7/16/05

IN THE MATTER OF THE APPLICATION OF US FILTER RECOVERY SERVICES, INC. - PETITIONER; 8200 FISCHER ROAD, LLC - LEGAL OWNER FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED 390' SW OF THE INTERSECTION FISCHER ROAD AND FAUST LANE (8200 FISCHER ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 05-075-SPHXA
15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	*	

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes to the Board of Appeals on appeal filed by William D. Shaughnessy, Jr., Esquire, on behalf of US Filter Recovery Services, Inc., Appellant /Petitioner, from a decision of the Zoning Commissioner dated December 29, 2004 in which the requested zoning relief was denied.

WHEREAS, the Board is in receipt of a notice of Withdrawal of Appeal filed on August 26, 2005 by William D. Shaughnessy, Jr., Esquire, Counsel for US Filter Recovery Services, Inc., Appellant /Petitioner (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Counsel for Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of August 26, 2005,

IT IS ORDERED this 16th day of September, 2005 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 05-075-SPHXA be and the same is hereby **DISMISSED**, , thereby rendering the December 29, 2004 Order of the Zoning Commissioner the final decision in this matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott

Mike Mohler

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

September 16, 2005

William D. Shaughnessy, Jr., Esquire
GORDON-FEINBLATT
Rothman, Hoffberger, & Hollander LLC
233 E. Redwood Street
Baltimore, MD 21202-3332

RE: *In the Matter of: US Filter Recovery Services, Inc.*
– Petitioner (8200 Fischer Road LLC)
Case No. 05-075-SPHXA /Order of Dismissal

Dear Mr. Shaughnessy:

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

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosure

c: US Filter Recovery Services
/ Vincent Glorioso
Ira Miller /8200 Fischer Road LLC
Timothy Ford /US Filter /Wilmington, DE
C. William Clark, Esquire
William R. Evans, Esquire
Fred Theiss, President
Wells-McComas Citizens Imp. Assn., Inc.
Guido Guarnaccia /Dominic Guarnaccia
Karenlee Tully
Robert and Jean Romadka /Briarwood Estates, LLP
Ross B. Cole
Nancy Donahue
Alfred Barry III
John Cignatti
Sue Machlinski
Ed Hooley
Office of People's Counsel
Pat Keller, Planning Director
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

8/25/05

IN THE MATTER OF:	*	BEFORE THE
US Filter Recovery Services, Inc.	*	COUNTY BOARD OF APPEALS
Petitioner	*	FOR BALTIMORE COUNTY
PROPERTY:	*	
8200 Fischer Road	*	Case: 05-075-SPHXA

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

Withdrawal of Appeal

Pursuant to Rule 3(b) of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, Petitioner, US Filter Recovery Services, Inc., the Petitioner in this matter, by and through its undersigned counsel, hereby withdraws the Appeal in the above captioned case

RECEIVED
AUG 26 2005
BALTIMORE COUNTY
BOARD OF APPEALS

William D. Shaughnessy, Jr.
Gordon Feinblatt, et al
233 E. Redwood Street
Balt., MD 21202-3324
(410) 576.4092
Attorneys for Petitioner

Certificate of Service

I hereby certify that a copy of the foregoing Memorandum was served, by first class mail, mailed on this 25th day of August, 2005, upon Fred Theiss, President, Wells-McComas Citizens Imp. Assn., Inc., Guido Guarnaccia/Dolminic Guarnaccia, Karenlee Tully, Robert and Jean Romadka/Briarwood Estates, LLP, Ross B. Cole and Nancy Donahue, c/o C. William Clark, Esq., 502 Washington Avenue, Towson, MD 21204 and William R. Evans, Esq., 6914 Holabird Ave., Suite A, Baltimore, MD 21222, counsel for Protestants; Peter Max Zimmerman, Peoples Counsel, Old Courthouse, Room 47, 400 Washington Ave., Towson, MD 21204; William J. Wiseman III, Zoning Commissioner for Baltimore County, Room 405, County Court Building, 401 Bosley Avenue, Towson, MD 21204; Pat Keller, Director, County Court Building, Room 406, 401 Bosley Avenue, Towson, MD 21204 and Timothy Kotroco, Director/PDM, Director's Office, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204.

William D. Shaughnessy, Jr.

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4182
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

August 25, 2005

Clerk
Baltimore County Court of Appeals
400 Washington Avenue
Room 49
Towson, MD 21204

Re: US Filter Recovery Services, Inc.
8200 Fischer Road
Case No.: 05-075-SPHXA

Dear Clerk:

Enclosed are an original and one copy of our Withdrawal of Appeal in the above entitled matter.

Please date-stamp the enclosed copy and return to me in the envelope provided.

Thank you.

Sincerely,

William D. Shaughnessy, Jr.

WDS:jc
Enclosures
cc: Vince Glorioso *(w/enclosure)*
Ira Miller *(w/enclosure)*
Tim Ford *(w/enclosure)*
Debbie Newell *(w/enclosure)*
C. William Clark, Esquire *(w/enclosure)*
William R. Evans, Esquire *(w/enclosure)*
Peter Max Zimmerman, Esquire *(w/enclosure)*
William J. Wiseman, III *(w/enclosure)*
Pat Keller *(w/enclosure)*
Timothy Kotoroco *(w/enclosure)*

RECEIVED
AUG 25 2005
BALTIMORE COUNTY
BOARD OF APPEALS

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

February 15, 2005

William D. Shaughnessy
Gordon Feinblatt
233 E. Redwood Street
Baltimore, MD 21202

Dear Mr. Shaughnessy:

RE: Case: 05-075-SPHXA, 8200 Fischer Road

Please be advised that we received your appeal of the above-referenced case in this office on January 26, 2005. 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: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. Vincent Glorioso
Timothy Ford, U.S. Filter
William Clark
Jean Romadka
Fred Theiss
Nancy L. Donahue
Karenlee Tully
Messrs. Guido & Dominic Guarnaccia
Ross B. Cole
Alfred Barry
John Cignatti
Sue Machlinski
Ed Hooley

1/26/05

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 8200 Fischer Road	*	BEFORE THE ZONING COMMISSIONER
Legal Owner: 8200 Fischer Road LLC Lessee: US Filter Recovery Services Petitioner(s)	* *	FOR BALTIMORE COUNTY Case: 05-075-SPHXA

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

NOTICE OF APPEAL TO BOARD OF APPEALS

Petitioner, US Filter Recovery Services ("USF"), by and through its undersigned counsel, files the within Notice of Appeal to Board of Appeals and states:

1. The action that is the subject of this appeal is the decision of the Zoning Commissioner as set forth in the Finding of Facts and Conclusions of Law, and Order, dated December 29, 2004, issued by the Zoning Commissioner in the above-referenced case (the "December 29 Decision"). Petitioner hereby appeals the December 29 Decision.

2. This appeal is filed within 30 days of the issuance of the December 29 Decision.

3. This appeal is authorized pursuant to Section 32-3-401 of the Baltimore County Code.

4. The name and address of the party taking this appeal is: US Filter Recovery Services, 1105 North Point Boulevard, Baltimore, Maryland 21224.

William D. Shaughnessy, Jr.
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander, LLC
233 East Redwood Street
Baltimore, Maryland 21202-3324
Telephone: (410) 576.4092
Attorneys for Petitioner

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Appeal was served, by first class mail, mailed on this 26th day of January, 2005, upon C. William Clark, Esq., 502 Washington Avenue, Towson, MD 21204 and William R. Evans, Esq., 6914 Holabird Ave., Suite A, Baltimore, MD 21222, counsel for Protestants, and Peter Max Zimmerman, People's Counsel, Old Courthouse, Rm 47, 400 Washington Ave., Towson, MD 21204.

William D. Shaughnessy, Jr.

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

January 26, 2005

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: **NOTICE OF APPEAL TO BOARD OF APPEALS**
In re: Petitions for Special Hearing, Special Exception & Variance
8200 Fischer Road
(Zoning Commissioner Case No. 05-075-SPHXA)

Appellant: US Filter Recovery Services
Property: 8200 Fischer Road

Dear Mr. Kotroco:

The undersigned and this office represent USFilter Recovery Services ("USFilter"), the Petitioner in the above matter.

USFilter hereby appeals the December 29, 2004 Findings of Fact and Conclusions of Law, and Order, of the Zoning Commissioner in the above-referenced case (Case No. 05-075-SPHXA). Enclosed herewith for filing is a Notice of Appeal to Board of Appeals.

The basis for the appeal is that the December 29, 2004 decision is unlawful and erroneous.

The name and address of the aggrieved party taking this appeal is:

USFilter Recovery Services
1105 North Point Blvd.
Baltimore, MD 21224

Enclosed is this firm's check in the amount of $850.00 to cover the cost of docketing the appeal and costs of sign posting.

RECEIVED

Per CLB

Please contact the undersigned if anything further is needed.

Very truly yours,

William D. Shaughnessy, Jr.

WDS:jc
Enclosures
cc: USFilter Recovery Services
People's Counsel
C. William Clark, Esquire
William R. Evans, Esquire
Hon. William J. Wiseman, III

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE - 390' SW of the Intersection Fischer Road & Faust Lane **(8200 Fischer Road)** 15th Election District 7th Council District	*	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
	*	Case No. 05-075-SPHXA
8200 Fischer Road, LLC, Owners; US Filter Recovery, Contract Purchasers	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, 8200 Fischer Road, LLC, and the Contract Purchaser, US Filter Recovery Services, by and through their attorney, William D. Shaughnessy, Esquire.[1] As amended, the Petitioners request a special hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), seeking a determination that the fluid storage and sale, aboveground, of flammable liquids or gases, the storage and warehousing of such fluids, the laboratory use and a combination of the above uses, with accessory filtering of such fluids, is a use permitted as of right in the M.H. zone. In addition, relief is requested to approve the use of the subject property for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled, where such facility is not located at least 1,000 feet from a residential zone, but is located 438 therefrom. In the alternative, special exception relief is requested to approve the use of the subject property for an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled", pursuant to Section 256.4 of the B.C.Z.R. Finally, variance relief is requested from Sections 256.3 and 256.4 of the B.C.Z.R. to allow a setback from a residential zone of 438 feet in lieu of the required 1,000 feet applicable to an "other industrial or manufacturing use" in the MH Zone and applicable to "oil refineries, including any facility for the recovery processing or

[1] Prior to the hearing, the Petitioners filed amended Petitions that raised an issue regarding the applicability of Council Bill No. 98-04, which will be addressed in detail hereinafter.

ORDER RECEIVED FOR FILING
Date 12/29/04
By

recycling of oil" in the MH zone. 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 7.

Appearing at the requisite public hearing in support of the request were Vincent Glorioso, Regional Business Manager, and Timothy Ford, Director of Environmental Health and Safety, both representatives of US Filter Recovery Services (referred to hereinafter as USF), Contract Purchasers. Also appearing on behalf of the Petitioners were Douglas G. Smith, an expert in risk assessment of airborne toxins, Jesse M. Linsey, a Professional Engineer with Whitney, Bailey, Cox and Magnani, LLC, who prepared the site plan for this property, and William D. Shaughnessy, Jr., Esquire, attorney for the Petitioners. John Lewis, Planner II with the Department of Permits and Development Management appeared on behalf of Baltimore County.

Appearing as Protestants/interested citizens were numerous residents and property owners from the surrounding locale. They included Fred Thiess, President of the Wells-McComas Citizens Improvement Association, Inc., and Guido Guarnaccia and Karenlee Tully, members; Robert and Jean Romadka, owners/operators of the Briarwood Estates, LLP, an adjacent mobile home community; Ross B. Cole, a retired railroad engineer; and Nancy Donahue, all of who were represented by C. William Clark, Esquire and William R. Evans, Esquire. Also appearing on behalf of the Wells-McComas Citizens Improvement Association and Briarwood Estates, LLP were Alfred W. Barry, III, an engineer and expert in planning and zoning matters, along with Dr. John Cignatti, an expert in used oil recycling and the storage of fuels employed with Data Net Engineering. The subject property is located just south of and adjacent to the Briarwood Estates community.

The issues presented in this case generated significant public interest and a large number of individuals from the surrounding community appeared and/or testified in opposition to the request. Due to limitations of time and space, a listing of all of those individuals cannot be set out here, but are noted on the citizens sign-in sheets which have been included in the case file.

ORDER RECEIVED FOR FILING
Date 12/29/04
By

INTRODUCTION

A significant amount of testimony and evidence was submitted at the public hearing held in the case, which consumed three days, and numerous photographs, plats, maps, studies, etc. were submitted as documentary evidence. In this regard, there were 23 exhibits submitted by the Petitioner, and 17 submitted by the Protestants.

THE PROPOSAL AND PROPERTY

USF is a used oil processing facility that has operated in Maryland for 50 years, serving approximately 5,000 customers ranging in size from larger corporations such as General Motors and Alison Transmissions to smaller businesses including automobile dealerships, service stations and Jiffy Lube-type franchises. It is a global company owned by Siemens A. G., with operations in 50 states, Europe and Asia. Previously, USF operated on the Bethlehem Steel property in eastern Baltimore County. Following Bethlehem Steel's insolvency, USF decided it was in their best interest to leave that location and engaged real estate brokers to search for a new site that would be logistically effective (i.e., centrally located) in the State, with access to major highways. The subject property had many such advantages. As shown on Petitioner's Exhibit 7, the property is located on the northwest side of Fisher Road, across from its intersection with Faust Lane, between Beachwood Road and the Patapsco Freeway, an extension of the Baltimore Beltway (I-695). It contains a gross land area of 20.55 acres, more or less, is completely fenced with fire suppression tanks in place, and is improved with a two-story, 133,827 sq.ft. warehouse. The property is surrounded by heavy manufacturing zoned property on three sides (west, south and east) and has access to a railroad spur on the east side; however, immediately north is a residentially zoned community (D.R.5.5). The zoning at the new site is identical to the zoning classification for the property used by USF at the Sparrows Point site (M.H.-I.M). The owners of the subject property were willing to negotiate a long-term lease for 3 acres on the subject site ($3600/month) with an additional 35,000 sq.ft. of under-roof property within the existing warehouse at an escalating scale starting at $3.00/sq.ft. In addition to its oil recycling business, the subject location would allow

ORDER RECEIVED FOR FILING
Date 6/7/11
By

USF to relocate some of its administrative staff, currently operating at the North Point Boulevard (Sparrows Point) location. The lease provided for a "feasibility study."

The nature of USF's operation at the subject property is essential to the determination of the instant Petitions. For a fee, USF collects, filters and processes used oil for reuse. The process utilized by USF resembles a "spoke and hub" operation and primarily consists of two components; namely, the treatment and processing of used crankcase oil and the treatment and processing of oily water. The Petitioner anticipates recycling at this location approximately 5½ million gallons of used crankcase oil and another 9 million gallons of oily water and contaminated fluids on an annual basis. The process from the time the trucks would arrive at the exterior tanks stored outside the warehouse, to the time the oils were processed, tested and discharged back to the tanker trucks, typically takes two to four days.

BRIEF CRONOLOGY OF FACTS

- **Late April 2004** - USF submits its application for a permit to construct its facility at the subject location to the Maryland Department of the Environment (MDE) (see Petitioner's Exhibit 8).

- **May 12, 2004** – USF files with DPDM a formal written request for zoning verification of its proposed use of the property as an oil recycling operation (see Petitioner's Exhibit 1). Request includes description of operations and site/layout plan, *but is silent as to the boiler and bio-filter construction, with accompanying estimates of toxic air emissions previously provided to the MDE.*

- **May 13, 2004** – John Lewis of DPDM issues verification letter that the proposed uses are permitted in the M.H. zone, conditioned on "no refining" of oil permitted.

- **April 30, 2004 – July 27, 2004** – Baltimore County issues five (5) building and construction permits to USF for the project. (See Petitioner's Exhibits 8, 11, 21 and 22)

- **July 26, 2004** – John Lewis of DPDM issues a letter advising that USF activities outlined in the MDE Draft Air Permit might be considered "refining", thus the use would constitute an "oil refinery" requiring a special exception hearing.

ORDER RECEIVED FOR FILING
Date 12/29/04
By

- **May 2004 – August 2004** – Substantial construction at the property by USF, which invests capital of approximately $1 million in construction activity at the site based upon the May 13th Authorization and the 5 issued permits. Substantial work occurred inside the warehouse, including the pouring of footings and foundations for above-ground tanks, installation of HVAC and electric, delivery and installation of pumps, installation of 15 large above-ground tanks in the warehouse, and delivery of approximately 12 large above-ground tanks to the front yard of the property. It was also during this time that Mr. Glorioso committed USF to a 10-year operating lease with the property owner.

- **August 2004 – Present** – Construction at property diminished; MDE refuses to proceed on Air Permit due to zoning issue raised by July 26th revision letter.

- **October 8, 2004** – County Council Bill No. 98-04 becomes effective; characterizes "oil recycling" as a special exception use.

APPLICABLE LAW

At issue in the instant case is the nature of the proposed use of the property under the B.C.Z.R. and whether or not such use is permitted as of right in the M.H.-I.M. zone. More importantly, as noted earlier in this opinion, the enactment of Bill No. 98-04 has raised an issue as to whether variance relief can be granted. Here lies the heart of the matter before me.

This Zoning Commissioner has been the beneficiary of thorough post-hearing memorandums. Both USF and Protestants have keenly identified and developed the essentials that get to the essence of the matter. Briefly summarized, USF argues its right to the permit is inviolate because it vested while, in contradistinction, Protestants assert it did not.[2] Vesting, it cannot be denied, is crucial here, but the anterior consideration involves whether USF obtained a "lawful permit."

On behalf of DPDM, Mr. Lewis issued the May 13, 2004 letter informing the Petitioner that it's stated use ("Oil Recycling Operation") for the property was permitted under M.H. Zoning. Mr. Lewis did so with the understanding that the Petitioner would simply be storing and recycling

ORDER RECEIVED FOR FILING
Date 12/21/04
By

[2] As stated at the outset of the hearing, I question the Zoning Commissioner's jurisdiction to consider the vesting issue in that it was appealed to the Board of Appeals. (See Petitioner's Exhibit 15) Indeed, one may question whether the Zoning Commissioner has the authority/jurisdiction to consider this vesting issue in that, 1. It was not raised as an issue in the instant Petitions and, 2. The Petitioner has forfeited its right to judicial determination of this issue, having failed to timely appeal the Board's decision.

used oil without a processing component to its operation. (*See* Petitioner's Exhibit 1) More significantly, the Petitioner failed to advise DPDM that it would also be employing storage tanks to hold other industrial chemicals, and would also employ in its operations a "boiler" which would release toxic air pollutants regulated by the MDE. (*See* Petitioner's Exhibit 9) While I do not find that Petitioner intentionally failed to disclose this information to DPDM, its absence caused DPDM to improperly release the permits at issue, which were not "lawful."

While I do not find Petitioner's activities would constitute "refining,"[3] they undoubtedly involve a great deal more than the "[s]torage of inflammable liquids and gases above ground," which is the only pertinent activity permitted as of right in an M.H. zone, pursuant to Section 256.1 of the B.C.Z.R. Indeed, the other operations conducted on-site by Petitioner constitute "other industrial use[s]" for which a 1,000-foot setback is required, pursuant to Section 256.3 of the B.C.Z.R. This conclusion is buttressed by the fact that permits issued by the County clearly refer to Petitioner as an "industrial user." (See Petitioner's Exhibit 11) Inasmuch as that was not satisfied prior to the issuance of the permits, they were not lawfully issued.

Therefore, based upon the incorrect information submitted upon which it was based, it must be concluded that Mr. Lewis did not issue a valid permit. The case of *Marzullo v. Kahl, 366 Md. 158 (2001)* dictates this finding. Though viewed by many as a draconian holding, our highest court emphasized that "applicants for permits involving interpretation accept the afforded interpretation at their risk." *Id.* at 194. If subsequent events reveal that the permit should not have been issued, the unfortunate permit holder has obtained no rights, vested or otherwise, upon which to do his developing/building, etc. Distilled to its essence, *Marzullo v. Kahl* holds that the recipient proceeds at his own risk.

Marzullo is nevertheless the law in this state. I find that USF did not receive a valid permit because, among other things, Mr. Lewis was given inaccurate information based upon which he made an incorrect decision. USF's actual uses of the property exceeded that allowed by

UNLESS RECEIVED FOR FILING
Date 12/29/14
By

[3] USF is not changing the molecular structure of fluids or creating new products, but merely separating products already in existence.

Section 256.1: It was not just storing used oil, but it also stored other non-flammable liquids and employed processes including a bio-filter and a boiler which emitted toxic air pollutants, neither of which was disclosed to the County in the verification request. The principal and intense use proposed therefore is the physical separation and recycling of liquid and oils with the storage of the inflammable liquids and gases aboveground an accessory use to the recycling pursuits.

Addressing the second prong ("substantial construction") of the vesting inquiry, *Prince George's County v. Sunrise Development Limited Partnership*, 330 Md. 297, 312 (1993), holds that the key is whether the "neighborhood ... [learns] that the land is being devoted to that use." Substantial construction on the property must communicate the message that the landowner has begun to build and has committed itself to the use of the land based on the permission granted. I find that there was no requisite substantial construction to put the neighborhood on notice of the use to which the property would be devoted.

Regrettably for the Petitioner, its expenditure of large sums of money does not equate to "substantial construction" sufficient to place the community on notice of the intended use of the property. Simply put, other than its storage of certain tanks inside the security fence, no other construction activities took place on the exterior of the warehouse building, as revealed by the photographs submitted at the hearing. *See,* Protestant's Exhibit 10A-D. Thus, Petitioner has failed to satisfy either prong of the vested rights doctrine, and it must therefore comply with Bill 98-04.

One additional point need be made. *Marzullo's* holding - - that an applicant proceeds at its own risk in accepting a government employee's interpretation of a zoning statute - - is premised upon the "firmly established" rule whereby a party dealing with a County is charged with knowledge of the limits on the power of any particular employee. *Inlet Assoc. v. Assateague House Condo. Ass'n*, 313 Md. 413, 437 (1988). As noted by the Court of Appeals, a party may not invoke the doctrine of estoppel simply because "it relie[d] upon erroneous official advice to its detriment." *Id.*

In the case at bar, I find that Mr. Lewis was not authorized by any County charter, law or regulation to issue a binding interpretation of a zoning regulation. That task is assigned to the

ORDER RECEIVED FOR FILING
Date 12/29/04
By

Office of the Zoning Commissioner, which is charged with issuing rulings concerning the "proper interpretation" of the zoning regulations. (See Section 500.6 of the B.C.Z.R.) In addition, I have been unable to locate any law, rule or regulation (and the parties have directed me to none) that authorizes, even mentions, the zoning verification procedure. While I certainly understand the emphasis USF places on Mr. Lewis' May 13, 2004 letter, I find, as a matter of law, that it was beyond the scope of his "actual authority," and cannot bind Baltimore County or serve as the predicate for vested rights.

Although not mentioned in either party's post-hearing briefs, the recent holding in *Powell v. Calvert County*, 368 Md. 400 (2002), is also instructive with respect to the vested rights issue. Therein, the Court held that "a vested right does not come into being until the completion of any litigation involving the zoning ordinance from which the vested right is claimed to have originated." *Id.* at 412. *Powell* emphasized that those who proceed with a project whose validity is being litigated do so "at their own risk." *Id.* at 410. In the case before me, it is obvious that there is ongoing litigation challenging the propriety of permits issued by the County, and as such, the Petitioner never acquired vested rights.

Thus, pursuant to Bill 98-04 (Petitioner's Exhibit 6), which changed Section 256.4 of the B.C.Z.R. to include as an oil refining facility, "any facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled, if located at least 1000 feet from any residential zone..," the Petitioner must now comply with the special exception requirements set forth in Section 502.1 of the B.C.Z.R., proving again the comment of Judge Pollitt of the Court of Special Appeals that "the government can legislate faster than the Petitioner can litigate." (*Enviro-Gro Technologies, et al v. Bockelmann*, 88 Md. App., 323, 342 (1991).

Therefore, under these circumstances, I am compelled to deny the relief sought under the Petition for Special Hearing.

Turning next to the Petitions for Special Exception and Variance, special exception uses are uses not permitted as of right and are regulated in the B.C.Z.R. under Section 502.1 thereof. Due to the importance of that Section, it will be recited here:

ORDER RECEIVED FOR FILING
Date 12/29/04
By BJC

"Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A) be detrimental to the health, safety or general welfare of the locality involved;

B) tend to create congestion in roads, streets or alleys therein;

C) create a potential hazard from fire, panic or other danger;

D) tend to overcrowd land and cause undue concentration of population;

E) interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

F) interfere with adequate light and air (Bill No. 45-1982);

G) be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these zoning regulations (Bill No. 45-1982);

H) be inconsistent with the impermeable surface and vegetative retention provisions of these zoning regulations; nor (Bill No. 45-1982)

I) be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone (Bill No. 74-2000)."

The highest courts of this State have reviewed the treatment of proposed special exception and conditional uses by various local zoning boards and commissions. The seminal case regarding special exceptions is *Shultz v. Pritts*, 291 Md. 1 432 A2d 1319 (1981). In that case, the Court noted that a special exception use is part of the comprehensive zoning plan and thus, shares the legal presumption that it is in the interest of the general welfare and therefore valid. The Court noted that a special exception use is a valid zoning mechanism that delegates to an administrative board or body a limited authority to allow certain enumerated uses which the legislature (in this case, the Baltimore County Council) has determined to be permissible, absent any facts or circumstances which negate that presumption.

The Court further noted that the applicant for a proposed special exception use does

ORDER RECEIVED FOR FILING
Date 12/23/14
By

not have the burden of establishing affirmatively that the proposal would be of benefit to the community. Moreover, the test is not whether another use is more preferable or whether the property could be used for a higher or better purpose. Rather, the test to be considered by the local administrative body is 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 purposes and intent of the underlying zoning scheme.

The Court of Appeals of Maryland further explained the special exception test in *Mossberg v. Montgomery Co.*, 329 Md. 494, 620 A2d 886 (1993). In that case, an applicant sought approval for a solid waste transfer station in Montgomery County. That use was a conditional/ special exception use under the relevant Montgomery County ordinance. In its written opinion, the Court noted that there were certain inherent negative uses associated with any solid waste transfer station. For example, such a station would be expected to produce traffic, noise, dust, etc. Moreover, it could be presumed that such impacts would negatively affect surrounding properties. However, although such presumptions are valid, the Court emphasized that the existence of these impacts did not provide a sufficient basis for the local administrative body to deny the Petition for Special Exception. Instead, the Court reasoned that the local body must show that those impacts are greater at the subject location than would normally be associated with such use. That is, the criteria is not whether the proposed use carries with it adverse impacts (such adverse impacts are assumed in the first instance by designating the use a special exception rather than by right). Rather, the test is whether that impact at the subject property will produce effects above and beyond those normally inherent with such a use if located anywhere else within the same zoning district. Therefore, in considering the present application, it is not enough to simply conclude the proposed oil recycling operation will produce noise, toxic wastes, wetland concerns, fire risk, vapors and traffic that could adversely affect the neighborhood. It most certainly will and such an effect is inherent in any industrial or heavy manufacturing use. The real test is whether those impacts listed above will impact at this location above and beyond such impact if proposed elsewhere in the M.H.-I.M. zone.

UNDER REVIEW FOR FILING
Date 12/29/04
By

POSITION OF THE PETITIONER

Testimony and evidence was offered describing the subject property and proposed use under the Petitions for Special Exception and Variance on behalf of USF by Vincent Glorioso, Timothy Ford, Douglas G. Smith, and Jesse M. Lindsey, the engineer who prepared the site plan. At the hearing on November 12, 2004, Mr. Ford qualified as an expert in environmental health and safety issues as they relate to oil recovery facilities. Prior to his employment with USF, he served as Director of the Environmental Permits Division with the MDE and worked with Federal and State laws as they relate to oil recovery facilities in Maryland. Mr. Ford described the safety features of the subject property, the truck traffic pattern from I-695 to Fisher Road to access the site, all through M.H. zoned property, and other M.H. uses in the area. He also provided a detailed description of how delivery trucks go through treatment tests before unloading to the 30 outside storage tanks located at the platform, how oils are separated, and which oils go inside for processing. He further described how the diesel fuel-fired boiler system generates steam for the "heat exchanger," which heats the oil to 125 to 150 degrees, why sulfuric acid and polymers are added to separate the emulsified oil from water and sediment, and how wastewater and solids are treated and disposed. While recycling operations will be continuous (24 hours a day, 5 days a week), truck traffic and related activity will take place between 7:00 AM and 5:00 PM, Monday through Friday. Mr. Ford denied any refining, distillation or cracking activity at the site, and testified that chemicals were only used to separate oil from water. He discussed vapor and spill prevention counter measure plans, volatile organic compounds, and toxic emission control devices, which are closely regulated by governmental authorities. He concluded that the proposed operation would not be detrimental to the natural resources in the area nor to the health of local residents (those in the D.R.3.5 zone, which is located 438 feet from the oil treatment process area), that the truck traffic would not create congestion on the roads, and that all processing facility standards as well as special exception criteria had been met. He discussed the impact of the new legislation (Bill No. 98-04), particularly the newly required 1,000-foot setback, and its attendant adverse effects, including the financial difficulty and hardships endured by USF.

ORDER RECEIVED FOR FILING
Date 12/29/04
By

Under cross-examination, Mr. Ford explained that many of the risk-based management plans he alluded to for this site had not been completed as the project was in a standstill mode, but would be written after construction. Some of the challenges in this regard were attributed to the tank inspections per A.P.I. 653 and the required N.S.P.A. certifications of the some 30 tanks to be placed at this facility; spill prevention and counter-measure plans which need to be written and certified by a third party engineer; secondary spill prevention counter containment plans for the tanker trucks located at the facility; and an emergency evacuation plan in the event of a fire vapor or spill disaster for those residents who live near the property line.

In response to Protestants' toxic air pollutant concerns, including carcinogenics (benzene, toluene, and ethyl-benzene, etc.) which would emanate from the bio-filter and boiler located in the treatment process area, USF produced Douglas G. Smith an environmental health expert in the field of airborne toxins. Mr. Smith's resume and educational experience is marked as Petitioner's Exhibit 12, his summary of findings Exhibit 13. He testified as to his evaluation process, the national standards for carcinogenics, and opined that the toxic exposure impact resulting from USF's boiler and bio-filter sources was inconsequential when measured at a distance of 332 feet. It would even be less of a concern at 440 feet or at the residential property line north of the facility. I find Mr. Smith's analysis to be thorough and credible. It was apparently during the air permit process that a public meeting took place between USF, neighboring residents, Senator Stone and the Wells-McComas Community Association, which is believed to be the triggering source of the John Lewis' letter of July 26, 2004, marked as Petitioner's Exhibit 4.

Next, the testimony of Jesse E. Lindsey was produced. Mr. Lindsey is a recognized land planning and development expert with the civil engineering firm of Whitney, Bailey, Cox and Magnani, who prepared the site plan. He testified as to his background in industrial manufacturing uses, the unusual shape of the subject property, and the uniqueness of this site being designated as M.H.-I.M., which represents the most intense and intrusive of all manufacturing uses abutting a residential zone without the usual buffer(s) between the two. This has created a more desperate reason for variance relief and created practical difficulty in complying with Bill No. 98-04 and the

ORDER RECEIVED FOR FILING
Date 12/29/04
By

increased setback to 1,000 feet that would encompass the entire property. Mr. Lindsey testified that USF's selection of the subject site was proper as it had minimal impact on neighboring properties, including residentially zoned property, due to the existing 150-foot tree buffer along the north border of the site, and that truck traffic and truck emissions would be minimal. He compared specific uses allowed with only a 300-foot setback, such as bituminous concrete mixing plants, a landfill, a foundry, steam power plant, etc., as typically more intrusive with regard to emissions, impervious cover, truck traffic, and outside storage requirements than the use proposed here by USF. He opined that the granting of the requested variance would be in harmony with the spirit and intent of the zoning regulations.

As to the special exception requirements, Mr. Lindsey further opined that the proposed operation would not create a potential hazard for fire due to the secondary containment of liquids, spill prevention plans, fire hydrants and existing water tank on the premises. Furthermore, it would not overcrowd the area; interfere with schools or parks, or water and sewer facilities, or transportation or cause undue congestion on existing roads as trucks and employee traffic from the plant had been proscribed to avoid all the residential side streets. In short, he believes the operation at the subject site would have minimal impact on neighboring properties and would be consistent with the spirit and intent of the M.H. zoning classification.

Mr. Lindsey next discussed environmental issues and testified that the proposed development is mostly occurring on impermeable surfaces. He identified a stream at the northeast corner of the site, and wetlands on the southeast side of the warehouse near the proposed tank farm, which connects to an existing storm water management pond. He opined that there would be no impact as any discharge that would be going in the direction of the stream would be treated and approved under the storm water management permit issued by the County.

On cross-examination, Mr. Lindsey could not explain how a spill prevention containment plan could handle or prevent spills from happening, or how USF will handle an emergency if there would be a fire, leak or discharge of materials into the soil. With respect to the more intrusive uses Mr. Lindsey had identified as being allowed with a 300-foot setback

ORDER RECEIVED FOR FILING
Date 12/29/14
By

(bituminous concrete mixing plant, landfill...), he admitted that none identified involved the storage of tens of thousands of gallons of combustible fuels. Mr. Lindsey was questioned concerning the uniqueness of the USF site being positioned next to a residential zone and upon being asked to further review Petitioner's Exhibit 17, he admitted that there were other M.L./D.R.5.5 zones in evidence on the exhibit.

In this regard, it is to be noted that the Zoning Advisory Committee (ZAC) comment submitted by the Office of Planning recommended a denial of the requested variance. Within that comment, they opined that the proposed use is incompatible with the adjacent residential uses and further shared the concern raised by residents regarding pollutants adversely affecting the Chesapeake Bay and surrounding environment. When questioned as to whether Mr. Lindsey had attempted to address the comment by Planning, he replied that "There was nothing that we could address as engineers."

Mr. Vincent Glorioso next appeared and testified. His resume of experience and qualifications was submitted into evidence and marked as Petitioner's Exhibit 20. Mr. Glorioso is USF's business unit manager for the eastern region of the U.S., with 28 years experience in oil recovery. He is the company executive most responsible for the entire operation, from collection through sales and ultimately for the safe and environmentally compliant operations of all treatment facilities, all collection vehicles, and all related employees and equipment. His testimony corroborated and supplemented that previously given by Messrs. Ford, Smith and Lindsey. I found Mr. Glorioso to be candid and succinct, and will not narrate his testimony here as it is cumulative in nature. Suffice it to say he is convinced that USF's operation at the subject site would have no adverse effects, harm or disturb neighboring residential properties and that the facility can be operated just as safely at a 438-foot setback as it would at the 1,000-foot setback now required. He outlined in detail the exceptional circumstances in this particular case and noted that there was no reasonable possibility of developing the site in strict compliance with the newly enacted Council Bill No. 98-04. Mr. Glorioso argued that the grant of the requested variance is necessary to enable USF to continue with the development of this site and to avoid further practical difficulty and

RECEIVED FOR FILING
Date 12/29/04
By

unnecessary hardship. USF has spent over $1,100,000 to date in site improvements, incurred another $1,700,000 in leasing obligations, and continues to incur operating hardships on a weekly basis in have to maintain its customers by collecting and transporting fluids to Delaware, western Maryland or Alexandria, Virginia.

On cross-examination, the Protestants' Counsel inquired as to whether USF could generate revenues solely by storing and transporting the collected fluids without the recycling operation. Mr. Glorioso's answer: "No Sir."

POSITION OF THE PROTESTANTS

The previously identified Protestants and neighbors from the community who were present during the three-day hearing raised a variety of concerns. These included, but were not limited to, traffic congestion and truck noise, toxic waste exposure, boiler stack emissions, environmental pollution if a spill or tank rupture occurs, fire and explosion risks, and sulfuric acid and vapor releases into the air. The testimony and evidence offered can best be summarized as follows: Mr. Ross B. Cole, a Norfolk-Southern retired train engineer, has resided in Phase 3 of Briarwood Estates within 1,000 feet of the proposed USF site since 1990. He testified that in his 27 years with Norfolk-Southern, he operated trains over the "Wise Avenue Branch" which runs next to the Briarwood Estates community. A portion of those tracks can be seen on Petitioner's Exhibit 7. Trains carrying as many as 60 cars travel east/west, crossing Trappe, Rosebank, Bletzer and Beachwood Roads. He testified that Bletzer Road is the only ingress/egress into Phase 3 of Briarwood Estates, which consists of 33 homes. He opined that should a train block this road, as they have in the past, and an emergency arises at the USF plant necessitating an evacuation, the potential exists for Briarwood Estates' residents to be trapped with no way for emergency vehicles to get in or out of the community. Mr. Cole's secondary concern is truck traffic. Mr. Cole took photographs and prepared a map of roads, which were marked into evidence as Protestant's Exhibits 3, 4 and 5. He testified that during heavy rain, the truck route previously described by Mr. Ford (North Point Boulevard to Beachwood Road to Faust Road to Fisher Road), was susceptible to flooding. He indicated that when these roads are closed, trucks must turn around and obtain

ORDER RECEIVED FOR FILING
Date 12/29/04
By

access to the plant by using Beachwood Road, which runs through the community.

On cross-examination, Mr. Shaughnessy inquired as to whether Mr. Cole and the other residents of Phase 3 couldn't use the "back door" or emergency access road, (identified on Petitioner's Exhibit 7 as *wood retaining walls*) which was required to be provided by Briarwood Estates during their development approval process. His only reply was the questionable integrity of the unimproved emergency road and the locked security gate surrounding the subject site.

Counsel then presented Fred Thiess, who resides on Beachwood Road and is the President of the Wells-McComas Citizens Improvement Association, which is composed of 542 members. The USF site sits in the center of the Wells-McComas community boundary. Mr. Thiess also served as an advisory panel member and worked on the drafting of the Wells-McComas Community Conservation Plan prepared by the County's Office of Planning and adopted by the Baltimore County Council as part of the County's Master Plan 2010 on February 22, 2000 (Resolution No. 22-02). The Plan and Resolution, a copy of which were submitted into evidence and marked as Protestant's Exhibit 6, is focused on the relationship between the manufacturing businesses and residents of the Wells-McComas community. The Wells-McComas community association invited USF to give a presentation at one of their meetings, and later the community unanimously voted to oppose the USF project. The Association contends that an oil recycling plant at the subject location would be a commercial intrusion and not compatible with the goals of the community. The Association prides itself with turning around this area of the County and improving the quality of life of its residents. Thiess testified that Briarwood Estates is a refuge for senior citizens and that located within 1½ miles of the USF project there is a day care facility, an elementary school, a recreation center and two churches (see Protestant's Exhibits 7, 8 and 9). He discussed the building of 600 high-end homes on Morris Lane and Lynhurst Road within 1½ miles of the 8200 Fischer Road location. On behalf of the community association and himself, Mr. Thiess then discussed the anticipated risks attendant with the increased truck traffic in this area, which has no sidewalk, odors, increased stress on Back River, and the potential for fire. He joined Mr. Cole in presenting a worst case scenario for Briarwood Estates Phase 3 residents should

ORDER RECEIVED FOR FILING
Date 12/29/14
By

disaster strike and Bletzer Road be blocked. He testified that there was no way that heavy fire-fighting trucks could access the residential properties via the emergency access road which crosses a stream and wetland areas, and that the closest fire department was over 5 miles away.

On cross-examination, Mr. Thiess admitted that the truck route described by Messrs. Ford and Glorioso did not pass any of the identified community facilities (i.e., the day care center, elementary school, recreation center, or churches). Further, that it would only be in the event of flooding that trucks might be diverted due to road closures to New Battle Grove Road thereby passing by these facilities. Mr. Thiess conceded that one of the goals of the Association was to have all manufacturing leave their community and be replaced with upscale homes. When asked why he on behalf of the Association turned down USF's invitation to visit a similar facility and to address the concerns of the community, Mr. Thiess indicated that he had been down that road before with other industrial users who did not keep their commitments to the community.

Ms. Jean Romadka, a principal in the Forward Development Company, LLP, manages the manufactured home community of Briarwood Estates (Forward owns the ground, the residents own the improvements), consisting of 207 homes. When Forward acquired the Phase 3 property, which adjoins Fischer Road, they were required to provide emergency access into this Section of Briarwood Estates through the industrial owned property to the south. This was a requirement because the County was concerned that the only means of access to the community was over the railroad tracks on Bletzer Road. Ms. Romadka testified that she obtained this emergency access, made the road improvements as required, and turned it over to the Fire Department. She can no longer assure that its condition will provide sufficient access out of the community for all residents if there was a major emergency. Submitted into evidence as Protestant's Exhibit 10E is an aerial photograph showing the emergency access road located between the subject USF site and the Briarwood Estates community. Ms. Romadka is concerned that in the event of a fire or explosion mishap at the USF facility, responding emergency vehicles en route to Phase 3 of Briarwood Estates would have difficulty maneuvering through an already congested area inundated with other hazmat, fire department, police and other emergency response units with all the equipment they

ORDER RECEIVED FOR FILING
Date 12/29/04
By

bring. She is opposed to the USF project at the subject location and hired a company to take aerial photographs (marked as Protestant's Exhibits 10A through 10E) of the site and surrounding road system. Her concerns as owner and manager of Briarwood Estates adds to those previously identified; i.e., the cumulative effects of air emissions on an aging and in poor health population, odors and potential adverse effects on property values. She admitted that despite the odor problems emanating from American Yeast, one of the areas largest contributors in terms of odor, property values continue to rise. At best, Ms. Romadka remains skeptical as to the bio-filter's ability to remove odors and Dr. Smith's testimony that toxic air concerns are miniscule.

Guido Guarnaccia, Karenlee Tully, and Nancy Donahue, residents of the community, appeared and raised a number of issues. The primary area of their concern relates to USF's safe operation of its plant (toxic fume emissions, fire and explosion hazards). Ms. Donahue testified that her home is located closest to the proposed USF site and that she is in poor health, suffering from among other things, a history of lung cancer and asthma bronchitis. She wanted to point out that the property at the proposed USF site slopes down as it approaches the residential community and that any spill or liquids if ignited would naturally travel downhill towards her home.

Ms. Tully, who lives further from the site in Dundalk and is a member of the Wells-McComas Citizens Improvement Association, wanted everyone to understand what she went through before moving to this area when she was a resident of Wagner's Point. That community, like Briarwood Estates, only had one way in and one way out and when a tank explosion occurred, chaos ensued.

Mr. Guarnaccia, an active Wells-McComas Citizens Improvement Association member, thinks it is insane to have the number of proposed aboveground flammable tanks located 438 feet from the Briarwood community. He spent a great deal of time investigating public records at MDE but due to Mr. Shaughnessy's objections, was not allowed to give testimony concerning prior incidents at Sparrows Point. However, he noted an incident that occurred in August 1996. Although there were no personal injuries to on-site personnel, that incident involved the release of a vapor cloud in the Bethlehem Steel area. A copy of the report on that incident was

ORDER RECEIVED FOR FILING
Date 12/29/04
By

submitted into evidence as Protestant's Exhibit 11. Mr. Guarnacci had also obtained information and wanted it known that American Yeast Company, which is located 620 feet away from the proposed USF site, stores thousands of gallons of ammonia nitrate on its property and he thought this was also an unsafe situation.

The Wells-McComas Citizens Improvement Association retained Dr. John Cignatti, a Civil-Environmental Professional Engineer and President of Data Net Engineering, to review the project proposed by USF at the subject site and identify the risks involved and offer an opinion as to whether those risks were managed properly. Dr. John Cignatti was accepted as an expert in the field of environmental energy and safety standards applicable to waste oil facilities, such as USF (see Dr. Cignatti's curriculum vitae, a copy of which was entered into evidence as Protestant's Exhibit 12). He identified four general risks to the local environment as fire, explosion, environmental contamination, and air quality. As to the first risk (fire), he believes that the community's risk is slightly elevated as Phase 3 of Briarwood Estates is downhill from the proposed facility. There is a 10-foot elevation drop from the tank farm at elevation 22 to an elevation of 12 in the space of 70 to 80 feet where the stream pattern lies and where the residents in Phase 3 live (see Protestant's Exhibit 13, Drawing C1). Dr. Cignatti's concern from fire risk is the potential of fire on this site as well as fire being conveyed away by virtue of a surface spill. As to the risks of explosion, environmental contamination and air quality, Dr. Cignatti's testimony was based on speculation and the need for more complete construction drawings and therefore not sufficient to sustain opinions in these areas. In this regard, Protestants' Exhibit 13 was a draft plan for construction and not the finalized plan to be implemented. Dr. Cignatti, who manages environmental projects, including site assessments, is however, of the opinion that the environmentally mandated spill prevention counter-measure and contingency plans mandate completion before construction as opposed to following completion of the construction.

Alfred W. Barry, III, whose professional background was outlined and submitted into evidence and marked as Protestant's Exhibit 14, is a recognized land-planning consultant with AB Associates. Mr. Barry was called on behalf of the Wells-McComas Citizens Improvement

ORDER RECEIVED FOR FILING
Date 12/29/04
By

Association to render an expert opinion in opposition to the Petitioner's request for Special Exception and Variance relief. Following a thorough review of materials, zoning maps, site visits, interviews with residents and planning department representatives, Mr. Barry noted that in 1992 the rear portion of Phase 3 of the Briarwood Estates property was rezoned from an industrial (M.H.-I.M.) to residential (D.R.3.5) classification (see Protestant's Exhibit 16). Thus, this area is not becoming more industrial; it is becoming more residential in keeping with the Wells-McComas plan adopted by the County. Since the USF project is within the Wells-McComas plan, from a planning perspective, one should strictly interpret the zoning code to reinforce this trend rather than reversing it. Mr. Barry opined that the adverse effects of the proposed use would be greater at this location than they would at some other location within the zone due to the close proximity of the adjacent residential community. He indicated that Briarwood Estates has a large concentration of elderly people with limited access so if there were to be an emergency, one would have to look at their ability to escape and we already know that one of the fire access points actually goes through the subject site. Thus, you have a situation where if there is a fire at this site, or some other environmental hazard occurs, one would have to go through this site to get out if Bletzer Road is blocked. Finally, he rejected USF's claim that the subject property is "unique" as there are several locations in the area where the M.H. and D.R. zones adjoin each other without buffers separating the two.

CONCLUSION

This is not a simple case. For decades, USF has been a valued corporate citizen in Baltimore County. Despite the company's best efforts to find a new home suitable for its industrial operations, it has been unable to do so. The residential neighborhood that borders on the subject property fears the potential impact of this corporate neighbor and County officials have seemingly reversed their position and now opine that the subject location is unsuitable. Yet, USF and its Counsel eagerly await with anticipation my decision on the relief they have requested and so desperately need in order to proceed. Notwithstanding the testimony and evidence offered by

ORDER RECEIVED FOR FILING
Date 12/29/14
By

USF, I must reluctantly conclude that their proof comes up short, both figuratively and literally (by 572 feet). I explain.

As discussed herein above, I find that USF's operation is not vested under law. Despite the company's securing of the zoning verification letter from DPDM and their expenditure of substantial sums for infrastructure construction, I find that the Petitioner need obtain Special Exception and Variance relief in order to lawfully operate upon the subject property. The Petition for Special Hearing, as it seeks approval to continue operations as a vested land use under law, must be denied.

Having reached that result, attention is next turned to the Petitions for Special Exception and Variance. First, an analysis of the requested variance is necessary. In this regard, it is to be noted that variance relief is necessary no matter how the use is identified under the B.C.Z.R. Clearly, USF's operation entails more than merely the "storage of inflammable liquids...above-ground" as was represented to Mr. Lewis. Instead its' proposed oil recycling operation is more properly characterized as an "other industrial or manufacturing use", pursuant to Section 256.3 of the B.C.Z.R., and thus requires a minimum setback from a residential zone of 1,000 feet. It is further to be emphasized that this 1,000 foot setback is likewise required for an "Oil refinery, including any facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled," as set forth in Council Bill No. 98-04. That is, either as an "other industrial or manufacturing use" or under the requirements of Council Bill 98-04, the applicant is required to maintain a 1,000 foot setback. Therefore, if the Petition for Variance fails, then the entire application fails and under these circumstances, the presumption that a special exception or conditional use is permitted must fall by the wayside.

In order for variance relief to be granted, the Petitioner must satisfy the requirements of Section 307.1 of the BCZR, as has been construed by the appellate courts of this State (See e.g, *Cromwell vs. Ward*, 102 Md. App. 691 (1995). In essence, those requirements are threefold, namely, that the Petitioner must first demonstrate that the subject property is unique; second, that a denial of the requested relief will result in practical difficulty and, third, that the variance can be

ORDER RECEIVED FOR FILING
Date 12/29/04
By

granted without causing adverse impact upon the surrounding locale. It is this third prong which is relevant here, in that it imposes a similar burden as setout in Section 502.1 of the B.C.Z.R. for special exception relief.

USF argues, and its witnesses advocate, that the proposed operation, with its less than required 1,000-foot buffer will not adversely affect adjacent residential properties, and would, in fact, not even be noticed by the public. They assert that a denial of the requested relief will result in a practical difficulty and unreasonable hardship, given the time, money and energy expended thus far in improving the subject property for their use. They believe that the use proposed will not adversely impact adjacent uses and that they have met the criteria for special exception and variance relief as set forth in Sections 502.1 and 307.1 of the BCZR, respectively.

The undersigned is required to focus upon the evidence produced by the parties and their witnesses, the conditions the legislative body attaches to the granting of a conditional use, and evaluate the impacts of the proposed use and how they particularly affect the locale involved. The undersigned has reviewed the proposal in that light and I find that the special exception request specifically fails to meet the tests set out in Sections 502.1 A and C and will, in fact cause an averse impact upon the surrounding locale. There are several factors which justify this conclusion. First, the Protestants' concerns regarding increased truck traffic, the potential for blocked access by emergency vehicles, the cumulative effect of air emissions discharged from the boiler, odors and environmental contamination should a spill or leak occur, etc. are compelling factors. Clearly, the proposed use here is more detrimental to the health, safety and general welfare of this locale than what might otherwise be anticipated due to the close proximity of the adjacent residential neighborhood. Moreover, this neighborhood depends on access through the subject property should an emergency arise and regular access routes are blocked. Thus, the proposed use represents a significant threat to the community's safety and general welfare.

Second, the process utilized by USF to recycle oil as described above is clearly not compatible with the immediately adjacent residential community. USF is recycling oils and other products, including mixtures of gasoline and water and jet fuel and water by heating them from

ORDER RECEIVED FOR FILING
Date 12/22/14
By

125 to 150 degrees. Are these fluids flammable or combustible? Webster's Dictionary says "yes." Do they create a potential hazard for fire or explosion? They do. Would an ensuing fire or explosion be detrimental to the health, safety or general welfare of the Phase 3 residents of Briarwood Estates? They would. Given this backdrop, albeit a bit of a perfect storm scenario, one can appreciate the concerns of the community.

In sum, I find that the proposed use does not meet the applicable criteria set forth in Section 502.1A and C of the B.C.Z.R., pursuant to *Schultz* and *Mossberg*, infra. Moreover, the requirements of Section 307 of the B.C.Z.R. have not been met. The variance relief requested substantially modifies the specific area standards for the special exception use proposed here and significantly alters the legislative mandate of Council Bill No. 98-04. Moreover, the use proposed is clearly incompatible with the general zoning scheme of this area. In this regard, the Protestants offered the testimony of Mr. Thiess and Mr. Barry and the Zoning Advisory Committee comments submitted by the Office of Planning to address compatibility characteristics of the surrounding area. Briefly, the Wells-McComas plan, adopted by the County Council evidences an improving residential neighborhood and employs that I use a strict standard in reviewing variance requests and not reduce setbacks between industrial uses and residential uses. I realize that the impacts of this decision are particularly severe here, given the practical difficulties and undue hardships imposed upon USF; however, based upon the totality of the testimony and evidence presented, I am compelled to deny the special exception and variance requests.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested must be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of December 2004 that the Petition for Special Hearing seeking a determination that the fluid storage and sale, aboveground, of flammable liquids or gases, the storage and warehousing of such fluids, the laboratory use and a combination of the above uses, with accessory filtering of such fluids, is a use permitted as of right in the M.H. zone and to approve the use of the subject property for the recovery, processing or recycling of oil, or the storage or transfer of oil to

ORDER RECEIVED FOR FILING
Date 12/29/04
By

be recycled, where such facility is not located at least 1,000 feet from a residential zone, but is located 438 feet therefrom, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to approve the use of the subject property for an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled", pursuant to Section 256.4 of the B.C.Z.R., in accordance with Petitioner's Exhibit 7, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 256.3 and 256.4 of the B.C.Z.R. to allow a setback from a residential zone of 438 feet in lieu of the required 1,000 feet applicable to an "other industrial or manufacturing use" in the MH Zone and applicable to "oil refineries, including any facility for the recovery processing or recycling of oil" in the MH zone, be and is hereby DENIED.

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:bjs

ORDER RECEIVED FOR FILING
Date 12/29/04
By

12/10/04

RE: PETITION FOR SPECIAL EXCEPTION **8200 Fischer Road, Baltimore, MD 21224** **20.5 Acres Northside of Fischer Road** **15th Election District,** **7th Councilmanic District**	*	**BEFORE THE** **ZONING COMMISSIONER** **FOR** **BALTIMORE COUNTY**
Legal Owner: Farboil Company **Petitioner:** **US Filter Recovery Services**	*	**Case No. 05-075-SPHXA**
Respondent: **Wells McComas Improvement Association, Inc.**	*	

RECEIVED
DEC 10 2004
ZONING COMMISSIONER

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

MEMORANDUM IN OPPOSITION TO PETITION FOR SPECIAL HEARING/ SPECIAL EXCEPTION

Wells McComas Citizens Improvement Association, Inc., Briarwood Estates, LLP, Nancy Donahue and Russ Coale, Respondents, by C. William Clark and Nolan, Plumhoff & Williams, Chartered, their attorneys, files this Memorandum to address issues as requested by the Zoning Commissioner and say as follows:

STATEMENT OF PERTINENT FACTS

The Petitioner, US Filter Recovery Services, (hereinafter "USF"), requested a zoning use verification letter, on an expedited twenty four (24) hour turnaround basis, from the Baltimore county Department of Permits and Development Management, (hereinafter "PADM"), on May 12, 2004 while in the process of leasing the property in question, 8200 Fisher Road, Baltimore, MD 21224, (hereinafter the "Property"). Its request letter stated that the proposed use of the property would be as "an Oil Recycling Operation. USF will receive mixtures of non-hazardous used oils and waters via truck or rail at the Property and then will separate/filter these fluids for recycling, resale and disposal....the separation/filtering processing area, being a series of tanks, separators and filters [will be] located within a portion of the existing warehouse building." *Petitioner's Exhibit 1*, pg. 2. The following day, MAY March 13, 2004, PADM responded with its zoning determination that

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

"[t]he uses as described are permitted in the MH zoning which...is the zoning on site." (Emphasis added) *Petitioner's Exhibit 2*, pg. 1. Of the conditions placed on zoning verification, condition number two (2) stated that "No refining of the subject substances is permitted on site." On April 30, 2004, PADM issued a building permit to Petitioner allowing the construction (interior) for foundations for above ground tanks. *Petitioner's Exhibit 3A* On May 20, 2004, PADM issued a building permit for interior alterations. *Petitioner's Exhibit 3B* . On June 23, 2004, PADM issued a permit allowing installation of 1200 electric service. *Petitioner's Exhibit 3C.* On July 14, 2004, PADM issued a Sewage disposal permit. *Petitioner's Exhibit 3D. Id.* At some point between March 13, 2004 and July 26, 2004 PADM received a copy of the Maryland Department of the Environment, (hereinafter, "MDE"), Draft Permit to Construct Conditions submitted by USF that requested permission to use a "boiler fired with natural gas and no. 2 fuel oil and rate at less than 10 MMBtu/hr heat input." The information provided to MDE also included information that the Petitioner's process expected to release toxic air pollutants (regulated by MDE) and other emissions, as well as the number of, and description of, the tanks to be used in the process including: over 24,000 gallons of acid settle tanks, 3000 gallons of sulfuric acid storage, a 12085 gallon tank for acid treatment, two 30,000 gallon tanks for used antifreeze, and oil storage, seven 30,000 gallon tanks for used oil storage and six 20,000 gallon demulsify settle tanks for used oil. None of this information was provided in the May 12, 2004 letter to PADM. *Petitioner's Exhibit 9.* The proposed facility would use heat and chemicals to break emissions, adjust pH, and precipitate and feocculate particulates. Pet Exh. 10 (p2). Based on this new information, PADM sent USF a letter dated July 26, 2004 that revised the zoning determination dated March 13, 2004 according to "section 256.4 BCZR, the use is that of an oil refinery, which requires a zoning special exception public hearing to be permitted in the MH zone." *Petitioner's Exhibit 4*, pg. 2. On July 27, 2004, Petitioner applied for a permit to install the water treatment tanks. *Petitioner Exhibit 3E.*

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

On October 7, 2004, the County Council enacted Bill 98-04 which establishes oil recycling as use for which one must obtain a special exception in the MH zone.

ARGUMENT

A. WHAT IS THE EFFECT OF A ZONING VERIFICATION LETTER ON A PERMIT ISSUED IF NOT ALL PERTINENT FACTS ARE GIVEN TO THE ISSUING AGENCY?

Protestants acknowledge that PADM has for years issued zoning verification letters upon a written request and the payment of a fee. Protestants cannot find a Statute or regulation enacted by the County Council authorizing or regulating that practice. PADM clearly has authority to issue building permits. In the present case, it appears that PADM issued building permits, upon applications by the Petitioner, but following a zoning verification determination by PADM that the MH zone allowed Petitioner's proposed use as a matter of right. Protestant contends that PADM issued the Building permits erroneously.

In this case, USF failed to supply the issuing administrative agency with all pertinent facts to predicate a "substantial compliance with the requirements of an administrative regulation in making an application for a permit." *Heath v. Mayor & City Council of Baltimore*, 187 Md. 296, 299 (Md. 1946). The following is an excerpt from the Baltimore County Code 2003 §35-2-302 *Building Permits*:

> (b) Application form.
> (1) The Building Engineer shall provide permit application forms that require the information that the Building Engineer determines is necessary, including:
> (i) The plans and specifications showing the nature and character of the work to be done; and...
>
> (2) Except as provided in paragraph (3) of this subsection, the Building Engineer may not consider or issue a permit unless all of the information required by the Building Engineer is supplied...
>
> (d) Written explanation required. The Building Engineer:
> (1) May deny, revoke, suspend, annul, or modify a permit; and
> (2) Shall certify in writing to the permit applicant the reasons for a denial, revocation, suspension, annulment, or modification of a permit.

The Court of Appeals discussed the validity of a mistakenly issued permit as follows:

> If the provision of the ordinance be constitutional, it was therefore unlawful for the officers and agents of the municipality to grant the permit, and it would be unlawful for the licensee to do what the purporting permit apparently sanctioned. A permit thus issued without the official power to grant does not...prevent the permit from being unlawful nor from being denounced by the municipality because of its illegality...the municipality was...[acting] in the discharge of a governmental function through its public officers of limited authority, and the doctrine of equitable estoppel cannot be here invoked to defeat the municipality in the enforcement of its ordinances because of an error or mistake committed by one of its officers or agents which has been relied on by the third party to his detriment. Every one dealing with the officers and agents of a municipality is charged with knowledge of the nature of their duties and the extent of their powers, and therefore such a person cannot be considered to have been deceived or misled by their acts when done without legal authority. *Lipsitz v. Parr*, 164 Md. 222, 227-8 (Md. 1933).

Accordingly, a permit issued by mistake – or without all pertinent facts and details to show the true "nature and character" of the use as required by the application to the issuing agency – is subject to the issuing agency's right and responsibility to invalidate or revoke a permit that has been issued, pursuant to the Baltimore County Code 2003 §35-2-302(b) & (d) as referenced above. Because USF failed to fully advise PADM of the true nature and character of its intended use for the Property, USF caused PADM to mistakenly issue a permit based on an incorrect, as a matter of law, zoning determination letter. Thus PADM issued the permit in contravention of valid zoning regulations thereby making any reliance by USF on said permit merely a calculated risk on their part. Additionally, USF cannot successfully attack PADM's decision to rescind the verification letter in that the Court of Appeals held, additionally, that "even in those cases wherein the property owner has sought injunctive relief predicated on his acquisition of a vested right in the building permit, which has later been revoked or the work stopped through the intervention of municipal authorities because of a change in zoning or mistake in issuance of the permit, the Court has been reluctant to allow relief even where substantial sums have been spent on architectural fees and site preparation." *Carey v. Baltimore County*, 262 Md. 491, 497 (Md. 1971).

B. WHAT IS THE EFFECT IF A ZONING USE VERIFICATION LETTER IS WRONG AS A MATTER OF LAW?

Protestants contend that a determination or ruling issued by an administrative agency may be revoked or invalidated if premised on mistake or error because "the Administrator is not empowered to change or ignore the county zoning law, and if his conclusion that the proposed use is permitted as of right is incorrect, there must be the ability on the part of interested and aggrieved persons to challenge it when the error is discovered." *United Parcel Service v. People's Counsel for Baltimore County*, 93 Md. App. 59, 81 (Md.App. 1992). The general rule for appellate review of zoning decisions is that "the order of a county zoning authority 'must be upheld on review if it is not premised upon an error of law...' " *Umerley v. People's Counsel of Baltimore County*, 108 Md. App. 497, 503 (Md.App. 1996). Also in the *UPS* case, the Court of Special Appeals quoted Judge Murphy in that " 'There can be no dispute about the operative facts of this case. Whether UPS is operating a 'trucking facility' presents a purely legal question.' " *UPS*, 93 Md. App. 59 at 67. In this case, the zoning use determination letter issued on March 13, 2004 by PADM was based on an erroneous conclusion of law that USF's use of the property was "recycling", and not "refining". When fully apprised of the facts, PADM rescinded the zoning determination on July 26. In the interim period, however, PADM was mistaken, as a matter of law, thereby preventing the zoning authority from issuing a valid legal determination letter *as of right* for this property because "[m]istaken interpretation of law, however honestly arrived at, are held not to be within the exercise of sound administrative discretion and the legislative prerogative, but to be arbitrary and illegal." *Criminal Injuries Compensation Board v. Gould*, 273 Md. 486, 521 (Md. 1975). Accordingly, even though PADM's March 13, 2004 decision that the uses as described by USF's request letter were permitted as of right on the Property, because USF failed to inform PADM: (1) that it would use heat in its their process, (2) emit toxic pollutants and other regulated emissions, and (3) of the size and scope of the recycling process as approved to the

storage of fluids. Therefore, the zoning determination can only be found to be arbitrary and illegal when the true nature of the use is applied to the zoning regulations. Previously, the Court of Special Appeals held that "[w]ithout hesitancy we declare that the...decision of the Board was the product of an erroneous interpretation and application of the zoning ordinance and thus was arbitrary and capricious in a legal sense." *Bd. of Co. Comm'rs v. Racine,* 24 Md. App. 435, 443 (Md.App. 1975). Additionally, "in the absence of bad faith on the part of the remitting official [a contention not made in this matter], applicants for permits involving interpretation accept the afforded interpretation at their risk." *Marzullo v. Kahl,* 366 Md. 158 at 194.

C. DID THE ISSUANCE OF CERTAIN BUILDING PERMITS BY BALTIMORE COUNTY TO THE PETITIONER VEST THE PETITIONERS RIGHT TO USE THE PROPERTY FOR ITS OIL RECYCLING OPERATION?

USF must meet a two pronged test in order to have a vested right in the zoning prior to enactment of Bill 98-04. "The first prong is that there has to be a valid permit." *Marzullo v. Kahl*, 366 Md. 158, 191 (Md. 2001). Protestants agree above no validly issued permit exists. " The second prong is that substantial work has to be performed under the permit so that it would be discernable to a member of the general public that work under the permit is occuring." *Id.* A more in depth review of the second prong of the test shows that there must be:

> public recognition that the law is being observed or enforced. If the public could have seen that construction had started before the zoning change, the public can appreciate that the new law is not being violated. But, if construction, recognizable by the public as such, had not commenced before the change of law, later construction for a use that is no longer permitted is subject to the current zoning, and is in violation of it, so that the public will expect the new law to be enforced...[therefore] the work done must be recognizable, on inspection of the property by a reasonable member of the public, as the commencement of construction of a building for a use permitted under the then current zoning." *Prince George's County v. Sunrise Dev. Lim. Part.*, 330 Md. 297, 314 (Md. 1993).

While USF did obtain a permit to pour internal concrete pads on the Property prior to the new regulation, the testimony of Mr. Ford and Mr. Glorioso demonstrates Petitioner had not done

any construction outside of the existing building on the Property. The aerial photographs admitted as Protestants Exhibits10A-D confirm that. Although interior construction commenced, the property is gated and access is restricted. No view of that constriction is available to the public. Thus no member of the general public could have reasonably appreciated that construction had begun.

In *O'Donnell v. Bassler*, the Court of Appeals dealt with a very similar situation. The rule under which the Court debated this question is that "[a]n appellate court must apply the law in effect at the time a case is decided, provided that its application does not affect intervening vested rights. *County Council for Prince George's County v. Carl M. Freeman Assocs., Inc.*, 281 Md. 70, 76, 376 A.2d 860, 863-64 (1977); *Rockville Fuel & Feed Co. v. City of Gaithersburg*, 266 Md. 117, 127, 291 A.2d 672, 677 (1972)." *O'Donnell v. Bassler*, 289 Md. 501, 508 (Md. 1981). The Court went on to state that "an owner who obtains an invalid permit 'would derive no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss..." *O'Donnell* at 508 quoting *Lipsitz v. Parr*, 164 Md. 222, 227-8 (Md. 1933). Because USF did not acquire a valid permit or zoning use determination letter, failures that can be directly linked to the incorrect and incomplete information USF supplied to PADM, and because USF also fails the second prong of the vesting test since all of its construction occurred where no members of the general public could appreciate the work done. Accordingly, USF does not have any vested rights in the Property. The correct law under which this appeal shall be adjudicated is the current zoning regulation, enacted pursuant to Bill 98-04 and not the previously existing Baltimore County zoning regulations

CONCLUSION

WHEREFORE, the Respondents request that the Zoning Commissioner issue a ruling declaring that the proposed oil recycling use is a "oil refinery" and on these issues, Petitioner must meet the requirements of Bill 98-04.

Respectfully submitted,

C. William Clark
Nolan, Plumhoff & Williams, Chartered
502 Washington Avenue, Suite 700
Towson, MD 21204
(410) 823-7800
Attorneys for Respondent Wells McComas
Citizens Improvement Association, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 10th day of December, 2004, a copy of the foregoing Memorandum in Opposition of Petition for Special Hearing/Special Exception was mailed, first class, postage prepaid, to the following attorneys of record:

William D. Shaughnessy, Jr., Esquire
GORDON, FEINBLATT, ROTHMAN,
HOFFBERGER & HOLLANDER, LLC
The Garrett Building
233 E. Redwood Street
Baltimore, Maryland 21202

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

C. William Clark

THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765
EMAIL: NPW@NOLANPLUMHOFF.COM
WEB SITE: WWW.NOLANPLUMHOFF.COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

RECEIVED
DEC 10 2004
ZONING COMMISSIONER

December 10, 2004

VIA HAND DELIVERY
William J. Wiseman, III
Zoning Commissioner
for Baltimore County
Suite 405, County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Wells McComas Citizens Improvement Association
Case No.: 05-075-SPHA

Dear Mr. Wiseman:

Enclosed herein please find Briarwood Estates, LLP, Nancy Donahue and Russ Coale, the Protestant's Memorandum in Opposition to Petition for Special Hearing /Special Exception to be filed in connection with the above captioned case.

If you have any questions or concerns, please do not hesitate to contact my office. Thank you for anticipated cooperation. Until then, I remain.

Very truly yours,

C. William Clark

CWC/jkc

Enclosures

cc: William R. Evans, Esquire
William D, Shaughnessy, Jr., Esquire
Peter Max Zimmerman, Esquire
Jean Romadka, Wells McComas Citizens Improvement Association
Nancy Donahue
Russ Coale

12/10/04

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 8200 Fischer Road	*	BEFORE THE ZONING COMMISSIONER
Legal Owner: 8200 Fischer Road LLC Lessee: US Filter Recovery Services	*	FOR BALTIMORE COUNTY
	*	Case: 05-075-SPHXA
Petitioner(s)		

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

Limited Post-Hearing Memorandum on "Vested Rights"

Petitioner, US Filter Recovery Services Mid-Atlantic ("USF"), by and through its undersigned counsel, files the within Limited Post-Hearing Memorandum solely to address the "vested rights" issue in this proceeding. USF contends that Bill 98-04, effective October 8, 2004 does not apply to its activities at the Property because USF is "vested" in rights to proceed under the zoning regulations, authorizations and permits that were issued prior to October 8, 2004[1].

Brief Chronology of Facts

- May 12, 1004 – US Filter files with PDM a formal written request for zoning verification of its proposed use of the Property as oil recycling operation. Request includes description of operations and site/layout plan.

[1] USF asserts that it is vested in rights to use the Property for its oil recycling operations not only because of the building permits that have been issued, but also because of the May 13, 2004 Authorization which was the basis for the subsequently issued permits and construction activity. USF also asserts that the July 26 Revision was improperly issued.

Protestants have suggested that, because USF filed amendments to its Petitions after the date 98-04 became effective, USF is bound to proceed under the new law. Protestants are wrong. USF filed amendments to its Petitions to account for the changes in the zoning regulations made by Bill 98-04. These Amended Petitions merely added requests for additional relief under Bill 98-04, they did not withdraw the initially filed Petitions. This is made clear by the fact that (1) the Amended Petitions specifically state that the amendments are made in light of the changes made by Bill 98-04, (2) the Amended Petitions specifically attached copies of the originally filed Petitions, and (3) as indicated in the cover letter filing the Amended Petitions, the fee charged by Permits and Development Management ($200) was the fee charged for amendments, not the fee that would have been charged on newly filed petitions ($750). Protestant's assertion that the Amended Petitions constituted an effective withdrawal of the originally filed Petitions is simply wrong. Indeed, to effectively pursue its "vested rights" claim, USF needed to amend the Petitions to seek relief under Bill 98-04 in order to satisfy the requirement that it exhaust its administrative remedies. See *Maryland Reclamation Assc., Inc. v. Harford Co.*,382 Md. 348 (2004) (prior to seeking judicial review of administrative action [including assertions of "vested rights"], applicant must exhaust administrative remedies, including applying for administrative relief and variances under newly enacted legislation).

- May 13, 2004 – John Lewis of PDM issues verification that the proposed uses are permitted in the MH zone, conditioned on "no refining" (the "May 13 Authorization").

- April 30, 2004 through July 27, 2004 – Baltimore County issues five (5) building and construction permits to USF for project.

- July 26, 2004 – John Lewis of PDM issues letter advising that USF activities outlined in MDE Draft Air Permit might be considered "refining", thus the use would constitute an "oil refinery" requiring a special exception hearing (the "July 26 Revision")

- May 2004 – Aug. 2004 – Substantial construction at the Property by USF. USF expends approximately $1million in construction activity at the Property based upon the May 13 Authorization and the 5 issued permits. Substantial work includes pouring of foundations and footings for above-ground tanks, installing HVAC and electric, delivery and installation of pumps, installation of 15 large above ground tanks in the warehouse; delivery of approximately 12 large above ground tanks to the front yard of the Property.

- August 2004 to present – Construction at Property diminished; MDE refuses to proceed on Air Permit due to zoning issued raised by July 26 Revision.

- October 8, 2004 – Bill 98-04 becomes effective; characterizes "oil recycling" as a special exception use.

Law of Vested Rights

A succinct encapsulation of the doctrine of vested rights in Maryland is set forth in *Town of Sykesville v. West Shore Communications, Inc.*, 110 Md. App.300, 329 (1996):

> The first reasonably full general statement we find about vested rights in the context of zoning law is that of Judge Barnes in *Richmond Corp. v. Bd. of County Comm'rs*, 254 Md. 244, 255-56, 255 A.2d 398, 404 (1969):
>
> > In Maryland it is established that in order to obtain a "vested right" in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use, the owner must (1) obtain a permit or occupancy certificate where required by the applicable ordinance and (2) must proceed under that permit or certificate to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use.
>
> The *Richmond* case, however, was not one involving a vested right to proceed with construction. In that more particularized context, the description by Judge Liss in *Prince George's County v. Equitable Trust Co.*, 44 Md.App. 272, 278, 408 A.2d 737, 741 (1979), is more to the point:
>
> > That [vested rights] doctrine, which has a constitutional foundation, rests upon the legal theory that when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his **right to complete and use** that structure **cannot be affected by any subsequent change of the applicable building or zoning regulations.**
>
> *Ross v. Montgomery County*, 252 Md. 497, 250 A.2d 635 (1969) was a case in which the issue was whether construction had timely begun under a building permit that initially was validly issued but which arguably had

lapsed prior to the commencement of the construction. In discussing vested rights in that context, Judge Finan, 252 Md. at 506, 250 A.2d at 640, quoted with approval from Rathkopf, *The Law of Zoning and Planning:*

> The Maryland cases appear to follow the prevailing principle of law governing such cases, a concise statement of which is to be found in Rathkopf, *The Law of Zoning and Planning,* (3d Ed.) Vol. 2, Ch. 57-6 § 3:
> " * * * The majority rule, which can be synthesized from the multitudinous decisions in this area, may be stated as follows: A landowner will be held to have acquired a **vested right to continue the construction of a building or structure and to initiate and continue a use** despite a restriction contained in an ordinance where, **prior to the effective date of the ordinance,** in reliance upon a permit theretofore validly issued, he has, in good faith, made a substantial change of position in relation to the land, made substantial expenditures, or has incurred substantial obligations.* * *."
> See also McQuillin, *Municipal Corporations,* (3d Ed.) Vol. 8, p. 272.

In summary, to be vested in a right to continue construction and use a property in the face of a change in law, the proponent must show three elements: (1) a valid authorization/permit was issued, (2) substantial work was performed under the permit in a manner that could be known to the public, and (3) construction is commenced in good faith. Although there are many cases that involve "vested rights," see S. Abrams, GUIDE TO MARYLAND ZONING DECISIONS (4th ed. 2002), all of those cases involve fact-specific inquiries as to whether the three elements set forth above have been satisfied.

USF has vested rights to proceed with its construction and use at the Property

1. A valid permit/authorization was issued. May 12, 2004, USF made a formal request to PDM for verification that its proposed use of the Property for an "Oil Recycling Operation" was a permitted use. The request described proposed operations, including anticipated deliveries and storage of "non-hazardous used oils and waters" that USF would "separate/filter" for recycling, resale and disposal". USF described the "separation/filtering processing area, being a series of tanks, separators and filters" inside the warehouse and a "tank storage farm" outside the warehouse building. A detailed plan was included with the request. (Pet. Ex. 1)[2]. On behalf of PDM, Mr. Lewis issued the May 13 Authorization, confirming that "[t]he uses as described are permitted in the

[2] In his testimony, Mr. Lewis confirmed that USF had furnished all information that he requested.

MH zoning", subject to the condition that "[n]o refining of the subject substances is permitted on site." (Pet. Ex. 1). This May 13, 2004 Authorization has never been appealed.

In response to the May 13, 2004 Authorization, USF obtained five separate permits from Baltimore County to proceed with improvements at the Property. (Pet. Ex. 3a-3e). These permits specifically allowed the pouring of foundations, tank footings, and installation of 15 tanks, ranging in size from 500 gallons to 21,150 gallons in capacity. (Pet. Ex. 3a-3e). These permits – issued between March 30, 2004 and July 27, 2004 -- have never been challenged, voided or appealed and are presumptively valid.

Maryland cases indicate that vested rights cannot be obtained where a permit or approval has been invalidly issued, and that no rights vest in approvals that are in the process of appeals. See *Marzullo v. Kahl*, 366 Md. 158 (2001) (Property owner could not vest in rights to use property for breeding, raising and selling of reptiles and snakes by demonstrating that it obtained building permit for a barn and substantially completed construction of the barn. Permit for construction of barn was unlawfully issued because permitted zoning use of "farm" "commercial agriculture" and "animal husbandry" did not include breeding, raising and selling of reptiles, boa constrictors, pythons and other snakes. Absent a lawful permit, owner could not vest in rights to use property for breeding, raising and selling of reptiles and snakes.); *O'Donnell v. Bassler*, 289 Md. 501 (1981)(property owner never vested in special exception use permit to use property for aircraft landing field where special exception was in direct appeal process at time of change in zoning)

In determining whether a valid permit or authorization was issued for "vesting" purposes: two issues emerge: (1) was Mr. Lewis correct in his May 13 Authorization that USF's proposed use at the Property is a permitted use in the MH zone, and (2) was Mr. Lewis incorrect in his July 26

Revision that the proposed uses might constitute "refining"? If the May 13 Authorization was correct, USF is clearly "vested" in its rights to continue and complete construction and use of the Property.

Mr. Lewis testified that his sole concern that caused the issuance of the July 26 Revision was that the heat and chemical processes described in the Draft Permit to Construct might constitute "refining", so as to make USF fall within the definition of an "Oil Refinery" within the meaning of the BCZR. He testified that his Department had never had the occasion to interpret the term "oil refinery" under the BCZR. "Oil Refinery" is not defined in the BCZR, thus one looks to the common usage as set forth in Websters. (See BCZR, §101; Pet. Ex. 4). Webster's has no definition of "oil refinery", however, it defines a "refinery" as "a building and equipment for refining" and it defines "refining":

> **refining** *n* –s **:** the action or process of removing impurities from a crude or other impure material: as **a** *of metals* **:** subjection to high heat or other purification method (as electrolysis or treatment with chemicals) <fire ~ of copper> -- compare PARTING **b** *of glass* **:** FINING 1b **c** *of sugar* **:** processing in a series of steps ending with crystallization **d** *of petroleum* **:** fractional distillation usu. followed by other processing (as cracking)

Websters "Explanatory Notes" make clear that parts a, b and c of the above definition have nothing to do with the definition of "refining of petroleum" and should not be considered.[3] The Explanatory Notes make clear that the broad general definition of "refining" is "removing impurities from a crude or other impure material" but that the specific definition of "refining of petroleum" is exclusively set forth in part d as "fractional distillation usu. followed by other processing (as cracking)." The undisputed testimony in this case is that USF will not be doing any distillation (fluids never reach

[3] See Explanatory Note 12.6.3 of Pet Ex. 19 ("an italic subject label or guide phrase does **not** apply to all the senses of a multisense word. ... If it falls between a boldface letter and the symbolic colon ... it applies only to the immediately following sense." Emphasis added.)

(continued....)

high enough temperatures), fractionating or cracking. Accordingly, under the definition of the BCZR, through its incorporation of the Webster's definition, USF uses at the Property are not that of an "oil refinery". Common sense also makes clear that USF's uses are not that of an oil refinery.

Mr. Lewis explicitly testified that, if the Zoning Commissioner were to determine that the USF operations were not an "oil refinery" he would "stand by" his May 13, 2004 verification that the proposed USF use was permitted.[4] Clearly, the USF operation is not an "oil refinery" and, accordingly, the May 13 Authorization for the use should be re-affirmed. In summary, the May 13 Authorization was valid. The five building permits thereafter issued were valid. There have been no appeals of any of these approvals and permits. USF has satisfied the valid permit/authorization element for obtaining vested rights to proceed with its construction and use at the Property.

2. Substantial work was performed under the permit in a manner that could be known to the public. It is undisputed that USF performed substantial work at the Property pursuant to the validly issued permits. The testimony of Tim Ford and Vince Glorioso reflects that USF (a) poured foundations and footings in the warehouse for the installation of the storage/filtration tanks, (b) installed the pump system at the Property for operation of the tanks, (c) installed fifteen (15) above-ground storage tanks (ranging in size from 500 – 15,000 gallons in size), (d) brought onto the site

[4] In response to cross-examination by Protestants, Mr. Lewis explained how he reached his determination that the USF use was permitted in the MH zone so long as there was no refining. He explained that he used a long-standing practice of his Department for situations in which a specific operation might not fall within a defined term as a permitted use: he looked at the major significant uses permitted by the MH zone and compared them to the proposed operations. For USF, he noted that the most significant operation was the presence of large quantities of flammable fluids (almost 30 above-ground tanks), fitting within the permitted use of "above-ground storage of flammable liquids". He noted that the filtering/separating of those fluids, occurring in several tanks inside the warehouse, would be deemed accessory and compatible with permitted "laboratory" uses. Mr. Lewis testified that he discussed this analysis with his supervisor, and that the process of characterizing the use as he described is the long-standing practice of his Department because many times proposed uses do not precisely fit the definitions of the BCZR. Mr. Lewis' determination that the USF use would be permitted if it is not deemed an "oil refinery" is entitled to great weight and deference as the determination of an administrative agency interpreting its own regulations.

approximately a dozen large above-ground tanks for the exterior tank farm, and (e) expended approximately $1 million in construction costs between the time of the May 13 Authorization and early August 2004.

Although the vast amount of the construction occurred inside the warehouse at the Property, Mr. Glorioso testified that the "construction activity" was clearly visible to the public[5]. Indeed, cement mixing trucks needed to deliver cement for the foundations and tank footings and large trucks needed to deliver the 15 above-ground tanks installed inside the warehouse and the dozen tanks stored in the front yard of the Property. The aerial photographs of the Property taken on August 4, 2004 (Prot. Ex. 10a-d) clearly show the dozen large tanks stored in the front yard of the Property (immediately inside the gate to the Property), and Mr. Glorioso testified these tanks were brought onto the Property in May of 2004 for use in the tank farm to be located outside the warehouse. One purpose of "substantial construction" requirement for vesting is that the public be aware that rights are vesting[6]. All of this construction activity at the Property is clear notice to the public that USF is commencing construction under its permits to pursue its use[7].

3. Construction has been commenced in good faith. The "good faith" requirement for purposes of vesting has been interpreted to mean only that "the act of commencing construction is

---

[5] It is not a requirement that a member of the public be able to observe from the property line work that may be occurring inside the warehouse. The appropriate standard is whether the construction activities could be observed "from the standpoint of a member of the general public who is either viewing the property from its boundaries or is consensually on the property . . ." *Sunrise*, supra, at 314. Any member of the public could have seen the massive construction inside the warehouse (and outside) if they had come onto the Property (as they were invited to do so on numerous occasions).

[6] See, e.g., *Prince George's Co. v. Sunrise Devlpt.*, 330 Md. 297, 314 (1993) (pouring a single 2' x 2' footing in the center of a nearly 10 acre wooded site is insufficient to put public on notice of construction, thus no vesting of rights)

[7] Although several of Protestant's witnesses stated that they do not regularly go by the Property because it is "isolated", the Protestants were clearly aware of the commencement of construction activities at the Property as evidenced by their participation at community meetings and activities designed to thwart USF's use at the Property.

undertaken with the intention of continuing and finishing the job." *Town of Sykesville v. West Shore Communications, Inc.*, 110 Md. App.300, 329 (1996)[8]. In this case there is no dispute as to good faith. USF obtained building permits after the May 13 Authorization, spent over $1 million dollars in improvements, obtained final inspections on the interior work (Pet. Ex. 22). USF testified that it intends to go forward to completion but it cannot at this time because MDE has ceased processing the Air Permit in light of the zoning issue raised by the July 26 Revision.

Conclusion

For all of the foregoing reasons, USF is vested in its rights to complete construction at the Property and utilize the Property for its oil recycling operations, without regard to the passage of Bill 98-04.

William D. Shaughnessy, Jr.
Gordon Feinblatt, et al
233 E. Redwood Street
Balt., MD 21202-3324
(410) 576.4092
Attorneys for Petitioner

Certificate of Service

I hereby certify that a copy of the foregoing Memorandum was served, by first class mail, mailed on this 10th day of December, 2004, upon C. William Clark, Esq., 502 Washington Avenue, Towson, MD 21204 and William R. Evans, Esq., 6914 Holabird Ave., Suite A, Baltimore, MD 21222, counsel for Protestants, and Peter Max Zimmerman, Peoples Counsel, Old Courthouse, Rm 47, 400 Washington Ave., Towson, MD 21204.

William D. Shaughnessy, Jr.

[8] Courts have found lack of good faith where work done was mere "window dressing" in an attempt to vest rights. See *Ross v. Mont. Co.*, 252 Md. 497 (1969) (good faith absent, and thus no vesting in permit to construct apartment, where only work performed was pouring one footer on one day, which work was later filled in and thereafter property used for parking)

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

December 10, 2004

Via Fax and email

Honorable William J. Wiseman, III
Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204.

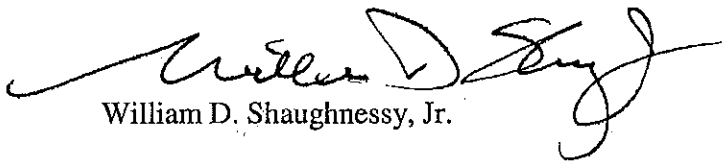
Re: *USFilter Recovery Systems*
Case 05-075-SPHXA

Dear Commissioner Wiseman:

Enclosed by fax and email is the Limited Post-Hearing Memorandum on "Vested Rights", filed on behalf of USFilter. We agreed to limit the Memo to 7 pages, however, with the "Conclusion" and Certificate of Service, I bled over to an 8th page. I request the indulgence of the Commissioner and counsel for this extra page.

USFilter eagerly anticipates your decision.

Very truly yours,



William D. Shaughnessy, Jr.

WDS:jc
Enclosure
cc: C. William Clark, Esq. , 502 Washington Avenue, Towson, MD 21204 and William R. Evans, Esq., 6914 Holabird Ave., Suite A, Baltimore, MD 21222, counsel for Protestants, and Peter Max Zimmerman, Peoples Counsel, Old Courthouse, Rm 47, 400 Washington Ave., Towson, MD 21204.

IN THE MATTER OF USFilter RECOVERY SERVICES - CONTRACT PURCHASER /LESSEE; 8200 FISCHER ROAD LLC, LEGAL OWNER ADDRESS: 8200 FISCHER ROAD BALTIMORE, MD 21222	*	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
RE: APPEAL OF LETTER FROM THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT	*	CASE NO. CBA-04-144

* * * * * * * * *

RULING ON MOTION FOR RECONSIDERATION
OF ORDER OF DISMISSAL

The Board of Appeals is in receipt of a Motion for Reconsideration and Request for Stay of Proceedings filed on September 13, 2004 by William D. Shaughnessy, Jr., Esquire, and GORDON FEINBLATT ROTHMAN, HOFFBERGER & HOLLANDER, LLC, in response to an Order of Dismissal issued by this agency on August 31, 2004.

The Motion for Reconsideration indicates that a Petition for Special Exception and Petition for Variance in this matter have been filed with the Zoning Commissioner for Baltimore County. At such time as the Zoning Commissioner has ruled on the above Petitions, the matter will then be ripe for appeal and hearing before this Board.

As previously stated in our Dismissal, since only the Zoning Commissioner is given the authority to interpret the zoning regulations, the letter of Mr. Lewis dated July 26, 2004 has no legal standing as a final decision in this matter and is not an appealable event.

Therefore, the Board denies the Motion for Reconsideration for the reasons set forth in its original ruling issued August 31, 2004.

ORDER

IT IS THEREFORE THIS 15th day of September 2004 by the County Board of Appeals of Baltimore County

ORDERED that the Motion for Reconsideration and Stay of Proceedings in this matter be and is **DENIED**. At such time as the Zoning Commissioner renders a final decision and interpretation of the regulations relative to this matter, any party then aggrieved shall have the right to appeal in full to this Board.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

9/15/04

RECEIVED SEP 17 2004

County Board of Appeals of Baltimore County

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

September 15, 2004

William D. Shaughnessy, Jr., Esquire
GORDON-FEINBLATT
Rothman, Hoffberger, & Hollander LLC
233 E. Redwood Street
Baltimore, MD 21202-3332

RE: *In the Matter of: USFilter Recovery Services*
Property: 8200 Fischer Road /Case No. CBA-04-144
[Appeal of PDM Letter dated July 26, 2004]

Dear Mr. Shaughnessy:

Enclosed please find a copy of the Ruling on Motion for Reconsideration of this Board's Order of Dismissal issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Kathleen C. Bianco/ds

Kathleen C. Bianco
Administrator

Enclosure

c: USFilter Recovery Services
Lawrence E. Schmidt /Zoning Commissioner
John L. Lewis, Planner II /PDM
Pat Keller, Director /Planning
Timothy M. Kotroco, Director /PDM
Jay L. Liner, County Attorney

Printed with Soybean Ink
on Recycled Paper

9/13/04

IN THE MATTER OF USFilter RECOVERY SERVICES - CONTRACT PURCHASER/LESSEE; 8200 FISCHER ROAD LLC, LEGAL OWNER ADDRESS: 8200 FISCHER ROAD BALTIMORE, MD 21222	*	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
RE: APPEAL OF LETTER FROM THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT	*	CASE NO. CBA-04-144

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

MOTION FOR RECONSIDERATION AND REQUEST FOR STAY OF PROCEEDINGS

USFilter Recovery Services ("USFilter"), by and through its undersigned counsel, requests that the Board reconsider its Order of Dismissal dated August 31, 2004 (the "Dismissal Order"), vacate the Dismissal Order and reinstate this proceeding, and then stay all proceedings in this matter, and as grounds therefore says:

1. In response to a request by USFilter to the Director of Permits and Development Management ("DPDM"), USFilter obtained a Zoning Verification letter written by John L. Lewis, Planner II, Zoning Review of DPDM, dated May 13, 2004 (the "May 13, 2004 Zoning Verification"), which letter confirmed that a proposed use by USFilter at property located at 8200 Fischer Road (the "Property") was a permitted use under the applicable MH Zoning. A copy of the USFilter request to DPDM for zoning verification is attached hereto as Exhibit A. A copy of the May 13, 2004 Zoning Verification is attached hereto as Exhibit B.

2. Subsequent to the May 13, 2004 Zoning Verification, USFilter obtained building permits from Baltimore County for improvements at the Property and USFilter expended substantial monies (in excess of Seven Hundred Thousand $700,000.00 Dollars) in reliance upon such zoning verification and building permits.

3. On July 26, 2004, John Lewis of DPDM sent a letter that purported to "revise" the May 13, 2004 Zoning Verification (the "July 26, 2004 Revision"). The July 26, 2004 Revision stated that USFilter's use of the Property was "that of an oil refiney, which requires a zoning special exception public hearing to be permitted in the MH zone". The effect of the July 26, 2004 Revision was to rescind the May 13, 2004 Zoning Verification. The July 26, 2004 Revision is an action by the Director of DPDM, acting through Mr. Lewis, an employee of the Department. A copy of the July 26, 2004 Revision is attached hereto as Exhibit C.

4. By acting in good faith in reliance upon the May 13, 2004 Zoning Verification, by obtaining permits from Baltimore County, and by expending substantial sums of money at the Property, USFilter believes that it has vested rights in the approvals previously obtained from agencies in Baltimore County.

5. On August 25, 2004, USFilter, through its undersigned counsel, filed an appeal from the July 26, 2004 Revision. A copy of that appeal is attached hereto as Exhibit D.

6. On August 31, 2004, this Board *sua sponte* dismissed USFilter's appeal pursuant to the Order of Dismissal. A copy of the Order of Dismissal is attached hereto as Exhibit E.

7. Section 32-3-401(a) of the Baltimore County Code states:

> "(a) *In general* A person aggrieved or feeling aggrieved by the decision of the Zoning Commissioner or the Director of Permits and Development Management may appeal the decision or order to the Board of Appeals." **[Emphasis added]**

8. There is a lack of clarity as to which actions of Baltimore County agencies constitute "final decisions" or are subject to appeal. *See, e.g., Beth Tfiloh Congregation of Baltimore City, Inc. v. Glydon Community Association, Inc.*, 152 Md. App. 97 (2003); *Meadows of Greenspring Homeowners Association, Inc. v Foxleigh Enterprises, Inc.*, 133 Md. App. 510 (2000); *United Parcel Service v. People's Counsel*, 336 Md. 569 (1994).

9. To the extent that the July 26, 2004 Revision constitutes a "decision....of the Director of Permits and Development Management", and to the extent that the July 26, 2004 Revision constitutes an attempted abrogation of USFilter's vested rights, USFilter is compelled to file the instant appeal to the Board of Appeals. Such appeal is necessary, otherwise USFilter might forfeit rights by failing to timely perfect an appeal.

10. Prior to filing the instant appeal, USFilter filed a Petition for Special Hearing, a Petition for Variance and a Petition for Special Exception, all of which are scheduled to be heard before the Zoning Commissioner on September 22 and September 27, 2004 (Case No. 05-075-SPHXA). These hearings will entail the interpretation of the Zoning Regulations and their application to USFilter's proposed use at the Property.

11. USFilter could not risk failing to appeal the July 26, 2004 Revision, because that document might be deemed a final decision or an abrogation of USFilter's vested rights. Similarly, to preserve all rights, USFilter would need to appeal this Board's Dismissal Order to the Circuit Court. If an appeal to the Circuit Court were taken from this Board's Dismissal Order, there could be parallel, duplicative and possibly contradictory proceedings between the Circuit Court and the Zoning Commissioner regarding USFilter's proposed uses at the Property.

12. To avoid the specter of such duplicative proceedings, USFilter requests that the Board vacate its Dismissal Order, reinstate the appeal, and then stay proceedings in the instant appeal until such time as the Zoning Commissioner has conducted the hearings currently scheduled for September 22 and September 27, and ruled upon those issues. Should any person be aggrieved by a decision issued by the Zoning Commissioner, the aggrieved party could then appeal to the Board of Appeals and this existing appeal from the July 26, 2004 Revision can then be consolidated with any appeal from a decision issued by the Zoning Commission. If there is no

appeal from hearings currently scheduled before the Zoning Commissioner then USFilter can then dismiss or proceed with the within appeal.

13. There would be no harm or prejudice to any person or entity if this Board were to vacate its Dismissal Order, reinstate this appeal and then stay proceedings in this appeal pending the outcome of hearings before the Zoning Commissioner. In fact, proceeding in this manner would preserve all rights of interested parties and promote economy of judicial and administrative resources.

WHEREFORE, for all of the foregoing reasons, USFilter respectfully requests that this Board (1) vacate its Dismissal Order of August 31, 2004 and reinstate the within appeal, and (2) stay proceedings in this appeal pending decisions by the Zoning Commissioner in Case No. 05-075-SPHXA and appeal taken therefrom.

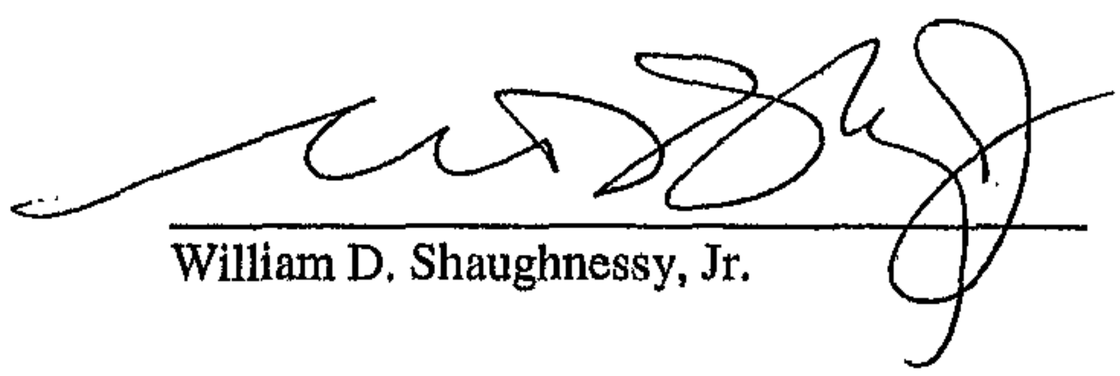
Respectfully submitted,

William D. Shaughnessy, Jr.
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander, LLC
233 East Redwood Street
Baltimore, Maryland 21202
410/576-4092

Attorneys for USFilter Recovery Services

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 2004, a copy of the foregoing Motion for Reconsideration and Request for Stay of Proceedings was mailed, first-class, postage prepaid, to Jay L. Liner, Esquire, County Attorney, Old Courthouse, Second Floor, 400 Washington Avenue, Towson, MD 21204, Timothy M. Kotroco, Director, Department of Permits and Development Management, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204, Pat Keller, Director of Planning, 401 Bosley, Towson, MD 21204, John L. Lewis, Planner II, Department of Permits and Development Management, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204, Lawrence E. Schmidt, Zoning Commissioner, 401 Bosley, Towson, MD 21204.



William D. Shaughnessy, Jr.

IN THE MATTER OF USFilter RECOVERY SERVICES - CONTRACT PURCHASER /LESSEE; 8200 FISCHER ROAD LLC, LEGAL OWNER ADDRESS: 8200 FISCHER ROAD BALTIMORE, MD 21222	*	BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
RE: APPEAL OF LETTER FROM THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT	*	CASE NO. CBA-04-144

* * * * * * * * *

ORDER OF DISMISSAL

On August 25, 2004, an appeal was filed to this Board by William D. Shaughnessy, Jr., Esquire, and GORDON FEINBLATT ROTHMAN, HOFFBERGER & HOLLANDER, LLC, from a letter dated July 26, 2004, written by John L. Lewis, Planner II, Zoning Review, to Mr. Shaughnessy regarding the subject property located at 8200 Fischer Road, Baltimore County, 21222, in which Mr. Lewis states: "Pursuant to section 256.4 BCZR, the use is that of an oil refinery, which requires a zoning special exception public hearing to be permitted in the MH zone." The instant appeal was taken from that interpretation of the zoning regulations.

Baltimore County Code § 32-3-301 states:

> (a) *In* general. Except as provided in § 32-3-515 of this title and consistent with the general purpose, intent, and conditions set forth in the Baltimore County Zoning Regulations, upon petition, **the Zoning Commissioner may**:
>
> (1) Grant variances from area and height regulations;
> (2) **Interpret the zoning regulations**; and
> (3) Grant special exceptions.
>
> (b) *Appeal.* A decision of the Zoning Commissioner under subsection (a) of this section may be appealed to the Board of Appeals as provided in this article.
> **[Emphasis added.]**

Further, § 500.6 of the *Baltimore County Zoning Regulations* states:

> In addition to his aforesaid powers **the Zoning Commissioner shall have the power, upon notice to the parties in interest, to conduct hearings** involving any violation or alleged violation or non-compliance with **any zoning regulations**,

or the proper interpretation thereof, and to pass his Order thereon, subject to the right of appeal to the Board of ...Appeals as hereinafter provided. **[Emphasis added.]**

Further, § 32-3-401of the Code entitled, **APPEALS TO THE BOARD OF APPEALS,** subsection (a)(1), further states: "The appealing party shall: ...File notice of the appeal, in writing, with the Department of Permits and Development Management within 30 days after the **final decision."** [Emphasis added.]

Therefore, this Board, *sua sponte*, will dismiss, without prejudice, the appeal filed by William D. Shaughnessy, Jr., Esquire, on behalf of USFilter Recovery Services from Mr. Lewis's letter dated July 26, 2004, in the above-captioned case, on the grounds that the matter is not ripe for appeal at this time. At such time as the Zoning Commissioner renders a final decision regarding the interpretation of the regulations relative to this matter, any party then aggrieved shall have the right to appeal in full to this Board.

ORDER

IT IS THEREFORE THIS 31st day of August, 2004 by the County Board of Appeals of Baltimore County

ORDERED that the appeal filed in the subject case be and is hereby **DISMISSED without prejudice to any party** on the grounds that the matter is not ripe for appeal at this time. At such time as the Zoning Commissioner renders a final decision and interpretation of the regulations relative to this matter, any party then aggrieved shall have the right to appeal in full to this Board.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott, Chairman

RECEIVED SEP - 7 2004

EXHIBIT
tabbies
E

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 31, 2004

William D. Shaughnessy, Jr., Esquire
GORDON-FEINBLATT
Rothman, Hoffberger, & Hollander LLC
233 E. Redwood Street
Baltimore, MD 21202-3332

RE: *In the Matter of: USFilter Recovery Services*
Property: 8200 Fischer Road /Case No. CBA-04-144
[Appeal of PDM Letter dated July 26, 2004]

Dear Mr. Shaughnessy:

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

Very truly yours,

Kathleen C. Bianco /ts

Kathleen C. Bianco
Administrator

Enclosure

c: USFilter Recovery Services
Lawrence E. Schmidt /Zoning Commissioner
John L. Lewis, Planner II /PDM
Pat Keller, Director /Planning
Timothy M. Kotroco, Director /PDM
Jay L. Liner, County Attorney

Printed with Soybean Ink
on Recycled Paper

CERTIFICATE OF POSTING

RE: Case No.: 05-075-SPHXA

Petitioner/Developer: U.S. FILTER RECOVERY SERVICES

Date of Hearing/Closing: 11/12/04

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

ATTN: Kristen Matthews {(410) 887-3394}

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:

8200 Fisher RD

The sign(s) were posted on 10/28/04
(Month, Day, Year)

Sincerely,

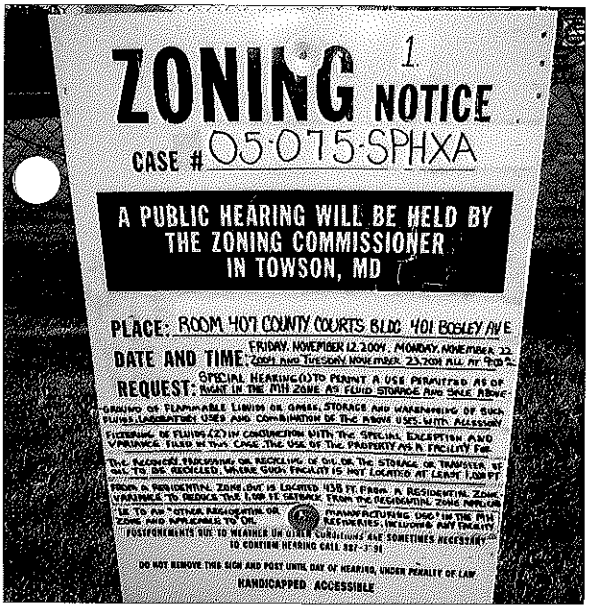
Robert Black 10/1/04
(Signature of Sign Poster) (Date)

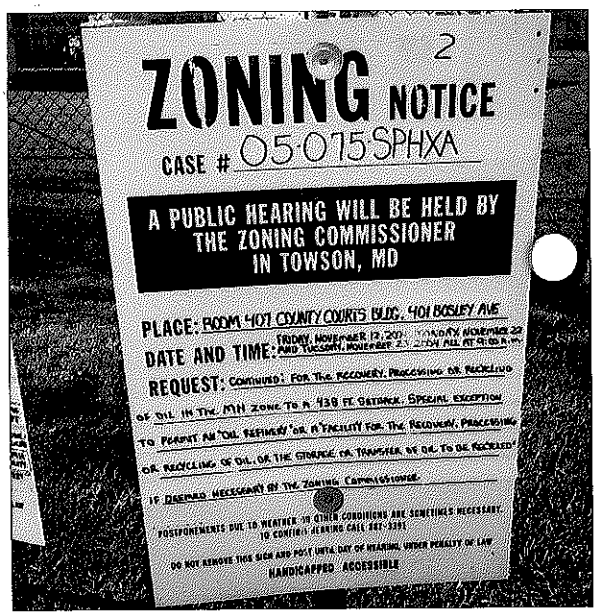
SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

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

(410) 282-7940
(Telephone Number)


1
ZONING NOTICE
CASE # 05-075-SPHXA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
PLACE: ROOM 407 COUNTY COURTS BLDG 401 BOSLEY AVE
DATE AND TIME: FRIDAY, NOVEMBER 12, 2004 AND TUESDAY, NOVEMBER 23, 2004 AT
REQUEST: SPECIAL HEARING (1) TO PERMIT A USE PERMITTED AS OF RIGHT IN THE MH ZONE AS FLUID STORAGE AND SALE ABOVE
GROUND OF FLAMMABLE LIQUIDS OR GASES, STORAGE AND UNBRANDING OF SUCH FLUIDS, LUBRICATION USES AND COMBINATION OF THE ABOVE USES WITH ACCESSORY
FUELING OF FLUIDS (2) IN CONJUNCTION WITH THE SPECIAL EXCEPTION AND
VARIANCE FILED IN THIS CASE, THE USE OF THE PROPERTY AS A FACILITY FOR
THE RECOVERY, PROCESSING OR RECYCLING OF OIL OR THE STORAGE OR TRANSFER OF
OIL TO BE RECYCLED, WHERE SUCH FACILITY IS NOT LOCATED AT LEAST 1,000 FT.
FROM A RESIDENTIAL ZONE (OIL IS LOCATED 438 FT FROM A RESIDENTIAL ZONE)
VARIANCE TO REDUCE THE 1,000 FT SETBACK FROM THE RESIDENTIAL ZONE APPLICA
BLE TO AN "OTHER RECREATION OR MANUFACTURING USE" IN THE MH
ZONE AND APPLICABLE TO OIL REFINERIES, INCLUDING ANY FACILITY
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE


2
ZONING NOTICE
CASE # 05-075-SPHXA
A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD
PLACE: ROOM 407 COUNTY COURTS BLDG. 401 BOSLEY AVE
DATE AND TIME: FRIDAY, NOVEMBER 12, 20 AND TUESDAY, NOVEMBER 2 MONDAY, NOVEMBER 22 AT
REQUEST: CONTINUED: FOR THE RECOVERY, PROCESSING OR RECYCLING OF OIL IN THE MH ZONE TO A 438 FT SETBACK, SPECIAL EXCEPTION TO PERMIT AN "OIL REFINERY" OR A FACILITY FOR THE RECOVERY, PROCESSING OR RECYCLING OF OIL, OR THE STORAGE OR TRANSFER OF OIL TO BE RECYCLED
IF DEEMED NECESSARY BY THE ZONING COMMISSIONER
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

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

October 26, 2004

CORRECTED 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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Special Hearing (1) to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids (2) in conjunction with the Special Exception and Variance filed in this case, the use of the property as a facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled, where such facility is not located at least 1,000 feet from a residential zone but is located 438 feet from a residential zone. Variance to reduce the 1,000 ft. setback from a residential zone applicable to an "other industrial or manufacturing use in the MH zone and applicable to "oil refineries, including any facility for the recovery, processing or recycling of oil" in the MH zone, to a 438 ft. setback. Special Exception to permit an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled", if deemed necessary by the zoning commissioner.

Hearing: Friday, November 12, 2004, Monday, November 22, 2004 and
Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: William D. Shaughnessy, 233 E. Redwood St., Baltimore 21202
Ira Miller, 31 Light Street, Ste. 200, Baltimore 21202
Vincent Glorioso, 1105 N. Point Blvd., Ste. 300, Baltimore 21224
Bill Evans, 6914 Holabird Ave., Ste. A, Baltimore 21222
Fred Thiess, 4102 Beachwood Rd., Baltimore 21222
Bud Clark, 502 Washington Ave, Ste. 700, 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, OCTOBER 28, 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

APPEAL SIGN POSTING REQUEST

CASE NO.: 05-075-SPHXA

8200 FISCHER ROAD, LLC- LEGAL OWNER

8200 FISCHER ROAD

15th ELECTION DISTRICT APPEALED: 1/26/2005
RECEIVED AT BOARD ON 2/22/2005

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.: 05-075-SPHXA

Petitioner/Developer:

US FILTER RECOVERY SERVICES
8200 FISCHER ROAD, LLC

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

8200 FISCHER ROAD

The sign was posted on 3/5, 2005

By: Gary Freund
(Signature of Sign Poster)

GARY FREUND
(Printed Name)

County Board of Appeals of Baltimore County

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

pp'd & assigned 3 days @ req of Counsel for Protestants - no objections

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 7, 2005

NOTICE OF ASSIGNMENT

CASE #: 05—075-SPHXA

IN THE MATTER OF: US FILTER RECOVERY SERVICES, INC. - PETITIONER; 8200 Fischer Road, LLC – Legal Owner
8200 Fischer Road 15th E; 7th C

12/29/04 – Z.C.'s Order in which requested zoning relief was DENIED.

ASSIGNED FOR: **THURSDAY, SEPTEMBER 22, 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:
Counsel for Appellants /Petitioners : William D. Shaughnessy, Jr., Esquire
C.P. –Lessee /Petitioner : US Filter Recovery Services / Vincent Glorioso
Legal Owner /Petitioner : Ira Miller /8200 Fischer Road LLC
Timothy Ford /US Filter /Wilmington, DE

Counsel for Protestants : C. William Clark, Esquire
William R. Evans, Esquire

Protestants : Fred Theiss, President
Wells-McComas Citizens Imp. Assn., Inc.
Guido Guarnaccia /Dominic Guarnaccia
Karenlee Tully
Robert and Jean Romadka /Briarwood Estates, LLP
Ross B. Cole
Nancy Donahue

Alfred Barry III
John Cignatti
Sue Machlinski
Ed Hooley

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4182
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

June 27, 2005

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

Re: U.S. Filter Recovery Services, Inc.
Court of Appeals Case No. 05-075-SPHXA

Dear Ms. Bianco:

Let this letter confirm that the proposed hearing dates before the Board of October 25, October 27 and November 1, 2005 are acceptable to the Appellants.

I understand that you will be sending out a revised Notice of Assignment which cancels the September 22, 2005 date and confirms the dates set forth above.

If you have any questions, please call me.

Very truly yours,

William D. Shaughnessy, Jr.

WDS:jc
cc: C. William Clark, Esquire
William R. Evans, Esquire
Office of People's Counsel
Vincent Glorioso
Fred Theiss

RECEIVED
JUN 28 2005
BALTIMORE COUNTY
BOARD OF APPEALS

County Board of Appeals of Baltimore County

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

W/D by Appellants 8/26/05 Order of Dismissal to be issued.

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 28, 2005

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 05—075-SPHXA

IN THE MATTER OF: US FILTER RECOVERY SERVICES, INC. - PETITIONER; 8200 Fischer Road, LLC – Legal Owner
8200 Fischer Road 15th E; 7th C

12/29/04 – Z.C.'s Order in which requested zoning relief was DENIED.

which had been assigned for 9/22/05 has been POSTPONED and REASSIGNED TO THE FOLLOWING THREE HEARING DATES, ALL AS CONFIRMED WITH COUNSEL; AND HAS BEEN

REASSIGNED FOR:

TUESDAY, OCTOBER 25, 2005, at 10:00 a.m. /Day #1
THURSDAY, OCTOBER 27, 2005 at 10:00 a.m. /Day #2
TUESDAY, NOVEMBER 1, 2005 at 10:00 a.m. /Day #3

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: Counsel for Appellants /Petitioners : William D. Shaughnessy, Jr., Esquire
C.P. –Lessee /Petitioner : US Filter Recovery Services
/ Vincent Glorioso
Legal Owner /Petitioner : Ira Miller /8200 Fischer Road LLC
Timothy Ford /US Filter /Wilmington, DE

Counsel for Protestants : C. William Clark, Esquire
William R. Evans, Esquire

Protestants : Fred Theiss, President
Wells-McComas Citizens Imp. Assn., Inc.
Guido Guarnaccia /Dominic Guarnaccia
Karenlee Tully
Robert and Jean Romadka /Briarwood Estates, LLP
Ross B. Cole
Nancy Donahue

Alfred Barry III
John Cignatti
Sue Machlinski
Ed Hooley

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner

Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

COUNTY BOARD OF APPEALS

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

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

MICHAEL SHAUGHNESSY JR ESQUIRE
FAX : 410-576-4246

C. WILLIAM CLARK, ESQUIRE
FAX : 410-296-2765

FROM:

KATHLEEN BIANCO
FAX : 410-887-3182

TELEPHONE : 410-887-3180

DATE:
JUNE 28, 2005

TOTAL NO. OF PAGES INCLUDING COVER:
TWO (2)

Re: POSTPONEMENT & REASSIGNMENT – US FILTER RECOVERY SERVICES 05-075-SPHXA

PERSONAL AND CONFIDENTIAL

Attached is a copy of the Notice of Postponement and Reassignment sent out this date to all parties via USPS in which the subject matter is pulled from the 9/20/05 hearing date and reassigned to 10/25/05; 10/27/05; and 11/01/05 (days 1, 2 and 3) as confirmed.

kathi

FILE

SENDING REPORT

Jun. 28 2005 03:32PM

YOUR LOGO : BOARDOFAPPEALS
YOUR FAX NO. : 4108873182

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	94102962765	Jun. 28 03:31PM	01'11	SND	02	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.
THEN SELECT OFF BY USING '+' OR '-'.

FOR FAX ADVANTAGE ASSISTANCE, PLEASE CALL 1-800-HELP-FAX (435-7329).

Notice to B. Clark re PP of US Title

SENDING REPORT

Jun. 28 2005 03:27PM

YOUR LOGO : BOARDOFAPPEALS
YOUR FAX NO. : 4108873182

NO.	OTHER FACSIMILE	START TIME	USAGE TIME	MODE	PAGES	RESULT
01	94105764246	Jun. 28 03:26PM	01'40	SND	02	OK

TO TURN OFF REPORT, PRESS 'MENU' #04.
THEN SELECT OFF BY USING '+' OR '-'.

FOR FAX ADVANTAGE ASSISTANCE, PLEASE CALL 1-800-HELP-FAX (435-7329).

Notice to
B. Humphreys
re PP of 265 Steele

THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765
EMAIL: NPW@NOLANPLUMHOFF.COM
WEB SITE: WWW.NOLANPLUMHOFF.COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

RECEIVED
DEC 14 2004
ZONING COMMISSIONER

December 14, 2004

VIA EMAIL AND HAND DELIVERY
William J. Wiseman, III
Zoning Commissioner
for Baltimore County
Suite 405, County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: Wells McComas Citizens Improvement Association
Case No.: 05-075-SPHA

Dear Mr. Wiseman:

In connection with the Protestant's Memorandum which was filed with your office on Friday, December 10, 2004, please be advised that there is a change that needs to be addressed. My office inadvertently typed March 13, 2004 in a number of places where the correct date should read May 13, 2004. The incidents were this typo occurs have been corrected and are listed as follows:

Page 1 "The following day, May 13, 2004, PADM responded with its zoning determination that "[t]he uses as described are permitted in the MH zoning which...is the zoning on site." (Emphasis added) *Petitioner's Exhibit 2*, pg. 1.'

Page 2: "At some point between May 13, 2004 and July 26, 2004 PADM received a copy of the Maryland Department of the Environment, (hereinafter, "MDE"), Draft Permit to Construct Conditions submitted by USF that requested permission to use a "boiler fired with natural gas and no. 2 fuel oil and rate at less than 10 MMBtu/hr heat input."

Page 2: "Based on this new information PADM sent USF a letter dated July 26, 2004 that revised the zoning determination dated May 13, 2004 according to "section 256.4 BCZR, the use is that of an oil refinery, which requires a zoning special exception public hearing to be permitted in the MH zone."

Page 5: " In this case, the zoning use determination letter issued on May 13, 2004 by PADM was based on an erroneous conclusion of law that USF's use of the property was "recycling", and not "refining"."

Page 5: "Accordingly, even though PADM's May 13, 2004 decision that the uses as described by USF's request letter were permitted as of right on the Property, because USF failed to inform PADM: (1) that it would use heat in its their process, (2) emit toxic pollutants and other regulated emissions, and (3) of the size and scope of the recycling process as approved to the storage of fluids. Therefore, the zoning determination can only be found to be arbitrary and illegal when the true nature of the use is applied to the zoning regulations."

I apologize for this mistake and any confusion which may have been caused in connection with the same.

If you have any questions or concerns, please do not hesitate to contact my office. Thank you for anticipated cooperation. Until then, I remain.

Very truly yours,

C. William Clark

CWC/jkc

Enclosures

cc: William R. Evans, Esquire
William D, Shaughnessy, Jr., Esquire
Peter Max Zimmerman, Esquire
Jean Romadka, Wells McComas Citizens Improvement Association
Nancy Donahue
Russ Coale

THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765
EMAIL: NPW@NOLANPLUMHOFF.COM
WEB SITE: WWW.NOLANPLUMHOFF.COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

June 14, 2005

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

Re: In the Matter of : U.S Filter Recovery Services, Inc. -Petitioner
8200 Fisher Road
Case No.: 05-075-SPHXA

Dear Ms. Bianco:

Please be advised that I just received your notice setting the above captioned matter for a hearing on Thursday, September 22, 2005. It appears from the notice that I have received that there is only one day scheduled for this matter. Please be advised that this case took three (3) full days before the zoning commissioner and I would expect that it would take the same amount of time and perhaps more before the Board of Appeals.

Upon your review of this letter, please contact counsel so we can discuss the scheduling of this case. Thank you for your anticipated cooperation.

Very truly yours,

C. William Clark

CWC/jkc

RECEIVED
JUN 15
BALTIMORE COUNTY
BOARD OF APPEALS

cc: William D. Shaughnessy, Jr., Esquire
William R. Evans, Esquire
Fred Theiss, President, Wells McComas Citizens Improvement Assoc.

RE:	PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 8200 Fischer Road; 390' SW the intersection of Fischer Road & Faust Lane 15th Election & 7th Councilmanic Districts Legal Owner(s): Ira Miller, Member of 8200 Fischer Road LLC Contract Purchaser(s): US Filter Recovery Services, Vincent Glorisio Unit Manager Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 05-075-SPHXA

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

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 24th day of June, 2005, a copy of the foregoing Entry of Appearance was mailed to Fred Theiss, 4102 Beachwood Road, Baltimore, MD 21222, C. William Clark, Esquire, Nolan, Plumhoff & Williams, Chtd., 502 Washington Avenue, Suite 700, Towson, MD 21204 and William D Shaughnesy, Jr, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC, 233 Redwood Street, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED
JUN 24 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

GORDON ▪ FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

THE GARRETT BUILDING
233 E. REDWOOD STREET
BALTIMORE, MD 21202
TEL: 410-576-4000
FAX: 410-576-4246

FAX TRANSMITTAL

To:	Mr. Lawrence E. Schmidt	Fax #:	(410) 887-3468

From:	William D. Shaughnessy, Jr.	Phone #:	(410) 576-4244
		Fax #:	(410) 576-4246
Date:	September 15, 2004	Time:	Pages (including cover): 4
Ref #:	R691/USFilter		

MESSAGE:

Per our conversation, please find enclosed a Subpoena in the above referenced case. Please have the Zoning Commissioner sign the subpoena and we will pick it up this afternoon. If there is a problem and the Commissioner cannot accept a faxed copy of this Subpoena, please call Mr. Shaughnessy immediately at the above telephone number to inform him. Thank you for your assistance with this matter.

ORIGINAL WILL NOT FOLLOW __X__ ORIGINAL WILL FOLLOW BY _____ REGULAR MAIL
_____ COURIER
_____ OTHER _____

THE INFORMATION SUPPLIED IN THIS FACSIMILE MESSAGE MAY BE LEGALLY PRIVILEGED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS COMMUNICATION, THE SENDER DOES NOT INTEND DELIVERY TO YOU TO WAIVE ANY PRIVILEGE OR RIGHT PERTAINING TO THIS COMMUNICATION. IF YOU HAVE RECEIVED THIS FACSIMILE MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO THE SENDER AT THE ADDRESS SET FORTH ABOVE VIA THE UNITED STATES POSTAL SERVICE. THANK YOU.

IF YOU WISH TO SPEAK TO THE FAX OPERATOR, PLEASE CALL 410-576-4023

SENT:
DATE: _____
TIME: _____
OPERATOR: _____

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

September 15, 2004

Mr. Lawrence E. Schmidt
Zoning Commissioner
401 Bosley
Towson, MD 21204.

Re: *USFilter Recovery Systems*

Dear Mr. Schmidt:

Please issue a Subpoena to Mr. John L. Lewis. Enclosed is the form subpoena for you. I intend to have him served by private process.

Very truly yours,

William D. Shaughnessy, Jr.

WDS:jc
Enclosure

RE: PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 8200 Fischer Road; 390' SW the intersection of Fischer Road & Faust Lane 15th Election & 7th Councilmanic Districts Legal Owner(s): Ira Miller, Member of 8200 Fischer Road LLC Contract Purchaser(s): US Filter Recovery Services, Vincent Glorioso Unit Manager Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 05-075-SPHXA

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

SUBPOENA

TO: John L. Lewis, Planner II
Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

You are hereby summoned and commanded to be and appear personally before the Zoning Commissioner/Deputy Zoning Commissioner of Baltimore County in Room 407, County Courts Building, 401 Bosley Avenue, Towson, Maryland 21204 and to bring all files regarding zoning verifications and uses for property known as 8200 Fischer Road, Baltimore, Maryland on the 22nd day of September, 2004, regarding the above captioned case for the purpose of testifying at the request of Petitioner, US Filter Recovery Services.

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Mr. Sheriff/Private Process Server:

Please process in accordance with Zoning Commissioner's Rule 2(C).

Zoning Commissioner/Deputy
Zoning Commissioner
for Baltimore County

Issued: 9/15/04

IN THE MATTER OF USFilter RECOVERY SERVICES - CONTRACT PURCHASER/LESSEE; 8200 FISCHER ROAD LLC, LEGAL OWNER ADDRESS: 8200 FISCHER ROAD BALTIMORE, MD 21222	*	BEFORE
	*	COUNTY BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
RE: APPEAL OF LETTER FROM THE DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT	*	CASE NO. CBA-04-144

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

ORDER VACATING DISMISSAL AND STAYING PROCEEDINGS

Upon the foregoing Motion for Reconsideration and Request for Stay of Proceedings, having been read and duly considered, it is this _____ day of September, 2004, by the County Board of Appeals of Baltimore County:

ORDERED: that the Motion for Reconsideration and Request for Stay of Proceedings be and is hereby GRANTED;

ORDERED that the Order of Dismissal dated August 31, 2004 by the County Board of Appeals in this matter be, and is hereby, VACATED, and the appeal is hereby reinstated subject to the stay of proceedings set forth below; and

ORDERED that proceedings in this matter be and same here are STAYED pending the decision of the Zoning Commissioner on September 22 and September 29, 2004 Case No. 05-075-SPHXA and any appeals from the decision of the Zoning Commissioner in that case.

_____

County Board of Appeals of Baltimore County

G:\R692\USFilter\ORDER VACATING DISMISSAL.doc

Amended*

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Rd., Balto., MD 21222__

* Amended to account for changes to BCZR enacted by bill 98-04 **which is presently zoned __MH-IM_____**

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve (1) a use permitted as of right in MH zone as as fluid storage and sale, aboveground, of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and a combination of the above uses, with accessory filter of such fluids, and (2) in conjunction with the Special Exception and Variance filed in this case no 05 075 SPHA, the use of the property as a facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled, where such facility is not located at least 1000 feet from a residential zone but is located 438 feet from a residential zone.

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

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

Contract Purchaser/Lessee:

US Filter Recovery Services
Name - Type or Print

Vincent Glorioso, Bus. Unit Mgr
Signature

1105 N. Point Blvd., Suite 310 — 410.284.1717
Address — Telephone No.

Baltimore — **MD** — **21224**
City — State — Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, suite 200 — 410.625.0234
Address — Telephone No.

Baltimore — MD — 21202
City — State — Zip Code

Attorney For Petitioner:

William D. Shaughnessy, Jr.
Name - Type or Print

Signature

Gordon Feinblatt et al
Company

233 E. Redwood St. — 410.576.4092
Address — Telephone No.

Baltimore — MD — 21202
City — State — Zip Code

Representative to be Contacted:

William D. Shaughnessy, Jr.
Name

233 E. Redwood St. — 410.576.4092
Address — Telephone No.

Baltimore — MD — 21202
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. __05 075 SPHXA_

UNAVAILABLE FOR HEARING _____

Reviewed By _____ **Date** _____

REV 9/15/98

Amended*

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Rd., Balto., MD 21222
which is presently zoned _MH-IM_____

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

an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled"

under Section 256.4 of BCZR, if deemed necessary by the zoning commissioner.

* Amendment is to conform language to amendment to Section 256.4 made by bill 98-04

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

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

Contract Purchaser/Lessee:

US Filter Recovery Services
Name - Type or Print

Vincent Glorioso Vincent Glorioso, Bus. Unit Mgr.
Signature

1105 N. Point Blvd., Suite 300 410.284.1717
Address Telephone No.

Baltimore **MD** **21224**
City State Zip Code

Attorney For Petitioner:

William D. Shaughnessy, Jr.
Name - Type or Print

William D Shaughnessy Jr
Signature

Gordon Feiblatt, et al
Company

233 E. Redwood Street 410.576.4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

IRA Millers
Signature

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, Suite 200 410.625.0234
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Representative to be Contacted:

Willliam D. Shaughnessy, Jr.
Name

233 E. Redwood Street 410.576.4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____ Date _____

Case No. _05 075 SPHXA___

REV 09/15/98

Amended*

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Rd., Balto., MD 21222

which is presently zoned MH-IM

*Amended to account for changes to BCZR enacted by Bill 98-04.

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) 256.3 and 256.4 of the BCZR to reduce the 1,000 foot setback from a residential zone applicable to an "other industrial or manufacturing use" in the MH Zone and applicable to "oil refineries, including any facility for the recovery, processing or recycling of oil" in the MH Zone, to a 438 foot setback.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) Due to the unique configuration of the property, the 1,000 foot setback, if applicable, would preclude the use of this property for used oil recycling. The zoning office has changed its previously issued zoning verification of this use after US Filter obtained permits and spent substantial sums to relocate to the property. The County Council has amended the applicable zoning regulations after US Filter obtained permits and spent substantial sums of money on improvements at the Property.

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:

US Filter Recovery Services
Name - Type or Print

Vincent Glorioso, Bus.Unit Mgr.
Signature

1105 N. Point Blvd., Suite 310 — 410.284.1717
Address — Telephone No.

Baltimore — MD — 21224
City — State — Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

Signature

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, Suite 200 — 410.625.0234
Address — Telephone No.

Baltimore — MD — 21202
City — State — Zip Code

Attorney For Petitioner:

William D. Shaughnessy, Jr.
Name - Type or Print

Signature

Gordon, Feinblatt, et al
Company

233 E. Redwood St — 410.576.4092
Address — Telephone No.

Balto — MD — 21202
City — State — Zip Code

Representative to be Contacted:

William D. Shaughnessy, Jr.
Name

233 E. Redwood Street — 410.576.4092
Address — Telephone No.

Baltimore — MD — 21202
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 05 075 SPHXA

Reviewed By _____ Date _____

REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Road, Baltimore 21222
which is presently zoned MH-IM

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

a use permitted as of right in the MH zone as Fluid storage and sale, aboveground, of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and a combination of the above uses, with accessory filtering of fluids.

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

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

Contract Purchaser/Lessee:

US Filter Recovery Services
Name - Type or Print

Signature Vincent Glorioso, Business Unit Manager

105 N. Point Blvd, Suite 310 w(410) 284-1717
Address Telephone No.

Baltimore MD 21224
City State Zip Code

cell (410) 963-4847

Attorney For Petitioner:

William D. Shaughnessy, Jr.
Name - Type or Print

Signature

Gordon, Feinblatt, Rothman, Hoffberger &
Company Hollander, LLC

233 E. Redwood Streee (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

Signature

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, Suite 200 (410) 625-0234
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Representative to be Contacted:

William D. Shaughnesy, Jr.
Name

233 E. Redwood Street (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING ~~1 DAY~~ 1 DAY + 2 DAYS BACK TO

UNAVAILABLE FOR HEARING —

Reviewed By JL Date 8/10/04

Case No. 05 075 SPHXA

REV 9/15/98

* ORIGINAL KEEP IN ZONING FILE

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Road, Baltimore, MD 21222
which is presently zoned MH-IM

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

WDS

AN Oil refinery" under Section 256.4 of the BCZR, IF DEEMED NECESSARY BY THE ZONING COMMISSIONER.

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

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

Contract Purchaser/Lessee:

US Filter Recovery Services
Name - Type or Print

WDS Vincent Gloriso
Signature Vincent Gloriso, Business Unit Manager

1105 N. Point Blvd., Suite 300 w(410) 284-1717
Address Telephone No.

Baltimore MD 21224
City State Zip Code
cell (410) 963-4847

Attorney For Petitioner:

William D. Shaughnessy
Name - Type or Print

William D. Shaughnessy
Signature

Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC
Company

233 E. Redwood Stret (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

Signature

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, Suite 200 (410) 625-0234
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Representative to be Contacted:

William D. Shaughnessy
Name

233 E. Redwood Street (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 DAY +

UNAVAILABLE FOR HEARING —

Reviewed By JOHN LEWIS Date 9/10/04

Case No. 05 075 SPHXA

REV 09/15/98

~~ORIGINAL~~ KEEP IN ZONING FILE

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 8200 Fischer Road, Baltimore, MD 21222
which is presently zoned MH-IM

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)
256.3 of the BCZR to reduce the 1,000 foot setback from a residential zone applicable to an "other industrial or manufacturing use" in the MH Zone, to a 438 foot setback

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

Due to the unique configuration of the 1,000 foot setback, if applicable, wold preclude the use of this property for used oil recycling; the zoning office has changed its previously issued zoning verification of this use after USFilter spent substantial sums to relocate the Property.

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:

UF Filter Recovery Services
Name - Type or Print

Vincent Glorioso
Signature Vincent Glorioso, Business Unit Manager

1105 N. Point Blvd., Suite 310 w(410) 284-1717
Address Telephone No.

Baltimore, MD MD 21224
City State Zip Code
cell (410) 963-4847

Attorney For Petitioner:

William D. Shaughnessy, Jr.
Name - Type or Print

Signature

Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC
Company

233 E. Redwood Street (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Legal Owner(s):

8200 Fischer Road LLC
Name - Type or Print

Manager Member
Signature

Ira Miller, Member
Name - Type or Print

Signature

31 Light Street, Suite 200 (410) 625-0234
Address Telephone No.

Baltimore MD 21202
City State Zip Code

Representative to be Contacted:

William D. Shaughnessy
Name

233 E. Redwood Street (410) 576-4092
Address Telephone No.

Baltimore MD 21202
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1DAY +

UNAVAILABLE FOR HEARING

Reviewed By JL Date 8/10/04

Case No. 05 075 SPHXA

REV 9/15/98

ATTNY HAS PREPARED FOR SIGN. TO BE, ON W PLANS + SEALED

ZONING DESCRIPTION - 3 acres located at 8200 Fischer Road, Baltimore MD 21224

WHICH IS 390' SOUTH WESTERLY OF THE INTERSECTION OF FAUST FISCHER RD AND FAUST LANE BOTH 20' R/WS

Beginning at a point on the NORTH side of Fischer Road, which is approximately 20 feet of paved width, at the intersection of Faust Lane, which is approximately 20 feet of paved width, and being approximately three (3) acres of area as outlined in a dark dashed line as shown and depicted on a plan entitled "Plan to Accompany Petition for Special Hearing, U.S. Filter -- Tank Storage" dated 8/6/04 and prepared by Whitney, Bailey, Cox & Magnani, LLC. Said 3 acres is a portion of the property described as Parcel A in a Deed dated May 12, 2005 from Engineered Polymer Solutions, Inc. to 8200 Fischer Road, LLC, said Parcel A being described as follows:

Parcel A:

Beginning for the same at a nail now set in the center of Fischers Road, 20 feet wide, at the northern corner of land which by deed dated April 3, 1894 and recorded among the Land Records of Baltimore County, Maryland in Liber LMB 203, folio 494 was granted and conveyed by Louisa Butschky to Anna Maria Murray, the running in the center of Fischers Road and binding on the outlines of said conveyance (pursuant to Chapter 684, Acts of 1892), which all courses of this description referred to the meridian established in the Baltimore County Metropolitan District, the six following courses and distances, viz:

THENCE THE FOLLOWING COURSES & DISTANCES

(1) South 39 degrees 48 minutes 39 seconds West 315 feet,
(2) South 49 degrees 20 minutes 00 seconds West 64.68 feet,
(3) South 54 degrees 55 minutes 00 seconds West 65.29 feet;
(4) South 57 degrees 30 minutes 00 seconds West 65.35 feet,
(5) South 62 degrees 20 minutes 00 seconds West 65.30 feet, and
(6) South 65 degrees 30 minutes 39 seconds West 450.87 feet to intersect northeasternmost right of way line of the Patapsco Freeway (Interstate 695) as shown on State Roads Commission of Maryland Plat Nos. 35518 and 40665, thence leaving Fischers Road and running and binding on said right of way line, the three following courses and distances, viz:
(7) North 26 degrees 40 minutes 22 seconds West 30.20 feet to a 5/8 inch diameter iron pin with a 1-1/4 inch diameter plastic cap marked 'PROPERTY MARK SJM C 176" (hereinafter referred to as a standard marker, now set,
(8) South 64 degrees 31 minutes 45 seconds West 81.03 feet, and
(9) North 38 degrees 18 minutes 24 seconds West 610.35 feet to the end of the second or South 20 degrees 37 minutes 27 seconds East 310.95 feet line of the land which by deed dated July 11, 1972 and recorded among the Land Records aforesaid in Liber EHK, Jr. 5317, folio 819 was granted and conveyed by the State Highway Administration of the Department of Transportation to Beatrice Foods Company, thence leaving said right of way line and running and binding reversely on the second line of said conveyance to Beatrice Foods,
(10) North 20 degrees 19 minutes 30 seconds West 310.72 feet to intersect the first or South 54 degrees 58 minutes West 691 feet line of the second described parcel of land which by deed dated June 12, 1985 and recorded among the Land Records aforesaid in Liber EHK, Jr. 6937, folio 46 was granted and conveyed by Beatrice

075

ZONING DESCRIPTION

3.0 acres located at 8200 Fischer Road, Baltimore, Maryland 21224

Beginning at a point which is 390' south westerly of the intersection of Fischer Road and Faust Lane, both with 20' right-of-ways, thence the following courses and distances:

(1) Northwest 118 feet,
(2) Northeast 70 feet,
(3) Northwest 144 feet,
(4) Southwest 72 feet,
(5) Northwest 38 feet,
(6) Southwest 102 feet,
(7) Southeast 16 feet,
(8) Southwest 100 feet,
(9) Southeast 100 feet,
(10) Southwest 150 feet,
(11) Southeast 100 feet,
(12) Northeast 250 feet,
(13) Southeast 88 feet,
(14) Southwest 33 feet,
(15) Southeast 34 feet,
(16) Southwest 421 feet,
(17) Southeast 189 feet,
(18) Northeast 394 feet,
(19) Northwest 75 feet,
(20) Southwest 93 feet,
(21) Northwest 154 feet,
(22) Northeast 57 feet to the point of beginning; containing 3.0 acres of land, more or less.

STATE OF MARYLAND · MARK SHAFER · 13062 · REGISTERED · PROFESSIONAL ENGINEER

SEAL

8/11/04
DATE

The preceding description was prepared by Whitney, Bailey, Cox & Magnani, LLC and shall be used for zoning hearing purposes only. This description shall not be considered for establishment of property boundaries, grants, conveyances and/or leaseholds.

CORRECTED 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: #05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District - 7th Councilmanic District
Legal Owner(s): 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Giordano, Business Unit Manager

Special Hearing: *(1) to permit a use permitted as of right* in the MH zone as Fluid storage and sale, aboveground of, flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids (2) in conjunction with the Special Exception and Variance filed in this case, the use of the property as a facility for the recovery, processing or recycling of oil or the storage or transfer of oil to be recycled, where such facility is not located at least 1,000 feet from a residential zone but is located 438 feet from a residential zone. **Variance:** to reduce the *1,000 ft. setback from a residential zone applicable to an* "other industrial or manufacturing use in the MH zone, and applicable to "oil refineries, including any facility for the recovery, processing or recycling of oil" in the MH zone, to a 438 ft. setback. **Special Exception:** to permit an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be *recycled*" *if deemed necessary by the zoning commissioner.*

Hearing: Friday, November 12, 2004, Monday, November 22, 2004 and Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM WISEMAN
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.

11/632 Nov. 2 28317

CERTIFICATE OF PUBLICATION

11/3/, 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 11/2/,2004.

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

S. Wilkinson

LEGAL ADVERTISING

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: #05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the Intersection of Fischer Road and Faust Lane
15th Election District - 7th Councilmanic District
Legal Owner(s): 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services; Vincent Glorioso, Business Unit Manager

Special Hearing: to permit a use *permitted as of right in* the MH zone as fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of *such fluids*, laboratory use and combination of the above uses, with accessory filtering of fluids. **Variance:** to reduce the 1,000 ft. setback from a residential zone applicable to an "other industrial or manufacturing use in the MH zone, to a *436 ft.* setback. ***Special Exception:*** *to* permit an oil refinery, if deemed necessary by the zoning commissioner.

Hearing: Friday, November 12, 2004; Monday, November 22, 2004 and Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

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.*

10/298 Oct. 28 27331

CERTIFICATE OF PUBLICATION

10/28, 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 10/28, 2004.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

05075 SPHXA JL

No. 39115

DATE 8/10/04

ACCOUNT 001006 6150

AMOUNT $ 800.00

RECEIVED FROM: Gallo Family Trust

FOR: 8200 Fuselage Rd

SPHXA

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	
8/11/2004	8/10/2004	07:45:43	

REG. MGR: MALKIN MAEL MAH

>>RECEIPT # 346193 8/10/2004 DFLR

Dept 5 528 ZONING VERIFICATION

OR NO. 039115

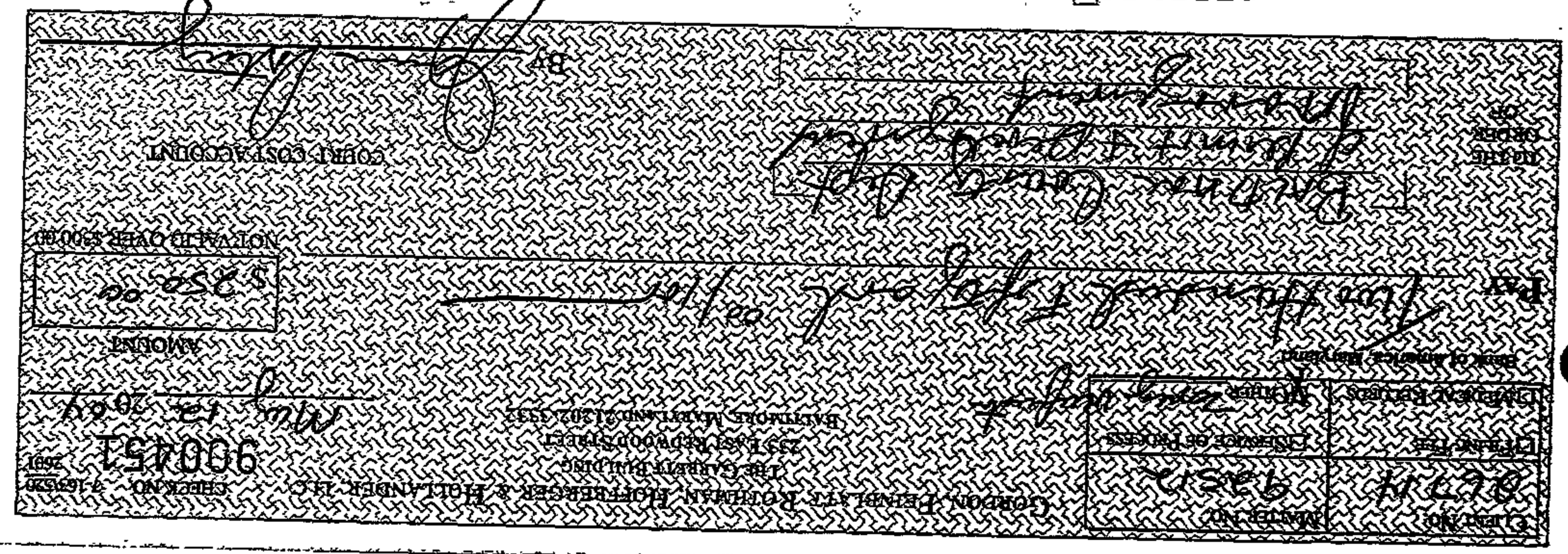
Recpt Tot $800.00

$800.00 CK $.00 CA

Baltimore County, Maryland

CASHIER'S VALIDATION

"900451" :052001633: 200 411 7978"



GORDON, FEINBLATT, ROTHMAN, HOFFBERGER & HOLLANDER, LLC
The Garrett Building
233 East Redwood Street
Baltimore, Maryland 21202-3332

CHECK NO. 2-162520

900451

DATE 12-20-04

AMOUNT

$ 350.00

NOT VALID OVER $500.00

COURT COST ACCOUNT

By

Pay

Two Hundred Fifty and 00/100

TO THE ORDER OF

Bank of America, Maryland

MEMO

Clerk, Circuit Court

Date 12-20-04

CLERK NO.	AMOUNT
0473	9252

DESCRIPTION

Subscribed and Sworn Before Me

Notary Public

My Commission Expires

CERTIFICATE OF POSTING

RE: Case No.: 05-075-SPHXA

Petitioner/Developer: 03 FILTER RECOVERY SERVICES, VINCENT GLORIOSO

Date of Hearing/Closing: SEPT 22, 2004

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

ATTN: Kristen Matthews {(410) 887-3394}

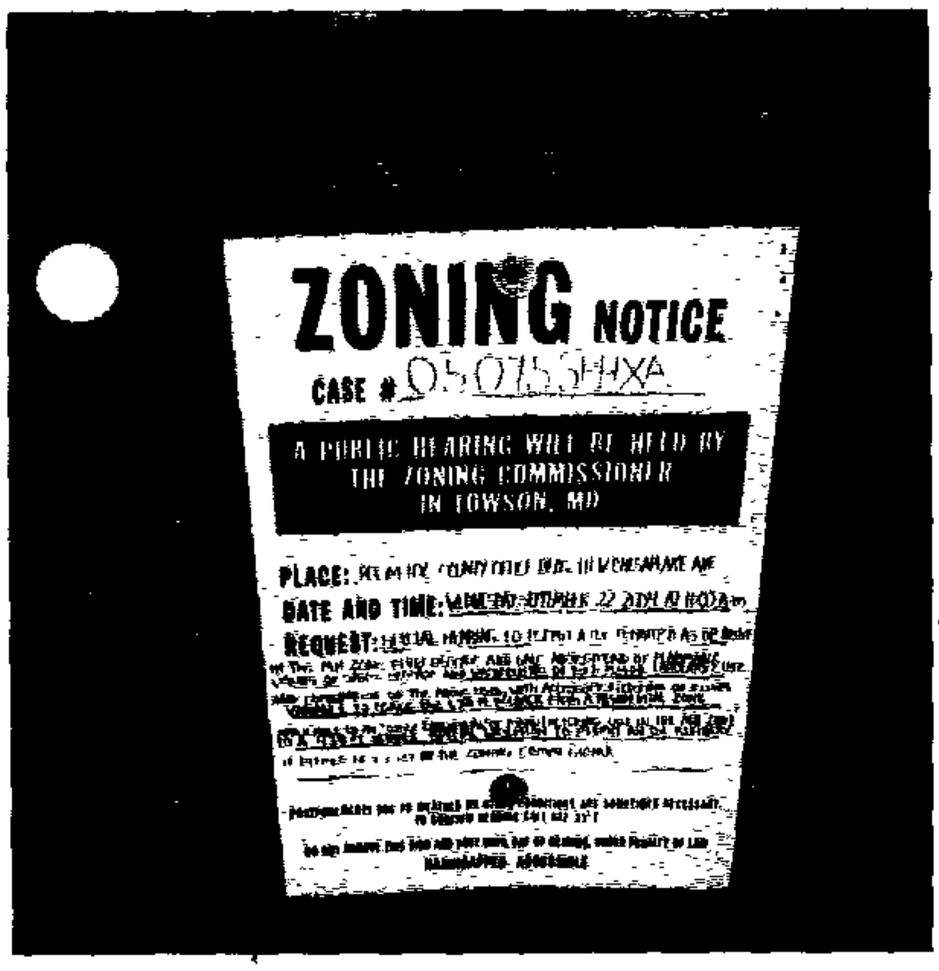
Ladies and Gentlemen:

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:

8200 FISCHER RD

The sign(s) were posted on 9/7/04
(Month, Day, Year)

Sincerely,



Robert Black 9/8/04
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY
Thursday, October 28, 2004 Issue - Jeffersonian

Please forward billing to:
William D. Shaughnessy 410-576-4092
233 E. Redwood Street
Baltimore, MD 21202

CORRECTED 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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Corrected

Special Hearing (1) to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids (2) in conjunction with the Special Exception and Variance filed in this case, the use of the property as a facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled, where such facility is not located at least 1,000 feet from a residential zone but is located 438 feet from a residential zone. Variance to reduce the 1,000 ft. setback from a residential zone applicable to an "other industrial or manufacturing use in the MH zone and applicable to "oil refineries, including any facility for the recovery, processing or recycling of oil" in the MH zone, to a 438 ft. setback. Special Exception to permit an "oil refinery" or a "facility for the recovery, processing or recycling of oil, or the storage or transfer of oil to be recycled", if deemed necessary by the zoning commissioner.

Hearing: Friday, November 12, 2004, Monday, November 22, 2004 and
Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
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.

Post-It® Fax Note 7671	Date 10/27	# of pages ▶ 1
To Jaye Cooper	From Kristen Matthews	
Co./Dept	Co	
Phone #	Phone # 410-887-3391	
Fax # 410-576-4182	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

September 30, 2004

UPDATED 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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Special Hearing (1) to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids. (2) Variance to reduce the 1,000 ft. setback form a residential zone applicable to an "other industrial or manufacturing use in the MH zone, to a 438 ft. setback. Special Exception to permit an oil refinery, if deemed necessary by the zoning commissioner.

Hearing: Friday, November 12, 2004, Monday, November 22, 2004 and Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: William D. Shaughnessy, 233 E. Redwood St., Baltimore 21202
Ira Miller, 31 Light Street, Ste. 200, Baltimore 21202
Vincent Glorioso, 1105 N. Point Blvd., Ste. 300, Baltimore 21224
Bill Evans, 6914 Holabird Ave., Ste. A, Baltimore 21222
Fred Thiess, 4102 Beachwood Rd., Baltimore 21222
Bud Clark, 502 Washington Ave, Ste. 700, 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, OCTOBER 28, 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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, October 28, 2004 Issue - Jeffersonian

Please forward billing to:
William D. Shaughnessy
233 E. Redwood Street
Baltimore, MD 21202

410-576-4092

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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Special Hearing to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids. Variance to reduce the 1,000 ft. setback form a residential zone applicable to an "other industrial or manufacturing use in the MH zone, to a 438 ft. setback. Special Exception to permit an oil refinery, if deemed necessary by the zoning commissioner.

Hearing: Friday, November 12, 2004, Monday, November 22, 2004 and
Tuesday, November 23, 2004, all beginning at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

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.

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

August 12, 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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Special Hearing to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids. Variance to reduce the 1,000 ft. setback form a residential zone applicable to an "other industrial or manufacturing use in the MH zone, to a 438 ft. setback. Special Exception to permit an oil refinery, if deemed necessary by the zoning commissioner.

Hearing: Wednesday, September 22, 2004 at 11:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: William D. Shaughnessy, 233 E. Redwood St., Baltimore 21202
Ira Miller, 31 Light Street, Ste. 200, Baltimore 21202
Vincent Glorioso, 1105 N. Point Blvd., Ste. 300, Baltimore 21224

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 20, 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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 21, 2004 Issue - Jeffersonian

Please forward billing to:
William D. Shaughnessy
233 E. Redwood Street
Baltimore, MD 21202

410-576-4092

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: 05-075-SPHXA
8200 Fischer Road
390 ft. s/west of the intersection of Fischer Road and Faust Lane
15th Election District – 7th Councilmanic District
Legal Owners: 8200 Fischer Road, LLC, Ira Miller, Member
Contract Purchaser: US Filter Recovery Services, Vincent Glorioso, Business Unit Manager

Special Hearing to permit a use permitted as of right in the MH zone as Fluid storage and sale, aboveground of flammable liquids or gases, storage and warehousing of such fluids, laboratory use and combination of the above uses, with accessory filtering of fluids. Variance to reduce the 1,000 ft. setback form a residential zone applicable to an "other industrial or manufacturing use in the MH zone, to a 438 ft. setback. Special Exception to permit an oil refinery, if deemed necessary by the zoning commissioner.

Hearing: Wednesday, September 22, 2004 at 11:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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: 05 075 SPHXA

Petitioner: 8200 FISCHER ROAD, LLC

Address or Location: 8200 FISCHER ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: William D. Shaughnessy, Jr

Address: 233 E. REDWOOD ST
BALTO MD 21202

Telephone Number: 410.576.4092

Revised 2/20/98 - SCJ

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

November 3, 2004

William D. Shaughnessy, Jr.
Gordon, Feinblatt
233 E. Redwood Street
Baltimore, Maryland 21202

Dear Mr. Shaughnessy:

RE: Case Number: 05-075-SPHXA, 8200 Fischer Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 10, 2004.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
US Filter Recovery Services 1105 N. Point Blvd. Baltimore 21224
Ira Miller 31 Light Street Baltimore 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 30, 2004

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

SUBJECT: 8200 Fischer Road

INFORMATION:

Item Number: 5-075

Petitioner: 8200 Fischer Road LLC.

Zoning: MH-IM

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommends that the petitioner's request be **DENIED**.

This office is of the opinion that the proposed use in incompatible with the adjacent residential use. In addition, this office shares the concern of area residents regarding pollution from the subject proposed use into the Chesapeake Bay and surrounding environment.

Prepared by: Mark A Cunningham

Division Chief: Dina Stitt
for Jeff Mayhew

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: September 1, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For August 23, 2004
Item Nos. 061, 062, 063, 064, 065,
066, 067, 068, 069, 070, 072, 074, 075
076, 077, 079, 080, and 081

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

RWB:CEN:jrb

cc: File

ZAC-08-23-2004-NO COMMENT ITEMS-061 – 081-09012004

Fire Department

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

Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

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

August 24, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: August 16, 2004

Item No.: 075

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

3. 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

Printed on Recycled Paper

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

Date: 8.13.04

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 075 JLL

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

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

Very truly yours,

S. D. Foster

Steven D. Foster, Acting Chief
Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: September 20, 2004

SUBJECT: Zoning Item # 05-075
Address 8200 Fischer Road (U.S. Filter)

Zoning Advisory Committee Meeting of August 16, 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:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: Mike Kulis Date: September 20, 2004

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

RE:	PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 8200 Fischer Road; 390' SW the intersection of Fischer Road & Faust Lane 15th Election & 7th Councilmanic Districts Legal Owner(s): Ira Miller, Member of 8200 Fischer Road LLC Contract Purchaser(s): US Filter Recovery Services, Vincent Glorisio Unit Manager Petitioner(s)	* * * * * * * * * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 05-075-SPHXA

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
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 19th day of August, 2003, a copy of the foregoing Entry of Appearance was mailed to William D Shaughnesy, Jr, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC, 233 Redwood Street, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED
AUG 19 2004
Per.....

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

From: "Shaughnessy, William D" <wshaughnessy@gfrlaw.com>
To: <tkotroco@co.ba.md.us>
Date: 9/23/2004 11:47:52 AM
Subject: scheduling of hearings for 8200 Fischer Rd -- Case No 05-075-SPHXA

Mr. Kotroco

I received a call from Kristen to schedule the hearings in this matter. She asked whether the dates of November 29 &30 were available. I told her those dates were open for me. I asked her if there were any earlier dates and she responded that she was told to set dates at least 45 days from the date of the prior hearings.

The prior hearing was set for 22 Sept. 45 days after this date would be the 6th of November.

Each day that this matter is not resolved is costing my client substantial delay and money. These hearing were to be expedited in light of the suspension of work at the property.

If at all possible, my client would like to have the hearings scheduled in the first or second week of November. Would you kindly let me know if this is possible.

I am emailing this to you so that we might avoid missing each other by telephone.

Thank you.

William D. Shaughnessy, Jr.
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander, LLC
233 East Redwood Street
Baltimore, MD 21202-3332
tel.: 410.576.4092
fax : 410.576.4246
email: wshaughnessy@gfrlaw.com

Kristen:
Do you have anything earlier?
T—

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

FROM: John E. Beverungen
Deputy County Attorney

DATE: September 15, 2004

RE: USFilter Recovery Services
Property: 8200 Fischer Road
Case No. CBA-04-144

I am writing in regard to attorney William D. Shaughnessy's September 13, 2004 correspondence and pleadings with respect to the above matter, on which you were copied.

Mr. Shaughnessy has filed a motion with the Board of Appeals seeking reconsideration of its August 31, 2004 Order of Dismissal, which dismissed the above captioned appeal on ripeness grounds.

Please advise whether you want these offices to oppose the Motion for Reconsideration or to take any other action on the case at this juncture.

JEB:dlm
cc: Jay L. Liner, County Attorney

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

September 10, 2004

RECEIVED
SEP 13 2004
ZONING COMMISSIONER

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Case No.: 05-075-SPHXA
Petitioner: USFilter Recovery Services
Protestants: Wells-McComas Citizen Improvement Association, Inc.
Hearing Date: September 22, 27, 2004

Dear Mr. Kotroco:

The undersigned is counsel to USFilter, the Petitioner in this matter.

I received a copy of Mr. Evans' letter to you of September 8, 2008, in which he enters his appearance as counsel to the Protestants and in which he requests a 90 continuance from the currently scheduled hearing dates.

USFilter strongly opposes any proposed postponement in this matter. As you are aware, USFilter has ceased construction under permits previously issued by Baltimore County, pending the outcome of the currently scheduled zoning hearing. USFilter has hundreds of thousands of dollars already invested at the Fischer Road site and each week that the USFilter facility is not operational at Fisher Road, costs USFilter in excess of $10,000 per week in extra costs to ship fluids to other locations. In light of the suspension of construction and activities at this Property, there is a need to expedite, not postpone, resolution of this matter.

While my client and I would ordinarily seek to accommodate the scheduling requests of other parties, under the current circumstances we strongly urge that the postponement request be denied.

KM

9/14/04
postponement granted.
reset case in 45 days.
T. K.

LAW OFFICES
WILLIAM R. EVANS
CHARTERED
6914 HOLABIRD AVENUE
SUITE A
BALTIMORE, MARYLAND 21222
(410) 282-1800
FAX
(410) 282-6973

September 8, 2004

Timothy Kotroco, Director
Dept. of Permits & Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Case No.: 05-075SPHXA
Petitioner: US Filter Recovery Services
Protestants: Wells-McComas Citizen Improvement Association, Inc.
Hearing Date: September 22, 2004; 11:00 AM

Dear Mr. Kotroco:

Please enter my appearance in behalf of Wells-McComas Citizen Improvement Association, Inc., in the above-captioned matter.

As I have been recently retained and need time to investigate the issues and determine the need for expert testimony, I respectfully request a ninety (90) day continuance of this matter.

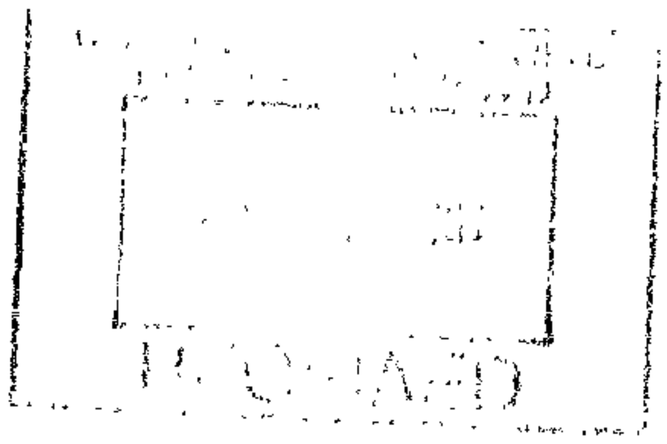
Please advise.

Very truly yours,

William R. Evans

cc: William D. Shaughnessy, Esq.
Fred Thiess
Lawrence E. Schmidt, Zoning Commissioner

WE:sd



THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765
EMAIL NPW@NOLANPLUMHOFF COM
WEB SITE: WWW.NOLANPLUMHOFF COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

RECEIVED
NOV 5 2004
ZONING COMMISSIONER

November 5, 2004

VIA HAND DELIVERY

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

Re: Wells McComas Citizens Improvement Association
Case No.: 05-075-SPHA

Dear Mr. Wiseman:

In connection with the above captioned case, currently there are hearings set for Friday, November 12, 2004, Monday, November 22, 2004 and Tuesday, November 23, 2004. I would like to request permission to have a Court Reporter present throughout the hearings to record transcripts of the proceedings.

Please contact me to advise if this request is acceptable to you. Thank you for anticipated cooperation. *Until then, I remain.*

Very truly yours,

C. William Clark

CWC/jkc

Enclosures

cc: William R. Evans, Esquire
William D, Shaughnessy, Jr., Esquire
Peter Max Zimmerman, Esquire
Jean Romadka, Wells McComas Citizens Improvement Association

THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
DOUGLAS L. BURGESS
C. WILLIAM CLARK
CATHERINE A. POTTHAST*
E. BRUCE JONES**
CORNELIA M. KOETTER*

* ALSO ADMITTED IN D.C.
** ALSO ADMITTED IN NEW JERSEY

Law Offices
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800
TELEFAX: (410) 296-2765
EMAIL: NPW@NOLANPLUMHOFF COM
WEB SITE: WWW.NOLANPLUMHOFF.COM

J. EARLE PLUMHOFF
(1940-1988)

NEWTON A. WILLIAMS
(RETIRED 2000)

RALPH E. DEITZ
(1918-1990)

September 24, 2004

VIA HAND DELIVERY

Mr. Timothy M. Kotroco, Director
Department of Permits
and Development Management
111 West Chesapeake Avenue
Towson, Md 21204

ATTN: KRISTEN

Re: Well's Mc'Comas Citizens Improvement Association
Case No.: 05-075-SPHXA

Dear Mr. Kotroco:

In connection with the above captioned case, please enter my appearance as co-counsel with William R. Evans, Esquire, on behalf of the Well's Mc'Comas Citizens Improvement Association, Inc. and additional individuals not yet to be identified.

I ask that you please consult with me prior to scheduling the dates of the Hearing.

Thank you for your assistance in this matter. If you have any questions or concerns, please do not hesitate to contact me. Until then, I remain.

Very truly yours,

C. William Clark

CWC/jkc
cc: Robert J. Romadka, Esquire, Well's Mc'Comas Citizens
Improvement Association
William R. Evans, Esquire

PLEASE PRINT CLEARLY

CASE NAME USF
CASE NUMBER 05-075
DATE 11/22/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
NANCY L. DONAHUE	1403 MARBETH DRIVE	BALT. MD 21222	
Ed Hooley	8346 Bletzer rd	Balt MD 21222	
Jean Kowalka	104B Briarwood Rd	Balto MD 21222 (Briarwood Estates)	
FRED Thiess	4102 Beachwood Rd	BALTO. MD 21222	

PLEASE PRINT CLEARLY

CASE NAME 05-075
CASE NUMBER
DATE 11-12-04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Fred Thiess	4102 Beachwood Road	Baltimore MD 21222	
Jerry Gordon	11 N. Cenby Place	Balto MD 21222	
Robert J Benadla	104 B Beachwood Rd.	Balto Md 21222	
Rick Cohurt	400 Washington Ave.	Towson 21204	

PLEASE PRINT CLEARLY

CASE NAME USF
CASE NUMBER 05-075
DATE 11/22/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
VINCENT GLORIOSO	1105 North Point Blvd Suite 310	BALTIMORE MD 21224	VINCENT.GLORIOSO@USFI.COM

PLEASE PRINT CLEARLY

CASE NAME 05-075
CASE NUMBER
DATE 11-12-04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Douglas G. Smith	12 Sycamore Lane	Westford MA 01886	dsmith@cnsr.com
Timothy Ford	505 S. Market	Wilmington DE 19801	Timothy.Ford@45filter.com
JESSE LINDSAY	600 FOREST DR	LUTHERVILLE, MD 21093	jlindsay@wbcm.com
Bill Shaughnessy	233 E Redwood	Baltimore	wshaughnessy@sfcsw.com

PLEASE PRINT CLEARLY

CASE NAME 05-075
CASE NUMBER
DATE 11-23-04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ALFRED W. BAILEY III	ONE SOUTH CALVERT #1150	BALTO, MD 21202	ABASSOC6@ELLATLANT.C.NET
John Cignetti	6334 Dogwood Rd. Balto MD 21207		

PLEASE PRINT CLEARLY

CASE NAME USF
CASE NUMBER 05-075
DATE 11/22/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
FRANK L. MATCIUS	10604 BIRCH RIVER DRIVE	~~TUXEDO~~ CLARKSVILLE MD 20	
FRANK C. COURTNEY	614 BECKY AVE	TOWSON 21204	
DOUGLAS KENNEDY	3106 LORD BALTO. DRIVE	BALTIMORE, MD. 21244	DKENNEDY@KCW-ET.com

Case No.: 05-075

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Letter to PDM	MAY 14 2004 letter from US FILTER to MDOE
No. 2	Response to USF letter 5/13/04 from LEWIS	BCZR - 256.2 REQUIRED to BE LOCATED 300'
No. 3	= ABCDE Series of Bldg Permits for interior work	ABC MAP of Roads IN Area
No. 4	John Lewis Letter 7/26/04 - MAY be Rejuvenating	Aerial View Comm'j off
No. 5	8/4/04 Letter to KOTROCO refuting "REFINING" implication.	5B - old Battle Grove Rd looking North 1Bld 5D - Highwater Sign 5H
No. 6	Bill 98-04	Wells - McComas Community Conservation Plan
No. 7	Site Plan	Churches in Area 7A 7B
No. 8 4/23/04	APPLICATION FOR Permit to Construct with Md. Dept. of Environment - AIR PERMIT APP -	Southeast Regional Rec Center & North Point
No. 9 6/9/04	draft Permit to construct	Battle Grove Elementary with Rec fields
No. 10	Md. Dept. of Environment Fact Sheet - used at Public Hearing	Aerial Photographs 10-A,B,C,D, 8/4/04
No. 11 7/15/04	Balto. County Permit for Waste Water treatment	PORI 8/19/96
No. 12	Resume + Educational Experience of Douglas SMITH	CV of JOHN CIGNATTA P.E.

ON BOARD

Case No.: 05-075

Exhibit Sheet - Continued

	Petitioner/Developer	Protestant
No. 13	Douglas Smiths - Summary of FINDINGS	US Tank Farm Improvement Plans Prepared by Whitney Bailey Cox 7 Pages (Filed)
No. 14	Would be figure 4 of DR Smiths Report	~~Signature~~ Alfred W. Barry III CV
No. 15	RECORDS FROM BOARD OF APPEALS	PLANNING DEPT. ZAC COMMENT
No. 16	RESUME OF Mr. LINDSAY Project Manager - Engineer	1000 SCALE ZONING MAP 9/94 - ZONING OVERLAY DUNDALK - PATAPSCO NECK
No. 17 (SN BOARD)	REGIONAL ZONING MAP 200'SCALE' - (SCALED DOWN - 1"=150"	1000 Scale Zoning Map 9/94 - ZONING Overlay ESSEX - MIDDLE RIVER REVISION
No. 18	ROSS OLIVER LETTER Public Health Engineer Identical to EXHIBIT 9	
No. 19	Definitions from Websters 3rd International DICTIONARY	
No. 20	VINCE GLORIOSO RESUME	
No. 21	BLDG. INSPECTION - Footers/ PIERS 5/17/04	
No. 22	INSPECTION CERTIFICATES Plumbing & Electrical & BOILER for VARIOUS DATES	
No. 23	17 Pages Shafter Recovery Services Tax Sale Information	
No. 24		

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

Account Identifier: **District** - 15 **Account Number** - 1508802240

Owner Information

Owner Name: 8200 FISCHER ROAD LLC

Mailing Address: STE 200
31 LIGHT ST
BALTIMORE MD 21202-1200

Use: INDUSTRIAL
Principal Residence: NO
Deed Reference: 1) /20059/ 137
2)

Location & Structure Information

Premises Address
8200 FISCHER RD

Legal Description
20.5528 AC
NS FISCHER RD
640 FT E OLD NORTH PT RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
104	9	12						82	Plat Ref:

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1962	133,827 SF	20.30 AC	07

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	563,600	658,600		
Improvements:	2,261,000	2,156,400		
Total:	2,824,600	2,815,000	2,815,000	2,815,000
Preferential Land:	0	0	0	0

Transfer Information

Seller:	ENGINEERED POLYMER SOULUTIONS INC	**Date:**	05/14/2004	**Price:**	$2,850,000
Type:	MULT ACCTS ARMS-LENGTH	**Deed1:**	/20059/ 137	**Deed2:**	
Seller:	VALSPAR CORPORATION	**Date:**	05/12/2004	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/20042/ 494	**Deed2:**	
Seller:	FARBOIL COMPANY	**Date:**	05/07/2004	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

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 - 15 Account Number - 1508802240**

Owner Information

Owner Name: FARBOIL COMPANY

Mailing Address: *3609 SMITH BARRY RD STE 100*
ARLINGTON TX 76013-4631

Use: INDUSTRIAL
Principal Residence: NO
Deed Reference: *1) /14381/ 356*
2) /14381/ 350

ADDITIONAL REFERENCE RECORDED

Location & Structure Information

Premises Address
8200 FISCHER RD

Legal Description
20.5528 AC
NS FISCHER RD
640 FT E OLD NORTH PT RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
104	9	12						82	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		*20.55 AC*	*07*

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2003	Phase-in Assessments As Of 07/01/2003	As Of 07/01/2004
Land:	563,600	658,600		
Improvements:	2,261,000	2,156,400		
Total:	2,824,600	2,815,000	2,815,000	2,815,000
Preferential Land:	*0*	*0*	*0*	*0*

Transfer Information

Seller:	COOK G BRADFORD,TRUSTEE	**Date:**	03/29/2000	**Price:**	$346,232
Type:	NOT ARMS-LENGTH	**Deed1:**	/14381/ 356	**Deed2:**	/14381/ 350
Seller:	G BRADFORD COOK SUCCESSOR,TRUSTEE	**Date:**	12/29/1992	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 9527/ 514	**Deed2:**	
Seller:	HUBBAY INC	**Date:**	11/23/1990	**Price:**	$0
Type:	NOT ARMS-LENGTH	**Deed1:**	/ 8655/ 152	**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:

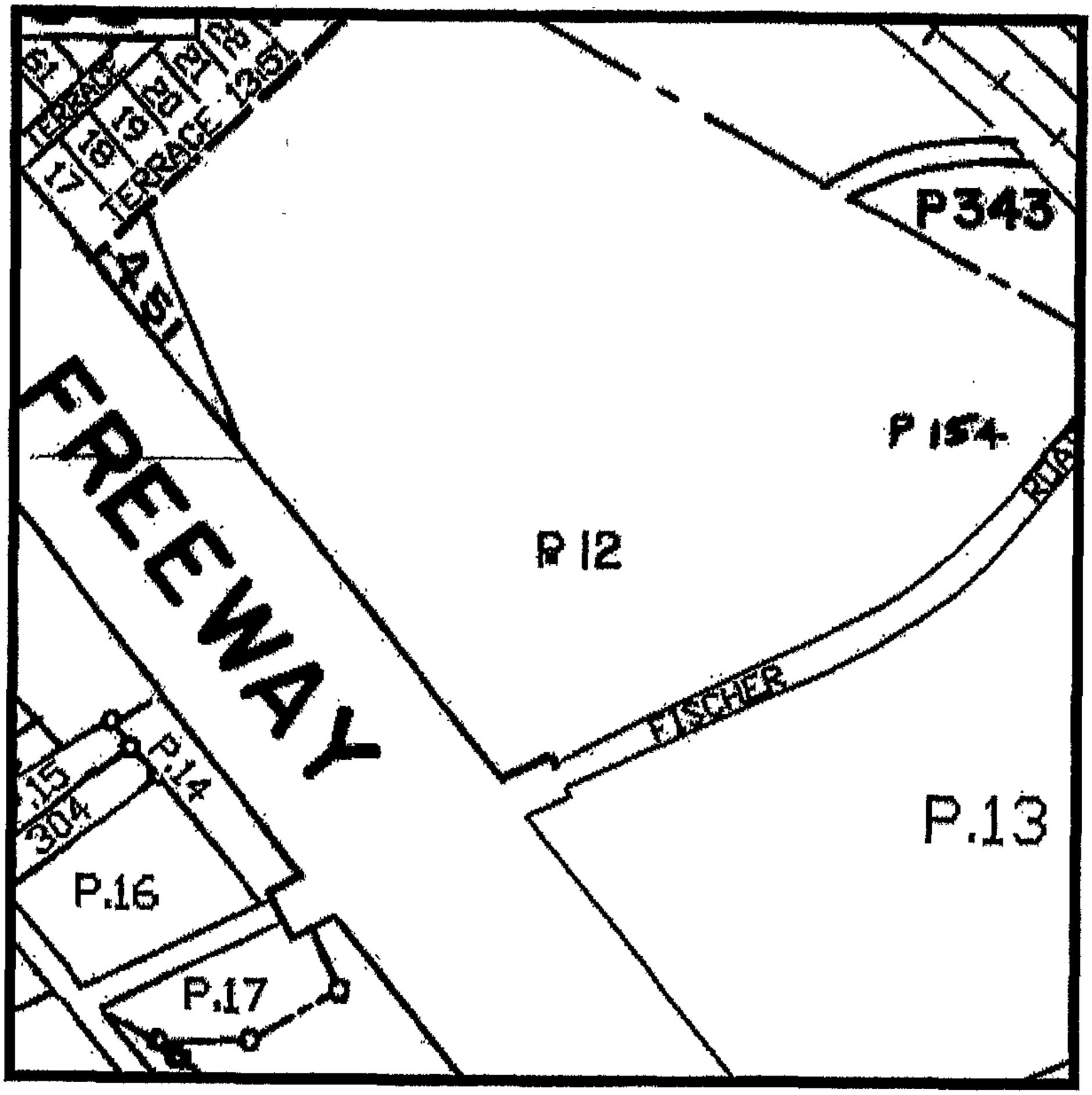
Special Tax Recapture:

* NONE *

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

Go Back
View Map
New Search

District - 15Account Number - 1508802240



Property maps provided courtesy of the Maryland Department of Planning ©2001 - 2002.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at
www.mdp.state.md.us/webcom/index.html

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

May 12, 2004

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

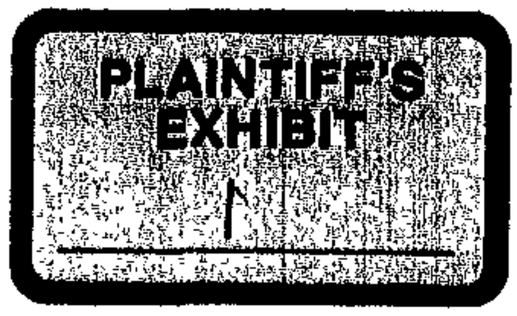
Re: Zoning and Use Verification for 8200 Fischer Road
Map 104, Grid 9, Parcel 12
Property Owner: Farboil Company
Property Description: Approximate 20.5 acres northside of Fischer Rd
District 15, Account No. 1508802240
(the above being hereafter called the "Property")

Dear Mr. Kotroco:

This office is local counsel to US Filter Recovery Services. ("USF"). USF is in the process of leasing a portion of the property located at 8200 Fischer Road, Baltimore, MD 21224 from the property owner.

It is my understanding that a portion of the Property is currently utilized by an one existing tenant at the property for warehousing and distribution of paint and coating products from the existing warehouse buildings, and a portion of the Property is also used by a second existing tenant for warehousing purposes.

USF intends to lease a portion of the Property (approximately 3 acres) for the conduct of its business, a portion of which will occur in part of the larger warehouse building on the Property and a portion of which will occur on concrete slabs to be poured immediately adjacent to the side of the large warehouse building. A summary of the proposed use by USF is set forth below.



GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

location to its new location at the Property in Baltimore County. During the transition of USF's business to its new Baltimore County location at the Property, USF is currently redirecting its traffic to other locations in other states which, as you can imagine, is expensive and inefficient proposition that significantly impacts USF's business. Accordingly, I would appreciate it if you could give this verification request your earliest possible favorable consideration.

Enclosed is this firm's check in the amount of Two Hundred Fifty ($250.00) Dollars to cover the cost of an expedited zoning verification request.

Please direct your reply to the undersigned. If you have any questions or need any further information, please call me at (410) 592-4092.

Very truly yours,

William D. Shaughnessy, Jr.

May 13, 2004

Dear Mr. Shaughnessy:

This zoning determination (referred to me for response by Mr. Kotroco) is being added at the end of your letter in the interest of saving response time to your "one day" letter request of 5/12/04.

The uses as described are permitted in the MH zoning which your plan information and current zoning maps SE 2 & 3, G& H indicate is the zoning on site. The following are conditions of this zoning approval.

1. Pursuant to section 105 Baltimore County Zoning Regulations, any part of this use located in the Chesapeake Bay Critical area must also be in the IDA (intensely developed area) designation for same.

2. No refining of the subject substances is permitted on site. No products containing "sludge" as defined in section 101 BCZR (copy attached) will be delivered ,stored or processed on site.

3. The proposed uses, including the parking of vehicles (except passenger automobile parking) must be set back 150 feet from the DR 3.5 zone boundary per section 256.5 BCZR. Please correct your plan accordingly.

4. When submitting for building permit, commercial building checklist requirement standards must be shown. This includes setbacks as well as vehicle parking requirements per section 409. BCZR.

5. Please be aware that this determination is for zoning only and it is not intended to supercede any other agencies requirements.

John L. Lewis
Zoning Planner

05/13/04 THU 15:29 [TX/RX NO 6726]

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

TIMOTHY M. KOTROCO
DIRECTOR

JOHN R. REISINGER
BUILDINGS ENGINEER

BUILDING PERMIT

PERMIT #: B554312 CONTROL #: C- DIST: 15 PREC: 20
DATE ISSUED: 04/30/2004 TAX ACCOUNT #: 1506302240 CLASS: 07

PLANS: CONST 0 PLOT 0 R PLAT 0 DATA 0 ELEC NO PLMB NO
LOCATION: 8200 FISCHER RD
SUBDIVISION: 640 FT E OLD NORTH PT RD

THIS PERMIT EXPIRES ONE YEAR FROM DATE OF ISSUE

OWNERS INFORMATION
NAME: US FILTER/MILLER INVESTMENTS
ADDR: 1105 N.PT.BLVD.21224,31 LIGHT ST.STE 200,21202

TENANT:
CONTR: DEAN MCNEW
ENGNR:
SELLR: FARBOIL CO.
WORK: FOUNDATIONS-15-FOR ABOVE GRND TANKS+NEW FOOTER-
BOILER;SEPARATE PERMITS REQ,FOR TANKS;ISSUED @
HOLDERS RISK;ISSUANCE OF THIS PERMIT DOES NOT
COMMIT BALTO.CO.TO ISSUE ANY FURTHERPERMITS.
9@133'=1197',2@95'=190',1@363',1@38',1@28'.
21X28=588SF;INSIDE OF EX.BLDG.WAIVE PLANS-ALB.
BLDG. CODE:
RESIDENTIAL CATEGORY: OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: WAREHOUSE AND FOUNDATIONS
EXISTING USE: WAREHOUSE

TYPE OF IMPRV: NEW BUILDING CONTRUCTION
USE: OTHER - NON-RESIDENTIAL
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 20.550 ACRES
FRONT STREET:
SIDE STREET:
FRONT SETB: NC
SIDE SETB: NC/NC
SIDE STR SETB:
REAR SETB: NC

PLAINTIFF'S EXHIBIT 6 A

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

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

RECEIVED JUL 2 9 2004

July 26, 2004

William Shaughnessy, Jr.
Gordon Feinblatt
233 East Redwood Street
Baltimore, Maryland 21202

RE: 8200 Fischer Road
Owner: Farboil Company

Dear Mr. Shaughnessy,

This letter revises a previous 5/13/04 response from this office concerning a zoning determination requested by you in a letter dated 5/12/04, for the above referenced site.

Your letter and submitted plan titled "U.S. FILTER-TANK STORAGE" described certain proposed uses at this location to separate/filter non hazardous oils and waters within a series of tank separators and filters, which were then to be stored in a tank storage farm.

Based on our review of the information presented, it was determined that pursuant to Section 256.1 as it references section 253.4[4] in the Baltimore County zoning regulations that the use was permitted as; Storage inflammable liquids and gases above ground. The separation/filtering was considered as being accessory to said storage and therefore also permitted. Limitations were stated in this office's letter response, particularly #2 which stated that: "No refining of the subject substances is permitted on site."

This office recently came into possession of a Maryland Department of the Environment "draft permit –to-construct conditions," for this site, which appears to indicate that processing is to occur on site which can be considered to be refining. This refining definition is established based on Section 101 Baltimore County Zoning Regulations (BCZR), which states:

> "Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. **[Bill No. 149-1987]**."

A highlighted copy of the definition of refining from this publication is enclosed with this letter.

Printed on Recycled Paper

PLAINTIFF'S EXHIBIT

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

August 4, 2004

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

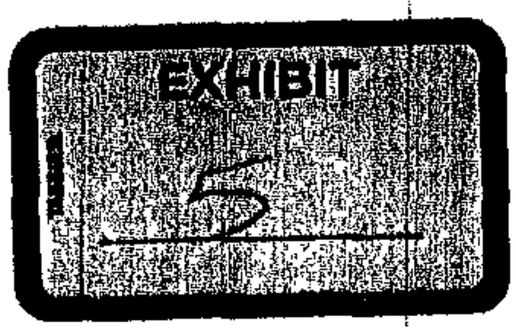
W. Carl Richards, Jr., Chief
Zoning Review
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Zoning and Use Verification for 8200 Fischer Road
Map 104, Grid 9, Parcel 12
Property Owner: Farboil Company
Property Description: Approximate 20.5 acres northside of Fischer Rd
District 15, Account No. 1508802240
(the above being hereafter called the "Property")

Dear Mr. Kotroco and Mr. Richards:

On May 12, 2004, I hand delivered a zoning verification request to Mr. Kotroco's office. A copy of that request is attached hereto as Exhibit 1. The purpose of the Zoning Verification Request was to verify that US Filter Recovery Services ("USF") could properly use the Property located at 8200 Fischer Road, Baltimore, Maryland for its business operations. As set forth in the Zoning Verification Request, USF is an oil recycling operation. It stores, distributes and separates used oil.

On May 13, 2004, Mr. John Lewis verified that the proposed USF use at the Property was permissible under the applicable MH zoning. The May 13, 2004 verification was typed on the bottom of the zoning verification request. A copy of Mr. Lewis' Verification is attached hereto as Exhibit 2.



COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2004, Legislative Day No. 17

Bill No. 98-04

Councilmembers Olszewski, Bartenfelder & Oliver

By the County Council, September 7, 2004

A BILL
ENTITLED

AN ACT concerning

M.H. Zone - Oil Facilities

FOR the purpose of requiring a special exception to locate certain types of oil processing facilities in the M.H. Zones of the County; and generally relating to uses permitted by special exception in the M.H. Zone.

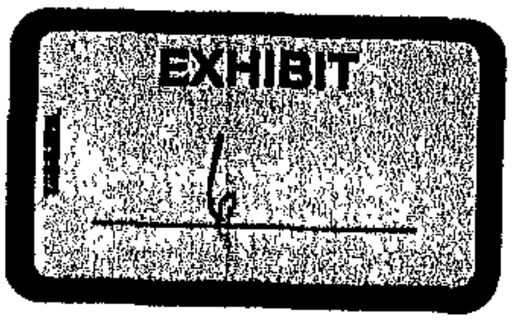
BY repealing and re-enacting, with amendments

Section 256.4

Baltimore County Zoning Regulations, as amended

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that Section 256.4 of the Baltimore County Zoning Regulations, as amended, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

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



11. PROJECT IS NOT IN 100-YEAR FLOODPLAIN

12. NO PRIOR ZONING HEARINGS ON SITE. PREVIOUS COMMERCIAL PERMITS ISSUED B556828. (ISSUED 5-20-04)

13. PARKING DATA:
    INDUSTRIAL/MANUFACTURING/WAREHOUSE USE
    1 SPACE PER EMPLOYEE ON LARGEST SHIFT
    LESS THAN 40 SPACES REQUIRED
    OFFICE 3.3/1000 SF x 1,824 SF = 6 PARKING SPACES REQUIRED
    115 PARKING SPACES PROVIDED (MAJORITY STRIPED)
    PAVING TYPE = HOT MIX ASPHALT

14. FLOOR AREA RATIO: 73000 SF/928,328 SF = 0.08

15. A.O.S. = NONE REQUIRED

16. SITE AREA NOT IN CBCA

17. NOT HISTORIC

EXHIBIT 17

DATE	NO.	REVISIONS

PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE

PROJECT TITLE:

U.S. FILTER - TANK STORAGE

8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:

Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

STATE OF MARYLAND — MARK STEPHEN WILLIS — 13800 — REGISTERED PROFESSIONAL ENGINEER

8/11/04

DESIGNED:	J.M.L.
DRAWN:	J.M.L.
CHECKED:	M.W.S.
DATE:	8/11/04
SCALE:	1" = 60'
DRAWING NO:	PSH-1

PROPERTY OF MARYLAND STATE ROADS COMMISSION
PLAT REF. 13/51
PARCEL NO. 86

DR3.5

MH-IM

PROPERTY OF FORWARD DEVELOPMENT COMPANY
7770/644
COMMERCIAL PROPERTY
ZONING DR3.5

DR3.5

MH-IM

645.93'
504.60'
50' REAR YARD SETBACK
150' RESTRICTED USE AREA
125' BUILDING RESTRICTION AREA
96.12'
390.72'
50' SIDE YARD SETBACK

EX. CONC. BLDG.
FLOOR AREA = 21,440 SF
2-STORY BUILDING
39' HIGH ±

EX. METAL BLDG.

CONC. WALK
CONC. DOCK
CONC. RAMP
EX. TRAILER PARKING (UNSTRIPED)
MACADAM
EX. 8" SAN.
EX. 10" FIRE
EX. 8" PLUG
R.R. TRACKS
C.LOADING DOCK
PIPE
EX. CONC. WALL
EX. STRIPED PARKING SPACES

EX. CONC. BLDG.

OFFICE AND WAREHOUSE
USF LEASE AREA
10,000 SF
(1,824 SF OFFICE)

PROPERTY OF
8200 FISCHER ROAD, LLC
14381/356; 14381/350
INDUSTRIAL PROPERTY
ZONING MH-IM

FLOOR AREA = 42,560 SF
2-STORY BUILDING
32' HIGH ±

FUTURE WAREHOUSE
USF LEASE AREA
15,000 SF

WATER TREATMENT PROCESS AREA
USF LEASE AREA
10,000 SF

OIL STORAGE/ TREATMENT PROCESS AREA

USF LEASE AREA
1.0 ACRES ±

TRUCK PARKING
USF LEASE AREA
2.0 ACRES ±
(FINAL LOCATION TO BE DETERMINED)

ACCESSORY TRUCK PARKING
AREA 2.0 AC.±

= AREA OF ZONING HEARING
3.0 AC.± DELIVERY
(PROCESSING AND WAREHOUSING
AREA 1.0 AC.±)

GATE

SW 102'
NW 38'
SW 72'
SW 100'
SE 100'
SW 150'
NW 144'
NE 250'
NE 70'
SE 88'
NW 118'
SW 33'
NE 57'
POB
SW 421'
SW 390'
SE 189'
NW 154'
SW 85'
NE 394'
NW 10' W
NEW 10' W
EX. WATER TANK
EX. VALVE PIT
ELEC. TRANS.
CRITICAL AREA BUFFER
EX. UNSTRIPED PARKING SPACES
EX. 10' WIDE EASEMENT
EX. 10" W.
EX. 8" W.
EX. 6" SAN.
EX. 8" SAN.
EX. 10" FIRE
EX. 6" FIRE
EX. 3" W.
EX. 6" W.
EX. 10" W.
EX. 8" W.
EX. 10" W.
EX. 8" SAN.
EX. 10" FIRE
EX. STRIPED PARKING SPACES
EX. 10" W.
EX. 8" SAN.
EX. 10" FIRE
EX. 6" SAN.
EX. 8" SAN.
EX. 10" W.
EX. 10" W.
EX. 8" SAN.
EX. 10" W.
EX. 10" W.
EX. 10" W

PROPERTY OF MARYLAND STATE ROADS COMMISSION
PLAT REF. 13/51
PARCEL NO. 86

PROPERTY OF FORWARD DEVELOPMENT COMPANY
7770/644
COMMERCIAL PROPERTY
ZONING DR3.5

DR3.5

MH-IM

50' REAR YARD SETBACK

150' RESTRICTED USE AREA

125' BUILDING RESTRICTION AREA

50' SIDE YARD SETBACK

EX. CONC. BLDG.
FLOOR AREA = 21,440 SF
2-STORY BUILDING
39' HIGH ±

EX. METAL BLDG.

EX. TRAILER PARKING (UNSTRIPED)

MACADAM

CONC. DOCK

CONC. RAMP

R.R. TRACKS

EX. 10" FIRE

EX. 8" PLUG

EX. 8" SAN.

EX. 8" W

EX. 3" W

EX. CONC. WALL

EX. TRAILER PARKING (UNSTRIPED)

EX. CONC. BLDG.

PROPERTY OF
8200 FISCHER ROAD, LLC
14381/356; 14381/350
INDUSTRIAL PROPERTY
ZONING MH-IM

FLOOR AREA = 42,560 SF
2-STORY BUILDING
32' HIGH ±

OFFICE AND WAREHOUSE
USF LEASE AREA
10,000 SF
(1,824 SF OFFICE)

FUTURE WAREHOUSE
USF LEASE AREA
15,000 SF

WATER TREATMENT PROCESS AREA
USF LEASE AREA
10,000 SF

OIL STORAGE/ TREATMENT PROCESS AREA

USF LEASE AREA
1.0 ACRES ±

= AREA OF ZONING HEARING 3.0 AC.± DELIVERY (PROCESSING AND WAREHOUSING AREA 1.0 AC.±)

ACCESSORY TRUCK PARKING AREA 2.0 AC.±

TRUCK PARKING USF LEASE AREA 2.0 ACRES ± (FINAL LOCATION TO BE DETERMINED)

EX. UNSTRIPED PARKING SPACES

CRITICAL AREA BOUNDARY

EX. WATER TANK

EX. VALVE PIT

ELEC. TRANS.

EX. BUILDING WAREHOUSE

PROPERTY OF
JK CABINETS, INC.
7371/598
INDUSTRIAL PROPERTY
ZONING MH-IM

PROPERTY OF
MMI PRODUCTS, INC.
11773/486
INDUSTRIAL PROPERTY
ZONING MH-IM

BEACHWOOD ROAD

FAUST LANE

FISCHER ROAD

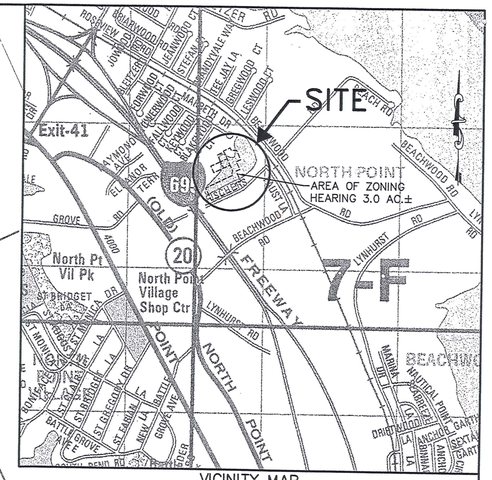
PATAPSCO FREEWAY (INTERSTATE 695)

20' WIDE PAVING

25' FRONT YARD SETBACK

30' SIDE YARD SETBACK

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.


SITE
Exit-41
NORTH POINT
AREA OF ZONING HEARING 3.0 AC.±
FREEWAY
7-F
North Pt Vil Pk
North Point Village Shop Ctr
BEACHWOOD RD
LYNHURST RD
GROVE AVE
NORTH POINT
BATH DRIVE
ST BRIDGET DR
ST ANNE DR
ST DAVID DR
ST ANDREW DR
ST ANNE CT
ST MARY LA
ST MARTIN CT
ST MARY CT
ST MARTIN LA
ST MARY PL
ST MARTIN PL
ST MARY LA
ST MARTIN LA
ST MARY CT
ST MARTIN CT

USFilter

FAX

1105 North Point Blvd., Suite 310
Baltimore, MD 21224

TELEPHONE 410-284-1717
FACSIMILE 410-285-8284

TO Ross Oliver CC

FAX 410-537-3203 TEL 410-537-3931

FROM Michael Schorr DATE April 23, 2004 PAGE 1 OF 17

SUBJECT Permit to Construct Application

Mr. Oliver,

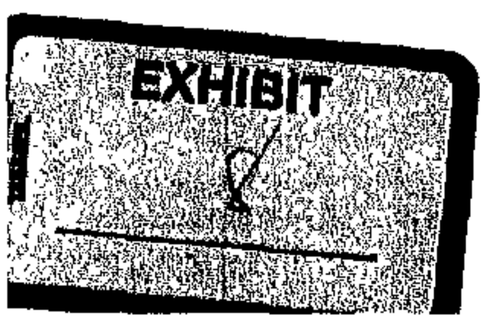
Following you will find the completed Permit to Construct application for US Filter's new facility to be located at 8200 Fischers Road. This application covers all of the future operations at the site.

US Filter is planning on constructing this facility in two phases. Phase 1 is a limited operation with very limited air pollution potential. Phase 1 will consist of the oily water treatment step, which will also include the boiler construction and biofilter construction. Equipment and process vessels included in phase 1 include;

Fisher Road Phase 1 Equipment for Air Permit

Tank No.	Use	Matl. Of Const.	Capacity
9	Filter Feed Tank	FRP	12267
10	Iron Tank	FRP	10575
11	Acid Settle Tank	FRP	12267
12	Acid Settle Tank	FRP	12267
14	Filter Press Effluent	FRP	12267
15	Precoat Tank	Steel	400
16	Precoat	Steel	400
17	Acid	Steel	3007
23	Oil pH Adjust Tank	FRP	15227
29	Sure Temp	Aluminum	9009
32	Sure Temp	Aluminum	9009
34	Slop Tank	Steel	6955
36	Lime Slurry	Steel	10151
40	N102	Steel	2177
70	Water Discharge Tank	FRP	12690

v THIS TRANSMISSION CONTAINS CONFIDENTIAL INFORMATION INTENDED FOR USE ONLY BY THE ABOVE NAMED RECIPIENT READING, DISCUSSION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED BY ANYONE OTHER THAN THE NAMED RECIPIENT OR HIS OR HER EMPLOYEES OR AGENTS. v IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE (COLLECT), AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA U.S POSTAL SERVICE.



MARYLAND DEPARTMENT OF THE ENVIRONMENT

Air and Radiation Management Administration

[X] DRAFT Construction Permit [ ] Operating Permit

Permit No. 005-5-1899 & 9-1201 Date Issued

Permit Fee $1200.00 (PAID 05/12/2004) Expiration Date In accordance with COMAR 26.11.02

Legal Owner & Address
U.S. Filter Recovery Services
1105 N. Point Blvd, Suite 310
Baltimore, MD 21224
Attn: Michael Schorr, EHS Mgr.

Site
8200 Fischers Road
Baltimore, MD 21222
Baltimore County
Premises # 2521

Source Description

One (1) used-oil recovery facility that includes one (1) boiler fired with natural gas and no. 2 fuel oil and rated at less than 10 MMBtu/hr heat input

This source is subject to the conditions described on the attached pages.

Chief, Engineering & Toxics

Chief, New Source Review

Program Administrator

EXHIBIT 9

DRAFT

FACT SHEET AND TENTATIVE DETERMINATION
U.S. FILTER RECOVERY SERVICES
PROPOSED CONSTRUCTION OF ONE (1) USED-OIL RECOVERY FACILITY

I. INTRODUCTION

Maryland's Department of the Environment ("MDE" or the "Department") received on April 23, 2004 an application from U.S. Filter Recovery Services ("U.S. Filter" or the "Company") for a permit-to-construct for one (1) used-oil recovery facility that would include a boiler rated at 9.97 MMBtu/hr, fired with natural gas and no. 2 fuel oil. The proposed facility is to be located in Baltimore County at 8200 Fischers Road, Baltimore, Maryland 21222.

Notices were placed in the Dundalk Eagle weekly newspaper on Thursday, April 29, 2004, and Thursday May 6, 2004 announcing that an informational meeting was scheduled for May 12, 2004 to provide all interested parties with an opportunity to discuss with MDE and the Company the proposed facility and the permit applications. The informational meeting was held as scheduled.

The Department has reviewed the permit application and has made a tentative determination that the proposed facility can be expected to operate within compliance of all currently applicable air pollution control regulations. Notices will be published to provide interested parties opportunities to request a public hearing and to comment on the permit application, MDE's tentative determination, draft permit conditions, and other relevant documents. The Department will not schedule a public hearing unless a legitimate request is received.

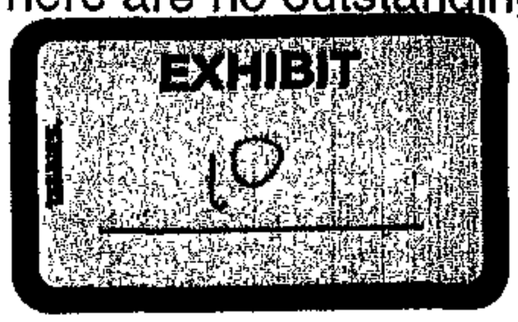
If the Department does not receive any requests for a public hearing or any comments with regard to the tentative determination, the Department will issue the permit-to-construct after the comment period expires.

II. CURRENT STATUS AND PROPOSED INSTALLATION

A. CURRENT STATUS

U.S. Filter formerly operated a used-oil recovery facility on the property of International Steel Group (ISG), formerly Bethlehem Steel Corporation, at 5111 North Point Boulevard, Baltimore, Maryland 21219. The U.S. Filter facility was operating in compliance with all applicable air pollution control requirements at the time the Company closed down operations there.

The Company currently operates a used-oil and wastewater storage facility at 6305 Lombard Street, Baltimore, Maryland 21224. There are no outstanding



Department of Public Works

Bureau of Utilities
11112 Gilroy Road, Suite 104
Hunt Valley, Maryland 21031

Baltimore County

James T. Smith, Jr., County Executive
Edward C. Adams, Jr., Director

July 15, 2004

Mr. Michael Schorr
US Filter
8200 Fischer Road
Baltimore, Maryland 21222

RE: INDUSTRIAL USER PERMIT
NUMBER WWDP #1430

Dear Mr. Schorr:

Your application for issuance of a Discharge Permit has been reviewed and processed in accordance with Sections 35-286 to 35-317, inclusive, Baltimore County Code.

The enclosed permit, Number WWDP #1430, covers the wastewater discharge from the facility located at 8200 Fischer Road, Baltimore, Maryland 21222 into the Baltimore County Sanitary Sewer System. All discharges from this facility and actions and reports relating thereto shall be in accordance with the terms and conditions of this permit.

If you wish to appeal or challenge any effluent limitations, pretreatment requirements, or conditions imposed in this permit, please contact me at 410-887-1894, to discuss, within thirty (30) days of permit receipt.

Sincerely,

for William H. Frankenfield
Chief, Bureau of Utilities

WHF:CVB:jb

c: File

Enc.

Printed on Recycled Paper

Douglas G. Smith, ScD

Years Experience: 30

Technical Specialties

- Risk and Consequence Analysis for Toxic Airborne Materials
- Atmospheric Transport and Diffusion Modeling
- Indoor Air Quality Exposure Evaluation and Mitigation Analysis
- *Process Safety Management and Prevention Programs*
- Risk Management Planning and Risk Communication
- Development of Emergency Preparedness/Contingency Plans
- Development of Computerized Decision Assistance Systems
- Assessment of Radiological Exposures and Risks
- Security Vulnerability Analysis for Responsible Care® Programs

Professional History

- ENSR Consulting and Engineering
- U.S. Department of HEW, Bureau of Radiological Health
- Harvard School of Public Health, Air Cleaning Laboratory

Education

- ScD (Environmental Health Science - Industrial Hygiene) Harvard School of Public Health
- MS (Environmental Health Sciences - Radiological Health) Harvard School of Public Health
- AB (Physics) Franklin and Marshall College

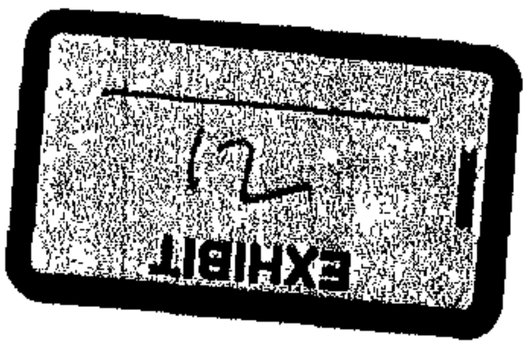
Professional Registrations and Affiliations

- Air and Waste Management Association
- American Institute of Chemical Engineers (former Emergency Planning Course instructor)
- EPA Science Advisory Board Review Panel for the 3MRA Risk Model, 2003-4
- Society for Risk Analysis (NE)

Representative Project Experience

A. <u>Risk Assessment Studies for Hazardous Waste Treatment Facilities</u>

Over the last ten years, Dr. Smith has led numerous multipathway risk assessment and risk management programs, including the development of protocols, related strategic planning for compliance testing, and final risk assessments for more than a dozen hazardous waste combustor facilities, including:



DuPont Halogen Acid Furnace Multipathway Risk Assessment Protocol, LA. Developed Multipathway Risk Assessment Protocol and reviewed current Trial Burn Plan for consistency with requirements of latest U.S. EPA regional and

U.S. Filter Recovery Services
Baltimore, Maryland

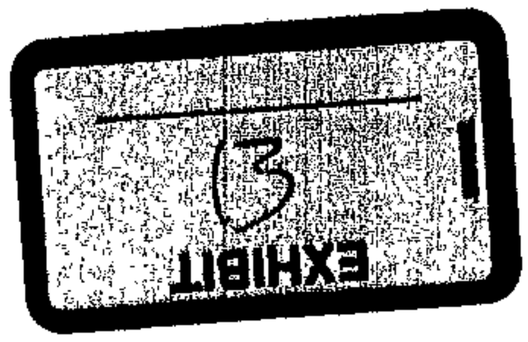
Review of Potential Health Effects for U.S. Filter Operations

Prepared By

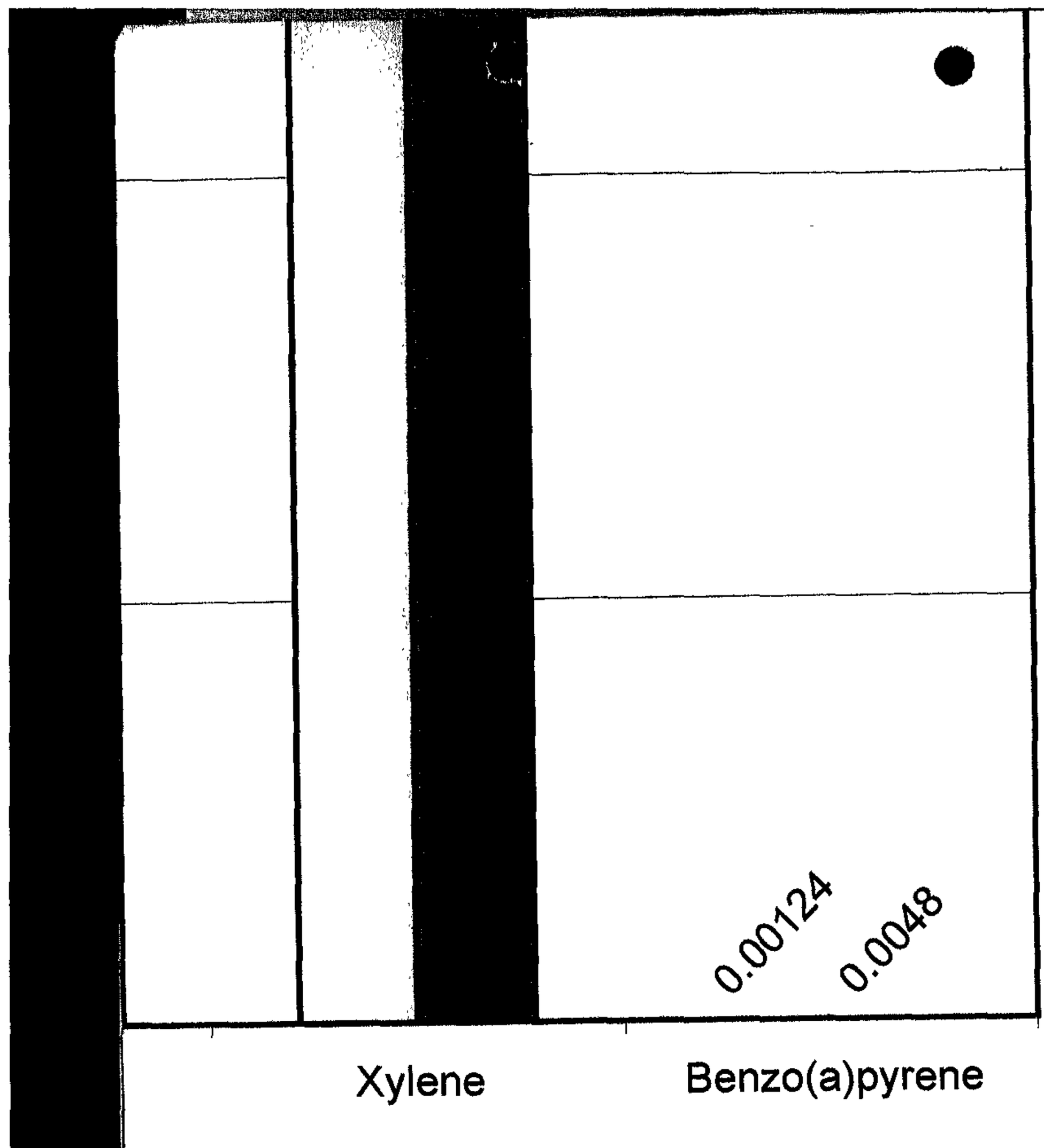
Douglas Smith, Sc.D.

ENSR Corporation

November 2004
Document Number 06953-045-100



■ Scre
Benz
and
exce



EXH
1

Comparison of Facility Emissions of Toxic Air Pollutants with Screening Levels

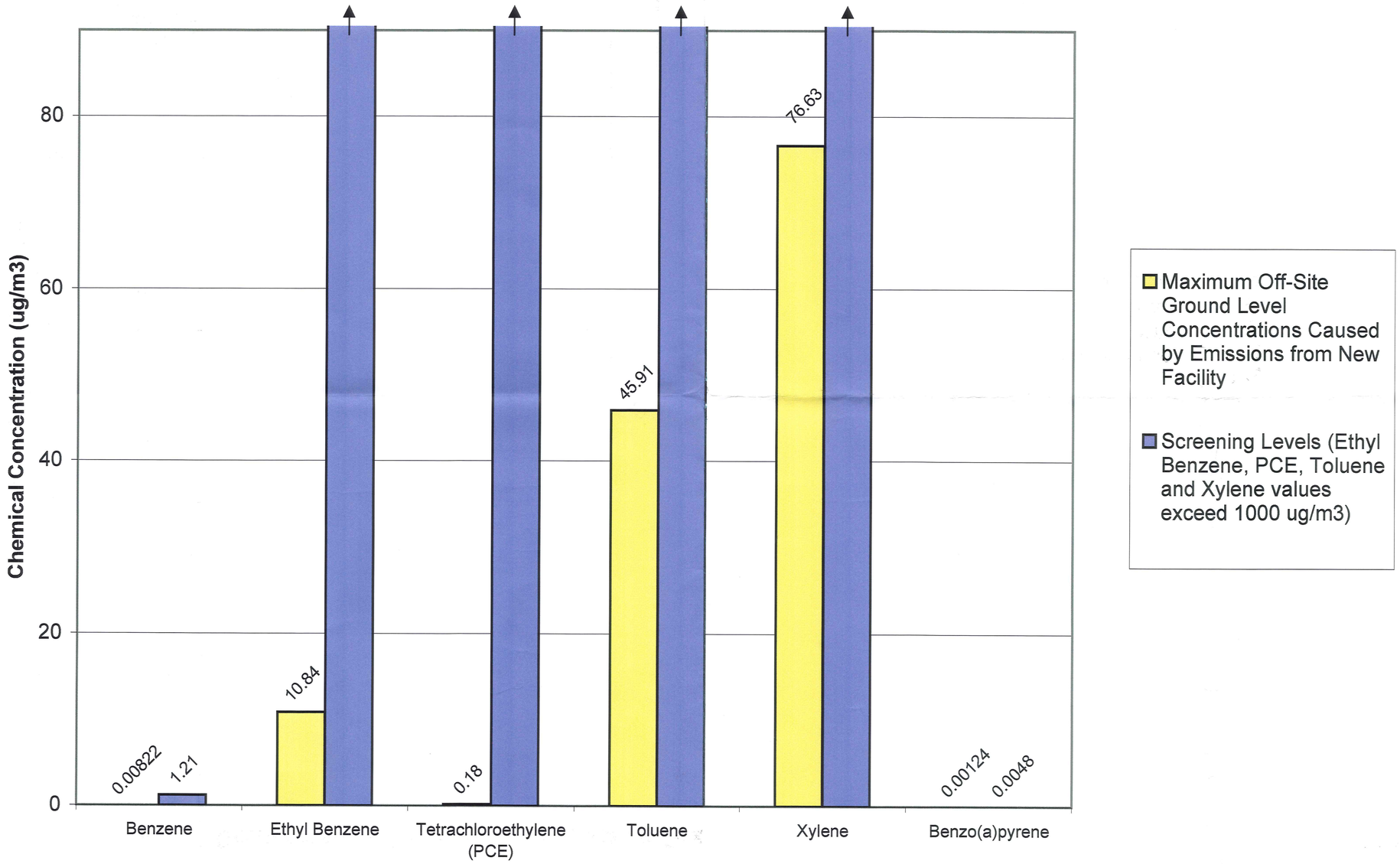


FIGURE 4

PS04050.xls

EXHIBIT 14

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

August 25, 2004

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED
AUG 25 2004
Per.....

Re: **NOTICE OF APPEAL TO BOARD OF APPEALS**
from July 26, 2004 decision letter
Appellant: US Filter Recover Services
Property: 8200 Fischer Road

Dear Mr. Kotroco:

The undersigned and this office represent USFilter Recovery Services ("USFilter").

USFilter hereby appeals the July 26, 2004 decision letter of the Department of Permits and Development Management that purports to revise "a previous 5/13/04 response from this office" and which purports to determine that the proposed use of property located at 8200 Fischer Road "is that of an oil refinery ...." A copy of the July 26, 2004 decision letter from which this appeal is taken is attached hereto. The basis for the appeal is that the July 26, 2004 decision letter is unlawful and erroneous.

The name and address of the aggrieved party taking this appeal is:

USFilter Recovery Services
1105 North Point Blvd.
Baltimore, MD 21224

Enclosed is this firm's check in the amount of $225.00 to cover the cost of docketing the appeal, and a check in the amount of $75.00 to cover costs of posting.

Please contact the undersigned if anything further is needed.

PETITIONER'S EXHIBIT 15

Jesse M. Lindsay, P.E.
Project Manager

Education
B.S./Civil Engineering/Water Resources/1997/University of Maryland at College Park

Registration
Professional Engineer, MD, July 2002, Reg. No. 27734

WHITNEY, BAILEY, COX & MAGNANI, LLC - *May 1997 to Present*

PROJECT MANAGER OF MARINE/INDUSTRIAL DIVISION

Mr. Lindsay is responsible for the management, design and permitting of projects including, but not limited to, stormwater management, wetland design, floodplain analysis, site layout and grading, sediment and erosion control, roadway improvements, storm drainage, and utilities. Mr. Lindsay is familiar with various engineering software applications including HEC-RAS, TR-20, TR-55, KYPIPE2000, HY-8 and Land Development Desktop.

Marine, Industrial and Manufacturing Facilities

Mr. Lindsay's experience in Marine, Industrial and Manufacturing Facilities include the following:

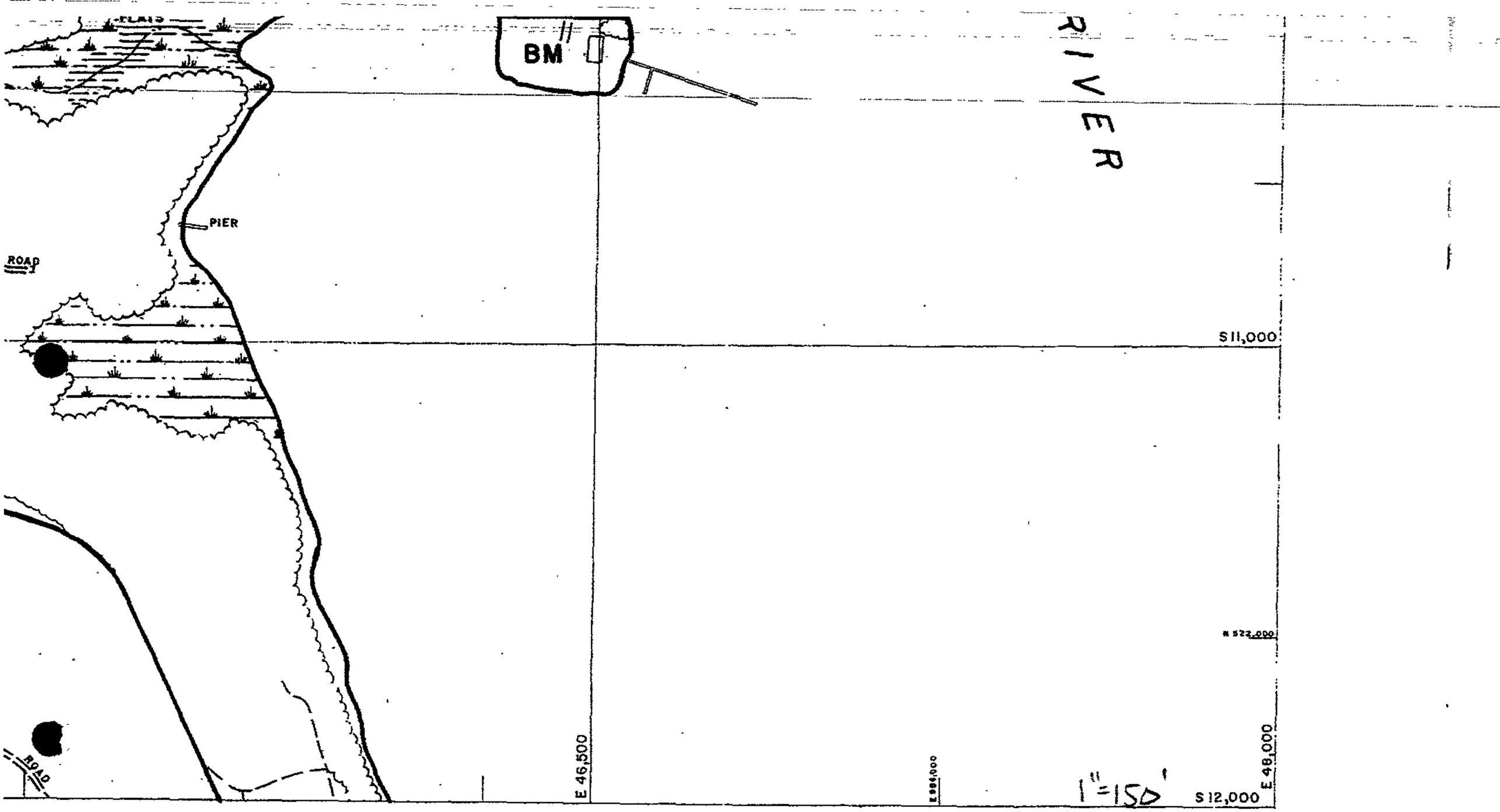
Port of Wilmington Autoberth, Wilmington, DE – Provided civil design services for the access roadway portion of the Autoberth project at the Port of Wilmington. The project consisted of an approximate 1.5-mile dedicated access roadway for the transportation of new automobiles to and from the new Autoberth located in the Delaware River. The roadway design involved layout and coordinate geometry, grading, storm drainage, water mains, sediment and erosion control and stormwater management. A 13-acre laydown area was also designed for storage of general cargo and automobiles near the Autoberth at the confluence of the Christina and Delaware Rivers. Stormwater management was designed employing best management practices such as bioswales and extended detention ponds. Wetland mitigation was addressed by providing plantings in bioswales adjacent to the new roadway.

Dole Yard Improvements, Wilmington, DE – Provided civil design services for improvements to the Dole yard at the Port of Wilmington. The project included the design of a stacked container facility to improve storage efficiency in the yard. A surcharge embankment was implemented prior to construction to preconsolidate the native soft soils. The design included site layout and grading, storm drainage, water mains, sediment and erosion control and stormwater management. Mr. Lindsay worked with the Delaware Department of Natural Resources and Environmental Control to develop alternative methods of addressing stormwater management in the Port environment by using shallow sand filtration trenches to enhance water quality.

Dundalk Marine Terminal, Rehabilitation of Berths 1 through 6, Baltimore, MD – This project included the complete site design of a new wharf along Colgate Creek at the Dundalk Marine Terminal. Responsibilities included layout and geometry of a new railroad track and crane rail, grading and drainage, utilities and dredging. Mr. Lindsay worked with Maryland Port Administration and the Chesapeake Bay Critical Area Commission to address stormwater mitigation for impacts to the Critical Area. A series of stormwater management structures were designed to provide offsite mitigation for parking lots at Gunpowder

PETITIONER'S
EXHIBIT ___

EXHIBIT
1 16



REGIONAL ZONING MAP.

EXHIBIT 17

I-695
EXIT-41 COVE RD.

SITE

N POINT BLVD

BEACHWOOD RD

BACK RIVER

BEAR CREEK

D.R.-5.5

D.R 3.5

MH-/M

DR-5.5

D.R. 3.5

D.R. 5.5

D. R. 2

M. H.

GLENHURST ROAD

ANNADALE

OLD BATTLE GROVE

WALNUT POINT

STANSBURY POINT

REGIONAL ZONING MAP.

EXHIBIT 17

MDE
MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore, MD 21230
410-537-3000 • 1-800-633-6101

005-02521

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Kendl

Jorc e.
Deplt.

JUN 17 2004

Mr. Bob Ward
6905 Dunmanway
Baltimore, MD 21222

Dear Mr. Ward:

As you requested, enclosed are copies of the draft permit-to-construct conditions, and the tentative determination with regard to issuance of a permit-to-construct for a proposed U.S. Filter Recovery Services used-oil recovery facility to be located at 8200 Fischers Road in Baltimore County. Also enclosed is a copy of the notice that the company will publish to advise interested parties of the opportunity to request a public hearing.

If you have any questions or if you require anything further, please contact me by (410) 537-3931 or by email at roliver@mde.state.md.us.

Sincerely,

Ross Oliver

Ross A. Oliver
Public Health Engineer
Air Quality Permits Program
Air and Radiation Management Administration

RAO/aw

Enclosures

EXHIBIT
18

002

RECEIVED AUG 0 3 2004

Webster's Third New International Dictionary

OF THE ENGLISH LANGUAGE UNABRIDGED

A Merriam-Webster
REG. U.S. PAT. OFF.

Utilizing all the experience and resources of more than one hundred years of Merriam-Webster® dictionaries

EDITOR IN CHIEF
PHILIP BABCOCK GOVE, Ph.D.
AND
THE MERRIAM-WEBSTER
EDITORIAL STAFF

GORDON, FEINBLATT, ROTHMAN
HOFFBERGER & HOLLANDER, LLC
233 EAST REDWOOD ST.
BALTIMORE, MARYLAND 21202

EXHIBIT
19

MERRIAM-WEBSTER INC., *Publishers*
SPRINGFIELD, MASSACHUSETTS, U.S.A.

VINCE GLORIOSO

U.S. Filter Recovery Services 1105 North Point Blvd. Suite 310 Baltimore, MD 21224

EDUCATION

B.S., Chemical Engineering, Drexel University, Philadelphia, PA – 1976

AFFILIATIONS

National Oil Recyclers Association
Water Environmental Federation
Licensed Industrial Water Treatment Class VI, State of Maryland
Former instructor Dundalk Community College, 6 years

EXPERIENCE

Over 28 years of demonstrated successful experience in all phases of engineering, plant operations, consulting, and management positions. Responsibilities have encompassed all aspects of turnkey project delivery, including sales, feasibility studies, permitting, design, specification, construction, and commissioning of customized industrial water treatment facilities.

1988 – Present USFilter Recovery Services (MidAtlantic), Inc.
(formerly PORI International, Inc., Baltimore, Maryland)

Business Unit Manager, Regional Vice President	2001- present
Vice President, Engineering and Operations	1998 - 2001
Engineering & Operations Director	*1997 – 1998*
Chief Engineer	1992 – 1997
Senior Project Engineer	*1988 – 1992*

BUSINESS UNIT MANAGER, REGIONAL VICE PRESIDENT

Responsible for the management, financial performance and growth of a $40+ million business unit, handling the collection and treatment of hydrocarbon-based fluids. This included accountability for all core function of sales and marketing, transportation, facility operations, and environmental compliance. Also managed the technical service support functions for the $105 million national parent organization. Specialization encompassed the design of waste oil and oily water treatment facilities for the second largest waste oil processor in the country.

VICE PRESIDENT, ENGINEERING & OPERATIONS

Corporate responsibility for the management, internal growth, and acquisitions related to environmental control and centralized waste treatment facilities. Primary goals included national consolidation of waste oil collection, processing, and sales functions, accomplished through acquisition of competing businesses and the subsequent optimization of the installed treatment processes.

ENGINEERING & OPERATIONS DIRECTOR

Responsible for the management of eight (8) environmental control operating facilities on various Fortune 500 customer sites, along with the control and direction of all engineering aspects of the organization. Accountable for all phases associated with the development of new and existing

EXHIBIT

BALTIMORE COUNTY
BUILDING INSPECTION
410-887-3953

Part of Building Inspected: 556828/ Coil

Approved (✓) Disapproved ( )

REMARKS:

5/10/04 Lou Mayo
DATE BUILDING INSPECTOR

BALTIMORE COUNTY
BUILDING INSPECTION
410-887-3953

Part of Building Inspected: Final

Approved (✓) Disapproved ( )

REMARKS: Add Exit light

10/19/04 [signature]
DATE BUILDING INSPECTOR

BALTIMORE COUNTY
BUILDING INSPECTION
410-887-3953

Part of Building Inspected: 556828 Foot

Approved (✓) Disapproved ( )

REMARKS:

5/28/04 Lou Mayo
DATE BUILDING INSPECTOR

BALTIMORE COUNTY
BUILDING INSPECTION
410-887-3953

Part of Building Inspected: 556828 Fr

Approved (✓) Disapproved ( )

REMARKS: Offices, Mech Room + Lab

6/25/04 Lou Mayo
DATE BUILDING INSPECTOR

EXHIBIT
22

Inspection
Footings
Piers

EXHIBIT 21

BALTIMORE COUNTY
BUILDING INSPECTION
410-887-3953

Part of Building Inspected: Ft / Piers

Approved (X) Disapproved ( )

REMARKS: Int

Stop W.O.

pori

A History of Clean Solutions

RECEIVED
AUG 20 1996
AIR & RADIATION
MANAGEMENT ADMINISTRATION

20

August 19, 1996

Gregory J. Franzoni, Sr.
Air and Radiation Management Administration
Maryland Department of the Environment
2500 Broening Highway
Baltimore, MD 21224

Dear Greg:

I have included for your use a copy of the incident report for the release of Therminal at PORI's Sparrows Point facility on August 13, 1996. You will note that we have not unequivocally determined the cause of the release. We are sure of a pipe rupture in the area of the threads on the pipe from the expansion tank. We cannot, with certainty, say what caused the rupture as you will note in the report. Should we uncover more evidence or more conclusive technical data, we will share it with you.

Should you have questions, do not hesitate to contact me.

Yours truly,

Benn Bradburn
Operations Manager

BB/dt

PROTESTANT'S
EXHIBIT NO. 11

081996A.BB6

PORI International, Inc.
1105 NORTH POINT BLVD. • BALTIMORE, MD 21224 • 410-284-1717 • FAX 410-285-8264

JOHN V. CIGNATTA, P.E.

AREAS OF QUALIFICATION:

* Project Management
* Corrosion Engineering
* Environmental Engineering
* Fuel System Engineering
* Expert Testimony
* Failure Investigations

PROTESTANT'S
EXHIBIT NO. 12

PROFESSIONAL EXPERIENCE:

Datanet Engineering, Inc., President, 1984 to Present

* Manages and directs corrosion and environmental engineering projects that include protective coatings for steel and concrete structures, cathodic protection systems for buried and submerged steel structures and water treatment for industrial and potable applications.

* Provides expert testimony for litigation support in cases involving worker injuries, environmental contamination or coating failures to both public and private clients.

* Routinely conducts failure investigations and causation studies for insurance industry on fuel tanks, piping systems, coatings, heat exchangers and other capital systems.

* Accomplishes computer simulation of abrasive blasting enclosures and other complex ventilation systems for support of both worker and environmental protection requirements at industrial painting projects.

* Manages environmental projects including site assessments, hazardous waste remediation, regulatory compliance and expert testimony for industrial, governmental and commercial clients.

* Invited speaker in "Expert In Industry" series at the Alice Hamilton Laboratory of NIOSH. Provided a one-day symposium on state-of-the-art procedures and equipment for lead paint removal on bridges and water tanks. Similar symposia presented by invitation at OSHA Headquarters and Maryland Occupational Safety and Health Administration.

* Provides expert consulting services to several branches of the military, state governments and major national corporations on corrosion and coatings related projects. Presented seminars and mini-symposia for governmental and corporate clients on innovative lead paint removal technologies.

* Primary author of guide specification on corrosion control of buried fuel piping, incorporated by reference into the Maryland Underground Tank regulations. Also recommended to other states by the U.S. Environmental Protection Agency, Office of Underground Storage Tanks, as a model for guide specification.

* Featured conference speaker on corrosion control and protection of the environment and workers for underground storage tanks, elevated water tanks and bridges for EPA, NACE, SSPC, AWWA,

TITLE SHEET

PROJECT TITLE:

U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS

8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:

Consulting Engineers
849 Fairmount Avenue
Baltimore, Maryland 21286
(410) 512–4500
(410) 324–4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	AS SHOWN
DRAWING NO:	T–1

PROTESTANT'S EXHIBIT NO. 13

© WBCM 2004

Alfred W. Barry, III
Principal
AB ASSOCIATES

One South Calvert Street, Suite 1150
Baltimore, Maryland 21202

410-547-6900
410-547-6903 (fax)

Alfred W. Barry, III is the principal of AB ASSOCIATES, which he founded in July of 1995 as a comprehensive land planning consulting firm for business, government, non-profit and institutional clients. Services currently being provided to clients include consultation, analysis and representation on strategic development opportunities, state and local government liaison, development approvals and historic preservation.

Mr. Barry had over twenty-four years of professional planning experience with Baltimore City including the last eight years as the City's Assistant Planning Director (1987-1995). In this capacity, he managed the Planning Commission's development approval process as well as directed the Planning Department's strategic, economic development, environmental, urban design and legislative responsibilities. Mr. Barry also authored landmark state legislation in 1994 creating property tax abatement for historic properties.

A selection of economic development projects for which Mr. Barry was a key participant in their planning and implementation includes: the Hopkins Bayview Research Campus (1985), the Port Covington Business Park (1988), the Camden Yards Stadium Complex for which he was recognized by the Maryland chapter of the American Planning Association (1989), and the Key Highway and Harborview urban renewal plans (1986, 1991).

Mr. Barry frequently represented the Planning Department and City on various public-private partnerships, including: the Mayor's Advisory Committee for Fells Point and Canton (1988), Johns Hopkins University's Environmental Working Group (1990, 1991), the Managing Team directing a new strategic plan for the Department of Recreation and Parks (1990), the Mayor's Economic Incentive Task Force (1992, 1993), Baltimore City Homebuilders' Board (1993-1995), the Metropolitan Planning Council's Land Use Subcommittee (1994, 1995), the State Economic Growth Commission's Committee revising the State Planning and Zoning Act (1994, 1995), Governor-elect Parris Glendening's Environmental Policy Transition Team (1994), and the Maryland Chapter of the American Planning Association's Board (1995). Mr. Barry also coordinated the City's efforts to successfully plan and implement the Charles Village Community

PROTESTANT'S EXHIBIT NO. 14

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 30, 2004

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

SUBJECT: 8200 Fischer Road

INFORMATION:

Item Number: 5-075

Petitioner: 8200 Fischer Road LLC.

Zoning: *MH-IM*

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommends that the petitioner's request be **DENIED.**

This office is of the opinion that the proposed use in incompatible with the adjacent *residential use. In addition, this office shares* the concern of area residents regarding pollution from the subject proposed use into the Chesapeake Bay and surrounding environment.

Prepared by: Mark A Cunningham

Division Chief: Lisa Alfred

AFK/LL:MAC: for Jeff Hoyles

PROTESTANT'S
EXHIBIT NO. 15

County OKs zoning rule for firms that recycle oil

Tighter regulation comes as business seeks to open plant near Back River

By Lisa Goldberg
SUN STAFF

The County Council approved a bill last night that will make it tougher for a longtime county oil recycling business to operate a new plant in North Point.

The change to the zoning regulations, which passed unanimously, now forces U.S. Filter Recovery Services to seek a zoning commissioner's approval before starting up at its new site — and appears to render moot questions of whether the company is in the business of refining or recycling oil.

Under the bill, businesses that recycle, process or recover oil must obtain a special exception to operate in the county's heavy manufacturing zones. The heightened approval process, which includes public hearings, had been required only for oil refineries.

The bill's passage comes amid community concern about the impact of the plant, which would operate near Back River, on area neighborhoods. At the council's work session last week, community leaders said they were concerned that the plant would harm their quality of life.

It also comes on the heels of officials' decision in the ... levels for ...

Baltimore County recycling measure is lauded, decried

By Lisa Goldberg
SUN STAFF

A County Council bill that could make it tougher for a longtime oil recycling business to operate in North Point is the best way to ensure that communities have a say in their quality of life — or is an unfair effort to drive a single business out of town — a series of opposing speakers told council members yesterday.

With a vote on the bill scheduled for Monday, members of the communities adjacent to the proposed site for a U.S. Filter Recovery Services plant near Back River and officials with the company used the council's work session to vent their concerns.

The bill would force plants that recover or process oil and oil recycling plants like the one to be run by U.S. Filter to obtain a "special exception" from a zoning commissioner to operate in the county's heavy manufacturing zones. That level of approval, which involves public hearings, is required only for oil refineries under current regulations.

"I'm at a loss as to why the council is considering a bill which is directly targeting a 54-year corporate partner in Baltimore County," said Vincent A. Glorioso, business unit manager for U.S. Filter, which operated a plant on the International Steel Group Inc. property in Sparrows Point until spring.

The Sun Wednesday Sept 29, 2004

John V. Cignatta, P.E., Ph.D.

DATANET ENGINEERING, INC.
• Corrosion Engineering
• Environmental Engineering
• Industrial Hygiene

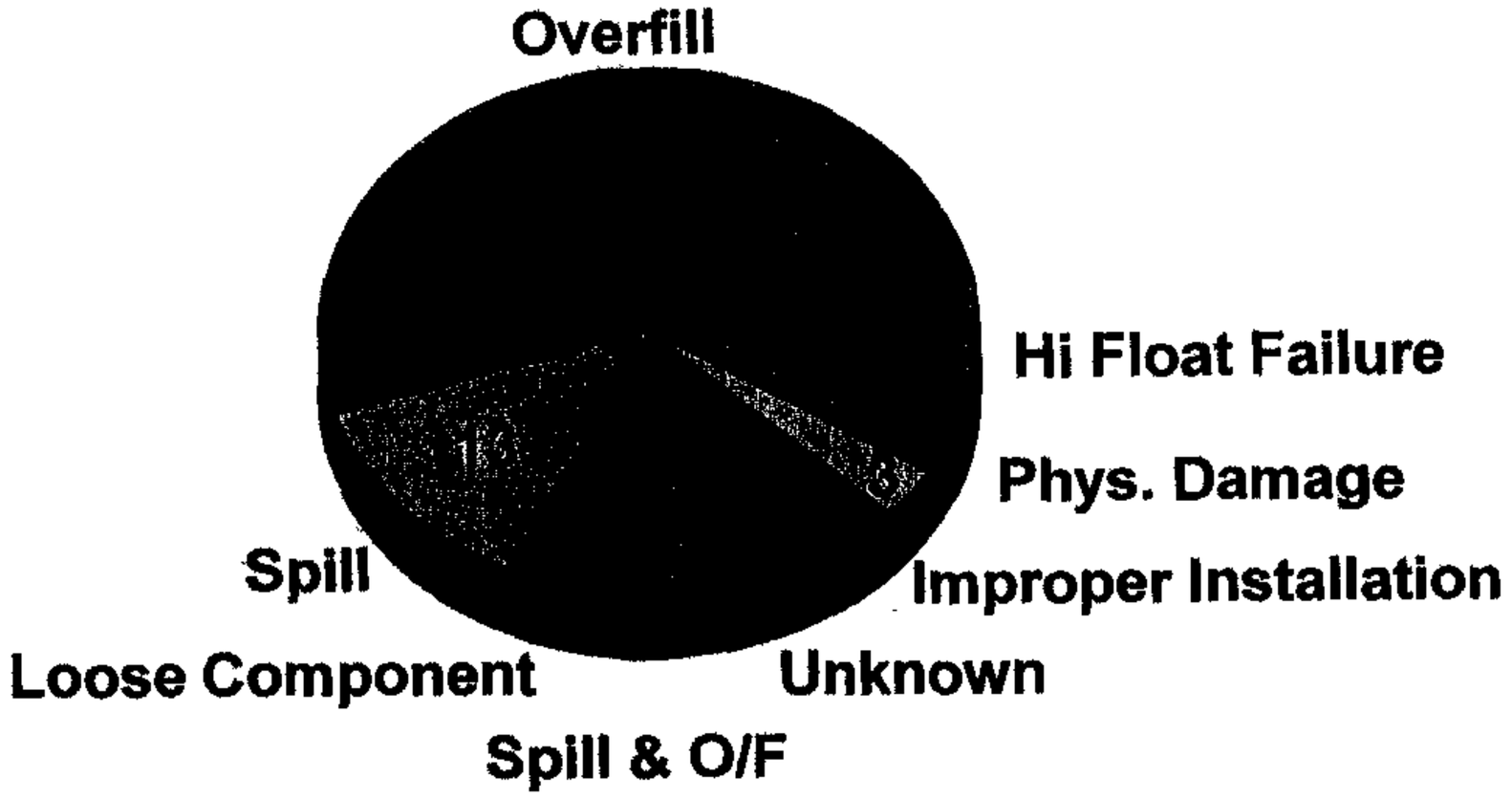
6334 Dogwood Road
Baltimore, MD 21207
johncignatta@cs.com

(410) 944-3600
Fax (410) 944-5154
www.datanetengineering.com

1

Shop Fab. AST Loss Causes %

FL DEP Leak Study



2

EXHIBIT
tabbies
A

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

May 12, 2004

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Zoning and Use Verification for 8200 Fischer Road
Map 104, Grid 9, Parcel 12
Property Owner: Farboil Company
Property Description: Approximate 20.5 acres northside of Fischer Rd
District 15, Account No. 1508802240
(the above being hereafter called the "Property")

Dear Mr. Kotroco:

This office is local counsel to US Filter Recovery Services. ("USF"). USF is in the process of leasing a portion of the property located at 8200 Fischer Road, Baltimore, MD 21224 from the property owner.

It is my understanding that a portion of the Property is currently utilized by an one existing tenant at the property for warehousing and distribution of paint and coating products from the existing warehouse buildings, and a portion of the Property is also used by a second existing tenant for warehousing purposes.

USF intends to lease a portion of the Property (approximately 3 acres) for the conduct of its business, a portion of which will occur in part of the larger warehouse building on the Property and a portion of which will occur on concrete slabs to be poured immediately adjacent to the side of the large warehouse building. A summary of the proposed use by USF is set forth below.

USF Proposed Use at the Property.

USFilter Recovery Services is an Oil Recycling Operation. USF will receive mixtures of non-hazardous used oils and waters via truck or rail at the Property and then will separate/filter these fluids for recycling, resale and disposal. USF anticipates that approximately 7-10 outside transports will arrive with liquids during an average day. In addition there would be approximately 9 trailers and approximately 17 smaller route/box trucks that originate from USF's site and would return with 1 load per day, as an average.

Tank trucks arriving at USF's facility would pump their fluids into the separation/filtering processing area, being a series of tanks, separators and filters located within a portion of the existing warehouse building. Outside the building, on a newly poured concrete slab, there will be a "tank storage farm" which will contain fluids awaiting separation as well as recovered/separated fluids prior to their transport offsite. The oil fraction of the fluids will be recovered for sale as a product fuel oil. The water fraction will be pretreated and discharged to a POTW. USF will consolidate gasoline contact water for subsequent shipping to and recycling at another US Filter Facility not located at the Property. USF will also consolidate used parts washer fluids for transport to another USFilter facility not located at the Property, where it will be recycled. The Property will also function as a distribution center for new parts washer fluid and recycled antifreeze products. USF will accept and store at the Property used glycols for transport and subsequent recycling at another USFilter facility not located at the Property.

Request and Information furnished.

USF desires verification its proposed use as outlined above is permitted as of right under the existing zoning classification, without the necessity of further zoning approval. To assist you in your review, I am enclosing the following:

1. Information from the State Department of Assessments and Taxation regarding the parcel;

2. Zoning information obtained from the Baltimore County website.

3. Site Layout Plan for US Filter - Tank Storage, depicting the area in which US Filter's operations would occur.

On the attached maps, I have outlined in yellow the approximate boundaries of the 20.5 acres that constitute the Property and I have outlined in red the proximate boundaries of the portion of the Property that USF intends to lease and utilize for the conduct of its business.

Reasons why the Proposed Use is Permitted.

I believe that USF's proposed use at the Property would be permitted as of right in the MH Zone, for the reasons set forth below.

From the zoning information available from the Baltimore County website, it appears that the property is located in MH-IM District (Map SE 3-H).

Section 256 of the Baltimore County Zoning Regulations ("BCZR") specifies permitted uses in the MH zone. Included as a permitted use in the MH zone are "uses permitted in . . . Section 253.4 of the M.L. Zone.". See Section 256.1 BCZR.

Permitted uses in the M.L. Zone include:

- Fluid storage and sale, aboveground, of flammable liquids or gases. See Section 253.1.B.7. BCZR

- Storage, warehousing or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M.L. Zones; public warehousing. See Section 253.1.B.16. BCZR

- Cleaning or dyeing. See Section 253.1.A.9. BCZR

- Laboratories. 253.1.A.28. BCZR

I believe that the uses listed above most closely describe the fluids separation, storage, and warehousing and distribution activities that USF would conduct at the Property. The uses proposed by USF strike me as significantly less intensive than other permitted uses under the M.H. and M. L. zones. I have discussed this proposed use with Carl Richards of your office and I believe that he concurs with my analysis, however, he has made clear that we should seek formal written clarification so that your office can appropriately evaluate this matter.

Based upon the above, would you kindly confirm the zoning of the Property and that the proposed use is permitted as of right under the Baltimore County Zoning Regulations, without the necessity of further zoning approval.

We are in the process of conducting due diligence on the Property, preparing plans and obtaining the appropriate permits from the Maryland Department of Environment, as well as Baltimore County. Representatives of USF and its engineers are meeting with Don Rascoe of Development Review and with representatives of DEPRM to clarify and expedite applicable permitting and approvals. Representatives of Baltimore County's Department of Economic Development have been of assistance in helping to relocate this business from its prior operating

location to its new location at the Property in Baltimore County. During the transition of USF's business to its new Baltimore County location at the Property, USF is currently redirecting its traffic to other locations in other states which, as you can imagine, is expensive and inefficient proposition that significantly impacts USF's business. Accordingly, I would appreciate it if you could give this verification request your earliest possible favorable consideration.

Enclosed is this firm's check in the amount of Two Hundred Fifty ($250.00) Dollars to cover the cost of an expedited zoning verification request.

Please direct your reply to the undersigned. If you have any questions or need any further information, please call me at (410) 592-4092.

Very truly yours,

William D. Shaughnessy, Jr.

cc: U.S. Filter Recovery Services
WDS:jc
Enclosures

techniques〉 **2 :** the quality or state of being refined **:** CULTIVATION, ELEGANCE, POLISH 〈always comparing immigrant vitality with native ~ —M.D.Geismar〉 〈sniffed with exquisite ~ —Elinor Wylie〉 **3 a :** *something that is the product or* outcome of a refining process or that conduces to refining **:** a refined feature or method 〈pursued the delicate art of suggestion to its furthest ~*s* —Maurice Bowra〉 **b :** subtlety in reasoning 〈~*s* of logic〉 〈~ is what characterizes our intellectualist philosophies —William James〉 **c :** a contrivance, device, or feature intended to improve or perfect 〈introduce ~*s* into a machine〉 〈this ~ will increase the cost of the automobile〉 **d :** a slight departure from mechanical exactness or uniformity of line intended to enhance the beauty of a building or overcome undesirable optical effects

·fin·er \-īnə(r)\ *n* -*s* **:** one that refines: as **a :** *one whose* work is refining a specified thing 〈lard ~〉 〈oil ~〉 **b :** a machine that gives the final mechanical treatment to paper stock

·fin·er·man \-mən, -ˌman\ *n, pl* **refinermen :** a millman who refines reclaimed rubber

finers' sirup *n* **:** the residual liquid product obtained in the process of refining raw sugars

·fin·ery \rə'fīn(ə)rē, rē'f-, -)ri\ *n* -ES **:** a building and equipment for refining or purifying metals, oil, or sugar; *specif* **:** a furnace with a shallow hearth for refining pig iron to wrought iron or to iron suitable for puddling

·finger \(')rē+\ *vt* [*re-* + *finger*] **:** to alter or replace the fingering of (a musical passage)

fining *n* -*s* **:** the action or process of removing impurities from a crude or impure material: as **a** *of metals* **:** subjection to high heat or other purification methods (as electrolysis or treatment with chemicals) 〈fire ~ *of copper*〉 — *compare* PARTING **b** *of glass* **:** FINING 1b **c** *of sugar* **:** processing in a series of steps ending with crystallization **d** *of petroleum* fractional distillation usu. followed by other processing as cracking)

fining engine *n* **:** REFINER b

·finish \(')rē+\ *vt* [*re-* + *finish*] **:** to give (as furniture) a new surface

·finisher \"+\ *n* **:** one that refinishes furniture

e·fit \(')rē+\ *vb* [*re-* + *fit*] *vt* **:** to prepare for use again **:** fit out or supply again **:** restore after damage or decay 〈~ a ship〉 ~ *vi* **:** to get refitted **:** obtain repairs or fresh supplies or equipment 〈the fleet returned to ~〉

e·fit \'rē+ˌ-, ='=\ *n* **:** a refitting or fitting out again **:** a repairing of damages or replacing of what is worn or useless; *sp* **:** a refitting and renovating of a ship 〈assisting with ~*s* of other submarines as they came and went —E.L.Beach〉

·fit·ment \(')rē'fitmənt\ *n* **:** REFIT

·fix \(')rē+\ *vt* [*re-* + *fix*] **:** to fix again **:** set up again **:** attach again or in a new place

·fixture \"+\ *vt* [*re-* + *fixture*] **:** to renew or replace the fixtures of (as a store, an office)

fl *abbr* **1** reflection; reflective; reflectively; reflector **2** reflex; reflexive

·flash \(')rē+\ *n* [*re-* + *flash*] **:** a rekindling and bursting into flame 〈prevent possible ~ by cooling the hot surface and any glowing material —*Training Manual for Auxiliary Firemen*〉

·flate \rə'flāt, rē'f-\ *vb* -ED/-ING/-S [back-formation fr. *reflation*] *vi* **:** to expand again the quantity of currency and credit after a period of deflation ~ *vt* **:** to expand again the amount of (currency and credit)

·fla·tion \-āshən\ *n* -S [*re-* + *-flation* (as in *inflation*)]

partial or complete return of a w
sound) from a surface that it en
that it originally traversed and
diffuse or irregular — compare SPE
production of an image by or as i
not itself but by ~ —Shak.〉 〈the
men, more restrained —John Stei
of bending or folding back **b :** a re
is a ~ of the peritoneum〉 **:** FOLD
reflecting: **a :** reflected light or h
(as of wit) or warmth (as of emot
what is sought, a will-o'-the wisp
c : an image given back by a refl
counterpart **d :** an effect produ
of ancient Celtic legend in Italian
cast or brought to bear **:** CENSURE
~*s* on certain named persons' cha
Jour.〉 **6 :** a thought, idea, or op
made as a result of meditation 〈r
one of our finest stylists —Orville P
tion of some subject matter, idea, o
to understanding or accepting it
relations 〈as . . . walking gave him
prospect slowly brightened —John
contemplation of the contents o
thoughts or remembered experienc
every experience —Edmund Husse
: RETURN **9** *obs* **:** RELATION, CON
LECTION

re·flec·tion·al \-shən°l,-shnəl\ *adj*
reflection

reflection coefficient *n* **:** REFLECTA

reflection factor *n* **:** REFLECTANCE

reflection grating *n* **:** a diffractio
ruled on a mirror surface

reflection plane *n* **:** a mirror plane

reflection twin *n* **:** a twin crystal in
so related that one is a mirror imag
ROTATION TWIN

re·flec·tive \rə'flektiv, rē'f-, -tēv *a*
of throwing back light, images, s
〈~ surfaces〉 〈~ insulation〉 **2**
: concerned with ideas or with
: THOUGHTFUL, DELIBERATIVE 〈~
temperament〉 **3 :** of, relating to
〈~ glare of the beach〉 〈poise an
casts in addition a ~ beauty on its
Mumford〉 **4 :** REFLEXIVE 〈~
\-təvlē, -li\ *adv* — **re·flec·tive·**
-təv-\ *n* -ES

reflective judgment *n, Kantianism*
ceeds from given particulars to th
concept or universal principle un
may be subsumed — contrasted wi

re·flec·tiv·i·ty \(ˌ)rēˌflek'tivəd·ē, r
reflect beams or rays **:** reflective po
fields〉 **2 :** REFLECTANCE

re·flec·tom·e·ter \-'tämәd·ə(r)\ *n*
: a photometric or electronic devi
flectances of light or other radiant

re·flec·tor \rə'flektə(r), rē'f-\ *n* -S
a : one that meditates or consider
flections **:** CRITIC **2 :** a polished bo
light or other radiation

Department of Permits and Development Management

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

EXHIBIT
C

Baltimore

James T. Smith, Jr., Co
Timothy M. Kotroco, Director

July 26, 2004

William Shaughnessy, Jr.
Gordon Feinblatt
233 East Redwood Street
Baltimore, Maryland 21202

RE: 8200 Fischer Road
Owner: Farboil Company

Dear Mr. Shaughnessy,

This letter revises a previous 5/13/04 response from this office concerning a zoning determination requested by you in a letter dated 5/12/04, for the above referenced site.

Your letter and submitted plan titled "U.S. FILTER-TANK STORAGE" described certain proposed uses at this location to separate/filter non hazardous oils and waters within a series of tank separators and filters, which were then to be stored in a tank storage farm.

Based on our review of the information presented, it was determined that pursuant to Section 256.1 as it references section 253.4[4] in the Baltimore County zoning regulations that the use was permitted as; Storage inflammable liquids and gases above ground. The separation/filtering was considered as being accessory to said storage and therefore also permitted. Limitations were stated in this office's letter response, particularly #2 which stated that: "No refining of the subject substances is permitted on site."

This office recently came into possession of a Maryland Department of the Environment "draft permit –to-construct conditions," for this site, which appears to indicate that processing is to occur on site which can be considered to be refining. This refining definition is established based on Section 101 Baltimore County Zoning Regulations (BCZR), which states:

> "Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. **[Bill No. 149-1987]**."

A highlighted copy of the definition of refining from this publication is enclosed with this letter.

In light of this new information, the previous response of this office is now revised. Pursuant to section 256.4 BCZR, the use is that of an oil refinery, which requires a zoning special exception public hearing to be permitted in the MH zone.

Please feel free to contact this office concerning any question you may have in this matter.

Sincerely,

John L. Lewis
Planner II
Zoning Review

EXHIBIT

D

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

WILLIAM D. SHAUGHNESSY, JR.
410.576.4092
FAX 410.576.4246
wshaughnessy@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576.4000
www.gfrlaw.com

August 25, 2004

VIA HAND DELIVERY

Timothy M. Kotroco, Director
Baltimore County Department of Permits and Development Management
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED
AUG 25 2004
Per...

Re: **NOTICE OF APPEAL TO BOARD OF APPEALS**
from July 26, 2004 decision letter
Appellant: US Filter Recover Services
Property: 8200 Fischer Road

Dear Mr. Kotroco:

The undersigned and this office represent USFilter Recovery Services ("USFilter").

USFilter hereby appeals the July 26, 2004 decision letter of the Department of Permits and Development Management that purports to revise "a previous 5/13/04 response from this office" and which purports to determine that the proposed use of property located at 8200 Fischer Road "is that of an oil refinery ...." A copy of the July 26, 2004 decision letter from which this appeal is taken is attached hereto. The basis for the appeal is that the July 26, 2004 decision letter is unlawful and erroneous.

The name and address of the aggrieved party taking this appeal is:

USFilter Recovery Services
1105 North Point Blvd.
Baltimore, MD 21224

Enclosed is this firm's check in the amount of $225.00 to cover the cost of docketing the appeal, and a check in the amount of $75.00 to cover costs of posting.

Please contact the undersigned if anything further is needed.

RECEIVED SEP - 7 2004

EXHIBIT
E

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 31, 2004

William D. Shaughnessy, Jr., Esquire
GORDON-FEINBLATT
Rothman, Hoffberger, & Hollander LLC
233 E. Redwood Street
Baltimore, MD 21202-3332

RE: *In the Matter of: USFilter Recovery Services*
Property: 8200 Fischer Road /Case No. CBA-04-144
[Appeal of PDM Letter dated July 26, 2004]

Dear Mr. Shaughnessy:

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

Very truly yours,

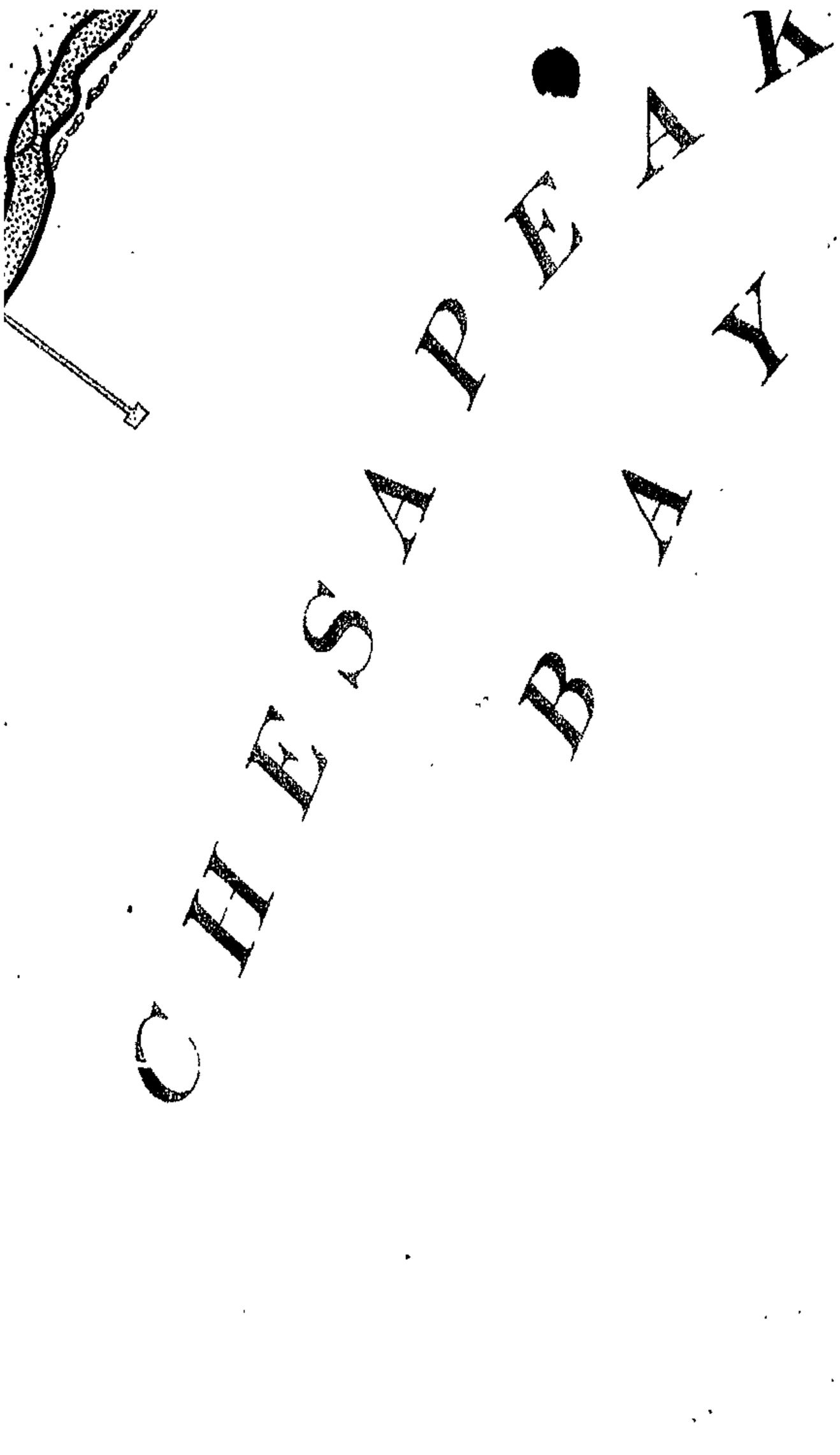
Kathleen C. Bianco/tts

Kathleen C. Bianco
Administrator

Enclosure

c: USFilter Recovery Services
Lawrence E. Schmidt /Zoning Commissioner
John L. Lewis, Planner II /PDM
Pat Keller, Director /Planning
Timothy M. Kotroco, Director /PDM
Jay L. Liner, County Attorney

Printed with Soybean Ink
on Recycled Paper



8

$ 32 000

9

APSCO NECK

ERIES -

REVISED DATE	
SEP. '94	4A

ROSALIE AVE

ANTHONY AVE

TURKEY POINT PARK

RC-20

TICKWOOD RD

GREYHOUND RD

POINT RD

SENECA RD

BL

Turkey Point

BL

DR3.5

REGINA AVE.

BL

TURKEY POINT RD

ROCKAWAY BEACH AVE

BEACH RD

GROVE RD

E SHORE RD

RIVERSIDE RD

N 000

S 000

1

Sue Point

SUE ISLAND

BMYC

S 40.00

RC5

BMB

BL

RC 5

RC 5

BMB

RD.

NECK RD.

RC 20

RC 5

BL

RC 20

RC 5

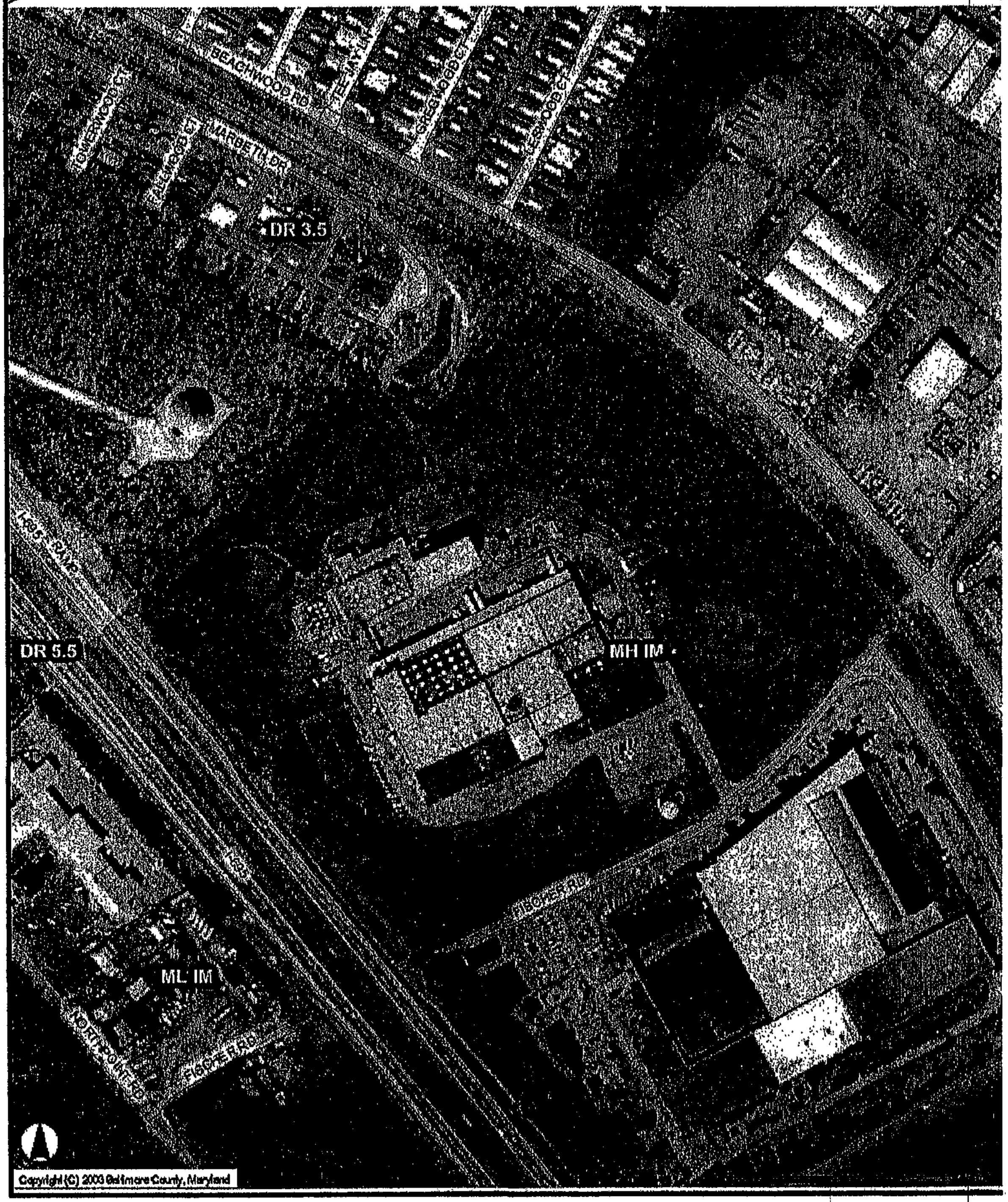
RC 20

2

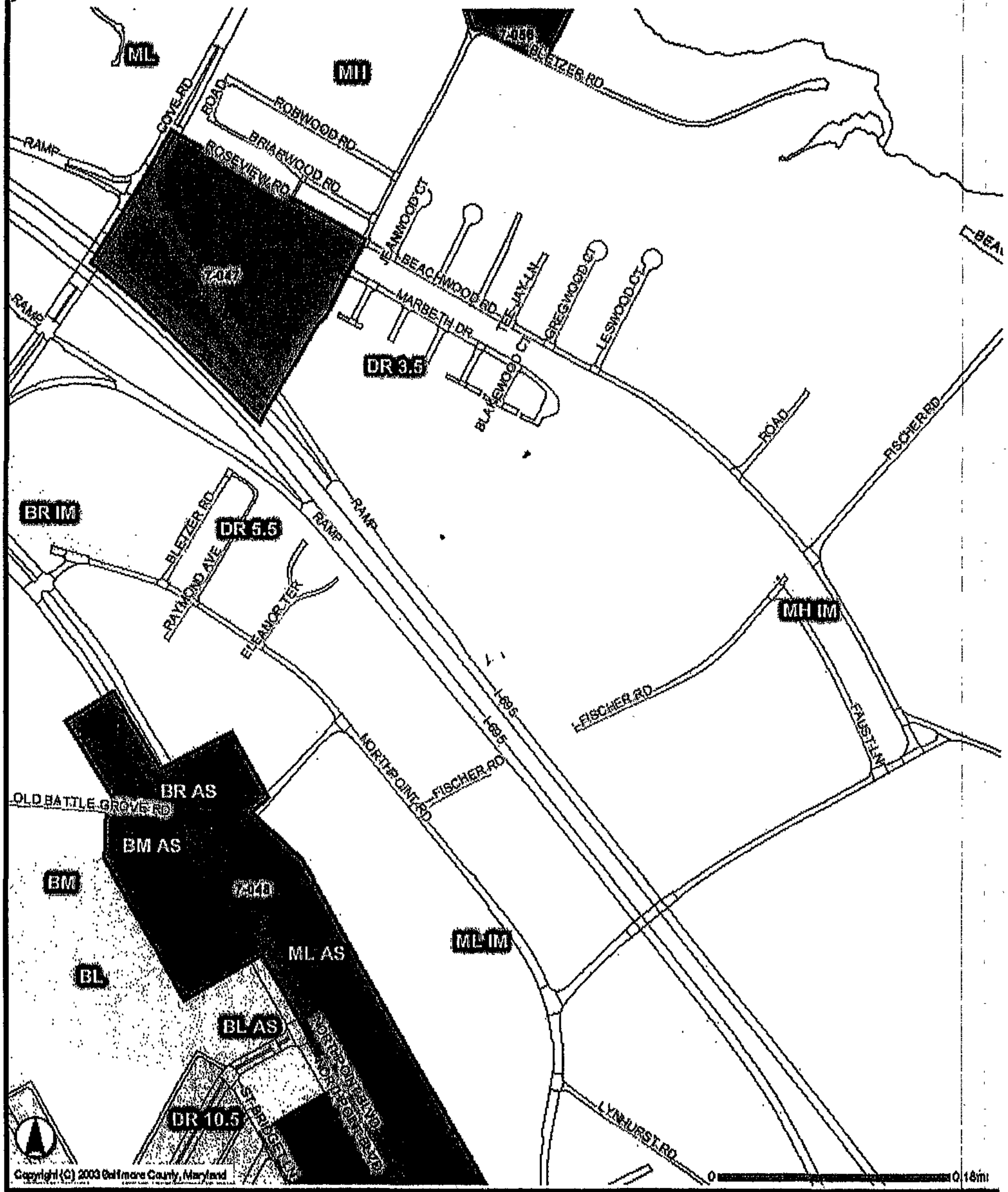
REVISED DATE
SEPT. '94

4B

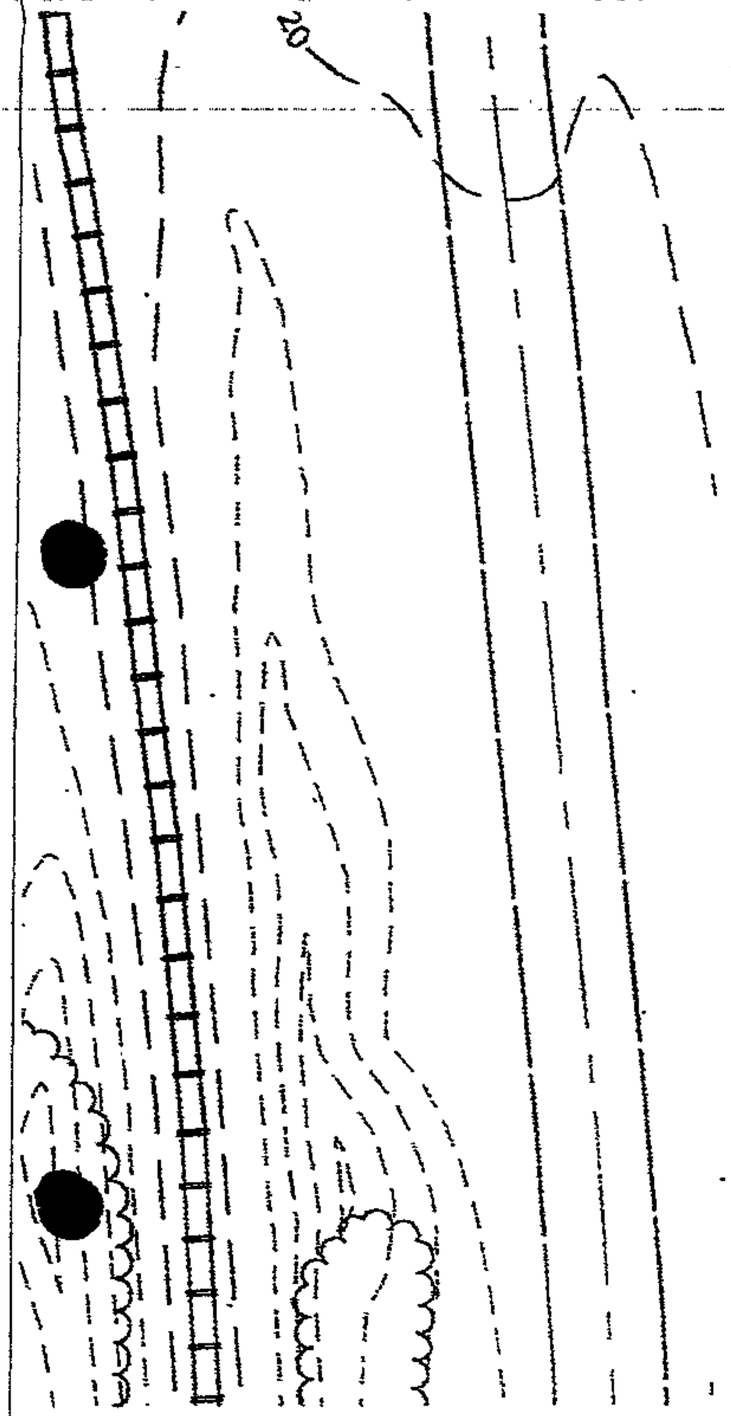
Baltimore County - My Neighborhood



Baltimore County - My Neighborhood



Copyright (C) 2003 Baltimore County, Maryland



DATE	NO.	REVISIONS

LAYOUT PLAN

PROJECT TITLE:

U.S. FILTER – TANK STORAGE

8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:

Consulting Engineers
849 Fairmount Avenue (410) 512–4500
Baltimore, Maryland 21286 (410) 324–4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	5/6/04
SCALE:	1" = 50'
DRAWING NO:	C–2

© WBCM 2004

960,000 FT Joins Map 37 76°27'30" 960,000 F

B C D E F G H J

River Sewage Treatment Plant

PATAPSCO

NORTH POINT

Battle Acre Monument

Charlesmont Park

Battle Monument Sch

Exit 41

Bear Creek ES

Bear Creek Park

Wise Ave

Schoolhouse Cove

Sandy Plains ES

Draw Bridge

Chink Creek

BEAR CREEK

INVERNESS

Anchor Bay Estates Swing Bridge

Sparrows Point CC

Country Club Cove

Bethlehem Steel

Tin Mill Canal

Exit 43

BETHLEHEM BOULEVARD

EXPRESSWAY

157

158

151

Edgewater Rd

Glenhurst Rd

Bletzer Rd

Rosebank Ave

Rosedale Ave

Robwood Rd

Clearwood Ct

Randyvale Way

Teejay La

Greenwood Ct

Marbeth Ct

Beach Rd

Beachwood Rd

Lynhurst Rd

Riverside Ave

Mitchell Rd

Bay Ave

Dolphin Yacht Basin

East Bay

Stansbury Pt

Walnut Pt

Hyde Park Co 250

Hyde Park

Walnut Rd

Walnut Grove Rd

Pelham Rd

Cranford Rd

Galena Rd

Spring La

Sussex Rd

Kent Rd

Tampa Rd

Gut

Muddy

Denton Rd

Allen Rd

Pattison Rd

Elsing Rd

Rose Garden Rd

Port Garden

Battle Grove ES

Battle Grove Park

North Point Village

North Point Rd

Lynhurst Rd

Morse

Riverside Way

Lynhurst

Beachwood North

Essex

Diffendall

Whitcoat Pt

Rudys

Shore Rd

Wise Ave

Todd Pt

Beachwood Est 5

Porter Pt

Antioch Chapel

Evergreen Park

Bayside Rd

Beachwood Ave

Alexcage La

Exit 42

Lynch Point

Lynch Pt

Greenhill Cove

River Hill Rd

Lynch Rd

Alice Ave

River Drive

Edgemere Co & Rec Ctr

Edgemere

Edgemere ES

Sparrows Point MS & HS

Chesapeake Ave

North Point-Edgemere Co 260

Sparrows Point

Saint Luke's

Lodge Forest Meth

Tin Mill Canal

Shipping Rd

Sheet Mill Rd

Contractor Rd

Warehouse Rd

Bethlehem

Carolina Ave

Welsh Ave

Shady Grove Cir

Sparrows Point Blvd

Merritt La

Smooth La

Shiloh Bapt

Dennis La

Morrison La

Strebor Rd

Orth Rd

Mainwaring Rd

Mainwaring Ct

Dory Ct

Turtle La

Heintzwater

Elmore Ave

Wilson Ave

Waterpoint Rd

Eastpoint Ave

Sparrows Point Blvd

Boulevard

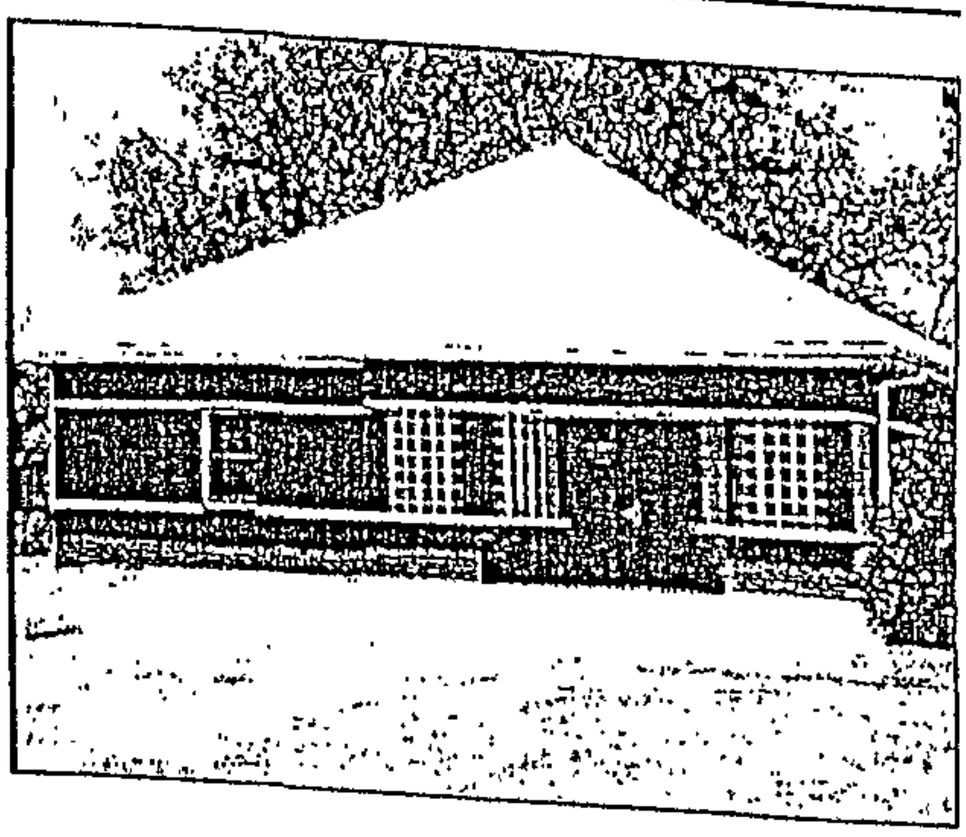
Exit 42

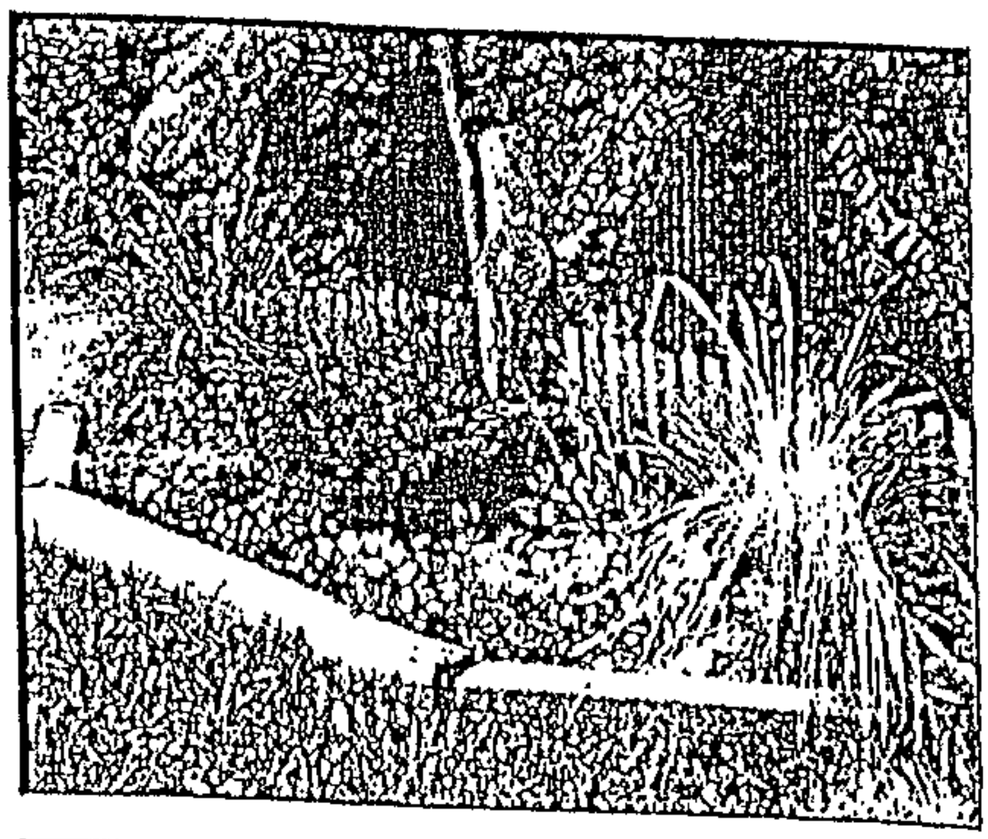
Exit 43

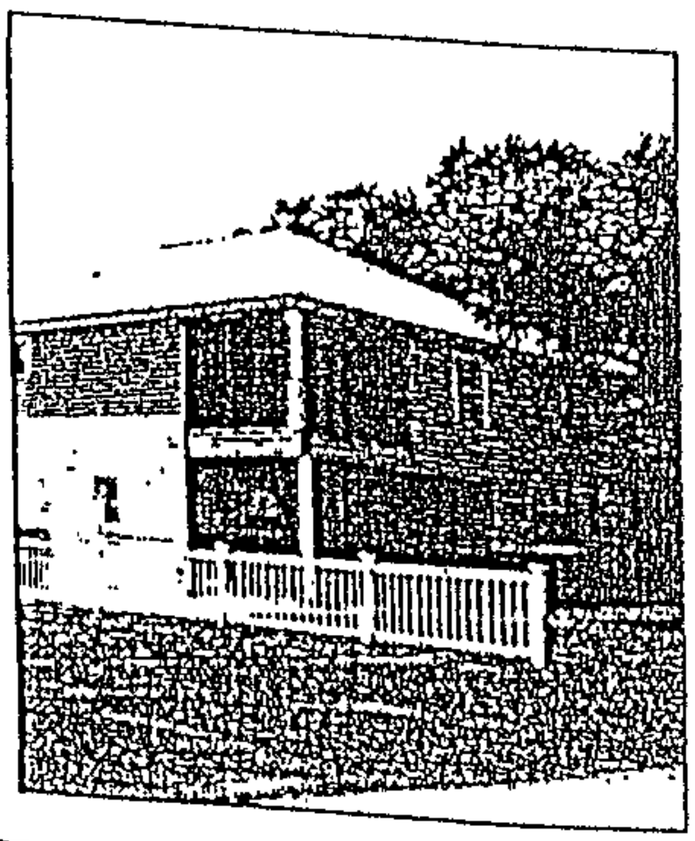
PROTECTED

NO. 3

Wells-McComas Community Conservation Plan

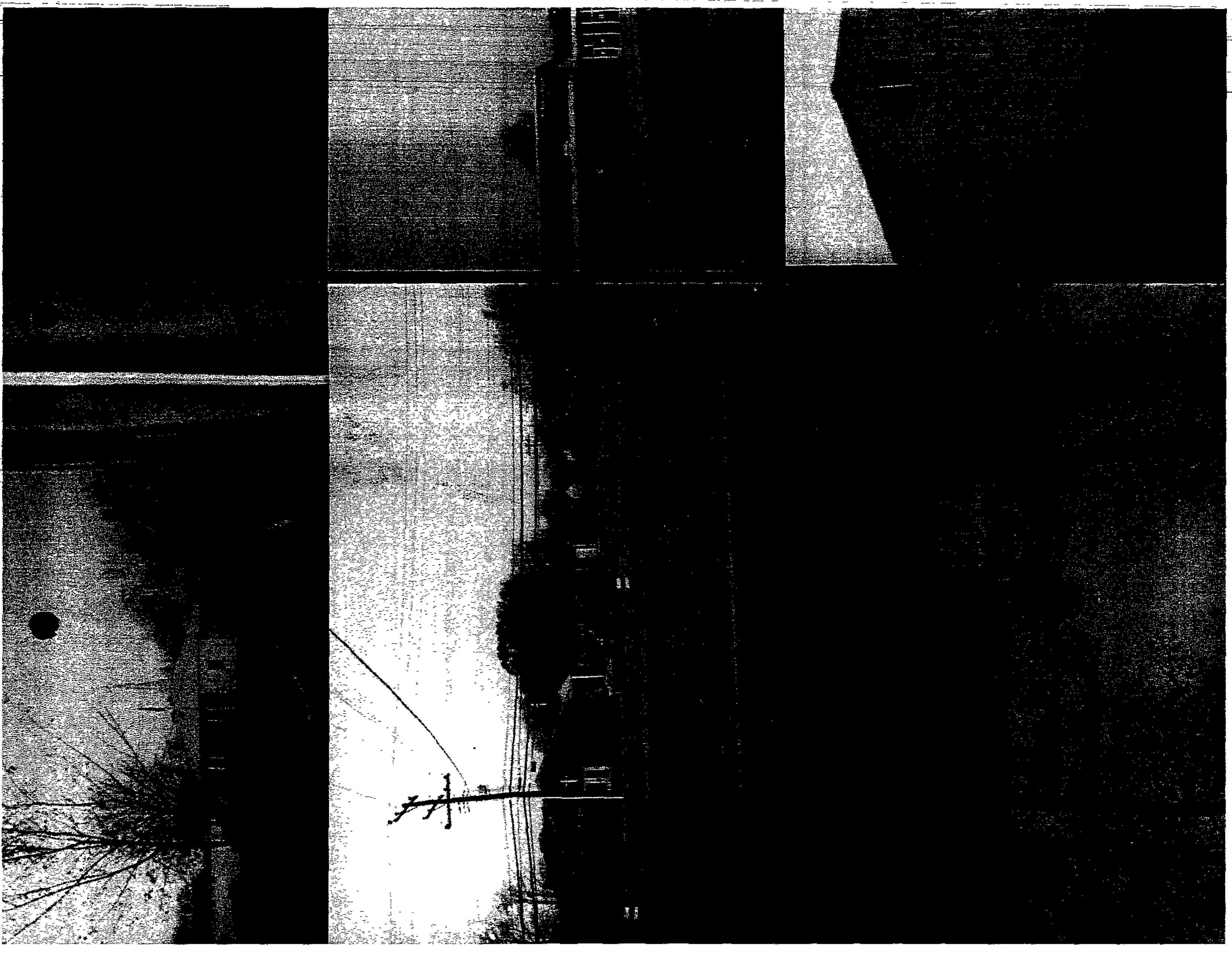


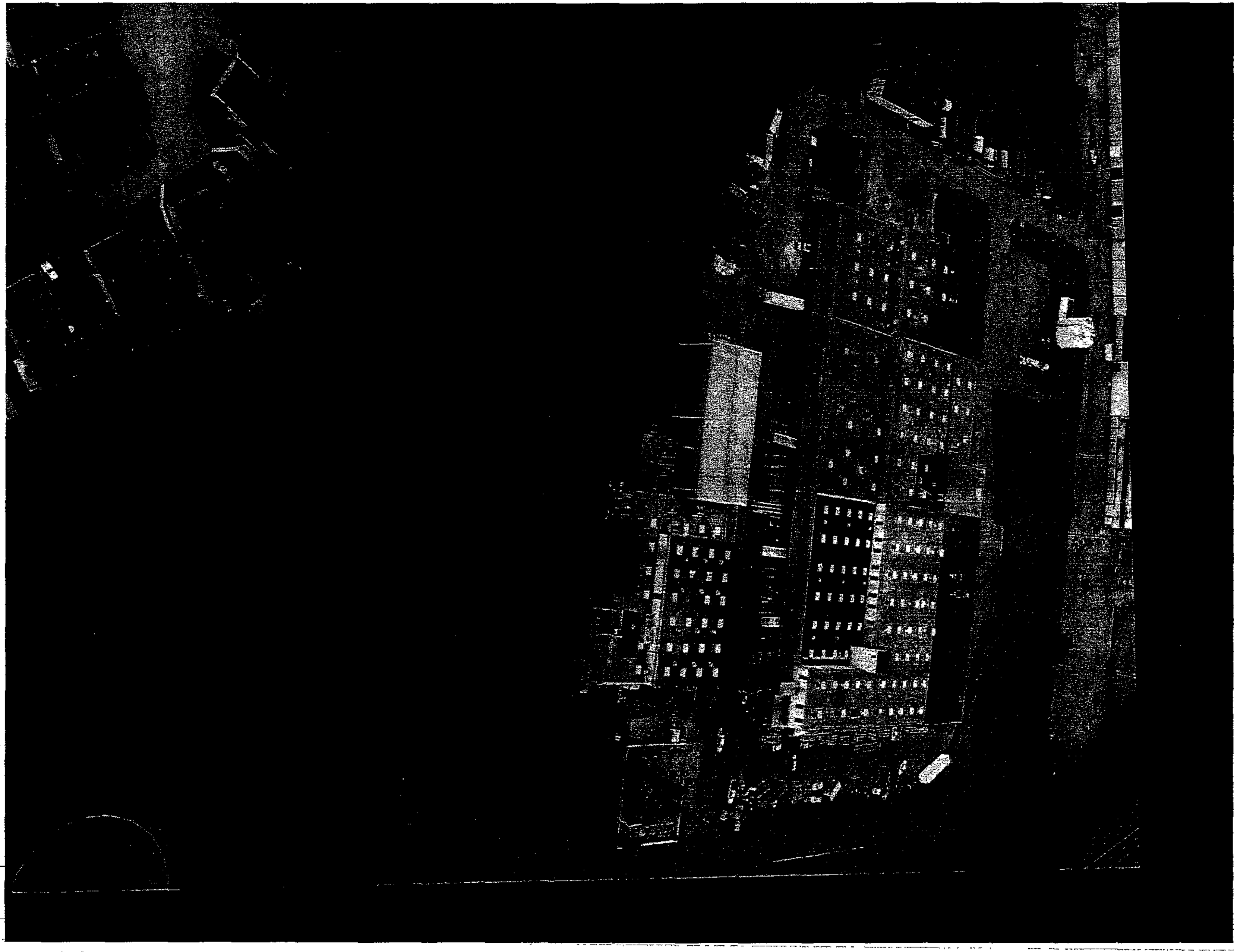


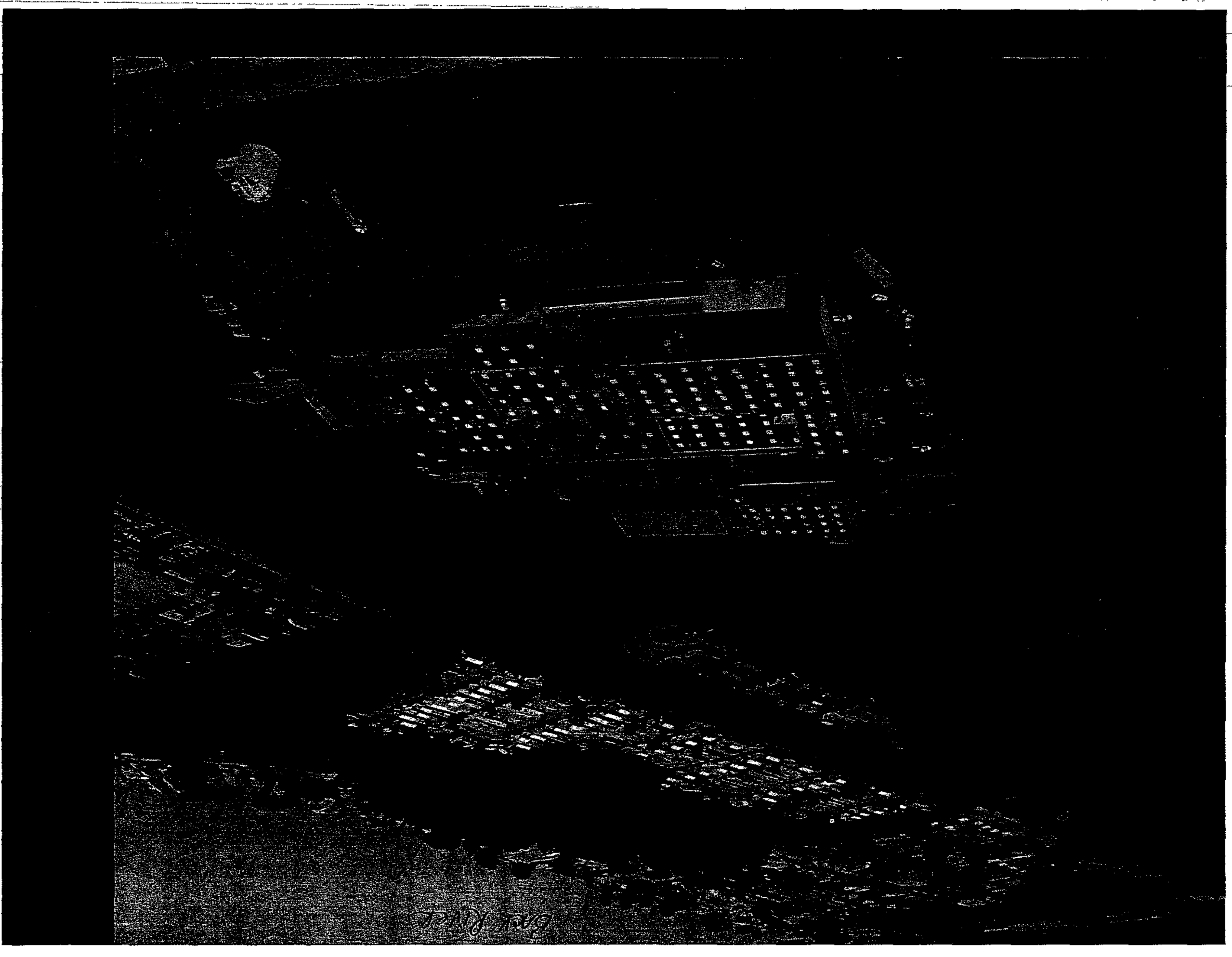


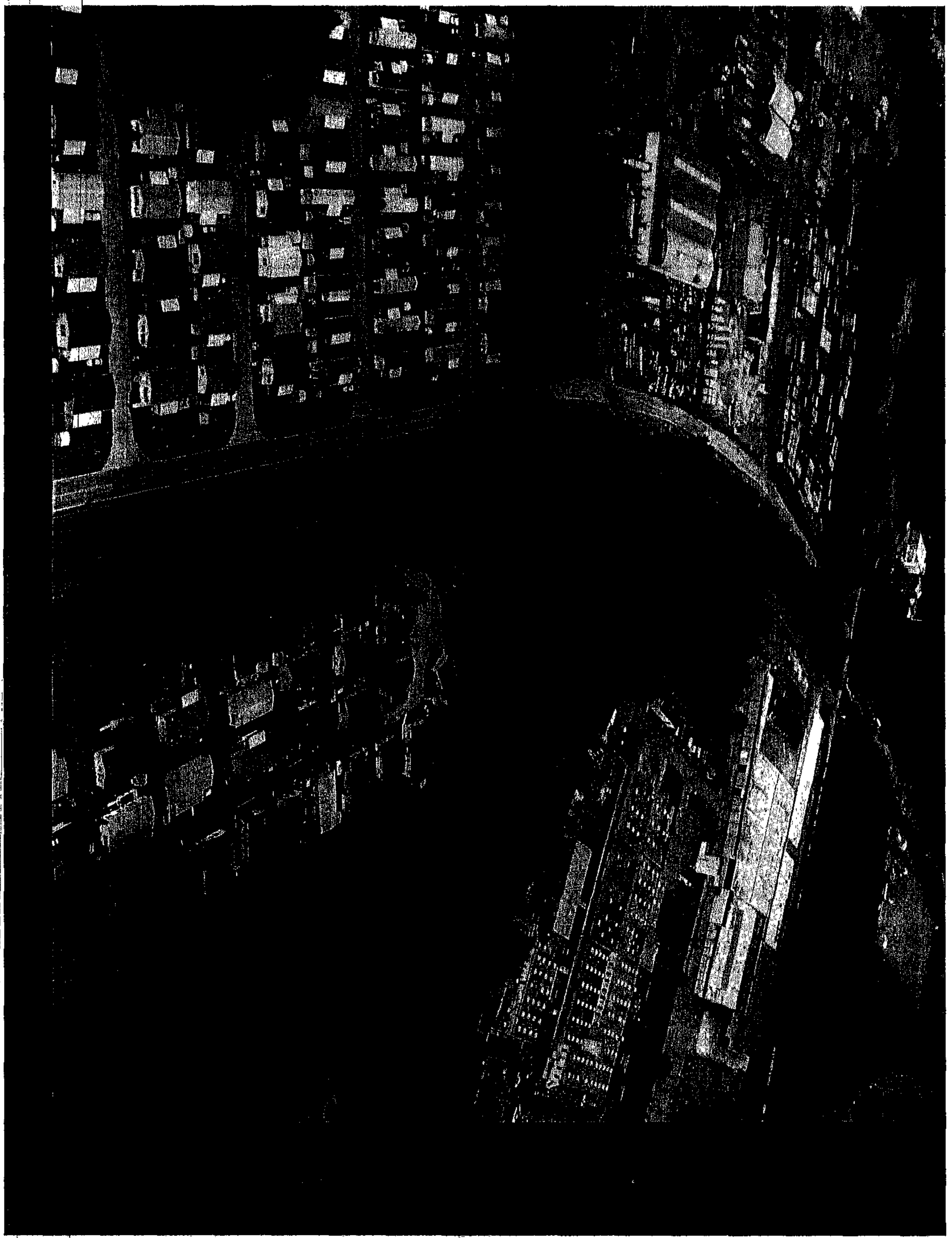
Adopted by the Baltimore County Council
March 18, 2002

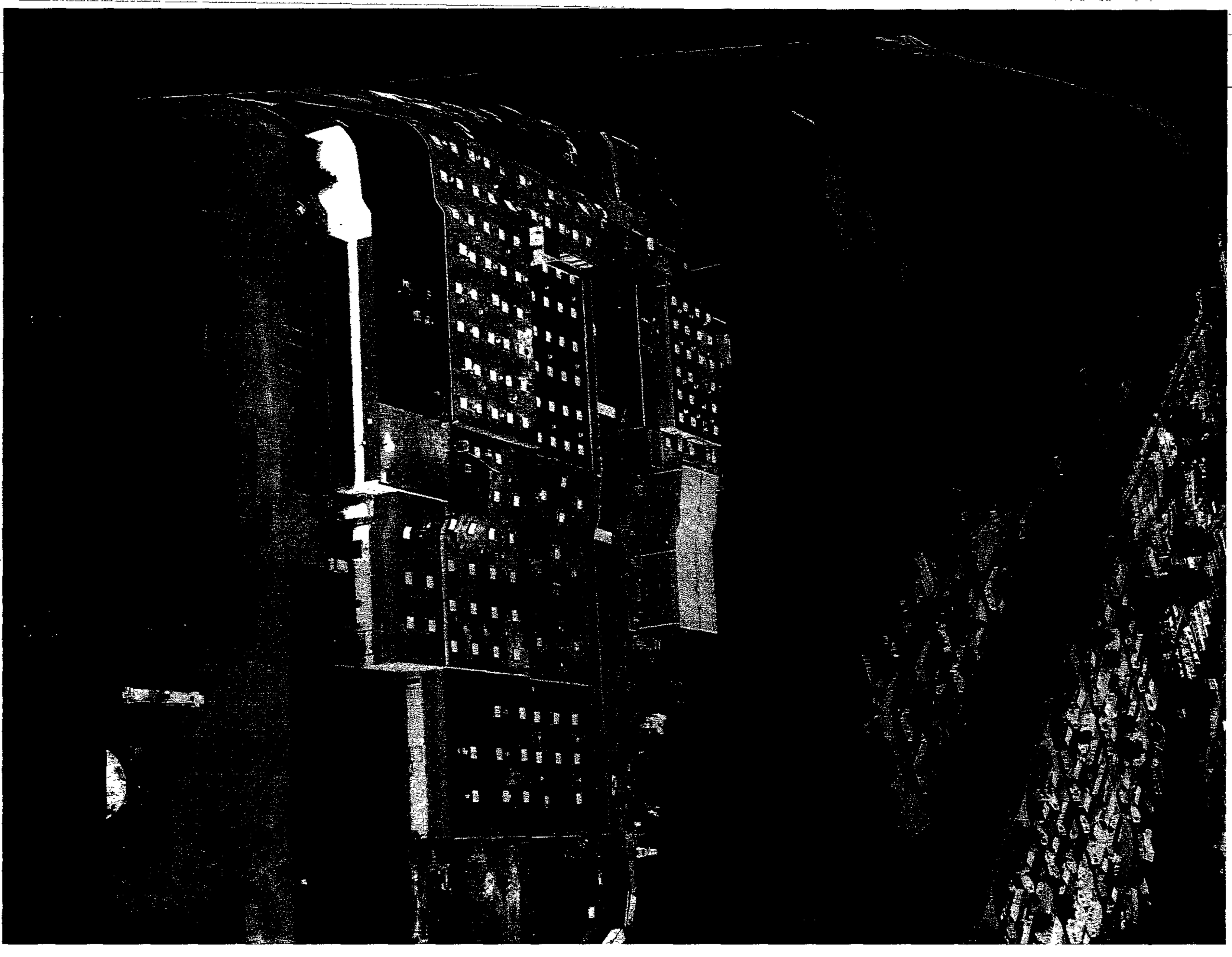
PROTESTANT'S
EXHIBIT NO. 6











USFilter

May 14, 2004

Maryland Department of the Environment
Air Quality Permits Program
Attn: Mr. Ross Oliver
Public Health Engineer
1800 Washington Blvd.
Baltimore, MD 21230

Re: Biofilter Emission Estimation

Mr. Oliver,

Per your request, below you will find a summary of the method in which the estimated uncontrolled emissions into Fisher Road Biofilter were determined. The VOC emissions identified on Form #5 is an estimate of uncontrolled VOC's entering the Biofilter, assuming ~ 93.96ppm VOC's entering the Biofilter and the process operating 24 hrs/day 365 days/year. 93.96ppm was the average VOC's measured in 2000. 2001 through 2003 have resulted in a lower average, therefore the higher 2000 average was utilized to assist in determining worst-case emissions. Applying the ideal gas law, the calculation is as follows;

24hr day / 7 days wk / 365days yr operations = 525,600 operating minutes / year
Air Flow to the Biofilter = 150 cfm
Air Flow through the Biofilter = 525,600 operating minutes / year * 150 cfm = 78,840,000 cu ft/year
VOC's through the BioFilter = (78,840,000 cu ft/year)(93.96/1,000,000) = 7403.076 Max VOC's / yr

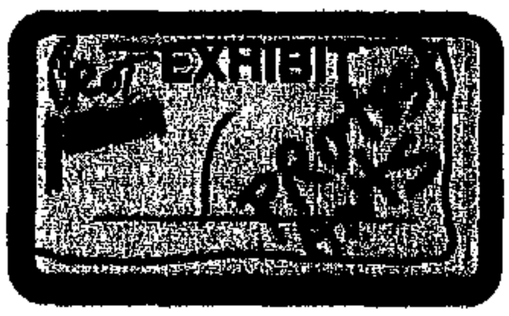
$(14.674 lb/in^2)(7403.076 ft^3$ Max VOC's / yr)(1/298K)(mol.K/ $8.314 m^3 pa)(6.89476 \times 10^3$ pa * in^2 /lb)(.3048m/ft)^3 = 8565.95 mol/yr

8565.95 mol/yr (89 lb/lb mole)(1 year/365 operating days)(.002205 lb/gram) = **4.6 lbs / day maximum VOC's**

4.6 lbs / day (365 days/yr)(1 ton / 2000 lbs) = **.848 Tons/year maximum uncontrolled VOC's**

If you have any questions or need additional information in the meantime, please feel free to contact me at 410-284-1717x 218.

PROTESTANT'S EXHIBIT NO.___



Sincerely,

Michael D. Schorr
Environmental, Health and Safety Manager

PROTESTANT'S EXHIBIT NO. 1

a VIVENDI water company

Section 256
Manufacturing, Heavy (M.H.) Zone Use Regulations
[BCZR 1955]

The following uses only are permitted, subject to the provisions of Subsection 256.5: **[Bill No. 85-1967]**

256.1 Uses permitted in M.R. Zone, Section 241.1 and in Section 253.4[4] of the M.L. Zone:**[Bill No. 85-1967]**[5]

Animal boarding place, Class A **[Bill No. 85-1967]**

Animal boarding place, Class B **[Bill No. 85-1967]**

Boatyard **[Bill Nos. 64-1963; 85-1967]**

Brewery, Class 5B, if within the urban rural demarcation line **[Bill No. 185-1995]**

Car wash in a planned industrial park only, subject to Section 419 **[Bill No. 172-1993]**

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]**

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]**

Dog grooming facility **[Bill No. 72-2002]**

Fuel service station, in a planned industrial park only, subject to Section 405 **[Bill No. 172-1993]**

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]**

Living quarters for watchmen and caretakers and their families employed and living on the premises, in connection with any lawful use in the M.H. zone

Marina **[Bill Nos. 64-1963; 85-1967]**

Storage of inflammable liquids and gases underground (for requirements see Baltimore County Building Code)

---

4 **Editor's Note: Previous Subsection 253.4 (derived from BCZR 1955; Bill Nos. 56-1961; 64-1963; 85-1967), to which this refers, was repealed by Bill No. 100-1970. It read as follows:**

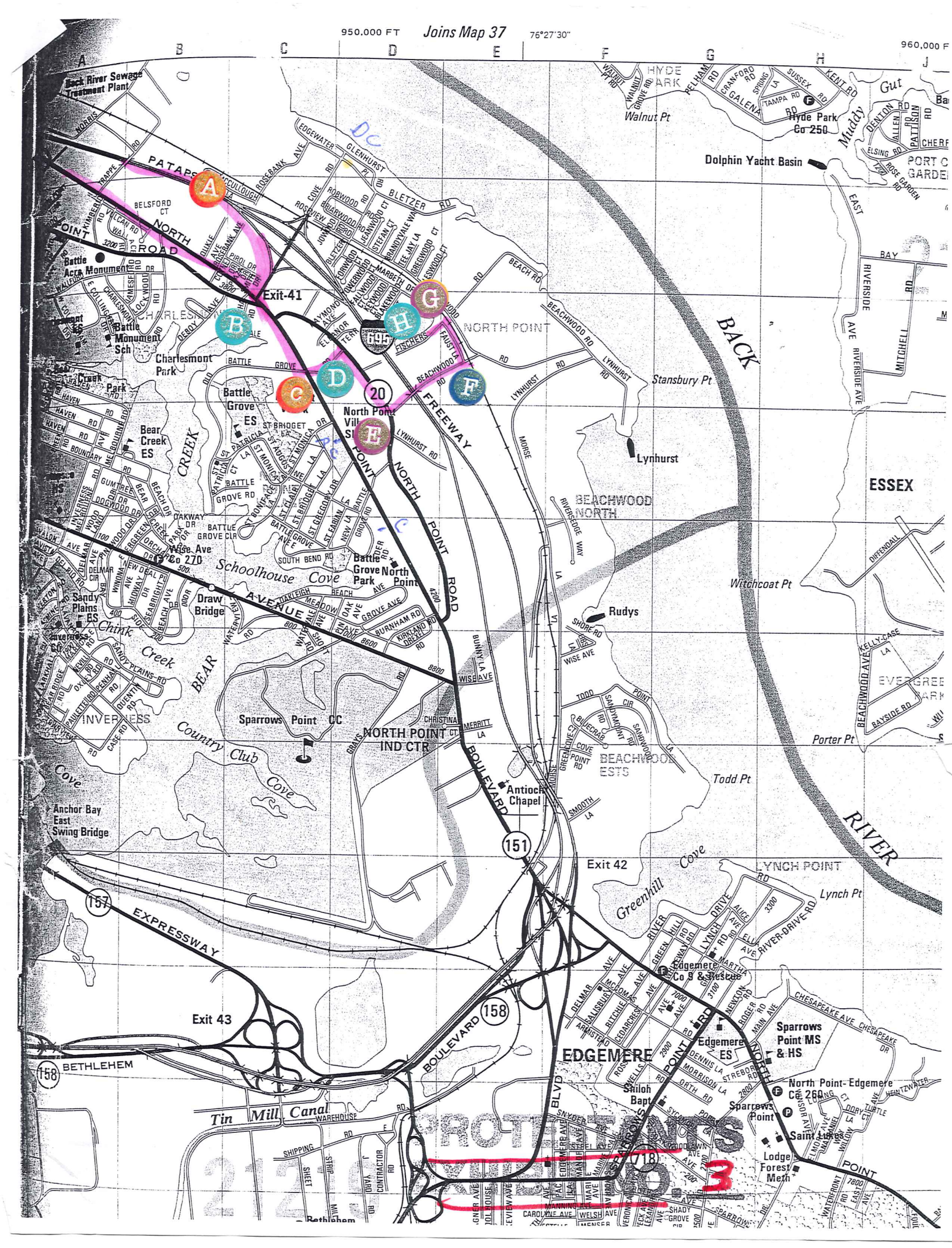
"253.4—The following (see also Section 255.1): Assembly of automobiles and airplanes; Boatyard; Bus terminal; Carpet, rug cleaning; Cleaning and dyeing; Concrete products, including concrete and/or cinder block manufacture; Contractor's equipment storage yard; Creamery; Enameling, japanning, lacquering, galvanizing and plating, when merely accessory to other permitted uses; Excavations, controlled, exclusive of those embodying use of explosives (see Section 403); Grain, processing of, provided equipment is installed for effective precipitation and recovery of dust; Heliport, Type I; Heliport, Type II; Ice, manufacture of; Milk pasteurization and distributing stations; Non-liquid fuel storage and sale (for requirements see Baltimore County Building Code); Poultry, commercial killing of; Storage of inflammable liquids and gases above ground (for requirements see Baltimore County Building Code); Vegetable canning or packinghouse (see also Section 255.1)."

5 **Editor's Note: The title of Bill No. 56-1961 indicates amendment of this subsection; however, no amendment to this subsection appears in the body of that bill.**

PROTESTANT'S EXHIBIT NO. 2 2-93

EXHIBIT 1 2

1-25-2003


950,000 FT
Joins Map 37
76°27'30"
960,000 F
A
B
C
D
E
F
G
H
J
Back River Sewage Treatment Plant
PATAPSCO
NORTH POINT ROAD
Battle Acre Monument
Battle Monument Sch
Charlesmont Park
Exit-41
Battle Grove ES
Bear Creek ES
Bear Creek Park
Wise Ave Co 270
Schoolhouse Cove
Draw Bridge
Sandy Plains ES
Inverness CC
Chink Creek
BEAR CREEK
INVERNESS
Sparrows Point CC
Country Club Cove
Anchor Bay East Swing Bridge
Exit 43
BETHLEHEM
Tin Mill Canal
Battle Grove North Point Park
North Point Village Sh
NORTH POINT IND CTR
BOULEVARD
Antioch Chapel
Rudys
BEACHWOOD NORTH
BEACHWOOD ESTS
Lynhurst
Stansbury Pt
NORTH POINT
FREEWAY
BACK RIVER
ESSEX
Witchcoat Pt
Porter Pt
Todd Pt
Lynch Pt
Exit 42
Greenhill Cove
LYNCH POINT RD
Edgemere Co 3 & Rescue
EDGEMERE
Edgemere ES
Sparrows Point MS & HS
North Point-Edgemere Co 260
Shiloh Bapt
Sparrows Point
Saint Luke's
Lodge Forest Meth
Walnut Pt
Hyde Park Co 250
Dolphin Yacht Basin
Muddy Gut
EXPRESSWAY
695
20
151
157
158
BOULEVARD
POINT BLVD
RIVER
Bethlehem

PROTESTANT'S EX 5

NOV 19 2004

b

OLD BATTLE GROVE RD LOOKING NORTH TOWARDS NORTH POINT RD

NOV. 19 2004

b

INTERSECTION: N. POINT BLVD. + OLD BATTLEGROVE RD + LOOKING EAST.

NOV 19 2004

d

HIGH WATER WARNING SIGN - NORTH POINT RD

NOV 19 2004

d

VEHICLE DISTRUCTION AT INTERSECTION - N. POINT RD + OLD BATTLE GROVE RD.

NOV 19 2004

2 HOMES ON NORTH POINT RD NEAR OLD BATTLEGROVE RD

d

NOV 19 2004

NORTH POINT RD. + BEECHWOOD RD LOOKING EAST

c

NOV. 19 2004

NORTH POINT RD LOOKING TOWARDS BEECHWOOD (HIGH WATER)

e

NOV 19 2004

BEECHWOOD RD + FAUST LA. LOOKING NORTH

F

Nov. 19 2004

f

FAUST Rd Looking West Toward Fischer Rd

Nov. 19 2004

Fischer Rd and Railroad New Conduits

G

Nov 19 2004

N.S. Railroad & Fischer Rd Looking North

g

Nov 19 2004

U.S. FILTER PLANT Looking West

h

USFilter

RECOVERY SERVICES
8200 FISCHER ROAD
BALTIMORE, MD 21224

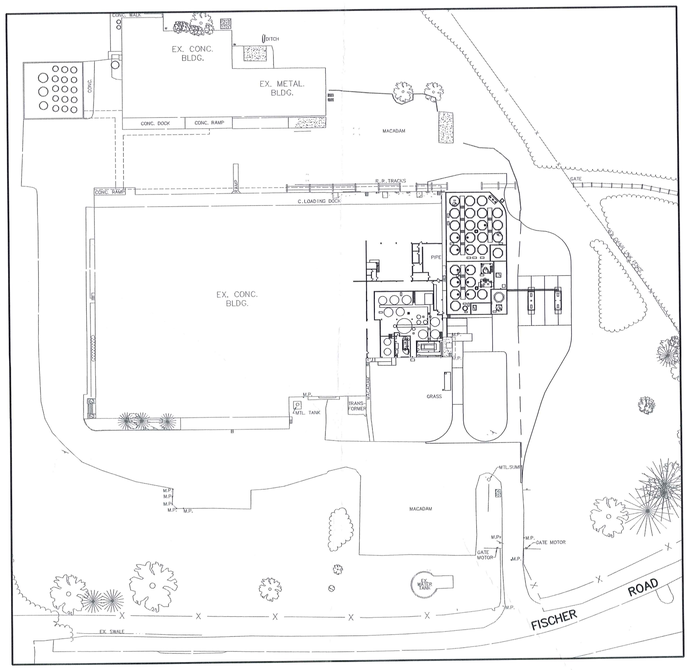
U.S. FILTER - RECOVERY SERVICES

DRAWING INDEX

T-1 TITLE SHEET
C-1 EXISTING CONDITIONS PLAN
C-2 DEMOLITION, LAYOUT AND GEOMETRY PLAN
C-3 FINAL GRADING AND UTILITY PLAN
C-4 SEDIMENT AND EROSION CONTROL PLAN
C-5 SEDIMENT AND EROSION CONTROL NOTES
C-6 SEDIMENT AND EROSION CONTROL DETAILS
C-7 UTILITY PROFILES AND SITE DETAILS

LEGEND

DESCRIPTION	EXISTING	TO BE REMOVED	NEW
BUILDING	EX. BLDG.	EX. BLDG.	
PAVING	EX. PAVING	EX. PAVING	
GRAVEL	EX. GRAVEL		
CONCRETE	EX. CONC.	EX. CONC.	
CURB			
WALL			
STORM DRAIN	D	D	
SANITARY	SS		
WATER	W	W	
OVERHEAD ELECTRIC	OHE	OHE	
VALVE			
HYDRANT			
MANHOLE	S		
INLET			
CLEANOUT			
CONTOUR	159 / 160		159 / 160
SPOT ELEVATION	×159.00		+ 159.00
FENCE	X		
TREE			
TREELINE			
SHRUB			
POWER POLE & GUY WIRE		X	
POLE			
SIGN		X	
SOIL BORING			



LOCATION PLAN
SCALE: 1" = 80'

DATE	NO.	REVISIONS

ISSUED FOR BID

TITLE SHEET

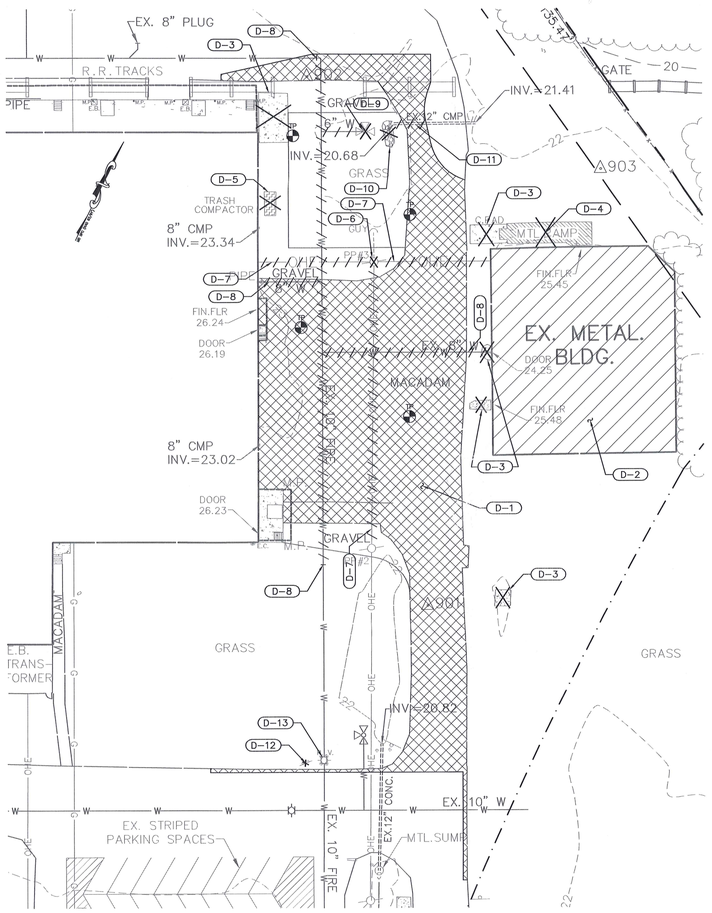
PROJECT TITLE:
U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS: Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	AS SHOWN
DRAWING NO:	T-1

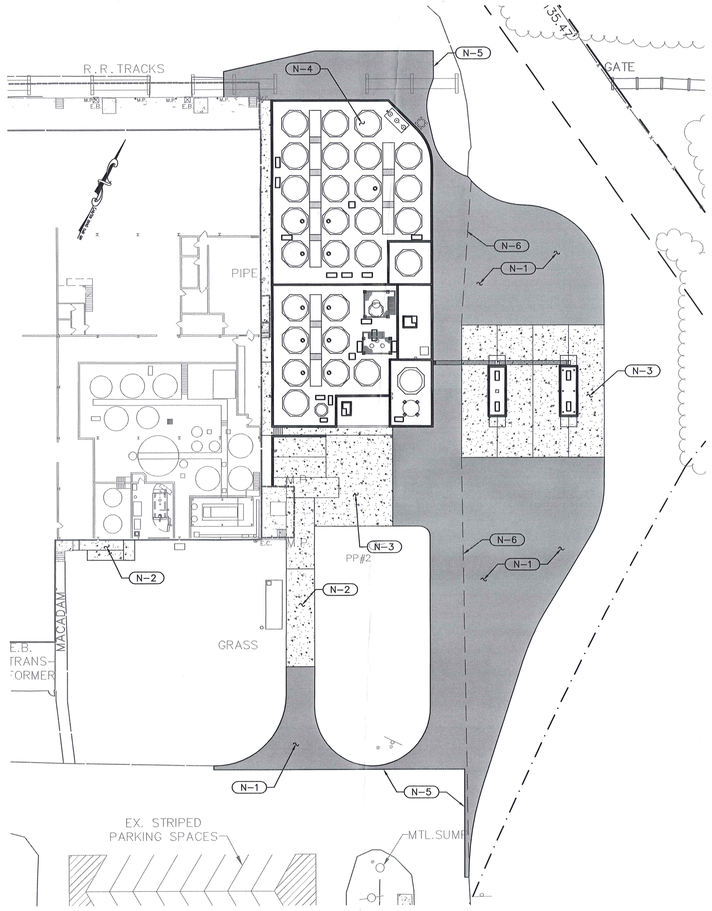
PROTESTANT'S EXHIBIT NO. 13

© WBCM 2004



DEMOLITION PLAN

SCALE: 1" = 30'



LAYOUT AND GEOMETRY PLAN

SCALE: 1" = 30'

DEMOLITION NOTES:

D-1 REMOVE EXISTING BITUMINOUS PAVING.
D-2 REMOVE EXISTING BUILDING, FOUNDATIONS AND RELATED APPURTENANCES.
D-3 REMOVE EXISTING CONCRETE PAD.
D-4 REMOVE EXISTING METAL RAMP.
D-5 REMOVE EXISTING TRASH COMPACTOR.
D-6 REMOVE EXISTING UTILITY POLE AND GUY WIRE.
D-7 REMOVE EXISTING OVERHEAD ELECTRIC LINE.
D-8 REMOVE EXISTING WATERLINE TO LIMITS SHOWN.
D-9 REMOVE EXISTING FIRE HYDRANT.
D-10 REMOVE EXISTING STONE.
D-11 REMOVE EXISTING STORM DRAIN PIPE TO LIMITS SHOWN.
D-12 RELOCATE EXISTING SIGN. INSTALL AT LOCATION DETERMINED BY OWNER.
D-13 RELOCATE EXISTING POST INDICATOR VALVE, SEE UTILITY PLAN.

CONSTRUCTION NOTES:

N-1 NEW HOT MIX ASPHALT PAVING. SEE DETAIL 1, SHEET C-7.
N-2 NEW CONCRETE RAMP. SEE STRUCTURAL DRAWINGS.
N-3 NEW CONCRETE PAVING. SEE STRUCTURAL DRAWINGS.
N-4 NEW CONTAINMENT AREA. SEE STRUCTURAL AND MECHANICAL DRAWINGS.
N-5 MEET EXISTING CONDITIONS.
N-6 NEW PAINT STRIPING.

GEOMETRY POINT TABLE

POINT NO.	NORTHING	EASTING	DESCRIPTION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			
51			
52			
53			
54			
55			
56			
57			
58			
59			
60			
61			
62			
63			
64			
65			
66			
67			
68			
69			
70			
71			
72			
73			
74			
75			
76			
77			
78			
79			
80			
81			
82			
83			
84			
85			
86			

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

ISSUED FOR BID

DATE	NO.	REVISIONS

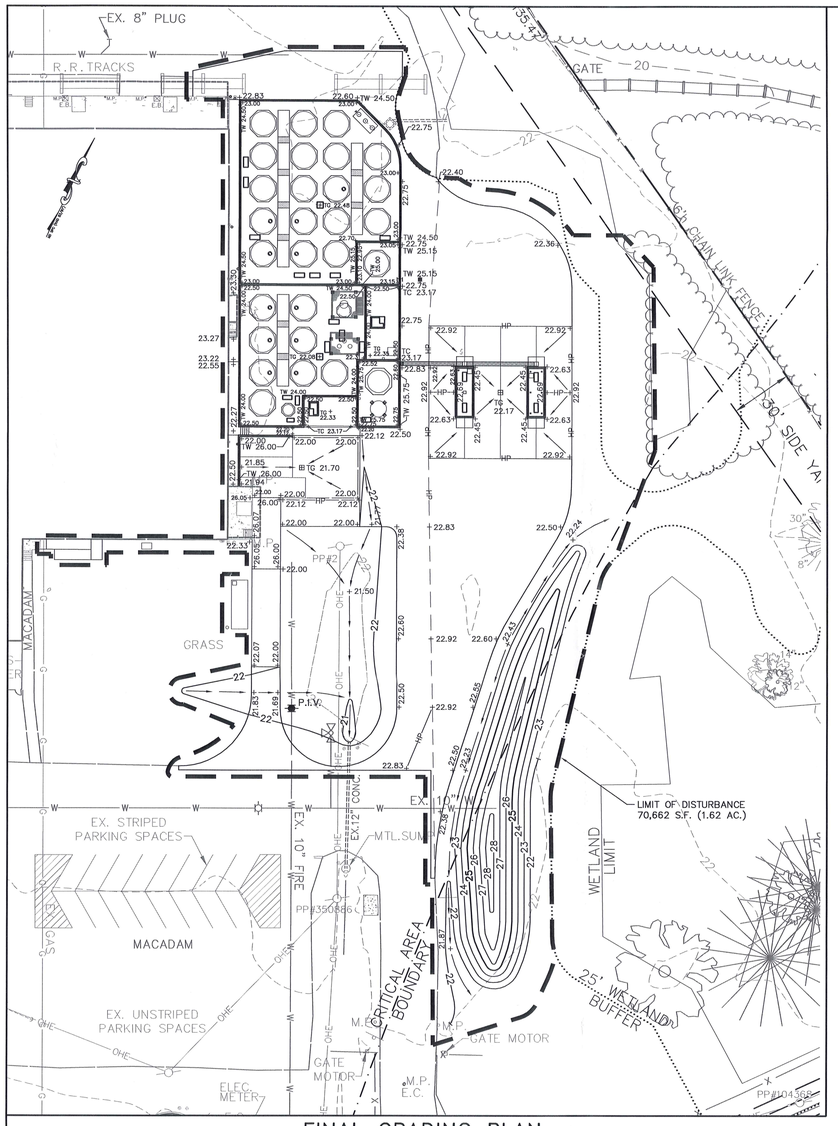
DEMOLITION, LAYOUT AND GEOMETRY PLAN

PROJECT TITLE:
U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

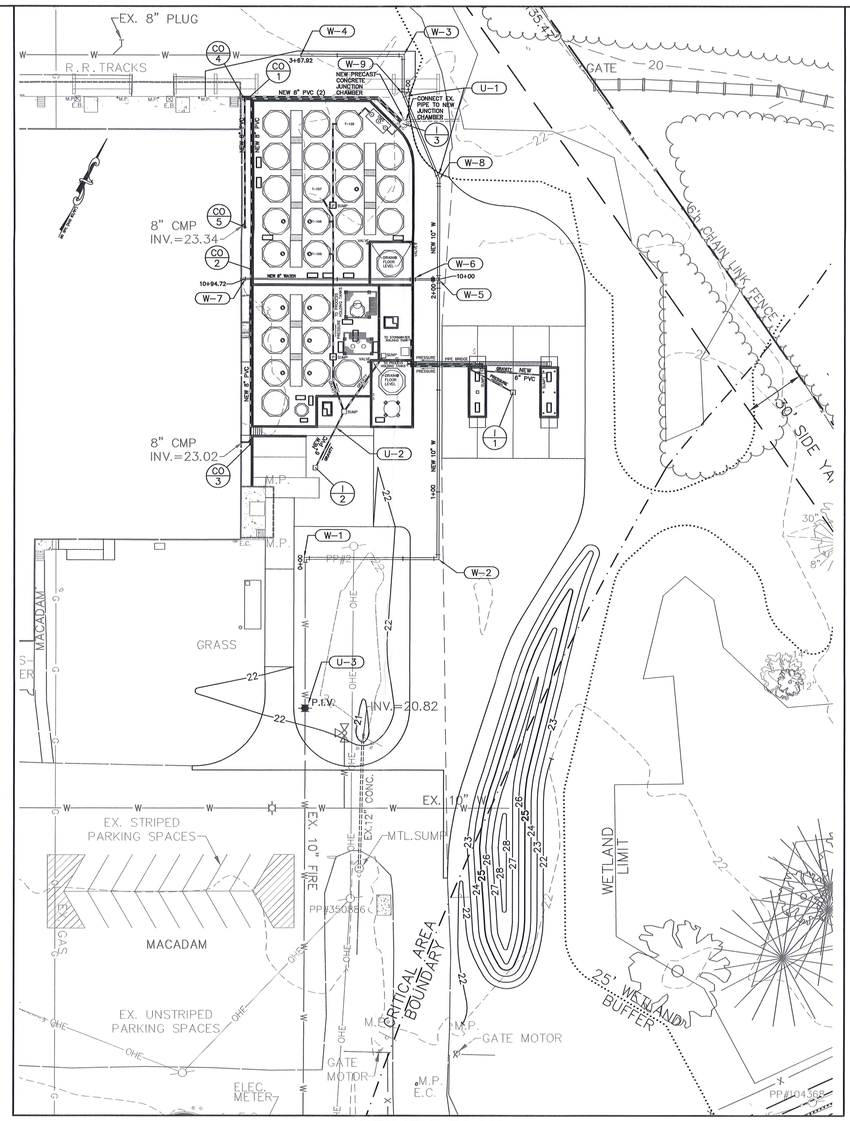
DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 30'
DRAWING NO:	C-2

© WBCM 2004



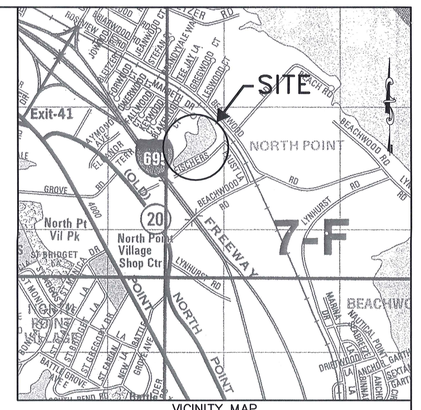
FINAL GRADING PLAN

SCALE: 1" = 30'



UTILITY PLAN

SCALE: 1" = 30'



VICINITY MAP
SCALE: 1" = 1000'

1. COORDINATES SHOWN HEREON ARE REFERRED TO THE MARYLAND COORDINATE SYSTEM (M.C.S.) AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWING NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:
   BCO #411 N 588,770.08 E 1,456,948.86 R.R. SPIKE FD
   BCO #412 N 588,306.54 E 1,456,199.84 R.R. SPIKE FD
   BCO #623 N 583,069.19 E 1,461,710.09 HEX BOLT FD
2. ELEVATIONS SHOWN HEREON ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88), AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWMNG NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:
   BCO #411 ELEV.= 18.25 (feet) R.R. SPIKE FD
   BCO #412 ELEV.= 22.20 (feet) R.R. SPIKE FD
   BCO #623 ELEV.= 17.49 (feet) HEX BOLT FD

LEGEND

DESCRIPTION	EXISTING	TO BE REMOVED	NEW
BUILDING	EX. BLDG.	EX. BLDG.	
PAVING	EX. PAVING	EX. PAVING	
GRAVEL	EX. GRAVEL		
CONCRETE	EX. CONC.	EX. CONC.	
CURB			
WALL			
STORM DRAIN	D		
SANITARY	SS		
WATER	W		
OVERHEAD ELECTRIC	OHE		
VALVE			
HYDRANT			
MANHOLE			
INLET			
CLEANOUT			
CONTOUR	159 / 160		159 / 160
SPOT ELEVATION	x159.00		+ 159.00
FENCE	X		
TREE			
TREELINE			
SHRUB			
POWER POLE & GUY WIRE			
POLE			
SIGN			
SOIL BORING			

NOTES:

1. THE PROPOSED GRADING SHOWN ON THIS PLAN MEETS THE REQUIREMENTS SET FORTH BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT AND COMPLIES WITH TITLE 14, ARTICLE VI OF THE BALTIMORE COUNTY CODE. HOWEVER, DUE TO BUILDING TYPES AND LAYOUT, SOME FIELD ADJUSTMENTS MAY BE REQUIRED. ALL CHANGES MUST COMPLY WITH THE ABOVE MENTIONED REQUIREMENTS.
2. ALL SWALES HAVE BEEN DESIGNED BY THE ENGINEER TO CONVEY RUNOFF ACCORDING TO BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS DESIGN STANDARDS.
3. THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OF DISTURBANCE OF VEGETATION IN THE FOREST BUFFER EASEMENT OR OTHER FOREST BUFFER EASEMENT OR OTHER FOREST RETENTION AREAS, EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
4. UNDERCUT AREA BELOW TANK FARM 2'-0" FROM EXISTING GRADE. REINSTALL EXCAVATED MATERIAL, IF SUITABLE, AS STRUCTURAL FILL OR FURNISH AND INSTALL SELECT OFFSITE BORROW. AREA OF UNDERCUT SHALL EXTEND 5'-0" BEYOND TANK FARM CONTAINMENT WALL.
5. UNDERCUT AREA BELOW NEW PAVEMENT 1'-0" FROM PROPOSED PAVEMENT SUBGRADE. REINSTALL EXCAVATED MATERIAL, IF SUITABLE, AS STRUCTURAL FILL OR FINISH AND INSTALL SELECT OFFSITE BORROW.

OWNER'S/DEVELOPER'S CERTIFICATION-GRADING:

I/WE CERTIFY THAT ALL GRADING ON THIS SITE WILL BE DONE IN ACCORDANCE WITH THE CURRENT GRADING REQUIREMENTS AS SET FORTH BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT AND WITH THE REQUIREMENTS SPECIFIED IN TITLE 14, ARTICLE VI OF THE BALTIMORE COUNTY CODE.

SIGNATURE OF OWNER/DEVELOPER _____ TITLE _____ DATE _____

PRINT NAME _____

OWNER'S/DEVELOPER'S CERTIFICATION-AIR QUALITY:

I ACKNOWLEDGE THAT I AM RESPONSIBLE UNDER THE CODE OF MARYLAND REGULATIONS (26.11.06.03) TO PREVENT PARTICULATED MATTER FROM BECOMING AIRBORNE DUE TO GRADING, LAND CLEARING, EXCAVATION, CONSTRUCTION OR OTHER RELATED ACTIVITIES. I HAVE RECEIVED A COPY OF "GUIDELINES TO THE AIR POLLUTION REGULATIONS FOR CONTROLLING EXCESS ABP (DUST) ON ACTIVITY SITES" WHICH INCLUDES A COPY OF COMAR 26.11.06.03. I WILL CONTACT THE WASTE MANAGEMENT AND AIR QUALITY SECTION AT 887-3775 AT LEAST THREE DAYS PRIOR TO BEGINNING WORK.

SIGNATURE OF OWNER/DEVELOPER _____ TITLE _____ DATE _____

PRINT NAME _____

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

WATER NOTES & FITTINGS SCHEDULE

NO.	DESCRIPTION	COORDINATES NORTHING	COORDINATES EASTING
W-1	NEW 10"-1/4 BEND	585879.38	1463907.39
W-2	NEW 10"-1/4 BEND	585907.75	1463966.13
W-3	NEW 10"-1/4 BEND	586122.60	1463842.73
W-4	CONNECT TO EXISTING WATERLINE	586100.83	1463797.67
W-5	NEW 10"x8" TEE, GATE VALVE AND ROADWAY BOX	586031.20	1463906.49
W-6	NEW 8" FLEXIBLE JOINT RESTRAINT COUPLING	586025.72	1463895.15
W-7	CONNECT TO EXISTING WATERLINE	----	----
W-8	NEW 10"-1/16 BEND	586075.52	1463885.08
W-9	NEW 10"-1/16 BEND	586105.97	1463850.80

SEE WATER PROFILE ON SHEET C-7 FOR ELEVATIONS.
SEE DETAIL 2, SHEET C-7 FOR PIPE TRENCH DETAIL.
ALL WATER PIPE SHALL BE CL. 54 DUCTILE IRON WITH RESTRAINED JOINTS.

UTILITY NOTES:

U-1 PUSH PIPE BELOW GRADE FOR LIMITS INDICATED ON PLAN.
U-2 SEE MECHANICAL DRAWINGS FOR CONTINUATION.
U-3 NEW LOCATION OF RELOCATED POST INDICATOR VALVE (N 585813.08, E 1463939.57).

STORM DRAINAGE STRUCTURE SCHEDULE

NO.	DESCRIPTION	COORDINATES NORTHING	COORDINATES EASTING
I-1	SQUARE CAST-IN-PLACE SUMP, SEE STRUCTURAL DRAWINGS	585997.38	1463963.62
I-2	SQUARE CAST-IN-PLACE SUMP, SEE STRUCTURAL DRAWINGS	585921.59	1463892.32
I-3	JUNCTION CHAMBER, SEE DETAIL 3, SHEET C-7	586092.37	1463857.28
CO-1	CLEANOUT, SEE DETAIL 4, SHEET C-7	586070.85	1463785.06
CO-2	CLEANOUT, SEE DETAIL 4, SHEET C-7	585995.46	1463821.47
CO-3	CLEANOUT, SEE DETAIL 4, SHEET C-7	585919.83	1463858.01
CO-4	CLEANOUT, SEE DETAIL 4, SHEET C-7	586070.82	1463782.69
CO-5	CLEANOUT, SEE DETAIL 4, SHEET C-7	586014.54	1463808.78

SEE STRUCTURAL DRAWINGS AND STORM DRAIN PROFILES ON SHEET C-7 FOR TOP OF RIM, GRATE, AND INVERT ELEVATIONS.

ISSUED FOR BID

DATE	NO.	REVISIONS

FINAL GRADING AND UTILITY PLAN

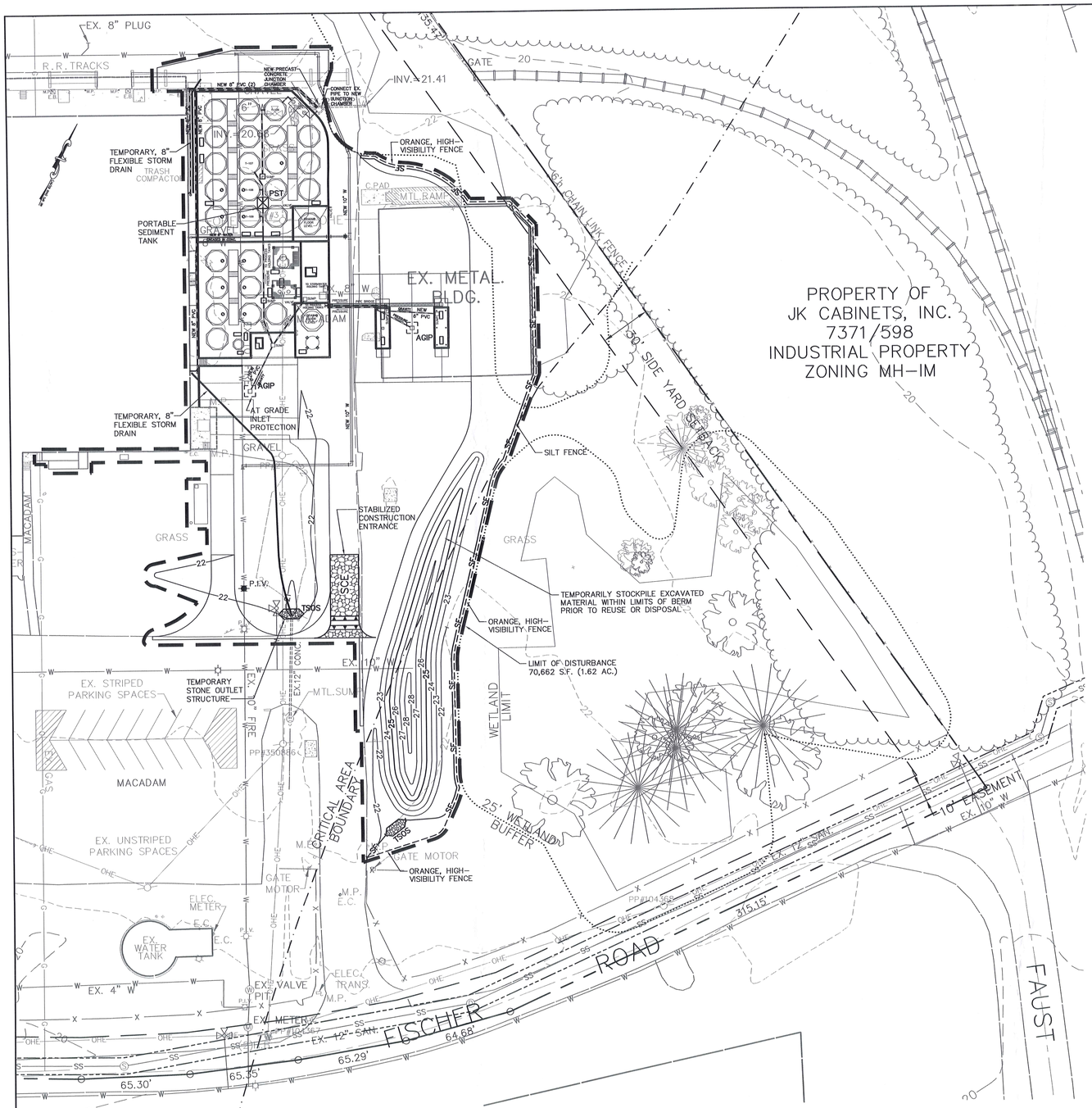
PROJECT TITLE:
U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 30'
DRAWING NO:	C-3

THIS PLAN IS SEALED & CERTIFIED AS BEING IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLAN

© WBCM 2004



SEQUENCE OF OPERATIONS:

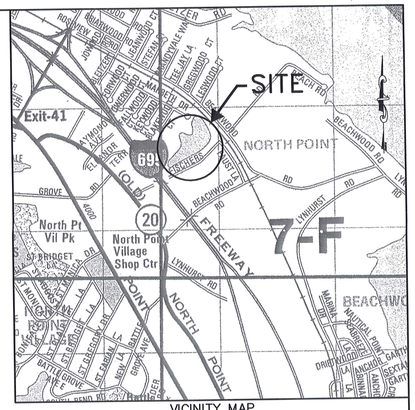
1. NOTIFY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT, INSPECTION AND ENFORCEMENT DIVISION (410-887-3226) AT LEAST 48 HOURS PRIOR TO BEGINNING WORK.
2. INSTALL ORANGE, HIGH-VISIBILITY FENCE AS INDICATED ON THE PLANS. THIS ITEM SHALL BE COMPLETED BY AND INSPECTED AT THE PRE-CONSTRUCTION MEETING.
3. CLEAR AND GRUB FOR SEDIMENT & EROSION CONTROL MEASURES OR DEVICES ONLY (STABILIZED CONSTRUCTION ENTRANCE, SILT FENCE AND TEMPORARY STONE OUTLET STRUCTURES).
4. INSTALL ALL SEDIMENT & EROSION CONTROL MEASURES AND DEVICES.
5. NOTIFY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT, INSPECTION AND ENFORCEMENT DIVISION, UPON COMPLETION OF SAID INSTALLATION.
6. WITH THE APPROVAL OF BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT AND THE SEDIMENT CONTROL INSPECTOR, CLEAR AND GRUB REMAINDER OF SITE.
7. BEGIN DEMOLITION OF EXISTING METAL BUILDING AND BUILDING FOUNDATION.
8. BEGIN DEMOLITION OF EXISTING BITUMINOUS PAVING, UTILITIES AND OTHER ITEMS INDICATED FOR REMOVAL.
9. INSTALL TEMPORARY STORM DRAIN PIPES FOR CONVEYING ROOFTOP RUNOFF DURING EXCAVATION.
10. BEGIN EXCAVATION FOR TANK FARM FOUNDATION. TEMPORARILY STOCKPILE EXCESS AND UNSUITABLE MATERIAL FOR REUSE OR OFFSITE DISPOSAL. DEWATER EXCAVATION AS REQUIRED TO A PORTABLE SEDIMENT TANK.
11. BEGIN EXCAVATION FOR REMAINING AREAS. PERMANENTLY STABILIZE BERM UPON COMPLETION.
12. BEGIN INSTALLATION OF NEW WATER LINE AND STORM DRAIN PIPE AND STRUCTURES. PUSH PIPE THROUGH AREA LOCATED WITHIN WETLAND BUFFER. INSTALL INLET PROTECTION UPON COMPLETION OF NEW INLETS.
13. REMOVE TEMPORARY STORM DRAIN PIPES PRIOR TO CONNECTION OF NEW PIPES TO EXISTING ROOFTOP DRAINS.
14. BEGIN CONSTRUCTION OF STORAGE AND PROCESSING TANK FARM FOUNDATION AND CONTAINMENT WALLS, LOADING/UNLOADING PAD, PUMP STATIONS, AND ROLL-OFF BOX AREA PAVING.
15. BEGIN INSTALLATION OF OIL/WATER SEPARATOR.
16. BEGIN INSTALLATION OF STORAGE AND PROCESSING TANKS, PUMPS AND MECHANICAL PIPING.
17. BEGIN INSTALLATION OF GRADED AGGREGATE BASE COURSE AND HOT MIX ASPHALT BASE COURSE.
18. BEGIN INSTALLATION OF HOT MIX ASPHALT SURFACE COURSE.
19. BEGIN FINISH GRADING AND PERMANENTLY STABILIZE ALL REMAINING, DISTURBED AREAS.
20. UPON VEGETATIVE ESTABLISHMENT AND WITH THE PERMISSION OF THE SEDIMENT CONTROL INSPECTOR, REMOVE ALL SEDIMENT CONTROL MEASURES AND DEVICES AND STABILIZE THOSE AREAS DISTURBED BY THIS PROCESS.

GENERAL NOTES:

1. REFER TO "1994 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL" FOR STANDARD DETAILS AND DETAILED SPECIFICATIONS OF EACH PRACTICE SPECIFIED HEREIN.
2. WITH THE APPROVAL OF THE SEDIMENT CONTROL INSPECTOR, MINOR FIELD ADJUSTMENTS CAN AND WILL BE MADE TO INSURE THE CONTROL OF ANY SEDIMENT. CHANGES IN SEDIMENT CONTROL PRACTICES REQUIRE PRIOR APPROVAL OF THE SEDIMENT CONTROL INSPECTOR AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT.
3. AT THE END OF EACH WORKING DAY, ALL SEDIMENT CONTROL PRACTICES WILL BE INSPECTED AND LEFT IN OPERATIONAL CONDITION.
4. FOLLOWING INITIAL SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN: A.) SEVEN CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER CONTROLS, DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES GREATER THAN THREE HORIZONTAL TO ONE VERTICAL (3:1), AND B.) FOURTEEN DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE WHICH WILL REMAIN IDLE OVER FOURTEEN DAYS.
5. ANY CHANGE TO THE GRADING PROPOSED ON THIS PLAN REQUIRES RE-SUBMISSION TO BALTIMORE COUNTY SOIL CONSERVATION DISTRICT FOR APPROVAL.
6. DUST CONTROL WILL BE PROVIDED FOR ALL DISTURBED AREAS. REFER TO "1994 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL", PG II-30-1, FOR ACCEPTABLE METHODS AND SPECIFICATIONS FOR DUST CONTROL.
7. ANY VARIATIONS FROM THE SEQUENCE OF OPERATIONS STATED ON THIS PLAN REQUIRES THE APPROVAL OF THE SEDIMENT CONTROL INSPECTOR AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT PRIOR TO THE INITIATION OF THE CHANGE.
8. EXCESS CUT OR BORROW MATERIAL SHALL GO TO, OR COME FROM, RESPECTIVELY, A SITE WITH AN OPEN GRADING PERMIT.
9. THE FOLLOWING ITEM MAY BE USED AS APPLICABLE: REFER TO "MARYLAND'S GUIDELINES TO WATERWAY CONSTRUCTION" BY THE WATER MANAGEMENT ADMINISTRATION OF THE MARYLAND DEPT. OF THE ENVIROMENT, REVISED NOVEMBER, 2000 ADMINISTRATION (WRA), DATED JANUARY, 1986, FOR STANDARD DETAILS AND DETAILED SPECIFICATIONS OF EACH PRACTICE SPECIFIED HEREIN FOR WATERWAY CONSTRUCTION.

REFERENCE NOTES:

1. REFER TO DRAWING NO. C-1 FOR SITE AND ADJACENT PROPERTY INFORMATION.
2. REFER TO DRAWING NO. C-5 FOR SEDIMENT AND EROSION CONTROL NOTES.
3. REFER TO DRAWING NO. C-6 FOR SEDIMENT AND EROSION CONTROL DETAILS.



VICINITY MAP
SCALE: 1" = 1000'

BENCHMARK INFORMATION:

1. COORDINATES SHOWN HEREON ARE REFERRED TO THE MARYLAND COORDINATE SYSTEM (M.C.S.) AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWING NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:

BCO #411	N 588,770.08	E 1,456,948.86	R.R. SPIKE FD
BCO #412	N 588,306.54	E 1,456,199.94	R.R. SPIKE FD
BCO #623	N 583,069.19	E 1,461,710.09	HEX BOLT FD

2. ELEVATIONS SHOWN HEREON ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88), AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWING NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:

BCO #411	ELEV.= 18.25 (feet)	R.R. SPIKE FD	
BCO #412	ELEV.= 22.20 (feet)	R.R. SPIKE FD	
BCO #623	ELEV.= 17.49 (feet)	HEX BOLT FD	

SEDIMENT AND EROSION CONTROL LEGEND

SCE	STABILIZED CONSTRUCTION ENTRANCE
	LIMIT OF DISTURBANCE
	TEMPORARY 8", FLEXIBLE STORM DRAIN PIPE
ORANGE	ORANGE, HIGH-VISIBILITY FENCE
SF	SILT FENCE
AGIP	AT GRADE INLET PROTECTION
TSOS	STONE OUTLET STRUCTURE
PST	PORTABLE SEDIMENT TANK

SITE DATA:

TOTAL AREA OF SITE:	895,158 SQ.FT. 20.55 ACRES
TOTAL AREA OF DISTURBANCE:	70,662 SQ.FT. 1.62 ACRES
TOTAL AREA TO BE VEGETATIVELY STABILIZED: (WITHIN LIMIT OF DISTURBANCE)	28,149 SQ.FT. 0.64 ACRES
TOTAL AREA OF IMPERVIOUS: (WITHIN LIMIT OF DISTURBANCE)	42,513 SQ.FT. 0.98 ACRES
TOTAL CUT:	3,750 CUBIC YARDS
TOTAL FILL:	3,200 CUBIC YARDS

GRAPHIC SCALE

30 0 15 30 60 120

(IN FEET)
1 inch = 30 ft.

INLET PROTECTION NOTES

THE CONTRACTOR IS REQUIRED TO INSTALL INLET PROTECTION ON ALL STORM DRAIN INLETS WITH THE EXCEPTION OF THE FOLLOWING:

*1) ANY INLET OUTFALLING DIRECTLY INTO A SEDIMENT TRAPPING DEVICE.
2) INLETS ON PRIVATE OR PUBLIC PAVED ROADWAYS OPEN TO THE PUBLIC.

ALL INLET PROTECTION WILL BE INSTALLED AS DIRECTED BY THE INSPECTOR IN ACCORDANCE WITH THE 1994 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL, PAGE E-16-1 (OR AS MAY BE AMENDED). THE REMOVAL OF ANY INLET PROTECTION DEVICES WILL REQUIRE APPROVAL FROM THE INSPECTOR.

*STORM DRAINS TO BE FLUSHED PRIOR TO TRAPPING DEVICE REMOVAL.

UTILITY NOTES

1. CONTRACTOR SHOULD OPEN ONLY THAT SECTION OF TRENCH THAT CAN BE BACKFILLED AND STABILIZED EACH DAY. IF TRENCH MUST REMAIN OPEN LONGER THAN ONE DAY, SILT FENCE SHALL BE PLACED BELOW (DOWNSLOPE OF) THE TRENCH.
2. PLACE ALL EXCAVATED MATERIAL ON UPHILL SIDE OF TRENCH.
3. ANY SEDIMENT CONTROLS DISTURBED BY UTILITY CONSTRUCTION ARE TO BE REPAIRED IMMEDIATELY.

OWNERS/DEVELOPERS CERTIFICATION:

I/We hereby certify that any clearing, grading, construction and/or development will be done pursuant to this plan and that any responsible personnel involved in this construction project will have a Certificate of Attendance at a Maryland Department of the Environment approved training program for the control of sediment and erosion before beginning the project I/We also certify that the site will be inspected at the end of each working day, and that any need maintenance will be completed so as to insure that all sediment control practices are left in operational condition. I/We authorize the right of entry for periodic on-site evaluation by the Baltimore County Soil Conservation District Board of Supervisors or their authorized agents.

SIGNATURE OWNER/DEVELOPER _____ Date _____

Print Name _____ Title _____

ENGINEER'S CERTIFICATION:

I certify that this plan of erosion and sediment control represents a practical workable plan based on my personal knowledge of the site, and that this plan was prepared in accordance with the requirements of the Baltimore County Soil Conservation District and the current State of Maryland Specifications for Soil Erosion and Sediment Control. I have reviewed this erosion and sediment control plan with the owner/ developer.

Signature _____ Date _____

Mark W. Shafer
Print Name

13800
MD License Number

ISSUED FOR BID

DATE	NO.	REVISIONS

SEDIMENT AND EROSION CONTROL PLAN

PROJECT TITLE:
U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 30'
DRAWING NO:	C-4

© WBCM 2004

SECTION I – VEGETATIVE STABILIZATION METHODS AND MATERIALS

A. SITE PREPARATION

I. INSTALL EROSION AND SEDIMENT CONTROL STRUCTURES (EITHER TEMPORARY OR PERMANENT) SUCH AS DIVERSIONS, GRADE STABILIZATION STRUCTURES, BERMS, WATERWAYS, OR SEDIMENT CONTROL BASINS.

II. PERFORM ALL GRADING OPERATIONS AT RIGHT ANGLES TO THE SLOPE. FINAL GRADING AND SHAPING IS NOT USUALLY NECESSARY FOR TEMPORARY SEEDING.

III. SCHEDULE REQUIRED SOIL TESTS TO DETERMINE SOIL AMENDMENT COMPOSITION AND APPLICATION RATES FOR SITES HAVING DISTURBED AREA OVER 5 ACRES.

B. SOIL AMENDMENTS (FERTILIZER AND LIME SPECIFICATIONS)

I. SOIL TESTS MUST BE PERFORMED TO DETERMINE THE EXACT RATIOS AND APPLICATION RATES FOR BOTH LIME AND FERTILIZER ON SITES HAVING DISTURBED AREAS OVER 5 ACRES. SOIL ANALYSIS MAY BE PERFORMED BY THE UNIVERSITY OF MARYLAND OR A RECOGNIZED COMMERCIAL LABORATORY. SOIL SAMPLES TAKEN FOR ENGINEERING PURPOSES MAY ALSO BE USED FOR CHEMICAL ANALYSIS.

II. FERTILIZERS SHALL BE UNIFORM IN COMPOSITION, FREE FLOWING, AND SUITABLE FOR ACCURATE APPLICATION BY APPROVED EQUIPMENT. MANURE MAY BE SUBSTITUTED FOR FERTILIZER WITH PRIOR APPROVAL FROM THE APPROPRIATE APPROVAL AUTHORITY. FERTILIZERS SHALL BE DELIVERED TO THE SITE, FULLY LABELED ACCORDING TO APPLICABLE STATE FERTILIZER LAWS AND SHALL BEAR THE NAME, TRADE NAME OR TRADEMARK, AND WARRANTY OF THE PRODUCER.

III. LIME MATERIALS SHALL BE GROUND LIMESTONE (HYDRATED OR BURNT LIME MAY BE SUBSTITUTED) WHICH CONTAINS AT LEAST 50% TOTAL OXIDES (CALCIUM OXIDE PLUS MAGNESIUM OXIDE). LIMESTONE SHALL BE GROUND TO SUCH FINENESS THAT AT LEAST 50% WILL PASS THROUGH A #100 MESH SIEVE, AND 98 TO 100% WILL PASS THROUGH A #20 MESH SIEVE.

IV. INCORPORATE LIME AND FERTILIZER INTO THE TOP 3 – 5" OF SOIL BY DISKING OR OTHER SUITABLE MEANS.

C. SEEDBED PREPARATION

I. TEMPORARY SEEDING

a. SEEDBED PREPARATION SHALL CONSIST OF LOOSENING SOIL TO A DEPTH OF 3 INCHES TO 5 INCHES BY MEANS OF SUITABLE AGRICULTURAL OR CONSTRUCTION EQUIPMENT, SUCH AS DISC HARROWS, CHISEL PLOWS, OR RIPPERS MOUNTED ON CONSTRUCTION EQUIPMENT. AFTER THE SOIL IS LOOSENED, IT SHOULD NOT BE ROLLED OR DRAGGED SMOOTH, BUT LEFT IN THE ROUGHENED CONDITION. SLOPED AREAS (GREATER THAN 3:1) SHOULD BE TRACKED BY A DOZER LEAVING THE SURFACE IN AN IRREGULAR CONDITION WITH RIDGES RUNNING PARALLEL TO THE CONTOUR OF THE SLOPE.

b. APPLY FERTILIZER AND LIME AS PRESCRIBED ON THE PLANS.

c. INCORPORATE LIME AND FERTILIZER INTO THE TOP 3 TO 5 INCHES OF SOIL BY DISKING OR OTHER SUITABLE MEANS.

II. PERMANENT SEEDING

a. MINIMUM SOIL CONDITIONS REQUIRED FOR PERMANENT VEGETATIVE ESTABLISHMENT:

1. SOIL pH SHALL BE BETWEEN 6.0 AND 7.0.
2. SOLUBLE SALTS SHALL BE LESS THAN 500 PARTS PER MILLION (PPM).
3. THE SOIL SHALL CONTAIN LESS THAN 40% CLAY, BUT ENOUGH FINE GRAINED MATERIAL (>30% SILT PLUS CLAY) TO PROVIDE THE CAPACITY TO HOLD A MODERATE AMOUNT OF MOISTURE. AN EXCEPTION IS IF LOVEGRASS OR SERECIA LESPEDEZA IS TO BE PLANTED, THEN A SANDY SOIL (<30% SILT PLUS CLAY) WOULD BE ACCEPTABLE.
4. SOIL SHALL CONTAIN 1.5% MINIMUM ORGANIC MATTER BY WEIGHT.
5. SOIL MUST CONTAIN SUFFICIENT PORE SPACE TO PERMIT ADEQUATE ROOT PENETRATION.
6. IF THESE CONDITIONS CANNOT BE MET BY SOILS ON SITE, ADDING TOPSOIL IS REQUIRED IN ACCORDANCE WITH SECTION 21 "STANDARD AND SPECIFICATION FOR TOPSOIL" OF THE 1994 MD STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT.

b. AREAS PREVIOUSLY GRADED IN CONFORMANCE WITH THE DRAWINGS SHALL BE MAINTAINED IN A TRUE AND EVEN GRADE, THEN SCARIFIED OR OTHERWISE LOOSENED TO A DEPTH OF 3 TO 5 INCHES TO PERMIT BONDING OF THE TOPSOIL TO THE SURFACE AREA AND TO CREATE HORIZONTAL EROSION CHECK SLOTS TO PREVENT TOPSOIL FROM SLIDING DOWN A SLOPE.

c. APPLY SOIL AMENDMENTS AS PER SOIL TEST OR AS INCLUDED IN THE CONTRACT DOCUMENTS.

d. MIX SOIL AMENDMENTS INTO THE TOP 3 – 5 INCHES OF TOPSOIL BY DISKING OR OTHER SUITABLE MEANS. LAWN AREAS SHOULD BE RAKED TO SMOOTH THE SURFACE; REMOVE LARGE OBJECTS LIKE STONES AND BRANCHES, AND READY THE AREA FOR SEED APPLICATION. WHERE SITE CONDITIONS WILL NOT PERMIT NORMAL SEEDBED PREPARATION, LOOSEN SURFACE SOIL BY DRAGGING WITH A HEAVY CHAIN OR OTHER EQUIPMENT TO ROUGHEN THE SURFACE. STEEP SLOPES (STEEPER THAN 3:1) SHOULD BE TRACKED BY A DOZER LEAVING THE SOIL IN AN IRREGULAR CONDITION WITH RIDGES RUNNING PARALLEL TO THE CONTOUR OF THE SLOPE. THE TOP 1 –3 INCHES OF SOIL SHOULD BE LOOSE AND FRIABLE. SEEDBED LOOSENING MAY NOT BE NECESSARY ON NEWLY DISTURBED AREAS.

D. SEED SPECIFICATIONS

I. ALL SEED MUST MEET THE REQUIREMENTS OF THE MARYLAND STATE SEED LAW. ALL SEED SHALL BE SUBJECT TO RE–TESTING BY A RECOGNIZED SEED LABORATORY. ALL SEED USED SHALL HAVE BEEN TESTED WITHIN 6 MONTHS IMMEDIATELY PRECEDING THE DATE OF SOWING SUCH MATERIAL ON THIS JOB.

NOTE: SEED TAGS SHALL BE MADE AVAILABLE TO THE INSPECTOR TO VERIFY TYPE AND RATE OF SEED USED.

II. INOCULANT – THE INOCULANT FOR TREATING LEGUME SEED IN THE SEED MIXTURES SHALL BE A PURE CULTURE OF NITROGEN–FIXING BACTERIA PREPARED SPECIFICALLY FOR THE SPECIES. INOCULANTS SHALL NOT BE USED LATER THAN THE DATE INDICATED ON THE CONTAINER. ADD FRESH INOCULANT AS DIRECTED ON PACKAGE. USE FOUR TIMES THE RECOMMENDED RATE WHEN HYDROSEEDING. IT IS VERY IMPORTANT TO KEEP INOCULANT AS COOL AS POSSIBLE UNTIL USED. TEMPERATURES ABOVE 75 – 80 DEGREES FAHRENHEIT CAN WEAKEN BACTERIA AND MAKE INOCULANT LESS EFFECTIVE.

E. METHODS OF SEEDING

I. HYDROSEEDING: APPLY SEED UNIFORMLY WITH HYDROSEEDER (SLURRY INCLUDES SEED AND FERTILIZER), BROADCAST OR DROP SEEDER, OR A CULTIPACKER SEEDER.

a. IF FERTILIZER IS BEING APPLIED AT THE TIME OF SEEDING, THE APPLICATION RATES AMOUNTS WILL NOT EXCEED THE FOLLOWING: NITROGEN – MAXIMUM OF 100 POUNDS PER ACRE TOTAL OF SOLUBLE NITROGEN; P2O5 (PHOSPHOROUS): 200 POUNDS/ACRE; K2O (POTASSIUM): 200 POUNDS/ACRE

b. LIME – USE ONLY GROUND AGRICULTURAL LIMESTONE (UP TO 3 TONS PER ACRE MAY BE APPLIED BY HYDROSEEDING). NORMALLY, NOT MORE THAN 2 TONS ARE APPLIED BY HYDROSEEDING AT ANY ONE TIME. DO NOT USE BURNT OR HYDRATED LIME WHEN HYDROSEEDING.

c. SEED AND FERTILIZER SHALL BE MIXED ON SITE, AND SEEDING SHALL BE DONE IMMEDIATELY WITHOUT INTERRUPTION.

II. DRY SEEDING: THIS INCLUDES USE OF CONVENTIONAL DROP OR BROADCAST SPREADERS.

a. SEED SPREAD SHALL BE INCORPORATED INTO THE SUBSOIL AT THE RATES PRESCRIBED ON THE TEMPORARY OR PERMANENT SEEDING SUMMARIES. THE SEEDED AREA SHALL THEN BE ROLLED WITH A WEIGHTED ROLLER TO PROVIDE GOOD SEED TO SOIL CONTACT.

b. WHERE PRACTICAL, SEED SHOULD BE APPLIED IN TWO DIRECTIONS PERPENDICULAR TO EACH OTHER. APPLY HALF THE SEEDING RATE IN EACH DIRECTION.

III. DRILL OR CULTIPACKER SEEDING: MECHANIZED SEEDERS THAT APPLY AND COVER SEED WITH SOIL.

a. CULTIPACKING SEEDERS ARE REQUIRED TO BURY THE SEED IN SUCH A FASHION AS TO PROVIDE AT LEAST 1/4 INCH OF SOIL COVERING. SEEDBED MUST BE FIRM AFTER PLANTING.

b. WHERE PRACTICAL, SEED SHOULD BE APPLIED IN TWO DIRECTIONS PERPENDICULAR TO EACH OTHER. APPLY HALF THE SEEDING RATE IN EACH DIRECTION.

F. MULCH SPECIFICATIONS (IN ORDER OF PREFERENCE)

I. STRAW SHALL CONSIST OF THOROUGHLY THRESHED WHEAT, RYE OR OAT STRAW, REASONABLY BRIGHT IN COLOR, AND SHALL NOT BE MUSTY, MOLDY, CAKED, DECAYED, OR EXCESSIVELY DUSTY, AND SHALL BE FREE OF NOXIOUS WEED SEEDS AS SPECIFIED IN THE MARYLAND SEED LAW.

II. WOOD CELLULOSE FIBER MULCH (WCFM)

a. WCFM SHALL CONSIST OF SPECIALLY PREPARED WOOD CELLULOSE PROCESSED INTO A UNIFORM FIBROUS PHYSICAL STATE.

b. WCFM SHALL BE DYED GREEN OR CONTAIN A GREEN DYE IN THE PACKAGE THAT WILL PROVIDE AN APPROPRIATE COLOR TO FACILITATE VISUAL INSPECTION OF THE UNIFORMLY SPREAD SLURRY.

c. WCFM, INCLUDING DYE, SHALL CONTAIN NO GERMINATION OR GROWTH INHIBITING FACTORS.

d. WCFM SHALL BE MANUFACTURED AND PROCESSED IN SUCH A MANNER THAT THE WOOD CELLULOSE FIBER MULCH WILL REMAIN IN UNIFORM SUSPENSION IN WATER UNDER AGITATION AND WILL BLEND WITH SEED, FERTILIZER, AND OTHER ADDITIVES TO FORM A HOMOGENOUS SLURRY. THE MULCH MATERIAL SHALL FORM A BLOTTER–LIKE GROUND COVER, ON APPLICATION, HAVING MOISTURE ABSORPTION AND PERCOLATION PROPERTIES AND SHALL COVER AND HOLD GRASS SEED IN CONTACT WITH THE SOIL WITHOUT INHIBITING THE GROWTH OF THE GRASS SEEDINGS.

e. WCFM SHALL CONTAIN NO ELEMENTS OR COMPOUNDS AT CONCENTRATION LEVELS THAT WILL BE PHYTO–TOXIC.

f. WOOD CELLULOSE FIBER MUST CONFORM TO THE FOLLOWING PHYSICAL REQUIREMENTS: FIBER LENGTH TO APPROXIMATELY 10 MM., DIAMETER APPROXIMATELY 1 MM., pH RANGE OF 4.0 TO 8.5, ASH CONTENT OF 1.6% MAXIMUM, AND WATER HOLDING CAPACITY OF 90% MINIMUM.

NOTE: ONLY STERILE STRAW MULCH SHOULD BE USED IN AREAS WHERE A STAND OF ONE SPECIES OF GRASS IS DESIRED.

G. MULCHING SEEDED AREAS – MULCH SHALL BE APPLIED TO ALL SEEDED AREAS IMMEDIATELY AFTER SEEDING.

I. IF GRADING IS COMPLETED OUTSIDE OF THE SEEDING SEASON, MULCH ALONE SHALL BE APPLIED AND PRESCRIBED IN THIS SECTION AND MAINTAINED UNTIL THE SEEDING SEASON RETURNS, AND SEEDING CAN BE PERFORMED IN ACCORDANCE WITH THESE SPECIFICATIONS.

II. WHEN STRAW MULCH IS USED, IT SHALL BE SPREAD OVER ALL SEEDED AREAS AT THE RATE OF 2 TONS/ACRE. MULCH SHALL BE APPLIED TO A UNIFORM LOOSE DEPTH OF BETWEEN 1 AND TWO INCHES. MULCH APPLIED SHALL ACHIEVE A UNIFORM DISTRIBUTION AND DEPTH SO THAT THE SOIL SURFACE IS NOT EXPOSED. IF A MULCH ANCHORING TOOL IS TO BE USED, THE RATE SHOULD BE INCREASED TO 2.5 TONS/ACRE.

III. WOOD CELLULOSE FIBER USED AS A MULCH SHALL BE APPLIED AT A NET DRY WEIGHT OF 1,500 LBS. PER ACRE. THE WOOD CELLULOSE FIBER SHALL BE MIXED WITH WATER, AND THE MIXTURE SHALL CONTAIN A MAXIMUM OF 50 LBS OF WOOD CELLULOSE FIBER PER 100 GALLONS OF WATER.

H. SECURING STRAW MULCH (MULCH ANCHORING): MULCH ANCHORING SHALL BE PERFORMED IMMEDIATELY FOLLOWING MULCH APPLICATION TO MINIMIZE LOSS BY WIND OR WATER. THIS MAY BE DONE BY ONE OF THE FOLLOWING METHODS (LISTED BY PREFERENCE), DEPENDING UPON SIZE OF AREA AND EROSION HAZARD.

I. A MULCH ANCHORING TOOL IS A TRACTOR DRAWN IMPLEMENT DESIGNED TO PUNCH AND ANCHOR MULCH INTO THE SOIL SURFACE A MINIMUM OF 2 INCHES. THIS IS THE MOST EFFECTIVE ON LARGE AREAS, BUT IS LIMITED TO FLATTER SLOPES WHERE EQUIPMENT CAN OPERATE SAFELY. IF USED ON SLOPING LAND, THIS PRACTICE SHOULD BE USED ON THE CONTOUR, IF POSSIBLE.

II. WOOD CELLULOSE FIBER MAY BE USED FOR ANCHORING STRAW. THE FIBER BINDER SHALL BE APPLIED AT A NET DRY WEIGHT OF 750 LBS./ACRE. THE WOOD CELLULOSE FIBER SHALL BE MIXED WITH WATER, AND THE MIXTURE SHALL CONTAIN A MAXIMUM OF 50 LBS. OF WOOD CELLULOSE FIBER PER 100 GALLONS OF WATER.

III. APPLICATIONS OF LIQUID BINDERS SHOULD BE APPLIED HEAVIER AT EDGES WHERE WIND CATCHES MULCH, SUCH AS IN VALLEYS AND ON CRESTS OF BANKS. THE REMAINDER OF AREA SHOULD BE UNIFORM AFTER BINDER APPLICATION. SYNTHETIC BINDERS – SYNTHETIC BINDERS SUCH AS ACRYLIC DRL (AGRO–TACK), DCA–70, PETROSET, TERRA TAX II, TERRA TACK AR, OR OTHER APPROVED EQUAL MAY BE USED AT RATES RECOMMENDED BY THE MANUFACTURER TO ANCHOR MULCH.

IV. LIGHTWEIGHT: PLASTIC NETTING MAY BE STAPLED OVER THE MULCH ACCORDING TO MANUFACTURER'S RECOMMENDATIONS. NETTING IS USUALLY AVAILABLE IN ROLLS 4 TO 15 FEET WIDE AND 300 TO 3,000 FEET LONG.

I. INCREMENTAL STABILIZATION – CUT SLOPES

I. ALL CUT SLOPES SHALL BE DRESSED, PREPARED, SEEDED AND MULCHED AS THE WORK PROGRESSES. SLOPES SHALL BE EXCAVATED AND STABILIZED IN EQUAL INCREMENTS NOT TO EXCEED 15'.

II. CONSTRUCTION SEQUENCE :

a. EXCAVATE AND STABILIZE ALL TEMPORARY SWALES, SIDE DITCHES, OR BERMS THAT WILL BE USED TO CONVEY RUNOFF FROM THE EXCAVATION.

b. PERFORM PHASE 1 EXCAVATION, DRESS, AND STABILIZE.

c. PERFORM PHASE 2 EXCAVATION, DRESS, AND STABILIZE. OVERSEED PHASE 1 AREAS AS NECESSARY.

d. PERFORM FINAL PHASE EXCAVATION, DRESS, AND STABILIZE. OVERSEED PREVIOUSLY SEEDED AREAS AS NECESSARY.

NOTE: ONCE EXCAVATION HAS BEGUN THE OPERATION SHOULD BE CONTINUOUS FROM GRUBBING THROUGH THE COMPLETION OF GRADING AND PLACEMENT OF TOPSOIL (IF REQUIRED) AND PERMANENT SEED AND MULCH. ANY INTERRUPTIONS IN THE OPERATION OR COMPLETING THE OPERTATION OUT OF THE SEEDING SEASON WILL NECESSITATE THE APPLICATION OF TEMPORARY STABILIZATION.

J. INCREMENTAL STABILIZATION OF EMBANKMENTS – FILL SLOPES

I. EMBANKMENTS SHALL BE CONSTRUCTED IN LIFTS AS PRESCRIBED ON THE PLANS.

II. SLOPES SHALL BE STABILIZED IMMEDIATELY WHEN THE VERTICAL HEIGHT OF THE MULTIPLE LIFTS REACHES 15', OR WHEN THE GRADING OPERATION CEASES AS PRESCRIBED IN THE PLANS.

III. AT THE END OF EACH DAY, TEMPORARY BERMS AND PIPE SLOPE DRAINS SHOULD BE CONSTRUCTED ALONG THE TOP EDGE OF THE EMBANKMENT TO INTERCEPT SURFACE RUNOFF AND CONVEY IT DOWN THE SLOPE IN A NON–EROSIVE MANNER TO A SEDIMENT TRAPPING DEVICE.

IV. CONSTRUCTION SEQUENCE:

a. EXCAVATE AND STABILIZE ALL TEMPORARY SWALES, SIDE DITCHES, OR BERMS THAT WILL BE USED TO DIVERT RUNOFF AROUND THE FILL. CONSTRUCT SLOPE SILT FENCE ON LOW SIDE OF FILL AS SHOWN IN FIGURE 5, UNLESS OTHER METHODS SHOWN ON THE PLANS ADDRESS THIS AREA.

b. PLACE PHASE 1 EMBANKMENT, DRESS, AND STABILIZE.

c. PLACE PHASE 2 EMBANKMENT, DRESS, AND STABILIZE.

d. PLACE FINAL PHASE EMBANKMENT, DRESS AND STABILIZE. OVERSEED PREVIOUSLY SEEDED AREAS AS NECESSARY.

NOTE: ONCE THE PLACEMENT OF FILL HAS BEGUN THE OPERATION SHOULD BE CONTINUOUS FROM GRUBBING THROUGH THE COMPLETION OF GRADING AND PLACEMENT OF TOPSOIL (IF REQUIRED) AND PERMANENT SEED AND MULCH. ANY INTERRUPTIONS IN THE OPERATION OR COMPLETING THE OPERTATION OUT OF THE SEEDING SEASON WILL NECESSITATE THE APPLICATION OF TEMPORARY STABILIZATION.

SECTION IV – SOD: TO PROVIDE QUICK COVER ON DISTURBED AREAS (2:1 GRADE OR FLATTER)

A. GENERAL SPECIFICATIONS

I. CLASS OF TURFGRASS SHALL BE MARYLAND OR VIRGINIA STATE CERTIFIED OR APPROVED. SOD LABELS SHALL BE MADE AVAILABLE TO THE JOB FOREMAN AND INSPECTOR.

II. SOD SHALL BE MACHINE CUT AT A UNIFORM SOIL THICKNESS OF 3/4", PLUS OR MINUS 1/4", AT THE TIME OF CUTTING. MEASUREMENT FOR THICKNESS SHALL EXCLUDE TOP GROWTH AND THATCH. INDIVIDUAL PIECES OF SOD SHALL BE CUT TO THE SUPPLIER'S WIDTH AND LENGTH. MAXIMUM ALLOWABLE DEVIATION FROM STANDARD WIDTHS AND LENGTHS SHALL BE 5 PERCENT. BROKEN PADS AND TORN OR UNEVEN ENDS WILL NOT BE ACCEPTABLE.

III. STANDARD SIZE SECTIONS OF SOD SHALL BE STRONG ENOUGH TO SUPPORT THEIR OWN WEIGHT AND RETAIN THEIR SIZE AND SHAPE WHEN SUSPENDED VERTICALLY WITH A FIRM GRASP ON THE UPPER 10 PERCENT OF THE SECTION.

IV. SOD SHALL NOT BE HARVESTED OR TRANSPLANTED WHEN MOISTURE CONTENT (EXCESSIVELY DRY OR WET) MAY ADVERSELY AFFECT ITS SURVIVAL.

V. SOD SHALL BE HARVESTED, DELIVERED, AND INSTALLED WITHIN A PERIOD OF 36 HOURS. SOD NOT TRANSPLANTED WITHIN THIS PERIOD SHALL BE APPROVED BY AN AGRONOMIST OR SOIL SCIENTIST PRIOR TO ITS INSTALLATION.

B. SOD INSTALLATION

I. DURING PERIODS OF EXCESSIVELY HIGH TEMPERATURE OR IN AREAS HAVING DRY SUBSOIL, THE SUBSOIL SHALL BE LIGHTLY IRRIGATED IMMEDIATELY PRIOR TO LAYING THE SOD.

II. THE FIRST ROW OF SOD SHALL BE LAID IN A STRAIGHT LINE WITH SUBSEQUENT ROWS PLACED PARALLEL TO AND TIGHTLY WEDGED AGAINST EACH OTHER. LATERAL JOINTS SHALL BE STAGGERED TO PROMOTE MORE UNIFORM GROWTH AND STRENGTH. ENSURE THAT SOD IS NOT STRETCHED OR OVERLAPPED AND THAT ALL JOINTS ARE BUTTED TIGHT IN ORDER TO PREVENT VOIDS WHICH WOULD CAUSE AIR DRYING OF THE ROOTS.

III. WHEREVER POSSIBLE, SOD SHALL BE LAID WITH THE LONG EDGES PARALLEL TO THE CONTOUR AND WITH STAGGERING JOINTS. SOD SHALL BE ROLLED AND TAMPED, PEGGED, OR OTHERWISE SECURED TO PREVENT SLIPPAGE ON SLOPES AND TO ENSURE SOLID CONTACT BETWEEN SOD ROOTS AND THE UNDERLYING SOIL SURFACE.

IV. SOD SHALL BE WATERED IMMEDIATELY FOLLOWING ROLLING OR TAMPING UNTIL THE UNDERSIDE OF THE NEW SOD PAD AND SOIL SURFACE BELOW THE SOD ARE THOROUGHLY WET. THE OPERATIONS OF LAYING, TAMPING, AND IRRIGATING FOR ANY PIECE OF SOD SHALL BE COMPLETED WITHIN EIGHT HOURS.

C. SOD MAINTENANCE

I. IN THE ABSENCE OF ADEQUATE RAINFALL, WATERING SHALL BE PERFORMED DAILY OR AS OFTEN AS NECESSARY DURING THE FIRST WEEK AND IN SUFFICIENT QUANTITIES TO MAINTAIN MOIST SOIL TO A DEPTH OF 4". WATERING SHOULD BE DONE DURING THE HEAT OF THE DAY TO PREVENT WILTING.

II. AFTER THE FIRST WEEK, SOD WATERING IS REQUIRED AS NECESSARY TO MAINTAIN ADEQUATE MOISTURE CONTENT.

III. THE FIRST MOWING OF SOD SHOULD NOT BE ATTEMPTED UNTIL THE FINAL SOD IS FIRMLY ROOTED. NO MORE THAN 1/3 OF THE GRASS LEAF SHALL BE REMOVED BY THE INITIAL CUTTING OR SUBSEQUENT CUTTINGS. GRASS HEIGHT SHALL BE MAINTAINED BETWEEN 2" AND 3", UNLESS OTHERWISE SPECIFIED.

SECTION II: TEMPORARY SEEDING

VEGETATION – ANNUAL GRASS OR GRAIN USED TO PROVIDE COVER ON DISTURBED AREAS FOR UP TO TWELVE MONTHS. FOR LONGER DURATION OF VEGETATIVE COVER, PERMANENT SEEDING IS REQUIRED.

TEMPORARY SEEDING SUMMARY*

SEED MIXTURE (HARDINESS ZONE 7A) (FROM TABLE 26)					FERTILIZER RATE (10–10–10)	LIME RATE
NO.	SPECIES	APPLICATION RATE (lb/ac)	SEEDING DATES	SEEDING DEPTHS		
N/A	ANNUAL RYEGRASS	50	2/1 – 4/30 8/15 – 11/1	1/4" – 1/2"	600 lb/ac (15 lb/1000 st)	2 tons/ac (100 lb/1000 st)
N/A	RYE PLUS FOXTAIL MILLET	150	5/1 – 8/14	1"	600 lb/ac (15 lb/1000 st)	2 tons/ac (100 lb/1000 st)
N/A	WEEPING LOVEGRASS	4	5/1 – 8/14	1/4"– 1/2"	600 lb/ac (15 lb/1000 st)	2 tons/ac (100 lb/1000 st)

NOTES: 1. FOR DATES NOT COVERED, SEE SECTION I.G.

SECTION III: PERMANENT SEEDING

SEEDING GRASS AND LEGUMES TO ESTABLISH GROUND COVER FOR A MINIMUM PERIOD OF ONE YEAR ON DISTURBED AREAS GENERALLY RECEIVING LOW MAINTENANCE.

PERMANENT SEEDING SUMMARY*

SEED MIXTURE (HARDINESS ZONE 7A) (FROM TABLE 25)					FERTILIZER RATE (10–20–20)			LIME RATE
NO.	SPECIES	APPLICATION RATE (lb/ac)	SEEDING DATES	SEEDING DEPTHS	N	P205	K20	
3	TALL FESCUE (85%) PERENNIAL RYEGRASS (10%) KENTUCKY BLUEGRASS (5%)	125 15 10	3/1 – 5/15 8/15 – 11/1	1/4"	90 lb/ac (2.0 lb/ 1000 st)	175 lb/ac (4 lb/ 1000 st)	175 lb/ac (4 lb/ 1000 st)	2 tons/ac (100 lb/ 1000 st)
1	TALL FESCUE (75%) CANADA BLUEGRASS (10%) KENTUCKY BLUEGRASS (10%) KENTUCKY BLUEGRASS (5%)	150	3/1 – 5/15 8/15 – 11/1	1/4"				
4	RED FESCUE OR CHEWINGS FESCUE (80%) PERENNIAL RYEGRASS (20%)	60 15	3/1 – 5/15 8/15 – 11/1	1/4"				

NOTES: 1. FOR DATES 5/16 – 8/14 USE PERMANENT SEEDING WITH A NURSE CAP OF 2.0 LBS./AC. OF WEEPING LOVE GRASS OR 10 LBS./AC. OF MILLET (AS NOTED)
2. FOR DATES NOT COVERED, SEE SECTION I.G.
3. FOR SITES HAVING SOIL TESTS PERFORMED, USE THE RATES RECOMMENDED BY THE TESTING AGENCY, DO NOT USE THE RATES IN THIS TABLE.
4. FOR AREAS RECEIVING LOW MAINTENANCE, APPLY UREAFORM FERTILIZER (46–0–0) @ 3 1/2 LBS./1000 S.F. (150 LBS./AC.), IN ADDITION TO THE SOIL AMENDMENTS SHOWN IN THE TABLE ABOVE, TO BE PERFORMED AT THE TIME OF SEEDING.

ISSUED FOR BID

DATE	NO.	REVISIONS

SEDIMENT AND EROSION CONTROL NOTES

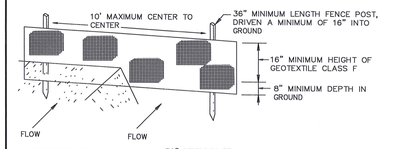
PROJECT TITLE:

U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

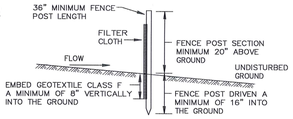
ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512–4500
Baltimore, Maryland 21286 (410) 324–4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 30'
DRAWING NO:	C–5

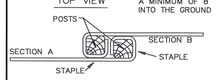
© WBCM 2004



PERSPECTIVE VIEW



CROSS SECTION



JOINING TWO ADJACENT SILT FENCE SECTIONS

STANDARD SYMBOL

SF

Construction Specifications

1. Fence posts shall be a minimum of 36" long driven 16" minimum into the ground. Wood posts shall be 11/2" x 11/2" square (minimum) cut, or 13/4" diameter (minimum) round and shall be of sound quality hardwood. Steel posts will be standard T or U section weighting not less than 1.00 pond per linear foot.

2. Geotextile shall be fastened securely to each fence post with wire ties or staples at top and mid-section and shall meet the following requirements for Geotextile Class F:

Tensile Strength	50 lbs/in (min.)	Test: MSMT 509
Tensile Modulus	20 lbs/in (min.)	Test: MSMT 509
Flow Rate	0.3 gal ft ²/ minute (max.)	Test: MSMT 322
Filtering Efficiency	75% (min.)	Test: MSMT 322

3. Where ends of geotextile fabric come together, they shall be overlapped, folded and stapled to prevent sediment bypass.

4. Silt Fence shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reached 50% of the fabric height.

TABLE 27 GEOTEXTILE FABRICS

CLASS	APPARENT OPENING SIZE MM. MAX.	GRAB TENSILE STRENGTH LB. MIN.	BURST TRENGTH PSI. MIN.
A	0.30**	250	500
B	0.60	200	320
C	0.30	200	320
D	0.60	90	145
E	0.30	90	145
F (SILT FENCE)	0.40-0.80*	90	190

* US Std Sieve CW-02215 ** 0.50mm, MAX. FOR SUPER SILT FENCE

THE PROPERTIES SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

APPARENT OPENING SIZE: MSMT 323

GRAB TENSILE STRENGTH: ASTM D 1682: 4x8" SPECIMEN, 1x2" CLAMPS, 12"/MIN. STRAIN RATE IN BOTH PRINCIPAL DIRECTIONS OF GEOTEXTILE FABRIC

BURST STRENGTH: ASTM D 3786

THE FABRIC SHALL BE INERT TO COMMONLY ENCOUNTERED CHEMICALS AND HYDROCARBONS, AND WILL BE ROT AND MILDEW RESISTANT. IT SHALL BE MANUFACTURED FROM FIBERS CONSISTING OF LONG CHAIN SYNTHETIC POLYMERS AND COMPOSED OF A MINIMUM OF 85% BY WEIGHT OF POLYOEPHINS, POLYESTERS, OR POLYAMIDES. THE GEOTEXTILE FABRIC SHALL RESIST DETERIORATION FROM ULTRAVIOLET EXPOSURE.

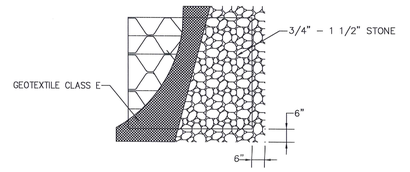
IN ADDITION, CLASSES A THROUGH E SHALL HAVE A 0.01 CM./SEC. MINIMUM PERMEABILITY WHEN TESTED IN ACCORDANCE WITH MSMT 507, AND AN APPARENT MINIMUM ELONGATION OF TWENTY PERCENT (20%) WHEN TESTED IN ACCORDANCE WITH THE GRAB TENSILE STRENGTH REQUIREMENTS LISTED ABOVE.

SILT FENCE

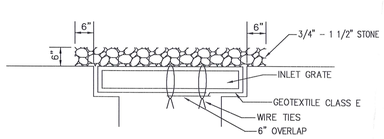
CLASS F GEOTEXTILE FABRIC FOR SILT FENCE SHALL HAVE A 50 LB./IN. MINIMUM TENSILE STRENGTH AND A 20 LB./IN. MINIMUM TENSILE MODULES WHEN TESTED IN ACCORDANCE WITH MSMT 509. THE MATERIAL SHALL ALSO HAVE A 0.3 GAL./FT.2/MIN. FLOW RATE AND SEVENTY-FIVE PERCENT MINIMUM FILTERING EFFICIENCY WHEN TESTED IN ACCORDANCE WITH MSMT 322.

GEOTEXTILE FABRICS USED IN THE CONSTRUCTION OF SILT FENCE SHALL RESIST DETERIORATION FROM ULTRAVIOLET EXPOSURE. THE FABRIC SHALL CONTAIN SUFFICIENT AMOUNTS OF ULTRAVIOLET RAY INHIBITORS AND STABILIZERS TO PROVIDE A MINIMUM OF TWELVE MONTHS OF EXPECTED USABLE CONSTRUCTION LIFE AT A TEMPERATURE RANGE OF 0 TO 120 DEGREES F.

SILT FENCE DETAIL N.T.S.



PLAN/CUT AWAY VIEW



CROSS SECTION

STANDARD SYMBOL

AGIP

MAX. DRAINAGE AREA = 1/4 ACRE

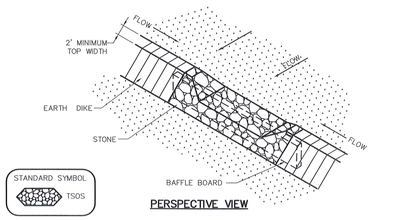
Construction Specifications

1. Lift grate and wrap with Geotextile Class E to completely cover all openings, then set grate back in place.

2. Place 3/4" to 1 1/2" stone, 4"-6" thick on the grate to secure the fabric and provide additional filtration.

3. This type of protection must be inspected frequently and the filter cloth and stone replaced when clogged with sediment.

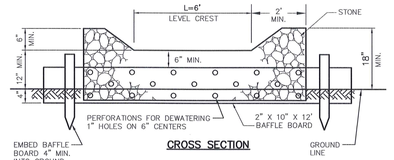
AT GRADE INLET PROTECTION DETAIL N.T.S.



STANDARD SYMBOL

TSOS

PERSPECTIVE VIEW

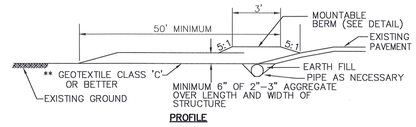


CROSS SECTION

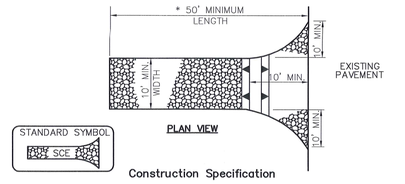
CONSTRUCTION SPECIFICATIONS

1. Crushed stone shall be used. Gravel may be used if crushed stone is not available. The stone shall be 2"-3" in size.
2. The crest of the stone dike shall be at least six inches lower than the lowest elevation Of the top of the earth dike and shall be level.
3. The stone outlet structure shall be embedded into the soil a minimum of four inches.
4. The minimum length of the crest of the stone outlet structure shall be six feet.
5. The stone outlet structure shall be inspected after each rain. Stone shall be replaced When the structure ceases to function and ponding results.
6. The baffle board shall be extended one foot into the dike, staked and embedded four inches into the existing ground.
7. The drainage area to this structure shall be less than 1/2 acre.

STONE OUTLET STRUCTURE DETAIL N.T.S.



PROFILE



PLAN VIEW

STANDARD SYMBOL

SCE

Construction Specification

1. Length - minimum of 50' (*30' for single residence lot).

2. Width - 10' minimum, should be flared at the existing road to provide a turning radius.

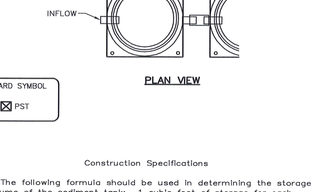
3. Geotextile fabric (filter cloth) shall be placed over the existing ground prior to placing stone. **The plan approval authority may not require single family residences to use geotextile.

4. Stone - crushed aggregate (2" to 3") or reclaimed or recycled concrete equivalent shall be placed at least 6" deep over the length and width of the entrance.

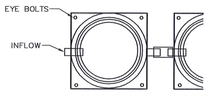
5. Surface Water - all surface water flowing to or diverted toward construction entrances shall be piped through the entrance, maintaining positive drainage. Pipe installed through the stabilized construction entrance shall be protected with a mountable berm with 5:1 slopes and a minimum of 6" of stone over the pipe. Pipe has to be sized according to the drainage. When the SCE is located at a high spot and has no drainage to convey a pipe will not be necessary. Pipe should be sized according to the amount of runoff to be conveyed. A 6" minimum will be required.

6. Location - A stabilized construction entrance shall be located at every point where construction traffic enters or leaves a construction site. Vehicles leaving the site must travel over the entire length of the stabilized construction entrance.

STABILIZED CONSTRUCTION ENTRANCE DETAIL N.T.S.



ELEVATION



PLAN VIEW

STANDARD SYMBOL

PST

Construction Specifications

1. The following formula should be used in determining the storage volume of the sediment tank: 1 cubic foot of storage for each gallon per minute of pump discharge capacity.

2. An example of a typical sediment tank is shown above. Other container designs can be used if the storage volume is adequate and approval is obtained from the local approving agency.

3. Tanks may be connected in series.

PORTABLE SEDIMENT TANK DETAIL N.T.S.

ISSUED FOR BID

DATE	NO.	REVISIONS

SEDIMENT AND EROSION CONTROL DETAILS

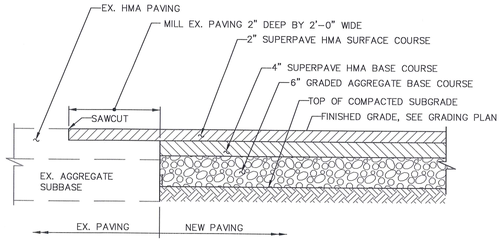
PROJECT TITLE:

U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

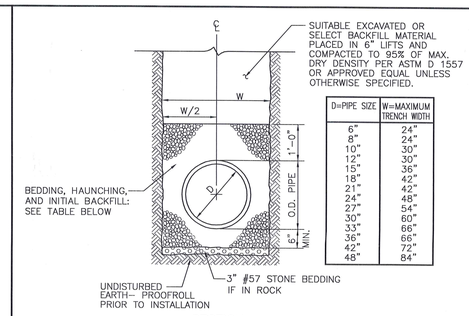
DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 30'
DRAWING NO:	C-6

© WBCM 2004



1 HOT MIX ASPHALT PAVING DETAIL

NOT TO SCALE



D=PIPE SIZE	W=MAXIMUM TRENCH WIDTH
6"	24"
8"	24"
10"	30"
12"	30"
15"	36"
18"	42"
21"	42"
24"	48"
27"	54"
30"	60"
33"	66"
36"	66"
42"	72"
48"	84"

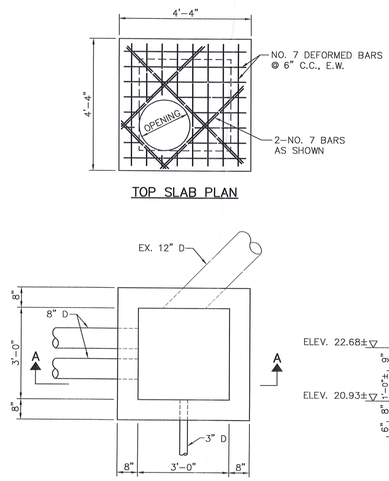
SECTION

PIPE MATERIAL	BEDDING, HAUNCHING, & INITIAL BACKFILL MATERIAL	COMPACTION, % OF MAX. DRY DENSITY PER ASTM D 1557
CONCRETE	**ASTM D 2321 CLASS II OR III MATERIALS	95%
DUCTILE IRON	**ASTM D 2321 CLASS II OR III MATERIALS	95%
HDPE	*ASTM D 2321 CLASS I MATERIALS	95%
PVC	*ASTM D 2321 CLASS I MATERIALS	95%

* ASTM D 2321 CLASS I MATERIAL: MSHA #67 STONE
** ASTM D 2321 CLASS II OR III MATERIALS: GW, GP, SW, SP, GM, GC, SM, OR SC MATERIALS AS DEFINED BY ASTM D 2487, FREE OF STONES MORE THAN 3"ø, TRASH, STICKS, FROZEN MATERIAL AND ALL OTHER OBJECTIONABLE MATERIALS.

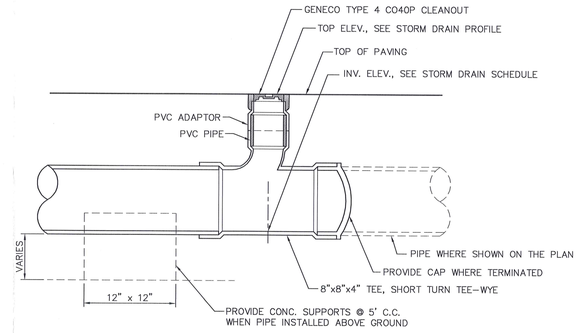
2 PIPE TRENCH DETAIL

NOT TO SCALE



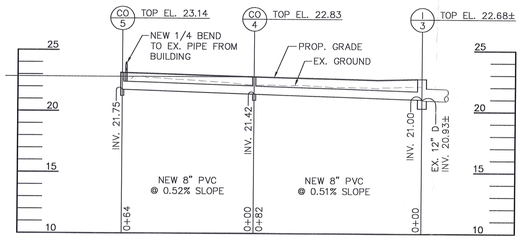
3 JUNCTION CHAMBER DETAIL

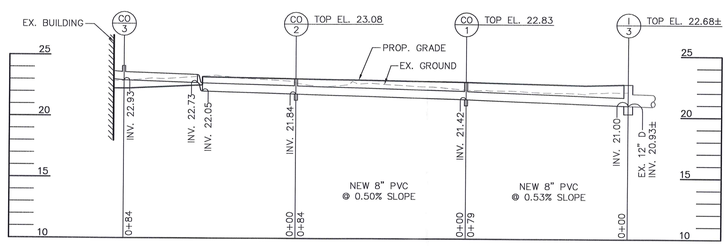
NOT TO SCALE

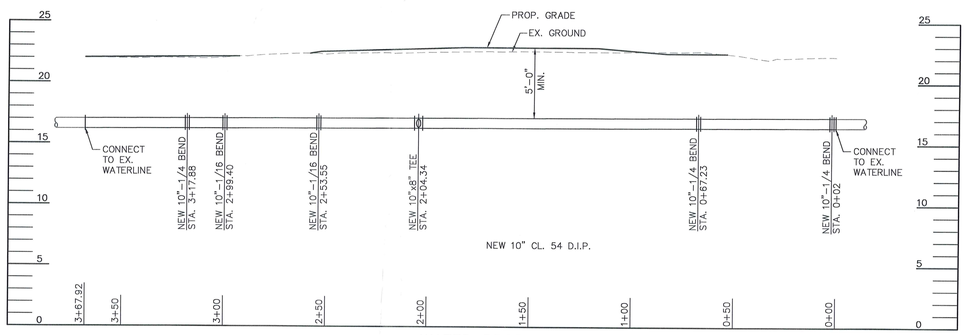


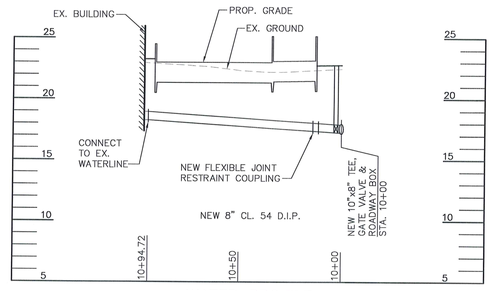
4 CLEANOUT DETAIL

NOT TO SCALE









ISSUED FOR BID

DATE	NO.	REVISIONS

UTILITY PROFILES AND SITE DETAILS

PROJECT TITLE:

U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS

8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	AS SHOWN
DRAWING NO:	C-7

© WBCM 2004

BALTIMORE COUNTY OFFICE OF PLANNING

DUNDALK - PATAPSCO NECK

BALTIMORE COUNTY BASE MAP SERIES -

REVISED DATE SEP. '94

4A

SCALE 1"= 1000'

0 1/4 1/2 3/4 1 MILES

0 1000 3000 5000 FEET

MAP INDEX

2G 3G 1F 2F 3F 1E 2E 3E 4E 1D 2D 3D 4D 1C 2C 3C 4C 1B 2B 3B 4B 2A

SEE INSET 5A (SHEET 5B)

(SHEET 4B)

BALTIMORE CITY

BALTIMORE COUNTY

ANNE ARUNDEL COUNTY

PATAPSCO RIVER

BACK RIVER

CHESAPEAKE BAY

BEAR CREEK

BULLNECK CREEK

LYNCH COVE

CHINN CREEK

SCHOOLHOUSE COVE

SPARROWS COUNTRY CLUB COVE

GREENHILL COVE

HAWK COVE

JONES CREEK

NORTH POINT CREEK

SHALLOW CREEK

OLD ROAD BAY

PEACH ORCHARD CREEK

PATAPSCO FREEWAY

EXPRESSWAY

PENINSULA EXPRESSWAY

BROENING HIGHWAY

BALTIMORE BELTWAY

FREEWAY BLVD.

BETHLEHEM BLVD.

EDGEMERE BLVD.

BEACHWOOD RD.

LYNNHURST RD.

NORTH POINT BLVD.

POINT BREEZE AVE.

POINT BREEZE RD.

NORTH POINT VILLAGE

NORTH POINT STATE PARK

ROCKY POINT PARK

SPARROWS POINT

FORT CARROLL

FORT HOWARD

FORT HOWARD PARK

FORT HOWARD VETERANS HOSPITAL

SOLLERS POINT

TURNER STATION

DUNDALK MARINE TERMINAL (MARYLAND PORT ADMINISTRATION)

DUNDALK COMMUNITY COLLEGE

EASTFIELD

SPARROWS POINT

NORTH POINT

BEACHWOOD

ESSEX

SKYPARK

MH-IM

ML-IM

ML-AS

BM-AS

BM-CT

BR-IM

BR-AS

MLR-IM

RC 20

RC 5

RC 50

RC 2

DR 5.5

DR 3.5

DR 16

DR 10.5

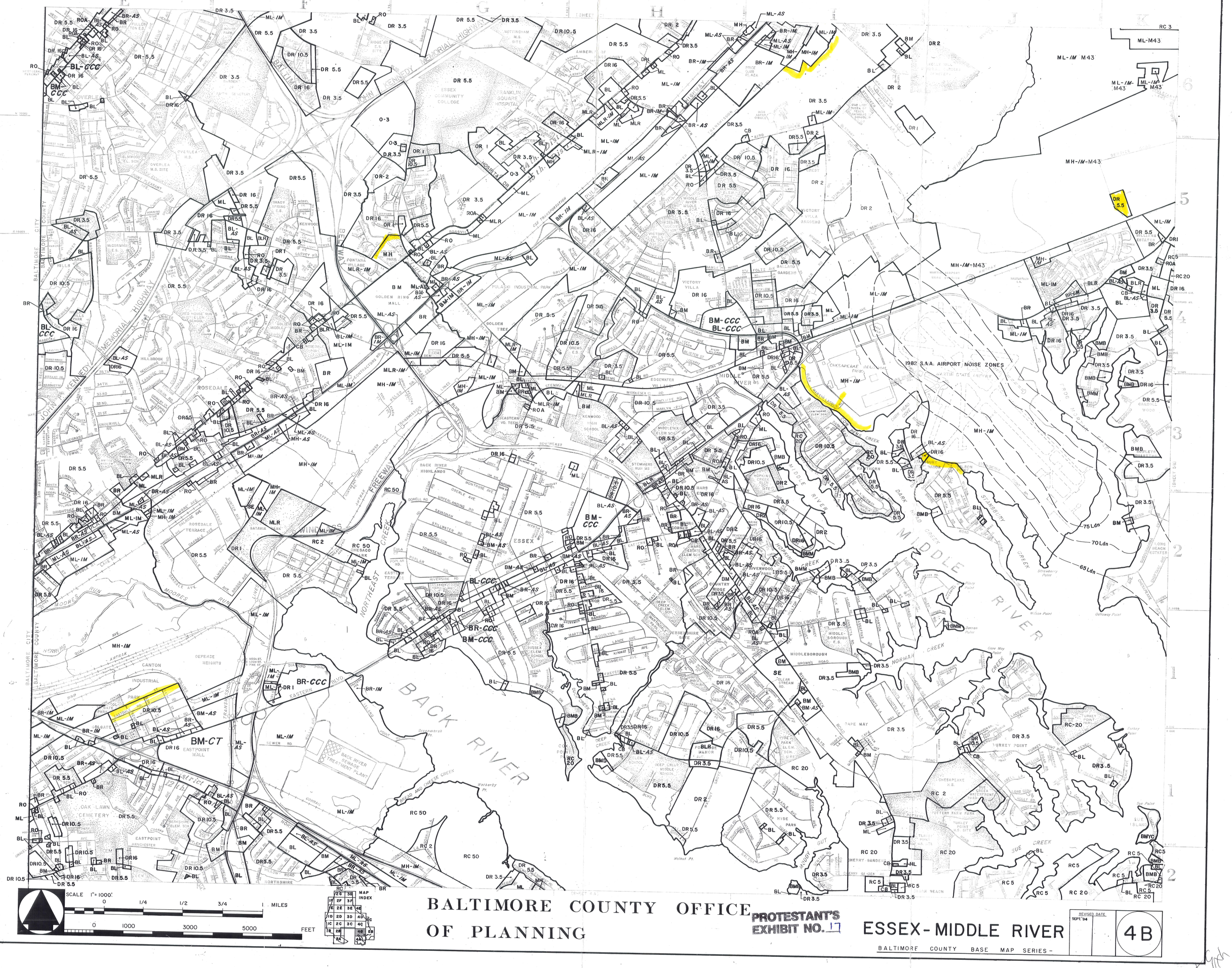
DR 1

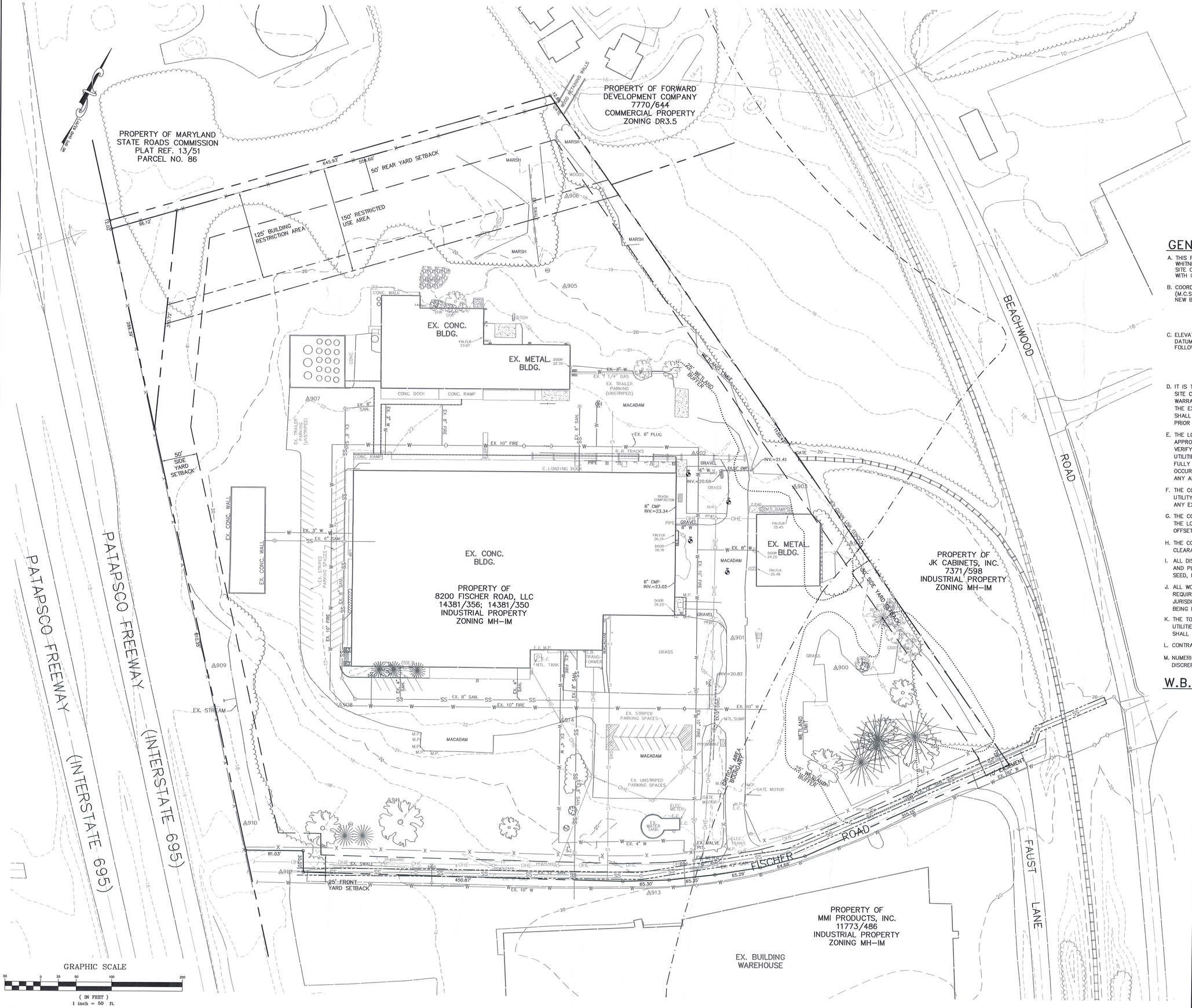
OR 2

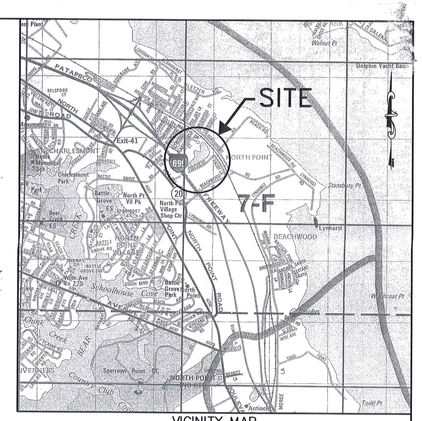
BL

BM

BMM


BALTIMORE COUNTY OFFICE OF PLANNING
PROTESTANT'S EXHIBIT NO. 17
ESSEX - MIDDLE RIVER
BALTIMORE COUNTY BASE MAP SERIES -
REVISED DATE SEPT '94
4B
SCALE 1" = 1000'
0 1/4 1/2 3/4 1 MILES
0 1000 3000 5000 FEET
MAP INDEX
1982 S.A.A. AIRPORT NOISE ZONES
75 Ldn
70 Ldn
65 Ldn
BACK RIVER
MIDDLE RIVER
BALTIMORE COUNTY
JOHN F. KENNEDY MEMORIAL HIGHWAY
BALTIMORE-WASHINGTON BLVD.
BACK RIVER WASTEWATER TREATMENT PLANT
EASTPOINT MALL
GOLDEN RING MALL
OAK LAWN CEMETERY
CHESAPEAKE HS.
ESSEX COMMUNITY COLLEGE
FRANKLIN SQUARE HOSPITAL
OVERLEA H.S.
OVERLEA M.S. SITE
NOTTINGHAM M.S. SITE
PULASKI INDUSTRIAL PARK
EASTERN VO. TECH.
KENWOOD HIGH SCHOOL
MIDDLESEX ELEM. SCH.
MIDDLEBOROUGH E.S.
TURKEY POINT E.S.
HYDE PARK ELEM. SCH.
DEEP CREEK MIDDLE SCHOOL
DEEP CREEK ELEM. SCH.
BERKSHIRE ELEM. SCHOOL
EASTERN TERRACE ELEM. SCH.
SUSSEX ELEM. SCHOOL
VICTORY VILLA GARDENS
MIDDLE RIVER GARDENS
EDGEWATER VILLAGE
RIVERWOOD PARK
BACK RIVER HIGHLANDS
ESSEX
MIDDLEBOROUGH
TURKEY POINT
CHERRY GARDEN MANOR
ROSEDALE
EASTPOINT
MANCHESTER
DEFENSE HEIGHTS
CANTON INDUSTRIAL PARK
OAKLEIGH
OVERLEA
FONTANA VILLAGE
HILLENDALE
HILLBROOK
GOLDEN TREE
KENWOOD
MIDDLE RIVER
BACK RIVER HIGHLANDS
ESSEX
MIDDLEBOROUGH
TURKEY POINT
CHERRY GARDEN MANOR
ROSEDALE
EASTPOINT
MANCHESTER
DEFENSE HEIGHTS
CANTON INDUSTRIAL PARK
OAKLEIGH
OVERLEA
FONTANA VILLAGE
HILLENDALE
HILLBROOK
GOLDEN TREE
KENWOOD





VICINITY MAP
SCALE: 1" = 2000'

GENERAL NOTES

A. THIS PLAT IS BASED UPON A FIELD-RUN TOPOGRAPHIC SURVEY PERFORMED BY WHITNEY, BAILEY, COX & MAGNANI, LLC (WBCM) IN MAY, 2004 AND REFLECTS SITE CONDITIONS AS OF THAT DATE. FIELD-RUN DATA HAS BEEN SUPPLEMENTED WITH INFORMATION FROM RECORD DRAWINGS AND BALTIMORE COUNTY G.I.S. TOPOGRAPHY.

B. COORDINATES SHOWN HEREON ARE REFERRED TO THE MARYLAND COORDINATE SYSTEM (M.C.S.) AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWING NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:

BCO #411	N 588,770.08	E 1,456,948.86	R.R. SPIKE FD
BCO #412	N 588,306.54	E 1,456,199.94	R.R. SPIKE FD
BCO #623	N 583,069.19	E 1,461,710.09	HEX BOLT FD

C. ELEVATIONS SHOWN HEREON ARE REFERRED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88), AS DETERMINED BY G.P.S. OBSERVATIONS FROM THE FOLLOWING NEW BALTIMORE COUNTY SURVEY CONTROL MONUMENTS:

BCO #411	ELEV.= 18.25 (feet)	R.R. SPIKE FD
BCO #412	ELEV.= 22.20 (feet)	R.R. SPIKE FD
BCO #623	ELEV.= 17.49 (feet)	HEX BOLT FD

D. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY ACTUAL SITE CONDITIONS PRIOR TO THE START OF ANY WORK. THERE IS NO WARRANTY OR GUARANTEE ON THE COMPLETENESS OR CORRECTNESS OF THE EXISTING CONDITION INFORMATION. ANY DISCREPANCY FOUND SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE ARCHITECT PRIOR TO THE START OF ANY WORK.

E. THE LOCATION OF EXISTING UNDERGROUND UTILITIES IS SHOWN IN AN APPROXIMATE WAY ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY THE EXACT LOCATION OF ALL EXISTING UNDERGROUND UTILITIES BEFORE COMMENCING ANY WORK. CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR THE COST OF REPAIR OF ANY AND ALL DAMAGES WHICH OCCUR AS A RESULT OF A FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL EXISTING UTILITIES TO REMAIN.

F. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING "MISS UTILITY" AT 1-800-257-7777 THREE DAYS PRIOR TO THE START OF ANY EXCAVATION WORK.

G. THE CONTRACTOR SHALL STAKE OUT ALL BASELINES OF CONSTRUCTION, THE LOCATION OF ALL NEW CONSTRUCTION AND VERIFY ALL SETBACKS, OFFSETS, AND CLEARANCES PRIOR TO START OF ANY WORK.

H. THE CONTRACTOR SHALL VERIFY ALL EXISTING UTILITY INVERTS AND CLEARANCES FROM NEW WORK PRIOR TO START OF ANY WORK.

I. ALL DISTURBED AREAS NOT STABILIZED WITH STRUCTURES, PAVING, AND PLANTINGS SHALL BE STABILIZED WITH FOUR INCHES OF TOPSOIL, SEED, MULCH, AND WATER TO ESTABLISH AN ADEQUATE GROWTH OF GRASS.

J. ALL WORK SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THE REQUIREMENTS OF THE (PROVIDE THE STANDARD SPECIFICATION OF JURISDICTION THE PROJECT IS IN IF NO SPECIFICATION BOOK IS BEING PROVIDED IN THE CONTRACT).

K. THE TOPS OF ALL FRAMES, GRATES, AND COVERS OF ALL EXISTING UTILITIES WITHIN THE LIMITS OF CONTRACT AND/OR DISTURBANCE SHALL BE ADJUSTED TO THE NEW GRADES.

L. CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE AT ALL TIMES.

M. NUMERICAL DIMENSIONS AND ELEVATIONS SHOWN SHALL SUPERSEDE ANY DISCREPANCY IN THE SCALING ON THE DRAWINGS.

W.B.C.M. TRAVERSE CONTROL LISTING

PT#	NORTHING	EASTING	ELEV.	DESCRIPTION
900	585,908.49	1,464,112.25	22.48	REBAR & CAP
901	585,881.85	1,463,963.23	22.66	MAGNAIL
902	586,090.52	1,463,797.24	22.10	MAGNAIL
903	586,112.29	1,463,946.59	22.77	REBAR & CAP
904	586,075.78	1,464,053.66	22.16	REBAR & CAP
905	586,221.67	1,463,529.14	20.04	REBAR & CAP
906	586,337.17	1,463,474.87	18.37	REBAR & CAP

ISSUED FOR BID

DATE	NO.	REVISIONS

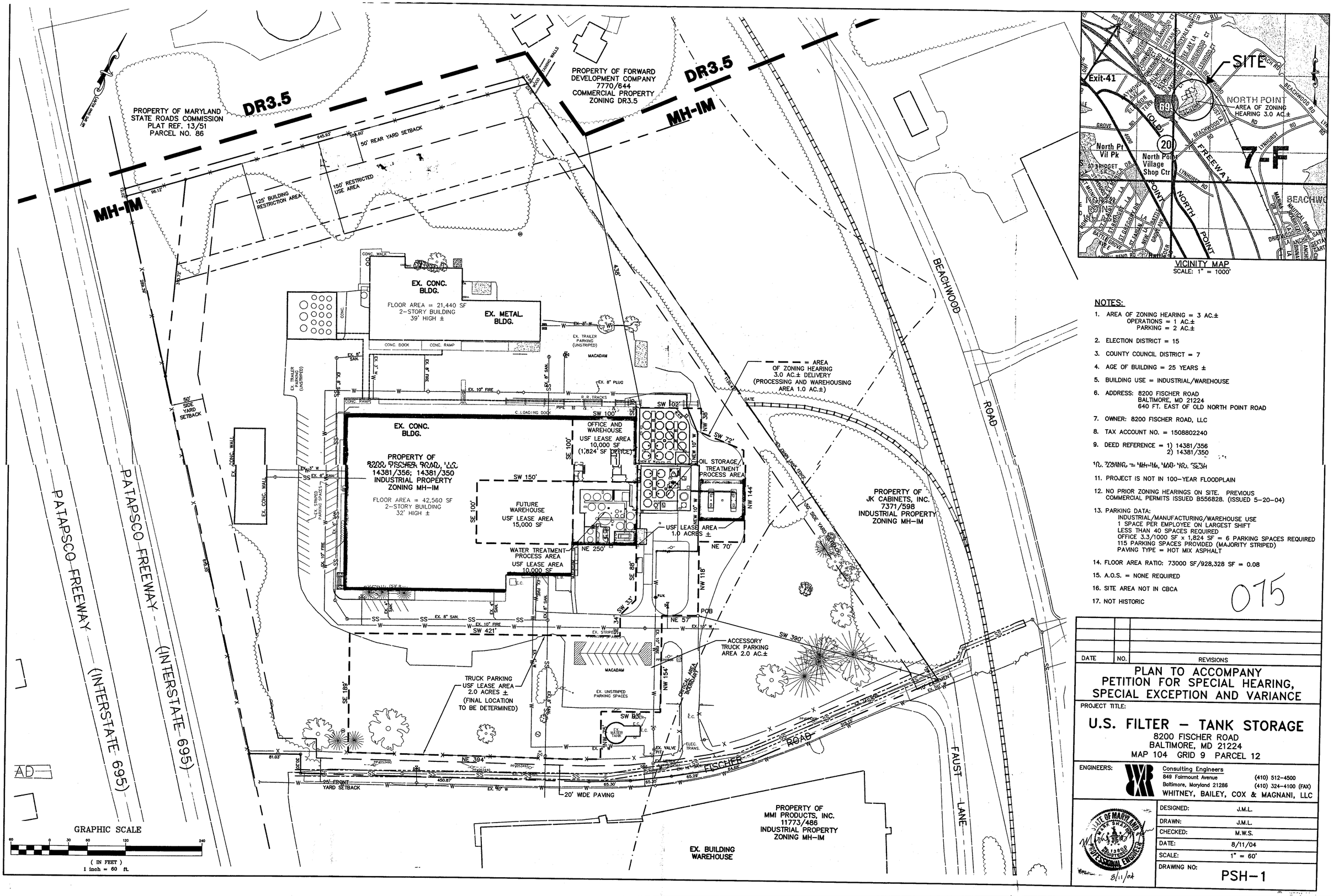
EXISTING CONDITIONS PLAN

PROJECT TITLE:
U.S. FILTER
TANK FARM AND SITE IMPROVEMENTS
8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

DESIGNED:	J.M.L.
DRAWN:	E.C.F.
CHECKED:	M.W.S.
DATE:	7/9/04
SCALE:	1" = 50'
DRAWING NO:	C-1

© WBCM 2004



VICINITY MAP
SCALE: 1" = 1000'

NOTES:

1. AREA OF ZONING HEARING = 3 AC.±
   OPERATIONS = 1 AC.±
   PARKING = 2 AC.±
2. ELECTION DISTRICT = 15
3. COUNTY COUNCIL DISTRICT = 7
4. AGE OF BUILDING = 25 YEARS ±
5. BUILDING USE = INDUSTRIAL/WAREHOUSE
6. ADDRESS: 8200 FISCHER ROAD
   BALTIMORE, MD 21224
   640 FT. EAST OF OLD NORTH POINT ROAD
7. OWNER: 8200 FISCHER ROAD, LLC
8. TAX ACCOUNT NO. = 1508802240
9. DEED REFERENCE = 1) 14381/356
   2) 14381/350
10. ZONING = MH-IM, MAP NO. SE3H
11. PROJECT IS NOT IN 100-YEAR FLOODPLAIN
12. NO PRIOR ZONING HEARINGS ON SITE. PREVIOUS COMMERCIAL PERMITS ISSUED B556828. (ISSUED 5-20-04)
13. PARKING DATA:
    INDUSTRIAL/MANUFACTURING/WAREHOUSE USE
    1 SPACE PER EMPLOYEE ON LARGEST SHIFT
    LESS THAN 40 SPACES REQUIRED
    OFFICE 3.3/1000 SF x 1,824 SF = 6 PARKING SPACES REQUIRED
    115 PARKING SPACES PROVIDED (MAJORITY STRIPED)
    PAVING TYPE = HOT MIX ASPHALT
14. FLOOR AREA RATIO: 73000 SF/928,328 SF = 0.08
15. A.O.S. = NONE REQUIRED
16. SITE AREA NOT IN CBCA
17. NOT HISTORIC

075

DATE	NO.	REVISIONS

PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE

PROJECT TITLE:

U.S. FILTER – TANK STORAGE

8200 FISCHER ROAD
BALTIMORE, MD 21224
MAP 104 GRID 9 PARCEL 12

ENGINEERS:
Consulting Engineers
849 Fairmount Avenue (410) 512-4500
Baltimore, Maryland 21286 (410) 324-4100 (FAX)
WHITNEY, BAILEY, COX & MAGNANI, LLC

STATE OF MARYLAND — MARK W. SHEAR — No. 21988 — REGISTERED PROFESSIONAL ENGINEER
8/11/04

DESIGNED:	J.M.L.
DRAWN:	J.M.L.
CHECKED:	M.W.S.
DATE:	8/11/04
SCALE:	1" = 60'
DRAWING NO:	PSH-1