IN RE: PETITIONS FOR SPECIAL HEARING,

SPECIAL EXCEPTION & VARIANCE -

SE/Corner Pulaski Highway (Md. Rte. 40) *

and Middle River Road

(9605-09 Pulaski Highway)

15th Election District

6th Council District

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 03-188-SPHXA

Motiva Enterprises, LLC, Owners; Pinnacle Realty II, Contract Purchasers

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Motiva Enterprises, LLC, and the Contract Purchasers, Pinnacle Realty II, through their attorney, Sebastian A. Cross, Esquire. The Petitioners request a special hearing to approve an amendment to the special hearing and site plan approved in prior Case No. 83-26-SPHA, and a special exception for a fuel service station use in combination with a convenience store/carryout restaurant, pursuant to Sections 236.4 and 405.2 B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners request variance relief from Section 405.4.A.2.b&c to allow a landscape transition area (LTA) setback of 0 feet in lieu of the required 6 feet along the northern boundary, and 0 foot setbacks in lieu of the required 10 feet along the eastern boundary line and Pulaski Highway and a waiver from the screening requirements set forth in the Landscape Manual for those three sides; and, from Section 238.2 of the B.C.Z.R. to allow side and rear yard setbacks of 1 foot each in lieu of the required 30 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Dennis Williams, Vice President of Pinnacle Realty, II, Contract Purchasers; Greg Reed, on behalf of Bohler Engineering, the consultants who prepared the site plan for this property; and, Sebastian

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Cross, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

The subject property under consideration is an irregular shaped parcel located on the southeast corner of the intersection of Pulaski Highway (U.S. Route 40) and Middle River Road in eastern Baltimore County. The property contains approximately .844 acres in area, zoned B.R.-A.S. and was formerly the site of a gasoline service station. Although the service garage building and fuel pumps remain, the fuel service station is closed and the property is not now in active use. Pinnacle Realty II proposes to acquire the site and perform extensive renovations to rehabilitate the property. As has been the trend in the business, the site will be rehabilitated to sell both fuel and convenience items. As more particularly shown on the plan, the Petitioners propose a one-story "L"-shaped building of 3150 sq.ft. towards the rear of the property. The building will contain both a carryout restaurant and convenience store. Additionally, there will be eight multi-product dispensers to sell fuel. Six of these dispensers will be located towards the front of the site and two will be located on the side. Those two pumps will sell diesel fuel.

It was indicated at the hearing that the site has been used as a fuel service station for many years. The original service station was opened in 1951 and most recent improvements were completed in 1982. As noted above, the existing service station recently closed. Moreover, the property is located within a highly commercial/industrial area. This portion of Pulaski Highway (U.S. Route 40) features a number of similar commercial/industrial/retail uses.

The redevelopment of this site will require substantial renovations to the property. In this regard, Zoning Advisory Committee (ZAC) comments were received most notably from the State Highway Administration (SHA) and the Office of Planning. But for a single issue, these comments have been incorporated on the redlined plan that was offered at the hearing. Specifically, there are presently three curb cut access points to the site from Pulaski Highway. Evidence offered at the hearing revealed that one of these curb cuts would be closed so that only two points of access will remain. The exact location of these access points is to be determined following consultation with the Office of Planning and the SHA. Obviously, it is the intent of

these agencies to relocate the access points further from the intersection so as to promote better traffic flow and serve the public safety. However, the final design has not been completed. Additionally, the Petitioner will be required to replace the existing curb cut and entrance paving along U.S. Route 40 and the two access points along that road will be restricted to one right-turn in and one right-turn out. Additionally, the SHA will require a traffic impact analysis to determine the final design of any roadway improvements and modifications may be required to the existing traffic signal at the intersection. The Petitioners indicated at the hearing that all of these requirements would be satisfied.

The ZAC comment from the Office of Planning mirrored many of the concerns set out by the SHA, but also offered other suggestions. Additional recommendations made regarded potential landscaping to the property. A 6-foot landscape transition area will be provided along the frontage of the site adjacent to Pulaski Highway. The final design will be determined based upon the exact location of the two access points referenced above. Additionally, a fence will be provided along the entire north side of the property. This fence will also buffer the site from a restaurant/tavern on that side. Additionally, improvements towards the rear of the property are also contemplated. The rear of the site abuts a 30-foot wide access road which provides access to the Pulaski Business Park located east of the subject property. Apparently, the property owner dedicated a portion of the subject site for development of that road. Additionally, there will be access to the service station from that access road. The Petitioners provided details at the hearing regarding that access and improvements to that portion of the site. It was also indicated that there would be an internal 12-foot wide drive aisle provided towards the rear of the site to allow for traffic flow next to the proposed building. The Office of Planning has apparently agreed to that design and reduced its demand that the drive aisle be a minimum width of 18 feet.

The only unresolved issue raised in the ZAC comments submitted by the SHA and the Office of Planning relates to potential construction of sidewalks along Middle River Road. The Office of Planning has requested that this condition be added and the Petitioner believes that the construction of sidewalks in that area of the site is impractical. Testimony offered at the hearing

demonstrated that this area is not used by pedestrians and is heavily traveled. The property is uniquely configured so that its frontage on Middle River Road is limited. As shown on the plan, that frontage abuts Pulaski Highway to the north (front) and the access road to the south (rear) and is less than 75 feet in length overall. The Petitioners felt that construction of sidewalks in this area would serve no real purpose in view of the road system in this area. I agree and will therefore not require that sidewalks be constructed on that portion of the site.

It is also to be noted that a ZAC comment was also received from the Department of Environmental Protection and Resource Management (DEPRM). That comment indicated that the Maryland Department of the Environment (MDE) had opened a file (Case No. 01-78BA4) for this site because of potential groundwater contamination by existing fuel tanks. Apparently, some petroleum-impacted soil had been excavated and removed along with the underground storage tanks previously utilized by the prior station. In response to DEPRM's comment, the Petitioners produced a letter from Epoch Consultants, Inc. which indicates that they had researched this issue on behalf of the Petitioners and that MDE closed all outstanding files regarding this matter in August 2001. Thus, it appears that this issue has been resolved.

Based upon the testimony and evidence offered, I am persuaded that the proposed redevelopment of this site is appropriate and that the special hearing, special exception and variance relief should be granted. It is to be noted that a comment in support of the plan was received from the Windlass Run Community Association which would be most affected by this proposal. Although there are no residences in the immediate proximity of the site, a letter was submitted from that community association indicating their support of the Petitioners' efforts to rehabilitate and revitalize this lot. Indeed, replacement of a closed operation with a new facility will enhance the area at large. In sum, I find that the Petitioners have met the requirements for special exception and variance relief as set out in Sections 502.1 and 307 of the B.C.Z.R. Clearly, the proposed use will not detrimentally impact the surrounding locale. Additionally, the property is surely unique given its unusual shape and access from three sides. These factors drive the need for variance relief and the plan in total represents an appropriate redevelopment of this site.

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As noted above, the redlined (revised) plan does incorporate all of the requirements made by the SHA and the Office of Planning, with the exception of the sidewalks on Middle River Road. For clarification, those comments will be incorporated herein and attached hereto as conditions to the relief granted, irrespective of the fact that the plan has been so amended but for the sidewalks on Middle River Road.

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

this 18 day of December, 2002 that the Petition for Special Hearing to approve an amendment to the special hearing and site plan approved in prior Case No. 83-26-SPHA, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a fuel service station use in combination with a convenience store/carryout restaurant, pursuant to Sections 236.4 and 405.2 B.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 405.4A.2.b&c to allow a landscape transition area (LTA) setback of 0 feet in lieu of the required 6 feet along the northern boundary, and 0 foot setbacks in lieu of the required 10 feet along the eastern boundary line and Pulaski Highway, and a waiver from compliance from the screening requirements set forth in the Landscape Manual for those three sides; and, from Section 238.2 of the B.C.Z.R. to allow side and rear yard setbacks of 1 foot each in lieu of the required 30 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

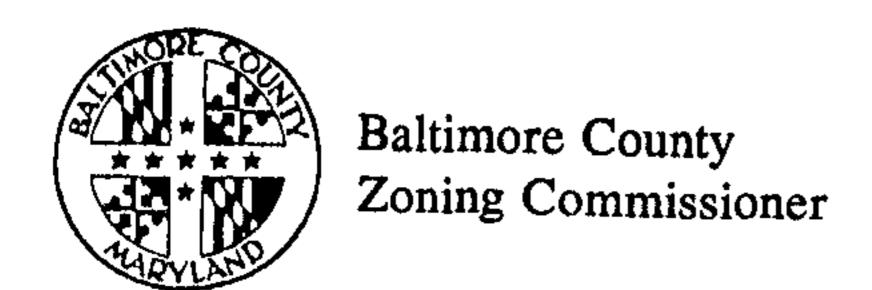
- 2) Compliance with the ZAC comments submitted by the SHA, dated October 31, 2002, and the Office of Planning, dated November 21, 2002, saving and excepting the sidewalk construction on Middle River Road. Copies of these comments are attached hereto and made a part hereof.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

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Y THOUSE



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

Fax: 410-887-3468

December 18, 2002

Sebastian A. Cross, Esquire Gildea, LLC 301 N. Charles Street, Suite 900 Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE SE/Corner Pulaski Highway (Md. Route 40) & Middle River Road (9605-09 Pulaski Highway)

15th Election District – 6th Council District Motiva Enterprises, LLC, Owners; Pinnacle Realty II, Contract Purchasers - Petitioners Case No. 03-188-SPHXA

Dear Mr. Cross:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing, Special Exception and Variance have been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

LES:bjs

cc: Mr. Curtis Williams, Real Estate Consultant Motiva Enterprises, LLC, P.O. Box 4369, Houston, TX 77210-4369

Mr. Dennis Williams, Pinnacle Realty II

4132 Old Columbia Pike, Ellicott City, Md. 21043

Mr. Kenneth McDonald, Chief, Engineering Access Permits Maryland SHA, P.O. Box 717, Baltimore, Md. 21203

Office of Planning; DEPRM; People's Counsel; Case File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at	9605	Pulaski	Highway
which is	s presei	ntly zoned	BR-AS

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

To amend the previously approved special hearing granted in case number 83-26-SPHA.

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

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Pinnacle	Realty :	II	
Name Type or Pi	int y		
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Signature Den	•		- / - Y
A132 01d	Columbia	a Pike	(410)465-1882
Address			Telephone No.
Ellicott	City, MI	D 21043	
City		State	Zip Code

Attorney For Petitioner:

Contract Purchaser/Lessee:

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30	į	·Char	les	Street	, Suite	900
Add	ess				<u>"T</u> ı	elephone No.
Ва	lti	more,	MD	21201	(410)	234-0070
City					State	Zip Code

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.

Motiva Enterprises, LLC

Legal Owner(s):

Name - Type or Print
Signature Curtis Williams, Real Estate Consultant
Name - Type or Print
Signature
Tax Department Property/P.O.Box 4369 Address Telephone No.
Tolophono Ho.
Houston, TX 77210-4369 (301)384-1242
City State Zip Code
Representative to be Contacted:
Sebastian A. Cross Esq.
Name
301 N.Charles Street, Suite 900
Address Telephone No.
Baltimore, MD 21201 (410234-0070
City State Zip Code
OFFICE USE ONLY

Case No. 03-188-5PHXA

UNAVAILABLE FOR HEARING

Reviewed By LTM Date 10/17/02

ESTIMATED LENGTH OF HEARING ____

R8V 9/15/98



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 9605 Pulaski Highway

which is presently zoned BR-AS which is presently zoned BR-AS 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

a fuel service station in combination with a convenience store/carry-out restaurant. Pursuant to BCZR section 236.4 and 405.2.B.1

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.

Contract Purchaser/Lessee:

Pinnacle Realty II
Name - Type or Print
V
Signature Dennis Williams
4132 Old Columbia Pike (410)465-1882
Address Telephone No.
Ellicott City, MD 21043
City State Zip Code
Attorney For Petitioner:
Sebastian A. Cross , Esq.
Name - Type or Print
Letrota Gam
Signature
Gildea, LLC
Company
301 N.Charles Street, Suite 900
Address Telephone No.
Baltimore, MD 21201 (410)234-0070
City State Zip Code
$\mathcal{Q}_{\mathcal{L}}$
Case No. 03-188-SPHXA
Pase No. COSTONA

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

Legal Owner(s):

Name - Type or Print

Motiva Enterprises,

Signature Curtis Willams, Real Estate
With Wallant
Name - Type or Print
Signature
Tax Department Property/P.O.Box 436
Address Telephone No.
Houston, TX 77210-4369 (301)384-1242
City State Zip Code
Representative to be Contacted:
Sebastian A. Cross Es.
Name
301 N.Charles Street, Suite 900
Address Telephone No.
Baltimore, MD 21201 (410)234-0070
City State Zip Code
OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
UNAVAILABLE FOR HEARING
Reviewed By LTM Date 10/17/02



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9605 Pulaski Highway which is presently zoned BR-AS

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

See attached,

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

To be presented at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Contract Purchaser/Lessee:

Pinnacle Realty II

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& Case No. 03-188-5PHXA

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

Legal Owner(s):

Address

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Tax	Depart	ment	Prop	erty/	P.O.	Вох	4 369

Telephone No TX 77210-4369(310)384-1242 Houston, City State Zip Code

Representative to be Contacted:

Sebastian A. Cross Name N.Charles Street, Suite 900 Address Telephone No Baltimore, MD 21201 (410)234-0070City State Zip Code

OFFICE USE ONLY

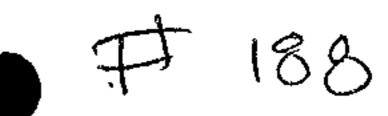
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Reviewed By LTM	Date 10/7/107

REV 9/15/98

Attachment to Petition for Variance

- 1. Section 405.4A.2.b&c -- to allow a zero foot (0') setback in lieu of the six foot (6') landscape transition area and a waiver from compliance with screening requirements provided in the Landscape Manual on Northern boundary of property.
- 2. Section 405.4A.2.b&c -- to allow a zero foot (0') setback in lieu of the ten foot (10') landscape transition area and a waiver from compliance with screening requirements provided in the Landscape Manual on Eastern boundary of property.
- 3. Section 405.4A.2.b&c -- to allow a zero foot (0') setback in lieu of the ten foot (10') landscape transition area and a waiver from compliance with screening requirements provided in the Landscape Manual along Pulaski Highway.
- 4. Section 238.2 -- to allow a one foot (1') side yard and rear yard setback in lieu of the required thirty foot (30') setback.

THE TOTAL INC.





ZONING DESCRIPTION FOR 9605-9609 PULASKI HIGHWAY

BEGINNING AT A POINT on the Southeasterly right-of-way line of Pulaski Highway, U.S. Route 40, which is 150 feet wide and at the end of a gusset line connecting said Southeasterly right-of- way line of Pulaski Highway with the Northeasterly right-of-way line of Middle River Road which is 60 feet wide, as recorded in Deed Liber 15136, Folio 175; thence running along the Southeasterly right-of-way line of Pulaski Highway North 40 degrees 54 minutes 47 seconds East 195.28 feet; thence leaving Pulaski Highway and running South 49 degrees 01 minutes 40 seconds East 270.95 feet to a point in the center of a 30 foot wide access road; thence binding thereon South 82 degrees 25 minutes 07 seconds West 154.15 feet; thence North 07 degrees 34 minutes 53 seconds West 15.00 feet to a point on the Northerly side of Said road; thence by a curve to the left on the Northerly side of said road having a radius of 157.12 feet, length of 67.74 feet and a chord of South 69 degrees 31 minutes 25 seconds West 67.28 feet and thence South 82 degrees 25 minutes 07 seconds West 60.00 feet to a point of the Northeasterly right-ofway line of Middle River Road; thence binding thereon by a curve to the left having a radius of 746.00 feet, length of 61.31 feet and a chord of North 55 degrees 13 minutes 42 seconds West 61.29 feet to a point at the beginning of the above mentioned gusset line; thence binding thereon North 08 degrees 41 minutes 18 seconds West 32.40 feet to the point of beginning; containing 36,800 square feet or 0.8448 acres more or less.

ALSO KNOWN as 9605 – 9609 Pulaski Highway and located in the 15th Election

District and in the 5th Councilmanic Dis

10/09/02

7427 Harford Road Baltimore, Maryland 21234-7160 (410) 444-4312 Fax: (410) 444-1647

OFFICE OF BALTIMORE BUDGET & FINANCE COUNTY, MARY

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NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will field a public hearing in Towson. Maryland on the property identified herein as follows:

Case #03-188-SPHXA
9605 Pulaski Highway corner northeast side of Middle River Road
15th Election District—5th Councilmanic District
Lagal Owner(s): Motiva Enterprises, LLC
Contract Purchaser: Pinnacle Reatly II
Special Hearing: to amend the previously approved special hearing granted in case number 83-26-SPHA. Special
Exception: to approve a fuel-service station in combination with a convenience stora/carry-out restaurant. Variance:
to altow zero (0) foot setback in lieu of the six foot land-scape transition area and a waiver from compliance with screening requirements on Eastern boundary of property.
And to allow a zero (0) toot setback in lieu of ten foot landscape transition area and waiver from compliance with screening requirements along Pulaski Highway
Hearing: Monday, December 9, 2002 at 9:08 a.m. in Room 407, County Counts Building, 401 Besiey Avence.

LAWRENCE E SCHMIDT

Zoning Commissioner for Baltimore County

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

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

ATE OF PUBLICATION

2007 JER

THIS IS TO CERTIFY, that the annexed advertisement was published successive weeks, the first publication appearing in the following weekly newspaper published in Baltimore County, Md., once in each of

凶 The Jeffersonian

Arbutus Times

Catonsville Times Towson Times

Owings Mills Times

NE Booster/Reporter

County News North

Mussy.

LEGAL ADVERTISING

CERTIFICATE OF POSTING

	RE: Case No.: O - 100-JF 17/17
•	Petitioner/Developer: PINNACLE
•	REALITY 11
	Date of Hearing/Closing: 12/9/02
altimore County Department of armits and Development Management ounty Office Building, Room 111 1 West Chesapeake Avenue owson, MD 21204	
ttention: Ms. Gwendolyn Stephens	
adies and Gentlemen:	
his letter is to certify under the penalties (of perjury that the necessary sign(s) required by law located at 9605 PULASKI HWY
ere posted conspicuously on the property	10 cated at 9605 PULASKI HWY
ere posted conspicuously on the property	located at 9605 PULASKI HWY
ere posted conspicuously on the property	located at 9605 Palaski Hwy 11/23 /02 (Month, Day, Year) Sincerely, 1/23/02
ere posted conspicuously on the property ne sign(s) were posted on	located at 9605 PULASKI HWY 11/23/02 (Month, Day, Year) Sincerely, (Signature of Sign Poster and Date)
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ne sign(s) were posted on	Nonth, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name)
ne sign(s) were posted on	Incated at 9605 Palaski Hwy (Month, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name) 1508 Lealie Rd
ne sign(s) were posted on	Nonth, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name)
he sign(s) were posted on	(Month, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name) 1508 Lealie Rd (Address)
he sign(s) were posted on	(Month, Day, Year) Sincerely, (Signature of Sign Poster and Date) SSG ROBERT BLACK (Printed Name) 1508 Lealie Rd (Address) Dumdalk, Maryland 21222

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE

9605 Pulaski Highway NE/side Middle River Road

NE/Side Middle River Roa

15th Election District

5th Councilmanic District

Legal Owner: Motiva Enterprises, LLC

Contract Pur.: Pinnacle Realty II

Dennis Williams, VP

Petitioner(s)

* BEFORE THE

* ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* 03-188-SPHXA

~ ~ ~ ~ ~ ~ ~ ~ ~

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/documentation filed in the case.

PETER MAX ZIMMERMAN

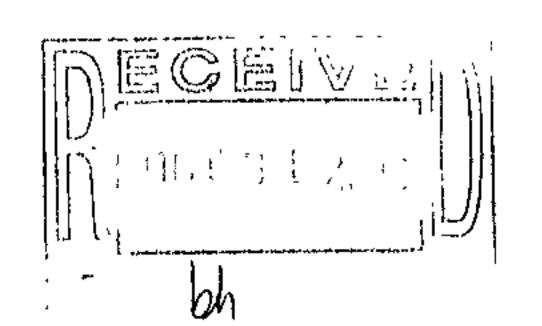
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 2002, a copy of the foregoing Entry of Appearance was mailed to Sebastian A. Cross, Esquire, GILDEA, LLC, 301 N. Charles Street, Suite 900, Baltimore, MD 21201 Attorney for Petitioner(s).



PÉTER MAX ZIMMERMAN

People's Counsel for Baltimore County

TO: PATUXENT PUBLISHING COMPANY

Thursday, November 21, 2002Issue – Jeffersonian

Please forward billing to:

Gildea, LLC 301 N. Charles Street, Suite 900 Baltimore, MD 21201

410-234-0070

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: 03-188-SPHXA

9605 Pulaski Highway

S/east side of Pulaski Highway corner northeast side of Middle River Road

15th Election District – 5th Councilmanic District

Legal Owner: Motiva Enterprises, LLC Contract Purchaser: Pinnacle Realty II

Special Hearing to amend the previously approved special hearing granted in case number 83-26-SPHA. Special Exception to approve a fuel service station in combination with a convenience store/carry-out restaurant. Variance to allow zero (0) foot setback in lieu of the six foot landscape transition area and a waiver from compliance with screening requirements on Eastern boundary of property. And to allow a zero (0) foot setback in lieu of ten foot landscape transition area and waiver from compliance with screening requirements along Pulaski Highway.

HEARING: Monday, December 9, 2002 at 9:00 a.m. in Room 407, County Courts

Building, 401 Bosley Avenue

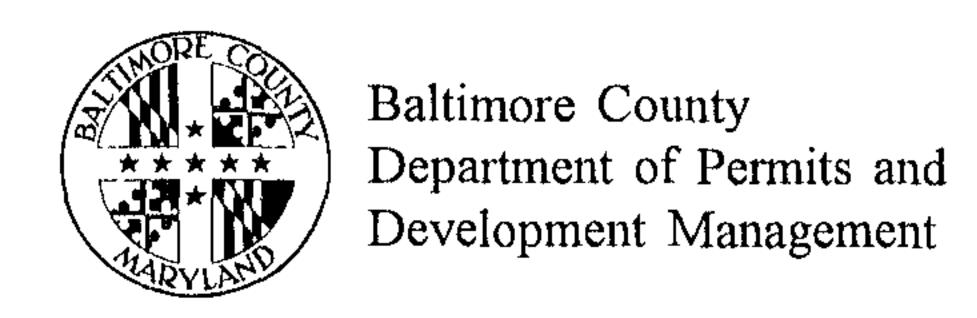
awrence E. Schmidt

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.



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

Fax: 410-887-5708

November 1, 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: 03-188-SPHXA

9605 Pulaski Highway

S/east side of Pulaski Highway corner northeast side of Middle River Road

15th Election District -- 5th Councilmanic District

Legal Owner: Motiva Enterprises, LLC Contract Purchaser: Pinnacle Realty II

Special Hearing to amend the previously approved special hearing granted in case number 83-26-SPHA. Special Exception to approve a fuel service station in combination with a convenience store/carry-out restaurant. Variance to allow zero (0) foot setback in lieu of the six foot landscape transition area and a waiver from compliance with screening requirements on Eastern boundary of property. And to allow a zero (0) foot setback in lieu of ten foot landscape transition area and waiver from compliance with screening requirements along Pulaski Highway.

HEARING: Monday, December 9, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon

Director

AJ:rlh

C: Sebastian A. Cross, Gildea, LLC, 301 N. Charles St., Suite 900, Baltimore 21201 Motiva Enterprises, LLC, Curtis Williams, Tax Dept. Property, P.O. Box 4369 Houston, Texas 77210-4369 Pinnacle Realty II, Dennis Williams, V.P., 4132 Old Columbia Pike, Ellicott City 21043

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, NOVEMBER 22, 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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

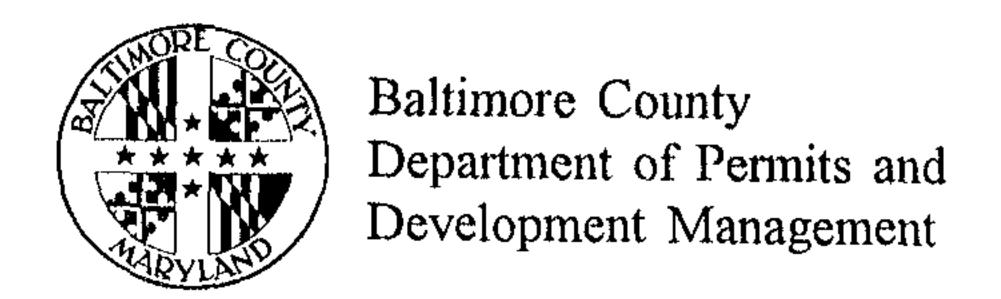
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign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

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

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

For Newspaper Advertising:
Item Number or Case Number: 03-188-5PMXA
Petitioner: Pinacle Realty II
Address or Location: 9605 - 09 Palashi Hwy
PLEASE FORWARD ADVERTISING BILL TO:
Name: Gildea LLC
Address: 301 N. Charles 57. Surye 900
Baltimore Md 21201
Telephone Number: 910 239-0070

Revised 2/20/98 - SCJ



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

December 6, 2002

Sebastian A. Cross Gildea, LLC 301 N. Charles St., Suite 900 Baltimore, MD 21201

Dear Mr. Cross:

RE: Case Number: 03-188-SPHXA, 9605 Pulaski Highway

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 17, 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,

u. Callibal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:rlh

Enclosures

People's Counsel
 Motiva Enterprises, LLC, Curtis Williams, Real Estate Consultant, Tax Dept. Property,
 P.O. Box 4369, Houston, Texas 77210-4369
 Pinnacle Realty II, Dennis Williams, V.P., 4132 Old Columbia Pike, Ellicott City 21043

Baltimore County Fire Department

Dependment of Permits and Development Management (PDM) County Office Building, Room 111

Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: George Zahner

Property Owner: Curtis Williams

Location:

Pulaski Hwy & Middle River Rd.

Item No.:

188

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.

Office of the Fire Marshal

Towson, Maryland 21286-5500

700 East Joppa Road

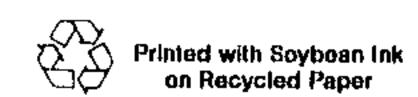
October 9-887-488002

4. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code; the NFPA 1 & 101, 2000 editions, prior to occupancy or beginning of operation.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office

PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: November 21, 2002

TO:

Arnold Jablon, Director

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For November 4, 2002 Item Nos. 182, 183, 184, 187, 188, 190, 191, and 192

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Arnold Jablon

FROM:

R. Bruce Seeley RB/72T

DATE:

November 27, 2002

SUBJECT:

Zoning Item <u>188</u>

Address

9605 Pulaski Highway

Zoning Advisory Committee Meeting of 10/28/02

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Contact MDE Oil Control division for information pertaining to groundwater case # 01-0178BA4 on this property.

Reviewer:

Sue Farinetti

Date: 11/26/02

12/9

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: November 21, 2002

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

2 2 Am

SUBJECT:

9605 Pulaski Highway

INFORMATION:

Item Number:

03 - 188

Petitioner:

Motiva Enterprises, LLC.

Zoning:

BR-AS

Requested Action:

Special Exception/Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning met with the owner/engineer on November 20, 2002 and came to an agreement regarding the design/layout of the subject site. The petitioner agreed to submit a plan at the time of the hearing that will include the following:

- 1. The entrance way closest to the intersection along Pulaski Highway shall be closed and replaced with a grassed area, in combination with adequate landscaping.
- / 2. A 6-foot LTA shall be provided on the subject property along Pulaski Highway. Said LTA strip along with the existing area within the state right-of-way shall be landscaped in according with the standards of the Baltimore County Landscape Manual.
- 3. At a minimum, a 5-foot landscape strip shall be provided adjacent the existing "Bottoms-Up" Bar and Restaurant.
 - 4. There shall be two (2) one-way entrances along Pulaski Highway, farthest away from the intersection as possible. Said entranceways shall be separated by a landscaped median.
 - 5. Sidewalks should be provided along Middle River Road.
 - 6. In regard to sidewalks along Pulaski Highway, the Office of Planning defers to any comments provided by Maryland State Highway Administration.

- 7. A revised plan reflecting the aforementioned conditions shall be submitted to this office for review and approval prior to the issuance of any building permits.
- 8. Internal drive aisle shall be one-way and shall be a minimum of 18 feet.

Prepared by:

Section Chief:

AFK/LL:MAC:



Maryland Department of Transportation State Highway Administration

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

October 31, 2002

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

RE: Baltimore County
Item No. 188 (LTM)

US 40

9605 Pulaski Highway

Mile Post 19.13

Dear Mr. Zahner:

We have reviewed the referenced plan and have no objection to the Special Exception.

However, we will require the owner/developer to obtain an access permit from our office and as a minimum the following will be required:

- A traffic impact analysis will be required. The final design for any roadway improvements will be determined following the review and approval of the traffic impact analysis.
- Traffic Signal modifications may be required.
- The site will be restricted to one right-in and one right-out entrance along US 40.
- Replace the existing curb, gutter and entrance paving along US 40.

Should you require any additional information regarding this subject, please contact Larry Gredlein at 410-545-5606 or by E-mail (lgredlein@sha.state.md.us).

Very truly yours,

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

CC: Robert W. Bowling, P.E.

My telephone number is ______



Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz Secretary Mary Abrams Deputy Secretary

October 29, 2002

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

Re: Zoning Advisory Committee Agenda, November 4, 2002

Re: case numbers 03-182-A, 03-183-A, 03-184-A, 03-185-SPH, 03-186-A, 03-187-SPHA, 03-188-SPHXA, 03-190-A, 03-191-XA, 03-192-SPH

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 10/29/02. 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

PETITIONER'S SIGN-IN SHEET

Sebastion Cross BREG BEED BRANIS WILLIAMS	ANDORESS 301 M. Charles Site 700 810 GLEN EAGLES SIE 30	CITY, STATE, ZIP Baltimer MA 2/201 Elliwith City, MD 21286	E- MAIL
		1	



Environmental - Health and Salary



December 3, 2002

Mr. Sebastian Cross
Gildea LLC
301 N. Charles Street
Suite 900
Baltimore, Maryland 21201

Subject:

9605 Pulaski Highway MDE Case #01-0178BA4

Dear Mr. Cross:

Epoch Consultants, Inc. is performing an environmental assessment for the above-referenced property at the request of Mr. Dennis Williams. The database search for this site indicated that the Maryland Department of the Environment (MDE) – Oil Control Program (OCP) had an open case file, Case #01-0178BA4, for this property address. On November 19, 2002, Epoch contacted Mr. Michael Frank, OCP's regional inspector, to determine the status of the site. After reviewing his files for the property, Mr. Frank responded verbally on November 20. Per Mr. Frank, OCP closed all outstanding case files for this site in August 2001, and there has been no OCP activity at this site since that time. Some petroleum-impacted soil was excavated in conjunction with the removal of underground storage tank (UST) systems operated by the former Shell station.

By a Freedom of Information Act request to MDE (tracking number 2002-16615), Epoch requested that MDE provide all publicly available files for review. A written response from MDE is anticipated within the next two weeks. Any additional information obtained from that file review will be included in the environmental assessment report for this site.

Please do not hesitate to contact me if you have any questions at (410) 712-7304.

Respectfully,

Epoch Consultants, Inc.

Judith Coleman

Principal

Man No

Windlass Run Community Association 13 Silver Maple Court Baltimore MD 21220 windlassnm@comcast.net

Mr. Sebastian A. Cross Gildea LLC 301 North Charles Street Suite 900 Baltimore MD 21201

RE: Proposed Shell Food Mart and Gasoline Station

Dear Mr. Cross:

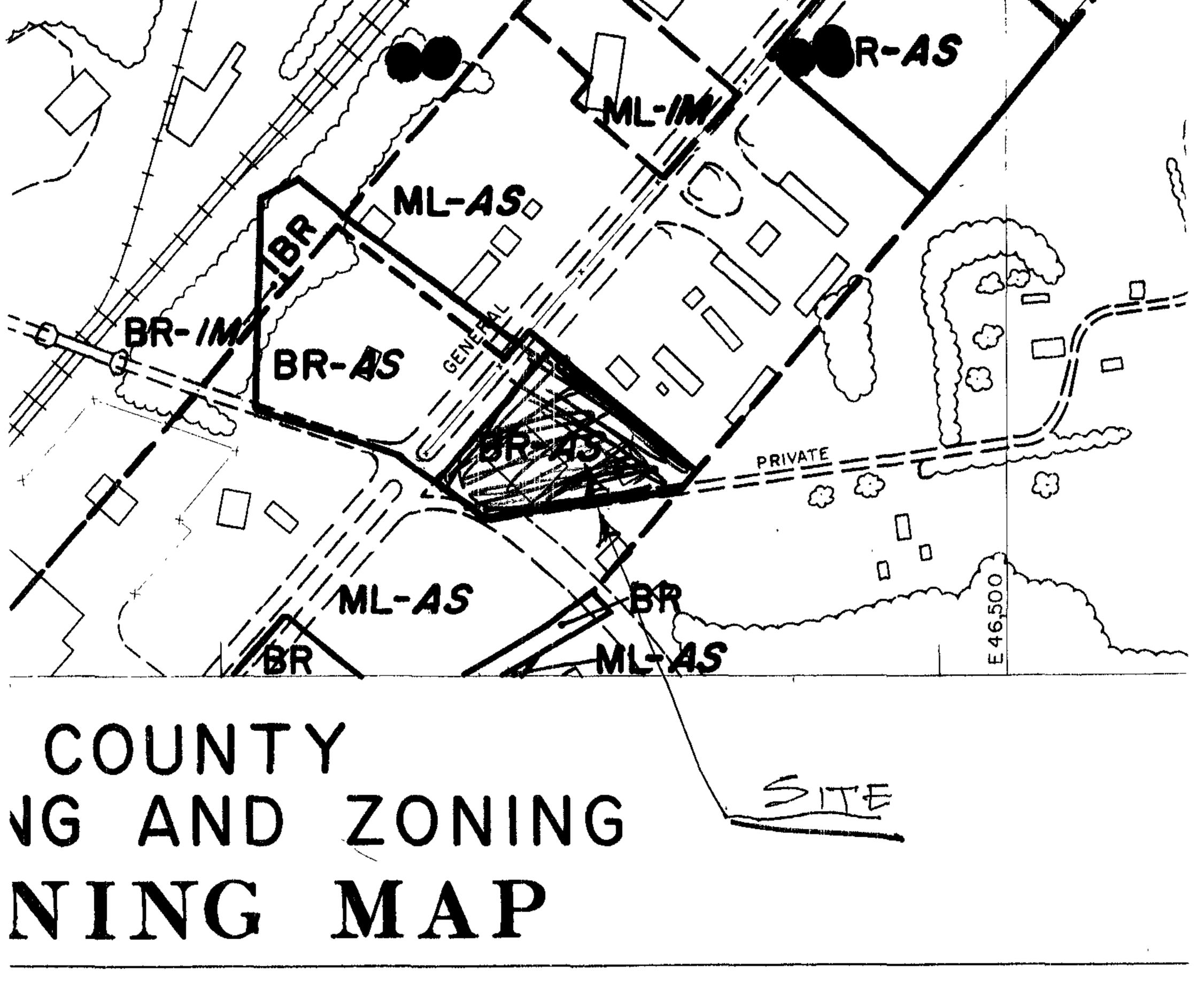
After meeting with several Board members of the Windlass Run Community Association, I am writing to inform you that we have reviewed your proposed plan for the Shell Food Mart and Gasoline Station. At this time we do not believe that your proposal will have a negative impact on our community. In addition, we have not received any complaints or concerns about your proposed plan. In fact, we are pleased to see the vacant lot and rundown restaurant will soon be replaced with an attractive new facility.

We visited the property to see how your requests for the variance will impact the adjacent properties. We do not believe that your requests are unreasonable and, therefore, support your position to be granted the variances.


We appreciate that you have requested input from our association, and welcome any future information that is relevant to our community. If you are in need of our assistance for any other items concerning this property, please do not hesitate to contact me.

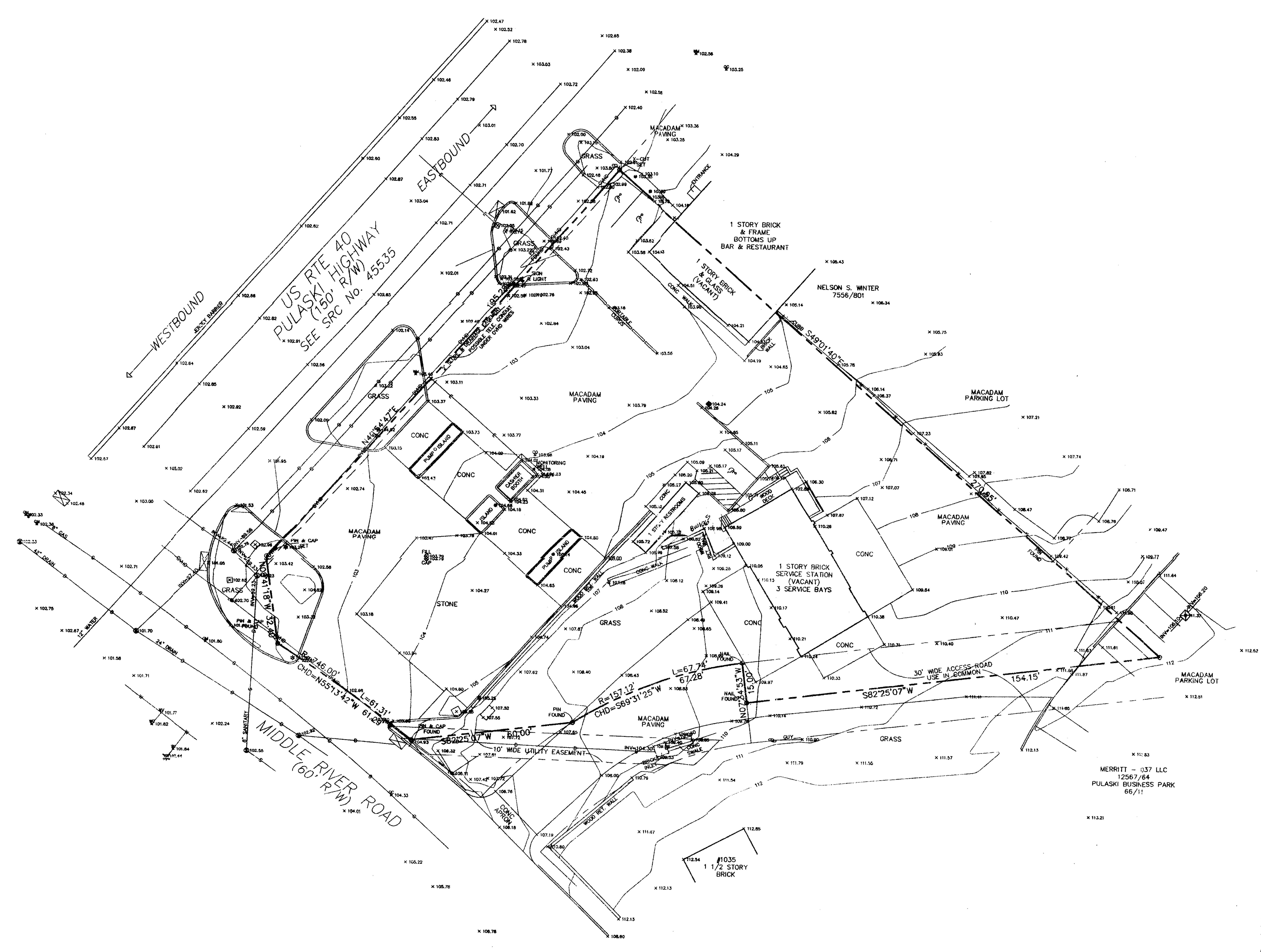
Sincerely,

Robert J. Wiley President Windlass Run Community Association



11 = 200'





× 107,91

LEGEND

FIRE HYDRANT DRAIN INLET LIGHT POLE CONC. CURB GAS CAP ToT SIGN GAS METER 3 UTILITY POLE WATER METER ---OVHD---OVERHEAD UTILITY LINES SEWER CLEANOUT - G - UNDERGROUND GAS MAINS STORM DRAIN MANHOLE --- W --- UNDERGROUND WATER MAINS SEWER MANHOLE -- s --- UNDERGROUND SEWER LINES ELECTRIC MANHOLE - D --- UNDERGROUND STORM DRAINS PROPERTY CORNER

GENERAL NOTES:

1) CURRENT OWNER:

MOTIVA ENTERPRISES LLC

DEED REFERENCE: 15136/175

2) CURRENT ZONING: BR-AS

3) AREA OF PROPERTY: 36,800.4 SF. OR 0.8448 AC±

4) ELEVATIONS SHOWN HEREON ARE BASED ON TRAVERSE STATON NO.

18589 ELEVATION = 103.12

5) BEARINGS SHOWN HEREON REFER TO THE TRUE MERIDIAN AS ESTABLISHED BY THE BALTIMORE COUNTY SURVEY CONTROL

SYSTEM AND ARE BASE ON THE FOLLOWING TRAVERSE STATIONS:

18589 N19746.43 E46204.25

18590 N20090.69 E45974.87

6) UTILITIES SHOWN HEREON ARE NOT GUARANTEED CORRECT OR COMPLETE

APRASSOCIATES, INC.
SURVEYORS . ENGINEERS 7427 Harford Road Baltimore, Maryland 21234-7160 (410) 444-4312 FAX: (410) 444-1647 E mail: opr444@erols.com




BOUNDARY & TOPOGRAPHICAL SURVEY

9605 - 9609 PULASKI HIGHWAY

15th ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

DATE: SEPTEMBER 17, 2002 SCALE: 1"=20"



SCALE: 5.20-02 9
SCALE: 5"=20'
REVISED:
DRAWN BY: KEAR

CENTAURI, INC.

"DESIGNERS TO THE PETROLEUM INDUSTRY"


2 ARLIE DRIVE

ANNAPOLIS, MARYLAND 21401

TEL: 410.974.4207

PROPOSED FOOD MART W/GASOLINE
& DIESEL FUELING ISLANDS LOCATEL
9605-09 PULASKI HIGHWAY AND
MIDDLE RIVER ROAD

SITE PLAN TO ACCOMPANY
PETITION FOR SPENAL EXERTINA
SPECIAL HEAPING AND
VARIANCE



 DATE:
 9.20-02
 9.24-02
 10-90

 SCALE:
 1"=20'

 REVISED:
 DRAWN BY:
 1224

CENTAURI, INC.

DESIGNERS TO THE PETROLEUM INDUSTRY

2 ARLIE DRIVE

ANNAPOLIS, MARYLAND 21401

TEL: 410.974.4207

PROPOSED FOOD MART W/GASOLINE & DIESEL FUELING ISLANDS LOCATED 9605-09 PULASKI HIGHWAY AND MIDDLE RIVER ROAD BALTIMORE COUNTY, MARYLAND

SITE PLAN TO ACCOMPANY
PETITION FOR SPENAL EXERTING
SPENAL HEATING AND
VARIANCE