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BALTIMORE COUNTY
BOARD OF APPEALS

PETITION OF PERFORMANCE
PROPERTIES, LLC FOR
JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF
BALTIMORE COUNTY

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IN THE

CIRCUIT COURT

IN THE MATTER OF
PERFORMANCE PROPERTIES,
LLC PETITION FOR A SPECIAL
EXCEPTION ON PROPERTY
LOCATED ON THE W/S BELAIR
ROAD, SOUTH OF SOTH AVENUE
9120-9124 BELAIR ROAD
11th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

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FOR

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BALTIMORE COUNTY

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CASE NO. 03-C-03-9107

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CBA CASE NO.: 02-552-X

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OPINION AND ORDER OF COURT

Petitioner, Performance Properties, LLC, acquired the abutting properties at 9120 and 9124 Belair Road, located in the Perry Hall area of Baltimore County, in 2001. Each lot contained a single-family dwelling. The property at 9120 consists of .714 acre, zoned along Belair Road Residential Office (R-O) and to the rear of the parcel, zoned Density Residential 5.5 (D.R. 5.5). The dwelling was within the R-O portion. The other property at 9124 is smaller, consisting of .287 acre and is entirely zoned R-O.

Each of the dwellings was converted without expansion, as constrained by the R-O zoning, into non-residential Class A office buildings, which are either utilized by Petitioner or leased to others.

Subsequently, Petitioner submitted a plan for a minor subdivision to the Development Review Commission (DRC). The DRC approved the proposed subdivision, but did not approve office use as proposed on the rear portion of the larger parcel. The new parcel is to consist of .418 acre split-zoned R-O and D.R. 5.5. It does not front on Belair Road but shares a driveway with the front lot access to Belair Road. Portions of land from 9120 and 9124 were dedicated to a driveway providing access to the rear property, to be known as 9122 Belair Road.

Petitioner applied for a special exception to construct a Class B office building on the newly created 9122 Belair Road. The proposed new building would be sited within the R-O zoned portion of the properties. The special exception was approved by then Deputy Zoning Commissioner Timothy Kotroco on July 29, 2002. A timely appeal was filed by People's Counsel and the matter came on for hearing before the County Board of Appeals (CBA) on May 14, 2003.

On August 4, 2003, the CBA issued its Opinion reversing the Deputy Zoning Commissioner and denying the requested special exception, finding that the proposed use does not fit the spirit and intent of the R-O zone.

SCOPE OF REVIEW

The scope of judicial review is narrow. The Court must affirm the zoning board decision where it is fairly debatable with respect to the agency's findings of facts and inferences drawn therefrom. See Board of Physicians Quality Assurance v. Banks, 354

Md. 59, 67-69 (1999); Board of County Comm'rs. v. Holbrook, 314 Md. 210, 218 (1988); Eger v. Stone, 253 Md. 533, 542 (1969); Snowden v. City of Baltimore, 224 Md. 443, 448 (1961).

The scope of review is likewise narrow with respect to the application of law to the facts and/or to mixed questions of law and fact. Stover v. Prince George's County, 132 Md. App. 373, 380-82 (2000); Caucus Distributors v. Maryland Sec. Comm'r., 105 Md. App. 25, 32-35 (1995); Maryland State Police v. Lindsey, 318 Md. 325, 333-35 (1990); Baltimore Lutheran H.S. v. Employment Sec. Admin., 302 Md. 649, 663 (1985); Ramsay, Scarlett & Co. v. Comptroller, 302 Md. 825, 837 (1985). Even with regard to matters of legal interpretation, the scope of review remains narrow. In Banks, *supra*, the Court focused on matters of legal interpretation. Judge Eldridge wrote:

“Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be give considerable weight by reviewing courts. . . Furthermore, the expertise of the agency in its own field should be respected. . . (legislative delegations of authority to administrative agencies will often include the authority to make ‘significant discretionary policy determinations.’)” 354 Md. at 69. (Citations omitted).

Accordingly, where there is room for interpretation, the courts “ordinarily give some weight” to agency construction of the statute. Magan v. Medical Mutual Liab. Ins. Co., 331 Md. 535, 546 (1993). In Magan, Judge McAuliffe wrote:

“The degree of weight to be given an administrative interpretation varies according to a number of factors, including whether the interpretation has resulted in a contested adversary proceeding or rule-making process, whether the interpretation has been publicly established, and the consistency and length of the administrative interpretation or practice. *Comptroller v. John C. Louis Co.*, 285 Md. 527, 544-45 (1979).”

In administrative proceedings in Maryland concerning the grant of a variance or special exception, the “substantial evidence” and “fairly debatable” standard is applicable. E.g., *Schultz v. Pritts*, 291 Md. 1 (1981); *Turner v. Hammond*, 270 Md. 41 (1973). The “fairly debatable” standard was defined in *Eger v. Stone*, 253, Md. 533, 538 (1969):

“If the issue before an administrative body is ‘fairly debatable,’ that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the Court will not substitute its judgment for that of the administrative body, even if the administrative body came to a conclusion which the Court would not have reached on the evidence.”

See also *Germenko v. County Bd. of Appeals of Baltimore County*, 257 Md. 706, 711 (1970). *Accord Ginn v. Farley*, 43 Md. App. 229 (1979); *Board of County Comm’rs for Prince George’s County v. Meltzer*, 239 Md. 144 (1965).

In *Prince George’s County v. Meininger*, 264 Md. 148, 152 (1972), it as held that the “substantial evidence” requirement in a case of denial was satisfied by little more than a “scintilla of evidence” because the burden of proof is on the appellant. The zoning agency’s decision should be affirmed unless there is “no evidence at all” to

support the decision. Rockville Fuel & Feed Co. v. Board of Appeals, 257 Md. 183, 193 (1970). These and other cases indicate that an administrative appellant has a very heavy burden to demonstrate as arbitrary an agency finding that the applicant did, or did not sufficiently prove his case.

The Court, in reviewing this case, will, of course, be mindful of its limited role in the zoning process. In Maryland, a court will not overturn zoning decisions which are "fairly debatable." Cox v. Prince George's County, 86 Md. App. 179 (1991); Montgomery County v. National Capital Realty Corporation, 267 Md. 364 (1972); County Council v. Prestwick, 263 Md. 217 (1971). The fairly debatable rule and its corollary, the substantial evidence rule, mean that the court will not substitute its judgment for the zoning agency's but will sustain any decision which has a reasonable basis in the record. Kirkham v. County Council, 251 Md. 273 (1968), accord, Southland Corp., 7-Eleven Stores v. Mayor & City Council of Laurel, 75 Md. App. 375 (1988).

An agency's decision must be reviewed in the light most favorable to the agency. Coscan Washington, Inc. v. Maryland National Capital Park and Planning Comm'n., 87 Md. App. 602 (1991); Courtney v. Board of Trustees, 285 Md. 356, 362 (1979). A decision of an agency is *prima facie* correct and carries with it the presumption of validity. Cox, *supra* at 187. A court cannot reject the conclusion of an administrative agency if "a reasoning mind reasonably could have reached the factual conclusion the

agency reached.” Bullock v. Pelham Wood Apartments, 283 Md. 505 (1978), quoting Dickinson-Tidewater v. Supervisor, 273 Md. 245, 256 (1974).

The Court of Appeals has also made very clear that an administrative agency must be afforded great deference.

“The heart of the fact finding process often is the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence. “The Court may not substitute its judgment on the question of whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness.”

People’s Counsel for Baltimore County v. Mangione, 85 Md. App. 738, 751 (1991), quoting Snowden v. Mayor and C.C. of Balto., 224 Md. 443, 448 (1961).

Therefore, this Court must give due deference to the right of an administrative agency, such as the CBA, to draw reasonable inferences from the facts and circumstances presented before it. Eg., Board of County Comm’rs v. Holbrook, 314 Md. 210, 218 (1988); Mangione, supra. The appellate court must also assume the truth of all of the evidence and all of the favorable inferences to support the factual conclusions of the trier of fact. Mercedes-Benz of N.Am., Inc. v. Garten, 94 Md. App. 547 (1993).

DISCUSSION

The Court has had the opportunity to review and consider the transcript of the CBA hearing of May 14, 2003. The CBA’s Opinion accurately summarizes the

evidence before it, and the Court will not recount it herein. It is sufficient to note that the evidence appears substantial enough on both sides of the issue to support a ruling either granting or denying the proposed use.

The CBA was not persuaded by witnesses in favor of the proposal, that the granting of the special exception would not violate the provisions of the Baltimore County Zoning Regulations (BCZR), Section 502.1. In particular, the CBA took issue with the proponents' position that the special exception would not "be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of [the BCZR]", in the language of Section 502.1G. On the contrary, the CBA opined that it would be contrary to the spirit and intent of the R-O zone to permit a Class B office building to be constructed upon a lot subdivided from, and to the rear of another, upon which a Class A building in the R-O zone had already been constructed.

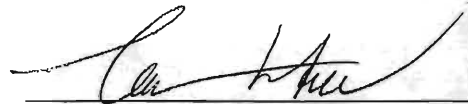
The statement of legislative policy in BCZR 204.2 establishes that the R-O zone is intended:

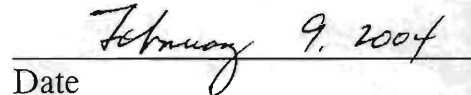
" . . . to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic or other similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-O Zones shall not intrude upon or disturb present or prospective uses of nearby residential property. It is not the R-O classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these zoning regulations that office space demand should be met

primarily in C.T. Districts., C.C.C. Districts and, to a lesser extent, in other commercial areas." (Emphasis added.)

The denial of the special exception by the CBA is entirely consistent with the stated objectives of the Council in creating the R-O zone. Even if the Court felt otherwise, it would be obligated to defer to the CBA in its interpretation as previously noted.

The denial by the CBA of the special exception sought by Petitioners is **AFFIRMED**, and it is **SO ORDERED**.


Christian M. Kahl, Judge


Date

CMK:emh

cc: Mauricio E. Barreiro, Esquire
Carole S. Demilio, Esquire
Baltimore County Board of Appeals

8/4/03
IN THE MATTER OF
THE APPLICATION OF
PERFORMANCE PROPERTIES, LLC
FOR SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE W/S BELAIR ROAD,
SOUTH OF SOTH AVENUE
(9120-9124 BELAIR ROAD)

11th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 02-552-X

* * * * *

OPINION

This matter is before the Board on an appeal by the People's Counsel for Baltimore County from the decision of the Deputy Zoning Commissioner granting a Petition for Special Exception filed by the Petitioner for property located at 9120-9124 Belair Road. The special exception request was to construct a Class B office building on Lot #2 as shown on the site plan, which was principally located behind 9120 Belair Road.

A hearing was held before the Board on May 14, 2003. Petitioner was represented by Mauricio E. Barreiro, Esquire. People's Counsel was represented by Carole S. Demilio, Deputy People's Counsel. Memoranda were filed with the Board on June 16, 2003, and a public deliberation was held on July 2, 2003.

Background

Petitioner, Performance Properties, LLC, a Maryland builder /contractor, purchased contiguous properties, 9120 and 9124 Belair Road, in 2001. Both lots were improved with a dwelling. The lot known as 9120 Belair Road consists of .714 acre, split-zoned Residential Office (R.O.) and Density Residential 5.5 (D.R. 5.5). The R.O. zone exists on the portion fronting along Belair Road and the D.R. 5.5 zone exists on the triangular-shaped portion to the rear of 9120 Belair Road. The lot known as 9124 Belair Road consists of .287 acre zoned R.O.

Petitioner renovated the principal structures on both lots for non-residential use. Each converted dwelling is a Class A office building. Both buildings are fully leased, and Petitioner maintains its offices at the 9124 Belair Road location.

After the purchase and renovation was complete, Petitioner submitted a Plan for a minor subdivision through the Development Review Commission (DRC). The DRC approved the minor subdivision, but did not approve the special exception as contended in the Petitioner's Brief. The second lot to the rear of 9120 consists of .418 acre split zoned R.O. and D.R. 5.5. It does not front on Belair Road but shares a driveway with the front lot access to Belair Road. Portions of land from 9120 and 9124 Belair Road were utilized for the purpose of constructing a driveway to access the property behind 9120 Belair Road. The new property is to be known as 9122 Belair Road.

Evidence Presented at the Hearing

Dan Wooden, one of the owners of Performance Properties, LLC, described how Petitioner upgraded the two buildings located at 9120-9124 Belair Road. He explained that he had contracted with a buyer, Mr. Jeff Markiewicz, to purchase the lot known as 9122 Belair Road, and presented plans for the Class B office building which was to be constructed on the lot.

Mr. Wooden also testified that the current tenants at 9120 were a carpet company and a candle company on the first floor, and an attorney's office on the second floor. He indicated that he owned an insurance company which was located on the first floor of 9124 and that his attorney, Mr. Barreiro, had an office located on the second floor. There was also an American Lock representative located at 9124 Belair Road, who sold locks from that location.

Petitioner also presented its civil engineer, Iwona Rustek Zarska. Ms. Zarska testified as an expert and related how she had met with representatives of the DRC and had gone through the regulations of Baltimore County in order to present the site plan with respect to the property.

Petitioner's Counsel questioned Ms. Zarska as to whether or not the site plan met the specifications of § 502.1 of the *Baltimore County Zoning Regulations* (BCZR). Ms. Zarska, when questioned with respect to each aspect of § 502.1 answered, "No," without elaborating on any of her answers.

Mr. Jeff Markiewicz testified that he had contracted to purchase the building and lot at 9122 Belair Road. He currently has an office at 8449 Belair Road and wishes to move his consulting company into the proposed Class B office building. He proposes to use the first floor for offices and the second floor for storage space.

Petitioner's final witness was Mr. Jeffrey Long, the Supervisor of Development Plan Review in the Office of Planning of Baltimore County. Mr. Long was accepted as an expert in zoning and planning. He testified that he had reviewed the proposed specifications for the special exception request, and Karen Brown of his office conducted a site visit. After the review and site visit, the Office of Planning took a position in support of the Petitioner's request. Once again, Petitioner's attorney questioned Mr. Long with respect to the specific requirements of § 502.1 of the BCZR. Mr. Long answered "No" with respect to each requirement. He did not elaborate on his answers with respect to the requirements of § 502.1. Mr. Long indicated that the DRC did not approve special exceptions. He also indicated that a Class A office building cannot be expanded under the zoning regulations in the R.O. zone. In addition, he indicated that retail use was not permitted in an R.O. zone under § 26-180 of the *Baltimore County Code*. Mr. Long also indicated in his testimony that the R.O. zone was not to be considered primary source of office space in Baltimore County, and that he was not aware of any other property zoned R.O. where the lot had been subdivided in order to build a second office building on the lot behind the first office building.

People's Counsel presented two witnesses. Mr. William Liberizzi, the President of the Perry Hall Community Association, testified that his group opposed the special exception. He described that part of Belair Road where the property is located as primarily residential, with some office development in converted buildings. He stated that the Association supports long-standing residential neighborhoods but also recognizes that certain dwellings on Belair Road may no longer be suitable for residential use. His Association supported R.O. and R.O.A. zones

on the lots fronting on Belair Road, but not on lots that extend into the residential neighborhoods. He was afraid that if the special exception was approved in this matter a number of R.O. lots could be subdivided and several office buildings constructed to the rear of various lots on Belair Road. He felt that the special exception relief requested was not in the spirit and intent of the R.O. zone, and that the second building on the lot would overcrowd the land contrary to the BCZR 502.1(D).

The second witness presented by People's Counsel was Mr. Dennis Eckard, an active member of the Perry Hall Community Association and former president of that organization. He had participated in the comprehensive zoning map process and was also a member of the Belair Road Beautification Project. He backed Mr. Libericci's testimony in that he felt that there would be an expansion of office space if a lot owner was allowed to subdivide a lot in an R.O. zone. He stated that in the past the Association had supported special exceptions for Class A office buildings in an R.O. zone where there was one building on the lot. He felt that if the special exception was allowed, the Association would have to take a very serious look at each R.O. lot in order to consider whether to support a Petition for Special Exception in each situation. When questioned with respect to the office building built by First Preference Savings and Loan on four lots fronting on Belair Road, Mr. Eckard said that his Association supported that building. First Preference owned four parcels zoned R.O. and could have put up four individual office buildings. His Association was satisfied with the building that was constructed on the four lots fronting Belair Road.

Decision

In her Brief, People's Counsel raises the two issues with respect to the granting of the special exception. First, the special exception should not be granted because the Petitioners are not in compliance with the zoning regulations in that retail sales are being conducted from Petitioner's two Class A office buildings in violation of § 101 of the BCZR. Second, the special

exception should be denied because the construction of the Class B office building overcrowds the land, and does not meet the spirit and intent of the *Baltimore County Zoning Regulations*.

In considering the first issue, the Board does not feel that it has the authority to deny a special exception based upon the fact that an allegation is made that retail sales are being conducted from the two Class A buildings at 9120 and 9124 Belair Road. Other than the testimony of Mr. Wooden, an owner of the property, with respect to his observation as to what business was being conducted by his tenants, there was no other evidence presented to the Board with respect to these retail sales. In addition, this is not an enforcement hearing and no violation of the regulations was charged nor is it before the Board at this time. In addition, BCC 26-180 prohibits the processing of plans or permits for development if an applicant owns property where violations of zoning regulations exist. The development plan in this matter has already been approved by the DRC and permits have not been requested at this time. Therefore, the Board is without any authority to take any action with respect to this special exception based upon BCC 26-180.

However, the Board does agree with People's Counsel that the special exception petition should be denied based upon the fact that it does not meet the spirit and intent of the zoning regulations under § 502.1. The Board recognizes that the expert witnesses presented by Petitioner both indicated that they felt that the special exception should be granted in that it met all of the requirements of § 502.1. However, the answers which both witnesses gave were perfunctory without further explanation. As cited by People's Counsel in its Brief, the Court of Special Appeals in *People's Counsel v. Beachwood*, 107 Md. App. 627, 678 A.2d 484, 495 stated:

The Court of Appeals and this Court has stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in a comprehensive rezoning unless the reasons given by the witness as the basis for his opinion, or other supporting facts relied on by him, are themselves substantial

and strong enough to do so. See also *Mayor and City Council of Rockville v. Henley*, 268 Md. 469, 473-474 (1973)

Witnesses presented by the People's Counsel, although not admitted as experts, opined that the granting of this special exception would be a dangerous precedent for future cases, they contend that the number of Class A and Class B office buildings would proliferate along the Belair Road corridor if lots in the R.O. zone were allowed to be subdivided for the purpose of building additional office buildings to the rear of the allowed Class A and Class B buildings.

The Board is aware that the law does not prohibit the subdividing of lots in the R.O. zone. In addition, there was no evidence presented beyond a mere speculation that the construction of a 1,026 square-foot office building, plus parking spaces, would overcrowd the .714 acre of land at 9120 Belair Road. The Board does feel that People's Counsel's point with respect to the fact that subdividing a lot in an R.O. zone does not meet the spirit and intent of the law is well taken. People's Counsel's points out that if subdivision for additional office buildings is permitted, a 2 acre R.O. site could be divided into six lots and would then be permitted nearly six separate buildings. The Board does not feel that this was the intent of the legislation passed by the Baltimore County Council. The statement of legislative policy in current § BCZR 204.2 with respect to the R.O. zone states that it is:

...to accommodate houses converted to office buildings and some small office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavily commercial traffic, or other, similar factors, cannot no longer reasonably be restricted solely to uses allowable in moderate /density residential zones. It is intended that building and uses in R.O. zones shall be highly compatible with the present or perspective uses of nearby residential properties. It is not the R.O. classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these zoning regulations that office space demands should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas. [Emphasis supplied.]

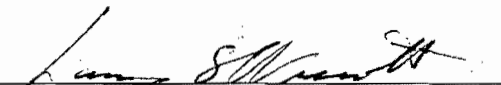
The Board recognizes that the Petitioner is attempting to utilize its property to the greatest extent possible in order to make a profit. This cannot be a consideration of the Board in granting a special exception. The demand for additional office space in the area should not be satisfied by subdividing a lot in the R.O. zone which has already been utilized for the construction or renovation of a Class A office building.

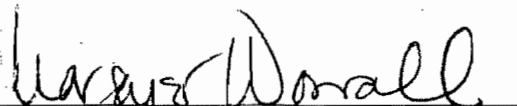
ORDER

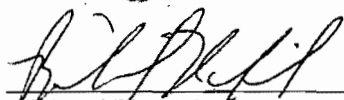
THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 4th day of August, 2003, that the Petitioner's request for special exception to construct a Class B office building on Lot #2 as shown on the site plan to the rear of 9120 Belair Road be and is hereby **DENIED**.

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*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Panel Chair


Margaret Worrall


Richard K. Irish



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
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August 4, 2003

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

RE: *In the Matter of: Performance Properties, LLC*
Case No. 02-552-X

Dear Mr. Zimmerman:

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

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*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco/ta
Kathleen C. Bianco
Administrator

Enclosure

c: Mauricio E. Barreiro, Esquire
Steve Wolf/Performance Properties LLC
Iwona Rostek-Zarska
William Libercci
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

RE: PETITION FOR SPECIAL EXCEPTION
W/S Belair Road, 310' S of and
Opposite centerline of Soth Avenue
11th Election District, 5th Councilmanic
(9120-9124 Belair Road)

Performance Properties, LLC
Petitioners

* BEFORE THE
* COUNTY BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
* Case No. 02-552-X

* * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

People's Counsel for Baltimore County files this Memorandum in opposition to the Petition for Special Exception.

I. STATEMENT OF THE CASE AND FACTS

This is a special exception case for a proposed Class B office building on Belair Road in Perry Hall. The Zoning Commissioner approved the special exception, and a timely appeal was filed by People's Counsel. A *de novo* hearing was held before the County Board of Appeals on May 14, 2003. The Perry Hall Community Association opposed the special exception at the Zoning Commissioner's hearing and supports People's Counsel's appeal.

Performance Properties, LLC, ("Petitioner") a Maryland builder/contractor, purchased contiguous properties, 9120 and 9124 Belair Road, in 2001. Both lots are improved with a dwelling. **9120 Belair Road** consists of .714 acres, split-zoned Residential Office (R.O.) and Density Residential 5.5 (D.R. 5.5). The R.O. zone exists on the portion fronting along Belair Road, and the D.R. 5.5 zone exists on the triangular shaped portion to the rear of the site. **9124 Belair Road** consists of .287 acres zoned R.O.

Petitioner renovated the principal structures on both lots for non-residential use. Each converted dwelling is a Class A office building, which is defined in BCZR 101 as follows:

“A principal building that was originally constructed as a one-family or two-family detached dwelling and that is converted by proper permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement. [Bill nos. 13-80; 170-1991]”

Both buildings are fully leased. Petitioner maintains his offices at the 9124 Belair Road property.

After the purchase and renovations were complete, Petitioner subdivided 9120 Belair Road to create a second lot on the rear portion of the site. The second lot to the rear consists of .418 acres split zoned R.O. and D.R. 5.5. It does not front on Belair Road but shares a driveway with the front lot to access Belair Road. The Class A building is located on the front portion of 9120 Belair Road.

The area surrounding the site is primarily zoned and used residential. Several lots to the north and south that front directly on Belair Road are zoned R.O. or R.O. A. (See PC # 1000 scale Baltimore County Zoning Map). There are no “interior” lots zoned for office use. The Cedarside Farm residential community is contiguous to the site to the north. The adjoining lot to the south, 9118 Belair Road, is improved with a residential dwelling, zoned R.O. (The Department of Assessment and Taxation website printout for 9120 (parcel # 383) and 9124 (parcel # 888) Belair Road, and the accompanying map, are attached to this Memorandum to clarify the area for the Board).

II. PEOPLE’S COUNSEL POSITION ON THE ISSUES BEFORE THE BOARD OF APPEALS

1. The Special Exception Petition is illegal on its face and must be denied as a violation of the R.O. Zone, in particular, the request for a Class B office building in addition to the

existing converted dwelling (Class A office building); the request violates the limit of one principal building on the lot; the entire site (9120 Belair Road) as mapped in 1980 or 1984 when the R.O. zone was first applied must be considered, not just the lot created when this Petitioner subdivided.

2. Petitioner failed in his burden to present evidence at the hearing to satisfy the requirements of BCZR 502.1 (A)-(H) for a special exception.
3. The subdivision of 9120 Belair Road is invalid for purposes of constructing a second principal office building on an R.O. zoned site as mapped.
4. Approval of the Development Plan has no effect on the merits of the special exception and cannot be considered as supportive of the special exception request.

III. THE PROJECT'S ZONING AND DEVELOPMENT HISTORY AND PROCESS

We think it appropriate that a review and explanation of this project's procedural posture should be understood before a discussion of the special exception relief. There are three phases to this project: (1) a subdivision of 9120 Belair Road into two lots; (2) a development plan; (3) a special exception.

It is axiomatic that approval of a *subdivision plan* is not approval of the use of the site. (For instance, in a residential zone, the property owner may receive subdivision approval of his tract, but his use of the site must be authorized by the zoning regulations, i.e. he could not construct a "dwelling" on a lot but use it for retail sales, a prohibited use. While technically the subdivision may conform to the development regulations, the use is still illegal).

Similarly, approval of the *development plan* has no effect on the special exception. Petitioner is subject to the development regulations because new construction is proposed. The development process is a completely separate “track” from zoning approval. (Baltimore County Code (BCC) 26- 166 et. seq. sets forth the County development regulations; BCZR contains the zoning regulations). Here, Petitioner needs both development plan approval and a zoning special exception.

Any property owner (i) may file for zoning relief and development plan approval with the appropriate agencies during the same time period, and combine the hearing under BCC 26206.1; or (ii) may seek zoning approval before filing for development plan approval; or (iii) may seek development plan approval before filing for zoning approval. It is optional for the Petitioner. Nonetheless, regardless of the scenario chosen, the approval processes operate separate and apart from each other. Approval of one carries no weight in assessing the other. If the relief in the first case is denied, the second request is moot. Even if the first request is approved, it is not absolute approval, but tantamount to a “conditional” approval because the property owner is not poised to proceed until the other application is approved. (Even in his testimony, Petitioner had to admit that he was told after the DRC meeting that he could not proceed until the special exception was approved).

A Petitioner cannot skirt the zoning regulations because he has subdivided his property and complied with a few development regulations. The project cannot go forward until he complies with all regulations.

The Court of Appeals upheld conditions or restrictions in a subdivision case in City of Annapolis v. Waterman, 357 Md. 484, 745 A.2d 1000, 1008:

“It is well settled that conditions may be imposed by a municipal planning commission in connection with the approval of a proposed subdivision map or plan.

‘A subdivision plat may be disapproved for any number of reasons. It may be disapproved where it fails to comply with subdivision legal requirements, applicable zoning laws, or reasonable conditions imposed on the development.’” (emphasis added) (citations omitted).

In other words, a subdivision plan is not a viable plan if it violates the zoning regulations. Petitioner here cannot claim as *a fait accompli* the validity of his proposal for a Class B office building merely because he subdivided the site. Nor can he claim the new lot is a separate and legal unimproved lot that can support a principal building in the R.O. zone.

The law is the same regarding the development process. BCC 26-180 states:

“ In addition to compliance with these development regulations, all development shall comply with all other applicable laws, rules, or regulations of the county. All other laws, rules, or regulations of the county affecting development are not superceded by these development regulations unless specifically so provided herein. . .” *

Here, the Petitioner proceeded with the development plan before obtaining zoning relief. But, as will be discussed later in this Memorandum, both expert witnesses for the Petitioner conceded that approval of the development plan does not presume, require or favor approval of the special exception.

Furthermore, there was no opportunity for the community to voice its objection to this project, prior to the subdivision and approval of the Development Plan. The subdivision was exempt from a community-input meeting and a hearing officer’s public hearing under BCC 26-171 (b) (9). Additionally, the Petitioner applied for, and received, a waiver of the hearing officer’s hearing on the Development Plan under BCC 26-172 (b). Furthermore, neighbors and interested members of the community are prohibited from commenting at the

Development Review Committee (DRC). Until the special exception hearing, the citizens could not participate. Mr. William Libercci, the President of the Perry Hall Community Association, did attend the Zoning Commissioner's hearing in opposition to the special exception.

IV. HISTORY AND ANALYSIS OF RESIDENTIAL OFFICE (R.O.) ZONE

Presently, BCZR 204 contains the regulations for the R.O. zones. The R.O. zone is traceable to Bill 13-80. The Statement of Legislative Policy in then BCZR 203.2 [now BCZR 204.2] announced that the zone was established

...to accommodate houses converted to office buildings and some small office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that building and uses in R-O zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-O classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts and, to a lesser extent, in other commercial areas.

When enacted, the R-O zone was the most restrictive of the office zones. Subsequently, the Council has created the R.O.A. zone, a variation of the R.O. zone that limits office uses to converted homes. The R.O. zone remains the most heavily controlled of the office zones that allow new buildings.

In 1987, the Council found existing restrictions on Class B office buildings insufficient to achieve the compatibility purposes of the zone. It passed Resolution 7-87, and the Planning Board issued a report May 19, 1988. It said:

An analysis of the R.O. zone as currently written identified a basic conflict between the stated intent of the zone regarding 'compatibility' and the

actual regulations that permit development at a size and scale which is in conflict with adjoining residential uses.

This Report, and its recommendations, led to Bill 151-88. It modified the legislative policy to provide that R-O zone buildings and uses "... not intrude upon or disturb ..." nearby residential areas. It enacted a new set of bulk regulations, including landscape requirements. See current BCZR 204.4C9.

On July 21, 1994, in considering further revisions to the office zones, the Planning Board wrote:

Major changes to the R-O zones were adopted by the Council in 1988. The proposed changes were designed to assure that new office buildings would be compatible with the surrounding residential uses. The maximum permitted FAR (floor area ratio) was reduced, improved landscape and setback standards were established and a maximum lot size was set as two acres.

This Report led to Bill 186-94, which identified anew the purpose of the R.O. zone in new BCZR 203.2B as:

A transition or buffer between residential and the more intense office, retail or industrial use or property by permitting office development highly compatible with residential uses (R-O, S-E).

From its inception, the R.O. zone required that the Class B office building is the only principal building on the lot. In the original legislation, this restriction was included in the definition of a Class B office building, a new use altogether in Baltimore County zoning. Bill 13-80 provided a definition of office building in BCZR 101:

"Office building, Class B: "A principal building that - ...

2. Is not attached to any other building;

3. Is the only building on the lot on which it is situated. ..."

In Bill 186-94 this restriction was moved from BCZR 101 (definitions) to BCZR 204 (Residential Office Zone). It is found in the current BCZR 204.4 C. 8 pertaining to bulk regulations for the R.O. zone:

“8. The office building [Class B] shall be the only principal building on the lot on which it is situated and shall not be attached to another building.”

This provision has been a consistent restriction in the R.O. zone from its inception, through subsequent amendments. No substantive changes have been made to this restriction in 23 years.

An outright limitation on the number of buildings on a lot, over and above the traditional limitations inherent in the bulk regulations, is an important element of the R.O. zone. It separates R.O. from all other office zones that permit new office buildings. It is a long-standing feature of the R.O. zone, presumably reviewed in every comprehensive rezoning cycle since 1980.

Hundreds of parcels have been zoned R.O. by the County Council. Many are on major thoroughfares, like Belair Road, in the older residential communities; they can be as large as 2 acres. Here, the Petitioner wants to construct two office buildings on less than .7 acres. If subdivision for additional office buildings is permitted, a two-acre R.O. site would then be permitted nearly six separate buildings. Clearly, this was never intended by the Council. More likely, the Council imposed a two-acre maximum to prevent large office complexes near residential communities.

If the lot can be subdivided to add additional office building in the R.O. zone, the restriction is a hollow sentence in BCZR 204.

Additionally, the characteristics of this site conflict with the usual characteristics of R.O. zoned properties. In the development process, the Petitioner gerrymandered the boundaries of his properties with a lot line adjustment. He added a portion of 9124 Belair Road and .2 acres known as "Parcel A" in order to create a shared "driveway" and access. Clearly, the rear lot created in the subdivision had no road frontage and was not intended to become a stand-alone lot in the R.O. zone. There is no geographic rationale for creating a new lot and another office building. The R.O. zone is not intended to apply to interior lots that do not front on the corridor. This is evident by the split zoning on this site. The Council maintained for at least 20 years the R.O. portion in the front and the D.R. 5.5 portion in the rear that intrudes into the residential neighborhood.

The history of the office zones spans almost 25 years. The evolution of the R-O zone shows a trend to more restrictive use and bulk regulations.

The Council has provided a variety of Office Zones to afford the opportunity for larger office complexes. Large office buildings and centers are not intended to locate in the R.O. zone which is applied primarily to sites adjacent to the older, established residential communities in the County. In Bill No. 187-80, the Council established the Office Building (O-1), and Office Park (O-2) zones. Bill 34-84 established the Office and Technology (O.T.) zone, Bill 46-92 established the Service Employment (S-E) zone. In recent years the Council made other significant revisions to the office zones. Bill 186-94 established OR-1, OR-2, OR-3 office zones and amended O.T. and S-E office zones. Refinements to the office zones continued throughout the 1990's. Bill 186-94 tightened restrictions in the R.O. zone and maintained the limitation of one principal building per lot.

V. THE CBA UPHELD THE ONE PRINCIPAL BUILDING RESTRICTION IN R.O.

This Board recognized the significance of the one-building limitation in the R.O. zone in a recent decision, In The Matter Of The Application of Patrician F. MacDonald; Fabian – Kolker Foundation, 02-328-SPHXA. There, the Petitioner attempted to construct a second Class B building connected to the existing Class B building. The CBA discussed BCZR 204.4C8 at page 13 of its Opinion:

“The intent, obviously, was to reduce the number of buildings on each lot in an R.O. zone. It is the Board’s conclusion, based upon the testimony and evidence, that one building clearly exists at the present time on the lot. An examination of Petitioner’s Exhibit #1 reflects an existing building that is proposed to be “reused as part of property-Class B office with a functional connection” to the proposed Class B office. . . . Petitioner’s Exhibit 3 reflects a very impressive design of the new building-quite residential in character and appearance. However, there can be no avoidance of the fact that there would be two separate and distinct buildings connected by the “functional connection”. That connection does not draw with it the conclusion that there is but one building incorporating the old with the new. . . . It is the Board’s observation that there would exist two separate buildings, the old and the new. The functional connection does not make one building. For this reason alone, the R.O. zone does not permit two buildings on the same lot.”

In Fabian-Kolker, the Board was not enticed to ignore the zone’s spirit and intent by the clever, and even aesthetically attractive, design of the Petitioner. Nor was the Board persuaded by the testimony of Mr. Jeffrey Long, offered as an expert in the R.O. zone. Mr. Long testified that the construction of a second building did not violate the provisions of the R.O. zone, including the limitation of one principal building.

In Fabian-Kolker, as in the case at hand, Mr. Long makes short shrift of the zoning regulations and legal issues if he finds the proposal attractive. Fortunately, the Board in Fabian-Kolker looked past the aesthetics and focused on the applicable zoning principles. We would urge this Board to do the same in the case at hand.

**VI. THE SPECIAL EXCEPTION IS A PROHIBITED
“DE FACTO” EXTENSION**

In addition to disregarding the limitation of one principal building per lot, the Petition for Special Exception also undermines the prohibition on expansion of a Class A Office Building. See the definition of a Class A Office Building on page 2 above and BCZR 204.4 B., which prohibit enlargement of the building.

In other words, Petitioner cannot expand the existing Class A office building at 9120 Belair Road into the rear portion of the lot, yet proposes a second office building for this location.

VII. THE SPECIAL EXCEPTION IS A “DE FACTO” REZONING

It is telling to look at the practical effects on the law when Petitioners misconstrue the zoning regulations. The Petitioner here may not be asking for a formal rezoning of the site but his relief is tantamount to rezoning the site to at least Office Building – Residential (O.R.-1) or Office Building-Residential (OR-2). Both zones permit by right multiple office buildings:

“ The following uses, only, are permitted by right:

. . . 2. Class A or Class B office buildings containing offices, medical offices or medical clinics.” BCZR 205.3 A. 2 as to OR-1 and BCZR 206.3 A. 1 as to OR-2..

The OR-1 and OR-2 zones do not restrict the number of principal buildings per site. The Special Exception here requests more than one principal building on the site as mapped when the R.O. zone was applied and is tantamount to rezoning the site to OR-1 or OR-2. The R.O. zone should not be manipulated so that the proposed use is in effect a request for a use permitted in the more intense office zones.

The County Council has enacted, refined and amended the office zones in the County on numerous occasions in the last 20 years. Mr. Dennis Eckard and Mr. William Libercci confirmed that no R.O. site in this area of the Belair Road corridor was rezoned from R.O. or R.O. A. to OR-1 or OR-2. The Council apparently viewed these zones to be inappropriate for this area.

VIII. ZONING HISTORY OF THE SITE

A brief zoning history of the site confirms the County Council never intended a more intense zone than residential or R.O. to be applied on this site. A request to rezone the site from D.R. 16 to B.L. was denied by the Zoning Commissioner in 1976. (See Zoning History Note on Petitioner's Exhibit #1). In 1980 or 1984 the site was zoned R.O./D.R. 5.5. A request to rezone the site from R.O./D.R. 5.5 was rejected by the Council in both the 1988 and 1992 Comprehensive Zoning Map Process (See attached Final Log of Issues for each cycle, highlighting in yellow the subject property). (Similarly, in 2000 the Council refused to rezone the adjoining property to the south at 9118 Belair Road from R.O. to B.L. or C.B. Final Log of Issues adopted October 10, 2000, Issue 5-054).

IX. THE SPECIAL EXCEPTION

The special exception should be denied because the statute prohibits a second office building on the site. See Riffin v. People's Counsel, 137 Md. App. 90, 767 A.2d 922 (2001), where the Court held the Board cannot grant a special exception for a use that is not permitted by the zoning regulations. But even if the Board considers the merits, the Petitioner has failed to satisfy the requirements for a special exception. This Board is familiar with the special exception case law cited in Memoranda on numerous occasions. A very recent Court of Special Appeals (CSA) decision provides a nice analysis and summary of the elements of a special exception request.

In Futoryan v. Mayor and City Council of Baltimore, 150 Md. 157, 819 A.2d 1074 (2003), the property owner applied for a special exception for an automobile repair service. The use was denied by the Zoning Board, and the agency decision affirmed by the Circuit Court, and the CSA. Judge Moylan, writing for the CSA, reviewed Anderson v. Sawyer, 23 Md. App. 612 (1974) on the duties of the Board:

“ . . . The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected, and whether the use the

particular case is in harmony with the general purpose and intent of the plan.” [comprehensive zoning plan] (citations omitted). Id. 1082.

In the instant case, the opposing witnesses emphasized the R.O. zone has been applied, often with the community’s support, to allow a single small office building or converted dwelling on lots fronting on Belair Road. They viewed the R.O. zone as providing a benign and compatible use for residential dwellings no longer suitable for residential use. The witnesses stated the highly restricted R.O. zone would not threaten the stability and integrity of the neighborhoods. If this Petitioner is successful, it would serve as a “multiplier” of what the citizens understood as the maximum number of office buildings *vis a vis* residences. The Petitioner provided no evidence to refute this testimony.

Judge Moylan discusses this burden of proof:

“It is the applicant, moreover, who bears the burden of persuading the administrative board that the desired use will not adversely affect the neighborhood.

‘[T]he applicant has the burden of adducing testimony which will show that his use meet the prescribed standards and requirements . . .

These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied.” (citations omitted). Id pp. 1082,1083.

Futoryan also provides a nice summary of the difference between a permitted use and a special exception use, referring to the seminal Schultz v. Pritts and Cromwell v. Ward:

“A merely conditional use (or special exception), by contrast, [to a permitted use] is one with respect to which the beneficial purpose, albeit compatible with permitted uses, does not necessarily outweigh the possible adverse effects.” Id 1083.

Judge Moylan also quoted Cromwell which bears repeating:

“A conditional use is a desirable use which is attended with detrimental effects which require that certain conditions be met.” A special exception [or conditional use] involves a use which is permitted . . . once certain statutory criteria have been satisfied.” (citations omitted) Id 1083.

A review of Petitioner’s witnesses’ testimony in the next section of this Memorandum clearly shows the Petitioner failed to satisfy the criteria.

Judge Moylan discusses the two-fold criteria in Schultz – (i) adverse impact and (ii) what Judge Moylan calls “The Locational Comparison of Adverse Impacts”:

“The more prominent and high profile of the two is that which assumes an adverse impact from the conditional use and then compares the relative severity of the adverse impact at the location in question with its likely severity at other locations within the zone.” Id. 1086.

Petitioner offered no testimony to compare locations and moreover, failed to refute points made by the Community Association witnesses:

- (1) The subdivision on the site is horizontal, not vertical; the proposed office building is behind the converted Class A office building and into the residential neighborhoods that surround the site to the rear.
- (2) The proposed use conflicts with the Belair Road Beautification Project discussed hereafter in a review of Dennis Eckert’s testimony.
- (3) The Community Association in this area supported application of the R.O. zone on sites with the expectation that the existing dwelling would be converted, or that only one small compatible office building would be constructed on the site.

It is Petitioner’s burden to show the use would have no greater adverse affect here than any other location. Petitioner offered no credible testimony showing a comparison or why the impact here would be no greater than other locations in the zone.

X. TESTIMONY OF PETITIONER’S WITNESSES FAILS TO SUPPORT SPECIAL EXCEPTION RELIEF

(A) MR. JEFF LONG – INTERPRETATION OF R.O. ZONE

Mr. Jeffrey Long, an employee in the Office of Planning for Baltimore County, testified in favor of the Petition. While our office does not dispute Mr. Long’s experience and expertise, it must be pointed out that he is not the area planner for Parkville. More importantly, Mr. Long’s testimony is noteworthy for what he did not say at the hearing.

His testimony focused on the development of the site, but he did not give an expert opinion on the interpretation of the Zoning Regulation - namely whether an R.O. zoned lot could be subdivided so that a second principal building could be constructed on the site. Mr. Long did not cite a single reference in the legislative history of Bill 13-80, or in its subsequent amendments, which would permit the relief requested here. No did Mr. Long offer his expert opinion that the spirit and intent of the R.O. zone permitted the relief requested by the Petitioner. Finally, Mr. Long was unable to cite a single example anywhere in Baltimore County where an R.O. lot was subdivided to construct a second office building, let alone that this is standard practice approved by the Planning Office.

In short, his testimony did not dispute People's Counsel's opposition to the relief requested, and had no probative value in support of Petitioner's case.

In fact, Mr. Long supported People's Counsel's position on several issues:

1. Approval of the Development Plan by the Development Review Committee or other County agencies has absolutely no bearing on the legality or merits of the special exception request before the CBA.
2. The R. O. zone would not permit the Class A office building on the site to be expanded into the area proposed for the second building.
3. Contiguous R.O. lots can be combined into one new lot, as long as the area of the new lot does not exceed 1 acre (2 acres if on a major corridor); even so, only one principal building can be constructed on the new lot, even if a building would have been permitted on each separate lot before they were combined.

(B) Mr. Jeff Long- Special Exception Relief

On direct examination, Mr. Long was asked if the special exception conflicted with the requirements of BCZR 502 (A) – (I). Every response was a perfunctory “No”. Those responses

failed to meet the standards required for expert testimony in a zoning case. The CSA discussed these standards in a zoning reclassification case, People's Counsel v. Beachwood, 107 Md. App. 627, 670 A.2d 484, 495. Judge Moylan, writing for the Court stated:

"The Court of Appeals and this Court have stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in a comprehensive rezoning unless the reasons given by the witness as the basis for his opinion, or other supporting facts relied on by him, are themselves substantial and strong enough to do so..."

"A self-evident reason for rejecting as an effective catalyst an expert opinion that a mistake was made is the fact that the opinion is merely conclusory or is, at best, quasi-conclusory. Illustrative of the principle that the opinion of an expert is of little or not weight in the absence of strong supporting facts is Mayor and City Council of Rockville v. Henley, 268 Md. 469, 473-74 . . . (1973):

"The only testimony of the question was the bald assertion by . . . a qualified realtor and appraiser, who simply responded to the question 'do you think the present zoning is the correct zoning . . by saying "No, sir, I think that is wrong...""

Mr. Long's perfunctory answers to the standards of BCZR 502.1, without further explanation, fall far short of the requirements for expert testimony explained by Judge Moylan. His testimony lacks probative value to assist the Board in its decision. It failed to provide the type of evidence necessary to judge the merits of the expert's position. The Petitioner in a special exception case carries the burden of proof. Lucas v. People's Counsel, 147 Md. App. 209 (2002). Mr. Long's testimony fails to meet that burden.

(C) Testimony of the Petitioner's Engineer, Iwona Rostek-Zarska

Ms. Zarska's testimony focused on elements of the site plan. She offered no probative testimony on the interpretation and application of the R.O. Zone to the proposed Class A office building.

Like Mr. Long, Ms. Zarska admitted that the approval of the Development Plan has no effect on the legality or merits of the special exception. She agreed that a property owner has the option to apply for development plan approval either before or after the special exception zoning case is decided. She recommended that the Petitioner here proceed on the development plan even though the zoning decision was pending. It could just as easily have been reversed and the Board would decide the special exception without any discussion of development plan approval.

Ms. Zarska also failed to meet the standards in Beachwood. On direct examination on the requirements in BCZR 502.1 (A) – (I), she too answered “No” without further explanation. She never referred to the site plan in her answers. Like Mr. Long’s, her testimony lacks probative value and fails to satisfy the Petitioner’s burden of proof.

(D) Testimony of Mr. Jeff Markiewicz

Mr. Markiewicz proposes to purchase the rear lot if the special exception is approved. He testified he would construct a new Class B office building on the site to locate his company, a technology-training business. He currently operates in the 8000 block of Belair Road and has been in Perry Hall for 13 years. He claims to be a good member of the community; but on cross-examination he admitted he refused to join the Perry Hall Community Association, and is not a member of the Business and Professional Association of Perry Hall.

The witness submitted a rendering of what he may construct, but the Special Exception Plat has no proposed drawing of the office building or the proposed uses. Nor is this building and the use part of the Development Plan, which only shows the footprint of the proposed building. The Development Plan states part of the building will be used for residential but Mr. Markiewicz made no mention of a residential use, stating he would use the building for his offices and storage. Mr. Markiewicz’s testimony is only window dressing. It is not binding. It offers no probative evidence

on the legal issues or the merits of the special exception. The Board should not be seduced by a rendering that may never materialize.

(E.) Testimony of Mr. Dan Wooden, Principal of Performance Properties, LLC

Mr. Wooden described his purchase and renovation of 9120 and 9124 Belair Road. No one disputes his renovations to the existing structures are an improvement in appearance. He is a building contractor who located his offices there; he purchased the properties as an investment and made improvements accordingly. The renovations are complete and the buildings are leased.

Mr. Wooden never claimed his investment in the site, without further development, is unsuccessful. He did not intend to subdivide when he purchased the site - he admitted the sales contract was not contingent on subdividing 9120 Belair Road for a second office building. The bottom line here is the venture was worthwhile and remunerative but finite; Mr. Wooden is now looking for another way to make the site even more profitable; his proposal is at the expense of the spirit and intent of the zoning regulations and the Perry Hall community. As the Board well knows, zoning relief cannot be granted merely because it would be more profitable for the landowner. See Easter v. Mayor and City Council of Baltimore, 73 A.2d 491, 195 Md. 395 (1950).

XI. THE LEGALITY OF THE CURRENT USE OF THE SITE IS QUESTIONABLE

Petitioner's position on the R.O. zone is suspicious in light of the nature of the existing uses he has in place at the site. Mr. Wooden admitted one tenant in 9120 Belair Road has an inventory of candles and related products that are sold on site to the general public. The second tenant sells carpeting from the site. Both are retail uses prohibited in the R.O. zone. Mr. Jeff Long confirmed in his testimony that retail uses belong in the business zones and are prohibited in the R.O. zone.

The definition of an office in BCZR 101 is specific regarding retail uses:

“ Office – A building or portion of a building used for conducting the affairs of a business, profession, service, industry or government, including a medical office. The term “office” does not include a bank, a post office, a veterinarian’s office or an

establishment where merchandise is stored on or sold from the premises.” (emphasis added).

The Board in Fabian-Kolker, supra, determined a medical supply showroom that orders custom fit products is a retail use prohibited in the R.O. zone.

While People’s Counsel recognizes this is not a “violations” hearing, the Board cannot ignore the status quo. The Petitioner is already violating the R.O. zone regulations, yet requests this Board to give unprecedented approval to a special exception use that further violates the R.O. zone’s prohibition of a second principal building.

The entire site and its current use must be considered in the Petition for Special Exception. The Court of Special Appeals looked at the present use of the site in denying a special exception in Futoryan v. Mayor and City Council of Baltimore, 150 Md. App. 157 (2003).

Furthermore, BCC 26-180 prohibits a property owner in violation of the Zoning Regulations to proceed with development of a site:

“. . . The county may not process plans or permits for any proposed development if the applicant owns or has any interest in any property located in the county upon which there exists, at the time of the application or during the processing thereof, a violation of the zoning or development regulations of the county.”

XII. TESTIMONY OF PEOPLE’S COUNSEL’S WITNESSES

(A.) Mr. William Libercci

Mr. William Libercci is the president of the Perry Hall Community Association, which is opposed to the special exception. Mr. Libercci described this part of Belair Road as primarily residential, with some office development in converted dwellings or small office buildings fronting along the corridor. The Association supports the long-standing residential neighborhoods, but also recognizes that certain dwellings fronting on Belair Road may no longer be suitable for residential use. The Association has supported R.O. and ROA zoning on the lots fronting the corridor but not on lots that extend into the residential neighborhoods.

If the special exception is approved, the Perry Hall Community Association fears a plethora of office buildings, via subdivision of RO lots, would result. Office uses would overwhelm the residential neighborhoods.

Mr. Libercci testified the special exception relief violates the community's abiding understanding of the spirit and intent of the RO, and is contrary to BCZR 501.2 (G). The community is concerned that if the special exception is granted, a dangerous precedent would be set in Perry Hall and other similar older communities in the County. The Community Association could no longer support the application of the RO zone as an acceptable buffer for the residential communities that line the Belair Road corridor. The special exception request here upsets the overall zoning framework in this area – restricting business zones and the major office complex zones to specific pockets at intersections along the corridor, or to large parcels, while applying RO or ROA to appropriate residential sites fronting along Belair Road.

Additionally, Mr. Libercci aptly pointed out that a second building on the lot overcrowds the land contrary to BCZR 502.1 (D). The R.O. zone prohibits an enlargement of an existing Class A building and requires that the Class B building is the only principal building on the lot. Both provisions effectively restrict the amount of office space permitted in an R.O. zone. Petitioner's request escalates the amount of office space.

For these reasons, Mr. Libercci views the special exception request as detrimental to the general welfare of the Perry Hall community in violation of BCZR 502.1 (A).

(B.) Mr. Dennis Eckard

Mr. Dennis Eckard resides in the area and has been an active member of the Perry Hall Community Association for many years. He agreed with Mr. Libercci's concerns that the relief here is an alarming precedent. He is not aware of R.O. zoning applied to any "internal" lot that does not front on a major street in Perry Hall. As a member of its zoning committee and former president of

the Association, Mr. Eckard participated in the Comprehensive Zoning Map Process. He is also concerned that if the special exception is granted here, he would be reluctant to support application of the RO zones to any site that later may be subdivided to accommodate additional office buildings. The Petitioner's relief defies Mr. Eckard's understanding of the purpose of the R.O. zone, potentially pits the Community Association against property owners along Belair Road, and turns upside down the community's long-standing comprehensive and consistent approach to rezoning sites fronting on Belair Road.

Mr. Eckard served on the Belair Road Beautification Project. The purpose of the project was to enhance the residential ambience of the corridor. Significant public money was dedicated to this project. Additionally, Mr. Eckard pointed out the State intends to transfer the vacant lot at the corner of the block, south of the site, to the community to maintain a park-like open space, in further support of the Beautification Project.

Mr. Eckard stated that areas with mixed zoning, such as Perry Hall, require a delicate balancing of uses. Mr. Eckard testified that another office building on this site would subordinate the residential uses and zones adjoining the site to the north. See 1000 scale zoning map, PC Exhibit _____. The special exception undermines the efforts of the Beautification Project to balance the mixed uses. It sabotages the community's reliance on the comprehensive approach to the drawing of zoning lines by the County Council every four years when the citizens have the opportunity to be heard.

Mr. Eckard dismissed Petitioner's reference to the First Preference site, on the east side of Belair Road, north of the subject site, as a basis to grant the special exception. First Preference combined several R.O. zoned lots and constructed an office building on the combined lot. The total acreage was less than the maximum 2-acre requirement. First Preference worked with the community throughout the process. The First Preference project is perfectly legal in the R.O. zone.

Mr. Jeff Long confirmed that several R.O. lots could be combined up to the permitted maximum acreage. Moreover, the individual lots owned by First Preference were adjacent to each other, all fronting along Belair Road. The merger did not create an intrusion into the residential neighborhoods to the rear. Like other Class B buildings, the First Preference building fronts on Belair Road. In Friends of the Ridge v. BGE, 352 Md. 645, 724 A.2d 34 (1999), the Court stated that a landowner may merge contiguous lots for a single project. The resulting merged lot owned by First Preference is less than the 2 acre maximum and contains a single office building that conforms to the bulk regulations. First Preference's project did not violate the R.O. regulations.

XIII. ALL OF 9120 BELAIR ROAD SITE MUST BE CONSIDERED IN PETITION FOR SPECIAL EXCEPTION AND THE RESTRICTIONS OF THE R.O. ZONE

The Petitioner is wrong to suggest that the Board should only focus on the post-subdivision status of 9120 Belair Road. The limit of one principal building per lot applies to the entire parcel as mapped when the Council applied the R.O. zone to the lot (1980 or 1984). At that time, the Council intended the R.O. portion of the site would contain one principal building- the converted dwelling or a Class B building. Furthermore, it is undisputed that a principal building existed on the lot when purchased by Petitioner. Since the site was zoned R.O./D.R.5.5 when purchased by Petitioner, the relief must be viewed in the context of the entire lot.

A series of Supreme Court cases on takings and condemnation, articulating this position, are cited approvingly by the Maryland Court of Appeals (CA) in Annapolis v. Waterman, 357 Md. 484, 745 A.2d 1000 (2000). In Waterman, the developers sued the city of Annapolis for a regulatory taking, when the City required certain portions of the site (one lot) be dedicated for public recreation as a condition for approval of the subdivision. The developer argued that only the lot earmarked by the City for dedication (Lot 1 and not the entire subdivision) must be considered in determining damages. Damages in a regulatory takings case is defined as "whether there was loss of

all viable economic use.” (Id. 1022). The trial court agreed with the developer but the CA reversed.

Judge Cathell wrote:

“ The trial court also erred by not including *at least* the entire third-phase property (all of Lot 4, including the duplex lots). In considering whether a regulatory taking has left remaining viable economic use of the property, the property to be assessed for economically viable use is, as we have said, the entire tract of land, not just the proposed new corner Lot 1. . . .

‘Taking’ jurisprudence does not divide a single parcel into discrete segments and attempt to determine whether rights in a particular segment have been entirely abrogated. . . . the Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole. . . .” (emphasis added) (citations omitted).

The CA cited another Supreme Court takings case that followed this principle and related it to other zoning matters as well:

“Many zoning ordinances place limits on the property owner’s rights to make profitable use of some segments of his property. A requirement that a building occupy no more than a specified percentage of the lot on which it is located could be characterized as a taking of the vacant area Similarly, under petitioners’ theory one could always argue that a setback ordinance requiring that no structure be built within a certain distance from the property line constitutes a taking because the footage represents a distinct segment of the property for takings law purposes.” Id. 1023 (citations omitted).

The CA also cited the application of the principle where development is restricted by wetlands regulations:

“(‘Clearly, the quantum of land to be considered is not each *individual* lot containing wetlands . . .’).” (citations omitted).

In Waterman, the CA denied the developer’s claim because there “remains viable economic use in the remainder of Lot 4” Id. 1022, footnote 19, and “There is no evidence that appellees were deprived of all remaining economically viable uses for the third phase of the subdivision.” Id. 1025.

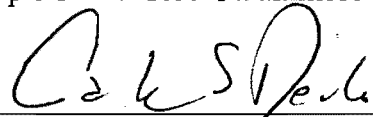
Here, the Petitioner bought R.O. property, renovated the dwelling into a Class A office building and leased it. He has a viable economic use on both 9120 and 9124 Belair Road. Now he

wants to maximize every square foot of the site for profit. 9120 Belair Road must be looked at as a whole – it contains a principal Class A office building. The prohibition on a second principal building has been a part of the R.O. law since its enactment in 1980. Petitioner cannot subdivide, create a second lot, and claim the second lot is entitled to its own office building.

For these reasons, the Petition for Special Exception must be denied.



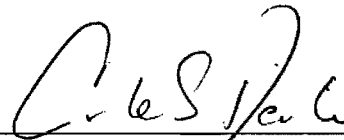
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of June, 2003, a copy of the foregoing Memorandum of People's Counsel for Baltimore County was mailed to:
Mauricio E. Barreiro, Esquire, 15 E Chesapeake Ave, Towson, MD 21286, Attorney for Petitioners.



CAROLE S. DEMILIO
Dep. People's Counsel for Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION
W/S Belair Road, 310' S of and
Opposite centerline of Soth Avenue
11th Election District, 5th Councilmanic
(9120-9124 Belair Road)

Performance Properties, LLC
Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS
FOR
BALTIMORE COUNTY
Case No. 02-552-X

* * * * *

RECEIVED

JUN 16 2003

PEOPLE'S COUNSEL'S MEMORANDUM

BALTIMORE COUNTY
BOARD OF APPEALS

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Baltimore County, Maryland

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CAROLE S. DEMILIO
Deputy People's Counsel

June 16, 2003

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

RECEIVED

JUN 16 2003

BALTIMORE COUNTY
BOARD OF APPEALS

Re: In the Matter of: Performance Properties, LLC
Case No.: 02-552-X

Dear Ms. Bianco:

Enclosed please find the original People's Counsel for Baltimore County's Memorandum along with three copies of such for filing with regard the above-referenced case.

Thank you for your consideration.

Sincerely,

Carole S. Demilio /rmw

Carole S. Demilio
Deputy People's Counsel

CSD\rmw

cc: Mauricio E. Barreiro, Esquire

6/16/03

IN THE MATTER OF
PERFORMANCE PROPERTIES, LLC
9120-24 BELAIR ROAD
11th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF
* BALTIMORE COUNTY
* BOARD OF APPEALS
* Case No. 02-255-X
* May 14, 2003 Hearing

* * * * *
**MEMORANDUM OF LAW IN SUPPORT OF PERFORMANCE
PROPERTIES, LLC'S PETITION FOR SPECIAL EXCEPTION REGARDING
9120-24 BELAIR ROAD**

PETITIONER, Performance Properties, LLC (PPL), through undersigned
counsel, hereby submits its Memorandum of Law in Support of its Petition For Special
Exception regarding 9120-24 Belair Road, and states as follows:

PROCEDURAL HISTORY

In what now seems like ages ago for PPL, a Petition for Special Exception was
originally filed by PPL, on or about June 2, 2002, on what appeared to be a fairly
straightforward and simple real estate matter in the Perry Hall community. Some long
time residents and businessmen, with substantial property and businesses in Perry Hall,
proposed building a Class B Office building on a parcel of land that was located at 9120-
24 Belair Road. The goal of the project was to achieve the subdivision of two parcels of
land located at 9120-24 Belair Road, so that three buildings (2 recently improved current
buildings and the new building) would be situated on three lots. One building would
exist on each lot, in this split-zoned R.O. and D.R. 5.5 area, in complete accordance with
current zoning law.

This Class B Office Building would have been an attractive addition to the Perry Hall community, until the People's Counsel stepped in, at the last second, and filed a meritless appeal. PPL continues to suffer as a result of this odd and unwarranted decision.

All procedural requirements and zoning requirements were carefully studied and fulfilled by PPL prior to the special exception hearing that took place before the Honorable Timothy Kotroco, on or about July 29th, 2002.¹ Mr. Kotroco's decision, issued on or about June 29, 2002, was introduced as part of Petitioner's Exhibit 7 at the May 14, 2003 zoning hearing on this matter. Mr. Kotroco completely agreed with all of the findings of the various Baltimore County and State departments that took a look at PPL's special exception request, and APPROVED the special exception. Special Note must be made as to how **ALL** Baltimore County and State departments charged with analyzing this special exception APPROVED the special exception, only to be thwarted by the Office of the People's Counsel.² PPL submits that this intolerable antipathy and conflict between the Baltimore County Zoning office, who is charged with developing and protecting the County's zoning maps, and the Office of the People's Counsel, who is supposed to protect the same interests when attacked, is ridiculous. Moreover, the

¹ Mr. Kotroco has now been elevated to the position of **Director of the Department of Permits and Development Management**, fully in charge of zoning and permits for Baltimore County. One would think that Mr. Kotroco would be the best person to know about the County's zoning map and desires, and that he knew what he was doing when he **APPROVED PPL's special exception in this matter**.

² Little is known about the Office of the People's Counsel. The office answers to no one, and appears to be no more than a political patronage position addressing the whims of County councilmen and homeowner's associations, on an ad hoc basis. In the special exception matter at hand, the Office has done no more than to assert a legally unsupportable position, as demonstrated by its lack of relevant exhibits or witnesses. Despite the supposedly technical nature of a petition for special exception, it did not even retain experts in this case. Political arrogance can never be tolerated, and surely must be exposed, if Baltimore County zoning matters are ever to be handled fairly and reasonably in the future.

conflict only serves to unnecessarily increase the cost of this proposed special exception to PPL.

At the July 29, 2002 zoning hearing, after a very thorough review of the evidence presented by PPL, Mr. Kotroco stated:

Pursuant to the advertising, posting of the property, and public hearing on this petition held, and for the reasons given above, the relief requested in the special exception shall be granted. THEREFORE, IT IS ORDERED, this 29th day of July 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for special exception to construct a Class B office building on Lot No. 2, be and the same is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioner shall be required to submit a landscape plan to Karen Brown, the Fifth District Community Planner, for her review and approval.

(May 14 Hearing Exhibit #7).

Please note that at the hearing before Deputy Commissioner Kotroco, the Office of the People's Counsel lodged no objections and proposed no evidence; indeed, no one from the People's Counsel even attended the special exception hearing. The only witness that appeared, other than PPL's witnesses, was retiree Bill Libercci of the Perry Hall Improvement Association (PHIA). Mr. Libercci offered no testimony of any relevant interest or import, and was listed as an "interested person" on Deputy Commissioner Kotroco's Order.

Notwithstanding its lack of attendance, or any reasonable presentation of evidence in opposition to PPL's petition for special exception, the Office of the People's Counsel saw fit to file an unsupportable appeal, completely at odds with the Baltimore County Department of Permits and Development Management's approval. As a result of this

obstreperous and unwarranted behavior, PPL has been forced to spent a considerable monies and time, marshalling evidence in support of its straightforward special exception. The critical question then becomes: What did all of the Baltimore County and State departments that assessed and approved PPL's special exception, and Deputy Zoning Commissioner Kotroco, miss or get wrong, that the Office of the People's Counsel (the sole appellant in this matter), got right and could hang its hat on? Shorthand answer: nothing. Old-fashioned Baltimore County hardball politics are being played here, and this unreasonable situation must be exposed to public scrutiny.

Some 10 months later, on or about May 14, 2003, a zoning hearing was finally scheduled before the Board of Zoning Appeals. As will be shown below, the evidence presented by PPL was even more powerful than what Deputy Zoning Commissioner Kotroco ruled upon below at the zoning hearing. PPL presented substantial exhibits, fact and expert witnesses in support of its petition for special exception, while the sole appellant, the Office of the People's Counsel, submitted no credible or worthy evidence in support of its arbitrary position.

In short, PPL and the Perry Hall community will best be served by a careful review of the evidence introduced by PPL at the May 14 zoning hearing, and the timely approval of its petition for special exception.

APPLICABLE LAW RELATING TO SPECIAL EXCEPTIONS

Baltimore County Zoning Regulation §204.2 states:

The R-O zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sited that, because of adjacent commercial activity, heavy commercial traffic or other similar factors, can no longer reasonably be restricted solely to uses allowable in moderate –density residential zones....

Baltimore County Zoning Regulation §204.3 states:

- B. Uses permitted by special exception. The following uses, only, may be permitted by special exception in an R-O Zone, if such use has an approved County Review Group (CRG) plan prior to the granting of a special exception [The DRC has taken over this function, and PPL has received the approval of the DRC for its special exception]:
 - 1. Uses permitted by special exception and as limited in D.R. 5.5 Zones.
 - 2. Class B office Building.

Baltimore County Zoning Regulation §204.4 further deals with Bulk Regulations:

- C. Class B office buildings.

* * * *

- 8. The office building shall be the only principal building on the lot on which it is situated and shall not be attached to another building.

As set forth above, and as corroborated by PPL's hearing exhibits 1-8, and the testimony of Wooden, Zarska, Markiewicz and Long, all requirements set forth under §204 were completely fulfilled by PPL.

FACTS INTRODUCED INTO EVIDENCE BY PPL

At the May 14 zoning hearing, PPL offered various exhibits, fact and expert witnesses in support of its petition for special exception. Each piece of evidence built upon the other until a leakproof fortress of relevant and convincing evidence was presented to the Board. The People's Counsel could find no key to the fortress of evidence; moreover, under the scrutiny of cross-examination, the Office of the People's

Counsel's anemic exhibits and two unpersuasive local witnesses folded like a house of cards.

PPL began its case with Dan Wooden, one of the owners of PPL. Mr. Wooden explained his involvement in the Perry Hall business community (including placing his own business office at 9124 Belair Road), and stated his goals in proposing this special exception. Wooden described in detail how much time and money PPL spent upgrading the two current building located at 9120-24 Belair Road, and how the new building was designed to improve the community and be entirely consistent with the existing structures. Wooden also corroborated that PPL had coordinated and received approvals from Baltimore County and the State for this special exception, and how PPL had fulfilled fulfilled all zoning requirements. Wooden's straightforward clarity, courtesy and professionalism, as well as his expressed desires to improve the Perry Hall community, came across loud and clear. Wooden was clearly a prime example of the type of businessman that the Perry Hall community needs -- the Office of the People's Counsel had no answer for Wooden's testimony or evidence.

As part of his testimony, Wooden explained that the property sought to be developed had become a congregation point for loud neighborhood kids. Parties and trash abounded, and safety was a concern for the neighborhood. In pursuit of its proposed special exception, PPL cleaned up the parcel and sought to put it to good business use. A beautiful Class B office building was designed and planned, and no one from the neighborhood had raised any objections to PPL's proposed special exception. Moreover, PPL had complied and gotten approved for the landscaping plan suggested by Deputy Commissioner Kotroco in his July 29th order.

Wooden also explained that there would only be **ONE BUILDING PER LOT OR PARCEL**, should the special exception be granted. The DRC has already approved the subdivision of the lots at 9120-24 Belair Road. Wooden further described all of the other construction projects that had been approved on Belair Road by the Office of Permits and Development Management, **and not opposed by the Office of the People's Counsel**, and how his proposal was much more limited in size and scope, and in accordance with the desires of the local Perry Hall community. He specifically described the First Preference building project that was approved by Baltimore County and, interestingly, **not** opposed by PHIA or the Office of the People's Counsel -- some ½ block from PPL location.

The Office of the People's Counsel had no answer for, or any evidence to explain, the disparity in treatment between these two projects, even though the First Preference project was described by Wooden as "one of the ugliest additions to Belair Road." This Board must not allow the arrogant arbitrariness by the Office of the People's Counsel to persist in Baltimore County.

Wooden also explained that he contracted with a buyer for the subdivided lot, Jeff Markiewicz, and that a Class B office building was already designed and **approved** for construction. As stated above the DRC had already approved the subdivision process, and PPL was only left with pulling a building permit.³ A drawing of the proposed building was introduced as Exhibit 2 at the zoning hearing. Once again, the only thing holding up construction of the new Class B office building are the unsupportable legal

³ A building permit has not been pulled because of the pendency of this arbitrary appeal by the Office of the People's Counsel. Should this Board approve this special exception, construction begins as soon as possible.

hurdles put up by the Office of the People's Counsel's arbitrary and unreasonable position.

PPL's professional civil engineer and expert witness, Iwona Rostek Zarska, also testified in strong support of PPL's petition for special exception. The Office of the People's Counsel had no answer for Ms. Zarska's testimony, and presented no counteracting experts; indeed it accepted Zarska's professional qualifications and expert opinions without as much as a relevant peep.⁴

During her testimony, Zarska generally testified about her involvement in determining and **meeting** all of the Baltimore County Zoning regulations relating to the petition for special exception, as set forth in Exhibit 1. Ms. Zarska testified that, in her expert opinion, every Baltimore County zoning regulation had been fulfilled by PPL with respect to this special exception. **Three buildings on three separate lots would be the end result.** May 14 Hearing Transcript, p. 56. Ms. Zarska also testified as follows:

Q: Do you know of anything that would make this [project] inconsistent with the spirit and intent of the Baltimore County zoning regulations?

A: No.

Q: Are you aware of any facts and circumstances that show this particular use proposed at this particular location would have any adverse effect above and beyond those inherently associated with such a special exception use, irrespective of its location with the RO zone?

A: No.

(May 14 Hearing transcript, p 43).

⁴ Q: Do you have any objection to Ms. Zarska going into the rest of her testimony? Did you want to question her on her qualifications?

A: No. I would have done that earlier. The only question I have is who[m] is she employed by? (Hearing Transcript, p. 39).

Ms. Zarska also corroborated her participation in the DRC subdivision process, and confirmed that the **DRC had approved the subdivision**, as set forth in Petitioner's Exhibit #4, much in the same way that all Baltimore County departments had approved this project when presented to them (See Petitioner's Exhibit #5-7). Zarska's very important and relevant testimony went unchallenged by the Office of the People's Counsel.

The prospective owner of the new Class B office Building, Jeff Markiewicz, also testified in support of the special exception. Mr. Markiewicz testified that he owned an international IT consulting and educational firm in Perry Hall, and that he sought to buy the proposed building, and move his small office staff to it. Indeed, Mr. Markiewicz had already contracted for the building, and commissioned elevated drawings of the building (Petitioner's Exhibit #2). Mr. Markiewicz had also canvassed the neighborhood to better understand and determine the neighborhood's feelings and desires about the lot, and he had secured many signatures *on a petition of support for the project*. (Petitioner's Exhibit #3). Obviously, and not unexpectedly, the Perry Hall community preferred a nice, clean small business neighbor to the trash and parties proposed by the local unsupervised teenagers – can anyone blame them?

The crushing blow for the Office of the People's Counsel's arbitrary position on this proposed special exception came with the introduction of tremendously convincing expert testimony by the **Chief of Community Planning and Design for Baltimore County, Jeff Long** -- an expert witness previously used by the Office of the People's Counsel in other zoning cases *on its own behalf*, and in this case, a representative of the

very Baltimore County office charged with developing and protecting the zoning maps of Baltimore County.

Mr. Long cut through the “haze” pretty quickly, and exposed and undermined the Office of the People’s Counsel’s arbitrary position, pretty much like a hot knife through butter. Long testified that PPL’s petition for special exception **completely complied with** all Baltimore County zoning regulations, and there was no reason not to grant the special exception. Most importantly, Long’s own office had approved the special exception request, and had no objections to any aspect of the request: **“I believe, based on the review of the case file and also a site visit, that this proposal, given the renovated condition of the two structures that front along Belair Road and the elevation drawing, the proposed Class B office building would actually have a POSITIVE EFFECT on the community.”**

As if this opinion was not damning enough for the position of the People’s Counsel, Long went on to add the following critical expert testimony in support of PPL’s position:

Q: Are you aware of any objections from any reviewing agencies for this particular special exception?

A: None at all.

Q: Now, the Board is going to have to make a special finding so I have to ask you specific questions. Based upon your expert opinion, will this special exception be detrimental to the health safety or welfare of the area? ...

Create congestion in roads, street, or alleys? ...

Create a potential hazard from fire, panic or other dangers? ...

Overcrowd land, cause undue concentration of population? ...

Interfere with adequate provisions for parks, water, sewerage, transportation, or other public requirements, conveniences, or improvements? ...

Interfere with adequate light and air? ...

Be inconsistent with the spirit and intent of the Baltimore County zoning regulations?

Long answered as follows to these various important questions:

A: **NO.**

(May 14 hearing transcript, pp. 74-78).

Long also admitted that it was his own office's and his job to make sure that none of these conditions existed, and that Baltimore County zoning regulations were not adversely affected by the special exception project. All told, PPL's special exception petition had actually passed Baltimore County zoning muster with flying colors!

Long further testified that the Director of Zoning had no objections to the PPL project, and that the DRC had also approved the subdivision of the project (with one building per each lot specified). May 14 Hearing Transcript, p. 74-77. Not unexpectedly, confronting your usual own expert witness was quite traumatic for the Office of the People's Counsel and, in this case, quite enlightening, as Long was very supportive of PPL's position.

The Office of the People's Counsel had no answer to Long's illuminating, and quite supportive, testimony on behalf of PPL. Indeed, the Office of the People's Counsel did not even offer any expert witnesses to counteract Long's powerful testimony. If the Office of the People's Counsel's odd fight against the decision of the very Baltimore County department that is charged with upholding the County's zoning maps is not arbitrary, then what is?

In its case in chief, the Office of the People's Counsel offered only two very unprepared and unpersuasive witnesses, Bill Libercci of the Perry Hall Improvement

Association, and political free agent, Denis Eckard. As shown on cross examination Libercci's testimony was completely supportive of PPL's special exception petition. He complimented the nice upgrading done by PPL at 9120-24 Belair Road, and then agreed that parking would not be a problem with the project. He also testified that PHIA had not opposed the previously mentioned, and similar, First Preference addition and enhanced parking spaces and, most importantly, **Libercci agreed that if 9120-24 Belair Road had one building per lot, as proposed, he had no objection to the project.** (May 14 Hearing transcript, p 96-97). The People's Counsel's case was gutted by Libercci.

Bloodied, but not sullen, the Office of the People's Counsel finally offered Dennis Eckard, a person whose immediate importance to the hearing never became evident. No Rule 8 form was filed for Mr. Eckard, as Libercci had already taken the honors. Eckard, however, proved to be very helpful to PPL's position, as he was devastated during his cross examination, when he had to admit that the First Preference project just down the street had a substantially more adverse impact on the Belair Road corridor than PPL's project. Parking spaces were much greater; more traffic would result on Belair Road; the square footage improvements at the project were substantially more; and neither he nor PHIA had even filed **any** objections to that project. The arbitrariness and political undertones relating to this straightforward special exception petition were certainly palpable at the zoning hearing.

Based upon the above-referenced facts and evidence, including the lack of any credible or weighty evidentiary opposition, by the sole opponent to PPL's petition for special exception -- the Office of the People's Counsel -- PPL respectfully submits that

there is no reason whatsoever why its petition for a special exception should not be granted forthwith.

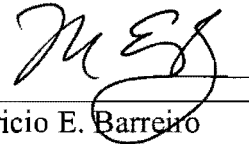
CONCLUSION

At the May 14th zoning hearing, Petitioner, Performance Properties, LLC, submitted powerful and supportive evidence in support of its petition for a special exception at 9120-24 Belair Road. All of PPL's exhibits, and fact and expert witnesses strongly corroborated its petition for special exception. PPL proved that there was no lawful reason to deny its special exception, and that it had completely fulfilled all pertinent zoning regulations. Indeed, all of the Baltimore County and State departments charged with reviewing the propriety of the petition for special exception had already approved the special exception, and Deputy Zoning Commissioner Kotroco's well supported July 29, 2002 Order granted the special exception.

In the face of the overwhelming record in support of PPL's special exception petition, the Office of the People's Counsel unwarranted and arrogant position appeared to be the only obstacle to the granting of the special exception. Unfortunately, this office could muster no evidentiary support for its position, as it failed to introduce any relevant or worthy exhibits or testimony that undercut PPL's position. Even its own witnesses turned on the position of the People's Counsel during cross examination. Additionally, the very Baltimore County Department charged with protecting the County's zoning maps -- **PPL expert witness Jeff Long's Office** -- had already approved the special exception, and testified in its favor.

With the political hubris exposed, and with its evidentiary position devastated at the May 14th zoning hearing by PPL's evidence and its own turncoat witnesses, the Office

of the People's Counsel proposed nothing to prevent the granting of PPL's petition for special exception.

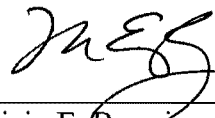


Mauricio E. Barreiro
Mauricio E. Barreiro, LLC
15 East Chesapeake Avenue
Towson, Maryland 21286
(410)494-0030

Attorney for Petitioner, Performance
Properties, LLC

Certificate of Service

I HEREBY CERTIFY THAT ON THIS 16TH DAY OF JUNE, 2003, the
MEMORANDUM OF LAW IN SUPPORT OF PERFORMANCE PROPERTIES,
LLC'S PETITION FOR SPECIAL EXCEPTION REGARDING 9120-24 BELAIR
ROAD, was hand delivered to the Office of the People's Counsel, Old Courthouse, Room
47, 400 Washington Avenue, Towson, Maryland 21204, and the County Board of
Appeals, 400 Washington Avenue, Towson, Maryland 21204.



Mauricio E. Barreiro
Mauricio E. Barreiro, LLC
15 East Chesapeake Avenue
Towson, Maryland 21286
(410)494-0030

Attorney for Petitioner, Performance
Properties, LLC

7/29/02

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
W/S Belair Road, 310' S of and *
opposite centerline of Soth Avenue * DEPUTY ZONING COMMISSIONER
11th Election District *
5th Councilmanic District * OF BALTIMORE COUNTY
(9120-9124 Belair Road) *
Performance Properties, LLC * CASE NO. 02-552-X
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Performance Properties, LLC. The special exception request involves property located at 9120-9124 Belair Road. The special exception request is to construct a Class B office building on Lot No. 2, as shown on the site plan.

Appearing at the hearing on behalf of the special exception request were Steve Wolf, Dan Wooden and Iwona Zarska, all appearing on behalf of the owner of the property. The petitioner was represented by Mauricio E. Barreiro, attorney at law. Appearing as an interested citizen was William Libercci, representing the Perry Hall Improvement Association. There were no others in attendance.

Testimony and evidence indicated that the property, which is the subject of this special exception request, consists of 0.409 acres, more or less, split-zoned R-O and D.R.5.5. The subject property is located on the west side of Belair Road, north of its intersection with Minte Drive. The property is unimproved at this time. The Petitioner wishes to construct a small Class B office building and a dwelling unit on the subject site as shown on Petitioner's Exhibit No. 1, the site plan submitted into evidence. In order to proceed with the construction of this building, the special exception request is necessary.

ORDER RECEIVED FOR FILING

Date

7/29/02

By

R. J. [Signature]

As stated previously, Mr. William Libercci, representing the Perry Hall Improvement Association, attended the hearing. Mr. Libercci opposes the subdivision of the subject property in order to permit the construction of this building. His testimony demonstrated that the property is already developed with R-O uses and that the construction of this new building will overcrowd the existing site.

It should be noted that the Office of Planning has reviewed the Petitioner's request and supports the special exception for this building, provided that certain landscaping is placed on the property. After considering the testimony and evidence offered at the hearing, I find that the special exception should be granted to allow this building to be constructed.

It is clear the Baltimore County Zoning Regulations permit the Petitioner's use in a RO zone by special exception. It is equally clear that the proposed use is not detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which shows that the use meets the prescribed standards and requirements set forth in Section 502.1 of the Baltimore County Zoning Regulations. The Petitioner has shown that the use will be conducted without real detriment to the neighborhood and does not adversely affect the public interest. The facts and circumstances do not show that the use at this particular location described by Petitioner's Exhibit No. 1 has any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The use is not detrimental to the health, safety, or general welfare of the locality, nor tends to create congestion in roads, streets, or alleys therein, nor is it inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the B.C.Z.R.

ORDER RECEIVED FOR FILING

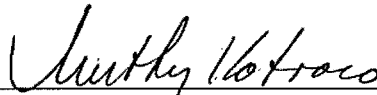
Date

7/29/02

Pursuant to the advertising, posting of the property, and public hearing on this petition held, and for the reasons given above, the relief requested in the special exception shall be granted.

THEREFORE, IT IS ORDERED this 29th day of July, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for special exception to construct a Class B office building on Lot No. 2, be and is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioner shall be required to submit a landscape plan to Karen Brown, the Fifth District Community Planner, for her review and approval.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

LES:raj

FILED RECEIVED FOR FILING
Date 7/29/02
By 



Baltimore County
Zoning Commissioner

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

July 29, 2002

Mauricio E. Barreiro, Esquire
Mauricio E. Barreiro, LLC
15 E. Chesapeake Avenue
Towson, Maryland 21286

RE: Petition for Special Exception
Case No. 02-552-X
Property: 9120-9124 Belair Road

Dear Mr. Barreiro:

Enclosed please find the decision rendered in the above-captioned case. The petition for special exception has been granted 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 Office 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,

A handwritten signature in cursive script, reading "Timothy Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

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



Printed with Soybean Ink
on Recycled Paper

Copies to:

Steven Wolf
9124 Belair Road
Baltimore, MD 21236

William Libercci
19 Shawn Court
Baltimore, MD 21236

Iwona Rostek-Zarska
222 Schilling Circle, Suite 105
Hunt Valley, MD 21030

Copies to:

Steven Wolf
9124 Belair Road
Baltimore, MD 21236

William Libercci
19 Shawn Court
Baltimore, MD 21236

Iwona Rostek-Zarska
222 Schilling Circle, Suite 105
Hunt Valley, MD 21030



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9120-9124 Bel Air Road

which is presently zoned R.O. & D.R. 5.15

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Special Exception for Class B Office Building (Lot #2)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, 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:

Mauricio E. Barreiro

Name - Type or Print

City

Mauricio E. Barreiro *MEB*

Signature

Mauricio E. Barreiro, LLC

Company

15 East Chesapeake Avenue (410) 494-0030

Address

Telephone No.

Towson, Maryland 21286

City

State

Zip Code

Legal Owner(s):

Performance Properties, LLC

Name - Type or Print

By: *Steve Wolf*, member

Signature

Steven Wolf

Name - Type or Print

Steve Wolf

Signature

9124 Bel Air Road (410) 529-7865

Address

Telephone No

Baltimore, Maryland 21236

State

Zip Code

Representative to be Contacted:

Mauricio E. Barreiro

Name

15 E. Chesapeake Ave. (410) 494-0030

Address

Telephone No.

Towson, Maryland 21286

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING *2 hrs*

UNAVAILABLE FOR HEARING

Reviewed By *[Signature]*

Date *6-5-02*

Case No. *02-552-X*

**DESCRIPTION TO ACCOMPANY ZONING PETITION
9120-9124 BELAIR ROAD PROPERTIES
11TH ELECTION DISTRICT, C-5**

May 30, 2002

Beginning for the same at a point E 1,459,691.57 and N 632,422.38, running thence:

1. South 81° 37' 56" East 205.06 feet thence,
2. North 42° 10' 51" East 18.05 feet thence,
3. South 81° 37' 56" East 136.73 feet thence,
4. North 43° 39' 54" East 118.44 feet thence,
5. South 46° 20' 06" East 109.60 feet to the west side of Belair Road, U.S. Route 1
thence,
6. South 42° 10' 51" West 194.06 feet along west side of Belair Road, U.S. Route 1
thence,
7. North 65° 55' 07" West 417.25 feet to the place of beginning.

Containing 0.913 acres +/-

This description is intended for zoning purposes only and shall not be used for conveyance of land.



Marvin R. R. R. R.

552

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

08177

No.

02552-X

DATE 6-5-02 ACCOUNT R-001-006-6150

AMOUNT \$ 300.00

RECEIVED FROM: Mauricio E. P. Parreira LLC

FOR: Commercial Special Exception filing fee
at # 9120-24 Belair Rd.

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

RECEIVED BY: [Signature]
DATE: 6/5/2002 15:15:00
BY: [Signature]
EXCEIPT # 20505 6/05/2002
Desd 5 529 20018 001770000
CR NO. 000177
Receipt Tot \$500.00
300.00 CR 200.00 CR
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: #02-552-X
9120-9124 Belair Road
W/side of Belair road 310
feet south of and opposite
the center line of Soth Avenue
11th Election District
5th Councilmanic District
Legal Owner(s): Performance
Properties, LLC

Special Exception: for
Class "B" office building.
Hearing: Tuesday, July 23,
2002 at 11:00 a.m. in
Room 106, Baltimore
County Office Building, 111
W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

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

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

JT/7/692 July 9 C549279

CERTIFICATE OF PUBLICATION

7/11/2002

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 7/9/2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE # 02-552-X
PETITIONER/DEVELOPER:
Performance Properties, LLC
DATE OF HEARING:
July 23, 2002

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: GEORGE ZAHNER

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

LOCATION:

9120 - 9124 Belair Road Baltimore, MD 21236

DATE:

July 10, 2002

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD

SUITE 100

320EAST TOWSONTOWN BLVD

TOWSON, MARYLAND 21286

410-823-4470 PHONE

410-823-4473 FAX

ZONING NOTICE

CASE # :02-552-X

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 106 County Office Building
111 W. Chesapeake Avenue, Towson, MD

TIME &
DATE: 11:00 am Tuesday, July 23, 2002

Special Exception: for Class "B" office
building.

09/2002

POSTED ON: July 8, 2002

ZONING NOTICE

CASE # 07-09-X

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE Room 106 County Office Building
... W. Chesapeake Avenue Towson MD

TIME & DATE 11:00 am Tuesday July 23, 2002

Special Exception for Class B office
Building

REARNO 441 WANDERLAK AVENUE

07/09/2002

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 02-552-X

Petitioner: PERFORMANCE PROPERTIES, LLC

Address or Location: 9120-9124 BELAIR ROAD PERRY HALL, MD 21236

PLEASE FORWARD ADVERTISING BILL TO:

Name: MAURICIO E. BARREIRO

Address: 15 E. CHESAPEAKE AVE
TOWSON, MD 21286

Telephone Number: 410 494-0030

Revised 2/20/98 - SCJ



Baltimore County
Department of Permits and
Development Management

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

June 20, 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: 02-552-X

9120-9124 Belair Road

W/side of Belair road 310 feet south of and opposite the center line of Soth Avenue

11th Election District – 5th Councilmanic

Legal Owner: Performance Properties, LLC

Special Exception for Class "B" office building.

HEARING: Tuesday, July 23, 2002 at 11:00 a.m. in Room 106, Baltimore County Office Building, 111 W. Chesapeake Avenue

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

Arnold Jablon
Director

C: Mauricio Barreiro, Esquire, 15 East Chesapeake Avenue, Towson 21286
Performance Properties, LLC, 9124 Belair Road, Baltimore 21236

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 8, 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.

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



TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 9, 2002 Issue – Jeffersonian

Please forward billing to:
Mauricio Barreiro
15 East Chesapeake Avenue
Towson, MD 21286

410-494-0030

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: 02-552-X
9120-9124 Belair Road
W/side of Belair road 310 feet south of and opposite the center line of Soth Avenue
11th Election District – 5th Councilmanic
Legal Owner: Performance Properties, LLC

Special Exception for Class "B" office building.

HEARING: Tuesday, July 23, 2002 at 11:00 a.m. in Room 106, Baltimore County
Office Building, 111 W. Chesapeake Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL
ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S
OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT
THE ZONING REVIEW OFFICE AT 410-887-3391.



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 19, 2002

Mauricio E Barreiro
15 E Chesapeake Avenue
Towson MD 21286

Dear Mr. Alderman:

RE: Case Number: 02-552-X, 9120 & 9124 Bel Air Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 05, 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. 602
Supervisor, Zoning Review

WCR: gdz

Enclosures

c Performance Properties, Steve Wolf, 9124 Bel Air Road, Baltimore 21236
People's Counsel

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

Jim
7/23
#106

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2002

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

SUBJECT: 9120-9124 Belair Road

INFORMATION:

Item Number: 02-552

Petitioner: Performance Properties, LLC

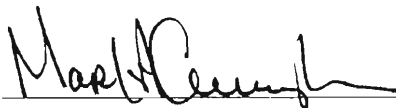
Zoning: RO & DR 5.5

Requested Action: Special Exception

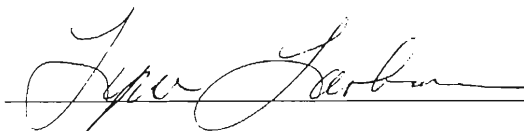
SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to construct a "Class B" office building providing landscaping is added to the parking area adjacent to Belair Road. The petitioner should consult with the Karin Brown, 5th District Community Planner regarding this issue, prior to the issuance of any building permits.

Prepared by:



Section Chief:



AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2002

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

SUBJECT: 9120-9124 Belair Road

INFORMATION:

Item Number: 02-552

Petitioner: Performance Properties, LLC

Zoning: RO & DR 5.5

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to construct a "Class B" office building providing landscaping is added to the parking area adjacent to Belair Road. The petitioner should consult with the Karin Brown, 5th District Community Planner regarding this issue, prior to the issuance of any building permits.

Prepared by: Mark A. Campbell

Section Chief: John J. Larkin

AFK/LL:MAC:



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 19, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF June 17, 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:

552
550-554, 556&557, 559-562

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

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt. DATE: July 9, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For June 24, 2002
Item Nos. 550, ~~552~~, 553, 554, 556, 557,
559, 560, 561, and 562

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

RWB:HJO:jrb

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 6.20.02

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

RE: Baltimore County
Item No. 552

JJS

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 1 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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,

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



Maryland Department of Planning

Parris N. Glendonig
Governor

Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz
Secretary

Mary Abrams
Deputy Secretary

June 20, 2002

Mr. George Zahner
Baltimore County
Department of Permits and Development Management
111 West Chesapeake Avenue, Room 111
County Office Building (Mail Stop #1105)
Towson MD 21204

Re: Zoning Advisory Committee meeting – June 24, 2002
Case #'s 02-550-A, 02-551-XA, 02-552-X, 02-553-A, 02-554-SPH, 02-555-SPHXA,
02-556-A, 02-557-A, 02-558-SPHXA, 02-559-A, 02-560-A, 02-561-, and 02-562-SPHA

Dear Mr. Zahner:

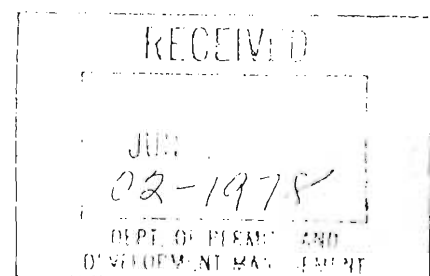
The Maryland Department of Planning has received the above-referenced information on 6/19/02. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup



RE: PETITION FOR SPECIAL EXCEPTION
W/side Belair Rd. 310 ft south of & opposite ctr line
of Soth Avemie
11th Election District 5th Councilmanic District

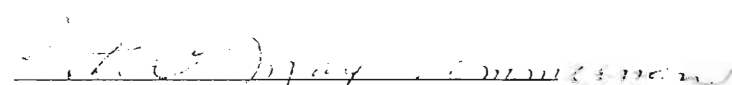
Legal Owner: Steve Wolf
Member. Performance Properties LLC
Petitioner(s)

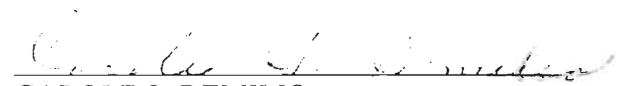
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No.02-552-X

* * * * *

ENTRY OF APPEARANCE

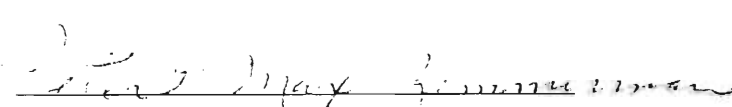
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.


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 11th day of July, 2002 a copy of the foregoing Entry of Appearance was mailed to Mauricio E. Barreiro, LLC 15 East Chesapeake Avenue, Towson, MD 21286 Attorney for Petitioner(s).


PETER MAX ZIMMERMAN



IMPROVEMENT ASSOCIATION, INC.

P.O. Box 63 Perry Hall, Maryland 21128

<http://www.bcpl.net/~phia>

phia@mail-bcpl.net

RESOLVED: That the position of the Perry Hall Improvement Association as adopted by the Zoning, Development, and Permits Committee on the zoning matter known as:

9120-9124 Belair Road

is that:

The Perry Hall Improvement Association gives Mr. Libercci discretion to determine a position, pending the hearing.

As witness our hands and seal this 23 day of July, 2002.

ATTEST:

Perry Hall Improvement Association

William Libercci, Sr.
William Libercci, Secretary

David Marks
David Marks, President



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

August 21, 2002

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

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

Hand-delivered

Re: PETITION FOR SPECIAL EXCEPTION
W/S Belair Road, South of Soth Avenue
(9120-9124 Belair Road)
11th Election Dist., 5th Councilmanic
Legal Owners: Performance Properties, LLC
Member: Steven Wolf
Case No.: 02-552-X

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated July 29, 2002 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

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

Very truly yours,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

A handwritten signature in cursive script that reads "Carole S. Demilio".

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/pah

c: Mauricio E. Barreiro, Esq., MAURICIO E. BARREIRO, LLC, 15 East Chesapeake Avenue,
Towson, MD 21286
Attorney for Petitioners



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 10, 2002

Mauricio E Barreiro Esquire
Mauricio E Barreiro LLC
15 E Chesapeake Avenue
Towson MD 21286

Dear Mr. Barreiro:

RE: Case No. 02-552-X, 9120 – 9124 Belair Road

Please be advised that an appeal of the above-referenced case was filed in this office on August 21, 2002 by Peter M Zimmerman, People's Counsel for Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you 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,

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with a large, sweeping "J" and "A".

Arnold Jablon
Director

AJ: gdz

c: William Libercci, 19 Shawn Court, Baltimore 21236
Iwona Rostek-Zarska, 222 Schilling Circle, #105, Hunt Valley 21030
People's Counsel



APPEAL

Petition for Special Exception
9120 – 9124 Belair Road
W/S Belair Road, S of Soth Avenue
11th Election District – 5th Councilmanic District
Performance Properties, LLC - Legal Owner
Case No.: 02-552-X

Petition for Special Exception (dated 06/05/02)

Zoning Description of Property

Notice of Zoning Hearing (dated 06/20/02)

Certification of Publication (The Jeffersonian issue dated 07/09/02)

Certificate of Posting (dated 07/10/02 posted Bruce Doak)

Entry of Appearance by People's Counsel (dated 07/11/02)

Petitioner(s) Sign-In Sheet (1 page)

Protestant(s) Sign-In Sheet (none)

Citizen(s) Sign-In Sheet (1 page)

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat to Accompany Petition for Special Exception (dated 04/2002)

Protestants' Exhibits: (none)

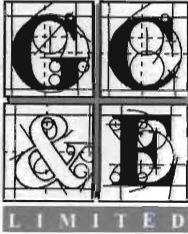
Miscellaneous (Not Marked as Exhibits): (none)

Deputy Zoning Commissioner's Order (dated 07/29/02 - GRANTED w/restriction)

Notice of Appeal received on August 21, 2002 from Peter M Zimmerman, People's Counsel for Baltimore County

c: Mauricio E Barreiro Esquire, Mauricio E Barreiro LLC, 15 E Chesapeake Avenue, Towson 21286
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

date sent 09/10/02 gdz



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, MD 21286

Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcclimited.com

TRANSMITTAL SHEET

TO:	George Zahner	FROM:	Bruce E. Doak
COMPANY:	Zoning	DATE:	7/10/02
RE:	Case 02-552-X	TOTAL NO. OF PAGES INCLUDING COVER:	
FAX NUMBER:		PHONE NUMBER:	

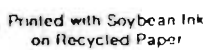
WE ARE TRANSMITTING:

☐ ATTACHED	☐ VIA MAIL	☒ VIA MESSENGER	☐ UNDER SEPARATE COVER	☐ FOR REVIEW
☐ PRINTS	☐ PLANS	☐ PROPOSAL	☐ DESCRIPTIONS	☐ LOCATION DRAWING
☐ PLEASE COMMENT		☐ PLEASE REPLY	☐ F.Y.I.	

QTY	DATE	ITEM	DESCRIPTION
1	7/10/02	original	Posting Certification

NOTES/COMMENTS:

This is a revised Posting Certificate. The sign needed to be moved to a place less likely to be disturbed. Please disregard the previous Posting Certification for this hearing. Thank you for your attention to this matter.



9120 Belair Rd.

02-552X
1/23/02

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

WILLIAM LIBERCCI

IWONA ROSTEK-ZARSKA

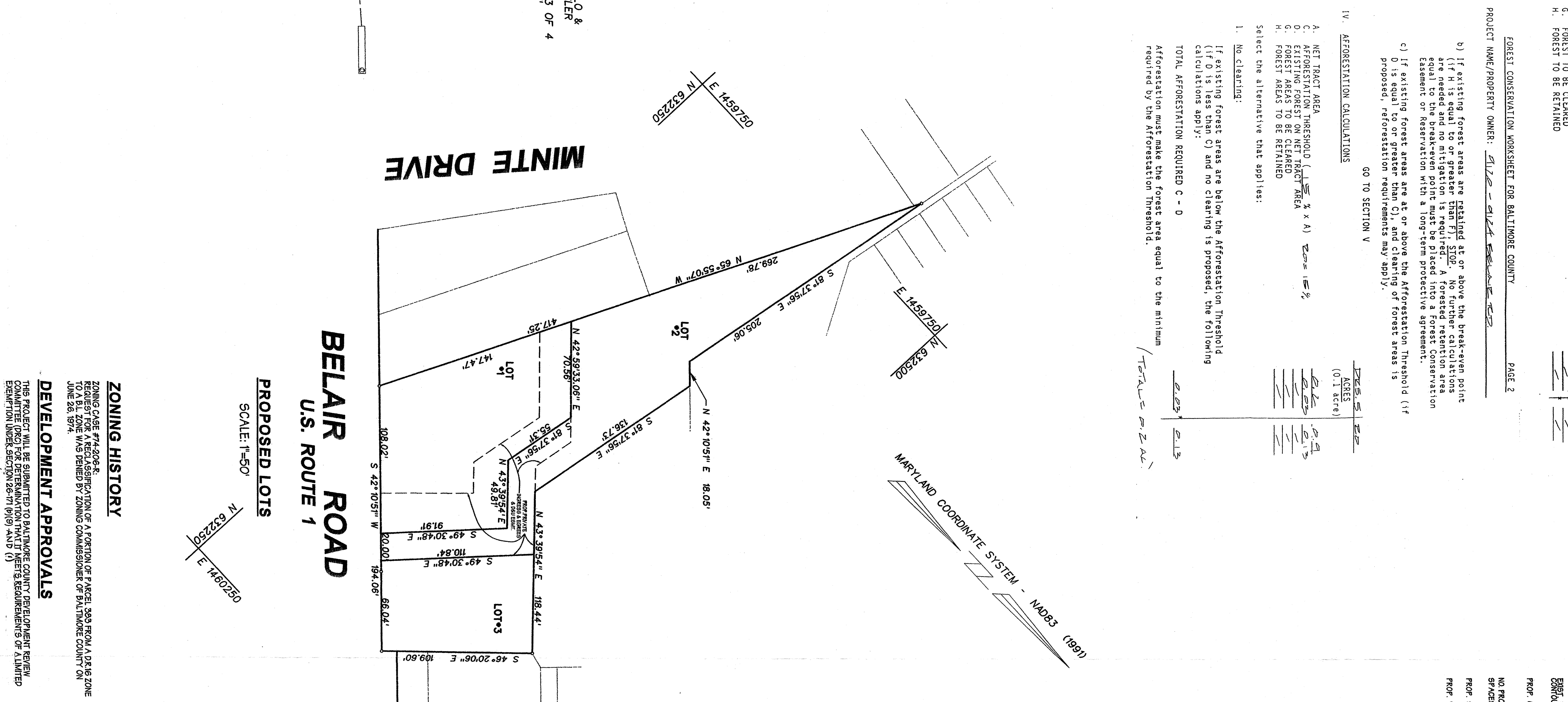
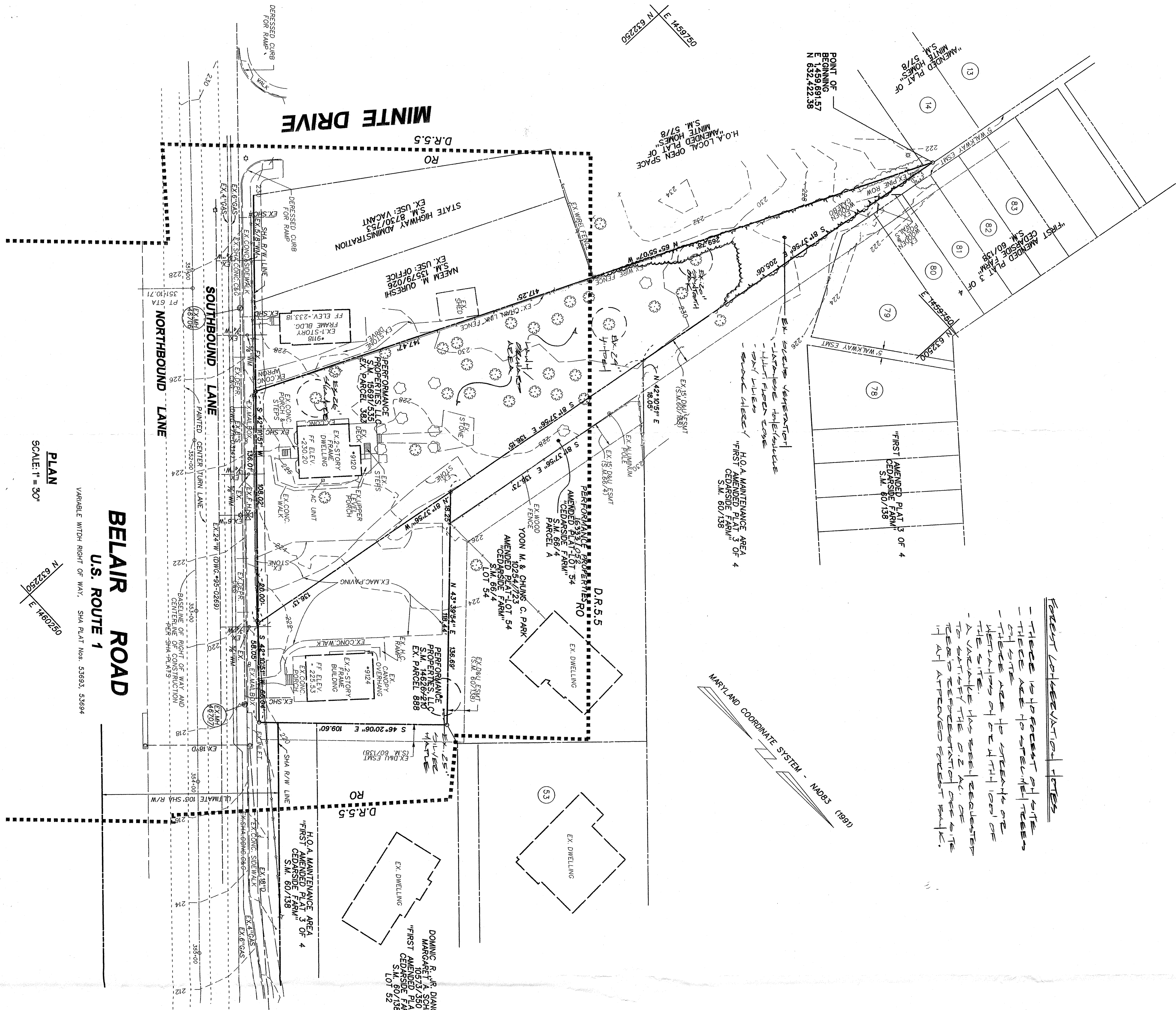
ADDRESS

19 SHADON CT. 21236

222 Schilling Circle, 17105
HUNT VALLEY, MD 21030



THE PROPERTY LINE SHOWN HEREON IS BASED ON THE SURVEY PREPARED BY DAFT MACDUE WALKER IN OCTOBER, 2000 AND FEBRUARY 2002.



LEGEND

BENCHMARK

SITE DATA

PROPOSED LOTS

ZONING HISTORY

DEVELOPMENT APPROVALS

SPECIAL EXCEPTION

OWNER/DEVELOPER

PERFORMANCE PROPERTIES LLC

PROJECT NAME/PROPERTY OWNER: 9120-9124 BELAIR ROAD PROPERTIES, LLC DATE: 4-18-02

REVIEWED BY: APPROVAL DATE:

1. BASIC SITE DATA

2. GROSS SITE AREA: 100.00 ACRES

3. NET TRACT AREA: 100.00 ACRES

4. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

5. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

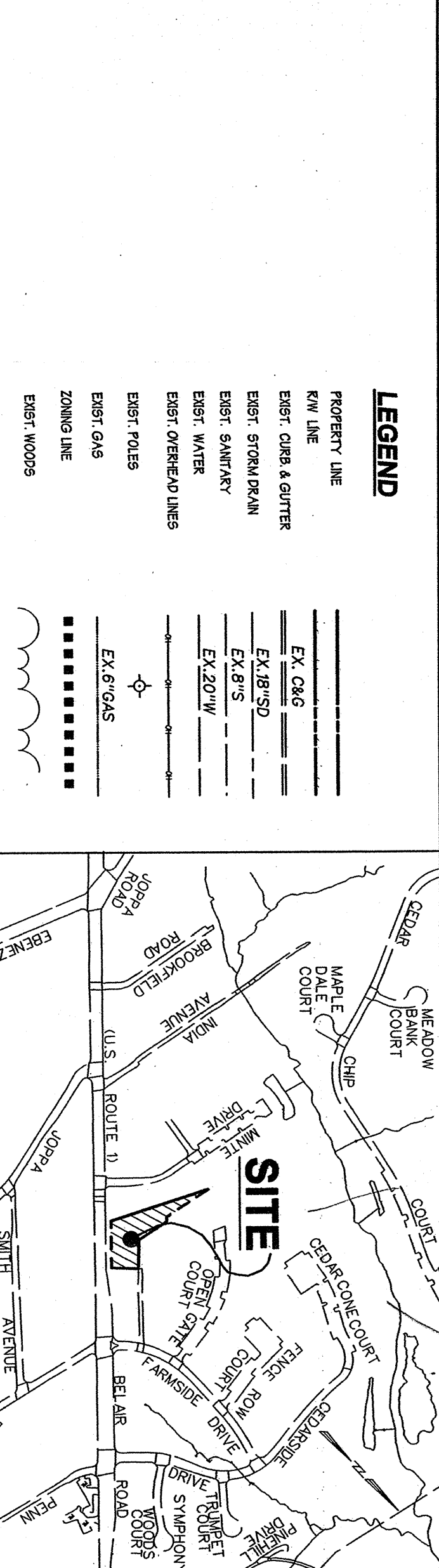
6. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

7. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

8. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

9. FOREST PRESERVATION THRESHOLD: 10.00 ACRES

10. FOREST PRESERVATION THRESHOLD: 10.00 ACRES





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

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 11 **Account Number -** 1102024350

Owner Information

Owner Name: PERFORMANCE PROPERTIES LLC **Use:** RESIDENTIAL
Principal Residence: NO
Mailing Address: 9124 BELAIR RD **Deed Reference:** 1) /15691/ 535
 BALTIMORE MD 21236-1601 2)

Location & Structure Information

Premises Address **Zoning** **Legal Description**
 9120 BELAIR RD
 .714 AC
 9120 BELAIR RD
 1140FT ES OF MINTE DR

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
72	8	383					82	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1920	1,998 SF	31,101.00 SF	04
Stories 2 1/2	Basement YES	Type STANDARD UNIT	Exterior SIDING

Value Information

	Base Value	Value As Of	Phase-in Assessments As Of	As Of
		01/01/2000	07/01/2002	07/01/2003
Land:	43,020	43,020		
Improvements:	83,880	83,880		
Total:	126,900	126,900	126,900	NOT AVAIL
Preferential Land:	0	0	0	NOT AVAIL

Transfer Information

Seller: DIAKOULAS EMANUEL K	Date: 10/25/2001	Price: \$205,000
Type: IMPROVED ARMS-LENGTH	Deed1: /15691/ 535	Deed2:
Seller: BECKMONT INC	Date: 04/13/1973	Price: \$30,000
Type: IMPROVED ARMS-LENGTH	Deed1: /5350/ 646	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

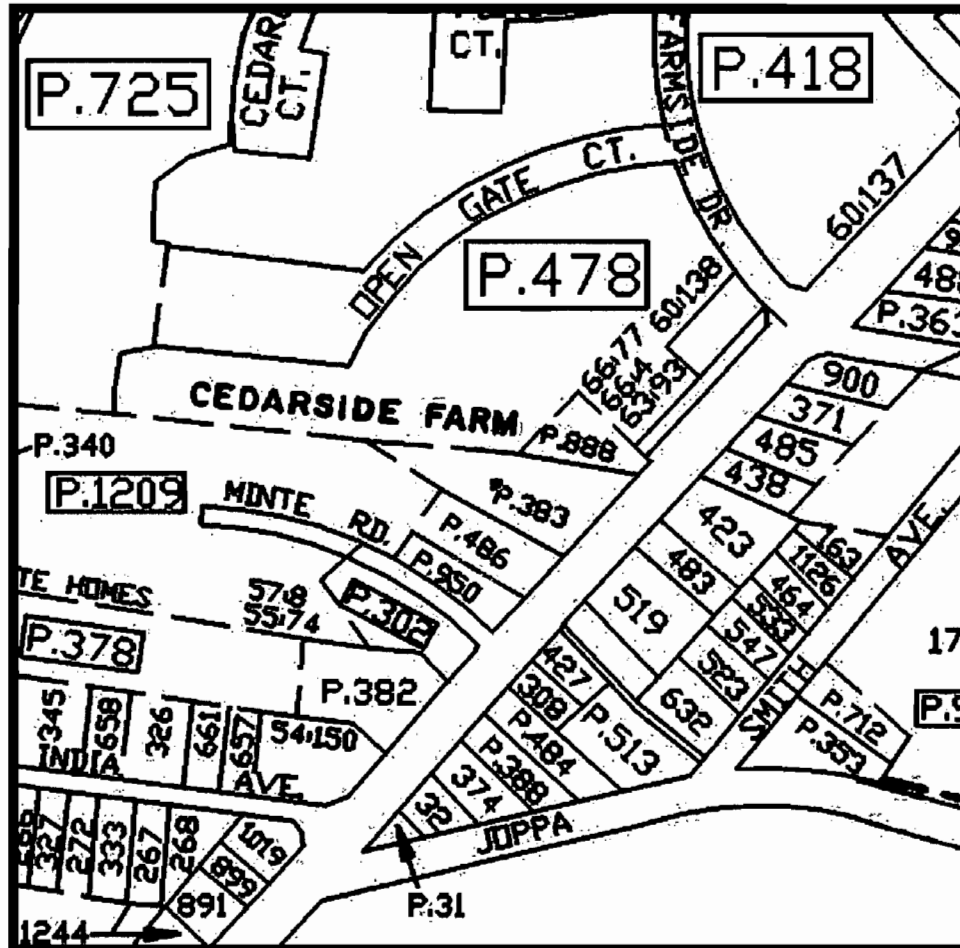
Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

	Maryland Department of Assessments and Taxation	Go Back
	BALTIMORE COUNTY	View Map
	Real Property Data Search	New Search

District - 11 Account Number - 1102024350



Property maps provided courtesy of the Maryland Department of Planning ©2001.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us



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

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 11 Account Number - 1119071100

Owner Information

Owner Name: PERFORMANCE PROPERTIES L L C **Use:** COMMERCIAL
Principal Residence: NO
Mailing Address: 9124 BELAIR RD **Deed Reference:** 1) /14626/ 210
 BALTIMORE MD 21236-1601 2)

Location & Structure Information

Premises Address **Zoning** **Legal Description**
 9124 BELAIR RD RO WS BELAIR RD
 710FT N INDIAN AVE

Map	Grid	Parcel	Subdivision	Section	Block	Lot	Group	Plat No:
72	8	888					80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		8,409.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2001	Phase-in Assessments As Of 07/01/2002	As Of 07/01/2003
Land:	105,680	90,900		
Improvements:	63,210	10,400		
Total:	168,890	101,300	101,300	101,300
Preferential Land:	0	0	0	0

Transfer Information

Seller: STORY MURIEL C	Date: 08/09/2000	Price: \$80,000
Type: NOT ARMS-LENGTH	Deed1: /14626/ 210	Deed2:
Seller: STORY EDNERL	Date: 08/24/1983	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 6579/ 224	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2002	07/01/2003
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

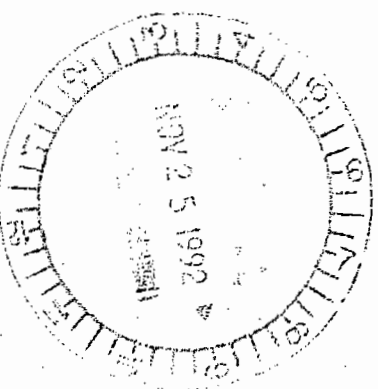
* NONE *

BALTIMORE COUNTY COMPREHENSIVE ZONING MAP

Final Log of Issues

Adopted October 15, 1992

*9120 Belgis
Road*



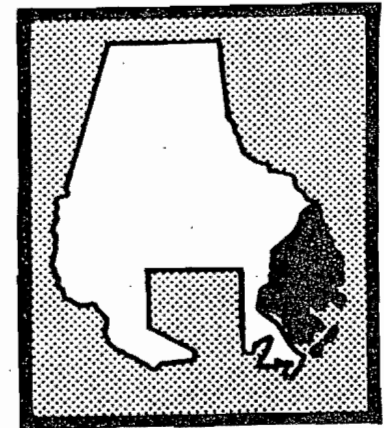
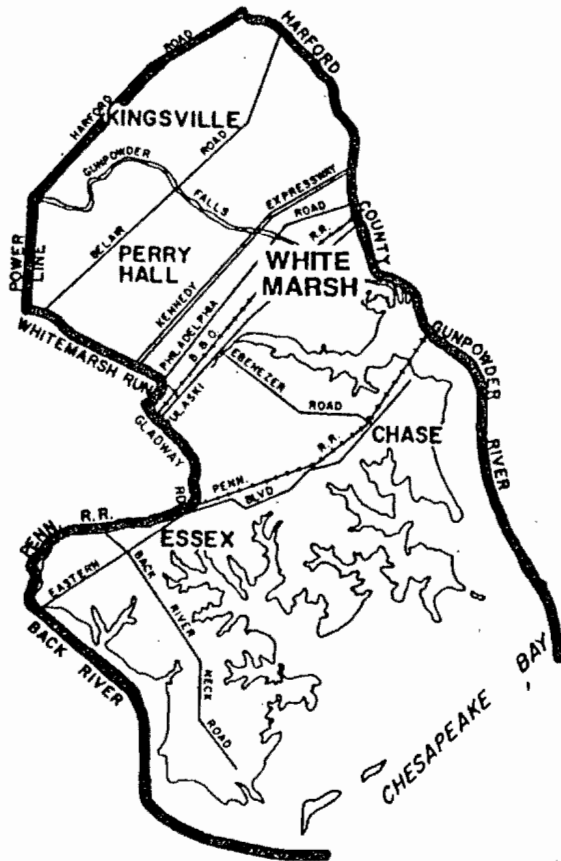
BALTIMORE COUNTY COUNCIL

FIFTH COUNCILMANIC DISTRICT

1992

COMPREHENSIVE

ZONING PROCESS



5-068 Joseph
By John H.

BALTIMORE COUNTY
1992 COMPREHENSIVE ZONING MAP ISSUES

ISSUE NO	OWNER, PETITIONER	LOCATION	TOTAL ACRES	EXISTING ZONING AND ACRES	REQUESTED ZONING AND ACRES	PLANNING BOARD RECOMMENDATIONS	COUNTY COUNCIL DECISIONS	COMMENTS
5-069	Russell M Berk By John Hennegan	E Side Chapel Rd 280' N of Joppa Rd (4356 Chapel Rd)	1.91	DR 10.5 0.85 DR 5.5 1.06	BL 1.91	DR 10.5 0.85 DR 5.5 1.06	BL 1.91	See Issues 5-023, 5-059, 5-068
5-070	William Rush By Vernon Boozer	E Side Honeygo Blvd 600' SE of Ebenezer Rd & 1800' N of Silver Spring	10.73	DR 5.5 10.73	DR 16 10.73	DR 5.5 10.73	DR 5.5 10.73	
5-071	Harbor Partnership By Julius W Lichter, Esq	S Side Blakely Ave 300' E of Belair Rd (4209 Blakely Ave)	0.46	RO 0.46	BL-CNS 0.46	RO 0.46	RO 0.46	
5-072	Dorothy E Wacker By James O'Connor, Esq	W Side Beech Dr 50' NW Chestnut Grove Ave (1106, 1108, 1110, 1112 Beech Dr)	0.59	DR 5.5 0.59	BL 0.59	DR 5.5 0.59	BL 0.59	
5-073	Donald J Parlett By S Eric DiNenna, Esq	NW corner Ebenezer & Earl's Beach Rds (702 Earl's Beach Rd)	4.43	RC 50 4.43	ML-IM or BR 4.43	RC 50 4.43	RC 50 4.43	Withdrawn by petitioner 3/12/92
5-074	Herbert J Barnett, Jr	E Side Belair Rd at intersection with Pinedale Dr (9411 & 9413 Belair Rd)	1.04	DR 5.5 1.04	RO 1.04	ROA 1.04	ROA 1.04	See Issues 5-032, 5-039, 5-040, 5-041, 5-051, 5-055
5-075	Emmanuel & Panagoito Diakoulas By Newton A Williams, Esq	NW Side of Belair Rd NE of India Ave (9120 Belair Rd)	0.75	RO 0.60 DR 5.5 0.15	BL 0.75	DR 5.5 0.15 RO 0.60	DR 5.5 0.15 RO 0.60	
5-076	MD Marine Manufacturing Co Inc By Steven Broyles, P.E.	900' SW of Red Rose Farm Rd & Bowleys Quarters Rd (3400, 3402, 3406, 3408, 3410 , 3418, 3501, 3506, 3515 Red Rose Farm Rd)	18.11	BL 0.65 DR 5.5 17.46	BM 18.11	BL 0.65 DR 5.5 17.46	BMB 18.11	See Bowleys Quarters Plan

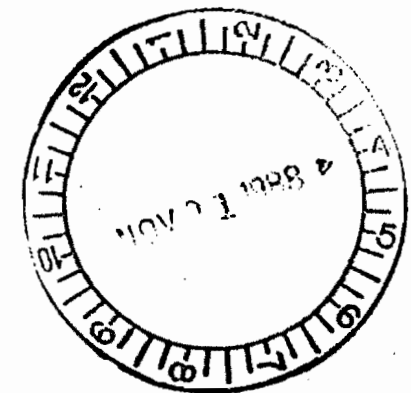
20-28-11 FINAL APPROVAL

9124
Belair Rd

~~People's
Council~~ No 2

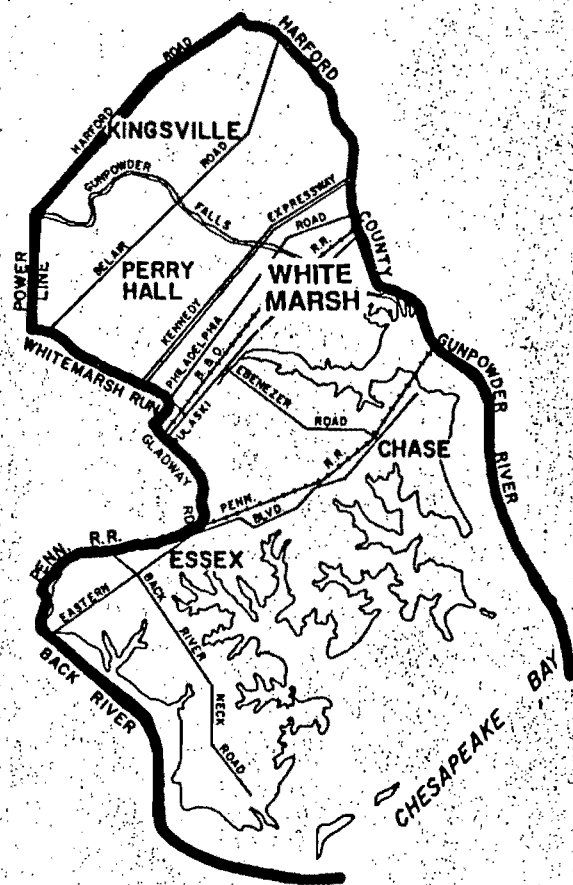
THE RECOMMENDED BALTIMORE COUNTY COMPREHENSIVE ZONING MAP

Log of Issues, June 28, 1988



Baltimore County Council
Public Hearings on the
Final Report of the
Baltimore County Planning Board

BALTIMORE COUNTY COUNCIL 1988 REZONING



HON. NORMAN W. LAUENSTEIN
COUNCIL OFFICE 391-6711



FIFTH COUNCILMANIC DISTRICT

5th Councilmanic District

BALTIMORE COUNTY
1988 COMPREHENSIVE ZONING MAP ISSUESDate: 07/14/88
Sheet: 9

NO.	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION	TOTAL ACRES	EXISTING ZONING and ACRES	REQUESTED ZONING and ACRES	PLAN BD RECOMMEN- DATIONS	ZONING COUNTY COUNCIL DECISIONS	COMMENTS
5-064	Hardees Food Systems Inc by Nolan Plumbhoff & Williams	Rear SE Cor Eastern Blvd & Kingston Rd	0.08	DR 10.5 0.08	BL-CNS 0.08	BL-CNS 0.08	BL-CNS	Critical Area (IDA)
5-065	David Strebeck by J Carroll Holzner	NW Cor of Essex Ave & Franklin Ave (204 N Essex Ave)	0.16	DR 5.5 0.16	BR 0.16	BR 0.16	BR	Request amended from BR, 3/16/88
5-066	Muriel C Story	NW Side of Belair Rd 290' S of Soth Ave (9124 Belair Rd)	0.25	RO 0.24 DR 5.5 0.01	BL 0.25	RO 0.25	RO	
5-067	Norma L Kallner by John O Hennegan	SE Side of Bird River Rd 201.76' NE of Harris Ave	2.25	BL 0.43 DR 2 0.02 RC 3 1.80	BM 2.25	BM 1.08 RC 3 1.17	BM RC 3	
5-068	Wilmer R Coleman by W R Sutton	W Side of Beech Drive 400' S of Birch Drive	1.63	DR 16 1.63	BL 1.63	BL 1.63	BL	Critical Area (IDA)
5-069	Mark D Barocco by Robt D Sellers, Esq	SE Side Belair Rd 300' SW of Walter Ave (9431 Belair Rd)	0.38	DR 16 0.38	BL or RD 0.38	DR 16 0.38	DR 16	See Issue 5-151
5-070	Lettie & Elmer Hack	SE Side Belair Rd 500' N of Goettner Ave (11801 Belair Rd)	1.50	RC 5 1.50	BL 1.50	RC 5 1.50	RC	5-108 1984 See Issues 5-015, 5-028, 5-101
5-071	Donald Alfred Albright Jr	SE Cor of Eastern Ave & Marlyn Ave (11 S Marlyn Ave)	0.25	BL-CSA 0.25	BM-CSA 0.25	BM-CSA 0.25	BM-CSA	Critical Area (IDA)

NO.	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION	TOTAL ACRES	EXISTING ZONING and ACRES	REQUESTED ZONING and ACRES	PLAN BD RECOMMEN- DATIONS	ZONING COUNTY COUNCIL DECISIONS	COMMENTS
5-080	AMOCO Oil Co by CT Bodganowicz, Proj Eng	NW Side of Belair Rd 100' S of Blakely Ave	0.87	BL 0.87	BL-CNS 0.87	BL 0.87	BL-CNS	See Issues 5-001, 5-002
5-081	Elizabeth E Chansoki et al	SE Side of Belair Rd S of Both Ave (9119 thru 9133 Belair Rd)	2.14	RO 1.28 DR 5.5 0.86	BL 2.14	RO 1.28 DR 5.5 0.86	RO DR 5.5	See Issue 5-052
5-082	Drexel M Johnston	SW Cor of Baker La & Belair Rd	0.92	DR 16 0.92	BL, O-1 or RO 0.92	RO 0.92	RO	See Issues 5-045, 5-087, 5-088, 5-136
5-083	SS & G Realty Co by Robt W Cannon, Esq	N of Forge Hill Rd encircled by Bangert Ave	49.11	DR 1 44.70 DR 2 4.41	DR 5.5 49.11	DR 1 44.70 DR 2 4.41	DR 1 DR 2	5-41 1984 See Issue 5-159
5-084	Holly Neck Ltd Partnership by Robt W Cannon, Esq	Holly Neck Rd	215.20	RC 5 215.20	DR 5.5 215.20	RC 20 215.20	RC 20	5-23 1984 Critical Area (RCA) Part of Issue 5-173
5-085	Southern Four Inc	N of Ebenezer Rd NE of Bird River Beach Rd	128.92	RC 2 128.92	MH 128.92	RC 50 128.92	RC 50 RC 2	Critical Area (RCA) Part of Issue 5-181
5-086	WM J & Marie Butt	E Side Belair Rd 200' S of Klausmaier Rd (9511 Belair Rd)	0.94	DR 16 0.94	BL 0.94	DR 16 0.94	DR 16	See Issues 5-051, 5-155
5-087	Dr Geo J & Marlene G Jabaji	W Side of Belair Rd N or Perry View Ave (9602 Belair Rd)	0.53	DR 16 0.53	RO or O-1 0.53	RO 0.53	RO	See Issues 5-045, 5-082, 5-088, 5-136

BALTIMORE COUNTY COMPREHENSIVE ZONING MAP

Final Log of Issues

Adopted October 10, 2000

9118 Below
RD

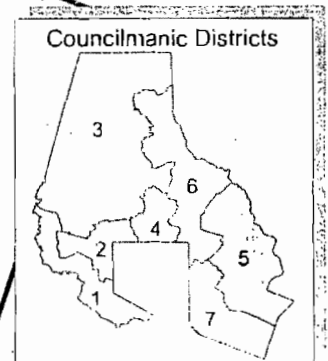
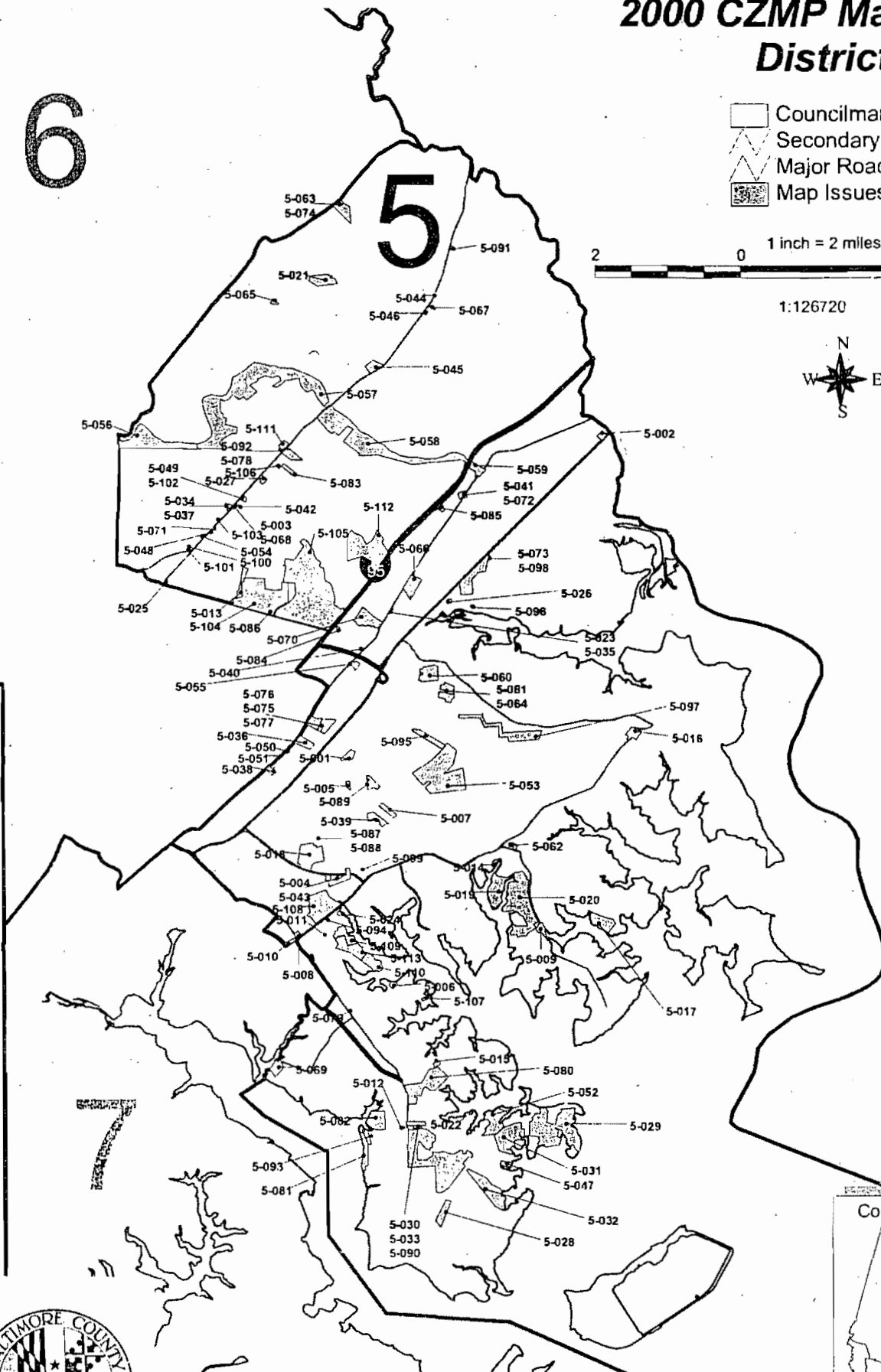
6

2000 CZMP Map Issues: District 5

-  Councilmanic District
-  Secondary Roads
-  Major Roads
-  Map Issues

2 0 1 inch = 2 miles 2 4 Miles

1:126720



Prepared by: Baltimore County Office of Planning
OIT/GIS Services Unit, January 2000

Sources: Roads and Councilmanic Districts-Baltimore Metropolitan Council 1999 1:24000
CZMP Issues-Baltimore County Office of Planning, Digitized from 1996 Tax Maps 1:7200
This map is for display purposes only. Land use decisions involving zoning
designations should be verified with the zoning office. Issues as of January 18, 2000

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres			Requested Zoning and Acres			Planning Board Recommendations			County Council Decisions			Comments
5-054	Naeem M. Qureshi	9118 Belair Rd	RO		0.3	CB	or	0.3	RO		0.3	RO		0.3	
			Total		0.3	BL			Total		0.3	Total		0.3	
						Total		0.3							
5-055	White Marsh Associates, LLC	South east side of Philadelphia Rd, 1600' northeast of Campbell Blvd	MH	IM	5.1	ML	IM	5.1	ML	IM	5.1	ML	IM	5.1	
			Total		5.1	Total		5.1	Total		5.1	Total		5.1	
5-056	Staff	Gunpowder Falls State Park, north of Oakhurst area	DR 5.5		122.4	RC 2		122.4	RC 2	or	122.4	RC 2		122.4	See Issue 5-057
			Total		122.4	Total		122.4	RC 7			Total		122.4	
									Total		122.4				
5-057	Staff	Gunpowder Falls State Park, Schroeder Ave area	DR 3.5		19.1	RC 2		334.7	RC 2	or	334.7	RC 2		334.7	See Issues 5-056, 5-058
			DR 2		315.6	Total		334.7	RC 7			Total		334.7	
			Total		334.7				Total		334.7				
5-058	Staff	Gunpowder Falls State Park, US 1 to I-95	RC 5		31.5	RC 2		225.0	RC 2	or		RC 2		190.3	See Issues 5-057, 5-059 Overlay Adopted
			DR 3.5		0.4	Total		225.0	RC 7		190.3	RC 5		11.6	
			DR 2		136.2				RC 5		11.6	DR 2		16.9	
			DR 1 H		0.1				DR 2		16.9	DR 1		6.2	
			DR 1		56.8				DR 1		6.2	Total		225.0	
			Total		225.0				Total		225.0				
5-059	Staff	Gunpowder Falls State Park, I-95 to MD 7	DR 2		15.4	RC 2		15.4	RC 2	or		RC 2		7.7	See Issue 5-058 Overlay Adopted
			Total		15.4	Total		15.4	RC 7		6.0	DR 1		7.7	
									DR 2		7.5	Total		15.4	
									BLR		1.9				
									Total		15.4				
5-060	D.S. Thaler & Associates, Inc	Vincent Rd, 600' south of Vincent Rd and Ebenezer Rd	RC 3		31.7	DR 3.5		31.7	RC 5		31.7	RC 5		31.7	
			Total		31.7	Total		31.7	Total		31.7	Total		31.7	

1 all the regulations. We meet DEPRM regulations, traffic,
2 landscaping, forest conservation and zoning regulations.

3 So all the regulations which applied to this kind
4 of property are met. So we are not asking for any
5 variances, any special relief from any kind of regulation.
6 Everything is pretty much in compliance.

7 Q. With respect to the regulations, did you put your
8 findings on a note on the site plan?

9 A. Yes. Actually, a pretty extensive summary which
10 sort of followed the zoning regulations and some other
11 applicable regulations.

12 So in the notes, you can see there's no conflict
13 with any county requirements. For example, landscape --

14 Q. Would you like to step down and point that out,
15 just briefly?

16 A. Well, the first section typically is related to
17 the zoning regulations, so we are saying how many lots
18 there are existing and how many we are proposing.

19 And, actually, in this particular case, we have
20 got three parcels which we are talking about which are
21 owned by Performance Properties.

1 One is this triangular shaped lot or parcel.
2 It's another parcel with essentially this piece. And
3 there was a third piece which was purchased about two ago,
4 I believe.

5 So, in a sense, we have three parcels, and we are
6 shifting the lot lines to create the three separate lots
7 which would comply with all the county regulations.

8 So like I said, this section shows we have three
9 existing parcels and three proposed lots. Then we do the
10 calculations for the floor area ratio for the new lots on
11 which is the proposed office building, and we've got the
12 height limitation for the structure. We have got minimum
13 setbacks, which are required, for the new Class B office
14 building.

15 Q. Let me interrupt you one second, Ms. Zarska.

16 MR. BARREIRO: Do you have any objection to Ms.
17 Zarska going into the rest of her testimony? Did you want
18 to question her on her qualifications?

19 MS. DEMILIO: No. I would have done that
20 earlier. The only question I have is who is she employed
21 by?

1 THE WITNESS: Baltimore Land Design Group. I am
2 the president of the company.

3 THE CHAIRMAN: So you'r offering her as --

4 MR. BARREIRO: I'm offering her as an expert
5 witness to provide opinions regarding this particular site
6 plan.

7 THE WITNESS: I was accepted in the past,
8 actually.

9 THE CHAIRMAN: Accepted.

10 Q. Then we got the calculations for the open space,
11 the landscape requirements, parking requirements, for
12 every lot. I did the whole bunch. The note which says
13 about the stormwater management, for example, that we are
14 exempt, because the limit of the surface is less than
15 certain swear footage.

16 So, in general, we try to spell out everything
17 which shows what is required and how everything is
18 complied with. That's pretty much it.

19 Q. Does this particular site plan represent a true
20 and accurate depiction of everything that's required by
21 the Baltimore County zoning regulations relating to this

1 request for a special exception?

2 A. Yes.

3 Q. Are you aware of any particular objections from
4 any reviewing agency, whether the DRC or the Zoning
5 Commissioner level?

6 A. No. We went through the development plan
7 approval process. All the county agencies had an
8 opportunity to review this plan.

9 And whatever small comment, I have responded to
10 those comments. Essentially, the development plan was
11 approved, so it means the county agencies didn't see
12 anything in conflict with the regulations.

13 Q. Did we, in fact, file the appropriate
14 publications or ads and the appropriate hearing notices on
15 the property prior to the last hearing before the Zoning
16 Commissioner?

17 A. I was not a part of that process, so I would not
18 testify on that part.

19 Q. Now, is there anything with respect to your work
20 on this particular site plan and this particular special
21 exception that leads to you to believe that anything

1 proposed is detrimental to the health or safety or the
 2 general welfare of the area?
 3 A. No.
 4 Q. Is there anything with respect to this site
 5 plan -- and all my questions relate to this plat and the
 6 special exception -- that leads you to believe there's
 7 going to be any added congestion on the roads, streets or
 8 alleys near this property for the special exception?
 9 A. No.
 10 Q. Will there be a potential hazard from fire, panic
 11 or other dangers regdring this special exception?
 12 A. No.
 13 Q. Will there be any overcrowding of the land or
 14 undue concentration of population with the use of this
 15 Class B office building?
 16 A. No.
 17 Q. Will it interfere at all with schools, parks,
 18 water, sewerage, transportation, or other public
 19 requirements, conveniences, or improvements?
 20 A. No.
 21 Q. Will this interfere with adequate right of way or air?

1 A. No.
 2 Q. Do you know of anything that would make this
 3 inconsistent with the spirit and intent of the Baltimore
 4 County zoning regulations?
 5 A. No.
 6 Q. Are you aware of any facts or circumstances that
 7 show this particular use proposed at this particular
 8 location would have any adverse effect above and beyond
 9 those inherently associated with such a special exception
 10 use irrespective of its location within the RO zone?
 11 A. No.
 12 Q. Mr. Wooden testified about a final plat would be
 13 necessary. Did you have involvement at the DRC level?
 14 A. Yes, I did.
 15 Q. You were the person that actually sought the
 16 approval through the whole DRC process?
 17 A. Yes. I attended the CRG meeting.
 18 Q. Is Performance Properties ready at this point to
 19 pull a building permit?
 20 A. They could apply for the building permit, but
 21 they would not be issued one until the final record plat;

1 it has not been prepared yet.
 2 Q. But that's a --
 3 A. That's the final step before it formally obtains
 4 approval.
 5 Q. Just so we have it clear on the record, this
 6 particular plan applies to 9120 Belair Road and also 9124
 7 Belair Road?
 8 A. Yes. And, essentially, the third one, which
 9 actually the number was assigned by the street numbering
 10 section, which is supposed to be 1922 (sic), so the number
 11 was assigned.
 12 Q. Mr. Wooden keeps on asking me a question that I
 13 haven't been able to answer it. There's a 9122 street
 14 number already assigned for this particular property,
 15 correct?
 16 A. Yes. 1922 (sic).
 17 Q. But right now, 1924 and 9120 are --
 18 THE CHAIRMAN: Wait a minute. Are we talking
 19 "nineteen" or "ninety" Get the numbers straight.
 20 THE WITNESS: 9120 is the address for the
 21 existing house on the left and 1924 --

1 THE CHAIRMAN: It's not "nineteen"?
 2 MR. BARREIRO: It's "ninety-one" --
 3 THE WITNESS: Did I mess up?
 4 MR. BARREIRO: I messed it up.
 5 THE CHAIRMAN: Everybody is saying "nineteen,"
 6 and I think it's "ninety."
 7 THE WITNESS: 9122 has been assigned to this new
 8 office building already by the county as applied to the
 9 development plan approval.
 10 MS. DEMILIO: Objection. As assigned to the lot,
 11 not to the office building. That has to be approved.
 12 THE CHAIRMAN: It was assigned to the lot?
 13 THE WITNESS: Well, normally, you don't have the
 14 number assigned to the lot. You have to have the
 15 structure.
 16 MS. DEMILIO: I don't want to argue. I will just
 17 wait.
 18 THE WITNESS: Well, on the development plan when
 19 you create X numbers of lots, you receive the name of the
 20 street and you put the numbers for the future potential
 21 structures.

1 THE CHAIRMAN: The little sliver?

2 THE WITNESS: This one piece which essentially

3 this portion is enclosed with ingress and egress and

4 drainage and utility easement. I'm sorry. So everybody

5 can use this, like entrance, like a driveway, to access

6 every lot.

7 THE CHAIRMAN: So the driveway is going to have a

8 separate number?

9 THE WITNESS: No. It is a part of lot two.

10 Whatever is in green here is a part of lot two. So it has

11 the frontage on Belair Road twenty feet wide.

12 Q. So as I understand it, you had to create access

13 to get to lot number two from Belair Road?

14 A. Yes.

15 Q. So you took a portion of lot number three, 9124,

16 and combined it with what has been called Parcel A and

17 made a different way, if you will, to get back to lot two?

18 Otherwise --

19 A. Actually, this piece was used sort of like it

20 meets the landscape buffer requirements so we are not

21 using it for the driveway.

1 Q. So Parcel A is the landscape buffer, and you

2 created a driveway?

3 A. Yes, which was part of the landscape buffer, but

4 it gives access to lot two.

5 Q. Otherwise, there would be no access to lot two?

6 A. Right.

7 Q. You're creating a driveway?

8 A. I had to. It must have frontage on a public

9 road.

10 Q. It can't be landlocked?

11 A. Right. It would be landlocked.

12 Q. So you took a little bit of three, and that's why

13 this plan includes 9124?

14 A. Yes.

15 MS. DEMILIO: I understand this now. Thank you

16 very much. If the Board has any other questions, it

17 wasn't clear to me. I'm sorry to take time on that.

18 THE CHAIRMAN: I'm glad you cleared that up.

19 MS. DEMILIO: I have no further questions.

20 THE CHAIRMAN: Anything further?

21 MR. BARREIRO: Just briefly. Over an abundance

1 of caution, may I mark the Board's file as an exhibit just

2 so we know everything that's part in there.

3 THE CHAIRMAN: You can move the Deputy Zoning

4 Commissioner's file.

5 MR. BARREIRO: That's what I would like to move,

6 the Deputy Zoning Commissioner's file, as an exhibit.

7 THE CHAIRMAN: That would be Petitioner's Exhibit

8 No. 7.

9 MR. BARREIRO: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. BARREIRO:

12 Q. Ms. Zarska, as we sit here today then, based upon

13 all the approvals that have been received, this particular

14 lot with the final plat approval is ready to put a new

15 Class B office building there, correct?

16 A. Right. Once we receive the use permitted by

17 special exception.

18 Q. You testified about the addresses and the lots

19 but, generally speaking, the ultimate outcome is to have

20 one building per lot?

21 A. Yes.

1 Q. Three lots, three buildings?

2 A. Right.

3 Q. All within the zoning regulations?

4 A. All within the zoning regulations.

5 MS. DEMILIO: Objection. That's the Board's

6 decision.

7 MR. BARREIRO: Thank you very much.

8 MR. IRISH: I have a question. Since we are

9 bringing up all these letters from all the different

10 agencies, where there any "if's," and's, or but's"

11 associated with any of their approvals?

12 THE WITNESS: No.

13 MR. IRISH: Because I guess what I haven't seen

14 is an approved development plan. I'm looking at proposed

15 lots on this Exhibit 1 here, but I don't see any approved

16 lots.

17 THE WITNESS: I have a copy of the approved

18 development plan, if you would like to see it.

19 MR. IRISH: I would think we should have that in

20 the file as part of the file. You keep referring to the

21 DRC and this was approved below with restrictions.

1 Q. And that would be the approval from your office
2 for this special exception?
3 A. Correct.
4 Q. Mr. Long, based on your experience in your office
5 and your educational background, do you have an opinion as
6 to whether or not this Class B office building will
7 present a negative impact to this community or this area?
8 A. I believe, based on the review of the case file
9 and also a site visit, that this proposal, given the
10 renovated condition of the two structures that front along
11 Belair Road and the elevation drawing, the proposed Class
12 B office building would actually have a positive benefit
13 on the community.
14 Q. Are you aware of any objections from any
15 reviewing agencies for this particular special exception?
16 A. None at all.
17 Q. Now, the Board is going to have to make a special
18 finding so I have to ask you specific questions. Based
19 upon your expert opinion, will this special exception be
20 detrimental to the health, safety or general welfare of
21 the area?

1 A. No, it will not.
2 Q. That's your job, to make sure it's not?
3 A. That's part of my responsibility.
4 Q. This is a technical question, but are you aware
5 of any facts or circumstances that show that the
6 particular use proposed at this particular location would
7 have any adverse effect above and beyond those inherently
8 associated with such a special exception use irrespective
9 of its location within the zone?
10 A. No. Given the location of this site within a
11 mixed use portion of Belair Road, the proposed use would
12 be in keeping with that general land use pattern that's
13 prevalent along this portion of Belair Road.
14 Q. You have communicated with the director of zoning
15 review, Mr. Richards, regarding this particular special
16 exception?
17 A. Yes.
18 Q. Are you aware of any particular objection on his
19 office's part, or his part?
20 A. None at all that I am aware of. I also --
21 MS. DEMILIO: Objection.

1 A. No.
2 Q. Will this special exception create congestion in
3 roads, streets, or alleys?
4 A. No.
5 Q. Will this special exception create a potential
6 hazard from fire, panic or other dangers?
7 A. No.
8 Q. Will this special exception overcrowd land, cause
9 undue concentration of population?
10 A. No.
11 Q. Will this special exception interfere with
12 adequate provisions for parks, water, sewerage,
13 transportation, or other public requirements,
14 conveniences, or improvements?
15 A. No.
16 Q. Will this special exception interfere with
17 adequate light and air?
18 A. No.
19 Q. Will the special exception be inconsistent with
20 the spirit and intent of the Baltimore County zoning
21 regulations?

1 Q. Go ahead, finish your answer, sir.
2 A. I think -- am I permitted?
3 THE CHAIRMAN: Go ahead.
4 A. Thank you. Also, I am aware that the DRC, the
5 Development Review Committee, approved the plan for the
6 property known as 9120 through 9124 Belair Road.
7 The DRC number is 090902E, and that plan, which
8 is essentially the same as the plan that is on the display
9 board, was reviewed and approved by the DRC for two Class
10 B office buildings -- I'm sorry -- two Class A office
11 buildings, one on lot one, one on lot three, and the
12 proposed Class B office building on lot two.
13 Q. Based upon your review of this site plan, the
14 plat, and your investigation of the facts and
15 circumstances surrounding this case, is it your
16 understanding that there's going to be one building per
17 lot?
18 A. Correct, that each building would be
19 self-supporting.
20 Q. So with respect to this special exception, there
21 would be one Class B building on that one lot?

1 A. One Class B office building on lot two.
 2 Q. With respect to your education, experience, and
 3 and your years of working with the Baltimore County zoning
 4 office and planning office, do you have an opinion as to
 5 whether there should be any problems with putting this
 6 Class B office building on this lot two of 9120 Belair
 7 Road?

8 A. We don't anticipate any problems as long as a
 9 landscape plan is ultimately approved which will provide a
 10 buffer enhancement to the site.

11 MR. BARREIRO: Those are all the questions I
 12 have. I am going to turn you over to Ms. Demilio.

13 CROSS EXAMINATION

14 BY MS. DEMILIO:

15 Q. Mr. Long, I want to clarify, the DRC did not
 16 approve the special exception for the Class B?

17 A. Did not.

18 Q. So it might have been shown the plan, but that's
 19 a separate approval process?

20 A. It would have been anticipated by the reviewing
 21 agencies that a special exception would be required

1 because, obviously, the reviewers at the table would be
 2 aware a Class B office building within an RO zone requires
 3 a special exception.

4 Q. But they are not authorized to give zoning
 5 approval?

6 A. No, they are not.

7 Q. And the existing building on what the petitioner
 8 is proposing as lot one, 9120, that's a Class A office
 9 building?

10 A. Yes.

11 Q. And that couldn't be expanded or enlarged under
 12 the regulations to the RO zone?

13 A. I'm only familiar with the conditions that I saw
 14 in the field last night. I didn't see the previous
 15 condition of the property, so I wouldn't really know.

16 Q. No, no. That wasn't my question. Don't the RO
 17 regulations prohibit an expansion of a Class A office
 18 building?

19 A. Yes.

20 Q. So if there's a Class A office building there, it
 21 cannot be expanded?

1 A. Correct.

2 Q. Are you aware of any regulation or provision in
 3 the RO zone that permit retail uses?

4 A. No. Retail is not permitted in an RO zone.

5 Q. Isn't it a Baltimore County code regulation,
 6 particularly 26-180, that you can't approve a development
 7 plan if the property owner is in violation of the zoning
 8 regulations?

9 A. Yes.

10 Q. Isn't that a fact? Isn't that what 26-180 says?

11 A. That's what 26-180 says.

12 Q. And you testified as an expert in a case on
 13 Sudbrook Road known as the Fabian Colter case. That was
 14 also an RO zone?

15 A. Yes.

16 Q. You supported the property owner's development of
 17 that property?

18 A. Correct.

19 Q. The Board disagreed with you?

20 A. Yes. Well, I don't think the Board disagreed. I
 21 don't see it that way, if the Board agrees or disagrees.

1 They listen to the relevant facts, and make a decision.

2 Q. But they did not support the plan?

3 A. They based their decision on the relevant facts.

4 Q. Which was not your position?

5 A. Correct.

6 Q. Now, is there anything in the RO zone that
 7 prohibits the combination of RO lots to one lot as long as
 8 it's not over one acre?

9 A. Can you repeat the question?

10 Q. Is there any provision that you are aware of in
 11 the RO zone that would prohibit a property owner combining
 12 RO lots into lot, to form one lot?

13 A. There's a one-acre maximum.

14 Q. But as long as the combined lots do not exceed
 15 one acre, it would be permitted?

16 A. Yes.

17 Q. And are you aware that the subject property was
 18 denied reclassification to a BL zone in the 1992
 19 comprehensive map process?

20 A. No, I was not.

21 Q. It wouldn't surprise you if I told you that

1 A. No.

2 Q. That's the kind of activity you support
3 renovation along Belair Road, is that correct?

4 A. I mean, it's part of what we try to do is
5 maintain the character of the appearance of the
6 neighborhood, and most of the, or all of the conversions,
7 as far as I can tell, have worked, they have renovated,
8 taken the homes there and re-did them and improved them.

9 Q. Are you aware of any other property owner in the
10 Perry Hall area that has attempted to subdivide their RO
11 property in order to put up a second building?

12 A. No.

13 MS. DEMILIO: I have no further questions.

14 THE CHAIRMAN: Mr. Barreiro?

15 MR. BARREIRO: Yes.

16 CROSS EXAMINATION

17 BY MR. BARRIERO:

18 A. Mr. Libercci, good afternoon. Mr. Barreiro,
19 again. Were you here for Mr. Markiewicz's testimony?

20 A. Yes.

21 Q. You heard him say there's going to be two cars

1 Q. They actually service clients there, don't they?

2 A. I don't know what they do.

3 Q. Do you know how many cars come in and out of that
4 lot?

5 A. No.

6 Q. Do you know whether that lot was made bigger?

7 A. You mean --

8 Q. The parking lot.

9 A. I don't know that.

10 Q. Do you know how many parking spots are in the new
11 parking lot?

12 A. No, I don't.

13 Q. Did you ask them to join the Perry Hall
14 Improvement Association at that time?

15 A. I don't know.

16 Q. Do you know if they are a member?

17 A. No, I don't.

18 MS. DEMILIO: Who?

19 Q. The owners of First Preference, the building?

20 A. No, I don't.

21 Q. Sir, you don't have a problem, or your

1 coming into this lot as a result of the Class B office
2 building?

3 A. Yes.

4 Q. It's not your position that two cars going and
5 coming are going to overcrowd Belair Road, is it?

6 A. No.

7 Q. The second reason you gave as being opposed,
8 because you want to stop the proliferation of office
9 buildings. Did you testify at the First Preference
10 hearing, the building down the street?

11 A. Did not.

12 Q. Did anybody testify in opposition to the doubling
13 of that building?

14 A. I don't know that there was any -- I don't know
15 that we did that. I know that the people that have First
16 Preference met with the association, presented them with
17 their concept of what they wanted to do at the site, and
18 there was, I think, two options, or maybe more than that,
19 and the improvement association agreed with the current --
20 what's sitting there right now was agreed to by the
21 association. Not in any formal hearing.

1 association doesn't have a problem with having one Class B
2 office building on a lot that is zoned RO, correct?

3 A. That's what the rule says.

4 Q. So if this particular project has one building
5 per RO zoned lot, you would have no objection to it, would
6 you?

7 A. Well, I would object to it if the lot wasn't
8 there when the zoning was completed.

9 Q. Did you attend the DRC hearing for this
10 particular lot?

11 A. Yes.

12 Q. Are you aware the DRC proposed the subdivision of
13 this lot?

14 A. With conditions.

15 Q. Did you raise an objection at the DRC?

16 A. I asked the question at the DRC. If I can, as an
17 aside, the DRC is an animal -- I don't think the DRC
18 understands, but they approved this with the understanding
19 that the owner could proceed at their own peril.

20 And I asked exactly what that meant, at their own
21 peril. And Don Rascoe, the chair of that thing, explained



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9120-9124 Bel Air Road

which is presently zoned R.O. & D.R. 5.15

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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Special Exception for Class B Office Building (Lot #2)

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, 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:

Mauricio E. Barreiro

Name - Type or Print

City

Signature

Mauricio E. Barreiro, LLC

Company

15 East Chesapeake Avenue (410) 494-0030

Address

Telephone No.

Towson, Maryland 21286

City

State

Zip Code

Legal Owner(s):

Performance Properties, LLC

Name - Type or Print

By: Steve Wolf, member

Signature

Steven Wolf

Name - Type or Print

Signature

9124 Bel Air Road (410) 529-7865

Address

Telephone No.

Baltimore, Maryland 21236

City

State

Zip Code

Representative to be Contacted:

Mauricio E. Barreiro

Name

15 E. Chesapeake Ave. (410) 494-0030

Address

Telephone No.

Towson, Maryland 21286

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 hrs

UNAVAILABLE FOR HEARING

Reviewed By [Signature]

Date 6-5-03

ORDER RECEIVED FOR FILING
Date 7/29/02
By [Signature]
RECEIVED 7/15/98

Case No. 02-552-X

**DESCRIPTION TO ACCOMPANY ZONING PETITION
9120-9124 BELAIR ROAD PROPERTIES
11TH ELECTION DISTRICT, C-5**

May 30, 2002

Beginning for the same at a point E 1,459,691.57 and N 632,422.38, running thence:

1. South 81° 37' 56" East 205.06 feet thence,
2. North 42° 10' 51" East 18.05 feet thence,
3. South 81° 37' 56" East 136.73 feet thence,
4. North 43° 39' 54" East 118.44 feet thence,
5. South 46° 20' 06" East 109.60 feet to the west side of Belair Road, U.S. Route 1
thence,
6. South 42° 10' 51" West 194.06 feet along west side of Belair Road, U.S. Route 1
thence,
7. North 65° 55' 07" West 417.25 feet to the place of beginning.

Containing 0.913 acres +/-

This description is intended for zoning purposes only and shall not be used for conveyance of land.



Mirona Rostek-Zarska

552

**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: #02-552-X
9120-9124 Belair Road
W/ide of Belair road 310
feet south of and opposite
the center line of Soth Avenue
11th Election District
5th Councilmanic District
Legal Owner(s): Performance
Properties, LLC

Special Exception: for
Class "B" office building.
Hearing: Tuesday, July 23,
2002 at 11:00 a.m. in
Room 106, Baltimore
County Office Building, 111
W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

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

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

JT77/692 July 9 C549279

CERTIFICATE OF PUBLICATION

7/11/2002

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 7/9/2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING



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Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE # 02-552-X
PETITIONER/DEVELOPER:
Performance Properties, LLC
DATE OF HEARING:
July 23, 2002

**BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204**

ATTENTION: GEORGE ZAHNER

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**

LOCATION:

9120 – 9124 Belair Road Baltimore, MD 21236

DATE:

July 10, 2002

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD

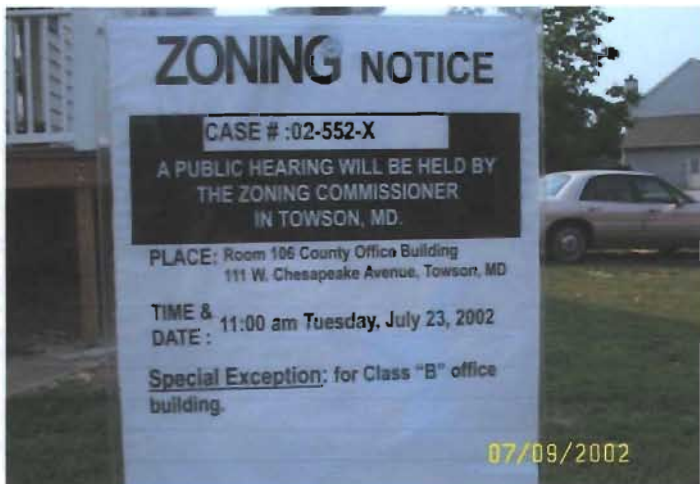
SUITE 100

320EAST TOWSONTOWN BLVD

TOWSON, MARYLAND 21286

410-823-4470 PHONE

410-823-4473 FAX



POSTED ON: July 8, 2002

ZONING NOTICE

CASE #:02-552-X

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD.

PLACE: Room 106 County Office Building
111 W. Chesapeake Avenue, Towson, MD

TIME &
DATE: 11:00 am Tuesday, July 23, 2002

Special Exception: for Class "B" office
building.

NOTICE: This notice is posted on the property of the subject of the hearing. It is the responsibility of the property owner to ensure that the notice is posted in a conspicuous location. The hearing is open to the public. Hearings are handicapped accessible.

07/09/2002

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-552-X

Performance Properties, LLC - LEGAL OWNERS

9120-9124 Belair Road

11th ELECTION DISTRICT

APPEALED: 8/21/2002

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

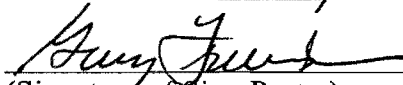
RE: Case No.: 02-552-X

Petitioner/Developer:

Performance Properties

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

The sign was posted on 10/17, 2002

By: 
(Signature of Sign Poster)

GARY FREUND
(Printed Name)



Baltimore County
Department of Permits and
Development Management

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

June 20, 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: 02-552-X
9120-9124 Belair Road
W/side of Belair road 310 feet south of and opposite the center line of Soth Avenue
11th Election District – 5th Councilmanic
Legal Owner: Performance Properties, LLC

Special Exception for Class "B" office building.

HEARING: Tuesday, July 23, 2002 at 11:00 a.m. in Room 106, Baltimore County
Office Building, 111 W. Chesapeake Avenue

Arnold Jablon
Director

C: Mauricio Barreiro, Esquire, 15 East Chesapeake Avenue, Towson 21286
Performance Properties, LLC, 9124 Belair Road, Baltimore 21236

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JULY 8, 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.

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

COPY



County Board of Appeals of Baltimore County

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

May 14, 2003

NOTICE OF DELIBERATION

IN THE MATTER OF:

PERFORMANCE PROPERTIES LLC -
Legal Owners
Case No-02-552-X

Having heard this matter on 5/14/03, public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, JULY 2, 2003 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

**Note: Memos are due from counsel on Monday, June 16, 2003
(Four [4] copies to be filed: Original and three copies)**

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel
Counsel for Petitioner : Mauricio E. Barreiro, Esquire
Petitioner : Steve Wolf /Performance Properties LLC

Iwona Rostek-Zarska
William Libercci

Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

fyi: 4-3-7





County Board of Appeals of Baltimore County

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

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue

March 12, 2003

NOTICE OF ASSIGNMENT

CASE #02-552-X

IN THE MATTER OF: PERFORMANCE PROPERTIES LLC

- Petitioner 9120-9124 Belair Road 11th E; 5th C

5/17/00 – Petition for Special Exception GRANTED with restrictions by DZC.

ASSIGNED FOR:

WEDNESDAY, MAY 14, 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:	Appellant	: Office of People's Counsel
	Counsel for Petitioner	: Mauricio E. Barreiro, Esquire
	Petitioner	: Steve Wolf /Performance Properties LLC
	Iwona Rostek-Zarska	
	William Libercci	
	Pat Keller, Planning Director	
	Lawrence E. Schmidt, Zoning Commissioner	
	Arnold Jablon, Director /PDM	





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 19, 2002

Mauricio E Barreiro
15 E Chesapeake Avenue
Towson MD 21286

Dear Mr. Alderman:

RE: Case Number: 02-552-X, 9120 & 9124 Bel Air Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 05, 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 Performance Properties, Steve Wolf, 9124 Bel Air Road, Baltimore 21236
People's Counsel

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



Sim
7/23
#106

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2002

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

SUBJECT: 9120-9124 Belair Road

INFORMATION:

Item Number: 02-552

Petitioner: Performance Properties, LLC

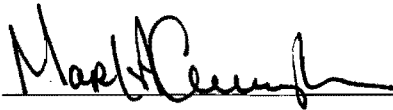
Zoning: RO & DR 5.5

Requested Action: Special Exception

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to construct a "Class B" office building providing landscaping is added to the parking area adjacent to Belair Road. The petitioner should consult with the Karin Brown, 5th District Community Planner regarding this issue, prior to the issuance of any building permits.

Prepared by:



Section Chief:



AFK/LL:MAC:

JUN 24



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 19, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF June 17, 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:

552
550-554, 556&557, 559-562

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

cc: File

JUN 21 2002

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



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 9, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For June 24, 2002
Item Nos. 550, 552, 553, 554, 556, 557,
559, 560, 561; and 562

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

RWB:HJO:jrb

cc: File



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 6.20.02

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

RE: Baltimore County
Item No. 552

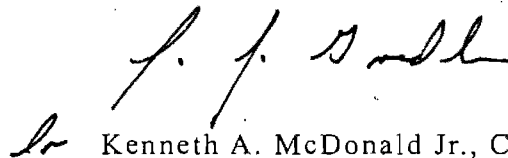
JJS

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 1 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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,


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



Maryland Department of Planning

Parris N. Glendonig
Governor

Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz
Secretary

Mary Abrams
Deputy Secretary

June 20, 2002

Mr. George Zahner
Baltimore County
Department of Permits and Development Management
111 West Chesapeake Avenue, Room 111
County Office Building (Mail Stop #1105)
Towson MD 21204

Re: **Zoning Advisory Committee meeting – June 24, 2002**
Case #'s 02-550-A, 02-551-XA, 02-552-X, 02-553-A, 02-554-SPH, 02-555-SPHXA,
02-556-A, 02-557-A, 02-558-SPHXA, 02-559-A, 02-560-A, 02-561-, and 02-562-SPHA

Dear Mr. Zahner:

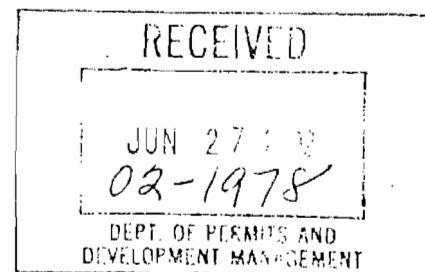
The Maryland Department of Planning has received the above-referenced information on 6/19/02. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup



RE: PETITION FOR SPECIAL EXCEPTION
W/side Belair Rd. 310 ft south of & opposite ctr line
of Soth Avemie
11th Election District 5th Councilmanic District

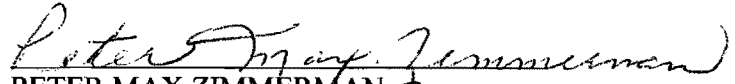
Legal Owner: Steve Wolf
Member. Performance Properties LLC
Petitioner(s)

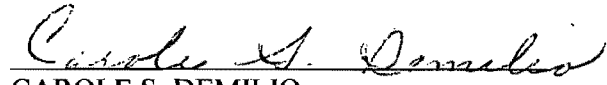
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No.02-552-X

* * * * *

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 11th day of July, 2002 a copy of the foregoing Entry of Appearance was mailed to Mauricio E. Barreiro, LLC 15 East Chesapeake Avenue, Towson, MD 21286 Attorney for Petitioner(s).


PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

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

September 10, 2002

Mauricio E Barreiro Esquire
Mauricio E Barreiro LLC
15 E Chesapeake Avenue
Towson MD 21286

Dear Mr. Barreiro:

RE: Case No. 02-552-X, 9120 - 9124 Belair Road

Please be advised that an appeal of the above-referenced case was filed in this office on August 21, 2002 by Peter M Zimmerman, People's Counsel for Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you 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,

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

Arnold Jablon
Director

AJ: gdz

c: William Libercci, 19 Shawn Court, Baltimore 21236
Iwona Rostek-Zarska, 222 Schilling Circle, #105, Hunt Valley 21030
People's Counsel



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

August 21, 2002

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

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

Hand-delivered

Re: PETITION FOR SPECIAL EXCEPTION
W/S Belair Road, South of Soth Avenue
(9120-9124 Belair Road)
11th Election Dist., 5th Councilmanic
Legal Owners: Performance Properties, LLC
Member: Steven Wolf
Case No.: 02-552-X

Dear Mr. Jablon:

Please enter an appeal of the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated July 29, 2002 of the Baltimore County Deputy Zoning Commissioner in the above-entitled case.

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

Very truly yours,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman
People's Counsel for Baltimore County

A handwritten signature in cursive script that reads "Carole S. Demilio".

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/pah

c: Mauricio E. Barreiro, Esq., MAURICIO E. BARREIRO, LLC, 15 East Chesapeake Avenue,
Towson, MD 21286
Attorney for Petitioners

APPEAL

Petition for Special Exception
9120 – 9124 Belair Road
W/S Belair Road, S of Soth Avenue
11th Election District – 5th Councilmanic District
Performance Properties, LLC - Legal Owner
Case No.: 02-552-X

- ✓ Petition for Special Exception (dated 06/05/02)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (dated 06/20/02)
- ✓ Certification of Publication (The Jeffersonian issue dated 07/09/02)
- ✓ Certificate of Posting (dated 07/10/02 posted Bruce Doak)
- ✓ Entry of Appearance by People's Counsel (dated 07/11/02)
- ✓ Petitioner(s) Sign-In Sheet (1 page)
- ✓ Protestant(s) Sign-In Sheet (none)
- ✓ Citizen(s) Sign-In Sheet (1 page)
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioners' Exhibits:
 - 1. Plat to Accompany Petition for Special Exception (dated 04/2002)
- ✓ Protestants' Exhibits: (none)
- ✓ Miscellaneous (Not Marked as Exhibits): (none)
- ✓ Deputy Zoning Commissioner's Order (dated 07/29/02 - GRANTED w/restriction)
- ✓ * Notice of Appeal received on August 21, 2002 from Peter M Zimmerman, People's Counsel for Baltimore County

c: Mauricio E Barreiro Esquire, Mauricio E Barreiro LLC, 15 E Chesapeake Avenue, Towson 21286
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

STEVE WOLF - Petitioner
PERFORMANCE PROPERTIES, LLC
9124 BELAIR ROAD
BALTIMORE, MD 21236

MAURICIO E BARREIRO, ESQUIRE
15 EAST CHESAPEAKE AVENUE
TOWSON, MD 21204
Attorney for Petitioner

RECEIVED

SEP 11 2002

BALTIMORE COUNTY
BOARD OF APPEALS

IWONA ROSTEK-ZARSKA
222 SCHILLING CIRCLE, #105
HUNT VALLEY, MD 21030

WILLIAM LIBERCCI
19 SHAWN COURT
BALTIMORE, MD 21236

7/29/02 –D.Z.C.'s Order in which Petition for Special Exception was GRANTED with restrictions.

1/23/03 – Letter from Mauricio E. Barreiro, Esquire (15 E. Chesapeake Avenue, Towson 21286; 410-494-0030) – requesting consideration of early hearing date, should such a date become available.

3/12/03 -Notice of Assignment sent to following; assigned for hearing on Wednesday, May 14, 2003 at 10:00 a.m.:

Office of People's Counsel
Mauricio E. Barreiro, Esquire
Steve Wolf /Performance Properties LLC
Iwona Rostek-Zarska
William Libercci
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

5/14/03 – Hearing concluded before Board (Wescott, Worrall, Irish); memos to be filed on June 16, 2003; deliberation to be assigned and notice sent.

– Notice of Deliberation sent to parties; assigned for Wednesday, July 2, 2003 at 9:30 a.m.
FYI copy to S.W.R.

5/16/03 – Letter from Mauricio E. Barreiro, Esquire – providing exhibits #3 and #8 as agreed; also requesting reconsideration of the Board's decision to allow People's Counsel until June 16 to file a Memorandum.

5/22/03 – Letter to Mr. Barreiro – acknowledging receipt of exhibits; also advising him that the memoranda requested by the Board are to be filed simultaneously by both parties, including Mr. Barreiro and Mr. Zimmerman; also that written briefs in lieu oral closing argument is a frequent request made by the Board at the conclusion of a hearing.

6/16/03 – People's Counsel's Memorandum filed; Memorandum of Law in Support of Performance Properties, LLC's Petition for Special Exception Regarding 9120-24 Belair Road filed by M. Barriero, Esquire, on behalf of Petitioners. Copies to Wescott and Worrall on 6/19/03; to Irish via USPS.

7/02/03 – Board convened for deliberation (Wescott, Worrall, Irish); denied Petition for Special Exception by unanimous decision; does not meet spirit and intent of R.O. regulations for all reasons as cited; to be put into written Opinion and Order; appellate period to run from date of written Order.

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
POST-HEARING MEMORANDUM

DATE: June 17, 2003

TO: L. Wescott
M. Worrall
R. Irish

FROM: Kathi

SUBJECT: Case No. 02-552-X /*In the Matter of: Performance Properties LLC*

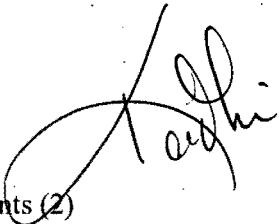
Attached for your review are the following:

1. People's Counsel's Memorandum filed by Office of People's Counsel; and
2. Memorandum of Law in Support of Performance Properties LLC's Petition for Special Exception Regarding 9120-9124 Belair Road filed by Mauricio E. Barriero, Esquire, on behalf of Petitioners.

The public **deliberation** is scheduled for Wednesday, July 2, 2003 at 9:30 a.m. (no hearing following; this is the only matter on 7/02/03).

Kathi

Attachments (2)

A handwritten signature in black ink, appearing to read 'Kathi', is written over the typed name 'Kathi' and the 'Attachments (2)' line.

**BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION**

IN THE MATTER OF: Performance Properties LLC
Case No. 02-552-X

DATE : Tuesday, July 2, 2003

BOARD /PANEL : Lawrence S. Wescott (LSW)
Margaret Worrall (MW)
Richard K. Irish (RI)

RECORDED BY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. 02-552-X / Special Exception – To construct Class B office building on Lot #2 as shown on site plan.

♦ **Two issues raised by People's Counsel**

- ✓ Whether or not R.O. /D.R. property can be subdivided to allow Class B office building on lot to rear of two Class A buildings in front
- ✓ Whether or not Class B office building can be built (§ 26-180 BCC) – Plans /Permits cannot be processed where property is owned where violations exist (PC contends that both Class A buildings include retail sales by tenants on first floor of each; not denied by Petitioner)

❖ **Dealing with second issue –**

DRC allowed subdivision; no one raised appeal; DRC is advisory; Petitioner erroneously took position that DRC replaced former CRG, whereas the CRG was replaced by new development regulations which include Hearing Officer, his hearing and all prior meetings /community input. Again – the DRC is advisory only.

As to issue – no violations at this point; no enforcement proceedings; no jurisdiction over question of violation per BCC 26-180

Decision as to second issue: Cannot determine whether subdivision is legal or illegal; cannot determine violation of zone

❖ **As to first issue –**

Can lot be subdivided into two lots in R.O. zone to allow building on second lot

Law does not prohibit subdivision; since subdivision has been done, does that mean Class B office building can be built?

Not within spirit and intent of regulations; spirit of legislation

Could subdivide and re-subdivide but not necessarily build multiple buildings

Per People's Counsel – given size of lot, could have six ¼ acre sites and building six office buildings on up to 2 acres

Nothing to prohibit subdivision; however, does it overcrowd the land; does it meet the spirit and intent of the R.O. zone /regulations

Class A – house with road frontage converted to office building; shall not be expanded; one building on lot

People's Counsel also cited *Fabian-Kolker* (prior Board case); different because two building existed on that site; new house on front portion to be connected via walkway to small office in back. CBA found – violation of R.O. regulations. Had that Petitioner tried to subdivide and build additional building, same situation as instant one.

Quoted /read findings in R.O. regulations as to intent of R.O., including no intrusion upon or disturbance to residential properties nearby; did not intend to allow expansion; spirit and intent of law would be violated

Petitioner's Memo – reference to support of Perry Hall Improvement Association; reviewed transcript and file and noted. Rule 8 papers state opposition; final approval /decision must be made by the Board.

- **Final Unanimous Decision:** Petition for Special Exception is DENIED; Petitioner did not meet burden for reasons as cited above; does not meet spirit and intent of regulations.

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted



Kathleen C. Bianco, Administrator
County Board of Appeals



County Board of Appeals of Baltimore County

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

May 22, 2003

Mauricio E. Barreiro, Esquire
15 East Cheapeake Avenue
Baltimore, MD 21286

RE: *In the Matter of: Performance Properties LLC*
Case No. 02-552-X /Closing Briefs

Dear Mr. Barreiro:

This letter will acknowledge receipt of Exhibits #3 and #8 which have been placed in the subject file.

As to the Memoranda to be filed June 16, 2003, the Board frequently requests that written memoranda be submitted in lieu of closing oral argument in zoning cases and other matters heard by the Board. These memoranda are filed simultaneously on a given date and then transmitted to the Board prior to the scheduled public deliberation. All parties to a case are invited to file a written Brief on the date assigned by the Board at the conclusion of the hearing. In this instance, closing memos are due from both you and Ms. Demilio on Monday, June 16, 2003 (original and three copies).

Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Carole S. Demilio, Deputy People's Counsel
for Baltimore County



MAURICIO E. BARREIRO, LLC

Attorneys-at-Law
15 East Chesapeake Avenue
Baltimore, Maryland 21286
(410)494-0030
fax (410)821-7740

Admitted in Maryland
& the District of Columbia

mebarreiro@aol.com

January 22, 2003

Kathy Bianco
Board of Appeals
Rm 49
Old Baltimore County Courthouse
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
MAY 16 2003
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Case No. 02-552-X
Petition for Special Exception

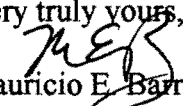
Dear Ms Bianco:

I am enclosing a list of Petitioner's exhibits for the Board, as well as the exhibits (#3 and #8) that we agreed to submit after copying:

Exhibit #1: Petitioner's Site plat used on Zoning Hearing
Exhibit #2: Proposed Class B Office Building Elevation drawing
Exhibit #3: Neighborhood Petition Approving of Special Exception - attached
Exhibit #4: 4 pages of DRC approval letters
Exhibit #5: Reviewing agency approvals
Exhibit #6: Office of Planning Approval
Exhibit #7: Deputy Zoning Commissioner File
Exhibit #8: Approved Development Plan - attached

The owner of the property at 9120-9124 Belair Road (Performance Properties, LLC), would respectfully request the **Board's reconsideration** of its decision to allow the People's Counsel until June 16 to file a Memorandum setting forth its position regarding the issues addressed at the Board of Appeals hearing yesterday. Approval of the special exception request by Deputy Commissioner Kotroco was achieved in July 2002, some 10 months ago, and the People's Counsel has had ample time to file papers during this time period; further writings serve no useful purpose, and greatly prejudice Performance Properties LLC's financial position.

Thank you for your continued cooperation.

Very truly yours,

Mauricio E. Barreiro

cc: People's Counsel

MAURICIO E. BARREIRO, LLC

Attorneys-at-Law
15 East Chesapeake Avenue
Baltimore, Maryland 21286
(410)494-0030
fax (410)821-7740

Admitted in Maryland
& the District of Columbia

mebarreiro@aol.com

January 22, 2003

Kathy Bianco
Board of Appeals
Rm 49
Old Baltimore County Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case No. 02-552-X
Petition for Special Exception
Performance Properties, LLC

Dear Ms Bianco:

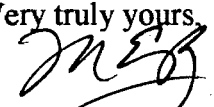
Thank you for speaking with me over the telephone regarding the scheduling of the hearing for the above-referenced appeal by the People's Counsel. Deputy Commissioner Timothy Kotroco's underlying Order granting the special exception was entered on July 29, 2002.

The owner of the property at 9120-9124 Belair Road (Performance Properties, LLC), would respectfully request a hearing on the appeal at the earliest convenience. Should any other petitioner's scheduled hearing(s) drop out, please feel free to call me so that we may use the available date(s) for the above referenced hearing. In my client's discussions with the People's Counsel, he was told that coordination of the hearing date should not be a problem.

The expected use of the property has obviously been limited by this appeal, so a prompt hearing would be necessary to allow the owners to finalize their building use plans.

Thank you for your continued cooperation.

Very truly yours,


Mauricio E. Barreiro

RECEIVED
JAN 23 2003

**BALTIMORE COUNTY
BOARD OF APPEALS**

02-552-X
7/23/02

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Perf. Proprietor { Steve Wolf
Dan Wooder
Mauricio Barreira
Iwona Ziska



Printed with Soybean Ink
on Recycled Paper

PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

9120 Belair Rd.

02-552X
7/23/02

NAME

WILLIAM LIBERCCI

IWONA ROSTEK-ZARSKA

ADDRESS

19 SHAWN CT. 2/23/06

222 Schilling Circle, Ft. 105

HUNT VALLEY, MD 21030

02-552-X

5/14/03 @ 10⁰⁰ a.m. ✓
7/02/03 @ 9³⁰ a.m. (Delib.)

EXHIBITS

8-4-2003
(20020552)
02-552-X

2 OF 2

02-552-X

Verified
5-14-03

EXHIBITS

CASE #: 02-552-X

PETITIONER

- ✓ 1. Site plan JW FILE
- ✓ 2. Class B office building plan ✓
- 5/16/03 ✓ * 3. Support petition
- ✓ 4. DRC opinions, 4 pages ✓
- ✓ 5. Reviewing agency documents, 6 pages ✓
- ✓ 6. Office of Planning approval letter ✓
- ✓ 7. DZC file ✓
- 5/16/03 ✓ * 8. Approved development plan

PEOPLE'S COUNSEL

- ✓ 1. Rule 8 papers, 3 pages
- ✓ 2. Zoning Map, 200' scale
- ✓ 3. Zoning map, 1000' scale
- ✓ 4. GIS photo

* To be provided by Petitioner



IMPROVEMENT ASSOCIATION, INC.

P.O. Box 63 Perry Hall, Maryland 21128

<http://www.bcpl.net/~phla>

phla@mail.bcpl.net

RESOLVED: That at the Board of Directors meeting of the Perry Hall Improvement Association held on Sunday, January 5, 2003, it was decided by the Association that responsibility for review and action on all zoning matters for the period 2003-2004 be placed in the Zoning, Development, and Permits Committee consisting of the following members, each of whom is hereby authorized to testify on behalf of the Association before the County Board of Appeals or other duly constituted zoning agency, body, or commission:

Chairman William Libercci;
Debra Beaty
Dennis Eckard
Brenda Ward
Howard Wille, Sr.

David Marks, president of the Perry Hall Improvement Association (ex officio committee member)

As witness our hands and seal this 5th day of January, 2003.

ATTEST:

Perry Hall Improvement Association

Wayne Rice, Secretary

David Marks, President

PC #1

5/14/03

PC#1 10F3

AFFIDAVIT

STATE OF MARYLAND
BALTIMORE COUNTY, SS:

To WIT:

I hereby swear under penalty of perjury that I am currently a duly elected member of the Zoning, Development, and Permits Committee of the Perry Hall Improvement Association.

ATTEST:

Perry Hall Improvement Association



Wayne Rice, Secretary



David Marks, President

Date: January 5, 2003



IMPROVEMENT ASSOCIATION, INC.

P.O. Box 63 Perry Hall, Maryland 21128

<http://www.bcpl.net/~phla>

phla@mail.bcpl.net

RESOLVED: That the position of the Perry Hall Improvement Association as adopted by the Zoning, Development, and Permits Committee on the zoning matter known as:

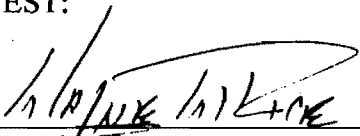
is that:

the PHIA gives its representatives discretion to act appropriately on behalf of the organization at the forthcoming hearing.

As witness our hands and seal this 13th day of may, 2003.

ATTEST:

Perry Hall Improvement Association


Wayne Rice, Secretary


David Marks, President



Jeff V. Markiewicz

phone: (410) 529-4884

fax: (410) 529-4885

home: (410) 256-8005

email: jeff@jmarked.com



Jeff Markiewicz & Associates

education & professional services

8441 Belair Road, Suite 201, Baltimore, Maryland 21236 U.S.A.

www.jmarked.com

JEFF MARKIEWICZ OFFICE BUILDING

DATE: 01-27-03



FRONT ELEVATION

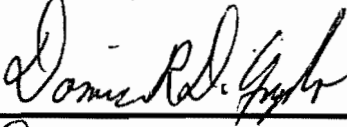
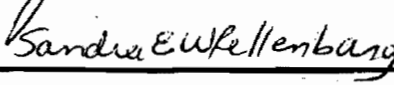
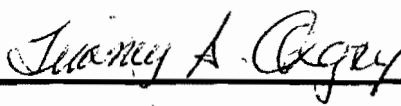
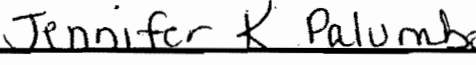
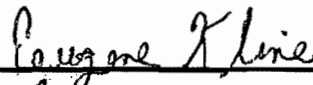
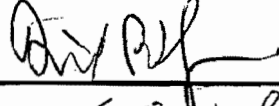
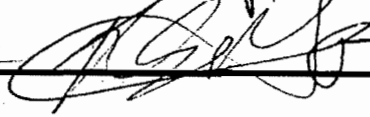
SCALE 1/8" = 1'-0"

GBL CUSTOM HOME DESIGNS INC.

PET#2 5/14/03

Support of Property Improvement 9122 Belair Road

I am a property owner located adjacent to or near 9122 Belair Road. I understand that Mr Jeff Markiewicz, Owner of Jeff Markiewicz and Associates, a Local Computer Consulting Company plans to construct a 2200 sq/ft residential office in my community. I am in full support of the improvements and his efforts. I believe that the structure under review will be consistent with the characteristics and quality of our community. We welcome, Mr. Markiewicz to our community.

Name	Signature	Address
DOMINIC R DIANGELO		4114 FARM SIDE
DA JANKOWSKI		4110 Farmside Dr
Sandra E.W. Kellenburg		4108 Farmside Dr
Timmy A. Cigay		4115 Farmside Dr
Jennifer K Palumbo		5 Open Gate Ct
Eugene Kline		7 Open Gate Ct
Jeff Herman		11 Open Gate Ct
Jim Beers		49 Open Gate Ct
Scott Miller		55 OPEN GATE CT
Daniel Pretapach		51 OPEN GATE CT
R.S. Part		4112 farmside Dr

302-012

Baltimore County Government
Department of Permits and
Development Management



111 West Chesapeake Avenue
Towson, MD 21204

410-887-3335

September 19, 2002

Baltimore Land Design Group, Inc.
222 Schilling Circle, Ste. 105
Hunt Valley, MD 21030

RE: Belair Road
9120-9124 Belair Road
DRC Number 090902E; Dist. 11C5

Dear Sir or Madam:

Pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, and as provided in Section 602 (d) of the Baltimore County Charter, and Section 26-132 of the Baltimore County Code, this letter constitutes an administrative order and decision on the request for issuance, renewal, or modification of a license, permit, approval, exemption, waiver, or other form of permission you filed with this department.

Your request has been submitted for careful review and consideration to the Development Review Committee (DRC), which is composed of representatives from each of those departments involved in land-use decisions. These representatives are designees of the directors of these departments. The purpose of the DRC is to ensure compliance with Section 26-171 and Section 26-211 of the Baltimore County Code and to make recommendations to the Director, Department of Permits and Development Management (PDM).

The DRC has, in fact, met in an open meeting on September 9, 2002, and made the following recommendations:

The DRC has determined that your project meets the requirements of a limited exemption under Section 26-171 (B) (9). Updated zoning history must be shown on the plan.

Ref # 4

Baltimore Land Design Group, Inc.
Belair Road
September 19, 2002
Page 2

In order to further process your development plan, submit two check prints, of the plan, prepared in accordance with Section 26-203 of the development regulations, one completed, signed and sealed copy of the **Development Plan Checklist**, and a copy of this letter to this office.

Be advised that in addition to development review fees, Phase 2 review fees may apply, depending on the amount of site disturbance, and/or the requirement of a Public Works Agreement.

I have reviewed the recommendations carefully, and I have determined to adopt the recommendations set forth above. It is this 19th day of September 2002, ordered and decided that the recommendations of the DRC are hereby adopted.

Should you submit an application for any permits that may be required for this project, your application will be processed subject to the conditions set forth above and any plans, securities, or non-county permits that may be required in accordance with County, State, or Federal regulations.

Additionally, this project is located on a state road; therefore, the State Highway Administration requires the plan to be reviewed prior to the permit approval. For further information, contact Larry Gredlein at 410-545-5600.

Sincerely,



Arnold Jablon
Director

AJ:DTR:dak

c: Kristin Weis
File
Larry Gredlein

Come visit the County's Website at www.baltimorecountyonline.info

Baltimore County Government
Department of Permits and Development Management



111 West Chesapeake Ave.
Towson, MD 21204

410-887-3321
410-887-2824 (fax)

January 3, 2003

Performance Properties LLC
9124 Belair Road
Baltimore, MD 21236-1601

Re: Approved Development Plan/
Limited Exemption
9120-9124 Belair Road
PDM #: XI-919, Drc #: 090902E

Dear Sir/Madam:

Enclosed you will find a copy of the approved, signed Development Plan for your files on the above referenced project. Please note that one (1) additional copy is being forwarded to the engineer to be used as a PWA mark-up plan, if applicable, to show all required public works improvements.

This development proposal may be further processed in accordance with the following:

A certified or cashier's check in the amount of \$2,340.00, made payable to Baltimore County, MD must be forwarded to this office to cover processing of phase II plans.

The Final Plat may be processed for recording.

Because this project is on a state road, the State Highway Administration (SHA) will require plan review prior to approval of any permit. For further information, contact Larry Gredlein of SHA at (410)545-5600.

Sincerely,

Christine K. Rorke
Christine K. Rorke
Project Manager

CKR:kw
c: Baltimore Land Design Group, Inc. (2)
R & P(1), DEPRM(1), DPR(1), PO(1), B of ED(1), File(2)

ED / PROVIDED
 PROPERTY RESIDENTIALLY ZONED OR USED (20' PROVIDED)
 NON-RESIDENTIALLY PROPERTY ZONED OR USED (10' PROVIDED)

REQUIREMENTS:

ING SPACES REQUIRED:

3 PS/1000 SF = $3.3 \times 887 / 1000 = 3.3$

ENT: 2 PS/APARTMENT = 2 PS

QUIRED: 6 PS

ROVIDED: 7 PS

ING SPACES REQUIRED:

3 PS/1000 SF = $3.3 \times 1,026 / 1000 = 3.4$

ENT: 2 PS/APARTMENT = 2 PS

QUIRED: 6 PS

ROVIDED: 6 PS

ING SPACES REQUIRED:

3.3 PS/1000 SF = $3.3 \times 2,094 / 1000 = 6.91$

QUIRED: 7 PS

ROVIDED: 8 PS

DES SHALL BE PROVIDED IN ACCORDANCE WITH THE
 BUILDING CODE FOR THE HANDICAPPED, CONTAINED IN
 MARYLAND REGULATIONS 05.01.07

QUIREMENTS: WILL COMPLY WITH RECENT BALTIMORE COUNTY LANDSCAPE MANUAL
 2 FOR DETAILS.

ONE REQUIRED.

ERVATION REQUIREMENTS: THE SIMPLIFIED FOREST STAND DELINEATION PLAN
 ET HAVE BEEN APPROVED BY ELR OF BALTIMORE COUNTY ON 4/30/02.
 BEST TO MEET THE AFORESTATION/REFORESTATION REQUIREMENT FOR THIS
 PURCHASING 0.2 ACRE OF CREDIT IN AN APPROVED FOREST CONSERVATION
 K WAS APPROVED ON 5/3/02.

MANAGEMENT:

OF DISTURBANCE IS LESS THAN 5000 SF.

EXISTING OR PROPOSED WELL OR SEPTIC AREAS.

KNOWN WETLANDS REQUIRING REGULATION, CRITICAL AREAS, ARCHEOLOGICAL SITES,
 SPECIES HABITATS, OR HAZARDOUS MATERIALS ON SITE.

EXISTING STREAMS, BODIES OF WATER OR 100 YEAR FLOODPLAINS ON THIS SITE.

HISTORIC BUILDINGS ON THE SITE.

ALL COMPLY WITH SECTION 450 OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.

ING USED FOR ILLUMINATION AND SECURITY PURPOSES SHALL BE ARRANGED
 HE LIGHT AWAY FROM ADJACENT PROPERTIES AND PUBLIC STREETS.

= 82

& SEWER FACILITIES EXIST.

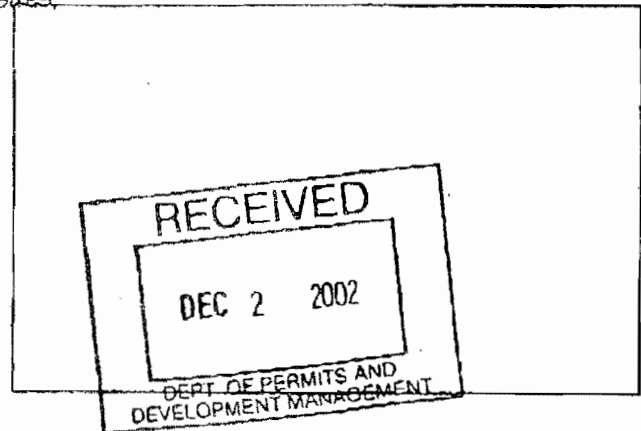
BALTIMORE COUNTY DEPT. OF PDM
 Project No. **XI-919/090902E**

DEVELOPMENT REGULATIONS
 Exempt from Sections 26-202 & 26-206

CERTIFICATION of Limited Exemption Plan Approval

By: *Christine Buzza* Date: *12/17/02*

This plan approval shall expire five (5) years
 from the above approval date



#XI-919

DRC # 090902 E

DEVELOPMENT PLAN
 FOR

1120-9124 BELAIR ROAD PROPERTIES

MORE COUNTY, MD
 AS SHOWN

ELECTION DIST. NO. 11 C5
 DATE: SEPTEMBER 16, 2002
 SHEET 1 OF 2



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 19, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF June 17, 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:

552
550-554, 556&557, 559-562

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

cc: File

2002

Patricia L. #5

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: July 9, 2002

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

SUBJECT: Zoning Advisory Committee Meeting
For June 24, 2002
Item Nos. 550, 552, 553, 554, 556, 557,
559, 560, 561, and 562

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

RWB:HJO:jrb

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 6.20.02

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

RE: Baltimore County
Item No. 552

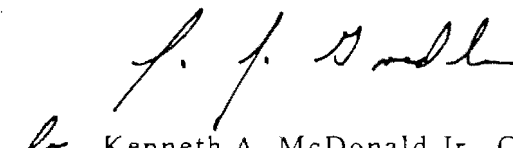
JJS

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 1 are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA 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,


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



Maryland Department of Planning

Parris N. Glendon
Governor
Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz
Secretary
Mary Abrams
Deputy Secretary

June 20, 2002

Mr. George Zahner
Baltimore County
Department of Permits and Development Management
111 West Chesapeake Avenue, Room 111
County Office Building (Mail Stop #1105)
Towson MD 21204

Re: **Zoning Advisory Committee meeting – June 24, 2002**
Case #'s 02-550-A, 02-551-XA, 02-552-X, 02-553-A, 02-554-SPH, 02-555-SPHXA,
02-556-A, 02-557-A, 02-558-SPHXA, 02-559-A, 02-560-A, 02-561-, and 02-562-SPHA

Dear Mr. Zahner:

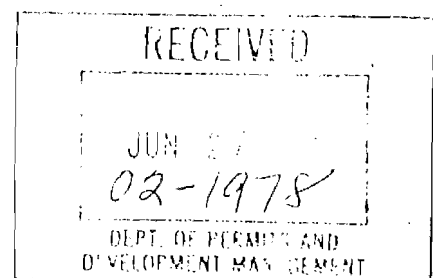
The Maryland Department of Planning has received the above-referenced information on 6/19/02. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

James R. Gatto
Manager
Metropolitan Planning
Local Planning Assistance Unit

cc: Mike Nortrup





IMPROVEMENT ASSOCIATION, INC.

P.O. Box 63 Perry Hall, Maryland 21128

<http://www.bcpl.net/~phla>

phla@mail.bcpl.net

RESOLVED: That the position of the Perry Hall Improvement Association as adopted by the Zoning, Development, and Permits Committee on the zoning matter known as:

9120-9124 Belair Road

is that:

The Perry Hall Improvement Association gives Mr. Libercci discretion to determine a position, pending the hearing.

As witness our hands and seal this 23 day of July, 2002.

ATTEST:

Perry Hall Improvement Association

William Libercci, Sr.
William Libercci, Secretary

David Marks
David Marks, President

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 20, 2002

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

SUBJECT: 9120-9124 Belair Road

INFORMATION:

Item Number: 02-552

Petitioner: Performance Properties, LLC

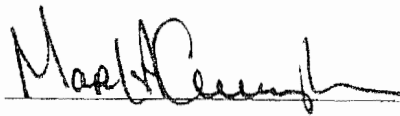
Zoning: RO & DR 5.5

Requested Action: Special Exception

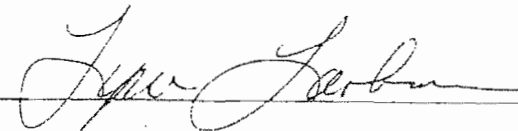
SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to construct a "Class B" office building providing landscaping is added to the parking area adjacent to Belair Road. The petitioner should consult with the Karin Brown, 5th District Community Planner regarding this issue, prior to the issuance of any building permits.

Prepared by:

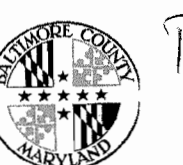


Section Chief:



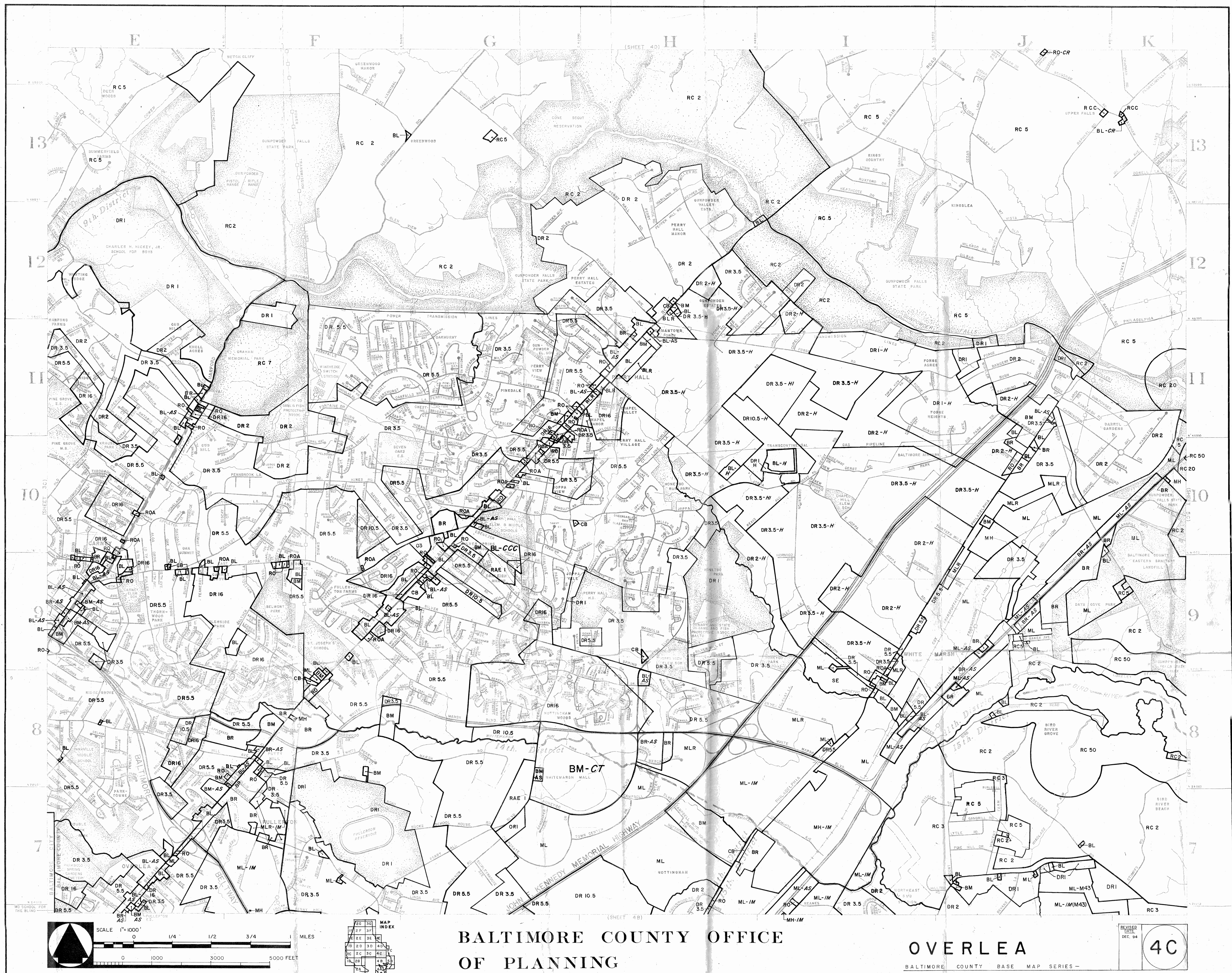
AFK/LL:MAC:

PET #6 5/14/03



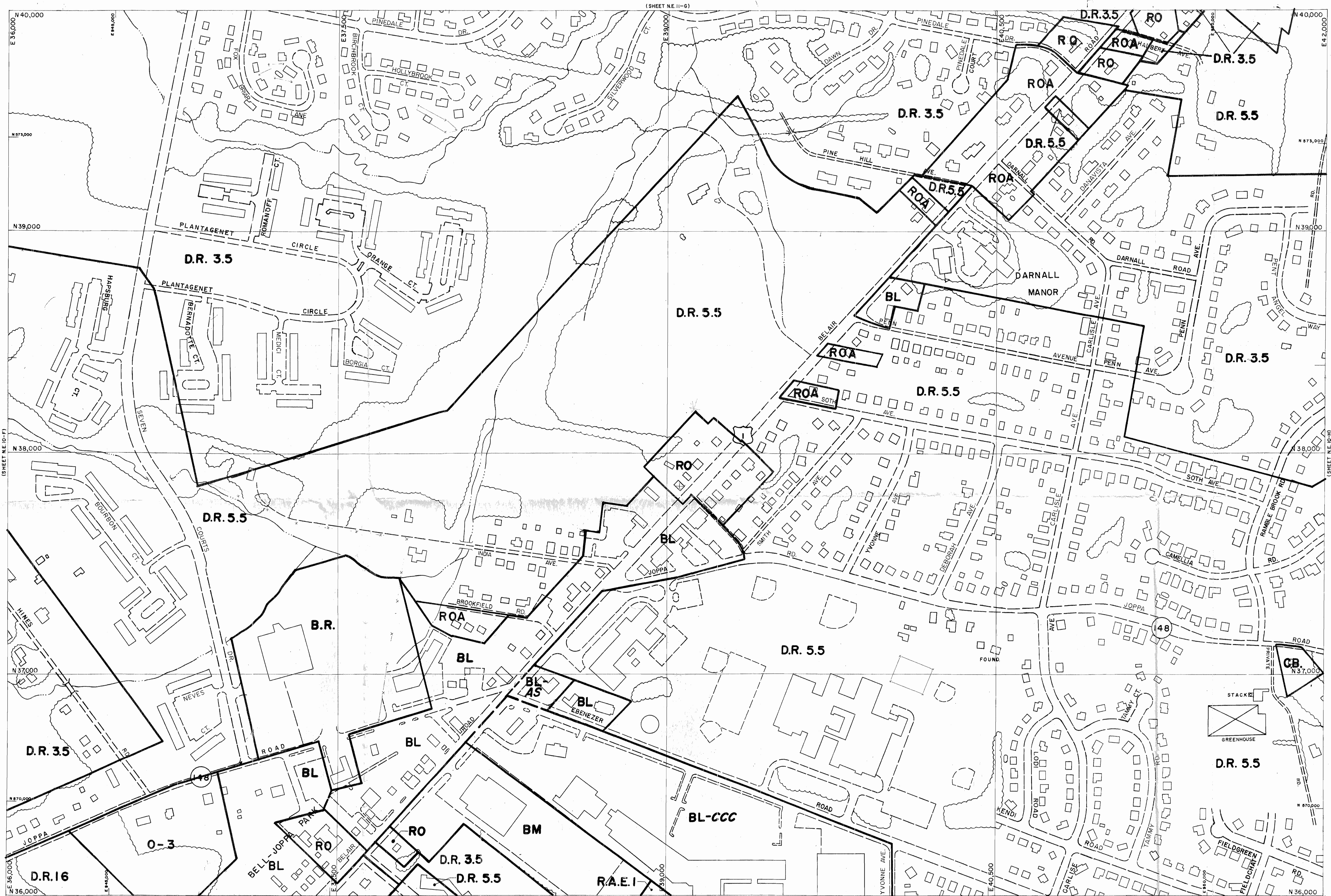
02-522-X

PC#4
 5/14/03



Belair Road 1000 Peak

02-552
PC#3 5/4/03



M - NW Q - SW THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210	2000 COMPREHENSIVE ZONING MAP ADOPTED BY THE BALTIMORE COUNTY COUNCIL OCTOBER 10, 2000 Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00, <i>Joseph Bartolotta</i> Chairman, County Council	BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP	SCALE 1" = 200' ± DATE OF PHOTOGRAPHY JANUARY 1986	LOCATION PERRY HALL	SHEET N.E. 10 - G
--	--	---	--	--------------------------------	----------------------------------

NE 10 G

200 scale zoning map Perry Hall Rd

A. PREPARER OF PLAN

Name: Baltimore Land Design Group, Inc.
Address: 222 Schilling Circle, Suite 105
Hunt Valley, Md. 21030
Phone: 410-229-9851
Date: September 17, 2002

B. APPLICANT

Name: Performance Properties LLC
Address: 9124 Belair Road
Baltimore, MD 21236-1601
Phone: 410-529-7865

I, David M. Kasper, certify under oath that there are no delinquent accounts for any other development with respect to following: the applicant, a person with a financial interest in the proposed development, or a person that will perform contractual services on behalf of the proposed development.

C. ENVIRONMENTAL INFORMATION

Existing	Not Existing	Field Verified	REMARKS
X		X	Topography and street grades (minimum 5 ft. contour appropriate) listed.
X	X		Slopes greater than 20%.
X	X		100 year floodplain.
X	X		Soil mapped according to Soil Survey, Baltimore County, Maryland.
X	X		Streams, swamps, ponds or other water bodies shown on site and within 200 ft. of site boundaries.
X	X		Forests.
X	X	X	Forest buffer limits including adjustments for steep slopes and/or erodible soils.
X	X		Land cover on and within 200 ft. of site.
X	X		Significant regulated trees or wildlife communities.
X	X		Wells on site or within 100 ft. of site.
X	X		Septic on site or within 100 ft. of site.
X	X		Underground fuel tanks on site and within 100 ft. of site.
X	X		Soil evaluation tests (perc tests) performed.

D. EXISTING BUILT CONDITIONS

Existing	Not Existing	REMARKS
X		Locations of existing buildings within 200 ft. of site boundaries.
X	X	Location of existing roads within 200 ft. of site boundaries.
X	X	Designated historic sites.
X	X	Designated archeological sites.
X	X	Significant views.
X	X	Significant features (specimen trees, buildings, archaeological sites).
X	X	Land use on and within 200 ft. of site.
X	X	Roads, utility of way, and easements.

E. COUNTY ADOPTED PLANS

Existing	Not Existing	In Compliance	REMARKS
X	X	X	Baltimore County Master Plan 2010
X	X	X	Community or Recreational Plans
X	X	X	Recreation and Parks Plan
X	X	X	Development Plan
X	X	X	Greenways Plan
X	X	X	Other:

SOILS DATA

SYMBOL	NAME	HYDROLOGIC GROUP	BUILDING FOOTPRINT	LIMITATIONS	STREETS AND PARKING LOTS
CB	CHILLUM (URBAN) LAND	B	SUBT	SUBT	MODERATE SLOPE

BALTIMORE COUNTY SOIL SURVEY - MAP 36

"FIRST AMENDED PLAT 3 OF 4 CEDARSIDE FARM" S.M. 60/138 TAX ACCT. # 2100009204

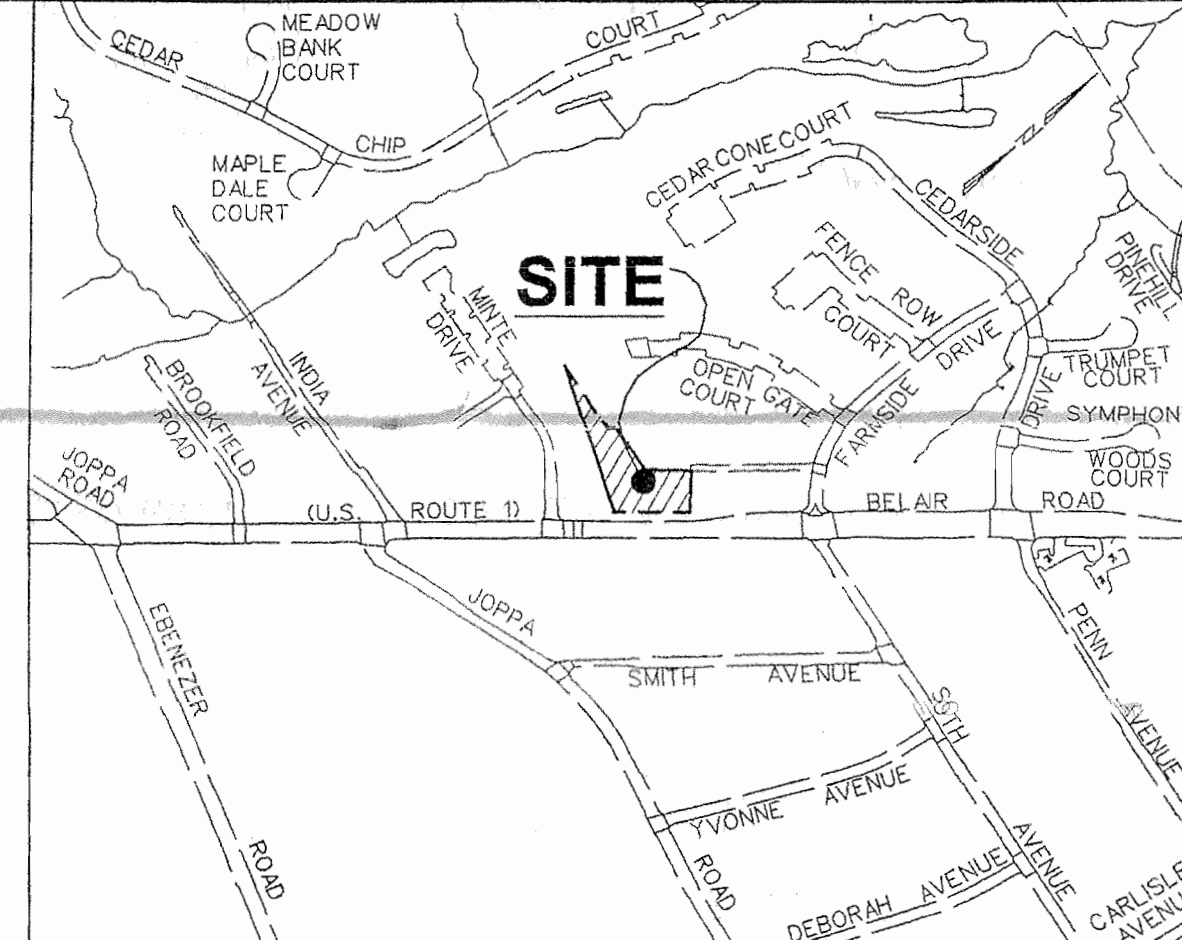


PART OF ZONING MAP N.E. 10 G

SCALE: 1"=200'

LEGEND

PROPERTY LINE	EX. C&G
R/W LINE	EX. 18" SD
EXIST. CURB & GUTTER	EX. 8" S
EXIST. STORM DRAIN	EX. 20" W
EXIST. SANITARY	
EXIST. WATER	
EXIST. OVERHEAD LINES	
EXIST. POLES	EX. 6" GAS
EXIST. GAS	
ZONING LINE	
EXIST. WOODS	
EXIST. INTERMEDIATE CONTOUR	226'
EXIST. NEAR CONTOUR	230'
PROP. CONCRETE	
PROP. MACADAM PAVING	
NO PROP. PARKING SPACES	9
PROP. SANITARY	PROP. 8" SAN
PROP. WATER	PROP. 24" W
LIMIT OF DISTURBANCE	LOD



VICINITY MAP

SCALE 1"=500'

BENCHMARK

1. COORDINATES SHOWN ON THIS PLAN ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE MARYLAND COORDINATE SYSTEM - NAD 82 (1981) AND ARE BASED ON THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM CONTROL STATIONS, PROVIDED BY THE NATIONAL GEODETIC SURVEY:

DESIGNATION	NORTH (NAD 82)	EAST (NAD 82)	PID
W.M. MALL	620591.57	1464674.60	JV6936
GIS 13	616483.88	1470567.63	AC7696

2. ELEVATIONS SHOWN ON THIS PLAN ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88) WITH LOCAL REFERENCES TO THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM BENCHMARK, PROVIDED BY THE NATIONAL GEODETIC SURVEY:

DESIGNATION	ELEVATION (NAD 88)	PID
W.M. MALL	95.95	JV6936
GIS 13	122.15	AC7696

SITE DATA

- AREA OF EX. PARCEL 303: GROSS AREA = 0.713 Ac; NET AREA = 0.619 Ac. AREA OF EX. PARCEL 888: GROSS AREA = 0.287 Ac; NET AREA = 0.247 Ac. AREA OF EX. PARCEL 'A': GROSS AREA = 0.047 Ac; NET AREA = 0.047 Ac.
- TOTAL GROSS AREA OF EXISTING PARCELS 303 & 888 AND PARCEL 'A' = 1.047 Ac.
- TOTAL NET AREA OF EXISTING PARCELS 303 & 888 AND PARCEL 'A' = 0.913 Ac.
- AREA OF PROPOSED LOT 1: GROSS AREA = 0.418 Ac; NET AREA = 0.345 Ac. AREA OF PROPOSED LOT 2: GROSS AREA = 0.409 Ac; NET AREA (K) = 0.226 Ac; GROSS AREA (K) = 0.236 Ac; NET = GROSS AREA (D.R. 5.5) = 0.173 Ac. AREA OF PROPOSED LOT 3: GROSS AREA = 0.220 Ac; NET AREA = 0.175 Ac.
- TOTAL GROSS AREA OF LOTS 1-3 = 1.047 Ac.
- TOTAL NET AREA OF LOTS 1-3 = 0.913 Ac.
- EXISTING ZONING: RD & D.R. 5.5, MAP: N.E. 10 G.
- EXISTING USE: PARCEL 303: TWO-STORY DWELLING; PARCEL 888: GENERAL OFFICE USE; TWO-STORY, CLASS 'A' OFFICE; PARCEL 'A': VACANT.
- PROPOSED USE: LOT 1: CLASS 'A' OFFICE BLDG (50% OF TOTAL FLOOR AREA) & DWELLING UNIT (50% OF TOTAL FLOOR AREA); LOT 2: CLASS 'B' OFFICE BLDG (1ST FLOOR) & DWELLING UNIT (2ND FLOOR); LOT 3: GENERAL OFFICE USE, TWO-STORY, CLASS 'A' OFFICE BLDG (1ST AND 2ND FLOOR).
- OWNER / APPLICANT / DEVELOPER: PERFORMANCE PROPERTIES LLC, 9124 BELAIR ROAD, BALTIMORE, MD 21236-1601, PHONE: 410-529-7865.
- DEED REFERENCES: MAP 72, GRID B; PARCELS 303 & 888 & PARCEL 'A'; PARCEL 303: 18481 / 535; TAX ACCT. #11-102-2455; PARCEL 888: 14826 / 210; TAX ACCT. #11-107-1100; PARCEL 'A': 16333 / 102; TAX ACCT. #22-00017433.
- ELECTION DISTRICT: 11, C5.
- CENSUS TRACT: 4114.06; WATERSHED: 10; SUBWATERSHED: 22.
- FLOOR AREA RATIO FOR LOT 1: MAX PERMITTED: 0.33; PROPOSED: 2052 S.F. / 0.409 Ac x 43,560 = 0.12.
- HEIGHT OF STRUCTURE ON LOT 2: MAX ALLOWED: 30 FT; PROPOSED: 35 FT.
- MINIMUM SETBACKS REQUIRED FOR PROPOSED CLASS 'B' OFFICE BUILDING: FRONT: 20 FT; SIDE: 10 FT IF ADJACENT TO NON-RESIDENTIALLY ZONED OR USED PROPERTY, 20 FT IF ADJACENT TO RESIDENTIALLY ZONED OR USED PROPERTY; REAR: 30 FT.
- SETBACKS PROVIDED FOR CLASS 'B' OFFICE BUILDING: FRONT: 28 FT; SIDE: 20 FT AND 15 FT +/-; REAR: 32 FT +/-.
- MINIMUM OPEN SPACE (AOS) FOR CLASS B OFFICE BLDG: MIN. REQUIRED: 75 SF INTERIOR OF PARKING LOT; PROVIDED: N/A - PARKING CONTAINING LESS THAN 15 SPACES.
- LANDSCAPE BUFFER REQUIREMENTS: MIN. REQUIRED: 1' PROVIDED; 10' FROM PROPERTY RESIDENTIALLY ZONED OR USED (20' PROVIDED); 10' FROM NON-RESIDENTIALLY PROPERTY ZONED OR USED (10' PROVIDED).
- PARKING REQUIREMENTS: LOT 1: PARKING SPACES REQUIRED: OFFICE: 3.3 PS/1000 SF = 3,368 SF / 1000 = 3.3; APARTMENT: 2 PS/APARTMENT = 2 PS; TOTAL REQUIRED: 6 PS; TOTAL PROVIDED: 6 PS.
- LOT 2: PARKING SPACES REQUIRED: OFFICE: 3.3 PS/1000 SF = 3,368 SF / 1000 = 3.3; APARTMENT: 2 PS/APARTMENT = 2 PS; TOTAL REQUIRED: 6 PS; TOTAL PROVIDED: 6 PS.
- LOT 3: PARKING SPACES REQUIRED: OFFICE: 3.3 PS/1000 SF = 3,368 SF / 1000 = 3.3; APARTMENT: 2 PS/APARTMENT = 2 PS; TOTAL REQUIRED: 6 PS; TOTAL PROVIDED: 6 PS.
- PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED, CONTAINED IN THE CODE OF MARYLAND REGULATIONS 03.07.
- LANDSCAPE REQUIREMENTS: WILL COMPLY WITH RECENT BALTIMORE COUNTY LANDSCAPE MANUAL, SEE SHEET 2 OF 2 FOR DETAILS.
- OPEN SPACE: NONE REQUIRED.
- FOREST CONSERVATION REQUIREMENTS: THE SIMPLIFIED FOREST STAND DELINEATION PLAN, AND UNKOWNLY HAVE APPROVED BY EIA OF BALTIMORE COUNTY ON 04/02/02. VARIANCE REQUEST TO MEET THE APPEAL FOR FOREST CONSERVATION REQUIREMENT FOR THE PROPOSED DEVELOPMENT WAS APPROVED BY AN APPROVED FOREST CONSERVATION RESTORATION PLAN WAS APPROVED ON 5/20/02.
- STORM WATER MANAGEMENT: EXEMPT. LIMIT OF DISTURBANCE IS LESS THAN 5000 SF.
- THERE ARE NO EXISTING OR PROPOSED WELL OR SEPTIC AREAS.
- THERE ARE NO KNOWN WETLANDS REQUIRING REGULATION, CRITICAL AREAS, ARCHIOLOGICAL SITES, ENDANGERED SPECIES HABITATS OR HAZARDOUS MATERIALS ON SITE.
- THERE ARE NO EXISTING STREAMS OR DITCHES OR 100-YEAR FLOODPLAINS ON THIS SITE.
- THERE ARE NO HISTORIC BUILDINGS ON THE SITE.
- THEY SHALL COMPLY WITH SECTION 450 OF THE B.C.Z.M. AND ALL ZONING SIGN POLICIES.
- ALL SITE LIGHTING USED FOR ILLUMINATION AND SECURITY PURPOSES SHALL BE ARRANGED TO REFLECT THE LIGHT AWAY FROM ADJACENT PROPERTIES AND PUBLIC STREETS.
- ESTIMATED ADT = 80.
- PUBLIC WATER & SEWER FACILITIES EXIST.

BELAIR ROAD U.S. ROUTE 1

PROPOSED LOTS

SCALE: 1"=50'

DEVELOPMENT APPROVAL

PRC DETERMINED THAT THIS PROJECT MET REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 26-171(P)(9) ON SEPTEMBER 9, 2002. (PRC # 090902 E)

ZONING HISTORY

- ZONING CASE #74-206-R: REQUEST FOR A RECLASSIFICATION OF A PORTION OF PARCEL 303 FROM A D.R. 5.5 ZONE TO A B.C. ZONE WAS DENIED BY ZONING COMMISSIONER OF BALTIMORE COUNTY ON JUNE 26, 1974.
- ZONING CASE #02-206-R: REQUEST FOR A SPECIAL EXCEPTION TO CONSTRUCT CLASS B OFFICE BUILDING ON LOT 2 WAS GRANTED BY THE ZONING COMMISSIONER ON 7/26/02. CASE WAS APPEALED TO THE BALTIMORE COUNTY BOARD OF APPEALS. IT IS AWAITING A HEARING.

NOTE: SINCE CASE #02-206-R WAS APPEALED AND IT WAS NOT HEARD BY THE BOARD, THEREFORE, THE OWNER / DEVELOPER HAS ADVISED THAT HE COULD PROCEED WITH THE DEVELOPMENT OF THIS PROJECT AT HIS OWN RISK.

THEREFORE, IT IS ORDERED this 26th day of July, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for special exception to construct a Class B office building on Lot No. 2, be and is hereby GRANTED, subject, however, to the following restriction:

- The Petitioner shall be required to submit a landscape plan to Karen Brown, the Fifth District Community Planner, for her review and approval.

THOMAS M. KOTRODO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

THE PROPERTY LINE SHOWN HEREON IS BASED ON THE SURVEY PREPARED BY DAFT MCCUNE WALKER IN OCTOBER, 2000 AND FEBRUARY 2002.

I, Karen Brown, certify that this plan is sealed and signed as being in compliance with the Deputy Zoning Commissioner Order and all Baltimore County Agency comments.



BLDG

Baltimore Land Design Group Inc.
Consulting Engineers

222 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21030
PHONE: 410-229-9851 • FAX: 410-229-9865 • BLDG@CWSTARMAIL.COM

PDM #X1-919

DRG # 090902 E

DEVELOPMENT PLAN

FOR

9120-9124 BELAIR ROAD PROPERTIES

BALTIMORE COUNTY, MD
SCALE: AS SHOWN

ELECTION DIST. NO. 11, C5
DATE: SEPTEMBER 16, 2002
SHEET 1 OF 2



LEGEND		
PROPERTY LINE	EX. C&G	
R/W LINE	EX. 18" SD	
EXIST. CURB & GUTTER	EX. 18" SD	
EXIST. STORM DRAIN	EX. 8" S	
EXIST. SANITARY	EX. 20" W	
EXIST. WATER		
EXIST. OVERHEAD LINES		
EXIST. POLES	EX. 6" GAS	
EXIST. GAS		
ZONING LINE		
EXIST. WOODS		
EXIST. INTERMEDIATE CONTOURS	~226~	
EXIST. INDEX CONTOURS	~230~	
PROP. CONCRETE		
NO PROP. PARKING SPACES	9	
PROP. SANITARY	PROP. 8" SAN	
PROP. WATER	PROP. 24" W	

SCHEMATIC LANDSCAPE LEGEND (PROPOSED)		
KEY	QUANTITY	NO. PLANTS
SHADE TREE (2" - 2 1/2" CAL)	10	10
ORNAMENTAL TREE (1" - 1 1/2" CAL)	2 (@ 2')	1
SHRUBS (15' - 20' HT. DEPENDING ON SCREEN TYPE)	40 (@ 5')	8
TOTAL PLANTING UNITS PROVIDED = 19		
PLUS PROPOSED BOARD-ON-BOARD FENCE IN ADDITION TO EXISTING SOLID WOOD FENCE ALONG LOT 54		

LANDSCAPE CALCULATIONS (REQUIREMENTS)		
(1) P.U. / 140 L.F. ADJACENT PUBLIC R/W = 194' / 140' = 5 P.U.		
(2) P.U. / 20 L.F. INTERIOR ROADWAY = 100' / 20' = 5		
(3) P.U. / 12 PARKING SPACES = 22' / 12' = 2		
*SCREEN PARKING: (1) P.U. / 15 L.F.		
-ADJACENT TO PUBLIC R/W (CLASS 'B'): 40' / 15' = 3		
-ADJACENT TO RESIDENTIAL PROPERTIES: 80' / 15' = 5 (CLASS 'A')		
*SCREEN NON-RESIDENTIAL BUILDING IN RO ZONE:		
-ADJACENT COMMERCIAL PROPERTY (1 P.U. / 20 L.F. BUILDING FASCAD):		
-EX. OFFICE USE ON 150' / 20': 30' + 27' (SIDE) = 57' / 20' = 3		
-ADJACENT TO RESIDENTIAL PROPERTY (1 P.U. / 15 L.F. BUILDING FASCAD):		
-ADJACENT TO LOT 52 (SIDE): 50' + TAKING CREDIT FOR EXISTING SOLID WOOD FENCE AND EXISTING VEGETATION = 0		
-ADJACENT TO LOT 54: 27' (SIDE) + 27' (REAR) = 54' / 15' = 4		
* TOTAL REQUIRED PLANTING UNITS = 27		
*CREDIT FOR (4) EX. TREES OVER 3" CALIPER X 2		
* NET PLANTING UNITS REQUIRED = 19		

CREDIT FOR (4) EXISTING TREES OVER 3" CALIPER (SEE CALCULATIONS):

(1) 25" SILVER MAPLE
(1) 26" SYCAMORE
(1) 30" NORWAY MAPLE
(1) 50" WHITE PINE

BALTIMORE COUNTY DEPT. OF PDM
Project No. **XI-919 / 090902 E**
DEVELOPMENT REGULATIONS
Exempt from Sections 28-202 & 28-203
CERTIFICATION of Limited Exemption Plan Approval
By: *[Signature]* Date: **11/17/02**
This plan approval shall expire five (5) years from the above approval date

BLDG
Baltimore Land Design Group Inc.
Consulting Engineers
222 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21090
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@WINSTARMAIL.COM

THE PROPERTY LINE SHOWN HEREON IS BASED ON THE SURVEY PREPARED BY DAFT McCUNE WALKER IN OCTOBER, 2000 AND FEBRUARY 2002.

PRELIMINARY LANDSCAPE PLAN PREPARED BY:
HUMANA ROSE, INC.
LANDSCAPE ARCHITECTS
210 VIRGINIA AVENUE
TOWSON, MARYLAND 21206
(410) 825-3660

OWNER/DEVELOPER
PERFORMANCE PROPERTIES LLC
9124 BEL AIR ROAD
BALTIMORE, MD 21236-1601
PHONE: 410-529-7865

PDM #XI-919
DRC # 090902 E

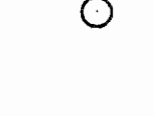
DEVELOPMENT PLAN - PRELIMINARY LANDSCAPING
FOR
9120-9124 BELAIR ROAD PROPERTIES
BALTIMORE COUNTY, MD
SCALE: AS SHOWN

ELECTION DIST. NO. 11 C5
DATE: SEPTEMBER 16, 2002
SHEET 2 OF 2

CREDIT FOR (4) EXISTING TREES OVER 3" CALIPER (SEE CALCULATIONS):

(1) 25" SILVER MAPLE
(1) 20" SYCAMORE
(1) 15" NORWAY MAPLE
(1) 50' +/- WHITE PINE

SCHEMATIC LANDSCAPE LEGEND (PROPOSED)

KEY	QUANTITY	NO. P.U.'S
	SHADE TREE (2" - 2 1/2" CAL)	10
	ORNAMENTAL TREE (1" - 1 1/2" CAL)	2 (@ 2:1)
	SHRUBS (10" - 30" HT. DEPENDING ON SCREEN TYPE)	40 (@ 5:1)
	TOTAL PLANTING UNITS PROVIDED =	19
	PLUS PROPOSED BOARD-ON-BOARD FENCE IN ADDITION TO EXISTING SOLID WOOD FENCE ALONG LOT 54	

LANDSCAPE CALCULATIONS (REQUIREMENTS)

* (1) P.U. / 40 L.F. ADJACENT PUBLIC R/W: 194' / 40' = 4.85 P.U.
* (1) P.U. / 20 L.F. INTERIOR ROADWAY: 100' / 20' = 5
* (1) P.U. / 12 PARKING SPACES: 22 / 12 = 1.83

* SCREEN PARKING: (1) P.U. / 15 L.F.
- ADJACENT TO PUBLIC R/W (CLASS B): 40' / 15' = 2.67
- ADJACENT TO RESIDENTIAL PROPERTIES: 80' / 15' = 5.33 (CLASS A)

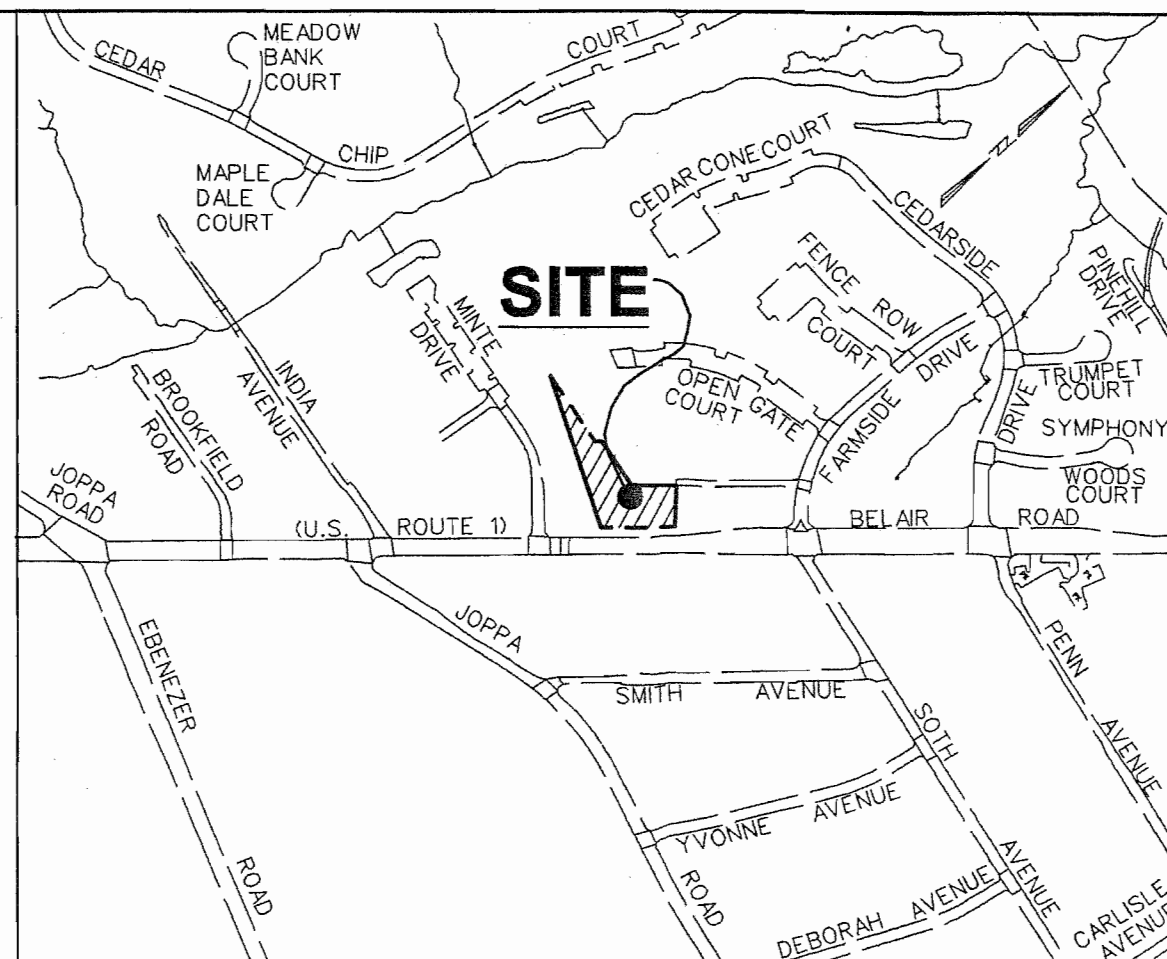
* SCREEN NON-RESIDENTIAL BUILDING IN R-O ZONE:
- ADJACENT COMMERCIAL PROPERTY (1 P.U. / 20 L.F. BUILDING FASCIA): 30' + 27' (SIDES) = 57' / 15' = 3.8
- EX OFFICE USE ON 156791026: 30' + 27' (SIDES) = 57' / 15' = 3.8

- ADJACENT TO RESIDENTIAL PROPERTY (1 P.U. / 15 L.F. BUILDING FASCIA):
- ADJACENT TO LOT 52 (SIDE): 39' - TAKING CREDIT FOR EXISTING SOLID WOOD FENCE AND EXISTING VEGETATION = 0
- ADJACENT TO LOT 54: 27' (SIDE) + 27' (REAR) = 54' / 15' = 3.6

* TOTAL REQUIRED PLANTING UNITS = 27
* CREDIT FOR (4) EX TREES OVER 3" CALIPER X 2 = - 8
* NET PLANTING UNITS REQUIRED = 19

LEGEND

PROPERTY LINE	---
EXIST. CURB & GUTTER	EX. C&G
EXIST. STORM DRAIN	EX. 18" SD
EXIST. SANITARY	EX. 8" S
EXIST. WATER	EX. 20" W
EXIST. OVERHEAD LINES	---
EXIST. POLES	EX. 6" GAS
EXIST. GAS	---
ZONING LINE	-----
EXIST. WOODS	---
EXIST. INTERMEDIATE CONTOURS	~226~
EXIST. NECK CONTOURS	~230~
PROP. CONCRETE	---
NO PROP. PARKING SPACES	9
PROP. SANITARY	---
PROP. WATER	---



VICINITY MAP
SCALE 1" = 500'

BENCHMARK

1. COORDINATES SHOWN ON THIS PLAN ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE MARYLAND COORDINATE SYSTEM - NAD 82 (1989) AND ARE BASED ON THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM CONTROL STATIONS, PROVIDED BY THE NATIONAL GEODETIC SURVEY.

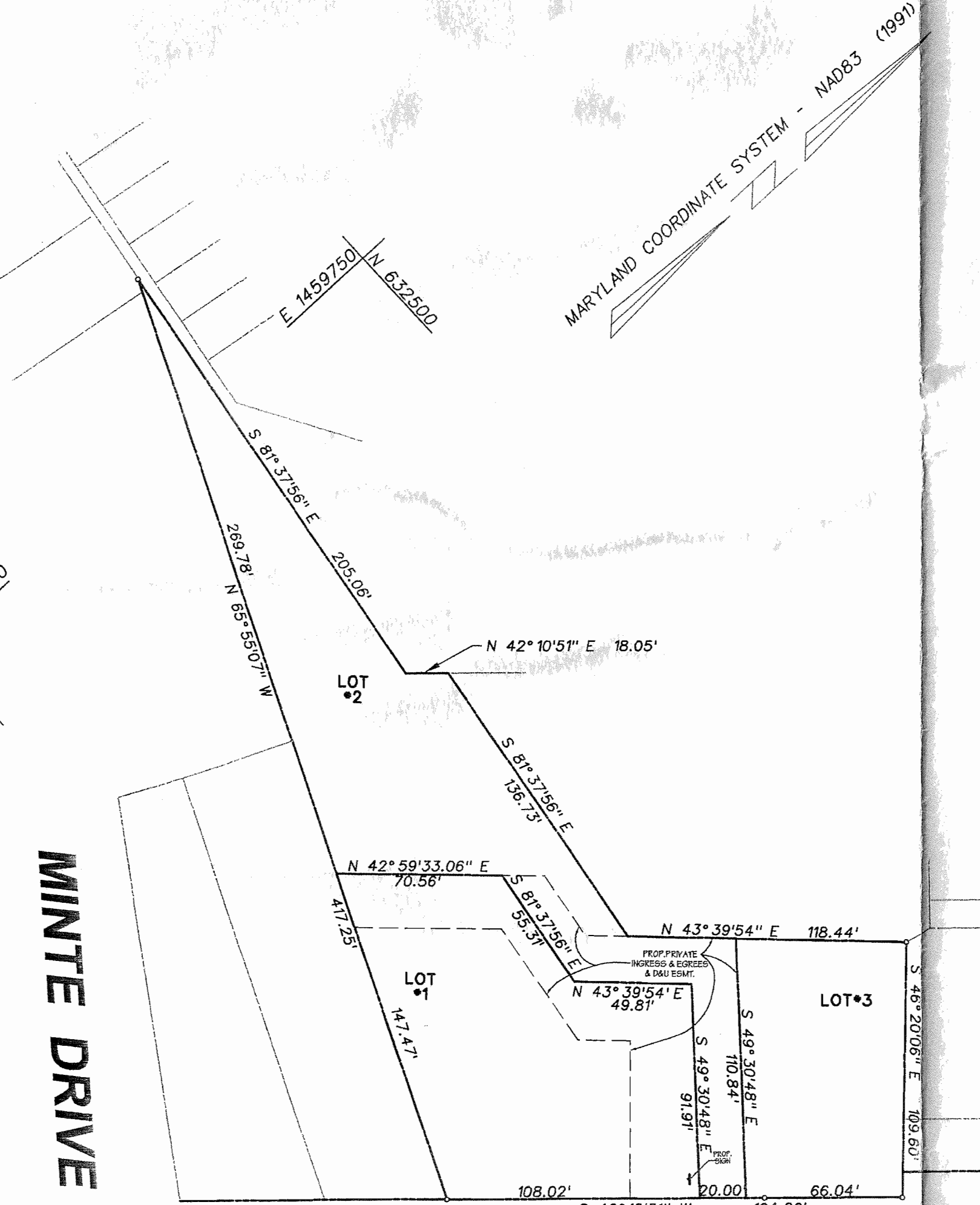
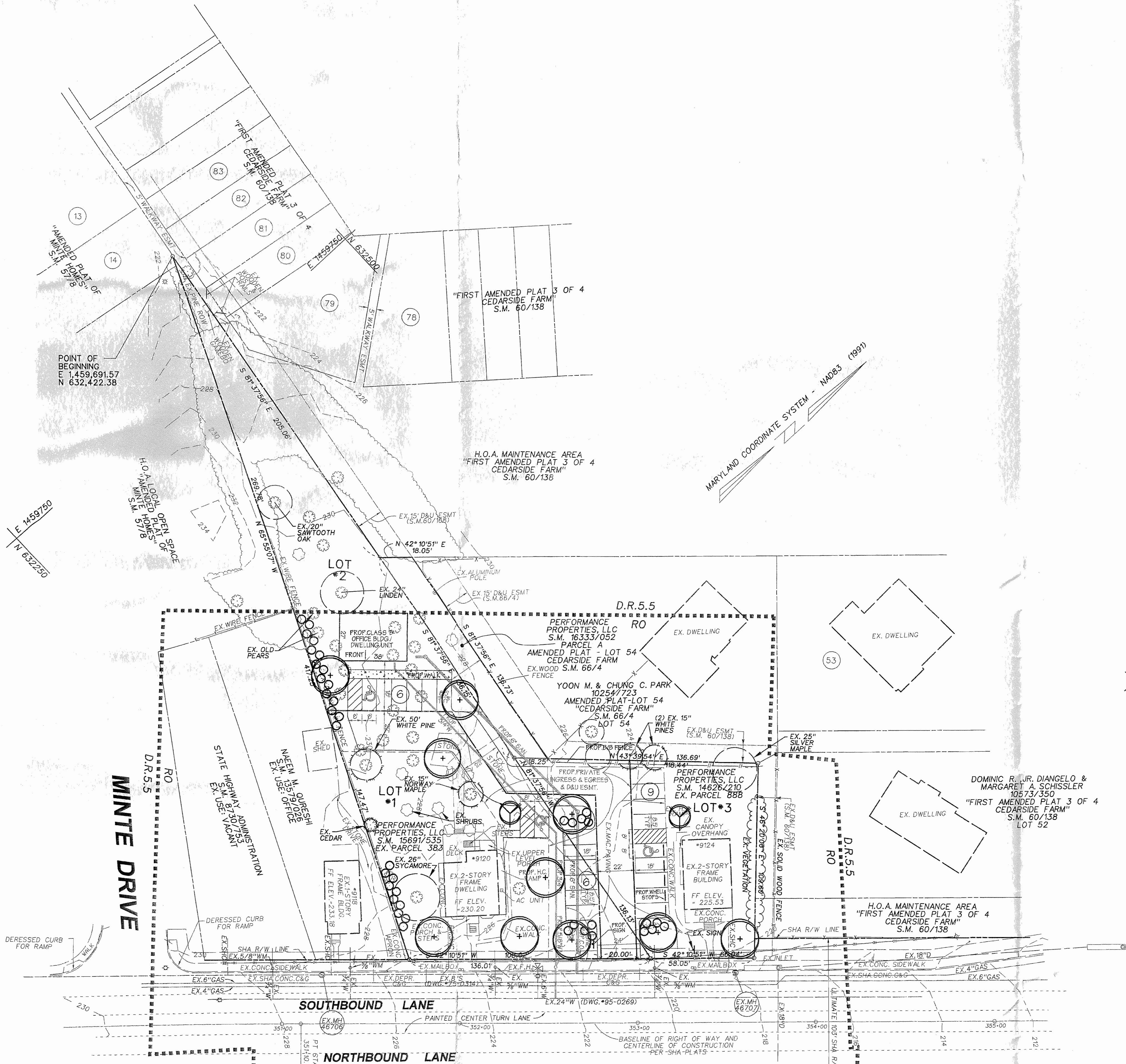
DESIGNATION	NORTH (GPT)	EAST (GPT)	PID
W M MALL	620504.33	1464674.60	J16838
GIS 15	616403.98	1473591.63	AC7696

2. ELEVATIONS SHOWN ON THIS PLAN ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88) WITH LOCAL REFERENCES TO THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM BENCHMARK, PROVIDED BY THE NATIONAL GEODETIC SURVEY.

DESIGNATION	ELEVATION (GPT)	PID
W M MALL	55.95	J16838
GIS 15	122.15	AC7696

SITE DATA

1. AREA OF EX. PARCEL 383: GROSS AREA = 0.715 AC
NET AREA = 0.619 AC
2. TOTAL GROSS AREA OF EXISTING PARCELS 383 & 888 AND PARCEL 'A' = 1.047 AC
3. TOTAL NET AREA OF EXISTING PARCELS 383 & 888 AND PARCEL 'A' = 0.913 AC
4. AREA OF PROPOSED LOT 1: GROSS AREA = 0.419 AC
NET AREA = 0.343 AC
AREA OF PROPOSED LOT 2: GROSS AREA = 0.409 AC
NET AREA = 0.395 AC
AREA OF PROPOSED LOT 3: GROSS AREA = 0.222 AC
NET AREA = 0.175 AC
5. TOTAL GROSS AREA OF LOTS 1-3 = 1.047 AC
6. TOTAL NET AREA OF LOTS 1-3 = 0.913 AC
7. EXISTING ZONING: RO & D.R.5.5
8. EXISTING USE:
PARCEL 383: TWO-STORY DWELLING
PARCEL 888: TWO-STORY, CLASS 'A' OFFICE
PARCEL 'A': VACANT
9. PROPOSED USE:
LOT 1: CLASS 'A' OFFICE BLDG (50% OF TOTAL FLOOR AREA) & DWELLING UNIT (50% OF TOTAL FLOOR AREA)
LOT 2: CLASS 'B' OFFICE BLDG (1ST FLOOR) & DWELLING UNIT (2ND FLOOR)
LOT 3: TWO-STORY, CLASS 'A' OFFICE BLDG (1ST AND 2ND FLOOR)
10. OWNER / DEVELOPER:
PERFORMANCE PROPERTIES LLC
9124 BELAIR ROAD
BALTIMORE, MD 21236-1601
PHONE: 410-529-7865
11. DEED REFERENCES: MAP 72: GRID B, PARCELS 383 & 888 & PARCEL 'A'
PARCEL 383: 15681 / 535; TAX ACCT #11-0202-4350
PARCEL 888: 15682 / 535; TAX ACCT #11-1907-1000
PARCEL 'A': 16253 / 052; TAX ACCT #22-0001-7455
12. ELECTION DISTRICT: 11, C5
13. FLOOR AREA RATIO FOR LOT 2:
MAX PERMITTED: 0.33
PROPOSED: 2052 SF / 0.409 AC x 43,560 = 0.12
14. HEIGHT OF STRUCTURE ON LOT 2:
MAX ALLOWED: 35 FT
PROPOSED: <35 FT
15. MINIMUM SETBACKS REQUIRED FOR PROPOSED CLASS 'B' OFFICE BUILDING:
FRONT: 25 FT
SIDE: 10 FT IF ADJACENT TO NON-RESIDENTIALLY ZONED OR USED PROPERTY
20 FT IF ADJACENT TO RESIDENTIALLY ZONED OR USED PROPERTY
REAR: 30 FT
NOTE: CLASS 'A' OFFICE BLDG IS NOT SUBJECT TO MIN. SETBACK REQUIREMENTS.
16. SETBACKS PROVIDED FOR CLASS 'B' OFFICE BUILDING:
FRONT: 28 FT
SIDE: 20 FT AND 15.5 FT +/-
REAR: 32 FT +/-
17. AMENITY OPEN SPACE (AOS) FOR CLASS 'B' OFFICE BLDG:
MIN. REQUIRED: 75% OF INTERIOR OF PARKING LOT
PROVIDED: N/A - PARKING CONTAINING LESS THAN 15 SPACES
18. LANDSCAPE BUFFER REQUIREMENTS:
MIN. REQUIRED / PROVIDED:
10' FROM PROPERTY RESIDENTIALLY ZONED OR USED (20' PROVIDED)
10' FROM NON-RESIDENTIALLY ZONED OR USED (10' PROVIDED)
19. PARKING REQUIREMENTS:
LOT 1: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x891/1000 = 3.3
APARTMENT: 2 PS/APARTMENT = 2 PS
TOTAL REQUIRED: 6 PS
TOTAL PROVIDED: 7 PS
LOT 2: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x1026/1000 = 3.4
APARTMENT: 2 PS/APARTMENT = 2 PS
TOTAL REQUIRED: 6 PS
TOTAL PROVIDED: 6 PS
LOT 3: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x2,084/1000 = 6.91
TOTAL REQUIRED: 7 PS
TOTAL PROVIDED: 9 PS
20. OPEN SPACE: NONE REQUIRED.
21. STORM WATER MANAGEMENT:
EXEMPT. LIMIT OF DISTURBANCE IS LESS THAN 5000 SF.
22. THERE ARE NO EXISTING OR PROPOSED WELL OR SEPTIC AREAS.
23. THERE ARE NO KNOWN WETLANDS REQUIRING REGULATION, CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITATS, OR HAZARDOUS MATERIALS ON SITE.
24. THERE ARE NO EXISTING STREAMS, BODIES OF WATER OR 100 YEAR FLOODPLAINS ON THIS SITE.
25. THERE ARE NO HISTORIC BUILDINGS ON THE SITE.
26. ANY SIGNS SHALL COMPLY WITH SECTION 450 OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.
27. ALL SITE LIGHTING USED FOR ILLUMINATION AND SECURITY PURPOSES SHALL BE ARRANGED TO REFLECT THE LIGHT AWAY FROM ADJACENT PROPERTIES AND PUBLIC STREETS.



BELAIR ROAD U.S. ROUTE 1

PROPOSED LOTS

SCALE: 1" = 50'

ZONING HISTORY

ZONING CASE #74-206-R
REQUEST FOR A RECLASSIFICATION OF A PORTION OF PARCEL 383 FROM A D.R.5.5 ZONE TO A B.L. ZONE WAS DENIED BY ZONING COMMISSIONER OF BALTIMORE COUNTY ON JUNE 26, 1974.

DEVELOPMENT APPROVALS

THIS PROJECT WILL BE SUBMITTED TO BALTIMORE COUNTY DEVELOPMENT REVIEW COMMITTEE (DRC) FOR DETERMINATION THAT IT MEETS REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 26-17 (b) (1) AND (2).

OWNER/DEVELOPER
PERFORMANCE PROPERTIES LLC
9124 BEL AIR ROAD
BALTIMORE, MD 21236-1601
PHONE: 410-529-7865

SPECIAL EXCEPTION

A SPECIAL EXCEPTION PURSUANT TO B.C.Z.R. SECTION 204.3 B.2.a TO PERMIT CLASS 'B' OFFICE BUILDING IN R-O ZONE.

PRELIMINARY LANDSCAPE PLAN
TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
FOR
9120-9124 BELAIR ROAD PROPERTIES

BALTIMORE COUNTY, MD
SCALE: AS SHOWN

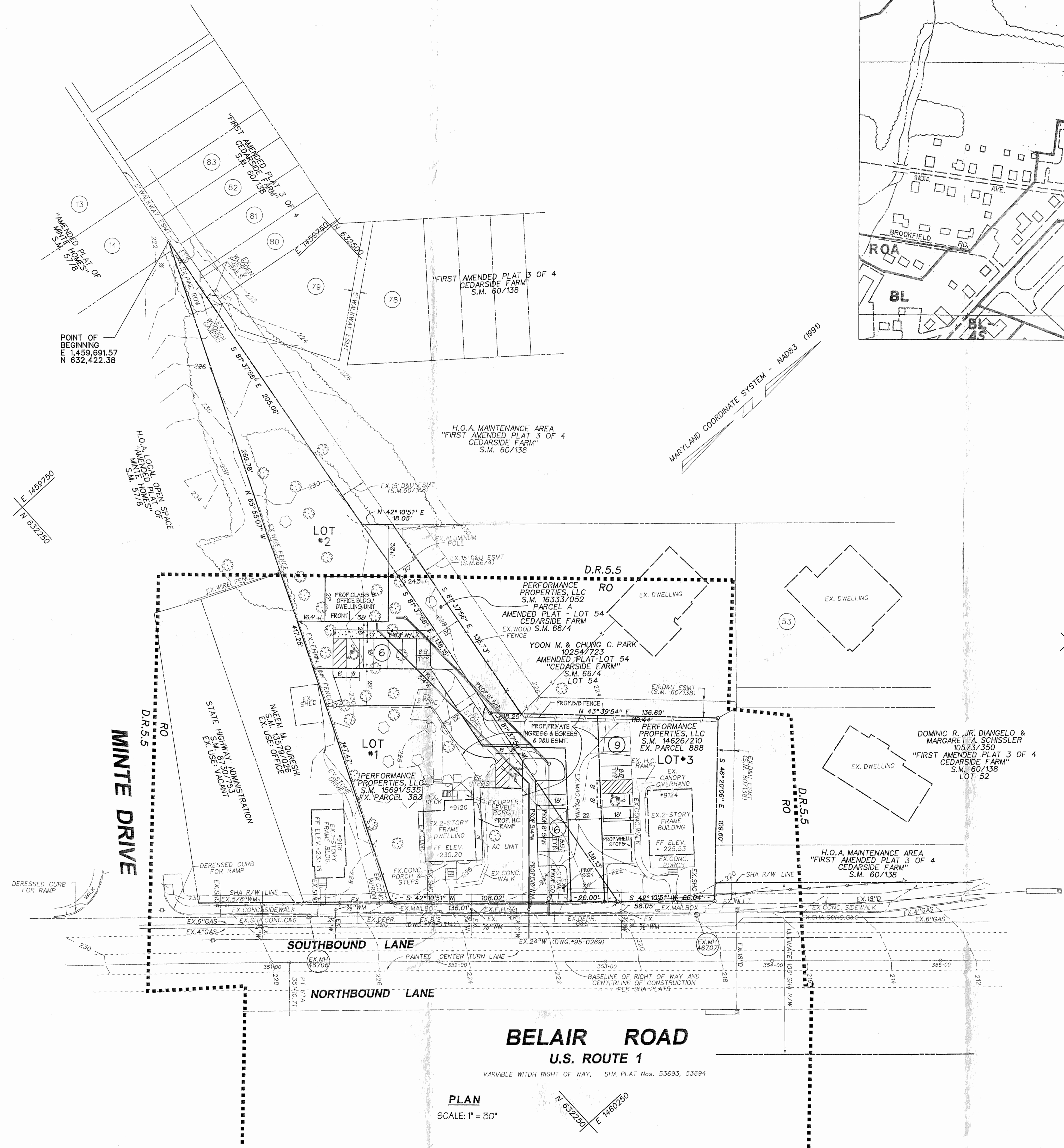
ELECTION DIST. NO. 11 C5
DATE: APRIL, 2002
SHEET 1 OF 1

BLDG

Baltimore Land Design Group Inc.
Consulting Engineers

223 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21036
PHONE: 410-229-9851 • FAX: 410-229-9865 • BLDG@WINSMAIL.COM

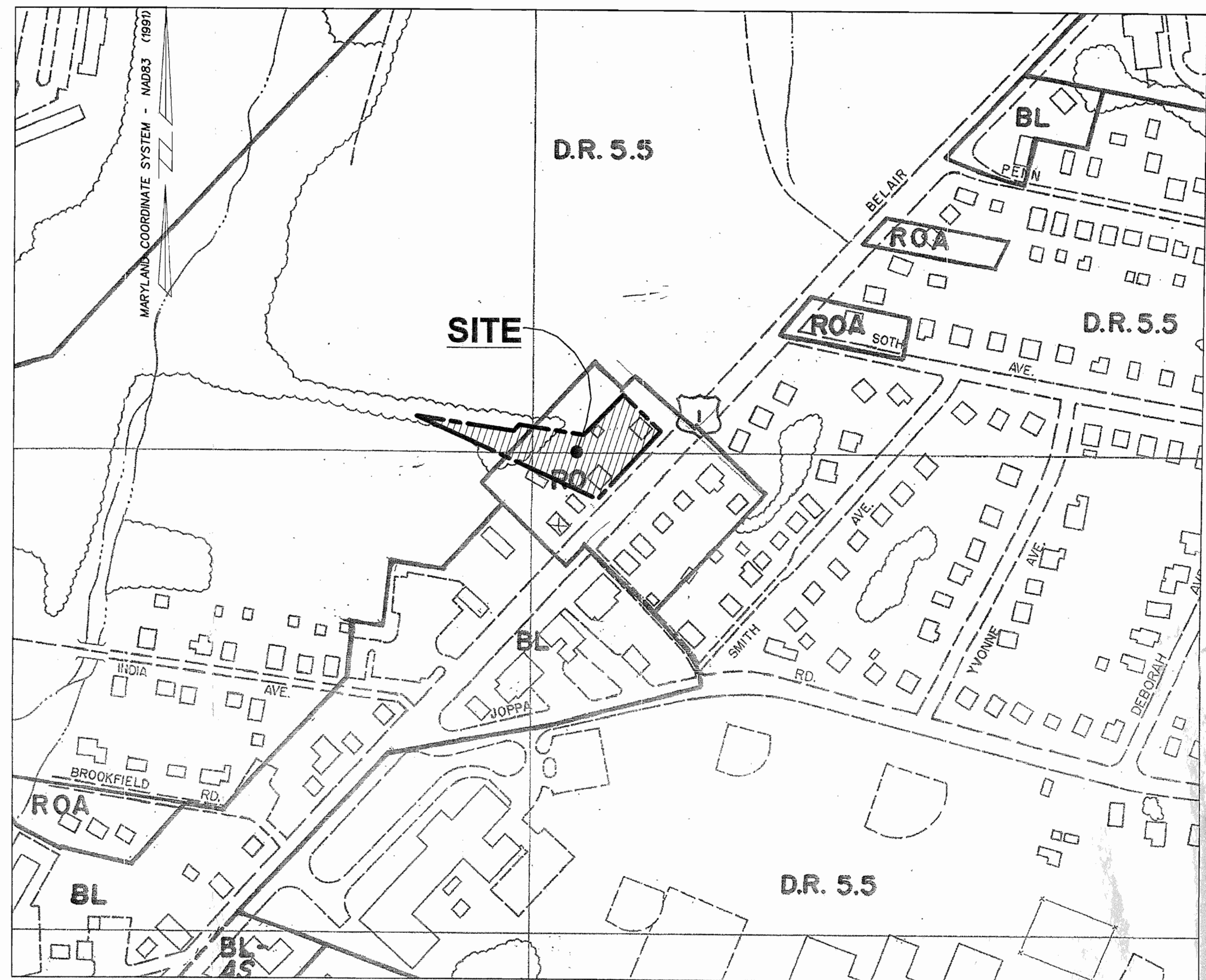
THE PROPERTY LINE SHOWN HEREON IS BASED ON THE SURVEY PREPARED BY DAFT MCCUNE WALKER IN OCTOBER, 2000 AND FEBRUARY 2002.



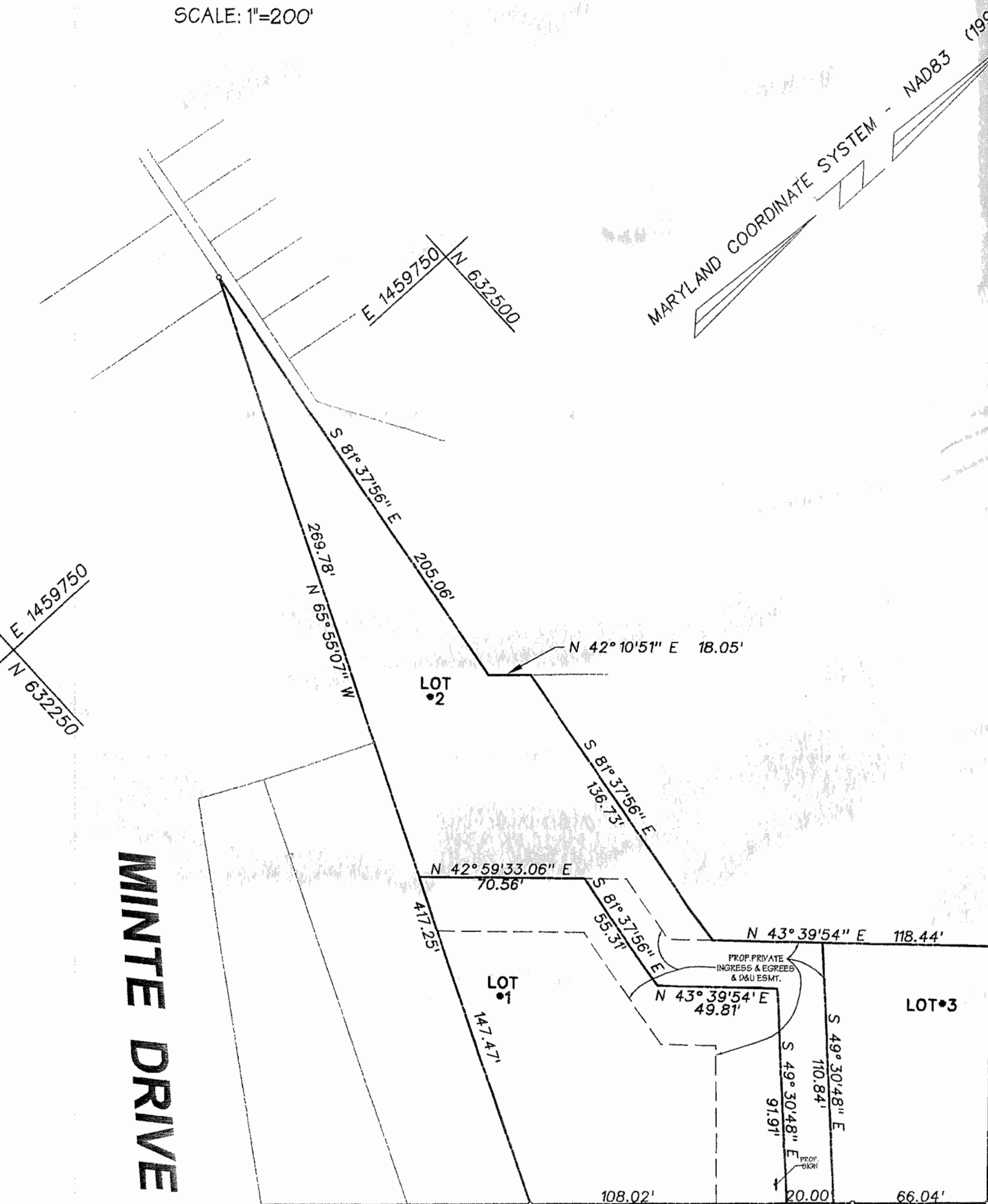
BLDG
Baltimore Land Design Group Inc.
Consulting Engineers

222 SCHILLING CIRCLE SUITE 105 • HUNT VALLEY, MARYLAND 21030
PHONE: 410.229.9851 • FAX: 410.229.9865 • BLDG@WINDSTARMAIL.COM

THE PROPERTY LINE SHOWN HEREON IS BASED ON THE SURVEY PREPARED BY DAFT McCUNE WALKER IN OCTOBER, 2000 AND FEBRUARY 2002.



PART OF ZONING MAP N.E. 10 G
SCALE: 1"=200'



BELAIR ROAD
U.S. ROUTE 1

PROPOSED LOTS
SCALE: 1"=50'

ZONING HISTORY

ZONING CASE #14-206-R:
REQUEST FOR A RECLASSIFICATION OF A PORTION OF PARCEL 383 FROM A D.R.5.5 ZONE TO A B.L. ZONE WAS DENIED BY ZONING COMMISSIONER OF BALTIMORE COUNTY ON JUNE 26, 1974.

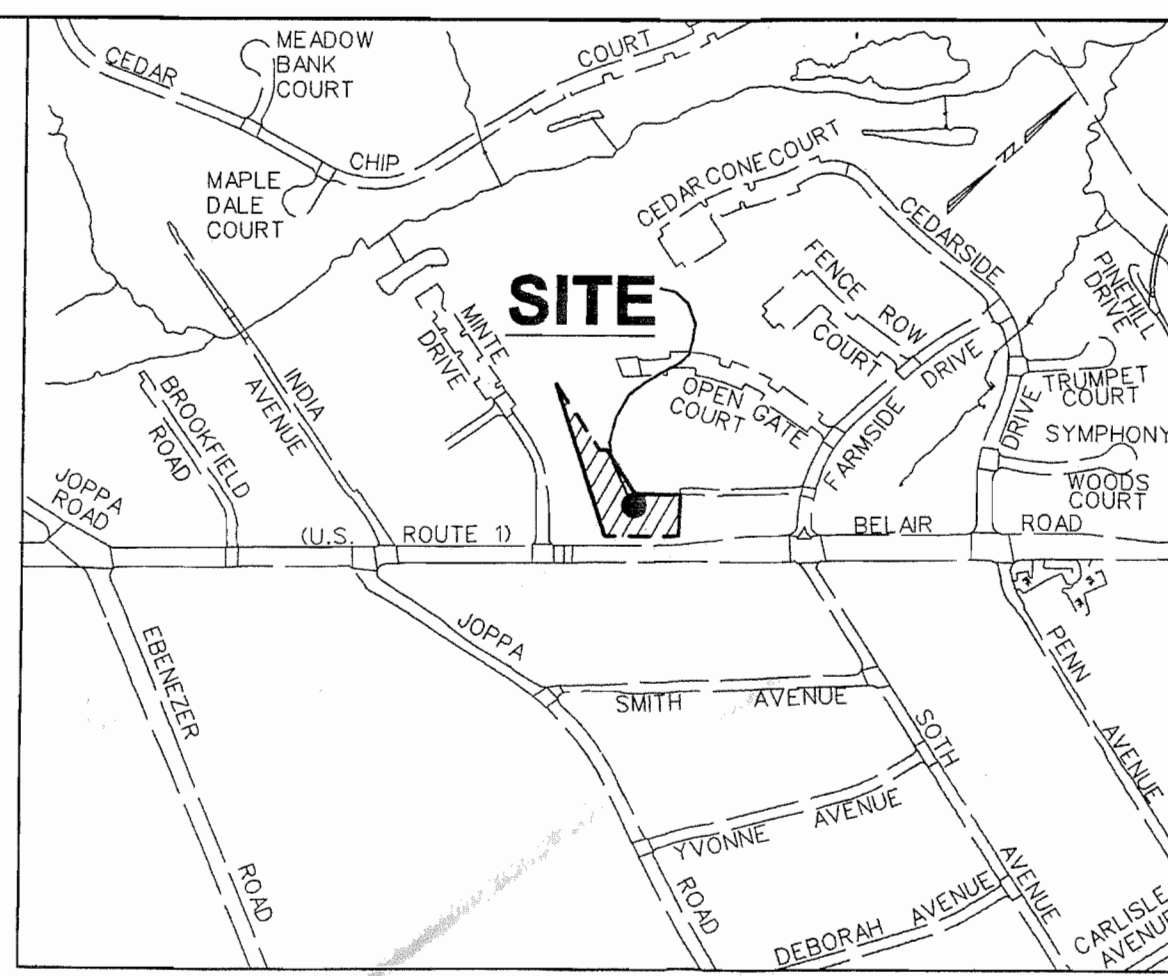
DEVELOPMENT APPROVALS

THIS PROJECT WILL BE SUBMITTED TO BALTIMORE COUNTY DEVELOPMENT REVIEW COMMITTEE (DRC) FOR DETERMINATION THAT IT MEETS REQUIREMENTS OF A LIMITED EXEMPTION UNDER SECTION 26-11 (b)(1) AND (9).

OWNER/DEVELOPER
PERFORMANCE PROPERTIES LLC
9124 BEL AIR ROAD
BALTIMORE, MD 21236-1601
PHONE: 410-529-7865

LEGEND

- PROPERTY LINE
- EXIST. CURB & GUTTER
- EXIST. STORM DRAIN
- EXIST. SANITARY
- EXIST. WATER
- EXIST. OVERHEAD LINES
- EXIST. POLES
- EXIST. GAS
- ZONING LINE
- EXIST. WOODS
- EXIST. INTERMEDIATE CONTOURS
- EXIST. INDEX CONTOURS
- PROP. CONCRETE
- NO PROP. PARKING SPACES
- PROP. SANITARY
- PROP. WATER



BENCHMARK

1. COORDINATES SHOWN ON THIS PLAN ARE REFERRED TO THE SYSTEM OF COORDINATES ESTABLISHED IN THE MARYLAND COORDINATE SYSTEM - NAD 83 (1983) AND ARE BASED ON THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM CONTROL STATIONS, PROVIDED BY THE NATIONAL GEODETIC SURVEY:

2. ELEVATIONS SHOWN ON THIS PLAN ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM 1988 (NAV 88) WITH LOCAL REFERENCES TO THE FOLLOWING NATIONAL SPATIAL REFERENCE SYSTEM BENCHMARK, PROVIDED BY THE NATIONAL GEODETIC SURVEY:

DESIGNATION	NORTH (NAD 83)	EAST (NAD 83)	PD	DESIGNATION	ELEVATION (NAVD 88)	PD
W.M. MALL	620581.37	1464674.60	JV6936	W.M. MALL	96.26	JV6936
GIS 13	616483.98	1473587.63	AC7696	GIS 13	122.13	AC7696

SITE DATA

- AREA OF EX. PARCEL 383:
GROSS AREA = 0.213 AC
NET AREA = 0.619 AC
- AREA OF EX. PARCEL 888:
GROSS AREA = 0.247 AC
NET AREA = 0.247 AC
- AREA OF EX. PARCEL 'A':
GROSS AREA = 0.047 AC
NET AREA = 0.047 AC
- TOTAL GROSS AREA OF EXISTING PARCELS 383 & 888 AND PARCEL 'A': 1.047 AC
- TOTAL NET AREA OF EXISTING PARCELS 383 & 888 AND PARCEL 'A': 0.913 AC
- AREA OF PROPOSED LOT 1:
GROSS AREA = 0.418 AC
NET AREA = 0.343 AC
- AREA OF PROPOSED LOT 2:
GROSS AREA = 0.409 AC
NET AREA = 0.388 AC
- AREA OF PROPOSED LOT 3:
GROSS AREA = 0.220 AC
NET AREA = 0.175 AC
- TOTAL GROSS AREA OF LOTS 1-3 = 1.047 AC
- TOTAL NET AREA OF LOTS 1-3 = 0.913 AC
- EXISTING ZONING: RO & D.R.5.5
- EXISTING USE:
PARCEL 383: TWO-STORY DWELLING
PARCEL 888: TWO-STORY, CLASS 'A' OFFICE
PARCEL 'A': VACANT
- PROPOSED USE:
LOT 1: CLASS 'A' OFFICE BLDG (80% OF TOTAL FLOOR AREA) & DWELLING UNIT (20% OF TOTAL FLOOR AREA)
LOT 2: CLASS 'B' OFFICE BLDG (1ST FLOOR) & DWELLING UNIT (2ND FLOOR)
LOT 3: TWO-STORY, CLASS 'A' OFFICE BLDG (1ST AND 2ND FLOORS)
- OWNER / DEVELOPER:
PERFORMANCE PROPERTIES LLC
9124 BELAIR ROAD
BALTIMORE, MD 21236-1601
PHONE: 410-529-7865
- DEED REFERENCES: MAP 72, GRID B, PARCELS 383 & 888 & PARCEL 'A'
PARCEL 383: 14691 / 535; TAX ACCT #11-1507-1102
PARCEL 888: 14692 / 210; TAX ACCT #11-1507-1102
PARCEL 'A': 16333 / 052; TAX ACCT #22-0001-7455
- ELECTION DISTRICT: 11, C5
- FLOOR AREA RATIO FOR LOT 2:
MAX PERMITTED: 0.35
PROPOSED: 0.295 SF / 0.409 AC = 0.12
- HEIGHT OF STRUCTURE ON LOT 2:
MAX ALLOWED: 35 FT
PROPOSED: 35 FT
- MINIMUM SETBACKS REQUIRED FOR PROPOSED CLASS 'B' OFFICE BUILDING:
FRONT: 20 FT
SIDE: 10 FT IF ADJACENT TO NON-RESIDENTIALLY ZONED OR USED PROPERTY
REAR: 50 FT
NOTE: CLASS 'A' OFFICE BLDG IS NOT SUBJECT TO MIN. SETBACK REQUIREMENTS.
- SETBACKS PROVIDED FOR CLASS 'B' OFFICE BUILDING:
FRONT: 20 FT
SIDE: 20 FT AND 15.5 FT 4'
REAR: 50 FT 4'
- AMENITY OPEN SPACE (AOS) FOR CLASS 'B' OFFICE BLDG:
MIN. REQUIRED: 7% OF INTERIOR OF PARKING LOT
PROVIDED: N/A - PARKING CONTAINING LESS THAN 15 SPACES
- LANDSCAPE BUFFER REQUIREMENTS:
MIN. REQUIRED: 10' PROVIDED
20' FROM PROPERTY RESIDENTIALLY ZONED OR USED (20' PROVIDED)
10' FROM NON-RESIDENTIALLY PROPERTY ZONED OR USED (10' PROVIDED)
- PARKING REQUIREMENTS:
LOT 1: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x807/1000 = 3.3
APARTMENT: 2 PS/APARTMENT = 2 PS
TOTAL REQUIRED: 6 PS
TOTAL PROVIDED: 7 PS
LOT 2: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x1026/1000 = 3.4
APARTMENT: 2 PS/APARTMENT = 2 PS
TOTAL REQUIRED: 6 PS
TOTAL PROVIDED: 6 PS
LOT 3: PARKING SPACES REQUIRED:
OFFICE: 3.3 PS/1000 SF = 3.3x2,094/1000 = 6.91
TOTAL REQUIRED: 7 PS
TOTAL PROVIDED: 9 PS
- LANDSCAPE REQUIREMENTS: SEE THE PRELIMINARY LANDSCAPE PLAN.
- OPEN SPACE: NONE REQUIRED.
- FOREST CONSERVATION REQUIREMENTS: SEE THE SIMPLIFIED FOREST STAND DELINEATION PLAN.
- STORM WATER MANAGEMENT:
EXEMPT. LIMIT OF DISTURBANCE IS LESS THAN 10000 SF.
- THERE ARE NO EXISTING OR PROPOSED WELL OR SEPTIC AREAS.
- THERE ARE NO KNOWN WETLANDS REQUIRING REGULATION, CRITICAL AREAS, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITATS, OR HAZARDOUS MATERIALS ON SITE.
- THERE ARE NO EXISTING STREAMS, BODIES OF WATER OR 100 YEAR FLOODPLAINS ON THIS SITE.
- THERE ARE NO HISTORIC BUILDINGS ON THE SITE.
- ANY SIGNS SHALL COMPLY WITH SECTION 450 OF THE B.C.Z.R. AND ALL ZONING SIGN POLICIES.
- ALL SITE LIGHTING USED FOR ILLUMINATION AND SECURITY PURPOSES SHALL BE ARRANGED TO REFLECT THE LIGHT AWAY FROM ADJACENT PROPERTIES AND PUBLIC STREETS.

SPECIAL EXCEPTION

A SPECIAL EXCEPTION PURSUANT TO B.C.Z.R. SECTION 204.3 B.2.a TO PERMIT CLASS 'B' OFFICE BUILDING IN R-O ZONE.

PLAT TO ACCOMPANY PETITION FOR SPECIAL EXCEPTION
FOR
9120-9124 BELAIR ROAD PROPERTIES

BALTIMORE COUNTY, MD
SCALE: AS SHOWN

SHEET 1 OF 1
ELECTION DIST. NO. 11 C5
DATE: APRIL, 2002