Jarrettsville Pike, LLC
14307-14311 Jarrettsville Pike
Phoenix, MD 04-533-XA

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3/17/2005 @ 10 a.m. V
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July 13, 2005

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supplemental

(1)

IN RE: **PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE** – E/S Jarrettsville Pike, 98' N of the c/l Sweet Air Road **(14307-14311 Jarrettsville Pike)** 10th Election District 3rd Council District Christian G. Hayes, et ux and Jarrettsville Pike, LLC - Petitioners	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 04-533-XA**

* * * * * * * * * * *

ORDER ON REQUEST FOR EXTENSION

WHEREAS, this matter comes before the Zoning Commissioner for consideration of a request for an extension of time in which to utilize the relief granted in the above-captioned matter. By way of background, the owners of the subject property, Christian and Ella Hayes, through their attorney, Deborah C. Dopkin, Esquire, filed Petitions for Special Exception and Variance, to permit a building with a gross floor area of 13,480 square feet in lieu of the maximum allowed 8,800 square feet, a combined gross floor area of 7,890 square feet in lieu of the maximum allowed 6,600 square fee and a Floor Area Ratio of 0.229 in excess of the 0.20 permitted under Sections 259.3.A and 259.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, Petitioners requested variance relief from the landscape standards set forth in Section 259.3.C.3 of the B.C.Z.R., and from Sections 259.C.7.c, 450.4.7(b)(c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 square feet per side in lieu of the maximum allowed 100 square feet per side; to permit 15 lines of display in lieu of the maximum allowed 5 lines of display; to permit letter copy heights less than 8 inches in height in lieu of the required minimum 8 inches; to permit sign illumination in a C.R. district overlay when approved by the Zoning Commissioner.

By his Opinion and Order dated August 18, 2004, the requested special exception relief was granted and the requested variance relief was granted in part and denied in part by then Zoning Commissioner Lawrence E. Schmidt. Pertinent to the instant request for an extension is the special exception relief granted to permit a building, the area of which exceeds the bulk regulations of

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Date 1-4-08
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259.3.C of the B.C.Z.R. An appreciation of what has transpired and the property's history following August 18, 2004 is relevant and is briefly outlined. People's Counsel for Baltimore County noted a timely appeal of Mr. Schmidt's Order and a de novo hearing was held before the County Board of Appeals on March 17, 2005. The Board found from the evidence that the proposed use addition (office space) was one allowed in a business major zone with a commercial rural district overlay (B.M. – C.R.), that it complied with the design guidelines and performance standards of the Jacksonville Community Plan, and was approved by the Office of Planning as well as the Greater Jacksonville Association. Feeling aggrieved by the Board's decision of July 13, 2005, a subsequent appeal was taken to the Circuit Court by People's Counsel. Judge Kathleen Cox of the Circuit Court for Baltimore County, by her Memorandum Opinion in Case No. 03-C-05-7745, dated February 28, 2006, affirmed the decision of the Board of Appeals.

Returning to present day and the matter before me, it is noted pursuant to Section 502.3 of the B.C.Z.R. that a special exception grant must be utilized within two (2) years of the date of any final Order granting same[1]; however, an extension of up to five (5) years may be obtained, *if requested prior to the expiration of the initial two-year period.* Moreover, where a special exception in effect cannot be utilized within the maximum allowable time because of inadequacy or unavailability of public water facilities, the Zoning Commissioner shall extend said time for utilization to a date eighteen (18) months *after such facilities become adequate and available.*

The record of the case shows that the subject property is located in the Jacksonville area of Baltimore County approximately 100 feet north of the intersection of Jarrettsville Pike and Paper Mill Road. On January 17, 2006, an Exxon-Mobile gas station at this location (14258 Jarrettsville Pike) operated by Storto Enterprises, Inc. reported to the Maryland Department of Environment (MDE) a catastrophic release of gasoline[2]. As noted, the final Order affirming the grant of the special exception was rendered by the Circuit Court a mere eleven (11) days after the

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[1] In the instant case, the date of February 28, 2006 is the relevant date which begins the utilization period under B.C.Z.R. Section 502.3. The final Order of the Circuit Court was not appealed further by the Office of People's Counsel and, therefore, became the final Order.

[2] Twenty-five thousand (25,000) gallons of gasoline – 675 gallons a day – for 37 days – leaked into the water supply. Fifteen (15) feet of gasoline product was found on top of the ground water in one of the monitoring wells. This has resulted in a billion dollar lawsuit being filed.

neighboring gas station leak was discovered. This event delayed the ability of Petitioners to utilize the special exception within a two-year period from the said date of the final Order. Petitioners now request an extension of the special exception use for the full five-year period of time allowed by the B.C.Z.R. running from the date of the Circuit Court's Order.

I find that the oil spill was unforeseeable and its consequences were unknown at the time the final Order became effective. Petitioners were in no way responsible for this intervening catastrophic event and like other similarly situated property owners in Jacksonville, the huge gas leak and continuing clean up efforts have prevented property owners from using their property for permitted uses. Thus, I find that the Petitioners request for extension meets the requirements of Section 502.3 of the B.C.Z.R. and should be granted.

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of January 2008 that the request for extension in which to utilize the special exception relief granted in the above-captioned matter, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that said extension shall be utilized within the five-year limitation permitted under Section 502.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) which in this case would be on or before February 28, 2011; and

IT IS FURTHER ORDERED that the Zoning Commissioner's decision in this case, which involves unusual circumstances, is not a legal precedent that may be cited as such in any other zoning case.

Any appeal of this Order shall be taken in accordance with Baltimore County Code Section 32-3-401.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Deborah Dopkin, Esquire, 409 Washington Avenue, Towson, MD 21204
Mr. Christian G. Hayes, 14307 Jarrettsville Pike, Phoenix, Md. 21131
Ms. Jeanne Andrews, 3511 Stansbury Mill Road, Phoenix, Md. 21131
Mr. James V. McCoy, 11726 Mays Chapel Road, Timonium, Md. 21093
Ms. Betsy Lehmann, 4104 Green Glade Road, Phoenix, Md. 21131
Mr. William F. Bergeron, 4 Valleygreen Court, Phoenix, Md. 21131
Office of Planning; People's Counsel; Case File

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Date 1-4-08
By DLW

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DEBORAH C. DOPKIN

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BY:----------

December 18, 2007

William J. Wiseman, III, Esquire
Zoning Commissioner
for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RE: 14311 Jarretsville Pike, Jacksonville, Maryland
Case No. 04-533-XA

Dear Mr. Kotroco:

This office represents Jarretsville Pike, LLC, the owner of the above captioned property which is zoned BL-CR and is improved by a two-story office building. In August of 2004, the Zoning Commissioner granted a Petition for Special Hearing and variances to permit an addition to the existing building. The Zoning Commissioner's decision was appealed to the Board of Appeals which approved the special hearing by Order dated July 13, 2005. That decision was subsequently appealed to Circuit Court by People's Counsel. Judge Kathleen Cox of the Circuit Court for Baltimore County affirmed the decision of the Board of Appeals by Order dated February 28, 2006.

In the interim, the Exxon station located approximately 100 ft. south of the subject property, experienced a massive oil spill which delayed any possibility of commencing construction at the site. Mitigation has been ongoing.

The owner of the property will be submitting a building permit application in the near future to proceed with construction of the improvements as approved in the above cited orders.

This letter is to request that the time in which the special exception may be utilized **be extended** *from the normal two years*, which in this case would expire on February 28, 2008, to the full five year period permitted under Section 502.3 of the Zoning

Regulations. This request is necessitated because of the oil spill and the lengthy remediation of the oil spill, conditions beyond the control of the property owner. Even though the permit application will be filed within the two years allowed under the Zoning Regulations, there is a concern that the environmental review by the Department of Environmental Protection will be lengthy and extend past February 28, 2008, thereby delaying the issuance of that permit.

Therefore, I would appreciate your advising me at your earliest opportunity whether you will extend the approval to build the office building and related improvements through February 28, 2011, without the necessity of a hearing.

Thank you for your prompt attention to this matter.

Very truly yours,

Deborah C. Dopkin

DCD/kmc

cc: Carl Richards, Supervisor
Mr. Christian Hayes
Boy Royer, Site Resources

C:\docs\KMC\DCD\Letters 2007\wiseman william - hayes.wpd

2/28/06

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
IN THE MATTER OF THE APPLICATION OF JARRETTSVILLE PIKE LLC FOR A SPECIAL EXCEPTION AND VARIANCE. CASE NO 04-533-XA	*	Case No. 03-C-05-7745

* * * * * * * * * * * * * *

MEMORANDUM OPINION

Presently pending before the Court is a Petition filed by People's Counsel for judicial review of the County Board of Appeals ("CBA") Opinion and Order dated July 13, 2005. In reaching a decision on this matter, the Court has examined the petition, responsive pleadings, and record below, and has considered the arguments raised at the hearing conducted on January 19, 2006.

I. PROCEDURAL AND FACTUAL BACKGROUND.

Petitioner is asking the Court to reverse the CBA decision dated July 13, 2005 granting a special exception and variances to permit construction of a building addition overlapping two adjoining parcels of land owned by Jarrettsville Pike, LLC, which is an entity owned by Christian and Ella Hayes ("Hayes"). The property is located in the rural Jacksonville community, which is in a Business-Major ("B.M.") zone with a Commercial-Rural ("C.R.") overlay district. In 1989, the original Petitioner, Jarrettsville Pike, LLC, constructed an office center located at 14307 Jarrettsville Pike on Parcel 159. Parcel 159 is slightly less than one acre in size. The current business center contains a two-story office building and a storage building totaling 10,702 square feet. Hayes recently purchased the adjacent lot (Parcel 192), which is .447 acres in a triangular shape. Parcel 192 is unimproved, but was the subject of a 1991 zoning petition that granted

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approval for a 3,900 square foot office building. Variances of the landscape standards, setbacks, and parking standards were granted in connection with that approval.

Hayes seeks to build a 3,080 square foot addition to the existing building on Parcel 159. This addition would lie primarily on lot 192, but would cross the common boundary between the two lots. This addition would increase office and storage space for existing tenants, and would also bring the building into compliance with the Americans with Disabilities Act by adding an elevator. If permitted, this addition would allow improved flow on the combined property, together with single ingress and egress locations.

In order to construct the proposed addition, Hayes requires relief from certain zoning laws. Specifically, Hayes seeks a special exception as the proposed addition would violate bulk standards for gross floor area by over fifty percent, and the floor area ratio would be over the legal limit. In addition, Hayes requests a variance from applicable landscaping requirements, together with a sign variance.

The initial hearing on this case was held before the Zoning Commissioner for Baltimore County on August 2, 2004. On August 18, 2004, the Commissioner approved the special exception and a substantial part of the variance relief. Following People's Counsel's appeal, the CBA held a *de novo* hearing. Subsequently, it entered an Order approving the special exception and setback and landscape variances, while denying the sign variance. The present appeal by People's Counsel followed.

Hayes did not file a cross-appeal concerning the CBA's denial of the request for a sign variance. Accordingly, any allegation of error with respect to the request for a sign variance is not before this Court. See eg. Taylor v. Wahby 271 Md. 101, 109-110 (1974).

II. STANDARD OF REVIEW

On appeal from the decision of an administrative agency, including review of a zoning decision, the determination below should be affirmed if it is not based upon an error of law, and if the agency's conclusions are reasonably based upon the record. See, People's Counsel v. Maryland Marine, 316 Md. 491, 196-197 (1989) and cases cited therein. This standard prohibits a reviewing court from substituting its judgment for the expertise of the administrative agency. That deference, however, is not accorded if the reviewing court determines that the decision below is based upon an erroneous conclusion of law. See, Belvoir Farms v. North, 355 Md. 259, 267-268 (1999) and cases cited therein.

In order for a reviewing court to uphold the decision of an administrative board, the Court must determine whether reasoning minds reasonable could have reached the factual conclusions made by the Board. See Eberle v. Bell, 103 Md. App. 160, 166 (1975) and cases cited therein. There must be supporting evidence upon which a rational judgment can be based. County Commissioners v. Luria, 249 Md. 1, 6 (1968). The reviewing court, however, must not simply substitute its factual determinations for that of the board or agency. See, Supervisor of Assessments v. Ely, 272 Md. 77 (1974). Similarly, the reviewing Court cannot substitute its own judgment if facts are fairly debatable. If the facts are sufficient to support the administrative decision, it must be upheld. Crowther, Inc. v. Johnson, 225 Md. 379, 383 (1961).

III. THE CBA DECISION

At the CBA hearing, the Petitioner presented testimony from Robert Royer, who is a landscape architect and a project manager for Site Resources, Inc. Mr. Royer has experience in Baltimore County development work for over 20 years, and was presented as an expert in land

use and development, including zoning in the County. Mr. Royer was particularly familiar with the site at issue, as he has worked in the existing building for over four years.

Mr. Royer testified concerning the configuration of the site, and the proposed addition. He characterized the smaller parcel as very irregular, and noted the slope. In particular, he emphasized that use of the smaller site for an addition to the existing building would provide better traffic circulation and parking for the existing site, and would not create additional burdens on the land for septic and utilities that would occur if a separate structure were constructed on the smaller lot. Mr. Royer characterized the proposed addition as a good use of the land, particularly given the shape of the parcel. He opinioned that it was not inconsistent with the spirit of the County zoning restrictions, and that it conformed to the spirit of the Jacksonville Community Plan.

Petitioner also presented testimony from the owner, Christopher Hayes, regarding the need for the addition. Mr. Hayes stressed that an addition, as opposed to a separate free standing structure, would enable him to install an elevator and become ADA compliant. Additionally, it would allow for improved traffic patterns, and better ingress and egress to the building. Mr. Hayes reiterated that other proposed uses for the property would have far more impact than the current design.

Finally, Petitioner presented testimony from the Greater Jacksonville Association that it had voted twice to approve the proposed special exception and variances.

People's Counsel presented citizen testimony that stressed the rural village concept at the heart of the C.R. overlay district. Both witnesses stressed concerns that the existing building already exceeds the bulk limits, and the proposed addition would exacerbate the non-compliance.

They also voiced concerns that approval of a building of the size and scale presented would establish bad precedent and erode the rural village character in the area.

The CBA reviewed the testimony and applicable law and determined to grant the special exception and landscaping variances, but declined to grant the sign variance. With respect to the special exception, the CBA cited Schultz v. Pritts, 291 Md. 1 (1981) for the proposition that a special exception should be granted where the adverse impact in a particular location would be more severe than the adverse effects ordinarily associated with such use regardless of location in the zone. In this regard, the CBA found the proposed use would not have a greater adverse impact at the proposed location than at any other location. In making this finding, the CBA stressed the testimony that the proposed addition would have many beneficial impacts, such as improved traffic flow and better parking, and that the overall impact on the area was less than if a separate building were constructed on the other parcel.

The CBA rejected the argument of People's Counsel that the proposed addition would exceed the bulk limits, noting they were dealing with construction on two parcels, not one. The CBA further found the proposed addition did not represent over development, but was actually consistent with the spirit of the legislative intent in that it prevented greater development in this rural setting. Finally, it found that the proposed addition complied with site design guidelines and performance standards of the Jacksonville Community Plan ("JCP").

In considering the variance requests, the CBA noted they could be granted only where special circumstances exist that are peculiar to the land or structure. Therefore in addressing the uniqueness of the property, the CBA noted its odd size and shape, with sloping topography. Further, in light of its proximity to a busy intersection, traffic light and streets, the CBA noted

difficulties with ingress and egress. Finally, the CBA noted that other potential problems were eliminated by use of the lot for an addition, rather than a freestanding building, such as water and septic fields.

Having found the site to be unique, the CBA next turned to whether strict compliance with zoning laws would result in hardship. Given the connection between the proposed development and the existing building, the CBA found strict compliance with landscaping requirements would be both impractical and unnecessary. In fact, a landscaping buffer on the northern boundary would interfere with design and cause safety concerns. Thus it decided to grant the landscaping variance.

With respect to the request for a sign variance, the CBA did not grant relief. The CBA noted that testimony of witnesses indicated opposition to the sign, and further noted that compliance with requirements in this area was clearly possible.[1]

IV. SUBSTANTIVE LAW

A. REQUEST FOR SPECIAL EXCEPTION

The term "special exception" refers to a "grant by a zoning administrative body pursuant to existing provisions of zoning law and subject to certain guides and standards of special use permitted under provisions of existing zoning law." See People's Counsel v. Mangione, 85 Md. App. 738, 747 (1991) and cases cited therein. As such, it is a use which has been "legislatively predetermined to be conditionally compatible with the uses permitted as of right in a particular

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[1] Even if this Court were to consider the merits of the Respondent's position on the request for a sign variance, there is ample evidence to support the CBA decision to deny the variance. Testimony before the CBA specifically addressed concerns with the existing signage, which exceeds size limits. Further, the Jacksonville Community Plan is clear and specific concerning signage guidelines. (See JCP Section 5.7.2). There is no unique circumstance that warrants signage variance, so the CBA decision to deny this request requires affirmance, if

zone, the condition being that a zoning body must, in each case, decide under specified statutory standards whether presumptive compatibility exists." Id. at 748. As stated in Schultz v. Pritts, 291 Md. 1, 11 (1981):

> The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

The standard to be applied in determining whether to grant a special exception is whether the particular use at the proposed location would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. People's Counsel v. Mangione, supra. at 749-50. The applicant bears the burden to prove it is entitled to the special exceptions. Prince George's County v. Lightman, 251 Md. 86, 91 (1967).

The Baltimore County Zoning Regulations ("BCZR") define the manner in which conflicting standards between zoning requirements and the overlay districts are to be resolved. See generally BCZR 259.1. In creating the "Commercial-Rural" district, the statement of legislative intent provides:

> The C.R. District is established to provide opportunities for convenience shopping and personal services that are customarily and frequently needed by the rural residential and agricultural population and tourists. It is intended that the C.R. District be applied only to areas where such facilities are not available within a reasonable distance, where sewerage treatment and a potable water supply can be provided without an adverse effect on the environment and neighboring uses, and where public roads are capable of handling the anticipated increase in traffic without adverse impacts on surrounding areas. The commercial centers within

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considered on its merits.

C.R. Districts are not intended to be regional facilities providing specialty goods to a population outside of the rural area.

BCZR 259.2.A.1.

The C.R. District incorporates bulk restrictions that limit the gross floor area for buildings on a lot to 8,800 square feet, of which no more than 6,600 square feet may be on the ground floor. They also limit the floor area ration to 2.0. See BCZR 259.3.C.1. These Districts also incorporate their own landscaping requirements, which specify that the entire required front, rear and side setbacks be landscaped, in addition to landscaping requirements for parking areas. See BCZR 259.3.C.3.

A special exception is required for any building that exceeds the bulk restrictions set forth above. This is permitted only when "the proposed development is in compliance with site design guidelines and performance standards which are part of a duly adopted Master Plan for the district." BCZR 259.3.B.3.

This regulation supplements the general special exception requirements set forth in BCZR 502.1. Thus before a special exception is granted, it must appear that it will not:

(1) Be detrimental to the health, safety or general welfare of the locality involved;

(2) Tend to create congestion in roads, streets or alleys therein;

(3) Create a potential hazard from fire, panic or other danger;

(4) Tend to overcrowd land and cause undue concentration of population;

(5) Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

(6) Interfere with adequate light and air;

(7) Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the Zoning Regulations;

(8) Be inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations; nor

(9) Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in applicable zones.

BCZR 502.1.

Finally, in order to grant a special exception in a C.R. District, the Petitioner must document the need for the development at the proposed location. In addition, the proposed development must take into account the existing site configuration, and only limited disturbance is permitted. Historic or architecturally significant buildings must be protected, and the proposed development must be sited to protect scenic views and open space. Overall, the proposed development may not be "detrimental to the neighboring uses and the tranquility of the rural area...." BZCR 259.3.E.

Hayes' existing building predates the C.R. District overlay, and already exceeds the bulk regulations. The proposed addition, which would cross over onto the adjacent lot, would increase the size of this building, and clearly exceeds the bulk limits. Thus the developer must satisfy the particularized standards for special exceptions in order to have the proposal approved.

The first hurdle faced is to demonstrate that the proposed development complies with site design guidelines and performance standards set forth in the JCP, which is the applicable Master Plan for this C.R. District. The overall intent of that plan is to have buildings with a "village-type character." JCP § 5.3.2. Construction, both new and additions to existing structures, must follow design guidelines set forth in the JCP. JCP § 5.1.

The essence of the Petitioner's testimony and argument is that an addition to an existing, albeit non-conforming, structure is preferable to a freestanding structure on this small site. People's Counsel argues this is not a valid approach under the applicable law. However it is clearly the analysis embraced by the CBA, which stressed that the plan encompassed an addition to an existing structure covering two lots. The CBA found the Hayes proposal was designed to avoid over-development, and was therefore consistent with the JCP.

The design criteria enumerated in the JCP support the DBA analysis. Specifically, in the "Site Selection and Design" criteria, it states:

> The impact of noise, traffic, and odor-generating activities must be addressed so as not to become an irritant to neighbors.
>
> ... To the greatest extent practicable, vehicular and pedestrian traffic is to be interrelated with adjacent properties. Wherever possible, driveways and parking areas shall be shared in order to improve circulation and to minimize curb cuts.

JCP § 5.2. Additionally, the "Building Design" criteria to be considered by the Greater Jacksonville Association Board of Directors or its design committee include:

> 1. transitions between existing and proposed new buildings; ...
> 6. compatibility and appropriateness of proposed structures with other adjacent features.

JCP § 5.31.

Testimony clearly established that traffic patterns, sight lines and ingress and egress all pose challenges at these parcels, which are close to the major intersection in Jacksonville. The proposed plan not only minimizes these challenges on the new site, but also improves the traffic plan on the original parcel, as it will route internal traffic through a parking pattern, with one-way

ingress and egress. This approach could not occur if a separate structure were built on Parcel 192.

Testimony also clearly established the minimal impact the addition will have on the adjacent community. It will not increase sewerage or utility demands. The expansion is almost exclusively designed to provide elevator access, ADA compatibility, and increased conference and storage space for existing tenants, so area usage will not increase. Perhaps most significantly, given the sloping topography of the site, testimony established that the addition will not really be visible from the street or adjacent structures.

Given the above, there clearly was evidence to support the CBA determination that the special exception to permit deviation from the C.R. bulk restrictions was in compliance with site design guidelines and performance standards under the JCP.

Evidence further supports the determination that the requested special exception will not violate the standards set forth in BCZR 502.1. The demands on the two sites encompassed by this addition are essentially identical with those posed by the existing structure. The testimony of Mr. Royer supports the conclusion that the proposed addition does not violate any of the factors enumerated under BCZR 502.1.

Finally, Petitioner has documented need for ADA compatibility and improved access on the existing site. For reasons stated above, the addition does not create addition burdens, and is therefore "not detrimental to the neighboring uses and the tranquility of the rural area." BCZR 259.3.E.

B. REQUEST FOR VARIANCE

Variances are not favored under the law and are presumed to be in conflict with zoning regulations. As stated in Cromwell v. Ward, 102 Md. App. 691, 703 (1995):

> The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances.

The decision to grant a variance is a two-step process. The first requires a determination of whether the property, in and of itself, is "unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provisions to impact disproportionately upon that property." Cromwell v. Ward, 102 Md. App. 691, 694 (1995). If that "uniqueness" does not exist, no variance may be granted. If it does, then the second hurdle is to determine whether practical difficulty and/or unreasonable hardship result from the disproportionate impact of the zoning ordinance caused by the property's unique quality. Cromwell, supra. at 694-695.

In Cromwell, supra., the Court of Appeals stressed that uniqueness is a condition relating to the characteristics of the property itself, and not to impact of the zoning restrictions. As the Court stated:

> [I]n the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon the neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

Cromwell, supra. at 710.

Hayes requires landscaping variances to construct his addition. The C.R. variance standard set forth in BCZR 307.1 is in accord with the general variance law and states that the Board may grant variances:

> . . . only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the zoning regulations of Baltimore County would result in practical difficulty or unreasonable hardship.

On the issue of "uniqueness," the CBA relied on the odd size, shape and topography of this parcel. While People's Counsel argues the aspects cited amount to little more than those present on any irregularly shaped lot, clearly there are other factors that support the CBA finding. In particular, it is the size and shape of the lot in conjunction with its location near a busy intersection and street, and its slope away from the roadway. The CBA particularly noted that strict compliance with landscaping requirements would actually cause safety concerns at areas of ingress and egress. Clearly, there exists evidence that supports the CBA finding of uniqueness.

Those same considerations also support the CBA's determination of practical difficulty or unreasonable hardship caused by compliance in light of these unique qualities. The CBA determination to grant a landscaping variance for this addition, which will straddle the lot lines, allowed improved ingress and egress, yet did not further burden the property demand for water, utilities or sewerage or the business demands is clearly a proper exercise of its authority. The conclusion that the landscaping variance is necessitated by hardship or practical difficulty associated with the property's unique

characteristics is buttressed by the fact that landscaping variances were granted at the time of the 1991 building approval.

V. CONCLUSION

For the reasons stated, reasoning minds clearly could reach the factual conclusions and resulting legal determinations made by the CBA in determining to grant the special exception and landscaping variance sought by the Petitioner. For this reason, the Opinion and Order dated July 13, 2005 by the County Board of Appeals must be affirmed.

2/28/06
Date

JUDGE KATHLEEN G. COX

Clerk's Office: Please forward copies to all parties.

True Copy Test
SUZANNE MENSH, Clerk
Per _____
Assistant Clerk

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
PETITION OF: PEOPLE'S COUNSEL FOR BALTIMORE COUNTY OLD COURTHOUSE – RM. 47 400 WASHINGTON AVENUE TOWSON, MD 21204	*	
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	CIVIL ACTION No. **3-C-05-007745**
IN THE MATTER OF THE APPLICATION OF JARRETTSVILLE PIKE, LLC SPECIAL EXCEPTION AND VARIANCE FOR THE PROPERTY LOCATED ON THE E/S OF JARRETTSVILLE PIKE, 98' N. SWEET AIR ROAD (14307-14311 JARRETTSVILLE PIKE)	*	
CASE NO.: 04-533-XA	*	
9TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

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

RECEIVED AND FILED
05 SEP 19 PM 2:52
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

CASE NO.: 04-533-XA

May 18, 2004	Petition for Special Exception – A special exception pursuant to Section 259.3A to approve a building with a gross floor of 13,480 in lieu of the 8,800 square feet, a combined ground floor area of 7,890 square fee in lieu of the 6,600 square feet permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted under Section 259.3.C.1. Petition for Variance – (1) a variance of the landscape standards of Sec. 259.3.C.3; (2) variance to Sec. 259.C.7.c, 450.4.7(b)(c) to permit an existing (but relocated) freestanding joint identification sign with an area/fact of 150 sq. feet for each side in lieu of the maximum permitted area/fact of 100 sq. ft. for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner.
June 3	Notice of Zoning Hearing
June 3	Entry of Appearance by People's Counsel.
July 14	Certificate of Posting
July 15	Certificate of Publication
July 27	ZAC Comments.
August 2	Hearing held before the Zoning Commissioner
August 18	Findings of Fact and Conclusion of Law –Petition for Special Exception was *GRANTED* and the Petition for Variance with respect to signs was *GRANTED* with restrictions, however, the Variance regarding landscape relief was *DENIED.*
September 9	Notice of Appeal filed by People's Counsel
March 17, 2005	Hearing held before the Board of Appeals

Petitioner's Exhibits

1. Robert L. Royer's Resume C.V
2. Plat Plan/Zoning Plan
3. Photos of building (?)
4. 1 – 12 Photo Bd
5. 4 photos of current sign
6. Rule 8 documents – Greater Jacksonville Association and minutes of 7/04 and 2/15/05
7. Building addition Blue Print
8. Photos A, B, C, D, E & F

People's Counsel Exhibits

1. 1991 Opinion
2. Inter-Office correspondence of 7/24/04 by M. Cunningham from Planning Director, Arnold F. "Pat" Keller, III
3. 2004 Zoning Map
4. Opinion of the Board of Appeals – 1/5/05
5. a. MD Dept. of Assessments owner information (151)
5. b. MD Dept. of Assessments owner information (192)
6. Jacksonville Community Plan – 2/2000
7. G.I.S. map of site
8. Sign photos
9. Photo – Hayes
10. Extract of Master Plan 2010
11. Council Bill 103-88
12. Final Report of Planning Board – Rural Business Zones 5/19/88

April 7	People's Counsel for Baltimore County's Memorandum
April 8	Appellee's Memorandum filed by Deborah C. Dopkin , Esq.
May 4	Board convened for public deliberation.
July 13	Opinion and Order issued by Board . The Board *GRANTED* the Special Exception to permit a building with the gross floor area of 13,480 sq. in lieu of the maximum allowed of 8,800 and also GRANTED the Variance of the landscape standards of the B.C.Z.R., however, the Board *DENIED* the Petitioner's requests with respect to their sign.

July 15	Petition for Judicial Review filed by People's Counsel for Baltimore County by Peter M. Zimmerman, Esq. and Carole S. Demilio, Deputy.
Aug. 1	Certificate of Notice sent to interested parties
Sept. 19	Transcript of testimony filed.
Sept. 19	Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals
Room 49 Basement
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (410-887-3180)

c: Peter M. Zimmerman, Esq.
People's Counsel for
Baltimore County

Deborah Dopkin, Esq.
Attorney for Petitioners

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY *

PETITION OF: *
PEOPLE'S COUNSEL FOR *
BALTIMORE COUNTY *
Old Courthouse – Room 47 *
400 Washington Avenue *
Towson, MD 21204 *

FOR JUDICIAL REVIEW OF THE OPINION * CIVIL ACTION
OF THE COUNTY BOARD OF APPEALS No. **3-C-05-7745**
OF BALTIMORE COUNTY *
OLD COURTHOUSE, ROOM 49 *
400 WASHINGTON AVENUE *
TOWSON, MARYLAND 21204 *

IN THE MATTER OF THE APPLICATION *
JARRETTSVILLE PIKE LLC *
Case No.: 04-533-XA *
SPECIAL EXCEPTION AND VARIANCE *
for property located on the E/S of Jarrettsville *
Pike, 98' N. Sweet Air Road (14307-14311 *
Jarrettsville Pike) *

10TH ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *

* * * * * * * * * * * *

RECEIVED AND FILED
05 AUG -1 PM 3:55
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Peter Max Zimmerman
People's Counsel for Baltimore County,
Old Courthouse, Room 47

400 Washington Avenue
Towson, Maryland 21204

Deborah Dopkin, Esquire
409 Washington Avenue – Suite 100
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 1st day of August, 2005, a copy of the foregoing Certificate of Notice has been mailed to: Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204, Deborah Dopkin, Esquire, 409 Washington Avenue – Suite 100, Towson, MD 21204.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

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

August 1, 2005

Peter Max Zimmerman, Esq.
People's Counsel for
Baltimore Couny
Courthouse-Room 47
400 Washington Avenue
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-05-007745
Petition for Judicial Review
Jarrettsville Pike, LLC
Board of Appeals Case No.: 04-533-XA

Dear Mr. Zimmerman:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporters that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410- 486-8209
Date of Hearing: March 17, 2005

This office has notified Ms. Peatt that a transcript on the above captioned matter would be due by September 12, 2005 for filing in the Circuit Court.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel
Legal Secretary

/lbf
c: Deborah Dopkin, Esquire
Carolyn Peatt, Court Reporter

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

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

August 1 , 2005

Deborah Dopkin, Esquire
409 Washington Ave. – Suite 100
Towson, MD 21204

RE: Circuit Court Civil Action No. 3-C-05-007745
Petition for Judicial Review
Jarrettsville Pike, LLC
Board of Appeals Case No.: 04-533-XA

Dear Mrs. Dopkin:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on July 18, 2005, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-05-007745.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: John V. Murphy, Deputy
Zoning Commissioner
Timothy M. Kotroco, Director/PDM
Peter M. Zimmerman, Esq.
People's Counsel for Baltimore County
Christian Hayes
Jeanne Andrews
James McCoy
Betsy Lehmann
William Bergeron

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on Recycled Paper

PETITION OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	IN THE
	*	CIRCUIT COURT
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Avenue, Towson, MD 21204	*	FOR
	*	
IN THE MATTER OF THE APPLICATION OF **JARRETTSVILLE PIKE LLC** FOR A SPECIAL EXECEPTION AND VARIANCE for property located on the E/S of Jarrettsville Pike, 98' N Sweet Air Rd (14307-14311 Jarrettsville Pike) 10th Election District, 3rd Councilmanic District	*	BALTIMORE COUNTY
	*	Civil No.
Case No. 04-533-XA before the County Board of Appeals of Baltimore County	*	

* * * * * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY hereby requests judicial review of the part of the Opinion and Order of the County Board of Appeals dated July 13, 2005 to permit a building with a gross floor area of 13,480 sq.ft in lieu of the maximum allowed 8,800 sq.ft., a combined ground floor area of 7,890 sq.ft. in lieu of the maximum allowed 6,600 sq.ft., and a Floor Area Ratio (RTA) of 0.229 in excess of the 0.20 permitted; variance relief of the landscape standards of Baltimore County Zoning Regulations § 259.3.C.3; and the confirmation of the relief granted in Case 91-374-A. People's Counsel for Baltimore County was a party to the proceeding before the County Board of Appeals of Baltimore County in this matter.

This Petition is filed pursuant to Rule 7-202 of the Maryland Rules of Procedure.

RECEIVED
JUL 15 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th of July, 2005, a copy of the foregoing Petition for Judicial Review was mailed to Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

7/13/05

IN THE MATTER OF THE APPLICATION OF JARRETTSVILLE PIKE, LLC - PETITIONER FOR SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED ON THE E/S JARRETTSVILLE PIKE, 98' N OF SWEET AIR ROAD (14307-14311 JARRETTSVILLE PIKE)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
10TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	Case No. 04-533-XA

* * * * * * * * *

OPINION

Statement Of Facts

This matter comes before the Baltimore County Board Of Appeals on appeal from a decision of the Zoning Commissioner dated August 18, 2004, in which the requested special exception relief was granted and the requested variance relief was granted in part and denied in part. The Petitioner submitted a Petition for Special Exception and a Petition for Variances seeking the following relief:

1. To permit a building, the area of which exceeds the bulk regulations of 259.3.C of the Baltimore County Zoning Regulations.
2. To permit variances of the landscape standards of Baltimore County Zoning Regulations 259.3.C.3.
3. Of the size standards of 450 to permit a joint identification sign with a maximum area of 150 square feet in lieu of the 100' square feet permitted.
4. To confirm relief granted in Case No. 91-374-A.

A hearing was held before the Zoning Commissioner for Baltimore County on August 2, 2004. The Zoning Commissioner issued Findings of Fact and Conclusions of Law, dated August 18, 2004, substantially granting the requested relief. Appellant

People's Counsel for Baltimore County noted an appeal of the Zoning Commissioner's Order to the County Board of Appeals of Baltimore County. A hearing was held before the County Board of Appeals on March 17, 2005 and was heard *de nova.*

Testimony and Evidence

The Petitioner, Christian G. Hayes, testified that he is the owner of parcel #159 located on Jarrettsville Pike and improved by a two-story office building constructed in 1989. The building and a storage building total 10,702 square feet. The storage building is 1,512 square feet. Mr. Hayes' construction company, Hayes Construction, occupies most of the building. The lot is .97± acres. There is an entrance to the property located on Jarrettsville Pike near its intersection with Sweet Air Road. The property is served by a well and septic system as well as a storm water management system located on the lot. There is an existing joint identification sign listing the names of the tenants and the building. The sign is 150 ft sq. and 18 feet high. The building was constructed and approved by the County Review Group and conformed to the regulations in effect at the time of construction.

Parcel #192 is owned by 14311 Jarrettsville Pike, LLC, and is unimproved. The parcel is triangular in shape. The parcel is .41 acre and is located north of parcel #159. Mr. Hayes testified that under present zoning a building of 8,800 sq. ft. could be erected on this parcel without a variance. The parcel was approved for office building use (Case No. 91-374-A). The parcel has a Business Major zoning with classification Commercial Rural District overlay (B.M.-C.R.) as does parcel #159.

Testimony showed what is proposed by the Petitioners is an addition to the existing office building located on parcel #159 which would cross the boundary line to parcel #192. The new building area occupied on parcel #192 would be 3,080 sq. ft. The gross floor area created by the addition of the two buildings would be 13, 480 sq. ft. in lieu of the maximum allowed 8,800 sq. ft. The combined ground floor area would be 7,890 sq. ft in lieu of the maximum allowed, 6,000 sq. ft.; and a Floor Area Ration of 0.229 in excess of the 0.20 permitted. The additional space would consist of a new entrance to the building (needed because of the grade difference between the two parcels) and an elevator to the second floor, additional conference room area for Mr. Hayes' construction company and some additional retail space. There is a current danger created by the existing entrances location near the traffic light located at Jarrettsville Pike and Sweat Air Road. The addition would allow for a change in the traffic pattern to the parcels. The new traffic flow would use the existing driveway for entrance purposes only, and add an additional entrance to the north. There would also be additional parking spaces created.

Testimony further showed Petitioners presented the proposal for review to the Office of Planning, which approved it without comment. The proposed addition was presented to the Greater Jacksonville Association and approved on two occasions. The proposal was shown to comply with the Jacksonville Community Plan.

Applicable Law

Section 259 ("259.3 Special Regulations for C. R. Districts")

Special Exception BCZR Section 502.1

Section 307 of the B.C.Z.R. - Variances.

Decision

Special exception BCZR Section 502.1

"A special exception should be granted where the uses adverse effect in a particular location, would be more severe than the adverse effects ordinarily associated with such use regardless of its location in the zone." *Schultz v. Pritts*, 291 Md. 1,432 A.2d 1319 (1981). The only testimony regarding this issue does not indicate the proposed use would have a greater adverse impact at this location than at any other. The testimony of Petitioner's expert, Mr. Robert Royer, was undisputed on this issue. If a similar building were built in the area it would need its own well septic system and storm water management system. The building would have its own separate traffic concerns. The testimony in fact indicates many positives such as: better traffic flow, more parking, a smaller building than is allowed on parcel #192, no additional well is required, no additional storm water management and no new septic area is required. We find the proposed use would be less detrimental at this location than if it were located any place else in the community. We find the proposal complies with the standards of §502.1 of the *Baltimore County Zoning Regulations*, based on the testimony of Mr. Robert Royer and Petitioners' exhibits.

Peoples Counsel argues that because of the combined size of the existing building on parcel #159 and the proposed addition on parcel #192, the building would exceed the building size of 8800 square feet per lot of the BCZR 259.3C and 6600 square feet (BCZR 259.3C.1.a) and which limit the floor area ratio to 0.20 (BCZR 259.3.C.1.b). We

find that since there are two parcels rather than one, Peoples Counsel's argument fails on this issue. Peoples Counsel goes on to argue the history and legislative intent in the creation of the Commercial Rural District., citing both size and scale of the development as a problem. We do not find that the addition here falls into the category of over development, but in fact is consistent with the sprit of the legislative intent. Rather than looking to the smaller picture, the proposed addition prevents a larger development on this rural village setting.

The Board finds from the evidence presented that the proposed addition complies with site design guidelines and performance standards of the Jacksonville Community Plan. The testimony indicated that the proposed addition was approved by the Office of Planning and the Greater Jacksonville Association.

The Board finds that the proposed use addition (office space) is one allowed in Business Major with Commercial Rural District overly (B.M.-C.R.).

Variance Section 307 of the B.C.Z.R.

Petitioners have requested variance relief on a sign and landscaping standards. Section 307.1 requires that variances only be granted in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request.... *Cromwell et al. V. Ward, III,* 102 Md. App. 691; 651 A. 2d 424; 1995 Md. App. The first issue to be determined is the uniqueness of the subject property. *Cromwell* Supra, indicates "in the zoning context the unique aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring properties. Uniqueness of a property for zoning purposes

requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

The Board finds the request for landscape variance meets the standards as set out in *Cromwell v Ward* that the subject property is unique. It is of an odd size and shape . The location of the lot to traffic lights and adjoining streets makes it difficult to enter and exist the existing lot. Its location next to the northern lot makes it unique in that no additional well will be required; no septic area need be added; and the addition will use less area than a freestanding building. The environmental factors of the area and the difficulty of finding water make it unique. The topography of the lots is unique.

Having determined uniqueness under *Cromwell, Supra,* we turn to the issue of whether strict compliance with the zoning regulations results in hardship. The Board finds that, because of the location of the proposed addition, Petitioner's request for the landscaping variance should be granted. Testimony showed the buildings are to be connected so that landscaping would be impractical and unnecessary between the lots. Testimony of the Petitioner Mr. Hayes, his expert, Robert Royer, as well as the exhibits show the landscaping buffer on the northern boundary would interfere with the proposed design and cause additional safety concerns. We find the requested

landscaping variance to be in harmony and spirit with the law and granting the relief requested will not result in injury to the pubic heath, safety or general welfare requirements of Section 307 of the B.C.Z.R. - Variances.

The Board finds that the request for variance as to the sign should be denied. The proposed new sign fails to comply with the B.M-C.R. zoning. Testimony indicated one of the reasons for a larger sign was so that customers could see it without turning into the parking area as it exists now and because of the danger associated with its proximity to the light at the intersection of Jarrettsville Pike and Sweet Air Road. Since the granting of the landscaping variance will allow for better use of the driveway area and allow for easier entrance to the parking lot, a larger sign is not needed. We agree with Peoples Counsel "the thrust of the C. R. District and Jacksonville Plan is to establish strict controls on sign, not to encourage them". Most of the testimony of the witnesses against the variance were opposed to the sign. Their objections were both to the size and the lack of the need for a larger sign. The Board finds the use of the present sign on parcel #159 is sufficient and can be relocated if needed. The Board therefore confirms the relief granted in Case No. 91-374-A.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 13th day of July, 2005, that the Petition for Special Exception, pursuant to § 259.3.A of the *Baltimore County Zoning Regulations* (BCZR) to permit a building with a gross floor area of 13,480 sq. ft. in lieu of the maximum allowed 8,800 sq. ft., a combined ground floor area of 7,890 sq. ft. in lieu of the maximum allowed

6,600 sq. ft., and a Floor Area Ration (RTA) of 0.229 in excess of the 0.20 permitted under § 259.3.C.1 of the BCZR be and is hereby **GRANTED;** and it is further

ORDERED that Petitioners' requested relief to permit variance of the landscape standards of *Baltimore County Zoning Regulations*, § 259.3.C.3 be and the same is hereby **GRANTED;** and it is further

ORDERED that Petitioners' request for a variance of the size standards to permit a joint identification sign with a maximum area of 150 square feet in lieu of the 100' square feet permitted be and is hereby **DENIED;** and it is further

ORDERED that Petitioners' request for **to confirm the relief granted in CASE 91-374-A is granted.**

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 M. Stahl, Chairman

Michael O. Ramsey

John P. Quinn

County Board of Appeals of Baltimore County

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

July 13, 2005

Peter Max Zimmerman
People's Counsel for
Baltimore County and
Carole S. Demilio, Deputy People's Counsel
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: *In the Matter of: 14311 Jarrettsville Pike, LLC* – Legal Owners/
Petitioners / Case No. 04-533-XA

Dear Counsel:

Enclosed please find a copy of the 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 subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** 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

Kathleen C. Bianco
Administrator

Enclosure

c: Deborah Dopkin, Esquire
Christian Hayes, Legal Owner
/Jarrettsville Pike, LLC
Jeanne Andres
Betsy Lehmann
James McCoy
William F. Bergeron
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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on Recycled Paper

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 12, 2005

RECEIVED
APR 12 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Lawrence M. Stahl, Chairman
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Re: In the Matter of: Christian & Ella Hayes - Petitioners
Case No.: 04-533-XA

Dear Chairman Stahl:

Enclosed are the excerpts of the Baltimore County Zoning Regulations referred to on page 10 of our Memorandum filed April 8, 2005. We inadvertently omitted them at the time of filing. The most important sections are highlighted in yellow marker.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: Deborah C. Dopkin, Esquire

C. C.C.C. (Commercial, Community Core) District. C.C.C. Districts may be applied only to certain existing or proposed centers of shopping and auxiliary commercial activity which are on land zoned B.L., B.M. and/or B.R., any one of which centers must be intended to serve between 30,000 and 50,000 persons; provide shopping opportunities for convenience goods, appliances and, optionally, furniture; and include one or more junior department stores or variety stores. A planned shopping center having such characteristics may lie wholly or partially within a C.C.C. District.

D. C.T. (Commercial, Town-Center Core) District. C.T. Districts may be applied only to primary shopping areas within town centers on land zoned B.L., B.M., B.R. and/or M.L., the primary shopping area of any such center being that area which contains or is intended to contain a high incidence of pedestrian-oriented retail uses of a type ordinarily producing relatively high income and profit per square foot of sales area; includes or is intended to include major business generators (such as department stores); and also includes, or is intended to include, certain auxiliary services (such as offices) typically not occupying ground-floor frontage. Certain planned shopping centers having such characteristics may lie wholly or partially within C.T. Districts.

E. I.M. (Industrial, Major) District. I.M. Districts may be applied only to certain areas individually containing 100 acres or more of land zoned for industrial or semi-industrial use (M.H., M.L., M.L.R., M.R., B.R. and/or B.M.), undivided by expressways or freeways. In I.M. Districts, greater industrial use of prime industrial land is promoted by discouraging nonauxiliary commercial usage.

F. MD 43 (Maryland Route 43) Overlay District. The MD 43 Overlay District may be applied only to parcels of land zoned M.L., M.L.-I.M., M.H., O.R. M.H.-I.M., which are within the Middle River Employment Center Area, as identified in the Baltimore County Master Plan 2010. **[Bill No. 78-2002]**

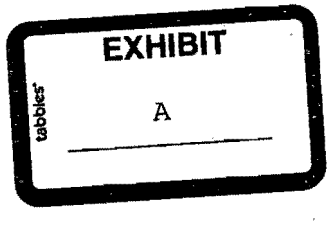
259.3 Special regulations for C.R. Districts. **[Bill No. 103-1988]**

A. Uses permitted by right. Any use permitted by right in the underlying zone on which the C.R. District is applied and which meets the bulk regulations of Section 259.3.C.1 is permitted by right.

B. Uses permitted by special exception.

1. Any use permitted by special exception in the underlying zone on which the C.R. District designation is applied and which meets the bulk regulations of Section 259.3.C.1 is permitted by special exception.

2. Any use permitted (by right or by special exception) within the C.R. District but which is not permitted in the underlying zone and which meets the bulk regulations of Section 259.3.C.1 is permitted by special exception, except that service stations and car wash operations are only permitted in a C.R. District with B.L., B.M. or B.R. as a base zone. **[Bill No. 172-1993]**



Section 233
Business, Major (B.M.) Zone Use Regulations
[BCZR 1955]

The following uses only are permitted (Section 233.3):

233.1. Uses permitted in B.L. Zone.

233.2[1] Animal boarding place, Class A **[Bill No. 85-1967[2]]**[3]
Boatyard **[Bill Nos. 64-1963; 85-1967]**
Bowling alleys
Carpentry, electrical, plumbing, heating, sheet metal, electroplating and painting shops
Catering hall **[Bill No. 110-1993]**
Clothes cleaning and dyeing where not more than two units with combined capacity of not more than 50 pounds are employed
Commercial beach, with provision of adequate parking area, and permitting dressing facilities, snack bar, picnic area and boat rental **[Bill Nos. 64-1963; 85-1967]**
Commercial recreation enterprises, including dance halls, skating rinks and others which, in the judgment of the Zoning Commissioner, are similar, but excluding merry-go-rounds and freak shows, shooting galleries and penny arcades
Community building, swimming pool or other structural or land use devoted to civic, social, recreational and educational activities **[Bill Nos. 64-1963; 85-1967; 26-1988]**
Funeral establishment **[Bill No. 43-1970]**
Garage, service
Golf course, country club or other outdoor recreation clubs; also quasi-public camp, including day camps, but no such uses shall be located on less than five acres, and no building, parking lot or out-of-water marine craft storage thereon shall be located within 60 feet of any residential property line **[Bill Nos. 64-1963; 85-1967]**
Hotel
Machinery sales store
Marina **[Bill Nos. 64-1963; 85-1967]**
New automobile sales facility and adjoining outdoor sales area, provided that dismantled or junked cars unfit for operation on the highways may not be stored outdoors. **[Bill No. 71-2001]**
Nightclub[4]
Printing, lithographing or publishing plant, employing not more than 25 persons

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1 **Editor's Note: All of the provisions of this subsection that are not followed by bracketed historical references were reenacted without substantive amendment by Bill No. 85-1967. The entries indicated in this section as originally having been added by Bill No. 64-1963 were, according to a literal reading of that bill, to have been added to "[Section]...232.2, title 'B.M. zone'...". However, Section 232.2 regulates side yards, not uses, and is part of the regulations of the B.L. zoning classification, not the B.M. classification.**

2 **Editor's Note: This bill also repealed "Animal hospital," which originally followed.**

3 **Editor's Note: "Billiard and pool rooms," which followed this item, was repealed by Bill No. 61-1967.**

4 **Editor's Note: "Pawnshop," which originally followed, was repealed by Bill No. 112-1995.**

EXHIBIT
tabbies
B

4/8/05

RECEIVED
APR 8 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Re: IN THE MATTER OF: 14307-14311 Jarrettsville Pike	*	BEFORE THE
10th Election District 3rd Councilmanic	*	COUNTY BOARD OF APPEALS
Christian G. Hayes and Ella L. Hayes, and 14311 Jarrettsville Pike, LLC	*	OF BALTIMORE COUNTY
Petitioner/Appellee	*	Case No. 04-533 XA

* *

APPELLEE'S MEMORANDUM

Christian G. Hayes and Ella L. Hayes, and 14311 Jarrettsville Pike, LLC, Appellee, by their attorney, Deborah C. Dopkin, and Deborah C. Dopkin, P.A., respectfully submits this Memorandum in support of Petitions for Special Exception and Variances.

STATEMENT OF THE CASE

Appellee, the Petitioners below, submitted a Petition for Special Exception and a Petition for Variances seeking relief to permit a building, the area of which exceeds the bulk regulations of §259.3.C of the Baltimore County Zoning Regulations ("BCZR"); and to permit variances of the landscape standards of BCZR §259.3.C.3 and of the size standards of §450 to permit a joint identification sign with a maximum area of 150 square feet in lieu of the 100' square feet permitted, and to confirm relief granted in Case No. 91-374-A.

A hearing was held before the Zoning Commissioner for Baltimore County on August 2, 2004. The Zoning Commissioner issued Findings of Fact and Conclusions of Law, dated August 18, 2004, substantially granting the requested relief.

Appellant People's Counsel noted an appeal of the Zoning Commissioner's Order granting the Petition to the County Board of Appeals of Baltimore County. A hearing was held before the County Board of Appeals on March 17, 2005.

BALTIMORE COUNTY ZONING REGULATIONS

The applicable Baltimore County Zoning Regulations are found § 259 ("259.3 Special Regulations for C.R. Districts"). (Exhibit A, attached.) In particular, §259.3.C.1 limits the gross floor area for all buildings on a lot to not exceed 8,800 square feet, of which no more than 6,600 square feet shall be on the ground floor, and limits the floor area ratio not to exceed 0.20. Buildings which exceed the requirements of Section 259.3.C.1 may be permitted by special exception.

Signs are permitted, subject to Section 450, though enterprise signs (a term defined in Section 450), are limited in size and number under §259.

The Baltimore County Zoning Regulations ("BCZR") permit an office building as a matter of right, in the B.M. zone. See §233.1 and §230 (Exhibit B, attached).

The C.R. district is one of five district designations in the BCZR. The district may overlay B.L., B.M., B.R., R.O. and R.C. 5 (if adjacent to a C.R. District) to provide convenience shopping and services needed by the rural residential population and tourists. It is intended that the C.R. District be applied only to areas where sewerage treatment and a potable water supply can be provided without an adverse effect on the environment and neighboring uses.

The BCZR provide that any use permitted by right in the underlying zone on which the C.R. District is applied and which meets the bulk regulations of Section 259.3.C.1 is permitted by right. Buildings which exceed the requirements of Section 259.3.C.1 may be permitted by special exception.

Section 450 of the BCZR regulates signs in the County. A sign table (§450.4) sets forth the types and size of signs permitted by zone. In the BM zone, a joint identification sign may be as large as 150 sq. ft. per side if the road frontage or building meet certain criteria, of if not, then 100 sq. ft. per side. Pursuant to BCZR §450.8, "In considering requests for special exceptions and variances, the provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction will prevent or reduce the confusion and visual clutter caused by excessive signage." The sign regulations also provide that signs approved in connection with

a development plan approved prior to the effective date of the current sign regulations (adopted in 1997) may be erected in accordance with the sign provisions in effect at the time of said approval.

The standards for special exception relief are set forth in BCZR §502.1, and those for variance relief in §307.1.

STANDARD OF REVIEW

The standard of review applied to zoning cases was set forth in *People's Counsel v. Mangione*, 85 Md.App. 738, 584 A.2d 1318 (1991), at 750:

> "The general standard of judicial review of most administrative fact finding is: "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment." *Board of County Comm'rs v. Holbrook*, 314 Md. 210, 550 A.2d 664 (1988), at 218, 550 A.2d 664 (quoting *Supervisor of Assess. v. Ely*, 272 Md. 77, 84, 321 A.2d 166 (1974)). Specifically, we shall review facts and circumstances upon which the Board could have found that the special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use regardless of its location within the zone. *Holbrook*, 314 Md. at 217-18,550 A.2d 664. "

And in *Umerly v. People's Counsel*, 108 Md.App. 497 (1995).

> "The order of a county zoning authority "must be upheld on review if it is not premised upon an error of law and if [its] conclusions 'reasonably may be based upon the facts proven.' " *Ad + Soil, Inc. v. County Commissioners of Queen Anne's County*, 307 Md. 307, 338, 513 A.2d 893 (1986) (citing *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 399, 396 A.2d 1080 (1979)). See also *Montgomery County v. Merlands Club*,

Inc., 202 Md. 279, 287, 96 A.2d 261 (1953) (zoning authority must properly construe controlling law); *Northampton Corp. v. Prince George's County*, 273 Md. 93, 101, 327 A.2d 774 (1974) (action of zoning authority is "fairly debatable" if based on substantial evidence); *Board of County Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988) (fairly debatable test "accords with the general standard for judicial review of the ruling of an administrative agency, which [is] defined as 'whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.' "); *Ocean Hideaway Condominium Ass'n. v. Boardwalk Plaza Venture*, 68 Md.App. 650, 665, 515 A.2d 485 (1986) (no substantial evidence to support factual findings of zoning authority; because of the lack of substantial evidence, zoning authority's decision was not fairly debatable, and thus was "arbitrary, capricious and a denial of due process of law.").

FACTS

The two adjoining parcels that are the subject of this appeal are located on Jarrettsville Pike, in the Jacksonville Area of Baltimore County. The southern of the two parcels is an irregularly shaped rectangle, consisting of .97± Acres. The entrance to the property lies a mere 98 feet from the intersection of Jarrettsville Pike and Sweet Air Road, a signalized intersection lying to the south of the site. This parcel is improved by a two story office building, a storage building, (together comprising 10,702 square feet of which 1512 square feet is the storage building), a stormwater management facility, and accessory parking. There is an existing joint identification sign (a term defined in BCZR §450) which

identifies the name of the building and of all its tenants. The building was approved pursuant to the CRG (County Review Group) regulations in 1987, and built and occupied by early 1989. The existing building and improvements conformed to the regulations in effect at the time.

The other or northern parcel is a small, triangular parcel, fronting on Jarrettsville Pike and tapering severely to the east. Though unimproved, this parcel was also the subject of a prior approval for an office building (Case No. 91-374-A). Variances of the landscape standards, among other variances, were granted in connection with that approval.

Both properties enjoy a Business Major (BM) zoning classification with the Commercial Rural (CR) District overlay.

The Petitioner seeks to build a small (3,080 sq. ft.) addition to the existing building. The addition would be located on the north parcel and would, of necessity, be built over the common lot line of the parcels. As proposed, the addition would create a new entrance to the building, on the north parcel, with an elevator, lobby, vestibules and stairways. To accommodate the grade differential, the entry to the addition would be between the first and second levels of the existing building.

As part of the proposal, by combining the use of the lots, the petitioner would create a circular traffic pattern around the building. The existing entrance would be used for a right turn

only entrance, and a new entrance and exit would be created as far north on the combined site as possible in order to capitalize on the improved grade, site distance and location, all of which are intended to address traffic safety concerns.

APPLICABLE CASE LAW

Special exception uses have been the subject of numerous and recent decisions by the appellate courts of Maryland, in the seminal case of *Schultz v. Pritts*, 291 Md. 1,432 A.2d 1319 (1981) and more recently *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995).

> "[w]hen the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses." *Schultz*, 291 Md. at 21-22, 432 A.2d 1319.

The law is clear: a special exception is a use which is presumptively permitted. It is a use that has been legislatively predetermined to be a desirable use, which is attended with detrimental effects which require certain conditions be met. The legislative body has made the policy decision that the use is permitted. *Mossburg v. Montgomery County.*

The issue is not whether the use has an adverse effect - that is presumed-- but whether the adverse effect in a particular

location would be more severe than the adverse effects ordinarily associated with such use regardless of its location in the zone. If the record is otherwise silent as to a greater impact at the present location than other locations similarly zoned, the special exception must be approved.

The Maryland Appellate Courts have also addressed variance relief. The leading case is one originating in Baltimore County, *Cromwell V. Ward,* 102 Md. App. 691 (1994). The initial factor to be considered is the abnormal impact that the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property. Once that uniqueness is established, the Court considers whether strict of application of the zoning regulations results in a hardship. Citing *Red Roof Inns, Inc. v. People's Counsel,* 96 Md.App 219 (1993), the Court noted that "[z]oning matters, including sign variance requests, depend upon the unique facts and circumstances of a particular locations and must be analyzed individually." (Emphasis in original.) Uniqueness requires that there be "an inherent characteristic" of the subject property such as location, surroundings, shape, narrowness, shallowness, topography, subsurface conditions, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as

obstructions) or other similar restrictions. Further, the unique characteristic is not shared by other properties in the area.

The cardinal rule of statutory interpretation is "to ascertain and give effect to the intention of the legislative body which enacted the statute." *Harford County v. McDonough*, 536 Md. App. 119, 123 (1988) (citations omitted). This rule, like other generally applicable rules of statutory construction, applies with equal force to zoning and land use regulations. While, to be sure, such regulations have been recognized as being in derogation of common-law rights regarding use of property, Maryland courts have routinely recognized that such laws nevertheless "should be liberally construed to accomplish their plain purpose and intent." *See, e.g. Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 308 (1972) (emphasis added) (citing *Landay v. Board of Zoning Appeals*, 173 Md. 460, 466 (1938)); *Harford County v. McDonough, supra* 74 Md. App. at 123.

DISCUSSION

Applying the legal standard to the evidence presented, it is necessary to first analyze whether applicant has presented substantial evidence on which the Board may find that the statutory requirements for a special exception have been met, that is, that the use at this location has no greater harmful effects than at another location in the zone, and that the

proposal complies with site design guidelines and performance standards which are part of the Jacksonville Community Plan (the "Plan").

There was substantial testimony and evidence that the proposed building addition will, like the existing building, comply with the design standards of the Jacksonville Plan. In fact, a Compatibility Study was submitted to and approved without comment by the Office of Planning. Further, the Greater Jacksonville Association voted not once, but twice, on the proposal, each time overwhelmingly supporting the proposed addition to the building. This association promulgated the Plan and acts as a watchdog to ensure that the Plan is implemented as development proceeds.

Appellee's consultant, Robert Royer, testified at length to the various features that make the proposal at this location more desirable, and less detrimental, than at another location in the zone. According to Mr. Royer's testimony, if the proposed addition were not built on the north triangular parcel, a separate free standing building of up to 4,000 square feet could be erected. If a new separate building were erected (whether on this site or at another location in the same zone), there would be a number of detrimental impacts: additional well and septic areas; a separate additional storm water management facility; a visual impact by being sited closer to the road and at a higher

elevation; additional visual and sign clutter (inconsistent with the Plan §5.7); multiplicity of two-way traffic entrances and exits onto Jarrettsville Pike; and more rentable square footage and traffic than that of the current proposal.

There are also corresponding benefits that accrue by permitting the existing building to be enlarged. As Mr. Hayes testified, the addition will be nestled on the site, and barely visible from the road. The lots can be configured to improve traffic circulation and safety by limiting the southern (existing) entrance, which lies dangerously close to the intersection of Jarrettsville Pike and Paper Mill Road, to a right turn in only, and using a new entrance on the northern parcel for ingress, egress and cars turning to go south on Jarrettsville Pike. The proposed improvements would require no new wells, plumbing or waste disposal. The proposal would minimize the grade differential between the northern parcel and its adjoiners, because the Appellee would site the building addition to tie into the grade of the existing building. The proposed addition would be used primarily for lobby, stairs and elevator space, thus making the building accessible and compliant with the Americans with Disabilities Act. Mr. Hayes indicated that though there would be some new leaseable area, much of the rentable space is intended to would be used for offices, by adding to existing tenant space to provide conference rooms,

rather than as the more intense but permitted retail uses.

The proposal must also be viewed in light of the fact that the existing building and sign were approved and built pursuant to earlier regulations, and as such, are allowed to remain, even to be modified, under those earlier, more lenient regulations. By approving the subject petitions, both the southern older site and the northern site become subject to the current development and zoning regulations.

The proposal also satisfies the standards of §502.1 of the BCZR, as affirmed by Mr. Royer. In every way contemplated by that section, the proposal does no harm and is less detrimental than if the use were proposed elsewhere in the zone or if a separate building were to built on the north triangular parcel. Mr. Royer testified, elaborating upon his reasoning why the proposal would not: be detrimental to the health, safety or general welfare of the locality involved, create traffic congestion; create a fire hazard; overcrowd land; interfere with provisions for schools, parks, or other public requirements; be inconsistent with the property's zoning nor inconsistent with the spirit and intent of the BCZR.

Clearly, Appellee has met its legal burden in support of the special exception request.

Similarly, the testimony and evidence support Appellee's variance request, both as to the sign and the landscape standards.

The property is unique in many of the ways considered essential by the Maryland courts. Its *location,* unlike other properties in the general area, is dangerously close to the intersection, and affords little stopping, turning or site distance at the existing entrance. Both parcels are *irregularly shaped*, the north parcel, a triangle, being very peculiar. The topography of both properties slopes from the road to the east, while the frontage on Jarrettsville Pike rises from south to north, thus affecting visibility of oncoming traffic when exiting the southern parcel.

The Plan recognizes the difficulty of obtaining groundwater in the area, (Plan §4.4.4) as the most critical environmental concern facing the community. Limiting demands on the water supply is a unique benefit that addresses a unique environmental concern.

The variance from the landscaping standards arises based on several factors: a need to locate the new driveway as far north as possible would make it impractical to impose a wide landscape buffer along the northern boundary of the northern parcel (this variance was previously granted in Case No. 91-374-A.); there is already a landscaped buffer along the property line on the

recently developed adjoining parcel. The proposed building improvements enlarging the building would be situated over the line dividing the parcels. As such, it is impractical to impose a landscape buffer along that property line.

The southern property line of the south parcel is already somewhat buffered, but, since the existing site improvements conform to the prior regulations, the area remaining for landscaping is less than that needed under the current regulations; the existing site improvements serve to satisfy storm water management for both parcels and other requirements. Nonetheless, Appellee is more than willing to supplement and enhance that area to the extent possible. The remaining edges of the property are heavily wooded with existing vegetation, much of it voluntarily planted by Appellee some years ago.

The variance from the sign standards also arises from the unique physical characteristics of the site: proximity to the intersection and the topography of the road in front of the parcel. If Appellee intended to build a new building on the north parcel, the regulations permit the existing sign to remain as is and permit the erection of another joint identification sign (100 sq. ft. per face) on the north parcel. The effect would be the visual clutter which both the Plan (Plan 5.7) and the BCZR seek to eliminate (§450.8). Specifically, the effect of

granting the variance for the sign has the demonstrable effect of preventing and reducing confusion and visual clutter.

At the hearing, Mr. Royer also testified that the proposal meets the standards of §307.1 in that it has no negative impact on residential densities nor on public health, safety and welfare, and that the proposal is in keeping with the spirit and intent of the BCZR. In fact, the bulk of the variance relief is intended maintain existing improvements, thereby doing much less harm than if a new, albeit conforming, freestanding building and sign were to be erected.

CONCLUSION

Applying established rules of statutory construction to the underlying issues and applicable sections of the Baltimore County Zoning Regulations, Petitioner submits that the record before the Board was based on substantial evidence and was fairly debatable. For these reasons, Petitioner submits that the decision of the Zoning Commissioner of Baltimore County should be affirmed.

Respectfully submitted,

Deborah C. Dopkin
409 Washington Avenue, Suite 1000
Towson, Maryland 21204
(410) 821-0200
Attorney for Appellee/Petitioner

POINTS AND AUTHORITY

1. *Ad + Soil, Inc. v. County Commissioners of Queen Anne's County*, 307 Md. 307, 338, 513 A.2d 893 (1986)

2. *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 399, 396 A.2d 1080 (1979)

3. *Aspen Hill Venture v. Montgomery County Council*, 265 Md. 303, 308 (1972)

4. *Assess. v. Ely*, 272 Md. 77, 84, 321 A.2d 166 (1974)

5. *Baltimore County Zoning Regulations*

6. *Board of County Comm'rs v. Holbrook*, 314 Md. 210, 550 A.2d 664 (1988)

7. *Board of County Commissioners v. Holbrook*, 314 Md. 210, 218, 550 A.2d 664 (1988)

8. *Cromwell V. Ward*, 102 Md. App. 691 (1994)

9. *Harford County v. McDonough, 536 Md. App. 119, 123 (1988)*

10. *Jacksonville Community Plan*

11. *Montgomery County v. Merlands Club, Inc.*, 202 Md. 279, 287, 96 A.2d 261 (1953)

12. *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995)

13. *Northampton Corp. v. Prince George's County*, 273 Md. 93, 101, 327 A.2d 774 (1974)

14. *Ocean Hideaway Condominium Ass'n. v. Boardwalk Plaza Venture*, 68 Md.App. 650, 665, 515 A.2d 485 (1986)

15. *People's Counsel v. Mangione*, 85 Md.App. 738, 584 A.2d 1318 (1991)

16. *Red Roof Inns, Inc. v. People's Counsel*, 96 Md.App 219 (1993)

17. *Schultz v. Pritts*, 291 Md. 1,432 A.2d 1319 (1981)

18. *Umerly v. People's Counsel*, 108 Md. App. 497 (1995)

CERTIFICATION OF MAILING

I HEREBY CERTIFY, that on this 8th day of April, 2005, a copy of the foregoing Memorandum in Support was hand delivered or mailed, postage prepaid to People's Counsel for Baltimore County, Court House, 400 Washington Avenue, Towson, Maryland 21204.

Deborah C. Dopkin

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DEBORAH C. DOPKIN

April 8, 2005

RECEIVED
APR 8 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Deliver
Kathleen C. Bianco, Administrator
County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: 14307-14311 Jarrettsville Pike
Case No. 04-533-XA

Dear Ms. Bianco:

In accordance with the Notice of Deliberation, enclosed for filing please find an original and three copies of Appellee's Memorandum with regard to the above captioned case.

Thank you for your prompt attention to this matter.

Very truly yours,

Deborah C. Dopkin

DCD/kmc

Enclosure

cc: People's Counsel for Baltimore County
Mr. and Mrs. Christian G. Hayes
Site Resources

C:\docs\KMC\DCD\LETTERS 2005\Bianco Kathleen-hayes.wpd

Section 259
Districts
[Bill No. 40-1967]

259.1 General. **[Bill Nos. 111-1968; 127-1994]**

In any district, the use, height, area and other regulations applicable in the underlying zone(s) or district(s) upon which the district is superimposed shall govern except as may specifically be enlarged, modified or limited by the district regulations in this section. In the case of conflict between the provisions of an underlying zone and overlaying district(s), the most recently enacted provision shall prevail.

259.2 Statements of legislative intent for districts.

(Compliance with a statement of legislative intent shall not, in itself, be sufficient cause to classify property within the district to which such statement applies.)

A. C.R. (Commercial, Rural) District. **[Bill No. 103-1988]**

1. The C.R. District is established to provide opportunities for convenience shopping and personal services that are customarily and frequently needed by the rural residential and agricultural population and tourists. It is intended that the C.R. District be applied only to areas where such facilities are not available within a reasonable distance, where sewerage treatment and a potable water supply can be provided without an adverse effect on the environment and neighboring uses, and where public roads are capable of handling the anticipated increase in traffic without adverse impacts on surrounding areas. The commercial centers within C.R. Districts are not intended to be regional facilities providing specialty goods to a population outside of the rural area.

2. C.R. Districts may be assigned to areas of commercial development beyond the urban-rural demarcation line for which C.R. District designation is recommended in the Master Plan. The underlying zone may be B.L., B.M., B.R. or R-O. The C.R. District may also be applied to land zoned R.C.5 which is adjacent to a C.R. District, provided that the location, configuration and physical characteristics of the site and the potential for access to an adequate public road make the land suitable for commercial development.

B. A.S. (Automotive Services) District. The A.S. District may be applied within the urban-rural demarcation line (URDL) to certain parcels of land zoned B.L., B.M. or B.R., which are appropriate for uses dominated by the parking and servicing of automobiles or characterized by frequent parking turnover, such as fuel service stations and car wash operations. Any land heretofore classified as C.N.S., C.S.A., C.S.-1 or C.S.-2 on the effective date of Bill No. 172-1993 shall hereby be classified an A.S. District. **[Bill No. 172-1993[8]]**

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[8] **Editor's Note: This bill repealed former Subsections E, F and G of this Section 259.2, which subsections contained the legislative intent for the C.S.A. (Commercial, Supporting Area) District; C.S-1 (Commercial, Strip) District; and the C.S-2 (Commercial, Strip) District.**

4/7/05

RE:	PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE COUNTY
	14307-14311 Jarrettsville Pike; E/side of Jarrettsville Pike, 98' N of Sweet Air Road	*	BOARD OF APPEALS
	10th Election & 3rd Councilmanic Districts	*	FOR
	Legal Owner(s): Christian G and Ella L Hayes Petitioner(s)	*	BALTIMORE COUNTY
		*	04-533-XA

RECEIVED
APR 7 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

Introduction

Violation of the C.R. District Concept, Plan, and Standards for Jacksonville

The Site Plan and Building Expansion

This is the seminal case for implementation of the Commercial Rural (C.R.) overlay district in Jacksonville. The C.R. district places limits on the size and scale of buildings and floor area ratio. The legislative purpose is to foster a village environment. BCZR 259.2 states:

> "A. Commercial Rural District.
>
> 1. The C.R. District is established to provide opportunities for convenience shopping and personal services that are customarily and frequently needed by the rural residential and agricultural population and tourists ... The commercial centers within C.R. Districts are not intended to be regional facilities providing specialty goods to a population outside the rural area."

In this context, the BCZR 259.3.C "Use Restrictions" include "Bulk regulations" which limit the gross floor area of all buildings on a lot to 8800 square feet, and on the first floor to 6600 square feet (BCZR 259.3.C.1.a), and which limit the floor area ratio to 0.20 (BCZR 259.3.C.1.b). The Use Restrictions also include setback and landscaping standards (BCZR 259.3.C.2 and 259.3.C.3). In combination, these require a minimum landscape strip fifteen feet wide on the front, side, and rear of the property.

Christopher and Ella Hayes own an existing office center, "Four Corners Craftsman Village," at 14307 Jarrettsville Pike (Parcel 159, .997 acres). The Hayes' corporation recently acquired the adjoining Parcel 192, .447 acres. The current proposal is for a building expansion. Th expansion alone will result in 13,782 square feet in gross floor area, with 7890 square feet on the first floor. This includes the expanded office building and storage building. The office building alone will have 12,170 square feet in gross floor area and 6680 square feet on the first floor. This expansion exceeds the bulk standards for gross floor area by over fifty percent (50%). The proposed floor area ratio of .229 is also excessive. Correlatively, there is a major failure to satisfy landscaping requirements.

In order to exceed the bulk regulations, a developer must satisfy the particularized standards for special exceptions in the C.R. District. These special exceptions are not like other special exceptions. There are requirements over and above the threshold standards under BCZR 502.1. It is to be remembered that special exceptions are conditional uses. Schultz v. Pritts 291 Md. 1, 11 (1981). As such, in addition to the basic standards relating to adverse impact in the neighborhood, a special exception must satisfy all other relevant statutory conditions. Chester Haven Beach Partnership v. Board of Appeals for Queen Anne's County 103 Md. App. 324, 336-41 (1995).

BCZR 259.3 establishes "Special regulations for C.R. Districts." Sec. 259.3.B addresses special exceptions and states, in pertinent part, in BCZR 259.3.B.3:

> "Buildings which exceed the requirements of Section 259.3.C.1 may be permitted by special exception only when the proposed development is in compliance with site design guidelines and performance standards which are part of a duly adopted Master Plan for the district."

While the Master Plan is ordinarily advisory, compliance is mandatory where so provided by statute. Board of County Comm'rs v. Gaster 285 Md. 233 (1979). There is no proof here that the

proposed expansion complies with Jacksonville Plan site design and performance standards. Indeed, the Plan does not authorize deviation from the bulk standards. The Planning Director's comment recognizes this inconsistency, as it refers to "... recommendations in the Jacksonville Community Plan that are counter to the relief sought by Petitioner." People's Counsel Exhibit 2.

The proposed building expansion, as noted, also eviscerates the landscaping strip requirements. The site plan shows no landscaping. Petitioners offered a few trees in selected areas as a sop and tried to gain points by reference to landscaping on adjacent properties as an excuse to avoid proper landscaping on his own property. That is unacceptable reasoning. The absence of proper landscaping translates both to a failure to meet a statutory condition prerequisite to a special exception and to a variance problem.

There was also a complete failure to provide additional stormwater management. It is apparent that the building expansion, new driveway and parking area will add substantially to stormwater runoff. Petitioners' position was that it would request to pay a fee in lieu of providing stormwater management. That is not an acceptable solution.

BCZR 259.3.E also comes into play. It sets:

> "Additional requirements for granting of a special exception in the C.R. District. In addition to the requirements generally imposed on the issuance of special exceptions by Section 502.1, the following requirements shall apply to eh ranting of special exceptions in C.R. Districts."

These additional requirements include, among others, BCZR 259.3.E.1:

> "The petitioner shall document the need for the development at the proposed location."

There is no proof, much less documentation, that there is a need for the development at this location. It is to be remembered, moreover, that the purpose of the C.R. District is to foster provision of needed local services. The proposal here does not advance that purpose.

If this were an ordinary special exception, without the particularized standards of the C.R. District, the petition would still fail. The burden is on the Petitioners to prove affirmatively that the proposal meets special exception standards. Turner v. Hammond 270 Md. 41, 55 (1973). Petitioners presented one "expert witness," Robert Royer, a landscape architect who also was said to be an expert in zoning. He had failed to examine the Jacksonville Community Plan, and could not even provide any information about the neighborhood beyond the subject property. The definition and evaluation of the neighborhood is a prerequisite to assessment of adverse impact under Schultz. See, e.g. Lucas v. People's Counsel 147 Md. App. 209, 240-42 (2002). Remarkably, when counsel for Petitioner asked Royer a leading stock question about whether the impact of the proposal here would be greater than at other places in the zone, Royer responded that the effect would be less elsewhere! After this answer, which reflects a failure to satisfy the Schultz standard, counsel for Petitioner virtually impeached her own witness and led him to mouth that there would be no greater impact at this site. Royer' answers show that he was uninformed as to the facts and the law, and that his opinions lacked adequate facts and supporting reasons, so that his conclusory or "quasi-conclusory opinions are entitled to no weight. People's Counsel v. Beachwood 107 Md. App. 627, 650 (1995), cert. denied 342 Md. 472 (1996). Meanwhile, the self-serving promotional testimony of Petitioner Christopher Hayes that the project would have no adverse impact was conclusory, self-serving, and also entitled to no weight. The bottom line is that Petitioners never identified the neighborhood and never produced probative evidence to meet the affirmative burden of proof to demonstrate absence of particular adverse impact.

The 1991 Zoning Approval

The present request is offensive in light of the 1991 zoning case. People's Counsel Exhibit 1 includes the opinion, zoning map, and site plan in Case 91-374-A. There, Benjamin McCleary, the previous property owner of Parcel 192, obtained zoning approval for a separate office building with 3280 square feet in floor area. That plan met the bulk requirements of the C.R. District for gross floor area and floor area ratio. It also provided landscaping on this triangular parcel, but involved variances because the proposed landscape strip on the north side was ten feet wide and on the south, five feet wide, instead of the required width of fifteen feet. (There was no request for a sign variance. Of this, more later). The Zoning Commissioner approved this request, and there was no appeal.

The 1991 case proves that Parcel 192 can be developed consistent with the bulk regulations of the C.R. District. The zoning approval is already in place. There is, therefore, no excuse for the developer to exceed bulk requirements in a major way.

The new plan also lacks landscaping or stormwater management. Christopher Hayes testified he would plant a few trees when approved. He suggested that because neighboring property owners have landscaped near the boundaries with his property, it us unnecessary for him to provide required landscaping. These suggestions are gratuitous and condescending. Meanwhile, Robert Royer testified he would deal with stormwater management later and probably ask for a waiver. This casual approach is unacceptable and unconvincing in zoning matters.

The way in which the developer presented the 1991 case was even more offensive. The petition for variance requests, in paragraph 2:

"To amend the site plan and confirm the variances granted in Case No. 91-374."

The current site plan includes an excerpt from the 1991 opinion, including the legal conclusion of approval, and the order. Neither the petition nor site plan reflect that the 1991 case involved a separate, small building on Parcel 192, about a quarter of the size of the proposed expanded building on the combined parcels, and the 1991 case proposed reasonable landscaping, in contrast to the zero landscaping shown on the current plan. Indeed, the current site plan does not even graphically reflect the areas where the landscaping variances are requested. It had to be ferreted out at the hearing.

The petition implies the amendments are nominal, and that this case is virtually a refinement of the 1991 approval. People's Counsel produced the microfilm of the 1991 case to show that the current case is entirely new. To call it a "confirmation" of previous variances is extremely misleading. The property and building contexts are different. The landscaping areas and proposals are different. Mr. Royer said the Zoning Office told him to prepare the petition this way. That is not credible. But even if such a suggestion were made, it is Petitioner's responsibility to file a petition which describes the proposal fairly and intelligibly.

Citizen Input

Petitioners stressed that the Greater Jacksonville Association (GJA) voted 34-20 on February 15, 2005 to support the building expansion. That support is not germane here.

It has long been the law that zoning, whether favorable or unfavorable to a property owner, is not subject to a plebiscite of the neighbors. Eubank v. City of Richmond 226 U.S. 137; Benner v. Tribbitt 190 Md. 6 (1948); Montgomery Co. Council v. Scrimegour 211 Md. 306 (1956); Smith v. Board of Co. Comm'rs of Howard County 252 Md. 280 (1969). Glen Thomas, President of the GJA, produced the Minutes which Petitioners introduced as Exhibit 6. These record the favorable vote, but do not give any reasons. According to the Minutes, Mr. Hayes

made a presentation and the members voted. Mr. Thomas said there was a short discussion. The GJA Resolution provides no reasons, legal or otherwise.

None of the members of the Board of Directors appeared to support the project. Mr. Thomas himself did not give a personal opinion. Evidently, the Board asked the membership to reconsider the previous support in light of People's Counsel's appeal. The only GJA directors or officers who did appear were Stephen Wheeler, director and member of the Zoning Committee, and Patricia Egan, Chair of the Zoning Committee. They testified in opposition to the project and gave logical reasons why it does not satisfy the intent of the C.R. District, goes against the village concept for size and scale of buildings, and sets a bad example, pattern, or precedent for other applications which are sure to follow.

In context, the GJA plebiscite reflects the acquiescence of the members in attendance to the developer's attractive presentation. The developer was there to promote his project. The Minutes do not reflect that his presentation there had any more legal basis than the incomplete and misleading presentation to the Board.

The Sign Variance

Petitioners propose a variance for an illuminated joint identification sign of 150 square feet in area instead of 100 square feet. BCZR 259.3.C.7.c, 450.4.I.7.b. At best, the existing sign is nonconforming if constructed prior to BCZR 259.3.C.7 (1988) and BCZR 450 (1997). If nonconforming, the sign must be abated by 2012. BCZR 450.8.D. The proposal here would legitimize and perpetuate a sign which does not meet the standards.

Petitioners attempt to sidestep the C.R. District enterprise sign limit of BCZR 259.3.C.7.b, which sets a maximum of 25 square feet for a freestanding signs. It claims that its sign is a "joint identification" sign, and so not subject to this "enterprise" sign limit. They point to the

distinction in BCZR 450.4 between the two types of signs. But BCZR 259.3.C.7 explicitly states that signs in the C.R. District "... are subject to Section 450 and the following additional restrictions." If Petitioners still insist their sign is a "joint identification" sign rather than an "enterprise sign," then the answer is that it is not permitted at all because the C.R. District does not list "joint identifications" signs as a permitted use. Uses are prohibited where not explicitly listed as permitted. BCZR 102.1. Kowalski v. Lamar 25 Md. App. 493 (1975).

Alternatively, Petitioner argues that because there are ten businesses leasing space in its building, it is, or would be, entitled to ten enterprise signs of 25 square feet each, a more offensive scenario than its proposal. That is illogical and irrational.

As noted, the C.R. District sign standards do not mention joint identification signs and do not differentiate them from enterprise signs. The Jacksonville Community Plan (JCP), Sec. 5.7.2.1, also includes the limit of 25 square feet per face for "each business." P.C. Exh. 6. The sensible interpretation, in the context of the overall purpose of the District, is that each commercial property would have a single freestanding sign no greater than 25 square feet in area, and that it should not be a "joint identification" sign.

There is no question that a proposed office building is a kind of "enterprise," as that term is ordinarily understood. Webster's Third New International Dictionary defines an "**enterprise**" as a "**2** VENTURE, UNDERTAKING, PROJECT." In this context, the Planning Office has observed "...that the existing 150 square foot sign is significantly larger than the 25 square foot requirement of the CR District and of the signage guidelines of the Jacksonville Community Plan." P.C. Exh. 2. It also notes the JCP guidance that nonconforming signs should be replaced and made to conform.

The relevant standard here is the C.R. District enterprise sign standard. Under either this standard, or under the less stringent general standard, the record does not support a variance. Petitioner's main argument seems to be that there is a traffic hazard because of a curve in the road, and that large sign is necessary for visibility. The prominence of the location near the main Jacksonville intersection belies this argument. Moreover, if it were so important that the sign be visible and intelligible, it would simply identify the "Craftsman Village" in large letters. As it is, the identification of tenants on small segments of the sign is not legible until a motorist is on top of the property. The reality is that Petitioner wants a big sign because, like many other business property owners, they believe that the bigger sign, the better.

The proposal is totally out of character in a C.R. District. It does not pass the familiar tests of "uniqueness" and "practical difficulty" under BCZR 307.1. It also fails the additional test under BCZR 450.8.A, in that there is no evidence that it reduces confusion and visual clutter. It also sets an inappropriate precedent for the C.R. District. If the suitably proportioned office building approved in 1991 were built, a sufficient sign could designed which meets the C.R. District standards, like many others in Jacksonville.

Questions Presented

1. Whether the proposed building expansion satisfies C.R. District special exception standards, including BCZR 259.3 master plan consistency and need tests as well as core BCZR 502.1 standards pertaining to adverse impact in the neighborhood?

2. Whether the proposed landscaping variances are consistent with C.R. District standards and legally acceptable?

3. Whether the proposed sign variance satisfies the sign law, the C.R. District standards, and the master plan for Jacksonville?

Relevant Statutes

The following statutes are attached as memorandum exhibits:

The C.R. District: BCZR 259.1 to 259.3.
The Sign Law (excerpts): BCZR 450.1, 450.4.I.7, 450.8.
Special Exceptions: BCZR 502.1.
Variances: BCZR 307.

Facts and Argument

I. The Special Exception

The basic facts are relatively simple. The introduction to this memorandum has outlined the essentials. The argument below will include an expanded discussion, especially with respect to the Jacksonville Community Plan, the issue of need, and their relevance to the legislative intent in the creation of the C.R. District.

a. Creation of the C.R. District: The 1988 Planning Board Report and Bill 103-88

In 1988, the County Council passed Resolution 17-88 to request the Planning Board to consider the creation of a rural commercial zone. The ensuing Planning Board Report came out on May 19, 1988, entitled Rural Business Zones. People's Counsel's Exhibit 12.

The Report identifies the size and scale of development as a problem, particularly on sites larger than one acre. Ironically, it identifies the original development of Four Corners Craftsman Village as generally in keeping with surrounding development. That site, of course, is slightly less than one acre in size. In comparison, it identifies a 1.4-acre plan for Monkton Center, in Hereford, as excessive. Indeed, development of the Monkton Center, widely perceived as an eyesore in Hereford, caused a reaction which was one of the motivating factors in creation of the C.R. District.

In this context, the Report states, on page one:

"In order to permit development for commercial use at an appropriate intensity and scale in rural areas, the proposed R.C.C. zone and the revised C.R. District both propose strict limitations on lot size and building area compared to the existing Business zones. Parking for commercial uses would not be permitted in adjacent R.C. zones. In the C.R. District buildings which exceed the proposed limits could only be built by special exception and only if in accord with site specific guidelines or standards which are part of an approved Master Plan for the area."

The Report goes on to state that "... the C.R. District is intended for use in those rural locations, usually villages or small towns which already function as commercial service centers ..." The District is flexible as to type of use. It relies on bulk regulations and site design controls to place new limits on size, scale, and intensity. As the Report says:

"1. Uses permitted as a right in the base zone will be limited by the bulk regulations and site design controls set out in this legislation.

2. Uses permitted in the District, but not in the base zone may only be permitted by Special Exception as limited by the bulk regulations and site design controls.

3. Development larger than that allowed by the bulk and site design regulations may only be permitted by special exception and only in accordance with site specific design guidelines and performance standards which are included in an adopted Master Plan for the District.

4. The criteria for granting special exception will be strengthened to include firmer environmental and design standards and "proof of need" for the uses proposed."

The Report includes the proposed legislation, which is intended to achieve these goals. Remarkably, it also has attached to it several site plans to illustrate the intended scale of development. There is a "Typical Site Plan;" a "Pattern" map; the CRG Site Plan for the original Four Corners Craftsman Village; the intensive plan for Monkton Center; and an alternate plan for Monkton Center using C.R. District criteria. A review of these plans reflects that suitable plans are moderate in size and include substantial landscaping at the borderlines. On the other hand, the proposed expansion of Four Corners Craftsman Village most closely resembles the objectionable plan for Monkton Center.

The County Council enacted the proposed legislation, with minor changes, in August, 1988. Bill 103-88 is People's Counsel's Exhibit 11. The introduction to this Memorandum has identified the provisions most relevant to this case. A proposal to exceed the bulk regulations is subject to review as a special exception use and must comply with the community plan and additional C.R. District standards, including need and landscaping.

b. The 2010 Master Plan and the Jacksonville Community Plan

As noted, the C.R. District utilizes and incorporates local community plans to control land use, particularly with respect to special exceptions for buildings which exceed bulk regulations. The 2010 Master Plan includes a section on Rural Commercial Centers. People's Counsel's Exhibit 10. The Jacksonville Community Plan (JCP) was adopted in 2000. Relevant excerpts are in People's Counsel's Exhibit 6.

The Master Plan 2010 states, on page 246:

> "POLICY - The nature, size, and scale of rural commercial centers should remain geographically small, rural in character, and be regulated through a master plan process."

It goes on to identify community master plans, overlay districts, and performance standards to achieve this goal. Page 247.

The JCP, Section 5, deals with Streetscape. It observes that the "...establishment of the CR overlay district ... has contributed to a more coherent design." Page 19. The Plan begins its discussion of Design Guidelines, in Section 5.3.2:

> "Properly siting a building is to locate it harmoniously with its surrounding, weaving it into the existing tapestry of natural and manmade elements with which it will co-exist and interrelate.
>
> For a building to interrelate with its surroundings, it must be in scale with its environment. Imposing masses need to be segmented into volumes and planes relative to their neighbors so as to form a visual balanced composition, proportioned to respect the scale of adjacent structures and natural elements."

It goes on to give examples of suitable buildings:

> "New buildings must be designed so as to be compatible in size and scale with existing buildings. Building should have a village-type character. Examples of existing commercial building exhibiting acceptable architecture include:
>
> - 3430 Sweet Air Road (Blockbuster Video)
> - 14300 Jarrettsville Pike (Crestar Bank)
> - 3312 Paper Mill Road (Gaylord Brooks)
> - 14237 Jarrettsville Pike
> - 14231 Jarrettsville Pike (Sparks Bank)"

All of these are buildings of moderate size, well within the C.R. District Bulk Regulations. There is nothing in the JCP to authorize any deviation to exceed these standards.

c. Note on Klein's Supermarket

Parenthetically, the Jacksonville C.R. District is substantial and occupies a large part of the village center. As with any District, there are boundaries. The matter of Klein's Supermarket, on the west side of Jarrettsville Pike, has come up. Petitioner's counsel implied in her cross-examination of Stephen Wheeler that it is entirely in the C.R. District. The Zoning Map shows otherwise. People's Counsel's Exhibit 3.

To confirm this, we attach as Memo Exhibit A an excerpt from the 2000 Baltimore County Comprehensive Map Final Log of Issues. Issue 6-024 shows the Klein's property, at 14322-14342 Jacksonville Pike, was rezoned from RC 5 (4.4 acres) and BL CR (2.2 acres) to BL (3.5 acres) and BL CR (3.1 acres). The stand alone BL, without the CR, was sufficient to develop the supermarket. It is outside the C.R. District boundary and does not support Petitioner's case. Indeed, the placement of part of the property within the C.R. District is an indication of legislative intent to protect the central C.R. District.

If Klein's supermarket were to be inside the C.R. District, it would have had to obtain a special exception to exceed 8800 square feet in gross floor area. There is no evidence in the record of any approval, after the 1988 enactment of the C.R. District, to construct any building which exceeds the Bulk Regulations.

d. The Testimony

Petitioner's sole expert was Robert Royer. As noted, his testimony was inadequate and legally insufficient. It did not even satisfy the basic special exception standards. He admitted, much to the surprise of Petitioner's counsel, that the proposed use at other locations would have a lesser impact! His boilerplate affirmative answers to other questions as to BCZR 502.1 standards were conclusory, and therefore of no legal value. Royer could not describe the neighborhood, a prerequisite to consideration of a special exception. He had not studied the Jacksonville Community Plan. He did not address need. He could not justify the landscaping deficiency, giving the deficient explanation that the north parcel is triangular. He gave an incomplete and misleading description of the 1991 case until confronted on cross-examination with the opinion and site plan. His testimony did not satisfy the burden of proof and does not pass the threshold where it would be fairly debatable to grant a special exception under Schultz v. Pritts. His testimony was not in the ballpark with reference to the JCP, need, and landscaping.

Petitioner Christopher Hayes, rationalized the expansion by saying he wanted to put in an elevator and provide better traffic circulation. The property had functioned satisfactorily without an elevator for over fifteen years. The existing access had worked. So, these improvements were a matter of choice, not necessity. Moreover, they did not require a building expansion. If an elevator were so important, presumably he could renovate the building to include one. He could improve the parking circulation and add landscaping without putting in a building expansion. His

testimony was designed to create a favorable impression but was not pertinent to zoning and legal issues. While this type of testimony may be effective with a community group, it is not relevant to the burden of proof in a special exception and variance case.

Petitioner did not introduce a zoning map; did not introduce the JCP; and did not do a needs study. It is hard to imagine a case where the proof is so lacking in the essential elements.

In contrast, the only witnesses who showed any understanding of the purpose of the C.R. District and the Jacksonville area were Patricia Egan and Stephen Wheeler. They both stated intelligently (Wheeler in more detail) that the proposal is incompatible with the Jacksonville C.R. District village concept and the community plan. Wheeler identified the pattern of buildings in Jacksonville, which conform to the C.R. District. He also pointed out not only that the size of the expansion was inappropriate, but also that the placement of a new parking lot adjacent to Jarrettsville Pike would detract from the village atmosphere. Petitioner's counsel tried to get Wheeler to say that Klein's Supermarket is in the C.R. District, as if this would justify the expansion here. Wheeler would not say that this is true, and it is not true.

e. Application of Legal Standards

1. BCZR 502.1; Schultz v. Pritts and its Progeny

On this record, application of the legal standards is straightforward. The petition for special exception fails for lack of substantial evidence with respect to the particular adverse impact on the neighborhood. There was simply no identification of the neighborhood, even when given an opportunity (on cross-examination of Royer). The unsupported affirmative answers to BCZR 502.1 questions do not suffice.

Apart from the legal deficiency, it is apparent that the proposal undermines the purpose of the C.R. District and so fails the "public welfare" test of BCZR 502.1A and the "spirit and

intent of the zoning law" test of BCZR 502.1.G. This County Board of Appeals has not hesitated to deny a special exception where it goes against specific legislative intent. In People's Counsel v. Country Ridge Shopping Center 144 Md. App. 580 (2002), the CBA denied a pawnshop application for a shopping center on Back River Neck Road. The proposed location was in a community conservation area where revitalization efforts were intended and in process. The pawnshop law included legislative findings that pawnshops were causing deleterious and adverse effects in such areas. BCZR 436.1. The Court of Special Appeals sustained the CBA's denial.

Futoryan v. Mayor & City Council 150 Md. App. 157 (2003) is also helpful. It involved a change from a gas station, with auxiliary repair work, to a full service garage. The City zoning board denied the special exception because of its impact on the neighborhood, and the CSA again sustained the denial.

There is a myth or tale sometimes told that special exceptions are favored and should be granted liberally. The source of this myth is language in Schultz v. Pritts describing a presumption in favor of special exceptions. This language is taken out of context. A review of the entire opinion reflects an evenhanded instruction that where a proposed special exception is not in harmony with the comprehensive zoning plan, it must be denied. The test of adverse effect on the neighborhood must be applied objectively to carry out the legislative intent of the zoning regulations and map.

2. BCZR 259.3.B.3: The Master Plan:

It is apparent that Petitioner entirely failed to address the Master Plan, including the Jacksonville Community Plan, a constituent part. The JCP reflects the C.R. District intent to limit buildings to a moderate size and scale. There is nothing in the Plan to authorize or support a deviation from the Bulk Regulations. The buildings cited by the Plan as having acceptable

architecture all meet the Bulk Regulations. That is the end of the story. Even if the proposal otherwise satisfied BCZR 502.1, it would have to be denied for failure to meet BCZR 259.3.B.3.

3. BCZR 259.3.E.1: Documentation of Need

Petitioner also failed to address the "need" standard, which must be looked at from the point of view of provision of local services. There was simply no evidence that the proposal will provide a substantial service to the local Jacksonville population. Rather, it is mainly a convenience for the Hayes Construction Company. The inference, moreover, is that the construction company functions regionally. There is no evidence that its operations are limited to the Jacksonville area.

The County Board of Appeals is familiar with the need standard, having applied it on April 14, 2000 to deny a special exception in the matter of Donald E. Warrener, Jr., Old York Road, No. 99-73-SPHXA, attached as Memo Exhibit B. The CBA similarly applied this standard to deny a special exception in the Seven Kids case, in which the Court of Special Appeals affirmed the CBA denial in a 2002 unreported opinion, Seven Kids v. Greater Kingsville Civic Ass'n, No. 490, September Term, 2001. Memo Exhibit C. The Court of Appeals has sustained need-based tests in several cases, including American Oil Co. v. Board of Appeals 270 Md. 301, 312-13 (1970), involving a proposal for a gas station at a rural intersection in the Germantown area.

In those cases, the property owners at least attempted to show need. There was no attempt here. The only indirect evidence in the record is the presence of the recently constructed Four Corners (Gaylord Brooks) center to the north, to which Mr. Royer's firm moved its offices. That building, however, meets the Bulk Regulations, so there is no special exception or needs test involved. There was no evidence, in any event, as to the leasing status of the proposed center, or

the extent to which it serves the local population. There is a reasonable inference that the Hayes Construction Company is regional in scope.

4. BCZR 259.3.C.3. Failure to Meet Landscaping Standards

The failure to meet landscaping standards is another cause for denial of the special exception. Schultz explains that a special exception is a conditional use. See, e.g. Futoryan, *supra*. Where a special exception is combined with a variance, it is an indication that the conditions of the use are not satisfied. Chester Haven, *supra*.

This is particularly true here, where the landscaping standards are included under BCZR 259.3.C as "Use Restrictions." The complete failure to show landscaping is also indicative that the proposal overcrowds the land and therefore does not satisfy BCZR 502.1.D. The mass of the proposed building and associated placement of parking lots all around the property go hand in hand with the failure to provide landscaping. Mr. Wheeler identified the construction of a new parking lot facing Jarrettsville Pike as particularly objectionable.

5. The 1991 Zoning Case

It warrants repetition that there already in place a zoning approval for a modest but sufficient building on Parcel 192. It meets the Bulk Regulations. There was no special exception required. There was a reasonably proportioned landscaping variance, which adjusted but did not eliminate the required landscaping strips. This approval does not violate the spirit and intent of the Jacksonville Plan.

In light of this approved plan, it is particularly objectionable for Petitioner to request zoning approval for this new plan. It violates the spirit and intent of the C.R. District law and the Jacksonville Plan in so many ways and in the extreme.

II. Variances

a. The Law

In 1995, when the Court of Special Appeals delivered its opinion in Cromwell v. Ward, it sent the message that zoning variances are not candy. They should be granted only sparingly. A review of Baltimore County decisions shows that this has been the law both before and after. Riffin v. People's Counsel 137 Md. App. 90 (2002) and Red Roof Inns v. People's Counsel 96 Md. App. 219 (1993) affirmed the Baltimore County CBA's denial of variances. Daihl v. Baltimore County Board of Appeals 258 Md. 157 (1970); Cromwell v. Ward 102 Md. App. 691 (1995) and Umerley v. People's Counsel 108 Md. App. 497, cert. denied 342 Md. 584 (1996) reversed grants of variances for lack of sufficient evidence. We cannot think of any appellate case which reversed the Baltimore County CBA's denial of a zoning variance.

1. Implementation of the Variance Statute

The first inquiry under BCZR 307.1 is whether the property is peculiar or "unique" so that an unusual difficulty presents itself. If evidence of uniqueness is insufficient or unpersuasive, the inquiry ends. Cromwell, Umerley, and Riffin *supra.* If this threshold is passed, the further question is whether the unique condition results in a "practical difficulty" particular to the site. Easter v. Mayor & City Council 191 Md. 395 (1950). The term "practical difficulty" is itself a term of art, with criteria defined in McLean v. Soley 270 Md. 208, 213-15 (1973).

The purpose of variance law is to allow relief so a property owner has some reasonable use of his property. See 3 Young, Anderson's American Law of Zoning 4th, Sec. 20.02 (1996):

> The underlying purposes of administrative relief have been discussed in an earlier chapter, but specifically, with respect to variances, it is said that a variance is 'designed as an escape hatch from the literal terms of the ordinance which, if strictly applied, would deny a property owner all beneficial use of his land and thus amount to confiscation.'

A key point is that the property owner's inability to comply with zoning law for the purpose of a selected use does not justify a variance. Otherwise, a variance would have to be granted in every case; and zoning law would collapse. The Court addressed this issue in Umerley, *supra*, where the property owner observed that he could not possibly expand the trucking facility without variances from the setback requirements set under the current zoning law. Judge Bishop observed, at 108 Md. App. 508:

> "In their briefs, the Umerleys fail to point to any evidence that would support a finding that their property is "unique" within the meaning of Maryland case law and BCZR 307.1. The Umerleys only point to evidence that shows that their operations predate the 1976 trucking facility regulations, that their facility has always been in violation of those regulations, that their operations cannot comply with those regulations, and that their operation is important to the economy of both Baltimore County and the State of Maryland. Because the uniqueness requirement mandates that the subject property 'have an *inherent* characteristic not shared by other properties in the area,' such evidence cannot support a finding that the Umerleys' property is unique within the meaning of Maryland law. A review of the record fails to reveal any other evidence that would support such a finding.

Nevertheless, Petitioners here continue to press this type of argument.

In this context, environmental constraints common to the area do not justify a variance. This issue came up in Chester Haven L.P. v. Queen Anne's County Board of Appeals 103 Md. App. 324, 337-41 (1995). There, the developer of a waterfront property owner based a request for variances on the constraints imposed by the Chesapeake Bay Critical Area law. But the Court pointed out that the waterfront properties in the area all had similar constraints, so there was no unique situation resulting in a particular problem. In affirming the zoning board denial of variances, the Court wrote:

> There was little, if any, evidence presented below as to differences, if any, between other properties in the neighborhood (or area or district) and the subject property. Presumably, the provisions of the zoning ordinance would similarly impact on such nearby properties. 103 Md. App. at 339.

2. Uniqueness Resulting in Difficulty

The word "unique" is defined strictly. Otherwise, anyone could make some sort of claim. In Cromwell, 102 Md.App. at 710 (1995), the Court stated:

> "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property.
>
> 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

The uniqueness must also relate to a particular difficulty. As the Court said many years ago in Easter, *supra*:

> "The burden of showing facts to justify an exception or variance rests upon the applicant, and it must be shown that the hardship affects the particular premises and is not common to other properties in the neighborhood."

Practical Difficulty

The criteria in McLean v. Soley, 270 Md. 208, 214-15 (1973) are:

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

b. The Landscaping Variances

The landscaping standards come under the rubric of "Use Restrictions." Because BCZR 307.1 allows area and height variances, and not use variances, it is doubtful that there is eligibility for a landscaping variance. Nevertheless, assuming, as was done in the 1991 case, that there is eligibility, the CBA must find that the record does not support approval in any event.

The relevant property is the entire property, consisting of the two assembled parcels. The intent is to merge the land use. Even if the parcels were considered separately, there is ample room to provide landscaping. The problem is not the nature of the property, which is flat and usable. The problem is the size and scale of the proposed buildings and parking areas, which leave virtually no room for landscaping or, for that matter, additional stormwater management.

We have emphasized that there is already the use of the existing office building on Parcel 159, and the approved use for a small office building on Parcel 192. There is no difficulty at all, therefore, which arises from the current law.

The uniqueness claim is also spurious. Robert Royer's asserted that Parcel 192 is triangular and 159 trapezoidal. This is irrelevant. The shape is not a significant limiting factor here on the reasonable use of the property. It is the size to which there must be an adjustment. There is a mantra among landscape architects that every property not configured as a perfect square is "unique." This reflects a lack of understanding of the law. Properties in Baltimore County generally, and in Jacksonville specifically, come in many shapes and sizes. There

is no evidence that these are the only "triangular" or "trapezoidal" parcels in the area. In any event, the shape does not cause any practical difficulty.

The fact of the matter is that there are reasonable and significant uses for the parcels, when taken together or separately, without the extreme variances requested. Moreover, the extreme degree of the variances, which amount to zero feet instead of fifteen feet for landscaping strips, violates the intent of the C.R. District infinitely, to the maximum degree.

Mr. Hayes rationalized that he has a desire to build an elevator or provide improved parking access and circulation. Evidently, this desire either did not exist or did not stop him from building and using the original building. From any perspective, these convenient and newly embraced desires do not justify deviation from the C.R. District law. If he wants an elevator and a different internal traffic pattern, he can do it without the building expansion. That should not be a seductive carrot to obtain a zoning approval which undermines essential elements of the Jacksonville C.R. District.

c. The Sign Variances

. The Baltimore County Council provided strict sign controls for the C.R. District in Bill 103-88. BCZR 259.3.C.7. It is under the rubric "Use Restrictions." In 1997, Baltimore County enacted a comprehensive new sign law to address and reduce excessive and incompatible signage. The Council found, among other things, that these mar the landscape and highways, and reduce property values. BCZR 450.1. The BCZR 450 controls supplement those in the C.R. District. BCZR 450.8 also adds another standard for the grant of zoning special exceptions

and variances and provided for the abatement of nonconforming signs by 2012. To clarify the relationship with the C.R. District, the Council amended BCZR 259.3.C.7 to state that the C.R. District controls are "additional restrictions."

The existing sign for Four Corners Craftsman Village is 150 square feet in area and 18 feet high. It satisfies neither BCZR 450 (100 sq. ft. maximum area for joint identification, and 18 ft. maximum height) and under BCZR 259.3.C.7 and the Jacksonville Plan (25 ft. maximum area and 15 ft. maximum height).

Petitioner seeks to perpetuate this oversized sign by asserting a traffic hazard and that it is otherwise difficult to locate the site. That is a specious and unfounded argument. There is no solid evidence of traffic hazard. The property is just north of the central "Four Corners" intersection in Jacksonville, which has the only area traffic signal. There is no problem in finding this site. Moreover, the restrictive sign law works in tandem with the need criteria. Presumably, the offices and businesses serve the local residents, who are familiar with traffic patterns and locations. The signs are not intended to attract strangers who are unfamiliar with the neighborhood. The record reflects that many other sites have attractive signs, which are modest in size and fit the C.R. District standards. The JCP includes a number of photographs of these signs. One of them is on the adjacent Four Corners Square property.

The claim for allowance of greater leeway for "joint identification" signs is also specious and particularly objectionable in Jacksonville. The thrust of the C.R. District and the Jacksonville Plan is to establish strict controls on signs, not to encourage their proliferation. Indeed, BCZR 259.3.C.7 explicitly provides that

its restrictions are "subject to Section 450 and the following additional restrictions." BCZR 259.3.C.7 does not authorize any joint identification signs. It is elementary that unless a use is explicitly permitted, it is prohibited. BCZR 102.1. Kowalski v. Lamar 25 Md. App. 493 (1975). Therefore, the applicable standard is 25 square feet in area, not 100 square feet. Moreover, most functional office building signs simply identify the building. It is unnecessary to identify each individual tenant.

The County Board of Appeals has consistently upheld the sign controls in recent years. We know of no approval of a sign variance for a freestanding sign which comes close to what is proposed here in any zone, much less the C.R. overlay district. We could attach many CBA opinions on sign variances to corroborate this statement, but the addition of so much paper to the file is not warranted. The CBA should have no difficulty in denying this variance, as well as all the other requests for zoning relief.

Conclusion

For the foregoing reasons, the County Board of Appeals should and must deny all of the special exception and variances requested in this case. The evidence is legally insufficient to support approval. There is nothing fairly or remotely debatable. The law compels denial.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

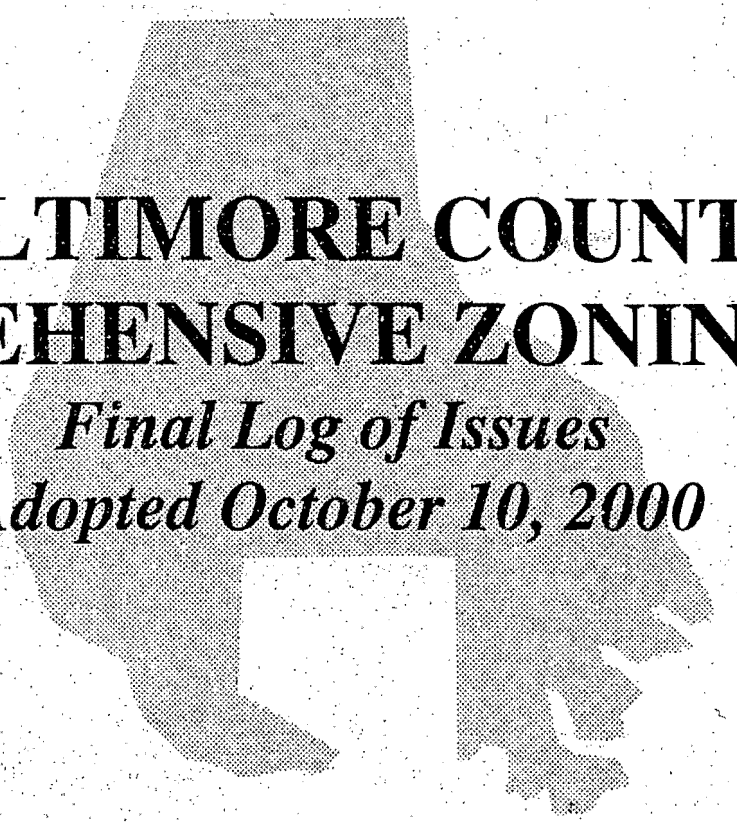
I hereby certify that on this 7th day of April, 2005, a copy of the People's Counsel for Baltimore County's Memorandum was mailed, postage prepaid, to Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioners.

PETER MAX ZIMMERMAN

BALTIMORE COUNTY
COMPREHENSIVE ZONING MAP

Final Log of Issues

Adopted October 10, 2000



NOV 1 A

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 490

September Term, 2001

SEVEN KIDS, LLC et al.

v.

GREATER KINGSVILLE CIVIC ASSOCIATION, INC., et al.

Eyler, James R.,
Adkins,
Wenner, William W.
(Ret., specially assigned),

JJ.

Opinion by Wenner, J.

Filed: November 13, 2002

#3C009923

99-199-X

IN THE MATTER OF THE	*	BEFORE THE
THE APPLICATION OF		
DONALD E. WARRENER, JR. -	*	COUNTY BOARD OF APPEALS
LEGAL OWNER /PETITIONER		
FOR SPECIAL HEARING ON	*	OF
PROPERTY LOCATED ON THE E/S		
OLD YORK ROAD, 70' S OF W.	*	BALTIMORE COUNTY
LIBERTY RD (20227 OLD YORK RD)		
7TH ELECTION DISTRICT	*	CASE NO. 99-73-SPHXA
3RD COUNCILMANIC DISTRICT		

* * * * * * * * *

O P I N I O N

This case comes to the Board of Appeals for Baltimore County based on a November 16, 1998 decision of the Zoning Commissioner in which a Petition for Special Exception was denied; Special Hearing was granted; and variance request was dismissed as moot. Francis X. Borgerding, Jr., Esquire, represented the Petitioner /Appellant (hereinafter "Petitioner"); and J. Carroll Holzer, Esquire, represented several Protestants specified in the Notice of Appeal; and Peter Max Zimmerman, People's Counsel for Baltimore County, also appeared in the proceedings.

This case was conducted with public hearings covering three days. Opening statements were tendered by counsel. A considerable portion of that time was expended on precisely what portions of the Zoning Commissioner's Opinion and Order were actually being appealed. The Petitions recite as follows:

> Special Hearing Petition:
> ...amend the site plan as approved in zoning case #4483RX and 87-274-SPH and to approve a fuel service station area separate from the service garage and used car sales area and to confirm continuation of existing used car sales in light of overall changes proposed by this hearing request.
>
> Special Exception Petition:
> ...a special exception (with special hearing) to enlarge the approved service garage area and to allow the proposed service station and restrooms...; and...a special exception for a fuel service station use (currently abandoned).

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

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 7, 2005

RECEIVED
APR 7 - 2005
BALTIMORE COUNTY
BOARD OF APPEALS

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

Re: In the Matter of: Christian & Ella Hayes - Petitioners
Case No.: 04-533-XA

Dear Ms. Bianco:

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

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ\rmw
Enclosures

cc: Deborah C. Dopkin, Esquire

County Board of Appeals of Baltimore County

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

March 18, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

JARRETTSVILLE PIKE, LLC – Legal Owner /Petitioner
Case No. 04-533-xa

Having heard this matter on 3/17/05, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **WEDNESDAY, MAY 4, 2005 at 9:30 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on Friday, April 8, 2005
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellant : Office of People's Counsel

Counsel for Petitioner /Legal Owner : Deborah Dopkin, Esquire
Petitioner : Christian Hayes, Legal Owner /Jarrettsville Pike, LLC

Protestants: : Jeanne Andres
Betsy Lehmann
James McCoy
William F. Bergeron

Joseph Heacock

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

FYI: 2-4-6

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DEBORAH DOPKIN ESQUIRE
409 WASHINGTON AVENUE
SUITE 1000
TOWSON MD 21204
ATTORNEY FOR PETITIONER

CHRISTIAN HAYES
14307 JARRETTSVILLE PIKE
PHOENIX MD 21131
PETITIONER

JEANNE ANDRES
3511 STANSBURY MILL ROAD
PHOENIX MD 21131

BETSY LEHMANN
4104 GREEN GLADE ROAD
PHOENIX MD 21131

JAMES V. MCCOY
11726 MAY CHAPEL ROAD
TIMONIUM MD 21093

WILLIAM F BERGERON
4 VALLEYGREEN COURT
PHOENIX MD 21131

2/23/05
Copy of Notice of Assignment
to Joseph Heacock
PO Box 394
Phoenix MD 21131

Case No. 04-533-XA

In the Matter of: Jarrettsville Pike, LLC; Christian O. Hayes, Owner
14307-14311 Jarrettsville Pike
10th E; 3rd C

SE – To permit a bldg w/gross floor area of 13,480 sf ilo max allowed 8,800 sf; combined ground floor area of 7,890 sf ilo max allowed 6,600 sf; and floor area ration of 0.229 in excess of the 0.20 permitted; VAR –from landscape standards and to permit existing but relocated freestanding joint ID sign w/area/face of 150 sf ilo of max allowed 100 sf per side; 15 lines of display ilo 5; letter copy heights less than 8" ilo min required 8"; sign illumination in CR district overlay.

8/18/04 - Z.C.'s Order in which requested special exception was GRANTED; requested variance relief GRANTED in part and DENIED in part.

12/09/04 -Notice of Assignment sent to following; assigned for hearing on Thursday, March 17, 2005 at 10 a.m.:

Office of People's Counsel
Deborah Dopkin, Esquire
Christian Hayes, Legal Owner
/Jarrettsville Pike, LLC
Jeanne Andres
Betsy Lehmann
James McCoy
William F. Bergeron
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

3/17/05 – Board convened for hearing (Stahl, Ramsey, Quinn); concluded hearing this date. Memos due on 4/08/05; deliberation to be assigned for 5/04/05 and notice to be sent.

3/18/05 – Notice of Deliberation sent to parties; assigned for Wednesday, May 4, 2005 at 9:30 a.m. FYI copy to 2-4-6.

4/07/05 – People's Counsel for Baltimore County's Memorandum filed by Office of People's Counsel. To file on 4/08/05.

4/08/05 – Appellee's Memorandum filed by Deborah Dopkin, Esquire, on behalf of Christian and Ella Hayes.

4/12/05 – Letter from P. Zimmerman – submitting attachments inadvertently omitted from Memo filed on 4/07/05.
- Copy of each memo to 2-4-6 via USPS this date for review prior to 5/04/05 deliberation.

5/04/05 – Board convened for deliberation (2-4-6); unanimous decision to grant variance request; written Opinion/Order to be issued; appellate period to run from date of written Order. (6)

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

December 9, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-533-XA

IN THE MATTER OF: JARRETTSVILLE PIKE, LLC -Petitioner
14307-14311 Jarrettsville Pike 10th E; 3rd C

8/18/04 - Z.C.'s Order in which special exception relief was GRANTED; variance relief DENIED. in part; granted in part.

ASSIGNED FOR: **THURSDAY, MARCH 17, 2005 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 B, 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 /Legal Owner : Deborah Dopkin, Esquire
Petitioner : Christian Hayes, Legal Owner /Jarrettsville Pike, LLC

Protestants: : Jeanne Andres
Betsy Lehmann
James McCoy
William F. Bergeron

William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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APPEAL SIGN POSTING REQUEST

CASE NO.: 04-553-XA

Jarrettsville Pike, LLC– LEGAL OWNER

14307-14311 Jarrettsville Pike – Phoenix, MD

10th ELECTION DISTRICT APPEALED: 9/9/2004

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

CASE NO.: 04-553-XA

Petitioner/Developer:

Jarrettsvile Pike LLC. – LEGAL OWNER

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

14307-14311 Jarretts Pike - Phoenix

The sign was posted on Nov 1, 2004, 2004

By: Chen Jerry
(Signature of Sign Poster)

(Printed Name)



APPEAL

Petition for Special Exception and Variance
14307-14311 Jarrettsville Pike
E/s Jarrettsville Pike, 98' n/of c/l of Sweet Air Road
10th Election District – 3rd Councilmanic District
Jarrettsville Pike, LLC - Petitioners

Case No.: 04-533-XA

RECEIVED
SEP 2 9 2004
BALTIMORE COUNTY
BOARD OF APPEALS

✓ Petition for Special Exception and Variance (May 18, 2004)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (June 3, 2004)

✓ Date Hearing Held (August 2, 2004)

✓ Certification of Publication (The Jeffersonian – July 15, 2004)

✓ Certificate of Posting (July 12, 2004) by Bruce Doak

✓ Entry of Appearance by People's Counsel (June 3, 2004)

✓ Petitioner(s) Sign-In Sheet – One Sheet

✓ Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – One Sheet

✓ Zoning Advisory Committee Comments 7-27-04

✓ Petitioners' Exhibit
- ✓1. Plan to accompany zoning petition
- ✓2. Robert L. Royer's Resume
- ✓3. Photos A – F
- ✓4. Compatibility Study for Four Corners Craftsman Village
- ✓5. Schematic Building Design

✓ Protestants' Exhibits:
- ✓1. Photo
- ✓2. Photo

✓ Miscellaneous (Not Marked as Exhibit)
- ✓1. Jacksonville Community Plan
- ✓2. Real Property Search Individual Report

✓ Zoning Commissioner's Order Special Exception (GRANTED), Variance (DENIED) – August 18, 2004

✓ Notice of Appeal received on September 9, 2004 by People's Counsel of Baltimore County

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Deborah Dopkin, 409 Washington Avenue, Ste. 100, Towson 21204
Christian Hayes, 14307 Jarrettsville Pike, Phoenix 21131
Jeanne Andrews, 3511 Stansbury Mill Road, Phoenix 21131
James McCoy, 11726 Mays Chapel Road, Timonium 21093
Betsy Lehmann, 4104 Green Glade Road, Phoenix 21131
William Bergeron, 4 Valleygreen Court, Phoenix 21131

date sent September 29, 2004, klm

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

September 29, 2004

Deborah Dopkin
409 Washington Avenue, Ste. 1000
Towson, MD 21204

Dear Ms. Dopkin:

RE: Case: 04-533-XA, 14307-14311 Jarrettsville Pike

Please be advised that an appeal of the above-referenced case was filed in this office on September 9, 2004 by People's Counsel of 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,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. Christian Hayes, 14307 Jarrettsville Pike, Phoenix 21131
Ms. Jeanne Andrews, 3511 Stansbury Mill Road, Phoenix 21131
Ms. Betsy Lehmann, 4104 Green Glade Road, Phoenix 21131
Mr. James V. McCoy, 11726 Mays Chapel Road, Timonium 21093
Mr. William F. Bergeron, 4 Valleygreen Court, Phoenix 21131

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Baltimore County, Maryland

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

September 9, 2004

RECEIVED
SEP 09 2004
Per

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

Hand-delivered

Re: PETITION FOR SPECIAL EXCEPTION AND VARIANCE
E/S Jarrettsville Pike, 98' N of the c/l of Sweet Air Road
(14307 - 14311 Jarrettsville Pike)
10th Election District; 3rd Council District
Jarrettsville Pike, LLC - Petitioner(s)
Case No.: 04-533-XA

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated August 18, 2004 by the Baltimore County Zoning Commissioner in the above-entitled case

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

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio/RMW
Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Deborah C. Dopkin, Esquire
Ms. Jeanne Andrews
Mr. James V. McCoy
Ms. Betsy Lehmann
Mr. William F. Bergeron
Mr. Christian G. Hayes

8/18/04

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND VARIANCE – E/S Jarrettsville Pike, 98' N of the c/l Sweet Air Road **(14307-14311 Jarrettsville Pike)** 10th Election District 3rd Council District

Christian G. Hayes, et ux and Jarrettsville Pike, LLC - Petitioners

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 04-533-XA

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owners of the subject property, Christian G. Hayes, Ella L. Hayes, and 14311 Jarrettsville Pike, LLC, through their attorney, Deborah C. Dopkin, Esquire. The Petitioners request a special exception, pursuant to Section 259.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building with a gross floor area of 13,480 sq.ft. in lieu of the maximum allowed 8,800 sq.ft., a combined ground floor area of 7,890 sq.ft. in lieu of the maximum allowed 6,600 sq.ft., and a Floor Area Ratio of 0.229 in excess of the 0.20 permitted under Section 259.3.C.1 of the B.C.Z.R. In addition, the Petitioners request variance relief from the landscape standards set forth in Section 259.3.C.3 of the B.C.Z.R., and from Sections 259.C.7.c, 450.4.7(b)(c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 sq.ft. per side in lieu of the maximum allowed 100 sq.ft. per side; to permit 15 lines of display in lieu of the maximum allowed 5 lines of display; to permit letter copy heights less than 8 inches in height in lieu of the required minimum 8 inches; to permit sign illumination in a C.R. district overlay when approved by the Zoning Commissioner. In addition, relief is requested to amend the previously approved site plan and confirm the prior variances granted in Case No. 91-374-A. 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.

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Date 8/18/04
By

Appearing at the requisite public hearing in support of the requests were Christian G. Hayes, property owner; Robert L. Royor, Registered Landscape Architect who prepared the site plan for this property; and Deborah C. Dopkin, Esquire, attorney for the Petitioners. Appearing in opposition to a portion of the requests were Jeanne Andrews, James V. McCoy, Betsy Lehmann and William F. Bergeron.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the east side of Jarrettsville Pike, just north of Paper Mill Road in Jacksonville. The property is comprised of two adjacent parcels, which are under separate ownership, and are identified as Parcels 159 and 192 on Baltimore County Tax Map 35. Parcel No. 159 is owned by Christian G. Hayes and contains approximately .97 acres in area, zoned B.M.-C.R. That parcel is improved with a two-story office building that was constructed in 1989 and currently contains six tenants. The primary tenant is the Hayes Construction Company, which is owned and operated by Mr. Hayes. Other tenants include a chiropractic office, an accountant, a physical therapist, and Site Resources, which is Mr. Royor's firm. Vehicular access to the site is by way of a curb cut leading into the interior of the property from Jarrettsville Pike. In addition to the two-story office building, an accessory parking lot containing 32 parking spaces is located on Parcel #159.

The second parcel is identified as Parcel #192, which is owned by 14311 Jarrettsville Pike, LLC. That parcel is unimproved and contains approximately .41 acres in area, also zoned B.M.-C.R. Parcel 192 shares a common boundary with Parcel #159 and also has frontage on Jarrettsville Pike. Mr. Royor indicated that because these are two separate parcels under separate ownership, the second parcel (Parcel 192) could be developed with a freestanding office building of up to 8800 sq.ft. in area, pursuant to the C.R. regulations. However, in lieu of constructing a separate building, the Petitioners propose constructing a 3,080 sq.ft., two-story addition to the existing office building. As shown on the plan, the proposed addition would be constructed on the north side of the existing building and extend into Parcel 192 over the common property line. An

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Date 8/15/04
By

additional 18 parking spaces would be provided on that parcel for a total of 50 parking spaces between the two sites. Additionally, a second curb cut is proposed leading into Jarrettsville Pike.

Mr. Royor testified at length about the plan and produced building elevation drawings of the proposed addition marked as Petitioner's Exhibit 5. He testified that the proposal meets the special exception criteria set forth in Section 502.1 and opined that variance relief should be granted, pursuant to Section 307.

Testimony was also received from Mr. Hayes. He confirmed that he operates his general contracting business from the site and has occupied the building since 1989. He indicated that he purchased the adjacent parcel when it became available and proposes the construction of a building addition rather than a second freestanding building. He also testified that he appeared before the Greater Jacksonville Community Association about his plan and they were endorsed by vote by that Association.

Turning first to the Petition for Special Exception, relief is requested as described above. It is to be particularly emphasized that the subject property could be developed, by right, with a larger freestanding building. Instead, the Petitioner proposes a much smaller building addition. This approach seems to be practical and appropriate given the use of the property and surrounding locale. The citizens who appeared voiced no objection to the building addition/ expansion. In my judgment, the unique circumstance created by the Petitioners' ownership of these adjacent parcels is a persuasive factor which supports the granting of the special exception. I concur with Mr. Royor's conclusions, which were undisputed, that the proposed use meets the requirements of Section 502.1 of the B.C.Z.R. and will not be detrimental to the health, safety and general welfare of the locale.

As to the Petition for Variance, there are two separate requests. The first relates to a variance of the landscaping standards set forth in Section 259.3.C.3 of the B.C.Z.R. Those standards require landscaping adjacent to all property lines. In this case, the internal property line that divides these two adjacent parcels can obviously not be landscaped where the proposed construction will take place. The unique configuration of these adjacent lots and proposed use

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Date 8/18/04
By

warrants variance relief from the landscaping standards. The Petitioners did advise that the new building and perimeter of Parcel 192 will be landscaped. The citizens who appeared did not object to this variance request.

The second variance request generated some community opposition. Presently, there exists on the property an 18-foot tall sign depicted on the site plan and shown in several photographs submitted at the hearing. The sign is attractive and identifies the tenants in the building. The most predominant tenant displayed is the Hayes Construction Company; however the chiropractic office, the accountant, physical therapist, and Mr. Royor's land planning and design firm are also identified.

Mr. Hayes testified that he designed the sign after visiting New England with the intention of constructing a sign that is compatible with the rural character of the surrounding locale. Indeed, even the Protestants who appeared conceded that the sign is "very attractive;" however, objected to the size of the structure. In this regard, it is to be noted that the sign was permitted and approved by right when originally constructed in approximately 1989. Since that time, the sign regulations have been overhauled and the Baltimore County Council has adopted the Jacksonville Community Plan. That plan states that signage should be kept to a minimum in view of the rural nature of the Jacksonville community.

The record of the testimony and evidence offered fully sets forth the various positions of the parties. The Petitioners' position can be summarized as follows: The sign, when constructed, was permitted by right. The sign will be slightly relocated, the new addition will largely accommodate existing tenants, and the character and the use of the site will remain the same. The sign is attractive and should be permitted to remain. The Protestants argue on the other hand that the sign is too large and out of character with the new Jacksonville plan and sign regulations. They believe the sign should be replaced.

The Office of Planning comment reflects these divergent views. That office notes that the existing sign was built prior to the application of the C.R. District and Jacksonville Community Plan. The comment also indicates that the existing sign is significantly larger than the present

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Date 9/18/14
By

limitations imposed by the C.R. district and the Jacksonville Community Plan; however acknowledged that strict adherence to that plan may not be reasonable for this previously developed site.

Near the conclusion of the hearing, Mr. Hayes offered an alternative. He indicated that the overall height of the sign could be reduced by a total of 3 feet. In this regard, Mr. Hayes proposes to lower the support posts that attach to the sign by 2 feet. This reduction would make the sign more of a monument type structure, which is preferred by the community. Additionally, he proposes reducing the overall face of the sign by 1 foot. I believe this to be a fair and appropriate compromise. As noted at the hearing, traffic on Jarrettsville Pike along the frontage of the site can be very heavy and in fact, the proposed road improvements and second curb cut for this site might help alleviate some of that congestion. An appropriately sized sign identifying the occupants of the property to those unfamiliar with the area is appropriate. Moreover, the existence of the sign and the prior development of the site are all compelling factors, which support the grant of the variance. Thus, the sign variance, as amended by Mr. Hayes' proposed modifications, shall be granted.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of August, 2004 that the Petition for special exception, pursuant to Section 259.3.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building with a gross floor area of 13,480 sq.ft. in lieu of the maximum allowed 8,800 sq.ft., a combined ground floor area of 7,890 sq.ft. in lieu of the maximum allowed 6,600 sq.ft., and a Floor Area Ratio of 0.229 in excess of the 0.20 permitted under Section 259.3.C.1 of the B.C.Z.R., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that variance relief from the landscape standards set forth in Section 259.3.C.3 of the B.C.Z.R., and from Sections 259.C.7.c, 450.4.7(b)(c) shall be

RECEIVED FOR FILING
8/18/04
By

GRANTED to permit an existing (but relocated) freestanding joint identification sign, as modified above, and to permit sign illumination in a C.R. district overlay when approved by the Zoning Commissioner, and to amend the previously approved site plan and confirm the prior variances granted in Case No. 91-374-A, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building/sign permit and be granted same upon receipt of this Order; however, the 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) Prior to the issuance of any sign permit, the Petitioner shall submit a revised site plan incorporating the modified relief granted relative to the existing sign.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the landscape standards set forth in Section 259.3.C.3 of the B.C.Z.R., and from Sections 259.C.7.c, 450.4.7(b)(c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 sq.ft. per side in lieu of the maximum allowed 100 sq.ft. per side; to permit 15 lines of display in lieu of the maximum allowed 5 lines of display; to permit letter copy heights less than 8 inches in height in lieu of the required minimum 8 inches, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED/FOR FILING
Date 8/15/07
By

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

August 18, 2004

Deborah C. Dopkin, Esquire
409 Washington Avenue, #1000
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION & VARIANCE
E/S Jarrettsville Pike, 98' N of the c/l Sweet Air Road
(14307 – 14311 Jarrettsville Pike)
10th Election District – 3rd Council District
Jarrettsville Pike, LLC - Petitioners
Case No. 04-533-XA

Dear Ms. Dopkin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for 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
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Christian G. Hayes
14307 Jarrettsville Pike, Phoenix, Md. 21131
Ms. Jeanne Andrews, 3511 Stansbury Mill Road, Phoenix, Md. 21131
Mr. James V. McCoy, 11726 Mays Chapel Road, Timonium, Md. 21093
Ms. Betsy Lehmann, 4104 Green Glade Road, Phoenix, Md. 21131
Mr. William F. Bergeron, 4 Valleygreen Court, Phoenix, Md. 21131
Office of Planning; People's Counsel; Case File

Printed on Recycled Paper

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 15, 2004 Issue - Jeffersonian

Please forward billing to:
Robert Royer
Site Resources, Inc.
14307 Jarrettsville Pike
Phoenix, MD 21131

410-683-3388

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: 04-533-XA
14307-14311 Jarrettsville Pike
E/side of Jarrettsville Pike, 98 feet n/of Sweet Air Road
10th Election District – 3rd Councilmanic District
Legal Owner: Christian G. & Ella L. Hayes

Variance to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 sq. ft. for each side in lieu of the maximum permitted area/face of 100 sq. ft. for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner, and to amend the site plan and confirm the prior variances granted in Case No. 91-374. Special Exception to approve a building with a gross floor of 13,480 ft. in lieu of the 8,800 sq. ft., a combined ground floor area of 7,890 sq. ft. in lieu of the 6,600 sq. ft. permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted.

Hearing: Monday, August 2, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley 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.

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: #04-533-XA
14307-14311 Jarrettsville Pike
E/side of Jarrettsville Pike, 98 feet n/of Sweet Air Road
10th Election District — 3rd Councilmanic District
Legal Owner(s): Christian G. & Ella L. Hayes

Variance: to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 sq. ft. for each side in lieu of the maximum permitted area/face of 100 sq. ft. for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner, and to amend the site plan and confirm the prior variances granted in Case No. 91-374.

Special Exception: to approve a building with a gross floor of 13,480 ft. in lieu of the 8,800 sq. ft., of combined ground floor area of 7,890 sq. ft. in lieu of the 6,600 sq. ft. permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted.

Hearing: Monday, August 2, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

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

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

7/201 July 15 12545

CERTIFICATE OF PUBLICATION

7/15/, 2004

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 7/15/,2004.

- [X] 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 NO. 04-533-XA
PETITIONER/DEVELOPER:
Christian G. & Ella L. Hayes
DATE OF HEARING: Monday August 2, 2004

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

ATTENTION: KRISTEN MATTHEWS

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:
14307 – 14311 Jarrettsville Pike



POSTED ON: July 12, 2004

DATE:
July 14, 2004

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

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

June 3, 2004

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: 04-533-XA
14307-14311 Jarrettsville Pike
E/side of Jarrettsville Pike, 98 feet n/of Sweet Air Road
10th Election District – 3rd Councilmanic District
Legal Owner: Christian G. & Ella L. Hayes

Variance to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 sq. ft. for each side in lieu of the maximum permitted area/face of 100 sq. ft. for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner, and to amend the site plan and confirm the prior variances granted in Case No. 91-374. Special Exception to approve a building with a gross floor of 13,480 ft. in lieu of the 8,800 sq. ft., a combined ground floor area of 7,890 sq. ft. in lieu of the 6,600 sq. ft. permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted.

Hearing: Monday, August 2, 2004 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

Timothy Kotroco
Director

TK:klm

C: Deborah Dopkin, 409 Washington Ave., Ste. 1000, Towson 21204
Christian Hayes, 14311 Jarrettsville Pike, Phoenix 21131
Ella Hayes, 14307 Jarrettsville Pike, Phoenix 21131

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JULY 17, 2004.**
(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.

Printed on Recycled Paper

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 14307-14311 Jarrettsville Pike

which is presently zoned BM-CR

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, lega owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto an made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use th herein described property for

See Attached

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 th 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:

Deborah C. Dopkin
Name - Type or Print

Signature

Deborah C. Dopkin, P.A.
Company

409 Washington Avenue, #1000 (410-821-0200)
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s): See Second Sheet Attached

Christian G. Hayes
Name - Type or Print

Signature

Ella L. Hayes
Name - Type or Print

Signature

14307 Jarrettsville Pike 410-628-7900
Address Telephone No.

Phoenix, Maryland 21131
City State Zip Code

Representative to be Contacted:

Deborah C. Dopkin, Esquire
Name

409 Washington Avenue, #1000 (410-821-0200)
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

ORDER RECEIVED FOR FILING
Date 5/18/04
By JNP

Case No. 04-533-XA

REV 09/15/98

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By JNP Date 5/18/04

Second Legal Owner:

14311 Jarrettsville Pike
Jarrettsville Pike, LLC
Name

By: Christian D. Hayes
Christian Hayes, Member

14307 Jarrettsville Pike 410-628-7900
Address Telephone No.

Phoenix, Maryland 21131
City State Zip Code

ORDER RECEIVED FOR FILING
Date 8/13/14
By

04-533-XA

Special Exception

A special exception pursuant to Section 259.3A to approve a building with a gross floor of 13,480 in lieu of the 8,800 square feet, a combined ground floor area of 7,890 square feet in lieu of the 6,600 square feet permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted under Section 259.3.C.1.

ORDER RECEIVED FOR FILING
Date 8/19/04
By

04-533-XA

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 14307-14311 Jarrettsville Pike

which is presently zoned BM-CR

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

See Attached

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

To be 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.

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:

Deborah C. Dopkin
Name - Type or Print

Signature

Deborah C. Dopkin, P.A.
Company

409 Washington Avenue, #1000 (410-821-0200)
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s): See Second Sheet Attached

Christian G. Hayes
Name - Type or Print

Signature

Ella L. Hayes
Name - Type or Print

Signature

14307 Jarrettsville Pike 410-628-7900
Address Telephone No.

Phoenix, Maryland 21131
City State Zip Code

Representative to be Contacted:

Deborah C. Dopkin, Esquire
Name

409 Washington Avenue, #1000 (410-821-0200)
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By JNP Date 5/18/04

ORDER RECEIVED FOR FILING
Date 5/18/04
By JNP

Case No. 04-533-XA

REV 9/15/98

Second Legal Owner:

14311 Jarrettsville Pike
Jarrettsville Pike, LLC
Name

By: Christian Hayes
Christian Hayes, Member

14307 Jarrettsville Pike 410-628-7900
Address Telephone No.

Phoenix, Maryland 21131
City State Zip Code

ORDER RECEIVED FOR FILING
Date 8/18/14
By

04-533-XA

Variance Request

1.) A variance of the landscape standards of section 259.3.C.3

2.) Variance to Sections 259.C.7.c, 450.4.7.(b)(c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 square feet for each side in lieu of the maximum permitted area/face of 100 square feet for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner.

3.) To amend the site plan and confirm the prior variances granted in Case No. 91-374.

ORDER RECEIVED FOR FILING
Date 8/18/04
By

04-533-XA

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

May 18, 2004

ZONING DESCRIPTION
14307 JARRETTSVILLE PIKE
10TH ELECTION DISTRICT AND THE 3RD COUNCILMANIC
DISTRICT OF BALTIMORE COUNTY, MARYLAND

Beginning for the same pipe here to therefore set on the eastern most side of Jarrettsville Pike, 98 feet +/- north of the intersection of Sweet Air Road and Jarrettsville Pike. which by deed dated April 28, 1987 and recorded among the land Records of Baltimore County in Liber SM. No. 7524 folio 769 conveyed to Christian G. Hayes and Ella L. Hayes, said point of beginning the following, North 01° 00' 44" East, 270.67 feet +/- to a pipe, then the following three lines: (1) South 57° 04' 42" East, 457.58 feet +/-,
(2) South 24° 54' 37" West, 51.65 feet +/-, (3) North 86° 00' 52" East, 358.43 feet +/-,
to the place of beginning.

Containing 1.38 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purpose of conveyance.

STATE OF MARYLAND
ROBERT LINSLEY BOYER
NO. 1077
REGISTERED LANDSCAPE ARCHITECT
5/18/04

14307 Jarrettsville Pike · Phoenix, MD 21131
(410) 683-3388 · fax (410) 683-3389

01125/Zoning Description/051804

04-533-XA

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 34533

DATE 5/18/04 ACCOUNT R-001-006-6150

AMOUNT $ 705.00

RECEIVED FROM: Hayes Construction Company

FOR: Petition Exception/Variance (04-533-XA)
1430-1431 Harvettsville Pike.
(HAYES / HARVETTSVILLE RING LLC)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	
5/20/2004	5/20/2004	10:15:26	A

REG #606 WALKIN KNOX KXH
>RECEIPT # 259378 5/20/2004 OFLN
Dept: 5 B28 ZONING VERIFICATION
CR NO: 034553
Recpt Tot $705.00
$705.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 04-533-XA

Petitioner: HAYES / JARRETTSVILLE PIKE, LLC

Address or Location: 14307-14311 Jarrettsville Pike

PLEASE FORWARD ADVERTISING BILL TO:

Name: Robert L. Royer, Site Resources Inc.

Address: 14307 Jarrettsville Pike

Phoenix, Md 21131

Telephone Number: 410-683-3388

Revised 2/20/98 - SCJ

Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 10 **Account Number** - 1012040050

Owner Information

Owner Name: JARRETTSVILLE PIKE LLC

Mailing Address: 13804 MANOR GLEN ROAD
BALDWIN MD 21013-9713

Use: COMMERCIAL
Principal Residence: NO
Deed Reference: 1) /15885/ 692
2)

Location & Structure Information

Premises Address
14311 JARRETTSVILLE PIKE

Zoning
BMCR

Legal Description
ES JARRETTSVILE RD
14311 JARRETTSVILLE PIKE
225 N PAPER MILL RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
35	24	192						80	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		17,990.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	128,400	128,400		
Improvements:	0	0		
Total:	128,400	128,400	128,400	128,400
Preferential Land:	0	0	0	0

Transfer Information

Seller:	STUMPP GEORGE B	**Date:**	12/21/2001	**Price:**	$121,000
Type:	UNIMPROVED ARMS-LENGTH	**Deed1:**	/15885/ 692	**Deed2:**	
Seller:	MCCLEARY BENJAMIN GEORGE	**Date:**	06/25/1997	**Price:**	$114,000
Type:	UNIMPROVED ARMS-LENGTH	**Deed1:**	/12251/ 240	**Deed2:**	
Seller:	LINS GEORGE M	**Date:**	10/19/1989	**Price:**	$192,933
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 8302/ 344	**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

04-533-XA

Department of Permits and Development Management

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

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

July 27, 2004

Deborah C. Dopkin
409 Washington Avenue # 1000
Towson, Maryland 21204

Dear Ms. Dopkin:

RE: Case Number:04-533-XA, 14307-14311 Jarrettsville Pike

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 18, 2004.

The Zoning Advisory Commnittee (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.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Christian and Ella Hayes 14307 Jarrettsville Pike Phoenix 21131

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 27, 2004

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

RECEIVED

AUG - 2 2004

ZONING COMMISSIONER

SUBJECT: 14307-14311 Jarretsville Pike

INFORMATION:

Item Number: 4-533

Petitioner: Christian G. Hayes

Zoning: BM-CR

Requested Action: Variance/Special Exception

SUMMARY OF RECOMMENDATIONS:
The petitioner requests variance and special exception consideration for an existing sign and existing office building that were built prior to application of the CR District.

It is the Planning Office's understanding that despite recommendations in the Jacksonville Community Plan that are counter to the relief sought by the petitioner, the Greater Jacksonville Association has voted to support the project. Nonetheless, this office recognizes that the existing 150 square foot sign is significantly larger than the 25 square foot requirement of the CR District and of the signage guidelines of the Jacksonville Community Plan. It should be noted that the Community Plan recommends nonconforming signs be replaced when "the need arises for new signs". (see page 25 of Jacksonville Community Plan). This office is of the opinion that the redevelopment of the subject site is an appropriate time "of need".

The Planning Office acknowledges that a 25 square foot sign may not be reasonable for this developed site. However, it is recommended that the petitioner present a smaller sign that is closer to the CR District signage requirements and the signage guidelines of the Jacksonville Community Plan. It is further recommended that sidewalks be installed along Jarrettsville Pike (see page 38 of the Jacksonville Community Plan).

For further information concerning the matters stated herein, please contact Bill Hughey at 410-887-3480.

Prepared by: _____

Division Chief: _____

AFK/LL:MAC:

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

May 27, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: June 1, 2004

Item No.: 533, 538

Dear Ms. Hart:

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 site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

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

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: July 1, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For June 8, 2004
Item Nos. 526, 531, 532, 533, 534,
536, 537, 538, and 539

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

RWB:CEN:jrb

cc: File

ZAC-06-08-2004-ITEM NOS 626 AND 530-539-07012004

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: June 16, 2004

SUBJECT: Zoning Item # 04- 533
Address 41307-14311 Jarrettsville Pike

Zoning Advisory Committee Meeting of June 1, 2004.

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

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

A Water Balance Assessment and a Water Usage Letter must be submitted to the Groundwater Management Division of DEPRM. Contact Kieth Kelly for additional information.

Reviewer: Keith Kelley, Sue Farinetti Date: June 14, 2004

S:\Devcoord\ZAC SHELL 11-20-03.doc

RE:	PETITION FOR SPECIAL EXCEPTION AND VARIANCE	*	BEFORE THE
	14307-14311 Jarrettsville Pike; E/side of Jarrettsville Pike, 98' N of Sweet Air Road	*	ZONING COMMISSIONER
	10th Election & 3rd Councilmanic Districts	*	FOR
	Legal Owner(s): Christian G and Ella L Hayes Petitioner(s)	*	BALTIMORE COUNTY
		*	04-533-XA

* * * * * * * * * * * * *

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
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June, 2004, a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esquire, 409 Washington Avenue, St 1000, Towson, MD, 21204, Attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
JUN 03 2004
Per.....

PETITION OF:

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

CIVIL ACTION NO.: 3-C-05-007745

MATTER OF: JARRETTSVILLE PIKE, LLC

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS AND THE BOARD'S RECORD EXTRACT AND TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE AND EXHIBITS.

J. Ogles

CLERK'S OFFICE

DATE: 9/19/05

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-05-007745

TO: BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Courthouse Room 47
400 Washington Avenue
Towson, MD 21204

RECEIVED
SEP 21 2005
BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F H E A R I N G / T R I A L

Case Number: 03-C-05-011810 OC
C I V I L

DiPasquale, et al vs Baltimore County Maryland, et al

STATE OF MARYLAND, BALTIMORE COUNTY COUNTY, TO WIT:

TO: Paul M. Mayhew
Assistant County Attorney
Old Courthouse, 2nd Floor
400 Washington Avenue
Towson, MD 21204

RECEIVED
MAR 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

You are hereby NOTIFIED TO APPEAR before a Judge of the:

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

Court date:
June 1, 2006
At: 09:30 AM
Civil Non-Jury Trial
1/2 DAY COMPLAINT FOR DECLARATORY JUDGEMENT AND WRIT OF MANDAMUS (AGREED DATE)

PLEASE NOTE: All counsel are expected to confer with each other with regard to the assigned trial date and to advise the court and other parties of any pre-existing conflict promptly.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3081, or or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Application for postponement must be made in writing with copies to all attorneys.

Please refer to Information Desk for Court Room Designation.

Assignment Clerk: Osborne Amanda
Assignment Office Phone: (410)-887-2660

Date Issued: 03/14/06

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

03/14/06

Case Number: 03-C-05-007745 AE OTH
Date Filed: 07/15/2005
Status: Closed/Active
Judge Assigned: To Be Assigned,
Location :
CTS Start : 07/15/05 Target : 01/11/07

In The Matter of: Peoples Counsel For Baltimore County

C A S E H I S T O R Y

RECEIVED
MAR 15 2006
BALTIMORE COUNTY
BOARD OF APPEALS

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	04-533-XA
Case Folder ID	C05007745V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
PET	001	Peoples Counsel For Baltimore County Party ID: 0776255		CT DO 03/02/06	07/18/05
		Mail: Old Courthouse Room 47 400 Washington Avenue Towson, MD 21204	07/18/05	07/18/05 LMC	07/18/05 LMC
		Attorney: 0804268 Demilio, Carole S Deputy Peoples Counsel Old Courthouse Room 47 400 Washington Ave Towson, MD 21204 (410)887-2188	Appear: 07/15/2005		07/18/05

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. / Addr Update	Entered
RES	001	Jarrettsville Pike L L C	Party ID: 0776258	CT DO 03/02/06	07/18/05
		Attorney: 0012358 Dopkin, Deborah C Deborah C. Dopkin P.A. 409 Washington Avenue Suite 1000 Towson, MD 21204 (410)821-0200	Appear: 11/18/2005		11/18/05
ITP	001	Board Of Appeals Of Baltimore County The	Party ID: 0776257	CT DO 03/02/06	07/18/05
		Mail: Old Courthouse Room 47 400 Washington Avenue Towson, MD 21204	07/18/05	07/18/05 LMC	07/18/05 LMC
		Attorney: 0029075 Zimmerman, Peter M People's Counsel For Baltimore County Room 47 Courthouse 400 Washington Ave Towson, MD 21204 (410)887-2188	Appear: 10/12/2005		10/31/05
ITP	002	Hayes, Christian G	Party ID: 0971482	CT DO 03/02/06	11/18/05
		Attorney: 0012358 Dopkin, Deborah C Deborah C. Dopkin P.A. 409 Washington Avenue Suite 1000 Towson, MD 21204 (410)821-0200	Appear: 11/18/2005		11/18/05
ITP	003	Haynes, Ella L	Party ID: 0971484	CT DO 03/02/06	11/18/05
		Attorney: 0012358 Dopkin, Deborah C Deborah C. Dopkin P.A. 409 Washington Avenue Suite 1000 Towson, MD 21204 (410)821-0200	Appear: 11/18/2005		11/18/05

CALENDAR EVENTS

Date	Time	Dur	Event Description	Text	SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge		Rec			
01/19/06	09:30A	02H	Civil Non-Jury Trial		Y	KGC 01 /01		KLS PH
Cancelled/Vacated			03/02/06 E					

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
03/02/06	DO	Decree or Order	CT	AFTER TRIAL/HEARING	PH	03/02/06

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned,	J	07/18/05	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	07/15/05	07/18/05	PET001	TBA		03/02/06	LMC PH
0002000	Certificate of Service	08/01/05	08/02/05	000	TBA		08/02/05	SAP SAP
0003000	Transcript of Record from Adm Agency *	09/19/05	09/20/05	ITP001	TBA		03/02/06	SAP PH
0004000	Notice of Transcript of Record Sent	09/20/05	09/20/05	ITP001	TBA		09/20/05	SAP SAP
0005000	Notice of Transcript of Record Sent	09/20/05	09/20/05	PET001	TBA		09/20/05	SAP SAP
0006000	Notice of Transcript of Record Sent	09/20/05	09/20/05	RES001	TBA		09/20/05	SAP SAP
0007000	Memorandum with exhibit	10/12/05	10/17/05	PET001	TBA		10/17/05	EMH EMH
0007001	Answering Memorandum* Filed by RES001-Jarrettsville Pike L L C, ITP002-Hayes, ITP003-Haynes	11/09/05	11/18/05	RES001	TBA		03/02/06	NF PH
0008000	Scheduling Order	10/26/05	10/26/05	000	TBA		10/26/05	KLS KLS
0009000	Scheduling Order	10/31/05	10/31/05	000	TBA		10/31/05	KLS KLS
0010000	Hearing Notice	11/08/05	11/08/05	PET001	TBA		11/08/05	KLS KLS

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0011000	Hearing Notice	11/08/05	11/08/05	RES001	TBA	11/08/05	KLS KLS
0012000	Hearing Notice	11/08/05	11/08/05	ITP001	TBA	11/08/05	KLS KLS
0013000	Peoples Counsel for Baltimore Countys Reply memorandum	11/17/05	11/29/05	PET001	TBA	11/29/05	SAP
0014000	Hearing Notice	12/23/05	12/23/05	RES001	TBA	12/23/05	ED
0015000	Hearing Notice	12/23/05	12/23/05	RES001	TBA	12/23/05	ED
0016000	Memorandum Opinion and Order affirming decision	03/02/06	03/02/06	000	KGC Granted	02/28/06	PH
0017000	Docket entries sent to the Boared of Appeals	03/14/06	03/14/06	000	TBA		CM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	11/09/05	0	no	no	DANS	D	007	001
1YRT	One Year Tickle (Jud	CLOSED	07/15/06	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	05/01/06	30	no	no			000	000
SLTR	Set List For Trial	Done	09/19/05	0	yes	yes	DTRA	D	003	000
SLTR	Set List For Trial	CANCEL	11/09/05	0	yes	no	1ANS	T	007	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis By
Offered By: ITP 001 Board Of Appeals Of Baltimore								
000		B	BOX 472/CBA TRANSC		B			

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 10/26/05 Order Date : 10/26/05
Start Date : 10/26/05 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		11/10/05	03/02/06	CLOSED
All Motions (excluding Motions in Limine		12/10/05	03/02/06	CLOSED
TRIAL DATE is	01/19/06	01/24/06	03/02/06	CLOSED

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

Board Of Appeals Of Baltimore County The
Old Courthouse Room 47
400 Washington Avenue
Towson MD 21204

Assignment Date: 10/26/05

Case Title: In The Matter of: Peoples Counsel For Baltimore County
Case No: 03-C-05-007745 AE

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Joy M Keller at (410) 887-3233.
You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 11/10/05
2. All Motions (excluding Motions in Limine) are due by..... 12/10/05
3. TRIAL DATE is..... 01/19/06
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned; 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410)-887-2660 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

cc: Jarrettsville Pike L L C

cc: Carole S Demilio Esq
Issue Date 10/26/05

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Jarrettsville Pike, LLC
Case No. 04-533-XA

DATE : May 4, 2005

BOARD/PANEL Mr. Stahl
Mr. Ramsey
Mr. Quinn

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To deliberate:

I A request for a Special Hearing filed by Deborah C. Dopkin on behalf of Christian and Ella Hayes, member of Jarrettsville Pike, LLC to approve a building with a gross floor of 13,480 ilo required 8,800 sq. ft./ a combined ground floor area of 7,890 sq. ft. ilo required 6,600 sq. ft. and a F.A.R. of 0.229 in excess of the 0.20 permitted under §259.3.C1.

II Petition for Variance to permit an existing (but relocated) freestanding joint identification sign with an area of 150 sq. ft. for each side, to permit 15 lines of display ilo the required 5 lines of display, to permit letter copy heights less than 8 inches in height ilo the required 8 inches, and to permit sign illumination in a CR district overlay when approved by the ZC and to amend the sit plan and confirm the variance granted in Case No.: 91-374.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

I - Building

- A building is already there servicing the area and it is just a matter of enhancing what already exists.
- Enhancement complies with the spirit and intent of area planning.
- It is better for the area if the building is expanded rather than having two separate buildings on the two lots.
- Expansion would minimize the impact on the area.
- Better visibility where corner exit is placed.
- There has been no objection from the community.
- Landscaping and traffic were briefly addressed and it was stated that the guidelines for these issues would be handled by the appropriate agencies.

FILE COPY

II – Sign

- It was expressed that the new sign proposal would ***not*** be in keeping with the spirit and intent of the area.
- Proposed sign would take away from the small town, quiet and unobtrusive feel of the area.
- There appears to be no practical difficulty that would necessitate a sign of this size.
- The existing sign should be kept and if need be it could be relocated, however, it should not be expanded.

DECISION BY BOARD MEMBERS: Unanimously felt that the proposed expansion of the current building was appropriate, however, the sign was too large and was inappropriate.

FINAL DECISION: After a deliberation of the facts and law in this case, the Board decided to unanimously *GRANT* the expansion of the current building, however, the Board *DENIED* the request for the larger sign.

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

Respectfully Submitted

Linda B. Fliegel

Linda B. Fliegel
County Board of Appeals

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE 8/2/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Jeanne Andrews	3511 Stansbury Mill Rd	Phoenix, MD 21131	transcriptiongenie@prodigy.net
JAMES V McCAY	11726 MARS CHAPEL RD	TIMONIUM, MD 21093	jv-mccoy1@comcast.net
Betsy Lehmann	4104 Green Glade Rd.	Phoenix, MD 21131	ehlnn@aol.com
WILLIAM F. BERGERON	4 VALLEYGREEN CT	PHOENIX MD 21131	TRIMEDIA3@AOL.COM

PLEASE PRINT CLEARLY

CASE NAME Hayes
CASE NUMBER 04-533XA
DATE 8-2-04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Deborah Dopkin	409 Washington Ave	Towson Md 21204	ddopkin@LoppKinlaw.com
Chris Hayes	13804 MANOR GLEN RD	BALDWIN MD 21013	chrisHAYES@HAYESCONSTRUCTION.NET
Robert L. Royer	11 Teresa Marie CT	Millers, Md 21102	baroyer6@bcpl.net

EXHIBITS
PETITIONER'S
PEOPLE'S COUNCIL
CBA

20040533 A.

supplemental

(2)

Jarrettsville Pike
04-533-XA

Verified 3.17.05

3-17-05

Petitioners Exhibits

1. Robert L. Kayer. Resume C.V.
2. Plat Plan Zoning Plan
3. Photos ~~Board of~~ building (2)
4. 1-12 Photo Bd.
5. 4. Photos of Sign Current
6. Rule & Documents Greater Jacksonville Association & minutes - 7/04 & 2-1505
7. Building Addition Blue Print.
8. Photos A. B. C. D. E. F.

People's Counsel

1. 1991 Opinion from ~~7-1-1991~~
2. Inter-office Correspondence 7-27-04 by Mar Cunningham. Sarom Arnold. F. Pat Keller, III (Planning Director)
3. 2004 ZONING MAP
4. Opinion of the Bd of Appeals 1-5-05
5. A.M.D. Dept of Ass. Owner Information & Parcel (192) (151)
6. Jacksonville Community Plan 2/2000.
7. GIS MAP of Site
8. Sign Photos* 9. Photo Hayes

Jarrettsville
04-533-XA

PC Exhibits p. 2

10. Extract of Master Plan 2010
11. Council Bill 103-88
12. Final Report of Planning Board - Rural Business Zones 5/19/88

People's Counsel Exhibit 1

IN RE: PETITION FOR ZONING VARIANCE
S/S Jarrettsville Pike, 200' N of Sweet Air Road
(14311 Jarrettsville Pike)
10th Election District
6th Councilmanic District
Benjamin G. McCleary, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-374-A

* * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit side yard landscaping strips of 5 feet each to the north and south in lieu of the minimum required 15-foot wide strip, a front yard setback of 15 feet in lieu of the required average setback (48' + 15'/ 2 = 31.5'), and to allow a parking area not to be accessible to the adjoining non-residential uses and zones, all as more particularly described on Petitioner's Exhibit 1.

The Petitioner, by Howard L. Alderman, Jr., Esquire, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 14311 Jarrettsville Pike, consists of .447 acres zoned B.M.-C.R. and is currently unimproved. Petitioner is desirous of constructing a two-story office building as indicated on Petitioner's Exhibit 1 and due to the irregular shape of the property, cannot meet landscape setback requirements. Testimony and evidence presented indicated that Petitioner received CRG approval for the proposed project on March 28, 1991. Additionally, Petitioner has received written certification from the Department of Environmental Protection and Resource Management (DEPRM) by letter dated June 7, 1991 (Petitioner's Exhibit 4) that the proposed project meets the requirements of the C.R. district. The proferred testimony indicated that the proposed use at the subject location would not be detrimental to the health, safety

ORDER RECEIVED FOR FILING
Date 7/11/91
By

People's Counsel Exhibit 2

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 27, 2004

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

SUBJECT: 14307-14311 Jarretsville Pike

INFORMATION:

Item Number: 4-533

Petitioner: Christian G. Hayes

Zoning: BM-CR

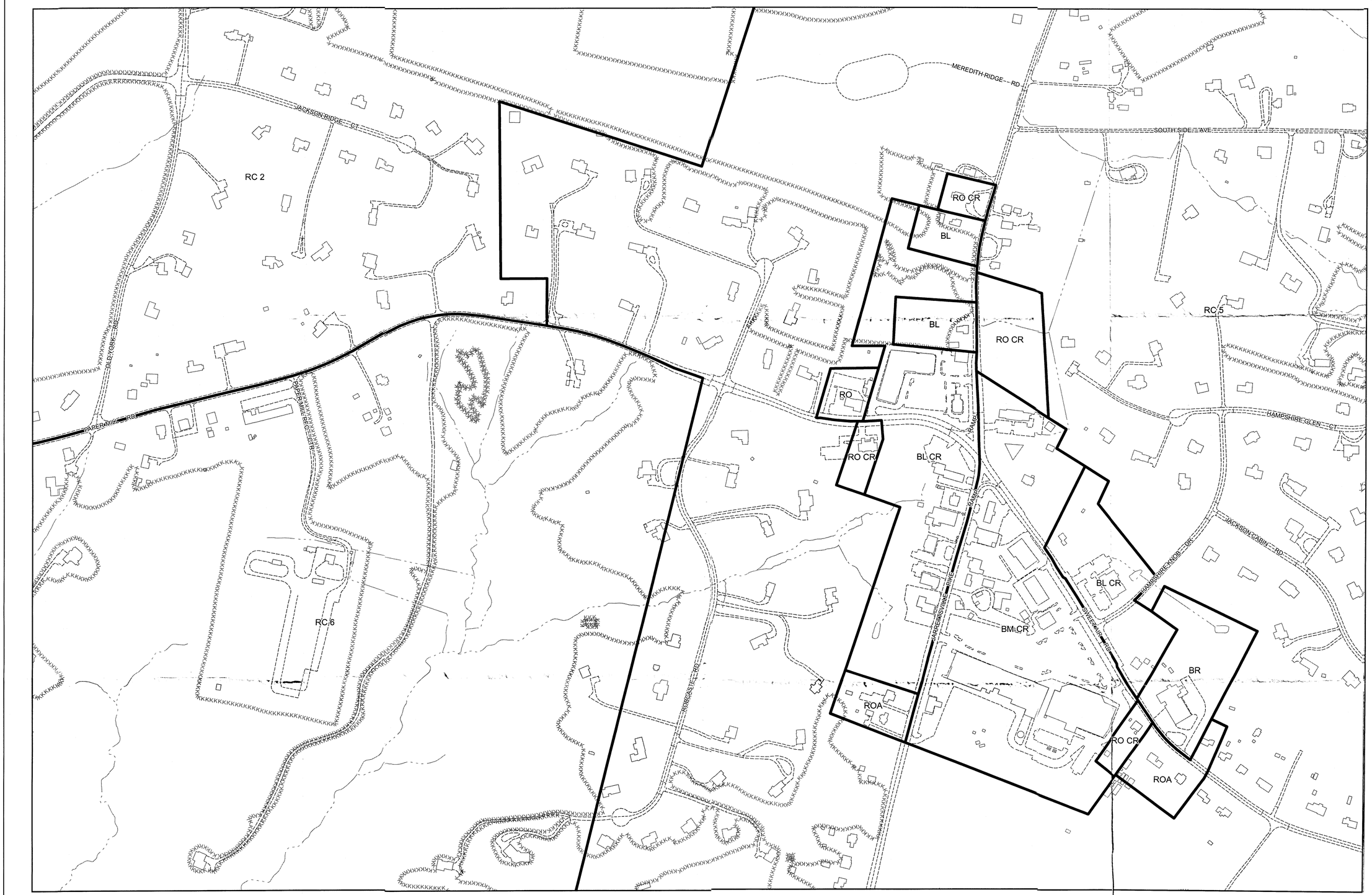
Requested Action: Variance/Special Exception

SUMMARY OF RECOMMENDATIONS:
The petitioner requests variance and special exception consideration for an existing sign and existing office building that were built prior to application of the CR District.

It is the Planning Office's understanding that despite recommendations in the Jacksonville Community Plan that are counter to the relief sought by the petitioner, the Greater Jacksonville Association has voted to support the project. Nonetheless, this office recognizes that the existing 150 square foot sign is significantly larger than the 25 square foot requirement of the CR District and of the signage guidelines of the Jacksonville Community Plan. It should be noted that the Community Plan recommends nonconforming signs be replaced when "the need arises for new signs". (see page 25 of Jacksonville Community Plan). This office is of the opinion that the redevelopment of the subject site is an appropriate time "of need".

The Planning Office acknowledges that a 25 square foot sign may not be reasonable for this developed site. However, it is recommended that the petitioner present a smaller sign that is closer to the CR District signage requirements and the signage guidelines of the Jacksonville Community Plan. It is further recommended that sidewalks be installed along Jarrettsville Pike (see page 38 of the Jacksonville Community Plan).

Di[redacted]ing cases between 1939 and 2003. The Department of Permits and Development M[redacted]ement and Z[redacted] of the i[redacted]splayed herein.



Plan Sheet: 035C3

Note: Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

Zoning — Streams — Vegetation

Buildings — Roads

Baltimore County
Office of Planning and Zoning
Official Zoning Map

035A2	035B2	035C2	036A2	036B2
035A3	035B3	035C3	036A3	036B3
043A1	043B1	043C1	044A1	044B1

Scale 1" = 200'

0 100 200 400 Feet

1

Data Sources:
Planametric Data - Baltimore County OIT/GIS Services Unit 1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning 1:2400, 2004

People's Counsel's Exhibit 3

CH-533-XA

PC Exh 4 (ID)

IN THE MATTER OF THE APPLICATION OF PEARCE, GOLDBERG, SCHNIDER, Legal Owners; AND BP North America Products, Inc., Contract Purchasers Petitioners For Variance on Property Located On SW/S of Paper Mill Road and SE/S of Jarrettsville Pike 10th Election District 3rd Councilmanic District	*	BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS Case No.: 04-566-A

****

OPINION AND ORDER

Upon consideration of the evidence in the *de novo* hearing held on November 18, 2004 and upon public deliberations that same day, this Board enters the following Opinion and Order upon the Petition for Variance.

The subject property is located on the southwest side of Paper Mill Road and the southeast side of Jarrettsville Pike. The property contains a gross area of 0.689 acres of land, is zoned BM-CR and is improved with a fuel service station. The property is located in the Four Corners area of Jacksonville and is surrounded by a number of other business and retail uses. The proposal is to reimage the existing Amoco signage on site with the new BP logo while otherwise maintaining the current existing fuel service station use. In particular, the new signage package requires the following variances from the Baltimore County Zoning Regulations ("BCZR"):

1. from Section 259.3.C.7(c) – to permit an illuminated BP Helios sign in lieu of non-illuminated signs;

2. from Section 259.3.C.7(b) – to permit a sign 66.43 sq. ft. in area in lieu of the permitted 25 sq. ft.; and

3. from Section 259.3.C 7(a) – to permit 3 wall mounted "Shop" signs of 19.34 sq. ft. each in lieu of 1 wall mounted sign at 8 sq. ft. each.

CBA P.C. Ex 5-A

04-533-XA

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 10 **Account Number -** 1003049020

Owner Information

Owner Name:	HAYES CHRISTIAN G HAYES ELLA L	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	13804 MANOR GLEN RD BALDWIN MD 21013	**Deed Reference:**	1) / 7524/ 769 2)

Location & Structure Information

Premises Address
14307 JARRETTSVILLE RD

Legal Description
ES JARRETTSVILLE RD
.97 AC
100 N SWEET AIR RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
35	24	151						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		42,253.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	204,500	204,500		
Improvements:	678,600	728,200		
Total:	883,100	932,700	899,633	916,166
Preferential Land:	0	0	0	0

Transfer Information

Seller:	COTTMAN BROOKE P	**Date:**	05/01/1987	**Price:**	$195,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7524/ 769	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

CBA P.C. Ex 5.B

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 10 **Account Number -** 1012040050

Owner Information

Owner Name: JARRETTSVILLE PIKE LLC

Mailing Address: 13804 MANOR GLEN ROAD
BALDWIN MD 21013-9713

Use: COMMERCIAL
Principal Residence: NO

Deed Reference: 1) /15885/ 692
2)

Location & Structure Information

Premises Address
14311 JARRETTSVILLE PIKE

Legal Description
ES JARRETTSVILE RD
14311 JARRETTSVILLE PIKE
225 N PAPER MILL RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
35	24	192						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		17,990.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	128,400	128,400		
Improvements:	0	0		
Total:	128,400	128,400	128,400	128,400
Preferential Land:	0	0	0	0

Transfer Information

Seller: STUMPP GEORGE B	**Date:** 12/21/2001	**Price:** $121,000
Type: UNIMPROVED ARMS-LENGTH	**Deed1:** /15885/ 692	**Deed2:**
Seller: MCCLEARY BENJAMIN GEORGE	**Date:** 06/25/1997	**Price:** $114,000
Type: UNIMPROVED ARMS-LENGTH	**Deed1:** /12251/ 240	**Deed2:**
Seller: LINS GEORGE M	**Date:** 10/19/1989	**Price:** $192,933
Type: IMPROVED ARMS-LENGTH	**Deed1:** / 8302/ 344	**Deed2:**

Exemption Information

C.B.A P.C. Exhibit 6

JACKSONVILLE

COMMUNITY PLAN



Prepared by the

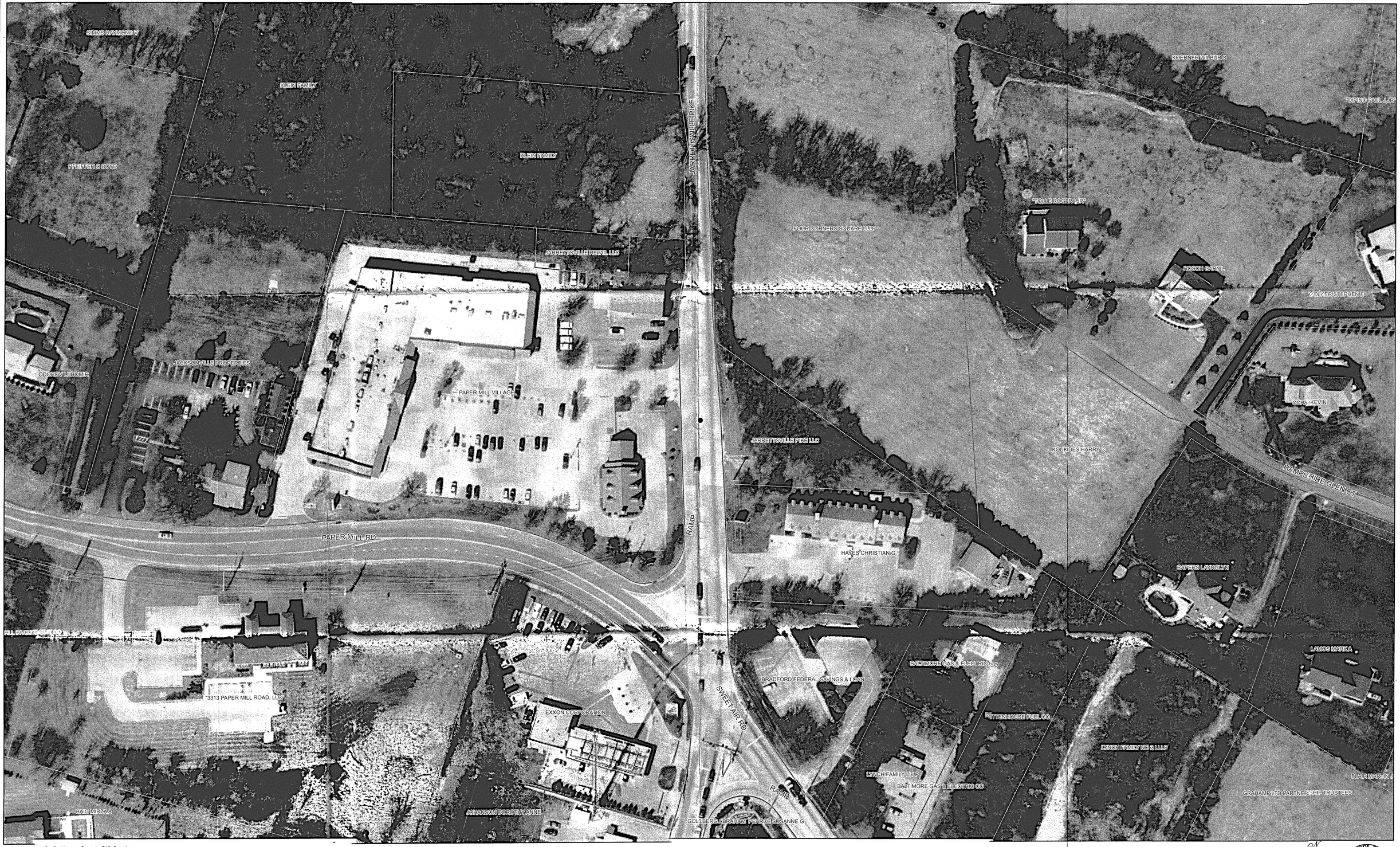
PLANNING COMMITTEE

of the

Greater Jacksonville Association, Inc.

February 2000

14307 Jarrettsville Rd



Map Produced By Baltimore County GIS Services
Production Date: September 07, 2004
Taken April 2002

0 25 50 100 150 200 Feet

PC Exh. 7

Case # 04-533-XA

Jarrettsville Pike LLC

PC #8 (8 photos a-h)

PC #9 1 photo


3313
JACKSONVILLE PROFESSIONAL
CENTER
WEDEY & ASSOC.
HH CLIN. RESEARCH
ALAN KLEIMAN
TIDEWATER
GENSTAR
BARBARAN
ELECTROLYSIS

10/2004
Paper Mill Rd
South side

8A People's Counsel


BLOCKBUSTER
VIDEO

10/2004
Sweet Air Rd
North side

8B People Counsel


LONG &
FOSTER
REALTORS
410-667-1900

10/2004 Harrodsville Pike
West side

8C peoples council


DOGWOOD
TACK

10/2004

Fenwick Ave Pike

Westside

SD People's Counsel


JACKSONVILLE
VETERINARY HOSPITAL

10/2004
Jarrettsville Pike
Southwest side of Jarrettsville Pike

SE People's Counsel


Golf Club

10/2004
PHOENIX Rd - East

8F
People's Counsel


Old York Manor
Pheasant Hills

10/2024
Paper Mill Rd
South side

86 People's Counsel


FOX RUN

10/2004
Sweet Air Rd
South side

84

People's Counsel


14307
Craftsman Village
HAYES
CONSTRUCTION
Kitchens 628-7900
FIRE RESTORATION • REMODELING
JACKSONVILLE
CHIROPRACTIC
DR. DANIEL T. WISE, P.A. 592-7300
George C. Hayes, C.P.A.
TAX & FINANCIAL SERVICES
410-666-4500
JACKSONVILLE
PHYSICAL THERAPY
410 628-7011
For Life, Work and Sport
SITE RESOURCES
Land Planning • Site Design
410-683-3388

C.B.A P.C. Ex. 9

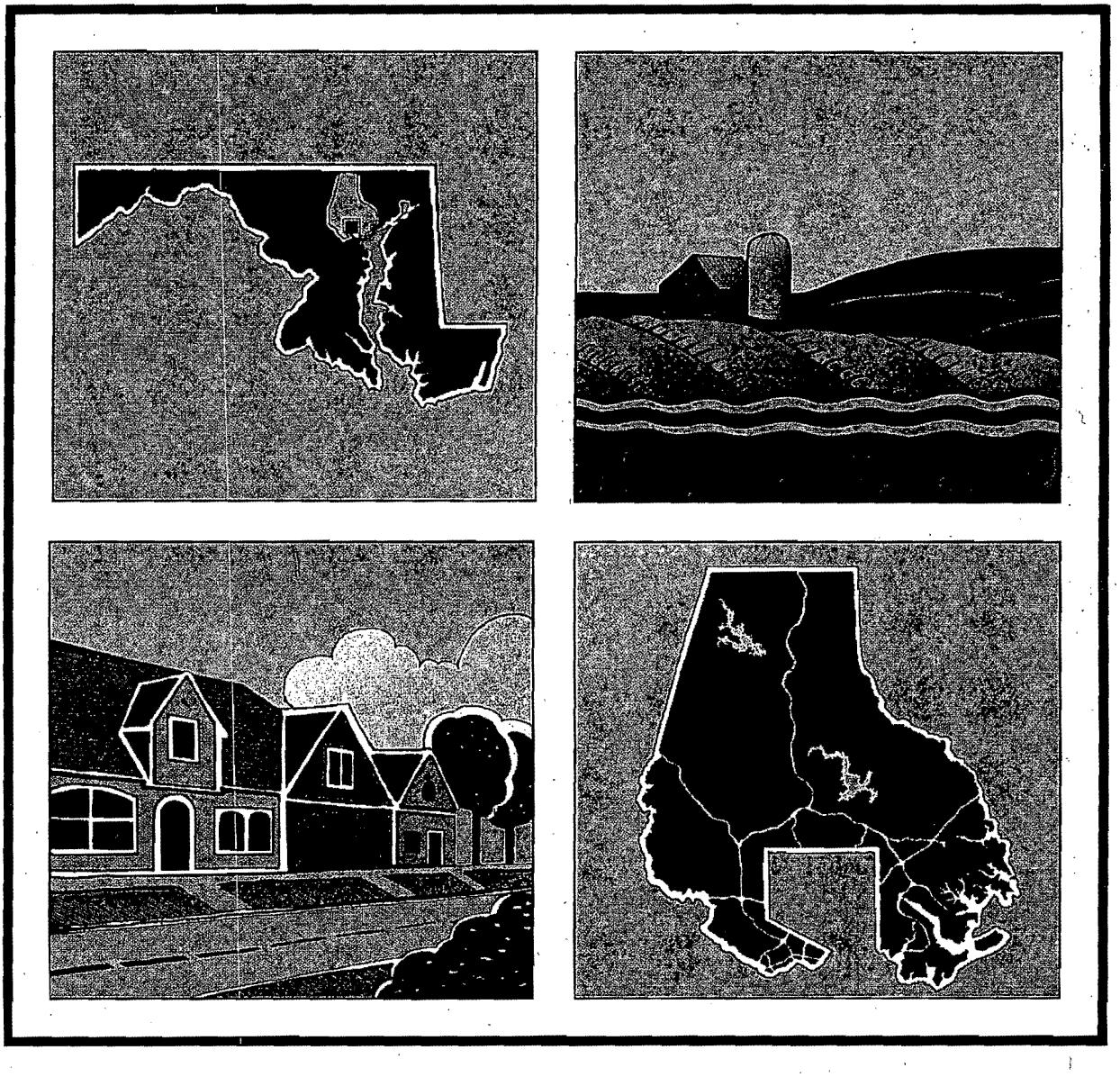


355 224 022 +00 00 00 00 000000
07/30/04 Rite Aid

CBA P.C. Exp 10

MASTERPLAN2010

BALTIMORE COUNTY, MARYLAND



AS ADOPTED BY BALTIMORE COUNTY COUNCIL

FEBRUARY 22, 2000

CBA P.C. Ex 11

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 14

BILL NO. 103-88

Adopted 9-1-88
Effective 9-19-88

MR. C.A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 5, 1988

A BILL ENTITLED

AN ACT concerning

Rural Business Zones

FOR the purpose of amending the Baltimore County Zoning Regulations in order to establish a Resource Conservation-Commercial Zone, stating the purpose of the zone and specifying the uses permitted, establishing the Commercial Rural District, providing for the permitted uses therein, and amending the Baltimore County Development Regulations in order to specify the requirements for development of property in an R.C.C. Zone or C.R. District, and generally relating to the establishment of rural business zones in Baltimore County, and providing for the uses permitted therein and the limitations imposed thereon.

BY repealing and re-enacting, with amendments,

Section 100.1.A.2.

Baltimore County Zoning Regulations, as amended

BY adding

Section 1A06

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 259.2.A.

Baltimore County Zoning Regulations, as amended

BY adding

Section 259.3

Baltimore County Zoning Regulations, as amended

BY adding

Section 22-104(c)

Title 22 - Planning, Zoning and Subdivision Control

Article IV. Development Regulations of Baltimore County

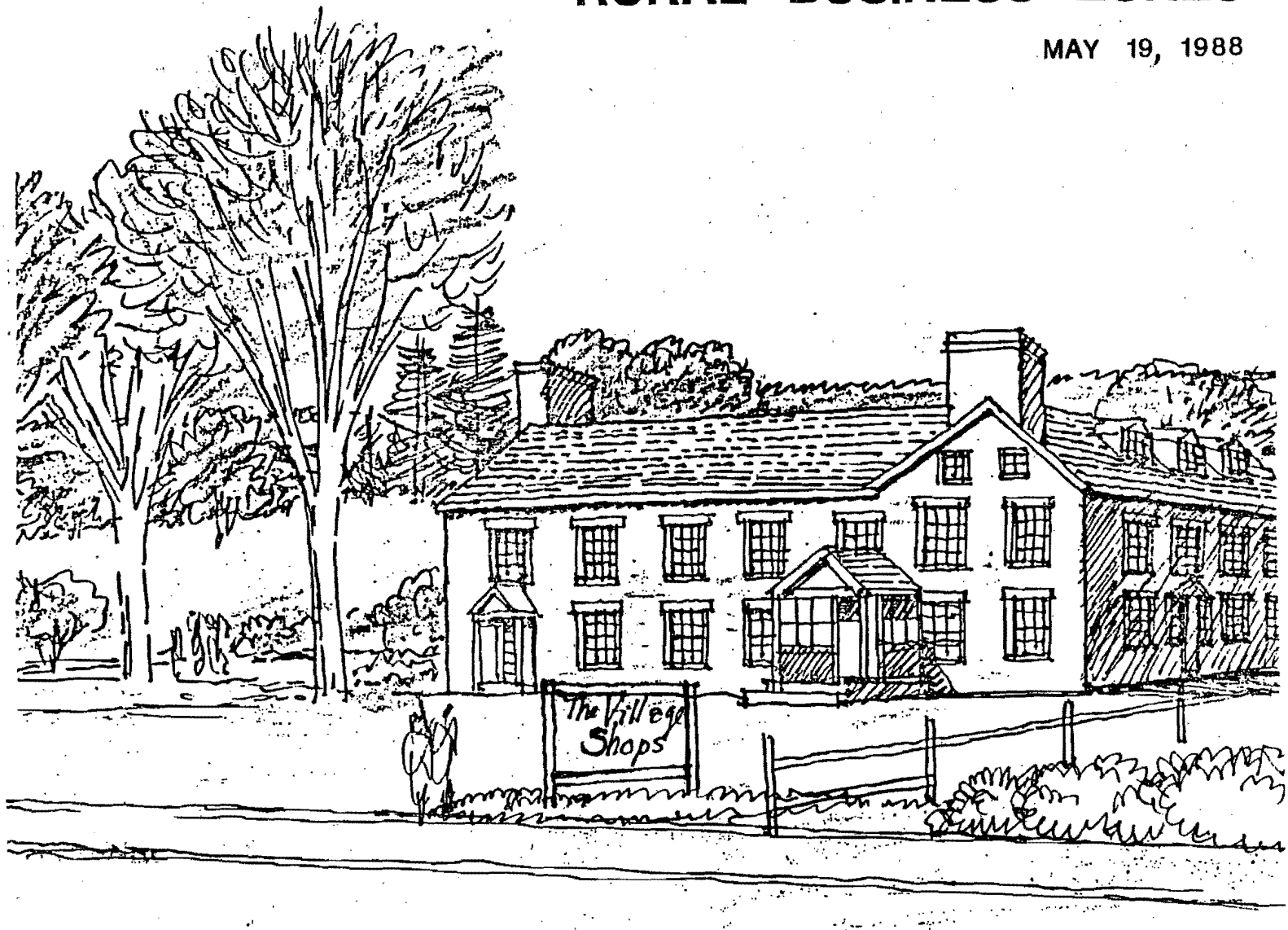
Baltimore County Code, 1978, 1986 Supplement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

CBA P.C. Ex 12

RURAL BUSINESS ZONES

MAY 19, 1988



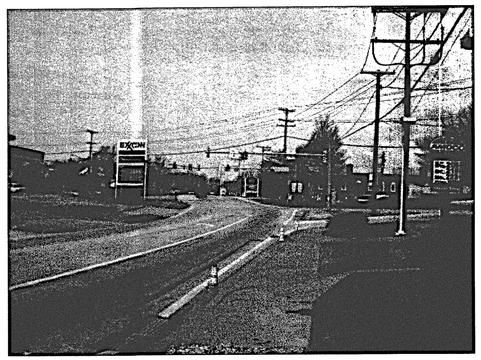
A FINAL REPORT OF THE BALTIMORE COUNTY PLANNING BOARD REGARDING THE C.R. DISTRICT AND A NEW RESOURCE CONSERVATION COMMERCIAL ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

CBA Petitioner's 3







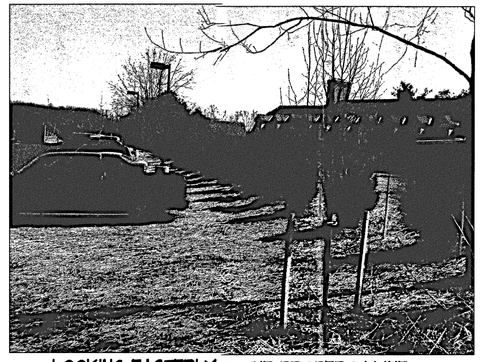
① LOOKING NORTH FROM THE INTERSECTION OF PAPER MILL ROAD AND JARETTSVILLE PIKE



② LOOKING NORTH AT JARRETTSVILLE PIKE @ ENTRANCE TO 14315 JARRETTSVILLE PIKE BUILDING



③ LOOKING SOUTH FROM THE ADJACENT PROPERTY 14315 JARRETTSVILLE PIKE



④ LOOKING EASTERLY @ THE PROPERTY LINE FROM JARRETTSVILLE PIKE



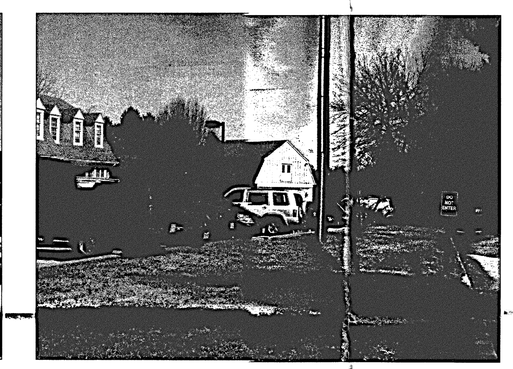
⑤ KLEIN'S SUPERMARKET TO THE WEST



⑥ ADJACENT BANK TO THE SOUTH OF PROPERTY



⑦ LOOKING WEST @ SCREENING ALONG ADJACENT PROPERTY



⑧ LOOKING EAST @ 14307 JARRETTSVILLE BUILDING



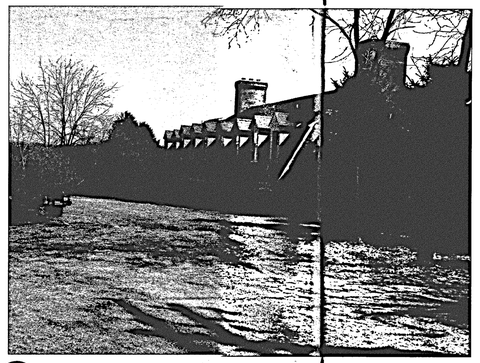
⑨ EXISTING BUILDING TO THE EAST OF THE EXISTING OFFICE BUILDING.



⑩ LOOKING SOUTH TOWARDS THE EXISTING BUILDING FROM THE ADJACENT PROPERTY TO THE NORTH.



⑪ LOOKING WEST ALONG THE NORTH SIDE OF THE EXISTING BUILDING.



⑫ LOOKING EAST ON THE NORTH SIDE OF THE EXISTING BUILDING.

CBA Petitioner's 4

Photo Exhibit #1

14307 Jarrettsville Pike

10th ELECTION DIST. 3rd COUNCILMANIC DIST. Baltimore County, Maryland

REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY: GLK	CONTRACT NO.:
DESIGNED BY: RLR	SCALE: AS SHOWN
CHECKED BY: SHF	SRI PROJECT NO: 01125
DATE: MARCH 17, 2005	SHEET 1 OF 1









CBA Petitioner's 5

C.B.A. Petitioner's Ex 6

Greater Jacksonville Association, Inc.
P. O. Box 126
Phoenix, Maryland 21131

RESOLVED: That at the general membership meeting of the Greater Jacksonville Association, Inc. held on February 15, 2005, a motion was passed that responsibility for review and action on all zoning matters within the Greater Jacksonville area for the year 2005 be placed in the Board of Directors.

The Board of Directors consists of the following duly elected members, each of whom is hereby authorized to testify on behalf of the Association before the Baltimore County Board of Appeals, or other duly constituted Baltimore County zoning agency, body, or commission:

Glen Thomas, President
David Palmer, Vice President
Elizabeth Lehmann, Secretary
William Bergeron, Treasurer
Stephen Kirsch, Past President
Ron Allen
James McCoy
Wilbur Sauerbrey
William Shaughnessey
Steven Wheeler

AS WITTNESS OUR HANDS this day of March 15, 2005

ATTEST: THE GREATER JACKSONVILLE ASSOCIATION, INC.

Glen A. Thomas
President

Elizabeth H. Lehmann
Secretary

Robert L. Royer — Project Manager

Site Resources, Inc.

Mr. Royer's considerable experience and broad knowledge of development and construction processes stems from his involvement in numerous private commercial and residential land development projects, as well as commissions for institutional and public clients. He has a well rounded base of experience in preparing site plans as a landscape architect, coupled with significant additional experience in the engineering aspects of land development. This includes grading, drainage, stormwater management, roadway and pavement design, utility design, sediment and erosion control and planting plans. Mr. Royer maintains extensive knowledge of local policies and procedures for many of the counties throughout Maryland, including Baltimore County.

Professional Registration
Landscape Architect – Maryland, No. 1077

Education
B. Landscape Architecture, State University of New York, 1980
B.S., Environmental Studies, State University of New York, 1977

Years Experience
With this firm: 4
With other firms: 19

Professional Background
Site Resources, Inc.
Land Planners/Landscape Architects/Civil Engineers
Phoenix, Maryland
Project Manager, 2000 - Present

Morris & Ritchie Associates, Inc.
Engineers/Landscape Architects/Surveyors
Towson, Maryland
Project Engineer, 1993 - 2000

DS Thaler & Associates, Inc.
Engineers/Surveyors
Baltimore, Maryland
Senior Designer, 1985 – 1993

Whitman Requardt Associates
Engineers / Architects
Baltimore, Maryland
Designer / Inspector, 1981 – 1985

Continuing Education
Introduction to Computer Graphics
Morgan State University, 1988

Advanced Floodplain Seminar
Pennsylvania State University, 1986

Introduction and Intermediate AutoCAD
Carroll Community College, 2002

Sediment Control and
Stormwater Management Hydrology
Catonsville Community College, 1986

Storm Drain Design and Hec 2
Catonsville Community College, 1986

Pet No 2

Representative Projects
Franklin Square Hospital Center – New Cancer Center
Baltimore, Maryland
St. Joseph Medical Center Expansions and Upgrades
Towson, MD
Northwest Regional Park – Phase II A
Reisterstown, Maryland
Nancy Lee Farms – Residential Subdivision
Baltimore County, Maryland
North Point Community Center
Baltimore County, Maryland
Reisterstown Regional Park
Reisterstown, Maryland
Valley Fields North and South
Lutherville, Maryland
St. Alphonsis Expansion
Baltimore County, Maryland
St. John's Church and School Expansion
Hyde, Maryland
Meadowood Regional Park
Lutherville, Maryland

CBA Petitioner's Ex 8

A



1

Rd 3A



2



B



Rt
3B

3



C

(4)



Rd
3C







E



Ref 3E

6



F.



(9)

Ref 3F

Compatibility Study

For the proposed
Addition to

Four Corners
Craftsman Village

Pet No 4

14307 Jarrettsville Pike
Baltimore County, Maryland

Prepared By

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

1. **Four Corners Intersection.** Traffic flow at this intersection should be improved by providing right-turn lanes on northbound Jarrettsville Pike, eastbound Paper Mill Road, and westbound Sweet Air Road. The right-turn lane on Jarrettsville Pike should extend to the Manor Shopping Center entrance. Cooperation of the SHA will be needed to implement these improvements. In the interim it is recommended that the SHA initiate a signal phasing study for the intersection to help ease congestion.

2. **Blenheim Road Bridge.** Widen the bridge over Overshot Run to two lanes.

3. **Stansbury Mill Road and Jarrettsville Pike Intersection.** Although this intersection lies just outside the planning area, it is functionally very important to the area. The sharp angle of this intersection is a problem. Stansbury Mill Road should be realigned so that it intersects with Jarrettsville Pike at a right angle. This intersection should be studied to determine if a traffic light is warranted, especially during the morning peak period. The SHA should be requested to perform a signal warrant study for the intersection.

4. **Pedestrian Travel.** To enhance the Rural Commercial Center and to provide for pedestrian accessibility and safety, sidewalks should be provided along both sides of Jarrettsville Pike, Paper Mill Road, and Sweet Air Road where they currently do not exist. An organized effort to encourage the owners of developed commercial properties and/or the SHA to install sidewalks should be initiated. In the case of undeveloped properties and properties where an existing building or use is enlarged, sidewalks should be constructed concurrent with the development or improvement of the individual properties. Sidewalks on Paper Mill Road should extend beyond the Rural Commercial Center boundary to Robcaste Road. The installation of new sidewalks along state roads should be coordinated with the SHA. The installation of new sidewalks should be submitted by Baltimore County as a candidate for the Maryland Department of Transportation's Retrofit Sidewalk Program. Also, the SHA should paint crosswalks at the Four Corners intersection.

These improvements are indicated on Map 9 in Appendix E.

June 10, 2004

Mr. William Hughey
Baltimore County
Office of Planning and Zoning
401 Bosley Avenue
Towson, Maryland 21204

Re: Four Corners Craftsman Village Compatibility Study
Site Resources Project 01125

Dear Mr. Hughey:

On behalf of our client we are proposing to construct a 3,080 square foot building addition on the north side of the Four Corners Craftsman Village shopping center. The addition will have access on the northwest side off Jarrettsville Pike, a loop road and supporting parking. The proposed addition is located in the 14000 block of Jarrettsville Pike in Phoenix, Maryland. The site is an assembly of two parcels and is zoned BM-CR. The proposed use of the site will be offices. The existing commercial building, which faces to the south, currently has six tenants consisting mainly of offices. Using the compatibility objectives listed in Section 26-282(b) of the Baltimore County Development Regulations, it is our professional opinion that the project will be harmonious with the surrounding community. Those objectives and discussions of the design responses to the criteria are as follows:

Objective 1. "The arrangement and orientation of the proposed buildings and site improvements are patterned in a similar manner as those in the neighborhood."

The existing main building is oriented perpendicular to Jarrettsville Pike with the front facing south toward the intersection of the Paper Mill Road and Jarrettsville Pike. The proposed addition's front will face Jarrettsville Pike and will be similar to the existing Sun Trust Bank building (Figure A) located across Jarrettsville Pike to the west. The bank is more or less centrally located and oriented parallel to the road with its entrance oriented on the west side.

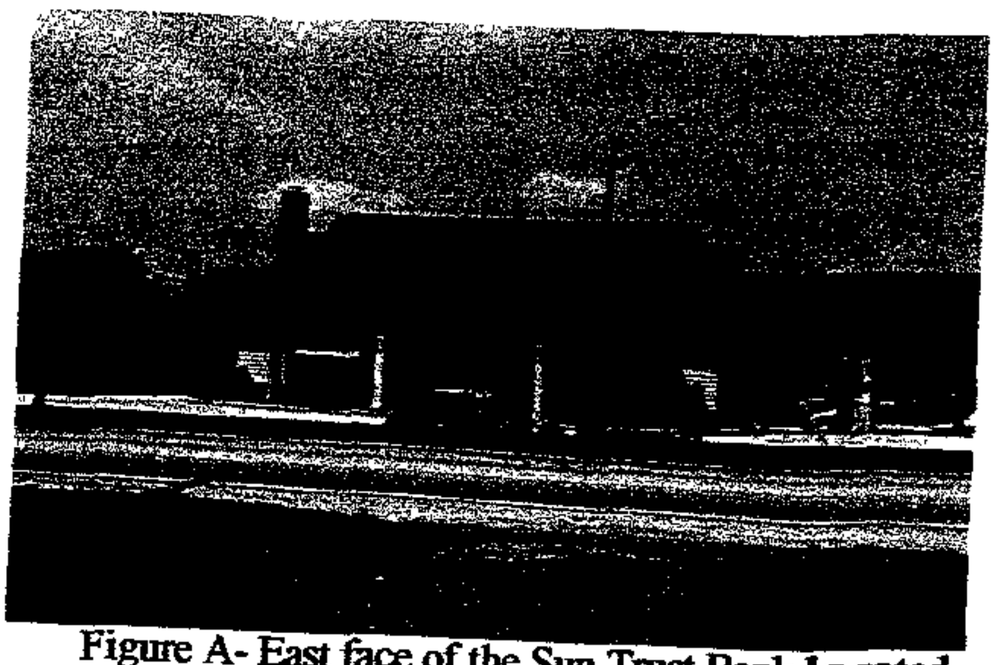


Figure A- East face of the Sun Trust Bank located on the west side of Jarrettsville Pike

Objective 2. "The building and parking lot layouts reinforce existing building and streetscape patterns and assure that the placement of buildings and parking lots have no adverse impact on the neighborhood".

A new entrance from Jarrettsville Pike will create an internal loop that will service both the existing retail/offices and the proposed building addition. Ten of the forty-five required parking spaces will be

conveniently located on the northwest side of the proposed building addition near the new main door. The remaining spaces will be located in the front of the existing building, preserving a maximum amount of yard area adjacent to Jarrettsville Pike and positioning the larger paved area where it will have less visual impact.

Objective 3. "The proposed streets are connected with the existing neighborhood road network and the proposed sidewalks are located to support the functional patterns of the neighborhood."

The north parcel of the assembled site was most recently a vacant field. The proposed driveway entrance will be located directly across from an existing entrance to the Paper Mill Village shopping center on the west side of Jarrettsville Pike. As the local area is decidedly semi-rural in character, there are no sidewalks existing or proposed along this portion of Jarrettsville Pike.

Objective 4. "The open spaces of the proposed development reinforce the open space patterns of the neighborhood in form and siting and compliment existing open space systems."

In keeping with the vicinal land uses, the site improvements will be located primarily in the center of the site allowing for a landscape island to buffer the proposed addition and to screen the existing residential subdivision to the southeast. Parcels to the north, south and west of the property are commercial in nature.

Objective 5. "Locally significant features of the site such as distinctive buildings or vistas are integrated into the site design."

Having formerly been a vacant lot, there are no significant site features and no remaining buildings on the site. There are several maple species, spruce and pines along the north perimeter of the site. To the extent possible, larger trees and mature vegetation around the perimeter of the site will be preserved to maintain the visual buffers already in place.



Figure B – View of the south side of the existing Four Corners Craftsman VillageCenter

Objective 6. "The proposed landscape design compliments the neighborhood's landscape patterns and reinforces its functional qualities."

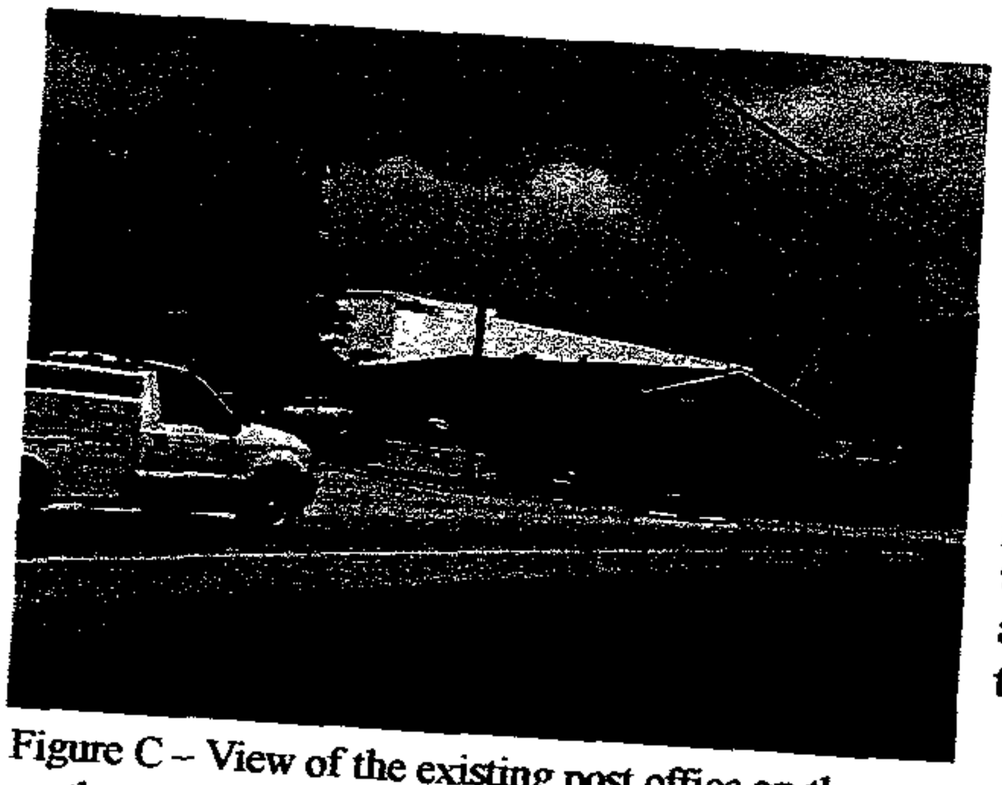


Figure C – View of the existing post office on the northwest side of Jarrettsville Pike.

Figures A through C show that most of the adjacent commercial properties have some mature trees and plantings that beautify the properties but do not provide screening from the subject property.

Additional trees and shrubs will be planted on the subject site in accordance with the provisions of the Baltimore County Landscape Manual. These plantings have been designed to complement and soften the impact of the proposed addition and paved areas and to reinforce the semi-rural characteristics of the surroundings.

Objective 7. "The exterior signs, site lighting and accessory structure support a uniform architectural theme and present a harmonious visual relationship with the surrounding neighborhood."

No new signage is proposed at this time. The existing sign will be relocated closer to the building with significant landscaping proposed to soften the size of the sign. The sign will be subject to the Hearing Officer's ruling for this property. Because the proposed addition is a business use not fundamentally dependant on high visibility, the exterior lighting will be limited to the minimum that is required for night security, safety, and sign visibility and will come from fixtures that are designed and placed to minimize "light spillage" from the site.



Figure D – View to the south of the existing Bradford Bank and parking.

Objective 8. "The scale, proportions, massing and detailing of the proposed buildings are in proportion to those existing in the neighborhood."

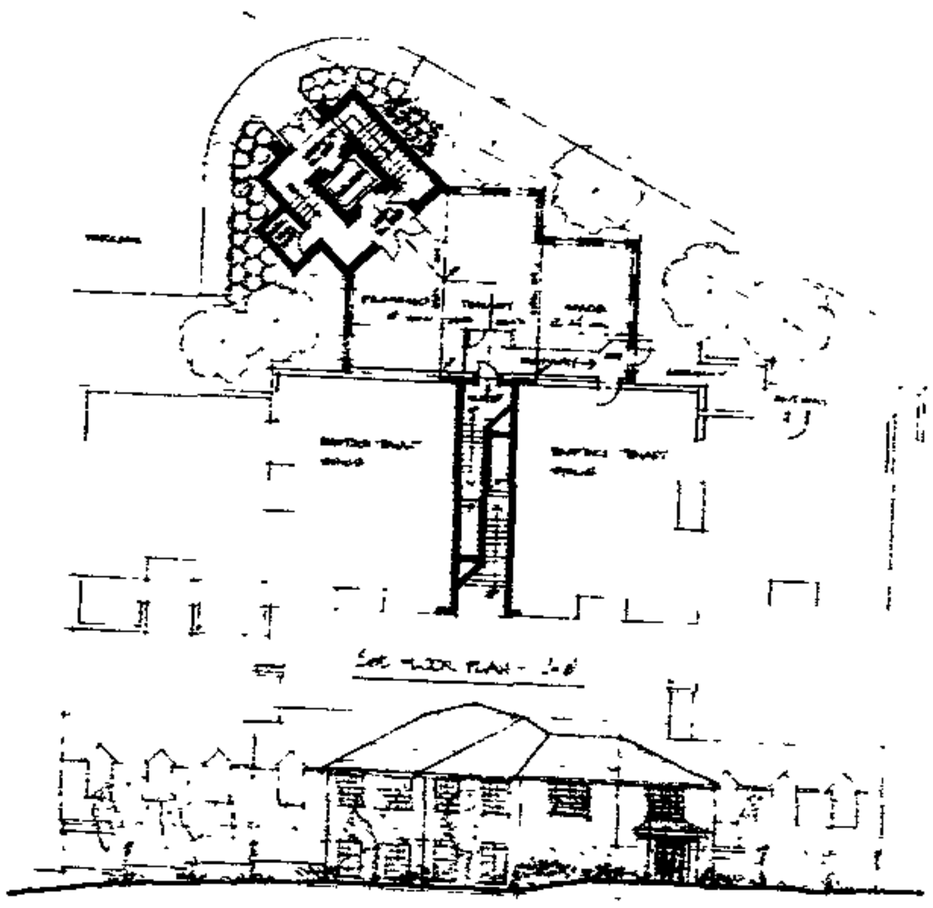


Figure E – Plan and Elevation of the proposed

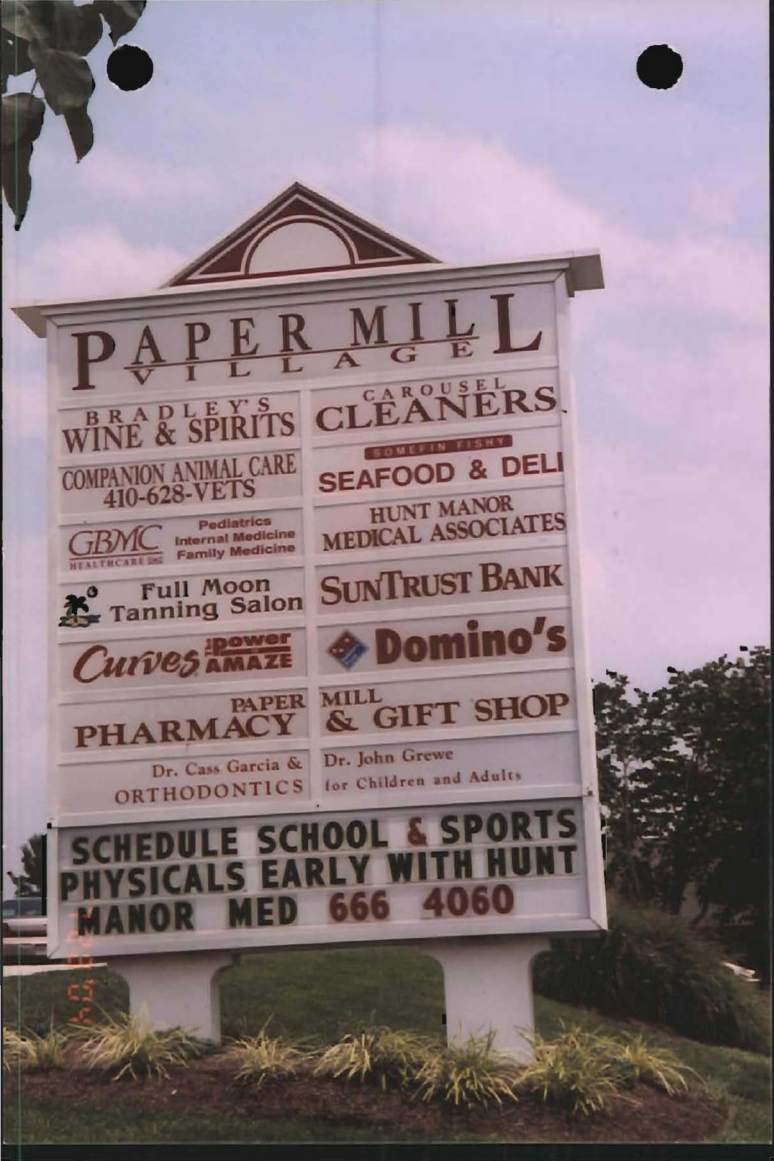
The proposed building addition will be a 3,080 square foot office addition. As shown in Figure B, the two-story existing building was originally designed to resemble the typical local structures with exterior materials and features that help it blend into the semi-rural fabric of the area. Similarly, the exterior walls of the addition will be brick highlighted by double hung windows with shutters. The gable roof will be conventional asphalt shingles to create a unified expanded building.

Based on these points, it is our professional opinion that the development proposal is sensitive and respectful of the nearby properties. The proposed building addition as shown on Figure E is a land use in keeping with the semi-rural character of the area, will provide services for the local residents, and will fit unobtrusively into its surroundings. We believe the proposed site and building plans are complimentary to the semi-rural character of the vicinal properties and that the proposal satisfies the standards for compatibility required in the "BM-CR" Zone.

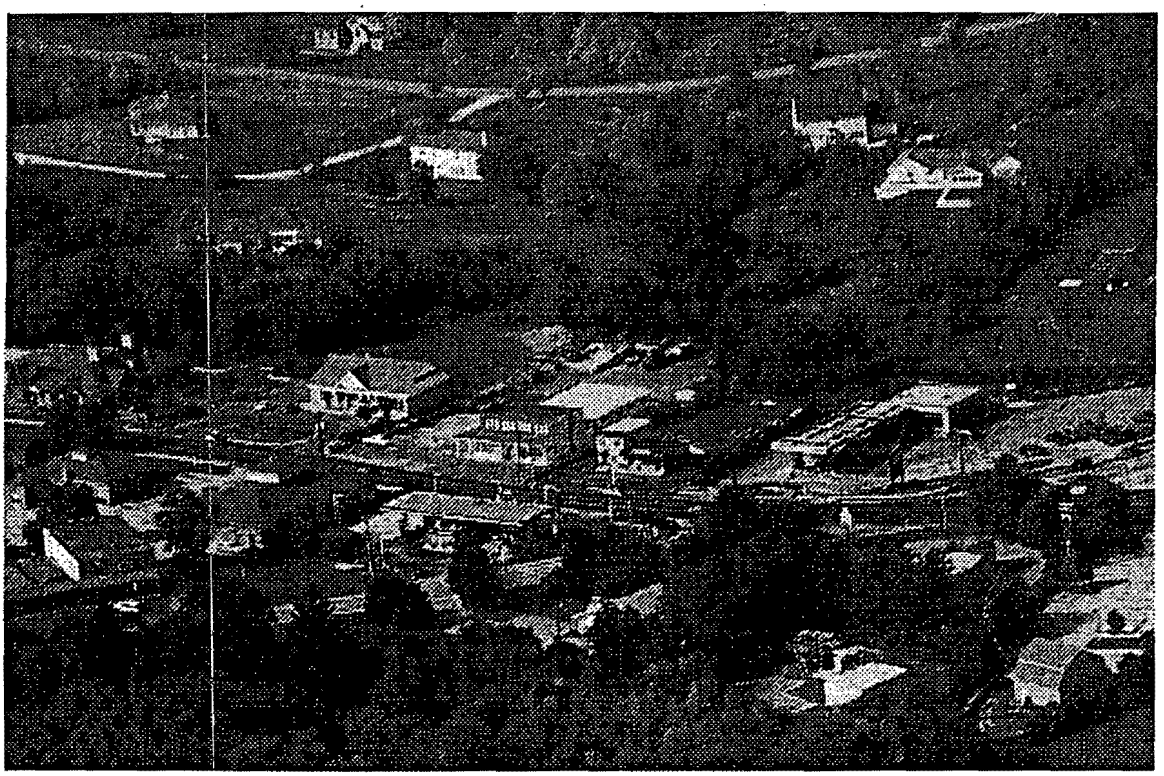
Sincerely,
Site Resources, Inc.

Robert L. Royer, RLA

P/01125/Compatibility Study


PAPER MILL
VILLAGE
BRADLEY'S
WINE & SPIRITS
CAROUSEL
CLEANERS
COMPANION ANIMAL CARE
410-628-VETS
SOMEFIN FISHY
SEAFOOD & DELI
GBMC
HEALTHCARE
Pediatrics
Internal Medicine
Family Medicine
HUNT MANOR
MEDICAL ASSOCIATES
Full Moon
Tanning Salon
SUNTRUST BANK
Curves
Power
AMAZE
Domino's
PAPER
PHARMACY
MILL
& GIFT SHOP
Dr. Cass Garcia &
ORTHODONTICS
Dr. John Grewe
for Children and Adults
SCHEDULE SCHOOL & SPORTS
PHYSICALS EARLY WITH HUNT
MANOR MED 666 4060

JACKSONVILLE COMMUNITY PLAN



As Adopted by the Baltimore County Council
July 3, 2000

to develop a site in a way which is both responsive to business needs and to the desires of the community for a low-key, attractive design blending well with the rural residential nature of the area (Figure 3). However, there are also signs which are disproportionate in size or visual content (Figure 4).

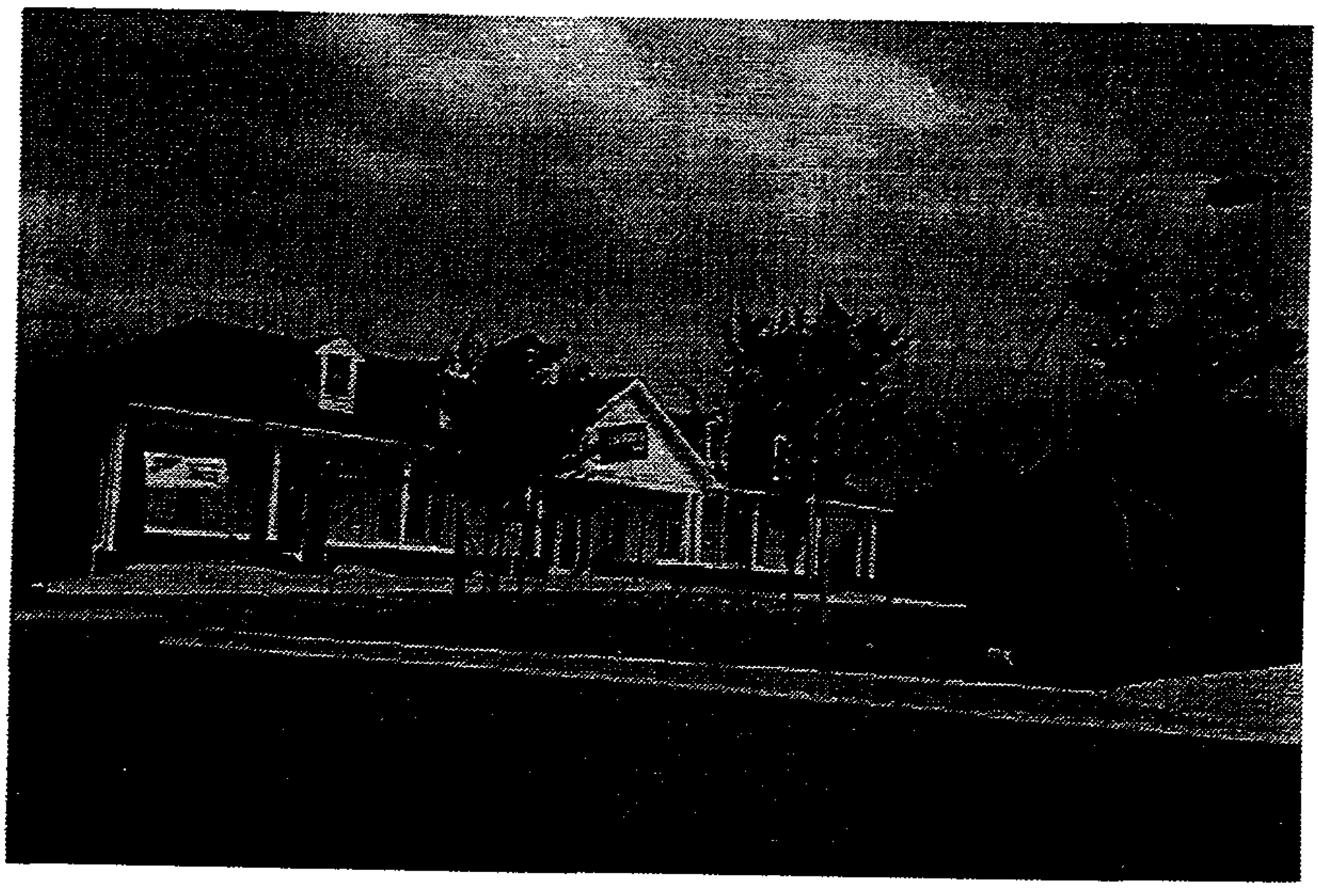


Figure 3: An attractive and functional business site in Jacksonville.

It is recognized that the cost of signs is a substantial business expense, and that not all changes can be made immediately. However, as the need arises for new signs, it is expected that the business community will work within these guidelines in order to achieve a uniform visual presentation for the Jacksonville Rural Commercial Center. Such a presentation not only provides for the identification of businesses, but also provides a pleasing venue for visitors, encouraging them to stay and explore. In this way appropriate signage can add to, rather than detract from, the various commercial enterprises. The amortization period for unacceptable signs is described in Section 4.8.

A well-designed sign consists of the following elements: composition, material, color, size, layout, and installation and/or placement. Good signage provides for ease of communication between the community and the services provided while being pleasing and complementary to its surroundings. Clear, uncluttered signs provide good visual stimulation.

5.7.1 Goal and Recommendations

The goal is to provide guidelines for signage in the Jacksonville Rural Commercial Center that will meet the needs of the business community and also be homogeneous and aesthetically pleasing.

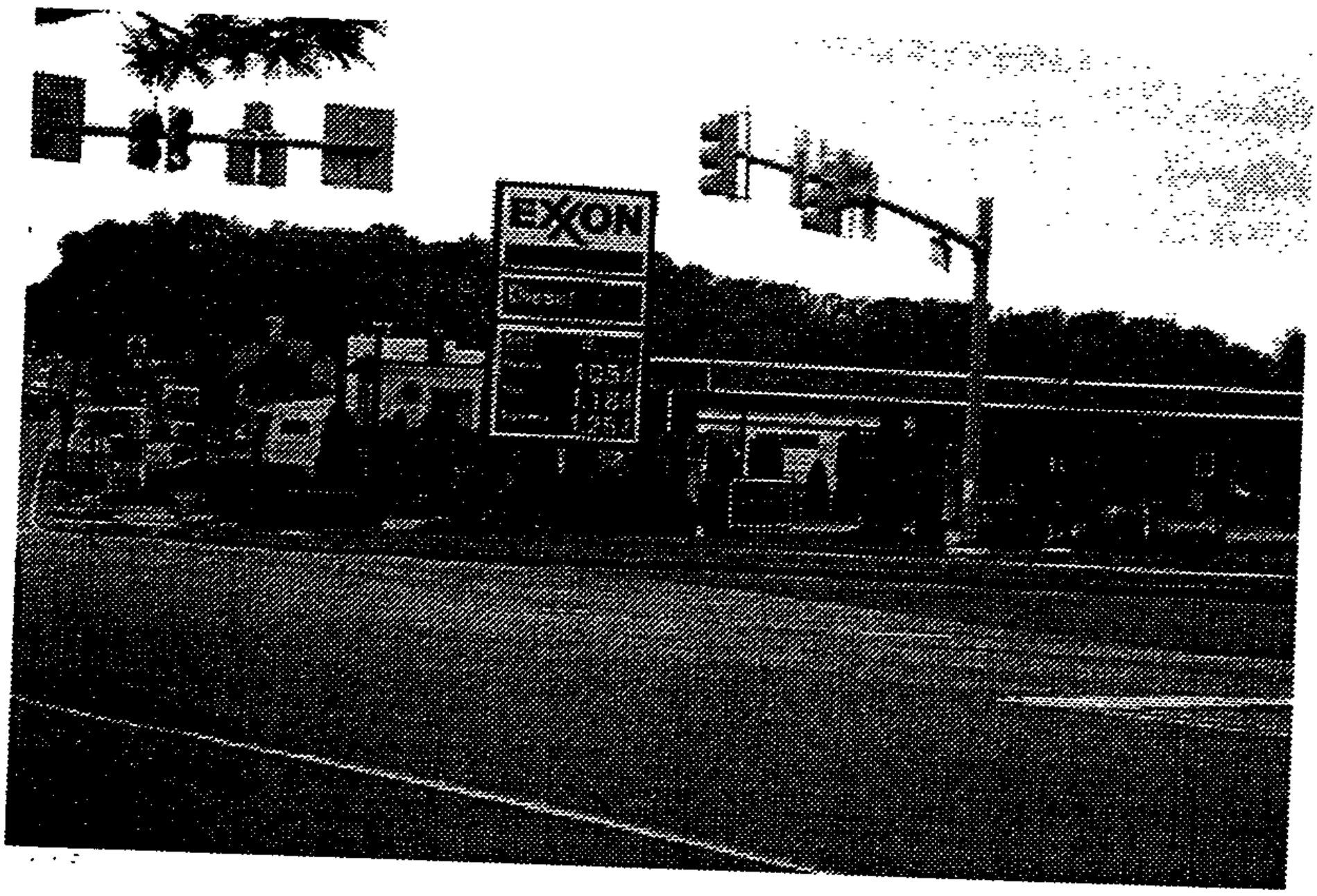


Figure 4: An example of a sign which is unnecessarily large.

It is recommended that:

- discussions take place with the State Highway Administration concerning the location and size of route and road signs, in order to reduce the visual clutter at the intersection of Routes 145 and 146 by incorporating all signs into the overhead signs along with the traffic lights; and

- signs announcing **Welcome to Jacksonville** be placed on the approaches to the the village, along with a posted speed limit, in order to clearly inform motorists that they are entering a Rural Commercial Center.

5.7.2 Signage Guidelines

1. Each business shall be allowed one sign with a maximum of 25 square feet per face, preferably on the customer entrance side of the building, or two smaller signs, the total area not to exceed 40 square feet, one at the entrance and one on the building front or positioned monument-style on the ground in front of the building (see Figure 3).

2. Signs should have white lettering on a dark background, preferably an earth-tone (Figure 5).

3. Signs should be installed on the building front, perhaps the lintel where practical, but if a sign must be free-standing it is recommended that a monument-style rather than a pole- or

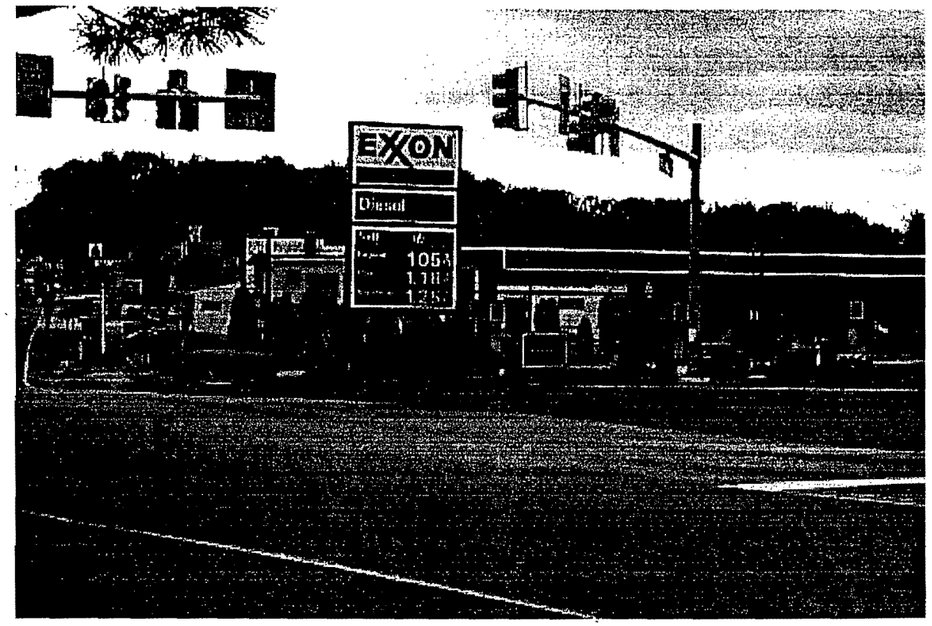


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4. The height of freestanding signs is limited to 15 feet above the nearest curb elevation.
5. Complexes of shops or offices should use building or center names, e.g., Manor Center, or street numbers for ease of identification of businesses rather than extensive directories.
6. All signs must be set back at least 15 feet from face of curb, so that a driver's vision is not impaired.
7. Window signs may not exceed 20% of glass area.
8. Lighting must be shielded from vehicular and pedestrian traffic and directed away from neighboring sites. Light intensity should not exceed 75 foot-candles at the sign face. Back lighting shall be discouraged, but if necessary, it shall be limited to name lettering and logo only.
9. Lighting must be shielded in such a way as to avoid unnecessary illumination of the night sky. Sign lighting should be directed from overhead and be directed generally downward, and should be no brighter than necessary, especially when businesses are closed.
10. Temporary commercial signs should be limited to one per road frontage, with a maximum size of 25 square feet, and may remain in place for a maximum of 30 days within any 120-day period.
11. Exterior free-standing signs advertising specific products are prohibited.
12. Cigarette advertising on outdoor signs is strictly prohibited.
13. A business directory sign at a shopping center is permitted if absolutely necessary, although not recommended. It should meet general signage requirements, be of a dark, earthtone background with white lettering, located at each entrance of a shopping center, with one line per business to a maximum of five lines. Illumination shall meet other stated requirements and be confined to the face of the sign. Changeable copy space should be limited to no more than two lines incorporated into the directory and not freestanding (e.g., see Figure 5).
14. All abandoned or discontinued signs shall be removed from the premises within 30 days by the owner.
15. Signs advertising special events may be posted ahead of the event and must be removed at the close of the event.

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Click here for a plain text ADA compliant screen.

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

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District -** 10 **Account Number -** 1003049020

Owner Information

Owner Name:	HAYES CHRISTIAN G HAYES ELLA L	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	13804 MANOR GLEN RD BALDWIN MD 21013	**Deed Reference:**	1) / 7524/ 769 2)

Location & Structure Information

Premises Address	Zoning	Legal Description
14307 JARRETTSVILLE RD	BM-CR	ES JARRETTSVILLE RD .97 AC 100 N SWEET AIR RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
35	24	151						80	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		42,253.00 SF	06

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2004	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	204,500	204,500		
Improvements:	678,600	728,200		
Total:	883,100	932,700	883,100	899,633
Preferential Land:	0	0	0	0

Transfer Information

Seller:	COTTMAN BROOKE P	**Date:**	05/01/1987	**Price:**	$195,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 7524/ 769	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

04-533-XA

IN THE MATTER OF: * BEFORE THE

JARRETTSVILLE PIKE, LLC - * COUNTY BOARD OF APPEALS

Petitioner * OF

14307-14311 Jarrettsville Pike* BALTIMORE COUNTY

10th Election District Road * Case No. 04-533-XA

3rd Councilmanic District * March 17, 2005

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 10 a.m., March 17, 2005.

* * * * *

ORIGINAL

Reported by:

C.E.Peatt

RE: PETITION FOR SPECIAL HEARING, S.E. CORNER OF YORK ROAD AND GREENRIDGE ROAD, 9TH DISTRICT, SEBCO FEDERAL CREDIT UNION, Petitioner	*	IN THE	
	*	CIRCUIT COURT	
	*	FOR BALTIMORE COUNTY	
	*	At Law	
	*	Misc. 15/362/83M327	
	*	March 20, 1984	

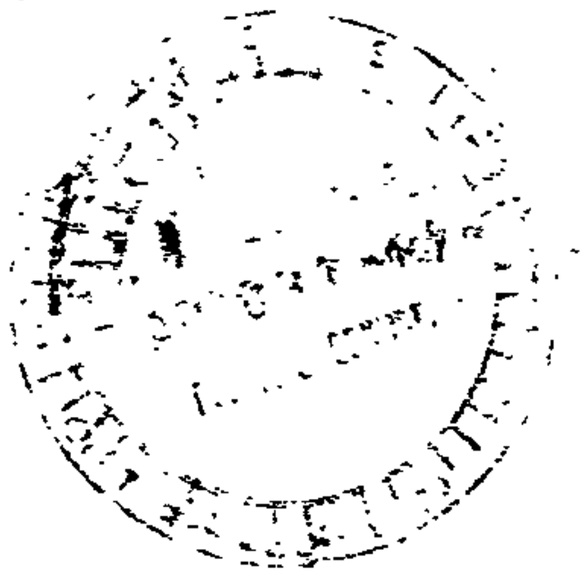
* * * * *

BEFORE: HONORABLE JOHN E. RAINE, JR., Judge

APPEARANCES:

JOHN O. HENNEGAN, Esquire
For the Petitioner

PHYLLIS FRIEDMAN, Esquire
For the Board of Appeals of
Baltimore County



Reported by:
R. E. Royal, Jr.

THE COURT: In Baltimore Lodge No. 7 of the Elks vs The People's Counsel, the Elks had gotten an extension of the time for complying with the special exception, and that was done by the Zoning Commissioner without any advertisement without any hearing, without any notice at all, and in that case there were people who were vitally interested and who did vigorously oppose the grant of that exception, or the extension thereof, under the regulation, and the matter came before me and I ruled that there had been a denial of constitutional rights, that you just could not, on an ex parte unilateral basis, grant an extension at that time without proper notice and hearing, and I did state that Section 502.3 and its last sentence was null and void and in violation of due process of law.

That case went to the Court of Special Appeals and the decision of this Court was affirmed because the Court of Special Appeals felt that the protestants were denied due process by failure to give notice of the extension of the special exception and have an opportunity to be heard and a right of appeal.

But that Court didn't go as far as the language

used by this Court had gone in the Elks case opinion, and this case, it seems to me, is decidedly different in that it is conceded that there was a proper and adequate notice given and people in the neighborhood had the right to appear before the zoning authorities and be heard, and I declined to rule that this regulation is unconstitutional, per se, even though the language used in the Elks would justify that conclusion. I believe that the Court overspoke itself in the Elks case and that if administrative practice had been such in those days that the people in the Elks case had been given notice, given a hearing, there would have been no problem whatever, and I think that the change in the administrative practice, in that nowadays notice is given and hearings have been held or been available to protestants is a sufficient distinction, and I don't think that this Court ought to go so far as it did in the Elks case with that sort of general language. In the Elks case, if I had merely done what the Court of Special Appeals had done and said these people are denied due process, they weren't given notice, they weren't given a hearing, there would have been no problem, but I just stuck my neck out, so to speak, and said, oh, this is unconstitutional.

Well, it certainly was unconstitutional as it was applied, but I think that the procedure followed in this case has corrected that constitutional deficiency.

Now, this isn't a question of my substituting my judgement for the adminstrative agency on a question of fact. If they had turned this special exception down and satisfied you through SEBCO I would have had no problem with it, but it's obvious that they reversed the Zoning Commissioner just because they thought that they were bound by what looked like my ruling, but I think to an extent -- first of all, my ruling can always be changed. Consistency is the hobgoblin of little minds, but also if you analyze the opinion by the Court of Special Appeals, they never said this was unconstitutional, they said "we're going to affirm because these people were denied due process."

Now, you will always be available, will you not, to ascertain that if there is a grant of an extension for a special exception that the due process will be afforded?

MRS. FRIEDMAN: Absolutely.

THE COURT: If it's not, you're still in, but you will concede they had due process in the case as far

as notice?

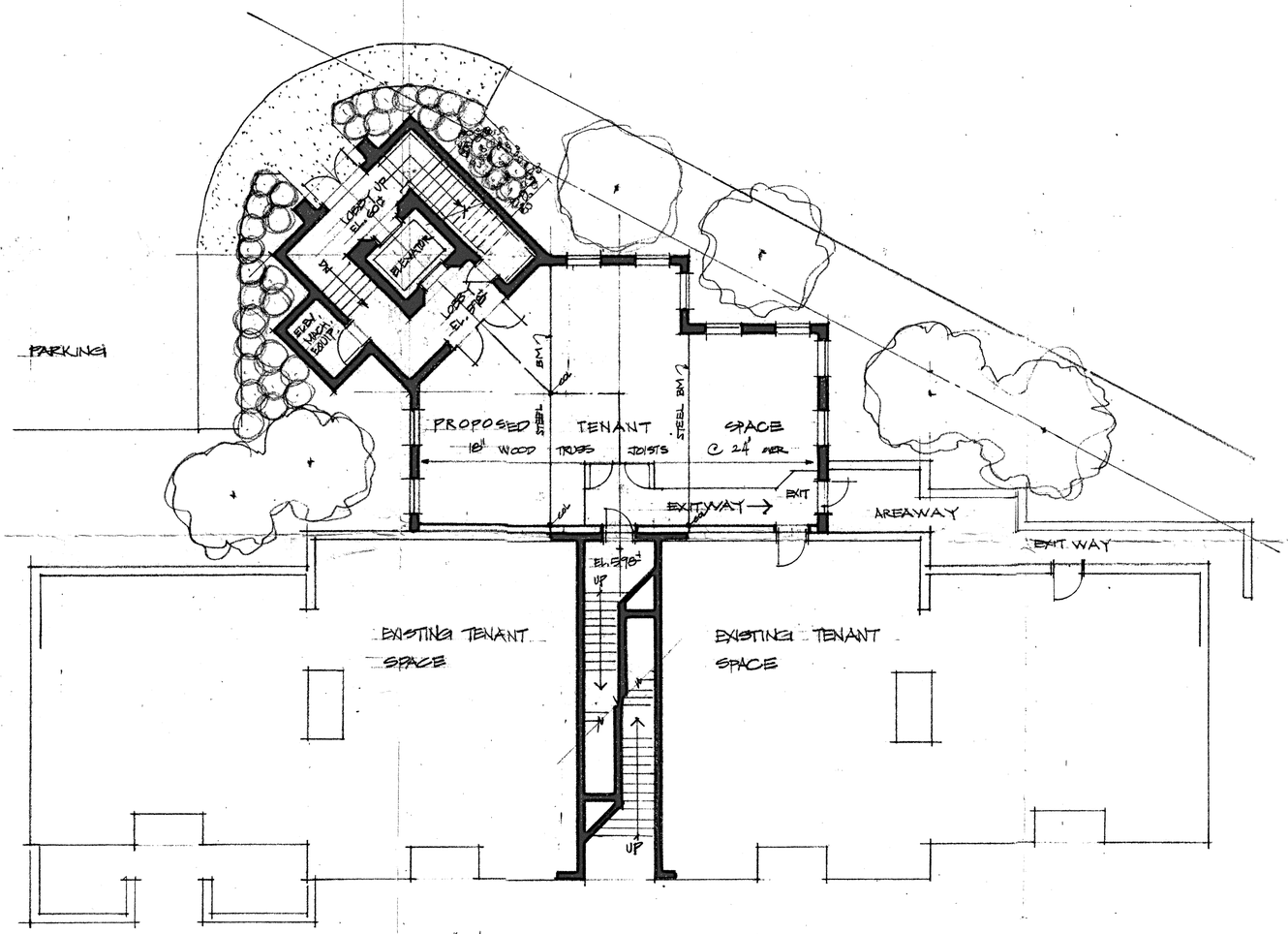
MRS. FRIEDMAN: We'll concede.

THE COURT: I'll pass an order reversing the decision of the Board of Zoning Appeals for this limited basis. Thank you very much.

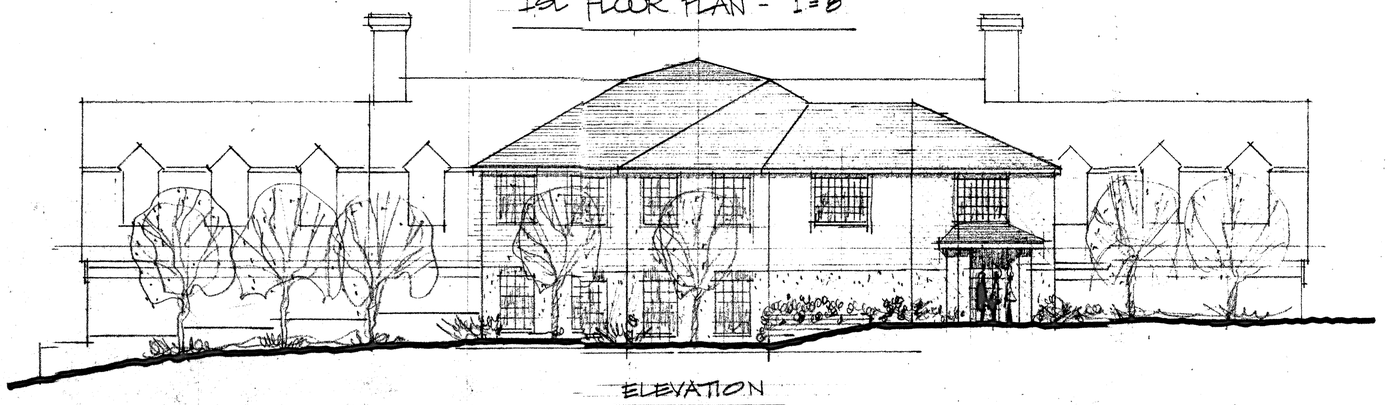
MR. HENNEGAN: I assume that would be affirming the Zoning Commissioner's order?

THE COURT: Well, the order will reverse the Board of Zoning Appeals and affirming the decision of the Zoning Commissioner for the reason stated in court.

* * *



1st FLOOR PLAN - 1"=8'



ELEVATION

CBA Petitioner's Exhibit 7

Pet Nos

HAYES BUILDING - JACKSONVILLE -
BALTO. COUNTY, MD.

SCHEMATIC BUILDING DESIGN

ROBERT J. BAYER - ARCHITECT -
MARCH 19, 2003

1

(SHEET N.E.22-C)

(SHEET N.E.21-B)

(SHEET N.E.21-D)

(SHEET N.E. 20-C)

N-84,000 E-12,000 E-13,500 E-15,000 E-16,500 E-18,000

N-83,000 N-82,000 N-81,000 N-80,000

R.C. 2 R.C. 4 R.C. 5 RO-CR BL BL-CR RO

MISTY VALLEY RD. STANSBURY MILL ROAD 146 SOUTHSIDE AVE. JARRETTSVILLE PIKE JACKSON RIDGE CT. OLD YORK ROAD PAPER MILL RD. PRIVATE RD. PRIVATE RD. FOOT BRIDGE U.S. MILITARY RESERVATION JACKSONVILLE ROAD 143 145 146 SITE

EE-SW EE-SE
U-NW U-NE

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 19, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Chairman, County Council

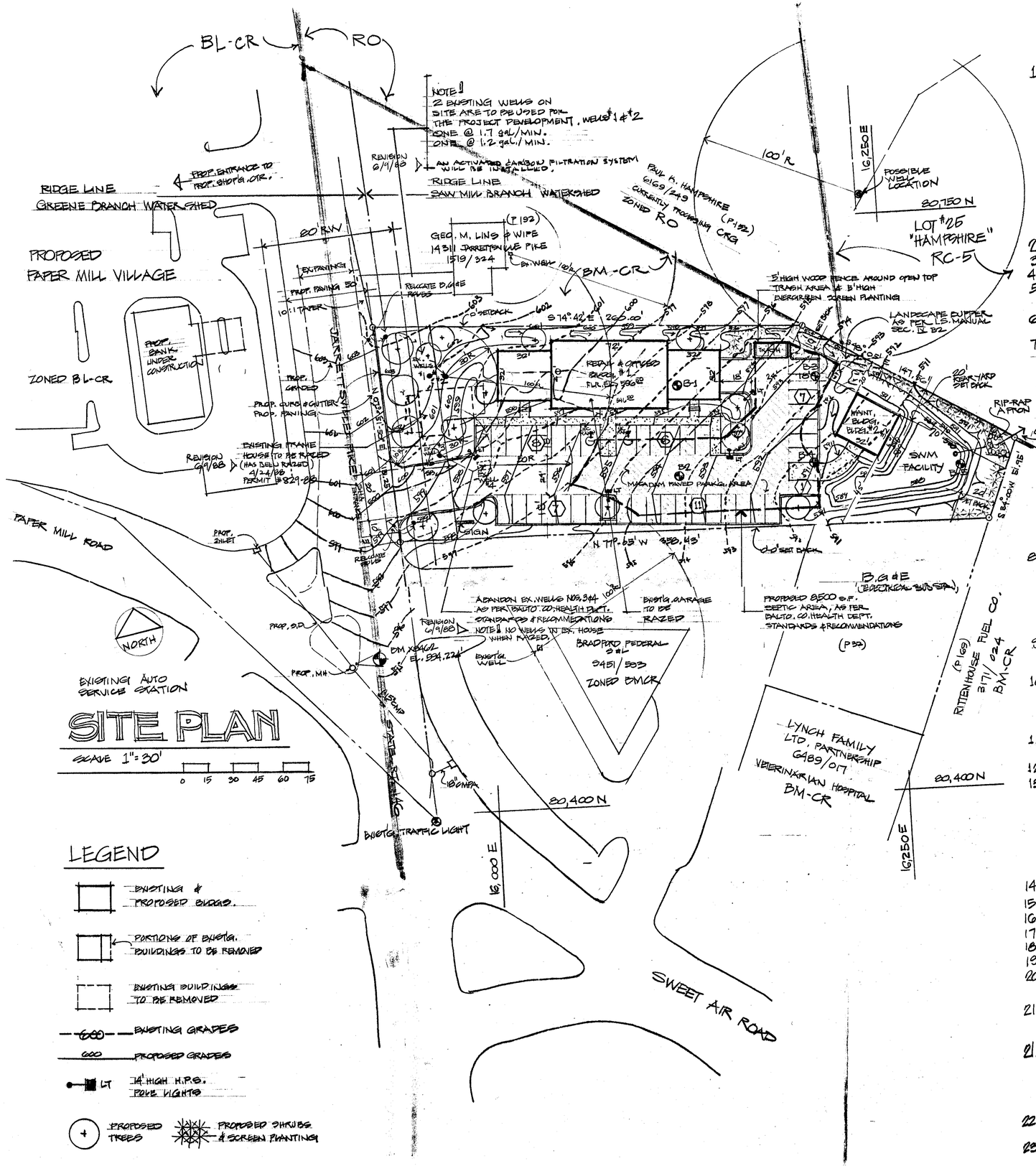
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	JACKSONVILLE	N.E. 21-C
DATE OF PHOTOGRAPHY JANUARY 1986		

NE 21 C

14307 JARRETTSVILLE PIKE

04-533-XA



SITE PLAN

SCALE 1"=30'

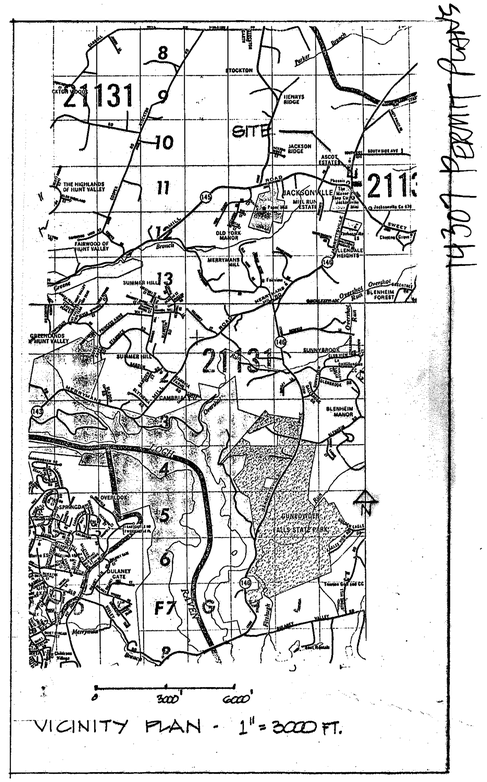
0 15 30 45 60 75

LEGEND

- EXISTING & PROPOSED BLDGS.
- PORTIONS OF EXIST'G. BUILDINGS TO BE REMOVED
- EXISTING BUILDINGS TO BE REMOVED
- 600 — EXISTING GRADES
- 600 PROPOSED GRADES
- LT 14' HIGH H.P.S. POLE LIGHTS
- PROPOSED TREES
- PROPOSED SHRUBS & SCREEN PLANTINGS

GENERAL NOTES

1. DEVELOPMENT NAME - FOUR CORNERS CRAFTSMAN VILLAGE
   APPLICANT - CHRISTIAN G. HAYES, 13804 MANOR GLEN RD., BALDWIN, MD. 21013, 592-6359
   ARCHITECT - ROBERT J. BAYER, P.O. BOX 85, PHOENIX, MD. 21131, 666-9200
   SURVEYOR - J. FINLEY RANSONE, P.O. BOX 10160, TOWSON MD 21285, 666-7448
2. ELECTION DISTRICT - 10th
3. COUNCILMANIC DISTRICT - 6th
4. CENSUS TRACT - 410.2
5. WATERSHED - SAW MILL BRANCH SUB SEWERSHED - 81
6. SITE ACREAGE - GROSS 1.09 AC. ± NET 1.03 AC. ±
7. PARKING REQ'MTS. -
   BUILDING NO. 1 1st FLR = 4920 ÷ 200 = 25 SPACES
   RETAIL/OFFICE USE 2nd FLR = 4000 ÷ 500 = 8 SPACES
   BUILDING NO. 2 8 EMPLOYEES @ 1/8 = 1 SPACE
   MAINTENANCE BURG.
   REQ'D SPACES = 34 SPACES
   PARKING PROVIDED INCLUDING H.C. = 40 SPACES
   HANDICAP SPACES REQ'D. = 2
   " " PROVIDED = 2 @ 9'x12'
   PARKING SPACES REQ. 9'x18'
8. LANDSCAPE REQUIREMENTS
   AS PER BALTO. CO. LANDSCAPE MANUAL DATED 5/1/84
   1 TREE / 20 Lf. OF ROAD = 7
   1 TREE / 12 PARKING SPACES = 3
   TOTAL TREES REQ'D. 10
   TREES PROVIDED 15
   ALSO APPROX. 100 SHRUBS & SCREENING MATERIAL TO BE INSTALLED.
9. FLOOR AREA RATIO = MAX OF 4.0
   FAR = (800 + 800 + 4200 + 3500) ÷ 47,480 = 0.19
10. SOIL TYPE - ENTIRE SITE IS GLENELG GcB2 SOIL SERIES
    SEWAGE DISPOSAL - FILTER FIELDS - SLIGHT
    COMMERCIAL BLDGS - WITH OR WITHOUT BASEMENTS - SLIGHT
    STREETS & PARKING LOTS - MODERATE: SLOPE
    GARDENS - MODERATE: SLOPE
11. ALL EXISTING VEGETATION IS TO BE REMOVED i.e. TREES, SHRUBS & BRUSH.
12. THERE ARE NO HISTORICAL BUILDINGS ON THIS SITE.
13. OWNERSHIP INFORMATION:
    OWNER - BROOKE P. COTTMAN ETAL, 6025 HUNT RIDGE RD., BALTO. MD. 21210 TO CHRISTIAN G. HAYES & ELLA HAYES, 13804 MANOR GLEN ROAD, BALDWIN, MD. 21013
    DEED REF - 7012/066
    TAX ACCT. - 1003049020
    PROPERTY NO - 14307 JARRETTSVILLE PIKE, PHOENIX, MD. 21131
14. ESTIMATED AVERAGE DAILY TRIPS (ADT's) 590
15. THERE ARE NO WETLANDS ON THIS SITE.
16. " " " CRITICAL AREAS ON THIS SITE.
17. " " " ARCHEOLOGICAL SITES ON THIS SITE.
18. " " " ENDANGERED SPECIES HABITAT ON THIS SITE.
19. " " " HAZARDOUS MATERIALS ON THIS SITE.
20. UTILITIES SERVICE - SEWER - PRIVATE - PROPOSED; WATER - PRIVATE - EXISTS
21. THERE ARE NO EXISTING SEPTIC SYSTEMS WITHIN 100' OF EXISTING WELLS ON SITE.
22. Q.L. GEOLOGY - CRYSTALLINE GROUP - WISSAHICKON FORMATION - LOCH RAVEN SCHIST
    THERE ARE NO CONTACT ZONES OR GEOLOGIC FAULTS ON THE SITE OR WITHIN 2000' OF THE PROPERTY LINE.
22. CURRENT ZONING ON SITE BM-CR
23. FREE STANDING BUSINESS SIGN AS PER SECTION 413 (B.C.Z.R.)



VICINITY PLAN - 1" = 3000 FT.

REVISED: JUNE 9, 1988
REVISED: SEPTEMBER 14, 1987
REVISED: AUGUST 17, 1987

PUBLIC SERVICES C.R.G. NO. 87191
PLANNING NO.

ARCHITECTURAL REGISTRATION BOARD 2997-A STATE OF MARYLAND

CRG PLAN FOR
4 CORNERS CRAFTSMAN VILLAGE
14307 JARRETTSVILLE PIKE
BALTO. CO. MD.

ROBERT J. BAYER - ARCHITECT - 5/20/87
04-533-XA

SHEET 1 OF 1

DEVELOPMENT NOTES

1. Applicant: Mr. Christian Hayes
13804 Manor Glen Road
Baldwin, Maryland 21013

Property Address: 14307 Jarrettsville Pike
Tax Map 35, Grid 24, Parcel 151 and 192

Owners: Christian & Hayes
Ella L. Hayes
Parcel 151
1003044020
42,253 sf (0.97 Acres)

Jarrettsville Pike LLC
Parcel 192
1012040050
17,940 sf (0.41 Acres)

2. Property is zoned BM-CR.
3. Existing and proposed use: Offices
4. Floor Area:

Existing Office Building:	1st Floor =	5140 sf
	2nd Floor =	4050 sf
		9190 sf
Existing Storage Building:	1st Floor =	1210 sf
	2nd Floor =	302 sf
Proposed Addition:	1st Floor =	1540 sf
	2nd Floor =	1540 sf
		3080 sf
	Total:	13,782 sf.

5. FAR Required = 0.20
FAR Proposed = 0.224
6. First Floor Area Allowed in CR: 6600 sf
First Floor Area Proposed: 7,290 sf
7. There are no known historic structures in existence on this site.
8. There are no known existing septic areas on parcel 192.
9. There are no known hazardous materials located on the site.
10. There is one previous zoning case for parcel 192. Case No. 91-374-A (See ruling below)

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of July, 1991 that the Petition for Zoning Variance to permit side yard landscaping strips of 5 feet each to the north and south in lieu of the minimum required 15-foot wide strip, a front yard setback of 15 feet in lieu of the required average setback (40' + 15'/ 2 = 31.5'), and to allow a parking area not to be accessible to the adjoining non-residential uses and boner, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

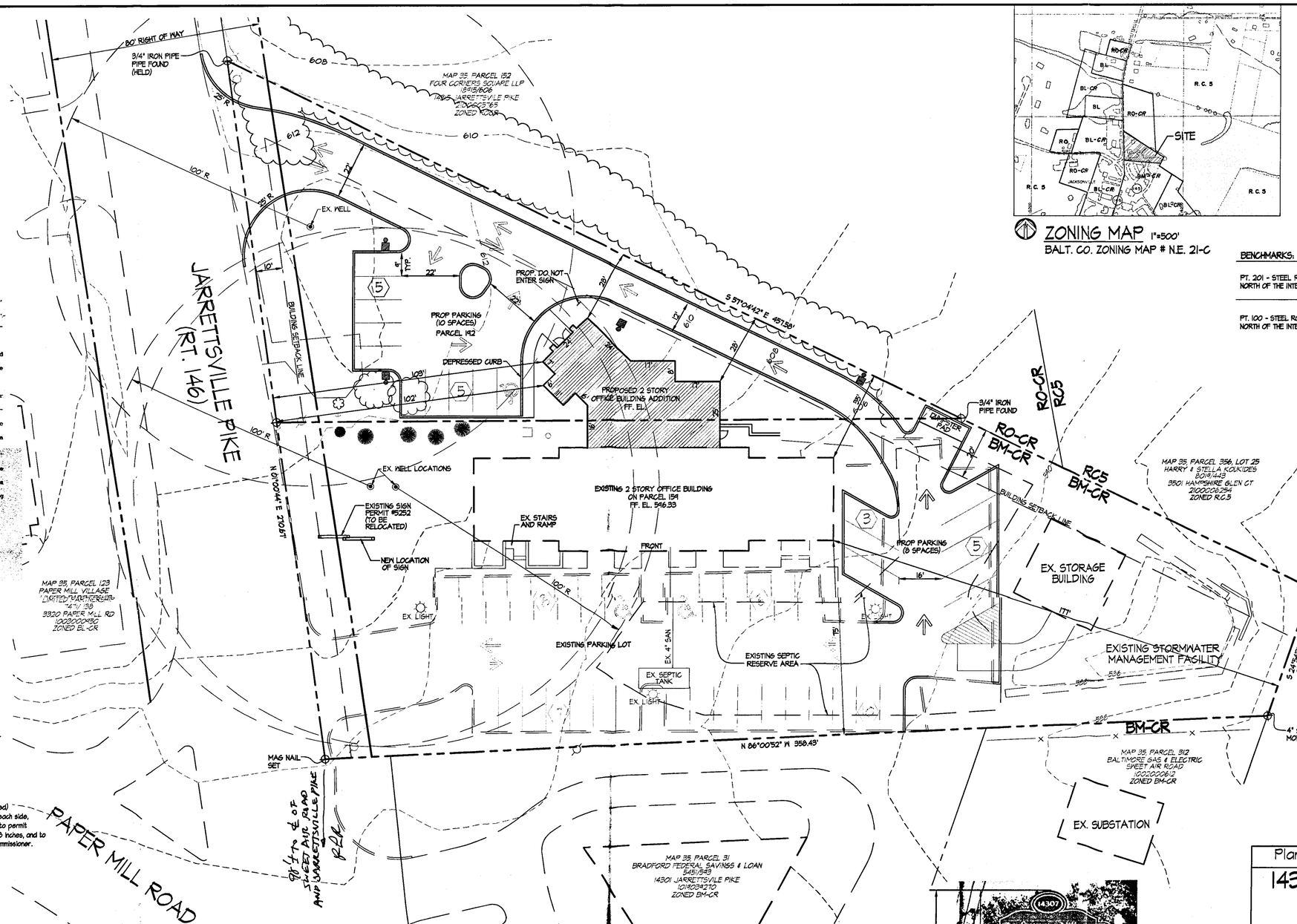
1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this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

9. Parking Requirements
Parking Required: 13,782 sf of prop. office space and shed
3.3 Spaces per 1000 sf = 45 Required Spaces
Ex. Parking to Remain: 30 Parking Spaces + 2 H.C. Spaces
Proposed Parking: 17 Parking Spaces + 1 H.C. Space
50 Provided Spaces
Paving Type - Bituminous Concrete
Spaces will permanently striped.
10. The height of all buildings is less than 30 feet
11. Stormwater Management for water quality and quantity for Parcel 192 cannot be provided on site. A fee in lieu will be requested from Baltimore County Department of Environmental Protection and Resource Management.
12. Any outside lighting will not exceed 16' in height.
13. Amenity open space will not be required.
14. There are no wetlands, streams or 100 year floodplains on Parcels 151 and 192.
15. A special exception pursuant to Section 259.3A with a gross floor of 13,480 in lieu of the 8,200 square feet, a combined ground floor area of 7,890 square feet in lieu of the 6600 square feet permitted and a F.A.R. of 0.224 in excess of the 0.20 permitted under Section 259.3.C.1.
16. Variances Requested
A variance of the landscape standards of Section 259.3.C.3.
Variance to Sections 259.C.7.c, 450.4.1(b) (c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 square feet for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner.
To amend the site plan and confirm the prior variances granted in Case No. 91-374.
17. Prior building permit was not available.
18. DRC #0405040 tabled pending outcome of this petition.

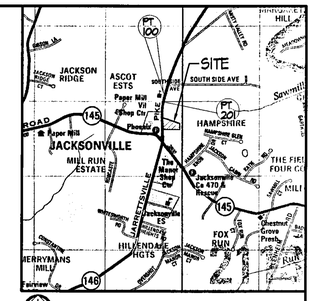
LEGEND

- RIGHT OF WAY LINE
- PROPERTY LINE
- 680 — EXISTING CONTOUR
- EXISTING BGE POLE
- EX. LIGHT — EXISTING LIGHT POLE
- EX. 4" SAN — EXISTING SANITARY SEWER LINE
- EXISTING CURB & GUTTER
- EXISTING BUILDING
- PROPOSED BUILDING
- PROPOSED CURB & GUTTER
- PROPOSED SIDEWALK
- PROPOSED LOT LIGHTING
- 5 — PARKING SPACES
- EX. WELL — EXISTING WELL
- EXISTING TREES
- EXISTING WOODS LINE

© Copyright Site Resources, Inc. 3/30/04 3:30 PM Zoning_Plan.dwg



ZONING MAP 1"=500'
BALT. CO. ZONING MAP # N.E. 21-C



VICINITY MAP 1"=2000'

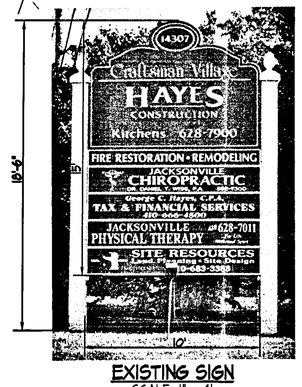
BENCHMARKS:

N 14386.94 E 675.806
PT. 201 - STEEL ROD LOCATED ON THE WEST SIDE OF JARRETTSVILLE PIKE, 1040'± NORTH OF THE INTERSECTION OF JARRETTSVILLE PIKE AND SWEET AIR ROAD
ELEV. 619.20

N 14368.02.54 E 676059.68
PT. 100 - STEEL ROD LOCATED ON THE EAST SIDE OF JARRETTSVILLE PIKE, 1315'± NORTH OF THE INTERSECTION OF JARRETTSVILLE PIKE AND SWEET AIR ROAD
ELEV. 614.33



NORTH ELEVATION
NOT TO SCALE



EXISTING SIGN
SCALE: 1" = 4'

Plan to Accompany Zoning Petition

14307 Jarrettsville Pike

10th ELECTION DIST. 3rd COUNCILMANIC DIST. Baltimore County, Maryland

REVISIONS

STATE OF MARYLAND — ROBERT URSICH PORTER — REGISTERED LANDSCAPE ARCHITECT — NO. 1077

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY: MAS	CONTRACT NO.:
DESIGNED BY: RLR	SCALE: 1" = 20'
CHECKED BY: SHF	SRI PROJECT NO: 01125
DATE: MAY 4, 2004	SHEET 1 OF 1

04-537-XA

DEVELOPMENT NOTES

1. Applicant: Mr. Christian Hayes
13804 Manor Glen Road
Baldwin, Maryland 21013

Property Address: 14307 Jarrettsville Pike
Tax Map 35, Grid 24, Parcel 151 and 192

Owners: Christian G.Hayes — Parcel 151 — 1003044020 — 42,253 sf (0.97 Acres)
Jarrettsville Pike LLC — Parcel 192 — 1012040050 — 17,990 sf (0.41 Acres)

2. Property is zoned BM-CR.
3. Existing and proposed use: Offices
4. Floor Area:

Existing Office Building:	1st Floor =	5140 sf
	2nd Floor =	4050 sf
		9190 sf
Existing Storage Building:	1st Floor =	1210 sf
	2nd Floor =	302 sf
Proposed Addition:	1st Floor =	1540 sf
	2nd Floor =	1540 sf
		3080 sf
	Total:	13,782 sf.

5. FAR Required = 0.20
FAR Proposed = 0.224
6. First Floor Area Allowed in O-R: 86,600 sf
First Floor Area Proposed: 13,782 sf
7. There are no known historic structures in existence on this site.
8. There are no known existing septic areas on parcel 192.
9. There are no known hazardous materials located on the site.
10. There is one previous zoning case for parcel 192. Case No. 91-374-A (See ruling below)

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of July, 1991 that the Petition for Zoning Variance to permit side yard landscaping strips of 5 feet each to the north and south in lieu of the minimum required 15-foot wide strip, a front yard setback of 15 feet in lieu of the required average setback (48' + 15'/ 2 = 31.5'), and to allow a parking area not to be accessible to the adjoining non-residential uses and zones, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

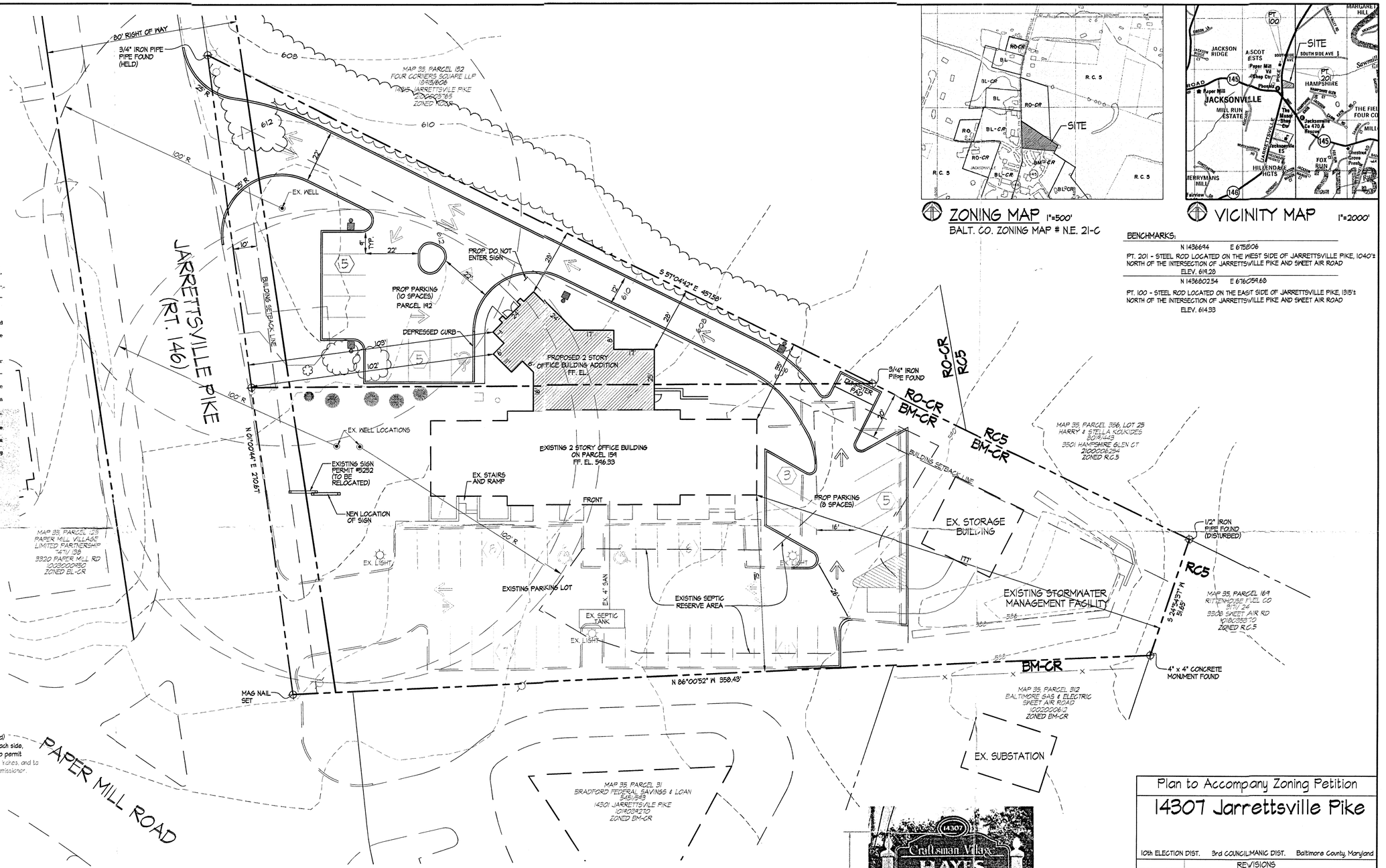
1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this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

9. Parking Requirements:
Parking Required: 13,782 sf of prop. office space and shed
33 Spaces per 1000 sf = 45 Required Spaces
Ex. Parking to Remain: 30 Parking Spaces + 2 H.C. Spaces
Proposed Parking: 17 Parking Spaces + 1 H.C. Space
50 Provided Spaces
Paving Type - Bituminous Concrete
Spaces will permanently striped.
10. The height of all buildings is less than 30 feet
11. Stormwater Management for water quality and quantity for Parcel 192 cannot be provided on site. A fee in lieu will be requested from Baltimore County Department of Environmental Protection and Resource Management.
12. Any outside lighting will not exceed 16' in height.
13. Amenity open space will not be required.
14. There are no wetlands, streams or 100 year floodplains on Parcels 151 and 192.
15. A special exception pursuant to Section 259.3A with a gross floor of 13,480 in lieu of the 13,200 square feet, a combined ground floor area of 7,380 square feet in lieu of the 6,600 square feet permitted and a F.A.R. of 0.224 in excess of the 0.20 permitted under Section 259.3.C.1.
16. Variances Requested:
A variance of the landscape standards of Section 259.3.C.3.
Variance to Sections 259.C.7.c, 450.4.1(b) (c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 square feet for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display to permit letter copy heights less than 9 inches in height in lieu of the minimum permitted 8 inches, and to permit a 6" luminance in a C.R. district over 24 inches permitted by the Zoning Commissioner.
To amend the site plan and confirm the prior variances granted in Case No. 91-374.
17. Prior building permit was not available.
18. DRC #0405040 tabled pending outcome of this petition.
19. Survey and boundary provided by Thompson and McClung Associates.

LEGEND

- RIGHT OF WAY LINE
- PROPERTY LINE
- 610 — EXISTING CONTOUR
- EXISTING BGE POLE
- EX. LIGHT — EXISTING LIGHT POLE
- EX. 4" SAN — EXISTING SANITARY SEWER LINE
- EXISTING CURB & GUTTER
- EXISTING BUILDING
- PROPOSED BUILDING
- PROPOSED CURB & GUTTER
- PROPOSED SIDEWALK
- PROPOSED LOT LIGHTING
- 8 — PARKING SPACES
- EX. WELL — EXISTING WELL
- EXISTING TREES
- EXISTING WOODS LINE

- Copyright Site Resources, Inc.
8/30/04 3:50 PM Zoning Plan.dwg



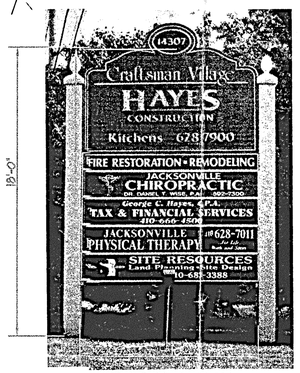
ZONING MAP 1"=500'
BALT. CO. ZONING MAP # N.E. 21-C

VICINITY MAP 1"=2000'

BENCHMARKS:

N 143694 E 675806
PT. 201 - STEEL ROD LOCATED ON THE WEST SIDE OF JARRETTSVILLE PIKE, 1040'± NORTH OF THE INTERSECTION OF JARRETTSVILLE PIKE AND SWEET AIR ROAD
ELEV. 614.28

N 143680.54 E 676059.68
PT. 100 - STEEL ROD LOCATED ON THE EAST SIDE OF JARRETTSVILLE PIKE, 1315'± NORTH OF THE INTERSECTION OF JARRETTSVILLE PIKE AND SWEET AIR ROAD
ELEV. 614.33



EXISTING SIGN
SCALE: 1" = 4'

NORTH ELEVATION
NOT TO SCALE

Plan to Accompany Zoning Petition

14307 Jarrettsville Pike

10th ELECTION DIST. 3rd COUNCILMANIC DIST. Baltimore County, Maryland

REVISIONS

Pet No 1

SITE RESOURCES
Incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY: MAS	CONTRACT NO.:
DESIGNED BY: RLR	SCALE: 1" = 20'
CHECKED BY: SHF	SRI PROJECT NO: 01125
DATE: AUGUST 2, 2004	SHEET 1 OF 1

DEVELOPMENT NOTES

1. Applicant: Mr. Christian Hayes
13804 Manor Glen Road
Baldwin, Maryland 21013
Property Address: 14307 Jarrettsville Pike
Tax Map 35, Grid 24, Parcel 151 and 192
Owners: Christian G.Hayes — Parcel 151 — 1023046020 — 41,253 sf (0.97 Acres)
Ella L. Hayes — Parcel 151 — 1023046020 — 41,253 sf (0.97 Acres)
Jarrettsville Pike LLC — Parcel 192 — 1012040050 — 17,990 sf (0.41 Acres)
2. Property is zoned BM-CR.
3. Existing and proposed use: Offices
4. Floor Area:

Existing Office Building:	1st Floor =	5140 sf
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		9190 sf
Existing Storage Building:	1st Floor =	1210 sf
	2nd Floor =	302 sf
Proposed Addition:	1st Floor =	1540 sf
	2nd Floor =	1540 sf
		3080 sf
	Total:	13,782 sf.

5. FAR Required = 0.20
FAR Proposed = 0.229
6. First Floor Area Allowed in CR: 6600 sf
First Floor Area Proposed: 7,890 sf
7. There are no known historic structures in existence on this site.
8. There are no known existing septic areas on parcel 192.
9. There are no known hazardous materials located on the site.
10. There is one previous zoning case for parcel 192. Case No. 91-374-A
(See ruling below)

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

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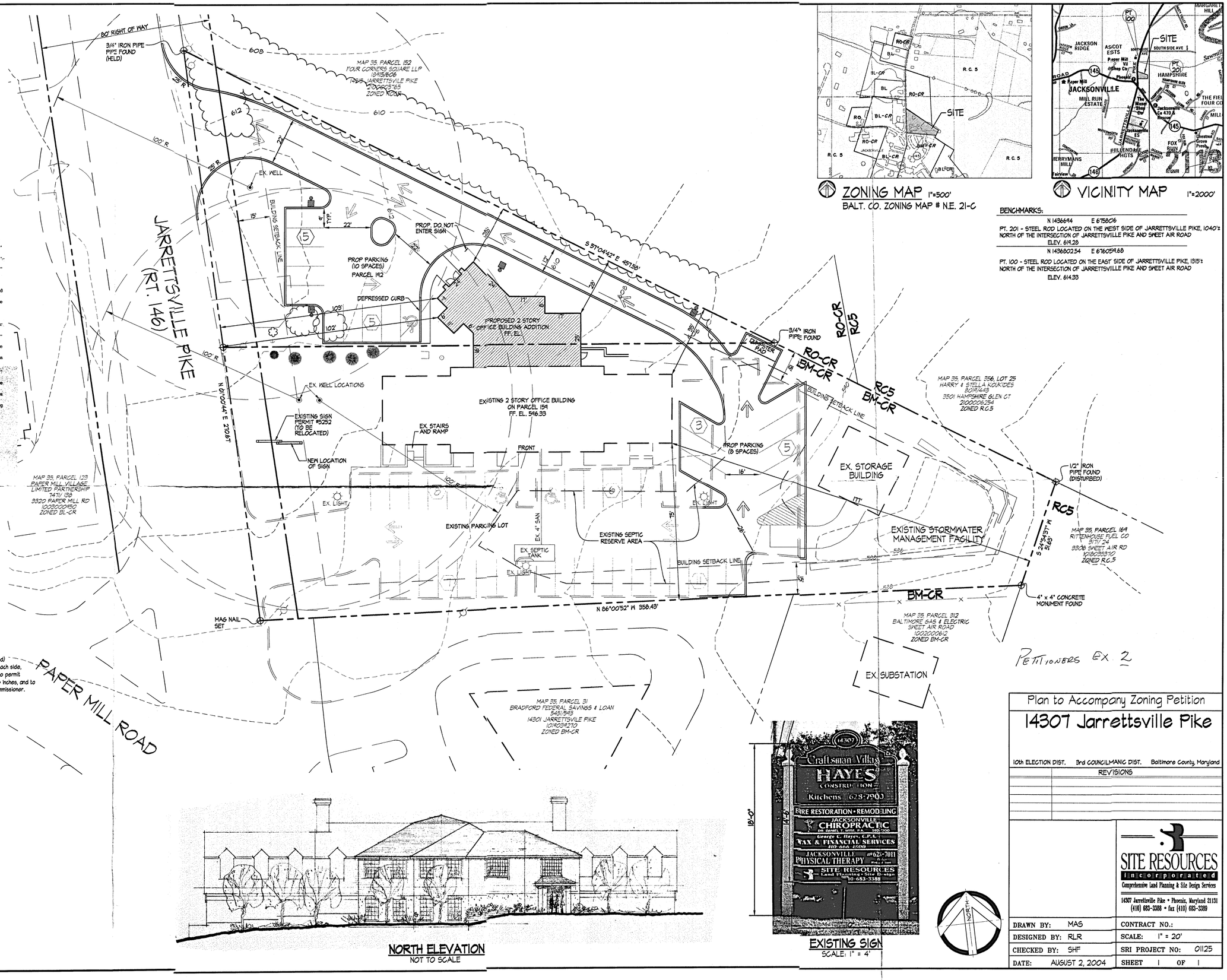
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3.3 Spaces per 1000 sf = 45 Required Spaces
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Paving Type - Bituminous Concrete
Spaces will permanently striped.
10. The height of all buildings is less than 30 feet
11. Stormwater Management for water quality and quantity for Parcel 192 cannot be provided on site. A fee in lieu will be requested from Baltimore County Department of Environmental Protection and Resource Management.
12. Any outside lighting will not exceed 16' in height.
13. Amenity open space will not be required.
14. There are no wetlands, streams or 100 year floodplains on Parcels 151 and 192.
15. A special exception pursuant to Section 259.3A with a gross floor of 13,480 in lieu of the 8,800 square feet, a combined ground floor area of 7,890 square feet in lieu of the 6600 square feet permitted and a F.A.R. of 0.229 in excess of the 0.20 permitted under Section 259.3.C.1.
16. Variances Requested
A variance of the landscape standards of Section 259.3.C.3.
Variance to Sections 259.C.7.c, 450.4.7(a) (c) to permit an existing (but relocated) freestanding joint identification sign with an area/face of 150 square feet for each side, to permit 15 lines of display in lieu of the maximum permitted 5 lines of display, to permit letter copy heights less than 8 inches in height in lieu of the minimum permitted 8 inches, and to permit sign illumination in a CR district overlay when approved by the Zoning Commissioner.
To amend the site plan and confirm the prior variances granted in Case No. 91-374.
17. Prior building permit was not available.
18. DRC #04050040 tabled pending outcome of this petition.
19. Survey and boundary provided by Thompson and McCord Associated .

LEGEND

- RIGHT OF WAY LINE
- PROPERTY LINE
- 680 — EXISTING CONTOUR
- EXISTING BGE POLE
- EX. LIGHT — EXISTING LIGHT POLE
- EX. 4" SAN — EXISTING SANITARY SEWER LINE
- EXISTING CURB & GUTTER
- EXISTING BUILDING
- PROPOSED BUILDING
- PROPOSED CURB & GUTTER
- PROPOSED SIDEWALK
- PROPOSED LOT LIGHTING
- PARKING SPACES
- EX. WELL — EXISTING WELL
- EXISTING TREES
- EXISTING WOODS LINE

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2004



ZONING MAP 1"=500'
BALT. CO. ZONING MAP # N.E. 21-C

VICINITY MAP 1"=2000'

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ELEV. 619.28

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ELEV. 614.33

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EXISTING SIGN
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PETITIONERS EX. 2

Plan to Accompany Zoning Petition

14307 Jarrettsville Pike

10th ELECTION DIST. 3rd COUNCILMANIC DIST. Baltimore County, Maryland

REVISIONS

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DRAWN BY: MAS	CONTRACT NO.:
DESIGNED BY: RLR	SCALE: 1" = 20'
CHECKED BY: SHF	SRI PROJECT NO: 01125
DATE: AUGUST 2, 2004	SHEET 1 OF 1