baltimore County Deputy Zoning Commissioner dated August 22, 2002 in the above entitled case.

Enclosed is our check in the amount of $385.00 for the filing fees. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

F. VERNON BOOZER

Enclosure-check
cc: Dr. John Mitcherling, 1900 East Northern Parkway, St. 108, Baltimore, MD 21239
Mr. Dorsey N. Baldwin, 807 Malibu Court, Ruxton, MD 21204
Mr. Kenneth Wells, 7403 New Cut Road, Kingsville, MD 21087
Mr. Larry Townsend, GTCC, 1111 Longbrook Road, Lutherville, MD 21093
Mr. Louis Miller, GTCC, 44 East Timonium Road, Timonium, MD 21093
C. William Clark, Esquire, 502 Washington Avenue, Towson, MD 21204
Mr. Richard Sammis, 2312 York Road, Timonium, MD 21093
Mr. Ed Blizzard, 5 Thelma Street, Timonium, MD 21093
Mr. Richard Chilcoat, 7 Harding Street, Timonium, MD 21093
0918gab01

RECEIVED
SEP 19 2002
By GDZ

COVAHEY & BOOZER, P. A.
ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
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MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING

*ALSO ADMITTED TO D.C. BAR

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

March 27, 2003

Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of Mimiba LLC; William W. Mitcherling
3 Thelma Street
Case No. 02-533-SPHA
Hearing - Tuesday, May 20, 2003, at 10:00 am

Dear Ms. Bianco:

I hereby request a postponement of the above captioned matter, and further request that this matter be consolidated and heard with Case No. 02-165-A which is currently scheduled for August 13, 2003, at 10:00 am. Both cases involve the same petitioners, protestants and neighboring properties.

Thank you for your attention and cooperation. If you have any questions, do not hesitate to contact my office.

Very truly yours,

F. VERNON BOOZER

cc: Office of the People's Counsel
Greater Timonium Community Council, Inc.
Mr. Alan E. Scoll, D.S. Thaler & Assoc., Inc.
0327gab02

RECEIVED
MAR 28 2003
BALTIMORE COUNTY
BOARD OF APPEALS

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING

*ALSO ADMITTED TO D.C. BAR

410-828-9441

FAX 410-823-7530

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

June 2, 2004

Via Facsimile - 410-887-3182 & First Class Mail

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
JUN 0 3 2004
BALTIMORE COUNTY
BOARD OF APPEALS

RE: Case No. 02-533-SPHA
3 Thelma Street
Hearing - 8/3/04, 10:00 am

Dear Ms. Bianco:

Please be advised that my clients, William and John Mitcherling, will be out of the State on August 3, 2004 on a previously scheduled vacation. I hereby request that this hearing be postponed.

Thank you for your attention and cooperation in this matter. If you have any questions, do not hesitate to contact my office.

Very truly yours,

F. VERNON BOOZER

cc: C. William Clark, Esq.
Office of People's Counsel
Drs. William & John Mitcherling
0601gab08

COVAHEY & BOOZER, P. A.
ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-828-9441

FAX 410-823-7530

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING

*ALSO ADMITTED TO D.C. BAR

July 24, 2003

Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RE: In the Matter of Frieda G. Schaefer
Bad Dog Corp., t/a An Poitin Stil
2323 York Road
Case No. 02-165-A and Case No. 02-533-SPHA
Hearing - 8/13/03, 10:00 am

Dear Ms. Bianco:

The parties are continuing to negotiate this matter and we would like to request a continuance of the hearing date. I understand both parties are in agreement.

Your attention and cooperation in this matter is greatly appreciated.

Very truly yours,

F. VERNON BOOZER

cc: Office of the People's Counsel
Greater Timonium Community Council, Inc.
Mr. Alan E. Scoll, D.S. Thaler & Assoc., Inc.
0724gab02

RECEIVED
JUL 25 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Poss ~~4/25/03~~ 12/04/03

COVAHEY & BOOZER, P. A.
ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204

410-828-9441

FAX 410-823-7530

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER *
MARK S. DEVAN
THOMAS P. DORE
MICHAEL T. PATE
STACIE D. TRAGESER
BRUCE EDWARD COVAHEY
JENNIFER MATTHEWS HERRING
YONA OPENDEN

*ALSO ADMITTED TO D.C. BAR

ANNEX OFFICE
SUITE 302
606 BALTIMORE AVE.
TOWSON, MD 21204

September 15, 2004

Via Facsimile - 410-887-3182 & First Class Mail

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
BALTIMORE COUNTY
BOARD OF APPEALS

RE: Case No. 02-533-SPHA
3 Thelma Street
Hearing - 09/21/04, 10:00 am

Dear Ms. Bianco:

Please dismiss the above appeal.

Thank you for your attention and cooperation in this matter. If you have any questions, do not hesitate to contact my office.

Very truly yours,

F. VERNON BOOZER

cc: C. William Clark, Esq.
Office of People's Counsel
Drs. William & John Mitcherling
0915ldr01

Louis Miller
44 E. Timonium Road
Timoniuim, MD 21093

410-252-3444

} telephoned 9-15-04
1:25 pm - pulled from
schedule
appeal dismissed

GTCC
9-B Ridgely Road
P.O. Box 276
Lutherville, MD 21093

THOMAS J. RENNER
WILLIAM P. ENGLEHART,JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

*ALSO ADMITTED IN D.C.
**ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

May 25, 2004

VIA FACSIMILE (410)887-3182 AND FIRST CLASS MAIL

Ms. Kathy Bianco
Baltimore County Board of Appeals
Old Courthouse Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
MAY 26 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Mimiba LLC

Dear Ms. Bianco:

As I advised you in a conference call with Vernon Boozer, Esquire, earlier this morning, this firm represents the Protestant Richard Sammis and Sammis Enterprises, LLC who own the adjoining property to 3 Thelma Street. Since the last hearing, this property has changed hands and is now owned by H. William Schaefer, Jr. Earlier I had contacted Mr. Schaefer by letter to advise him about the hearing date of this case. He had been away, and I had been away from my office. When he returned yesterday, he discovered that he has a conflict with the Hearing date and would be unable to appear on the date at the time scheduled. We tried to arrange for Richard Sammis to represent his interest, but Mr. Sammis' wife recently had major surgery and has a post surgery appointment with her doctor Thursday at 1:00 which he needs to attend with her. Thus, he would be available for a very limited time. Furthermore, we learned that People's Counsel, Peter Max Zimmerman, is unavailable to appear at the Hearing on Thursday as well.

Accordingly, I requested a postponement on behalf of the Protestant to which Mr. Boozer had no objection. My understanding is that a postponement will be granted in this matter and that it will be rescheduled in the ordinary course.

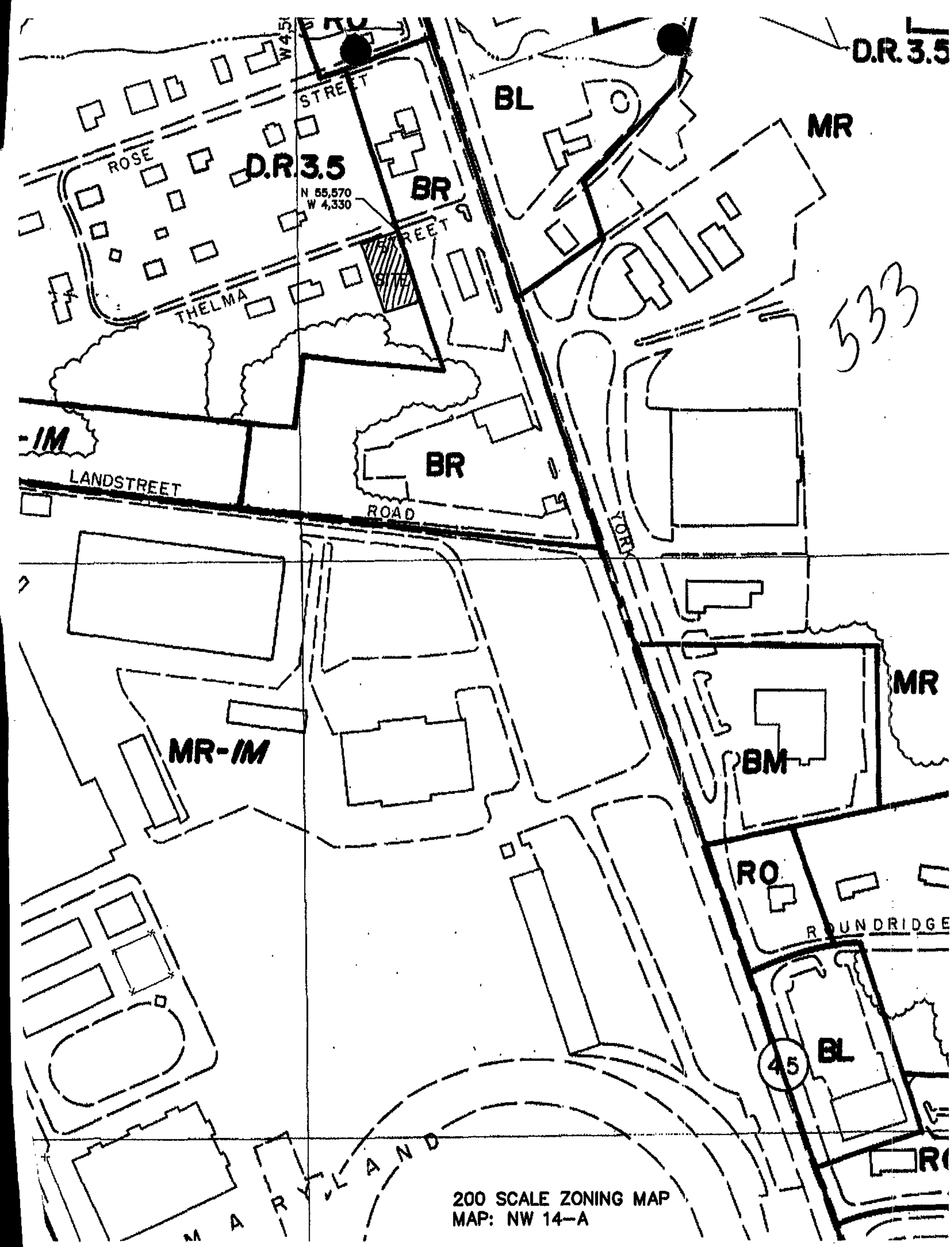
If you have any questions, please let me know. Until then, I remain.

Very truly yours,

C. William Clark

cc: H. William Schaefer, Jr.
Jim Patton
Richard Sammis

Z:\Data\JENNIFERDATA\WPDOCS\BUD\CWC\Clients\SammisR\Mimiba,LLC\Biancoltr.wpd



200 SCALE ZONING MAP
MAP: NW 14—A

02-533-SPHA
7/16/02

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
KENNETH WELLS	7403 NEW CUT RD 21087
JOHN MITCHERLING	1900 EAST NORTHERN PKWY Suite 108 Baltimore Md 21239
Penny N Bakari	807 Malibu Ct. Rosedale Md 21204
F. VERNON BOOZER	614 Bosley Ave 21204

Printed with Soybean Ink
on Recycled Paper

Case Number 02-533 SPHA
7/16/02

PLEASE *PRINT* LEGIBLY

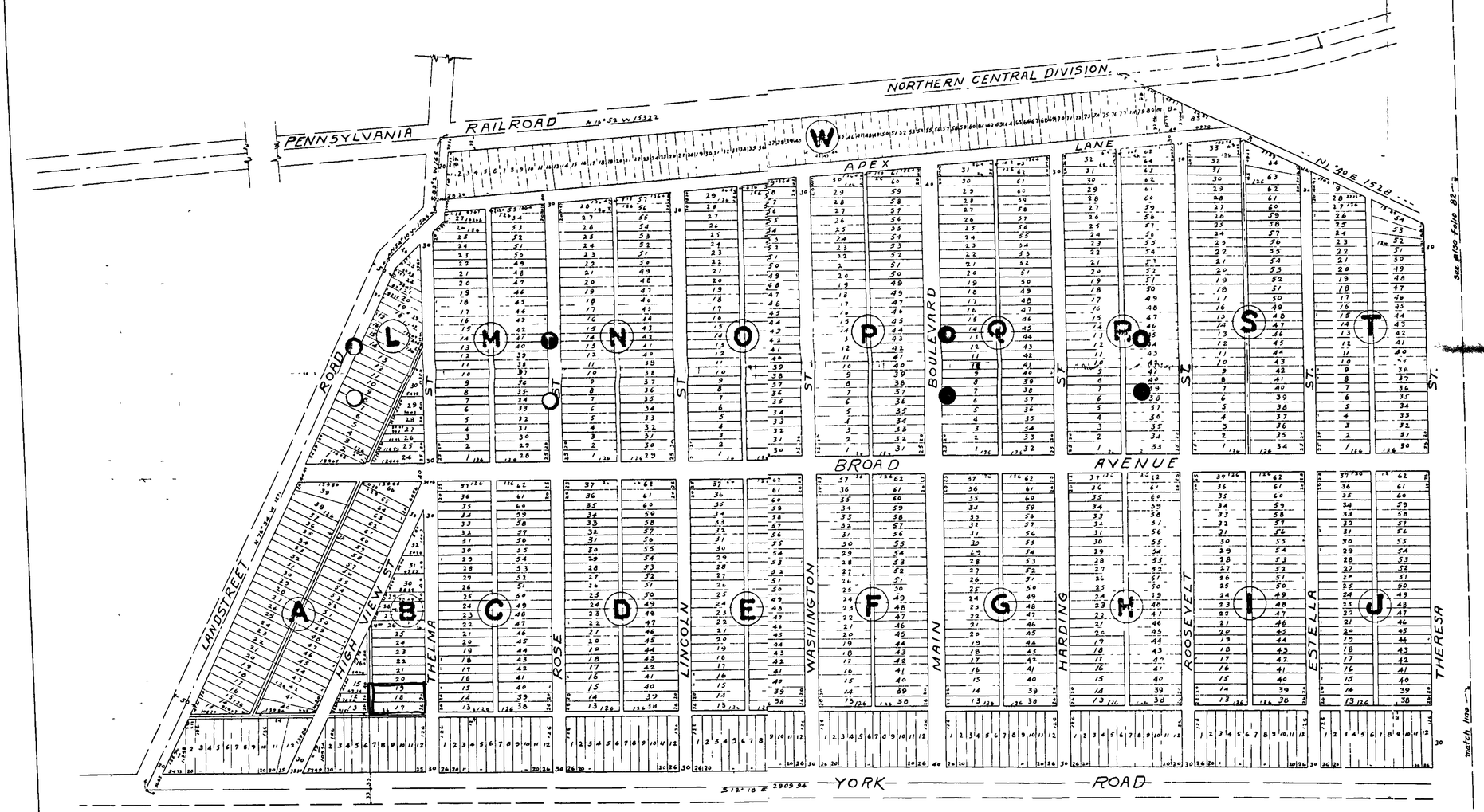
PROTESTANT'S SIGN-IN SHEET

Name	Address	City, State	Zip Code
LARRY TOWNSEND GTCC	1111 LONGBROOK RD	LUTHERVILLE MD	21093
C. WILLIAM CLARK	502 WASHINGTON AVE	TOWSON MD	21204
Richard Sammis	2312 YORK RD	TIMONIUM MD	21093
Ed BLIZZARD	5 Thelma St	Timonium	21093
Richard Gilbert	7 HARDING SQ	Timonium	21093
Louis W Mills	GTCC INC 44 E. Timonium Rd	Cockeysville MD	21093

Revised 4/17/00

W.P.C. № 5 ~ 82

TIMONIUM HEIGHTS



Prot Ex #3

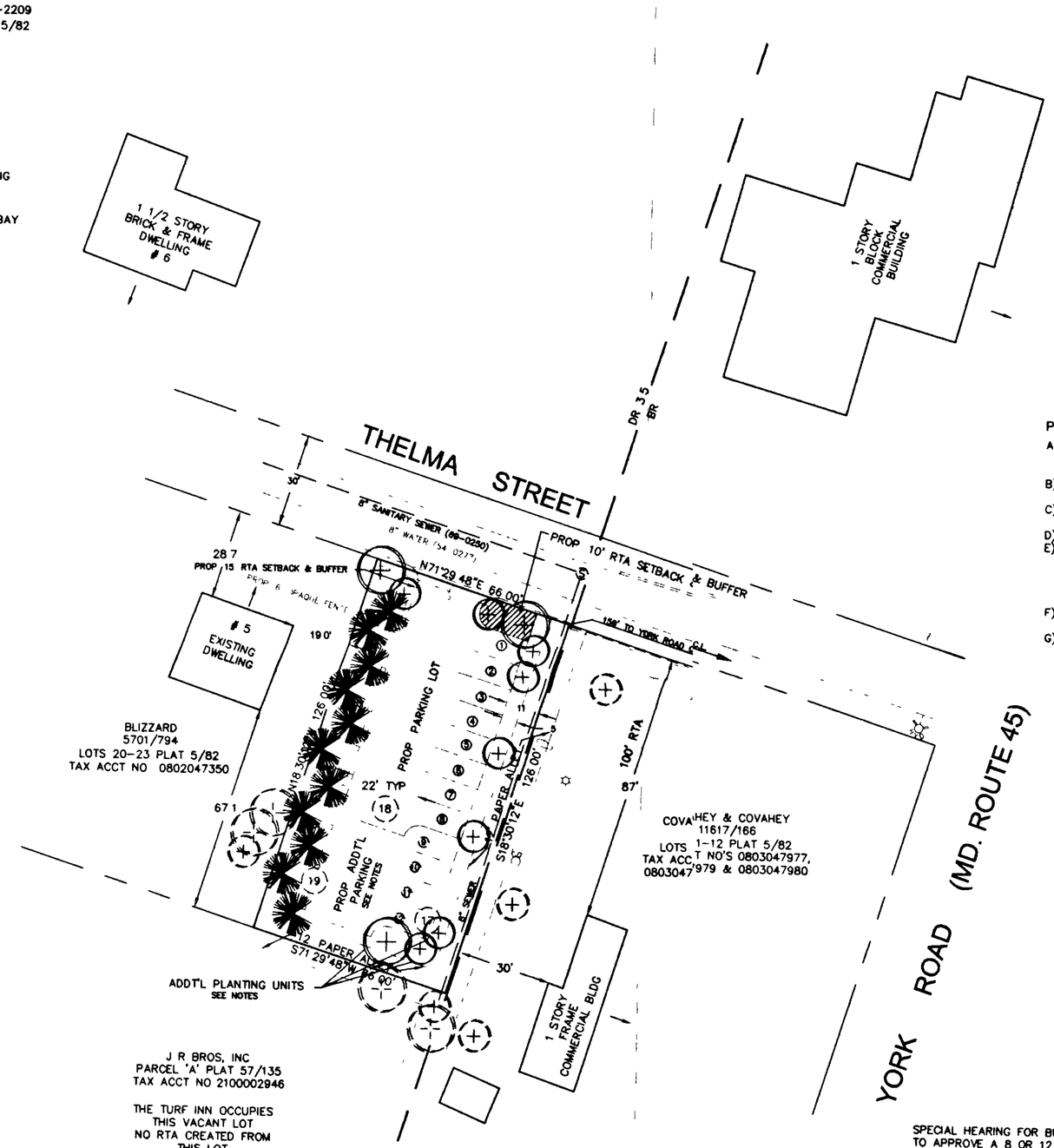
Plat of Timonium Heights
Filed for record October 29 1920
Test Wm P Coler Clerk

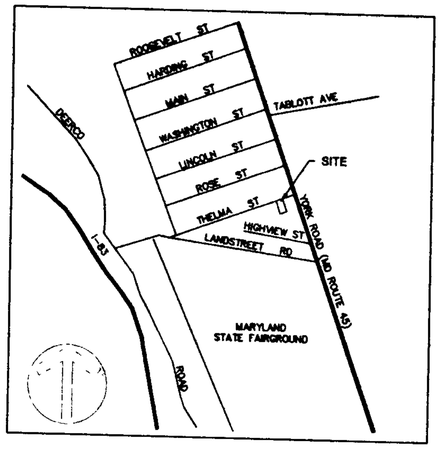
TRACED FROM ORIGINAL JUNE 1963

WPC #5-82

SITE DATA

1) OWNER MIMIBA, L.L.C
2) OWNER'S ADDRESS 3 THELMA STREET
   LUTHERVILLE–TIMONIUM, MD 21093–2209
3) DEED REFERENCE S M 15792/644 PLAT REFERENCE 5/82
4) SITE AREA 0 19 AC
5) ZONED DR 3 5
6) ELECTION DISTRICT 8th
7) COUNCILMANIC DISTRICT 3rd
8) TAX MAP 51 GRID 23 PARCEL 378 LOTS 17–19
9) TAX ACCOUNT NO 1700010462
10) PREVIOUS ZONING HEARINGS NONE
11) PREVIOUS PERMITS
    P475401 (2/12/2002) CAP SEWER CONNECTION
    B474052 (2/25/2002) RAZE SINGLE FAMILY DWELLING
    B474053 (1/25/2002) REMOVE UNDERGROUND TANK
12) ZONING MAP NW 14–A
13) THE PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
14) THE PROPERTY IS NOT LOCATED IN A FLOODPLAIN





VICINITY MAP
SCALE 1" = 1000'

REQUIRED LANDSCAPING TABULATION

CLASS A SCREENING	84LF / 15 = 6 PU S
CLASS B SCREENING	60LF / 15 = 4 PU'S
PARKING PERIMETER	68LF / 12 = 6 PU'S
INTERIOR PARKING	NONE REQUIRED
TOTAL PLANTING UNITS REQUIRED	16 PU S

PROPOSED LANDSCAPING TABULATION

CLASS A' SCREENING	84LF / 15 = 11 PU S
CLASS B SCREENING	60LF / 15 = 4 PU'S
PARKING PERIMETER	68LF / 12 = 6 PU'S
TOTAL PLANTING UNITS PROPOSED	21 PU S

PARKING FACILITIES REQUIREMENTS

A) REQUESTED A VARIANCE FROM THE REQUIREMENT THAT THE PARKING FACILITY MUST ADJOIN OR BE ACROSS AN ALLEY OF STREET FROM THE BUSINESS INVOLVED
B) ONLY PASSENGER VEHICLES, EXCLUDING BUSES, MAY USE THE PARKING FACILITY
C) NO LOADING, SERVICE OR ANY OTHER USE OTHER THAN PARKING SHALL BE PERMITTED
D) NO LIGHTING IS PROPOSED
E) THE PARKING FACILITY IS FOR EMPLOYEES OF THE BUSINESS INVOLVED ONLY AND WILL BE MAINTAINED BY THE OWNER OF THE BUSINESS INVOLVED PERMITTED HOURS WILL BE FROM 10 00AM TO 2 15AM 7 DAYS A WEEK
F) PAVING TO BE DURABLE DUSTLESS SURFACE AND PERMANENTLY STRIPPED
G) TYPICAL PARKING SPACE DIMENSIONS ARE 8 5' x 18'

LEGEND

- SIGN
- SANITARY SEWER MANHOLE
- FIRE HYDRANT
- UTILITY POLE
- LIGHT
- CLEANOUT
- EVERGREEN TREE
- MAJOR DECIDUOUS TREE
- MINOR DECIDUOUS TREE

NOTES

1) THE PROPOSED ADDITIONAL PARKING SHOWN HEREON WOULD BE CONDITIONAL UPON OBTAINING APPROVAL FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT WITH REGARDS TO STORMWATER MANAGEMENT
2) IF THE PROPOSED ADDITIONAL PARKING IS ALLOWED, 3 ADDITIONAL PLANTING UNITS FOR THE PARKING PERIMETER SCREENING WOULD BE REQUIRED
3) LANDSCAPING TO BE APPROVED BY BALTIMORE COUNTY

SPECIAL HEARING FOR BUSINESS PARKING IN A RESIDENTIAL ZONE TO APPROVE A 8 OR 12 SPACE PARKING LOT FOR THOSE EMPLOYED BY A LOCAL RESTAURANT ON A PARCEL OF LAND RESIDENTIALLY ZONED DR 3 5

VARIANCES
TO APPROVE A REQUEST FOR A VARIANCE FROM SECTION 1B01 1 B 1 e(2) TO ALLOW AS CLOSE AS A 10 FOOT SETBACK IN LIEU OF THE REQUIRE 75 FEET FOR A PARKING LOT AND TO ALLOW AS CLOSE AS A 10 FOOT BUFFER IN BUFFER AS THE RESIDENTIAL TRANSITION AREA SETBACKS AND BUFFER WOULD LIEU OF THE REQUIRED 50 FOOT ENCOMPASS THE ENTIRE PARCEL

TO APPROVE A REQUEST FOR A VARIANCE FROM SECTION 409 8 B 2 a TO LOCATE THE PARKING FACILITY NOT ADJOINING OR BE ACROSS AN ALLEY OR STREET FROM THE BUSINESS INVOLVED

533

GRAPHIC SCALE
30 0 15 30 60 120
(IN FEET)
1 inch = 30 ft.

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592–8800

Land Surveying & Site Planning

STATE OF MARYLAND ★ KENNETH JAMES WELLS ★ PROPERTY LINE SURVEYOR
SEAL

PLAN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING AND VARIANCE

3 THELMA STREET
BALTIMORE COUNTY
MARYLAND

MCS

DRAWN BY KJW
CHECKED BY KJW
DATE 4/15/2002

PROJECT NO 2002–010
SHEET 1 OF 1

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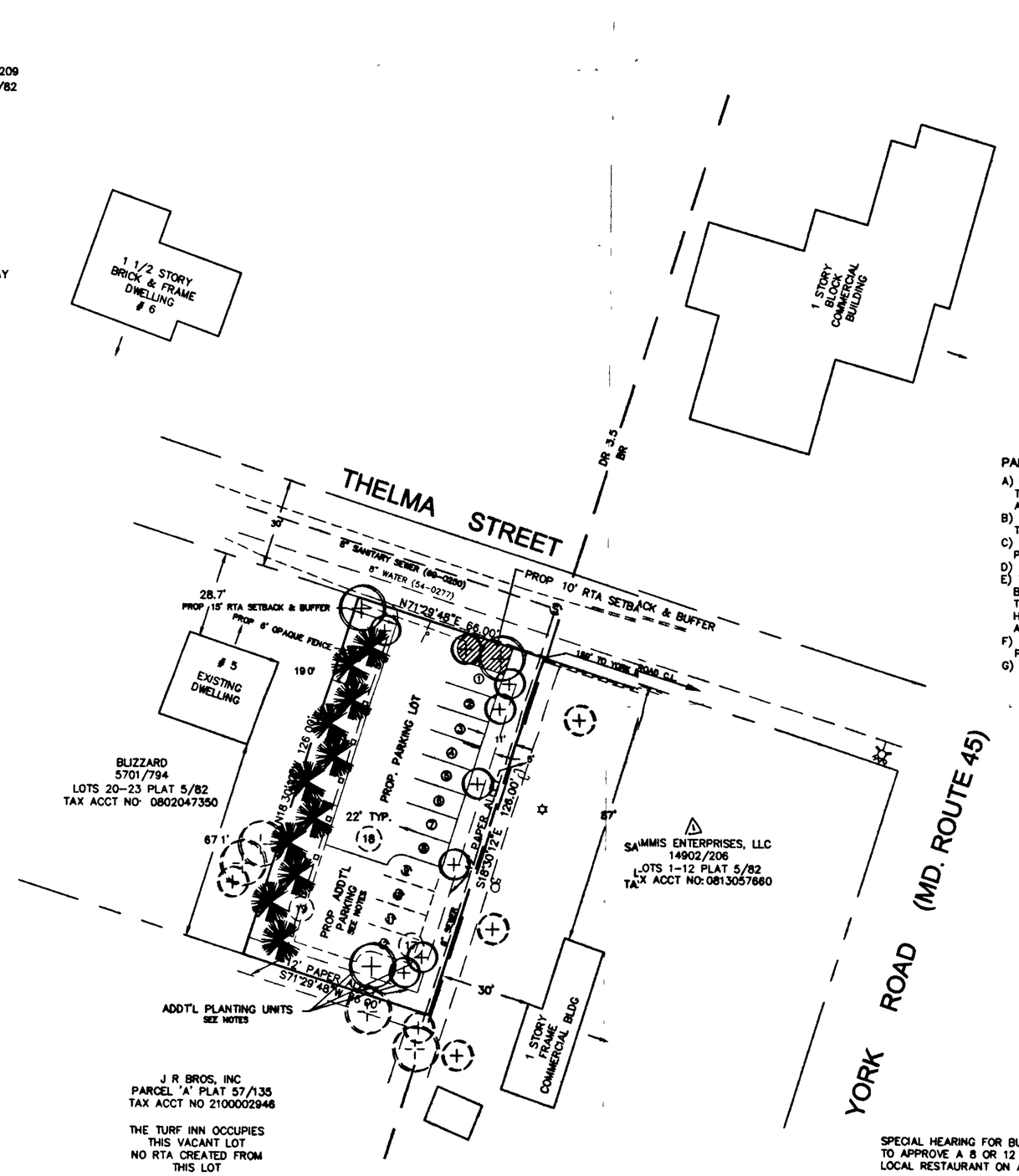

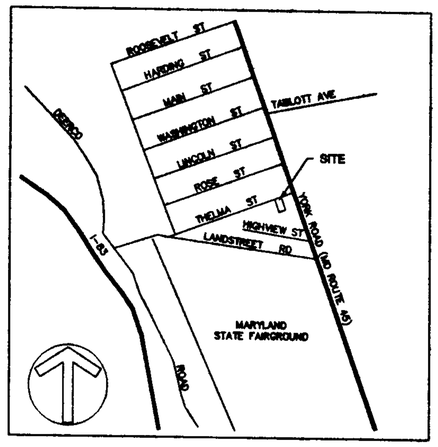

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Pet Ex #1

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△ DENOTES REVISED 7/16/2002

LEGEND

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PLAN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING AND VARIANCE

3 THELMA STREET
BALTIMORE COUNTY
MARYLAND

MCS

DRAWN BY KJW
CHECKED BY KJW
DATE 4/15/2002

PROJECT NO 2002-010
SHEET 1 OF 1

request that the State name the corridor as a "designated neighborhood." The "designated neighborhood" status as part of the Community Legacy Program can assist with project planning technical advice. This can include the creation, improvement or preservation of mixed use or commercial development, parking, landscaping, and improvements to pedestrian circulation.