IN RE: PETITION FOR SPECIAL HEARING
& VARIANCE
SE/Corner of Peninsula Expressway
12th Election District
7th Councilmanic District
(7801 & 7795 Peninsula Expressway)

CSX Realty Development Corp.
By: Stephen A. Crosby, Legal Owners
AND
The Enterprise Housing Corp.
By: Harvey Zeiger, Vice-President

Petitioners

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 05-115-SPHA

* * * * * * * :

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing and Variance filed by the legal owners of the subject property, CSX Realty Development Corp., by Stephen A. Crosby and the lessee, The Enterprise Housing Corp., by Harvey Zeiger, Vice-President. The Petitioners is requesting a special hearing and variance for property they own at 7801 and 7795 Peninsula Expressway. The subject property is zoned BLR & OR-2. The special hearing request is for a waiver pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section 3112.0 of the Building Code; and Sections 32-4-414, 32-4-107.(a)(2), 32-8-301 BCC, to permit a structure and parking in a riverine floodplain. In addition, a variance is requested from Sections 206.4A and 1B01.2C1e of the B.C.Z.R., to permit a building face to tract boundary of 40 ft. in lieu of the required 60 ft.

The property was posted with Notice of Hearing on September 7, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on September 14, 2004 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. Special Hearings.

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The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

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

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated September 13, 2004 stating that Petitioners must submit building elevations to their office for review and approval prior to the issuance of any building permits, a copy of which is attached hereto and made a part hereof. The Department of Environmental Protection & Resource Management (DEPRM) also submitted ZAC comments dated September 21, 2004 stating that the Petitioners must comply with the Chesapeake Bay Critical Area Regulations, a copy of which is attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the variance request were Fred Thompson, professional engineer, Joseph Clarke and Cindy Gower for the Petitioner Corporation. Joseph Woolman, Esquire represented the Petitioners. There were no Protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

CHANGE CONTROL

Testimony and evidence indicated that the property, which is the subject of this variance contains 12.636 acres, more or less and is zoned BLR & OR-2. The property is presently vacant and lies between Peninsula Expressway and the CSX railroad tracks just off of Merritt Boulevard. The Petitioner would like to erect apartment buildings in two phases to be known as the Cove Point Apartments. There is to be a four-story apartment building having 100 units in the first phase and a five-story apartment house in the second phase. Both would serve the elderly population of the area. All parking and environmental matters are designed for both buildings.

The challenge to this site is the fact that it is subject to both tidal surges and flooding. The site is drained by two culverts located under the CSX tracks which eventually lead to the Chesapeake Bay. As a result, the buildings have to be elevated above the flood level for storm surges coming up through the culverts from the bay. In addition, the site is the downstream focus of a large drainage area for rain storm flooding which can occur simultaneously with bay storm surges. As a result, the site must be able to handle the 100 year tidal surge as well as the 100 year rain storm. In response to these challenges, Mr. Thompson performed a 100 year floodplain study which was reviewed and approved by the County. See Petitioner's Exhibit No.

that flows through the property during a recent tropical storm. Exhibit Nos. 2E and 2F show that although a great deal of rain fell on the drainage area, the stream stayed within its banks.

To accommodate this dual problem, Mr. Thompson indicated that the plan to accompany the request shows a storm water management facility on site designed to hold the 100 year rainstorm. See Petitioner's Exhibit No. 1. In addition, the Petitioner proposes to fill much of the site in order to raise the ground level so as to greatly modify the 100 year flood plain. See Petitioner's Exhibit No. 1. The predevelopment floodplain shows that parts of both buildings would be located within the 100 year flood plain which would be prohibited by Section 32-8-304 (2). However because the floodplain is modified, neither building is within the prohibited area as shown on Petitioner's Exhibit No. 1. The buildings will ultimately have the first floor 18.5 ft. above the mean high water level. Mr. Thompson indicated that this fill will not increase the flood levels in violation of Section 32-8-304 (1) as the storm water is contained within the site. He noted that the railway and small culverts under the tracks create a storm water management facility which holds the runoff and discharges it slowly downstream. Consequently, there is no increase in flood levels. There is one small portion of the parking lot, however, which will be located in the post development flood plain. Consequently the need for a waiver. Mr. Thompson indicated that this does not violate any provision of the regulations or code.

The request for variance arises because Peninsula Expressway is designated as an arterial roadway and requires building setbacks 60 ft. from the right-of-way, whereas ordinarily the distance from a building to a roadway is 40 ft. The Petitioner's engineer indicated that the 40 ft. setback is needed in order to have a viable apartment complex on this site.

Mr. Woolman noted the property is long and narrow, portions of which are in the floodplain with wetlands and a stream running through it. As such, he believes that the property is unique in a zoning sense. He indicated that it would be a hardship and practical difficulty to provide the 60 ft. setback given the constraints of the site.

In regard to the Special Hearing, the request is for a waiver to permit a storm water management facility and parking in a riverine floodplain. Mr. Thompson indicated that the plan complies with all regulations, was within the scope purpose and intent of the regulations, and that strict compliance with the prohibition against building in the floodplain is not justified due to the nature of this proposal and the extraordinary precautions taken by the Petitioner to insure the safety of tenants. He noted again that the Department of Public Works recommends the waiver be granted.

Findings of fact and conclusions of law

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In regard to the request for variance, I find that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This is a long narrow site with wetlands and a stream running through it. I find it unique in a zoning sense. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The site is so constrained that no reasonable size building could be located thereon if the full 60 ft. of setback was applied. As it is, the Petitioner is providing the normal setback of 40 ft.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will result by granting this variance. Furthermore, this variance can be granted in strict harmony with the spirit and intent of the regulations, and in a manner as to grant relief without injury to the public health, safety and general welfare. The first floor of the building will be well above any possible flood, either from rain storms or tidal surges.

I also approve the special hearing request to permit the storm water management facility and parking in a riverine floodplain. No buildings will be within the post development floodplain. This is accomplished by filling the site. However, I find that this fill will not increase flood levels downstream because of the effect of the track embankment and small culverts beneath which restrict the flow of water downstream.

While a small portion of the parking lot and the storm water management facility will be in the floodplain, I find that the Petitioner has good and sufficient cause for the granting of this waiver and that a failure to grant this waiver would result in hardship to the applicant. Furthermore, the granting of this waiver will not increase flood heights, impact public safety, incur extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing and local and state laws and ordinances. These findings are made pursuant to Section 32-8-303 of the Baltimore County Code.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED, this <u>f</u> day of October, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for special hearing requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), and Section 3112.0 of the Building Code; and Sections 32-4-414, 32-4-107.(a)(2), 32-8-301 BCC, to permit a structure and parking in a riverine floodplain, be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Petitioners' request for variance from Sections 206.4A and 1B01.2C1e of the B.C.Z.R., to permit a building face to tract boundary of 40 ft. in lieu of the required 60 ft., be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;
- Compliance with the ZAC comments submitted by DEPRM dated September 21, 2004, a copy of which is attached hereto and made a part hereof;

10/5/04

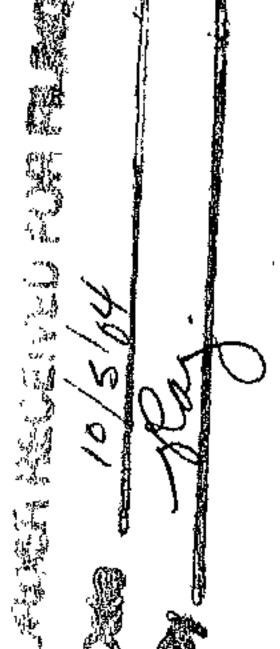
- 3. Compliance with the ZAC comments submitted by the Office of Planning dated September 13, 2004, a copy of which is attached hereto and made a part hereof; and
- 4. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

JVM:raj



Zoning Commissioner

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



Baltimore County

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

October 5, 2004

Joseph Woolman, Esquire Gildea, LLC 300 E. Lombard Street, Suite 1440 Baltimore, Maryland 21202

> Re: Petitions for Special Hearing & Variance Case No. 05-115-SPHA Property: 7801 & 7795 Peninsula Expressway

Dear Mr. Woolman:

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

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

Very truly yours,

John V. Murphy

Deputy Zoning Commissioner

JVM:raj Enclosure

c: Fred Thompson & Cindy Gower Gower/Thompson, Inc. 429 E. Lake Avenue Baltimore, MD 21212 J. Joseph Clarke 120 E. Baltimore St. Baltimore, MD 21202



Visit the County's Website at www.baltimorecountyonline.info



Petition for Special Hearing

to the Zoning Commissioner of 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

for the property located at 7801 Penninsula Expressway
which is presently zoned BLR&OR-2

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

for a waiver pursuant to Section 500.6, BCZR; Section 3112.0 Building Code; and Sections 32-4-414, 32-4-107.(a)(2),32-8-301 BCC to permit a structure and parking in a riverine floodplain.

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.

is the subject of this Petitlon. Contract Purchaser/Lessee: Legal Owner(s): Realty Development Corp. The Enterprise Housing Corp. Name - Type or Print Name Type or Print HARVEY ZEIGER U.P. Signature² Signature Luth#r King Blvd. 312 N.Martin Stephen A. Croshy Address Name - Type or Print Telephone No MD 21201 Baltimore, 410) City State Zip Code Signature 500 Water Street Attorney For Petitioner: Address Telephone No. K. Gildear Jackonsville, FL 32202 Name - Type or Print City Zip Code State Representative to be Contacted: Signature David K. Gildea Gildea, LLC Company Name E Lomard Street, 30 Suite 1440 300 E. Lomard Street, Suite 1440 Address Telephone No. Address Telephone No. 410)234-0070 MD 21202 Baltimore, Baltimore, MD 21202 410)234-0070 City Zip Code State City State Zip Code OFFICE USE ONLY ESTIMATED LENGTH OF HEARING

Filod CBOA



Petition for Variance

to the Zoning Commissioner of Baltimory County

for the property located at 7801 Penninsula Expressway which is presently zoned BLR & OR-2

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

See Attachment

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

to be presented at hearing

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

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

Contract Purchaser/Lessee:

Contract Purchaser/Lessee:	Legal Owner(s):
The Enterprise Housing Corp. Name-Type or Print Signature 312 N. Martin Luther King Blvd. Address Telephone No. 10 Baltimore, MD 21201 (410) 962-024	CSX Realty Development Corp. Type or Print Signature Stephen A. Crosby Name - Type or Print
City State Zip Code	Signature
Attorney For Petitioner:	500 Water Street Address Telephone No.
David K. Gildea	Jackonsville, FL 32202
Name - Type or Print	State Zip Code
Signature	Representative to be Contacted:
Gildea, LLC V	Daviđ K. Gildea
Company	Name
300 E.Lomard Street, Suite 1440 Address	300 E. Lombard Street, Suite 1440
t ampriore No.	Address Telephone No.
Baltimore, MD 21201 (410)234-0070 City State Zip Code	Baltimore, MD 21202 (410)234-007
Σήρ σουσ	City State Zip Code
	OFFICE USE ONLY
Case No. 05-115-SPHA	ESTIMATED LENGTH OF HEARING
REV 9/15/98	UNAVAILABLE FOR HEARING 2 3004
Kulpt	Low Yaline TMR

Attachment to Variance Petition

1.)	CZR Section 206.4A and 1B01.2C1e to permit a building face to tract boundary of	40
	et in lieu of the required 60 feet.	

ZONING DESCRIPTION COVE POINT APARTMENTS 7795 AND 7801 PENINSULA EXPRESSWAY

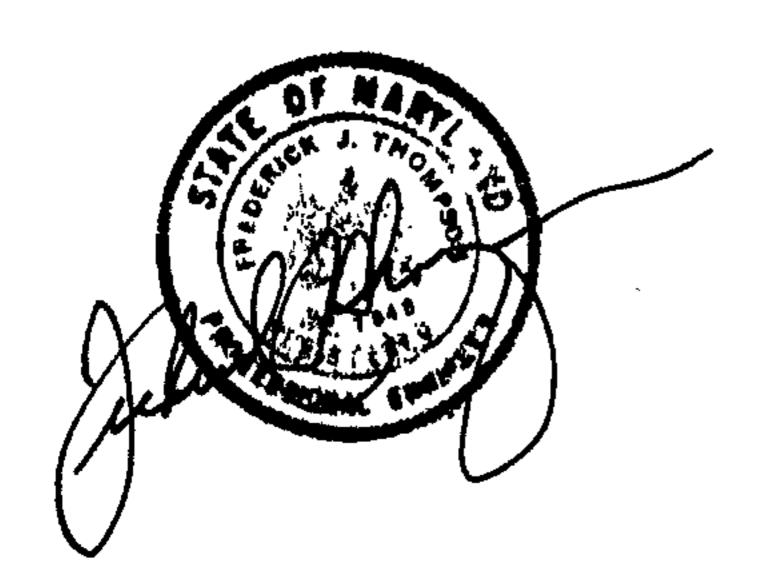
BEGINNING AT A POINT AT THE SOUTHWEST INTERSECTION OF PENINSULA EXPRESSWAY (160 FEET RIGHT OF WAY) AND MERRITT BOULEVARD (VARIABLE RIGHT OF WAY GREATER THAN 100 FEET WIDE). THENCE EXTENDING THE FOLLOWING 9 COURSES AND DISTANCES.

- 1. ALONG THE RIGHT OF WAY OF PENINSULA EXPRESSWAY SOUTH 59 DEGREES 56 MINUTES 04 SECONDS EAST, 2090.97 FEET AND
- 2. ON AN ARC CURVING TO THE RIGHT HAVING A RADIUS OF 1,045.92 FEET, THE ARC DISTANCE OF 82.39 FEET (CHORD BEARING SOUTH 57 DEGREES 40 MINUTES 40 SECONDS EAST, 82.37 FEET).
- 3. THENCE EXTENDING SOUTH 03 DEGREES 34 MINUTES 19 SECONDS EAST, 128.84 FEET;
- 4. SOUTH 24 DEGREES 57 MINUTES 12 SECONDS WEST, 39.67 FEET TO THE RAILROAD RIGHT OF WAY LINE;
- 5. ALONG THE RAILROAD RIGHT OF WAY LINE NORTH 64 DEGREES 58 MINUTES 33 SECONDS WEST, 1,466.31 FEET, AND;
- 6. NORTH 25 DEGREES 01 MINUTES 27 SECONDS EAST, 15.00 FEET, AND;
- 7. NORTH 64 DEGREES 58 MINUTES 33 SECONDS WEST, 826.33 FEET TO THE RIGHT OF WAY LINE OF MERRITT BOULEVARD;
- 8. ALONG THE RIGHT OF WAY LINE OF MERRITT BOULEVARD NORTH 35 DEGREES 44 MINUTES 31 SECONDS EAST, 288.22 FEET, AND;
- 9. NORTH 39 DEGREES 39 MINUTES 31 SECONDS EAST, 50.45 FEET TO THE POINT OF BEGINNING.

RECORDED IN LIBER 1406 FOLIO 077

CONTAINING 12.636 ACRES MORE OR LESS.

ALSO KNOWN AS 7795 AND 7801 PENINSULA EXPRESSWAY AND LOCATED IN THE 12th ELECTION DISTRICT.



BALTIMORE COUNTY, MARYLAND OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No.40663	PAID RECEIPT BUSINESS ACTUAL TIME 8/31/2004 8/31/2004 09:30:10
DATE 3004 ACCOUNT 001-	500-01-01 500	REG WSO6 WALKIN KMCM KXM >>RECEIPT # 290373 8/31/2004 Dept 5 528 ZONING VERIFICATION CR NO. 440663
RECEIVED SI DE LA	TANG	Recpt Tot \$650.00 \$650.00 CK \$.00 Baltimore County, Haryland
FOR: Decial Hearing	780	
DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER)5-//5-2PHA	CASHIER'S VALIDATION

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The Zoning Commissioner of Saltimore 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: #05-115-SPHA 7801 Penninsula Expressway Southeast corner of Penninsula Expressway 12th Election District - 7th Councilmanic District Legal Owner(s): CAX Realty Development Corp Stephen A Crosby Special Hearing: to permit a structure and parking in a reverine flood plain Verlance: to permit a building face to tract boundary of 40 feet in lieu of the required 60 feet. Hearing: Wednesday, September 29, 2004 at 10:00 a.m. In Room 407, County Office Building, 111 West Chesapeake Avenue

NOTICE OF ZONING HEARING

LAWRENCE E. SCHMIDT

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

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

JT 9/698 Sept. 14

21646

CERTIFICATE OF PUBLICATION

9/16,2004
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each of successive weeks, the first publication appearing on, 20_{-20} 6 $\frac{1}{1}$
The Jeffersonian
The Jeffersonian
Arbutus Times
Catonsville Times
Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News
S. WUKINST

CERTIFICATE OF POSTING

RE: Case No. 05-115-3PHA.

Petitioner/Developer: CAX REATY

DEVELOPMENT COLP, STEPHEN CROSBY

Date of Hearing/Closing: 9/29/04

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

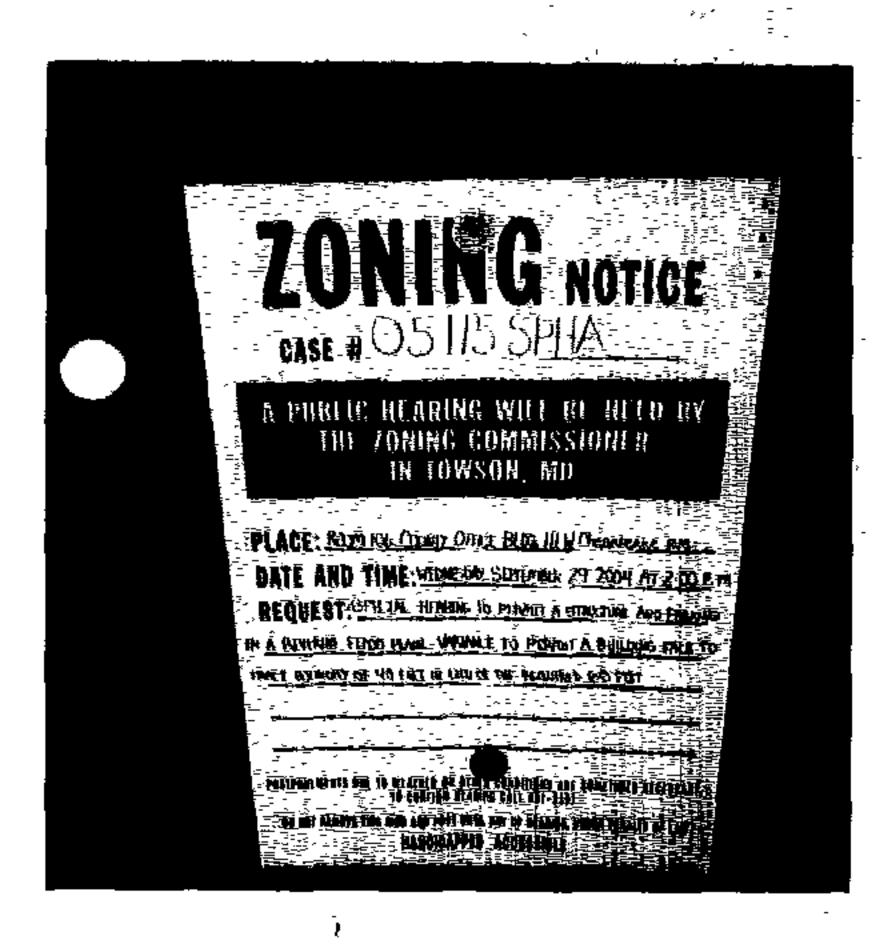
ATTN: Kristen Matthews {(410) 887-3394}

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:

| 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)

CERTIFICATE OF POSTING

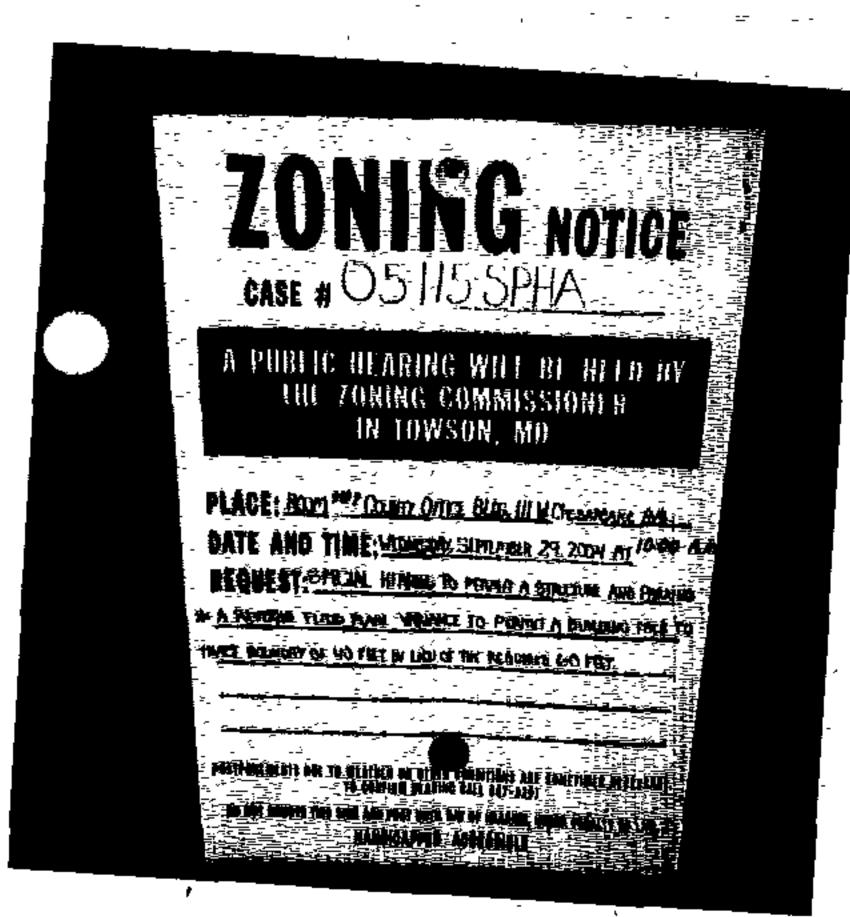
RE: Case No.: 05-115-5PHA Petitioner/Developer: CAX REACTY Date of Hearing/Closing: 9/ Sincerely, (Signature of Sign Poster) SSG Robert Black (Print Name) 1508 Leslie Road (Address) Dundalk, Maryland 21222 (City, State, Zip Code) (410) 282-7940

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:

nis letter is to certify under the penalties of perjury that the necessary sign(s) required by is posted conspicuously on the property located at:	, -
7801 PENNINSULA EXPY HEARING TIME	
Change To 19:00 A.M IN RM. 407 III W. ChESAP	FARE AVE
The sign(s) were posted on	
(Month, Day, Year)	



(Telephone Number)

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:		
Item Number or Case Number 05-115-5PHA		
Petitioner. The Enterprise Housing Long.		
Address or Location: 7801 and 7795 Penninsula Expressivey		
PLEASE FORWARD ADVERTISING BILL TO		
Name. David K. Gildea		
Address 300 E. Lambard St., Site 1440		
Baltimore MD 21505		
Telephone Number: 410 - 234-0070		

TO: PATUXENT PUBLISHING COMPANY

Thursday September 9, 2004 Issue - Jeffersonian

Please forward billing to:

David K. Gildea

410-234-0070 300 E. Lombard Street, Ste. 1440

Baltimore, Maryland 21202

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: 05-115-SPHA

7801 Penninsula Expressway

Southeast corner of Penninsula Expressway

12th Election District—7th Councilmanic District

Legal Owners: CAX Realty Development Corp. Stephen A. Crosby

Special Hearing to permit a structure and parking in a reverine flood plain

Variance to permit a building face to tract boundary of 40 fee in lieu of the required 60 feet.

Hearing: Wednesday, September 29, 2004 at 10:00 am in Room 407, County Office Building 111 West Chesapeake Avenue

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.

> FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits 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

September 2, 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: 05-115-SPHA

7801 Penninsula Expressway

huth Kotroco

Southeast corner of Penninsula Expressway

12th Election District—7th Councilmanic District

Legal Owners: CAX Realty Development Corp. Stephen A. Crosby

Special Hearing to permit a structure and parking in a reverine flood plain

Variance to permit a building face to tract boundary of 40 fee in lieu of the required 60 feet.

Hearing: Wednesday, September 29, 2004 at 10:00 in Room 407, County Office Building 111 West Chesapeake Avenue

Timothy Kotroco Director

TK: clb

C: David Gildea 300 E. Lombard Street, Ste. 1440 Baltimore 21201
The Enterprise Housing Corp 312 N. Martin Luther King Blvd. Baltimore 21201
CSX Realty Development Corp 500 Water Street Jacksonville, Florida 32202

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

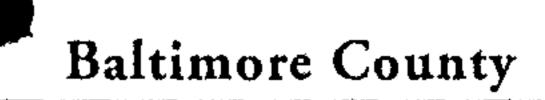


Visit the County's Website at www.baltimorecountyonline.info

Department of Permits and Development Management

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





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

September 24, 2004

David Gildea Gildea, LLC 300 E. Lombard Street, Ste. 1440 Baltimore, MD 21202

Dear Mr. Gildea:

RE: Case Number: 05-115-SPHA, 7801 and 7795 Penninsula Expressway

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 30, 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

U. Callaball D

WCR:klm

Enclosures

c: People's Counsel
David K. Gildea, Gildea, LLC, 300 E. Lombard Street, Ste. 1440, Baltimore 21202
CSX Realty, Stephen Crosby, 500 Water Street, Jacksonville FI 33202
Harvey Ziegler, V.P., 312 N. Martin Luther King Blvd., Baltimore 21201



Visit the County's Website at www.baltimorecountyonline.info

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

September 7, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: September 7, 2004

Item No.:

101-103, 105-111, 118-115

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.

2. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK Fire Marshal's Office PHONE 410-887-4881 MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 14, 2004

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 13, 2004

Item Nos. 101, 102, 103, 104, 105, 106, 103, 109, 110, 111, 112, 113, 114, and

115

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

ГО:	Tim Kotroco			RI SEN 29 WOOD
FROM:	John D. Oltm	ian, Jr J ⁰⁰		SEPT UN TOUR
DATE:	September 21	, 2004		1011/10 - 10 - 10 - 10 - 10 - 10 - 10 -
SUBJECT:	Zoning Item Address	# 05-115 7801 Penninsu		10000000000000000000000000000000000000
Zor	ing Advisory Co	mmittee Meeting	g of September 7,	2004.
	Department of E nments on the abo			urce Management has no
·····	-		rotection and Reso e-referenced zonin	urce Management offers ag item:
	Protection of	Water Quality, S		the Regulations for the and Floodplains (Sections Code).
•	_	Regulations (Se	must comply with ection 14-401 thro	n the Forest ugh 14-422 of the
	Critical Area		ctions 26-436 thro	n the Chesapeake Bay ough 26-461, and other
Ada	litional Commen	ts:		

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 13, 2004

Department of Permits and Development Management

FROM:

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

SUBJECT:

7801 Penninsula Expressway

INFORMATION:

Item Number:

5-115

Petitioner:

CSX Realty Development Corp.

Zoning:

BLR/OR 2

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request to permit a building face to tract boundary of 40 feet in lieu of the minimum required 60 feet contingent upon the petitioner submitting building elevations to this office for review and approval prior to the issuance of any building permits.

For further information concerning the matters stated herein, please contact Amy Trexler Mantay at 410-887-3480.

Prepared by:

Division Chief:

AFK/LL:MAC:



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

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

Maryland Department of Transportation

RE:

Date: September 7, 2004

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

Baltimore County

Item No. 115 (TMK)

7801 Peninsula Expressway

MD 157

Mile Post 2.54

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval of the Special Hearing. However, we will require the owner to obtain an access permit through our office for the roadway improvements within the Maryland State Highway Administrations' right of way.

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,

Steven D. Foster, Acting Chief Engineering Access Permits Division

J. Hall

BEFORE THE PETITION FOR SPECIAL HEARING RE: AND VARIANCE **ZONING COMMISSIONER** 7801 & 7795 Penninsula Expressway, SE corner Penninisula Expressway 12th Election & 7th Councilmanic Districts FOR Legal Owner(s): CSX Realty Development Corporation by Stephen A Crosby BALTIMORE COUNTY Contract Purchaser(s): The Enterprise Housing 05-115-SPHA Corporation, Harvey Zeiger, V.P Petitioner(s)

ENTRY OF APPEARANCE

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

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 2004, a copy of the foregoing Entry of Appearance was mailed to David Gildea, Esquire, Gildea, LLC, 300 E. Lombard Street, Suite 1440, Baltimore, MD 21202, Attorney for Petitioner(s).

RECEIVED

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Fillian markany

r,







Department of Public Works

Office of the Director 111 W. Chesapeake Avenue Towson, Maryland 21204 Tel: 410-887-3300 • Fax: 410-887-3406

Baltimore County

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

July 26, 2004

Gower Thompson Inc. 429 East Lake Avenue Baltimore, Maryland 21212

Attn.: Fred Thompson

Subject: Cove Point Apartments

Waiver of Floodplain Regulations

Dear Mr. Thompson:

Our office has reviewed the project site plan and floodplain study submitted May 31, 2004, as revised July 15, 2004.

Since the project involves development in the riverine flodplain, a waiver of section 26-276 Baltimore County Code is required. The purpose of this letter is to recommend approval of a waiver to develop the site as shown conceptually on the site drawings accompanying your floodplain study. This recommendation is subject to the conditions as cited in the attached memo from Steve Walsh to Dave Thomas dated July 19, 2004.

The required conditions (cleaning culverts, swale and embankment stabilization) shall be as determined during review of the development plan, and must be included in the Rightof-Way Improvement Agreement and/or Public Works Agreement for the project.

Please present this letter when applying for the waiver of floodplain regulations.

If there are questions, please feel free to contact Dave Thomas of my office at (410) 887-3984.

Sincerely,

Edward Cadams/wx Edward C. Adams, Jr.

Director

ECA/DLT/s

Attachment: Memo of July 19, 2004

CC: John Joyce, Bob Bowling, Steve Walsh

Visit the County's Website at www.baltimorecountyouline.info

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: July 19, 2004

TO:

Dave Thomas, Assistant to the Director

FROM:

Steve Walsh, Chief SAW

Storm Drain Design Section

SUBJECT:

Cove Point Apartments

100-Year Floodplain Study

We have received and reviewed the subject 100-year flood study, as modified July 15, 2004. We are recommending that this study be accepted for use in determination of flood elevations on the subject property.

To summarize briefly, the study shows an increase of about 0.2' in water surface elevation for the 100-year storm, which is contained entirely within the limits of the site. There is no impact to adjacent or upstream properties or to adjacent County roads.

In view of the fact that severe storms will cause relatively uncontrolled discharges over the railroad tracks in the Seaside Road area, we request that the Developer and his Engineer provide an assessment of and any necessary cleanout of the existing pipes under the railroad abutting the property to be developed. A cleanout of the swale between under the railroad and Bullneck Creek should also be done in order to minimize the extent of Seaside Road and Bullneck Creek should also be done in order to minimize the extent of the overflow of the railroad tracks, and any damages incidental thereto.

As part of final design, the Engineer needs to consider whether additional stabilization of the existing railroad embankment and the proposed embankment is necessary to prevent scour during severe storms as storm water passes through this area toward the low portion of the railroad tracks near Seaside Road.

We hope that these comments are helpful to you in formulating a Departmental response to this project submittal.

SAW/DAS

CovePointApts1.DOC

GILDEA, LLC

DAVID R. GHIDEA DAVIDGILDBA@GILDBALLE.COM

SEBASTIAN A. CROSS SCROSS@UILDBALLCCOM

JOSEPH R WOOLMAN, III JWOOLMAN@GILDEALLCCOM

D. DUSKY HOLMAN DHOLMAN@GILDEALL.C.COM

STUART W. COX SCOX@GILDEALLCCOM

300 EAST LOMBARD STREET

SUITE 1440

BALTIMORE, MARYLAND 21202

TELEPHONE 410-234-0070 FACSIMILE 410-234-0072 www.gildealle.com

August 26, 2004

VIA HAND DELIVERY

W. Carl Richards, Jr. Zoning Review Supervisor Permits and Development Management 111 W. Chesapeake Avenue Towson MD 21204

> Re: The Enterprise Housing Corp./Cove Point

Dear Carl:

Enclosed please find 16 copies of the revised plans as well as revised filing materials in the above referenced matter. We have addressed each of your comments as follows:

- Code references regarding the floodplain waiver have been updated.
- 2. A note has been added regarding compliance with the performance standards for BLR zones.
- 3. The density calculations have been revised to reflect the adjacent DR 5.5 zone.
- 4. The bedroom count remains, as the proposed use is an elderly housing facility for which density "units" are defined according to bedroom count.

Thank you for your anticipated cooperation regarding this filing. Should you have any questions regarding this matter, please contact me. With kind regards, I am

Very truly yours,

oolman, III

JRWIII:bhb

J.Joseph Clarke, The Enterprise Housing Corp. CC: Frederick J. Thompson, Gower Thompson, Inc.

David K. Gildea, Esquire

GILDEA & SCHMIDT, LLC

DAVIDGILDEA@GILDEALLC.COM

LAWRENCE E. SCHMIDT LSCHMIDT@GILDEALLC.COM

SEBASTIAN A. CROSS SOROSSØGILDEALLC.COM

JOSEPH R. WOOLMAN, III JWOOLMAN@GILDEALLC.COM

D DUSKY HOLMAN
DHOLMAN@GILDEALLC.COM

300 EAST LOMBARD STREET

SUITE 1440

BALTIMORE, MARYLAND 21202 TELEPHONE 410-234-0070

FACSIMILE 410-234-0072
www.gildeallc.com

November 1, 2004

HAND DELIVERED

DEGET WE FOR NOV - 3 2004 PEOPLE'S COUNSEL

TOWSON, MD OFFICE

220 BOSLEY AVENUE

TOWSON, MARYLAND 21204

TELEPHONE 410-337-7057

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

Re: Petition for Special Hearing and Variance

Case Number: 05-115-SPHA

Dear Mr. Zimmerman:

This is in response to your letter of October 20, 2004 to the Honorable John V. Murphy, Deputy Zoning Commissioner for Baltimore County. Your letter was filed as a Motion for Reconsideration of Mr. Murphy's Findings of Fact and Conclusions of Law and Order issued in the above matter on October 5, 2004.

Although I did not personally represent this firm's client at the public hearing on this matter, I believe that the reason that Mr. Adams' letter and the internal memorandum written by Steve Walsh and referenced therein was not made part of the Order as a restriction is because of the plain language therein; to wit, Mr. Adams specifically states, "The required conditions (cleaning culverts, swale, and embankment stabilization) shall be as determined during review of the development plan, and must be included in the Right-of-Way Improvement Agreement and/or Public Works Agreement for the project." (emphasis added) That is, it is clear that Mr. Adams did not view this as an issue to be addressed through the order rendered on the Petitions for Special Hearing and Variance, rather, he clearly stated that it is more appropriately addressed when the conditions could be determined with certainty during development plan review and, ultimately, be incorporated into the Right-of-Way and/or Public Works Agreements.

As to their substance, my client does not object to the proposed conditions, as they will ultimately be determined by Baltimore County. It should be further noted that certain of the proposed conditions relate to improvements/field conditions that are not physically located on my client's property and, thus, my client has limited ability to make off site improvements. Nonetheless, my client, in an effort to ensure compliance, has contacted CSX Railroad and it has agreed to make improvements on its property as required (See attached e-mail).

Peter Max Zimmerman, Esquire November 1, 2004 Page 2

In any event, of major concern to my client is the fact that they are to close on this property on November 12, 2004. The financing is through the federal government (HUD) and that agency has insisted that the zoning order must be final on that date. Therefore, either an appeal of Mr. Murphy's order or a new order by him with a new thirty day appeal period would, in effect, prohibit closing.

Under the circumstances, I respectfully request that, in lieu of a new order, a copy of this letter, countersigned by Mr. Murphy, be inserted in the County case file for this matter. Moreover, as requested by Mr. Adams', my client agrees to the conditions identified in Mr. Adams' letter and Mr. Walsh's memorandum, as definitively determined during the development plan approval process. If determined necessary by Mr. Adams, such conditions shall incorporated in the Right-of-Way and/or Public Works Agreements.

I believe that proceeding in this fashion will ensure that the conditions, as ultimately determined, will be completed, while allowing my clients to close on this transaction in a timely fashion. Thank you for your consideration of this matter.

Very truly yours,

Lawrence E. Schmidt

LES/mos

cc: Honorable John V. Murphy Joseph J. Clarke Joseph R. Woolman, Esquire David K. Gildea, Esquire

AGREED AND ACCEPTED:

John V. Murphy

Deputy Zoning Commissioner

Larry Schmidt

From:

J. J. Clarke [jjclarke@msn.com]

Sent:

Monday, November 01, 2004 1:01 PM

To:

Harvey Zeiger; Fred Thompson; David Gildea; Larry Schmidt

Subject: Fw: Dundalk line

See this note from CSX Rea Estate chief in Jacksonville.

From: Hurley, Kevin
To: J. J. Clarke
Cc: Clarke, Karen

Sent: Monday, November 01, 2004 12:02 PM

Subject: RE: Dundalk line

Joe:

Our folks are going to inspect the two pipes and will clean out if necessary. I don't know whether the swale that you refer to is on our property. We will take care of the situation as it relates to our property only. Kevin

----Original Message-----

From: J. J. Clarke [mailto:jjclarke@msn.com]
Sent: Friday, October 29, 2004 12:00 PM

To: Hurley, Kevin

Cc: Harvey Zeiger; Fred Thompson; Joe Woolman

Subject: Dundalk line

Baltimore County has expressed three concerns unrelated to the parcel we are buying but of concern to your raised rail line adjacent to the subject parcel. They are:

- 1. The two pipes under the embankment must be cleaned out.
- 2. The swale (on the other side of the tracks from our parcel) between Seaside Road and Bullneck Creek must be cleaned out to minimize the effect of overflow.
- 3. That an engineer consider measures to further stabilize the railroad embankment to prohibit scour in the even of an overflow.

We may need to convey to the County your willingness to address these issues and I wanted you to be aware of them now.





Room 47, Old CourtHouse

400 Washington Ave. Towson, MD 21204

OC1 3 0 2004

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

PETER MAX ZIMMERMAN People's Counsel

October 20, 2004

CAROLE S. DEMILIO
Deputy People's Counsel

John V. Murphy, Deputy Zoning Commissioner 401 Bosley Avenue Towson, MD 21204

Re: I

Petition for Special Hearing and Variance

CSX Realty Development Corporation by Stephen Crosby, L.O. The Enterprise Housing Corporation by Harry Zeiger, V.P., C.P.

Case No.: 05-115-SPHA

Dear Mr. Murphy,

Upon review of the opinion and order dated October 5, 2004, we find it necessary to ask your reconsideration pursuant to Rule 4K to include an additional condition in the Order. This condition should require compliance with conditions recommended by the Department of Public Works (DPW) and require that the project be subject to continuing review, approval and monitoring by DPW.

The request to fill and alter a riverine flood plan naturally raises serious concerns. In the 1970s, in the wake of Hurricane Agnes, the County found that it had to purchase many properties in the Villa Nova area. In the last 30 years, the State and County have passed new laws which generally prohibit development in the floodplain.

We recognize that DPW has recommended approval of this project based on the particular circumstances. It has included, however, various conditions. The relevant correspondence is from Edward Adams, Director of Public Works, dated July 26, 2004, and from Stephen Walsh to David Thomas dated July 19, 2004. These are enclosed. The conditions are stated in detail in Mr. Walsh's memorandum:

- 1. An assessment and any necessary cleanout of the existing pipes under the railroad abutting the property to be developed.
- 2. A cleanout of the swale between Seaside Road and Bullneck Creek should also be done in order to minimize the extent of the overflow of the railroad tracks, and any damages incidental thereto.

3. As part of final design, the Engineer needs to consider whether additional stabilization of the existing railroad embankment and the proposed embankment is necessary to prevent scour during severe storms as storm water passes through this area toward the low portion of the railroad tracks near Seaside Road.

Mr. Adams elaborated, in recommending approval of the waiver:

"The required conditions (cleaning culverts, swale and embankment stabilization) shall be as determined during review of the development plan, and must be included in the right-of-way Improvement Agreement and/or Public Works Agreement for the project."

Because the October 5, 2004 Order here did not include any reference to the DPW conditions and function, we ask that it be included. Even if the DPW has confidence that the proposed plan will not adversely have an impact on the floodplain, it is critical that the plans be implemented and maintained. Otherwise, there could well be an adverse effect in a flood event.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

Carole S. Démilio

Deputy People's Counsel

PMZ/CSD/rmw

Enclosures

cc: Edward Adams, Director of Public Works

David Thomas, Assistant to the Director of DPW

David Gildea, Esquire, Gildea & Schmidt, LLC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: July 19, 2004

TO:

Dave Thomas, Assistant to the Director

FROM:

Steve Walsh, Chief 974 Storm Drain Design Section

SUBJECT:

Cove Point Apartments
100-Year Floodplain Study

We have received and reviewed the subject 100-year flood study, as modified July 15, 2004. We are recommending that this study be accepted for use in determination of flood elevations on the subject property.

To summarize briefly, the study shows an increase of about 0.2' in water surface elevation for the 100-year storm, which is contained entirely within the limits of the site. There is no impact to adjacent or upstream properties or to adjacent County reads.

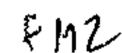
In view of the fact that severe storms will cause relatively uncontrolled discharges over the railroad tracks in the Seaside Road area, we request that the Developer and his Engineer provide an assessment of and any necessary cleanout of the existing pipes under the railroad abutting the property to be developed. A cleanout of the swale between under the railroad abutting the property to be developed. A cleanout of the swale between Seaside Road and Bullneck Creek should also be done in order to minimize the extent of the overflow of the railroad tracks, and any damages incidental thereto.

As part of final design, the Engineer needs to consider whether additional stabilization of the existing railroad embankment and the proposed embankment is necessary to prevent scour during severe storms as storm water passes through this area toward the low portion of the railroad tracks near Seaside Road.

We hope that these comments are helpful to you in formulating a Departmental response to this project submittal.

SAW/DAS

CovePoinIApts1.DOC



Department of Public Works

Office of the Director

111 W. Chesapeake Avenue
Towson, Maryland 21204

Tel: 410-887-3300 • Fax: 410-887-3406



Baltimore County

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

July 26, 2004

Gower Thompson Inc. 429 East Lake Avenue Baltimore, Maryland 21212

GOW

Attn.: Fred Thompson

Subject: Cove Point Apartments

Waiver of Floodplain Regulations

Post-It* Fax Note 7671	Date 9-29-2004 Pages 2
To Peter Limnerman	From Bob Bowling
Co./Dept.	DDH-DPR
Phone #	Phone #10-887-3751
Fax #410.823-4236	Fax#414-887-2877

Dear Mr. Thompson:

Our office has reviewed the project site plan and floodplain study submitted May 31, 2004, as revised July 15, 2004.

Since the project involves development in the riverine flodplain, a waiver of section 26-276 Baltimore County Code is required. The purpose of this letter is to recommend approval of a waiver to develop the site as shown conceptually on the site drawings accompanying your floodplain study. This recommendation is subject to the conditions as eited in the attached memo from Steve Walsh to Dave Thomas dated July 19, 2004.

The required conditions (cleaning culverts, swale and embankment stabilization) shall be as determined during review of the development plan, and must be included in the Right-of-Way Improvement Agreement and/or Public Works Agreement for the project.

Please present this letter when applying for the waiver of floodplain regulations.

If there are questions, please feel free to contact Dave Thomas of my office at (410) 887-3984.

Sincerely,

Edward C. Adams, Jr.

Director

ECA/DLT/s

Attachment: Memo of July 19, 2004

CC: John Joyce, Bob Bowling, Steve Walsh

Visit the County's Website at www.baltimorecountyonline.info



Frimed on Rusysless Facilities



Baltimore County, Marylana

OFFICE OF PEOPLE'S COUNSEL

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

NOV 4 2004

PETER MÁX ZIMMERMAN People's Counsel 410-887-2188 Fax: 410-823-4236

November 3, 2004

ZONNG COMMUSSIONER

Deputy People's Counsel

John V. Murphy, Deputy Zoning Commissioner 401 Bosley Avenue Towson, MD 21204

Re:

Petition for Special Hearing and Variance

CSX Realty Development Corporation by Stephen Crosby, L.O. The Enterprise Housing Corporation by Harry Zeiger, V.P., C.P.

Case No.: 05-115-SPHA

Dear Mr. Murphy,

We are in receipt of the enclosed letter dated November 1, 2004 from Lawrence E. Schmidt, Esq., representing petitioners, CSX Realty Development Corporation and the Enterprise Housing Corporation. His letter refers to "this firm's client." The body of the letter indicates that his proposal relates both to Enterprise and CSX, and we respond based on that assumption.

Mr. Schmidt states that Enterprise and CSX agree to the floodplain management conditions requested by Department of Public Works Director Edward Adams in his correspondence July 26, 2004 and the Walsh/Thomas memorandum of July 19, 2004. In light of a deadline for a HUD real estate settlement, and the importance of finalizing this litigation, he asks that our office withdraw its motion for reconsideration. In this connection, as we read Mr. Schmidt's letter, he gives his pledge that the developer, Enterprise, and CSX (to the extent their property is also involved) will incorporate and satisfy the DPW conditions in the development process.

We understand Mr. Schmidt's letter will become a part of the file and effectively follow the project into the development process. As this appears to accomplish the purpose of our motion, and provide the functional equivalent of a condition in the zoning order dated October 5, 2004, we are satisfied to cooperate and withdraw the motion for reconsideration.

For future reference, we still believe that reasonable DPW conditions must ordinarily be incorporated in any order where the department and the commissioner find it appropriate to grant a waiver for development in the floodplain. This is among the requirements in the County's floodplain law.

In addition, for the purpose of the development process in this case, we find it helpful to include a summary of the floodplain law. Code Secs. 32-8-201 to 32-8-208 outline the Floodplain Management Program, which generally prohibits development in the floodplain. Secs. 32-8-301 to 32-8-307 discuss waivers. Sec. 32-8-303 outlines the reasons for granting a waiver, including "exceptional hardship" (not economic), no increase in flood heights, no adverse impact on public safety, and other enumerated standards. Sec. 32-8-304 states:

"Waivers may not be granted for the following:

- Placement of fill or any development in the floodway if any increase in flood levels would result;
- (2) New buildings in the floodplain.

Sec. 32-8-305 refers to conditions and recordation. This includes notification of conditions, impact on flood insurance, recordation of conditions in the relevant deed or memorandum of deed restriction, and the securing of necessary permits. Sec. 32-8-306 requires the county to maintain records and report to FEMA.

We expect, as the project proceeds through the development process, that the developer, DPW and the Hearing Officer will take the appropriate action to assure adherence to all the statutory standards pertinent to the conditional waiver.

In sum, to repeat, based on all of the above, this office is withdrawing its motion for reconsideration so that the special hearing phase of this matter may be considered final. As Mr. Schmidt's letter says, the development approval process is yet to come.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

(nt/immermen

Carole S. Demilio

Deputy People's Counsel

Carole S Denutio

PMZ/CSD/rmw

Enclosures

cc: Edward Adams, Director of Public Works
David Thomas, Assistant to the Director of DPW
Lawrence E. Schmidt, Esquire, Gildea & Schmidt, LLC

PLEASE PRINT CLEARLY

CASE NUMBER 051/5-DATE 9/99/04

PETITIONER'S SIGN-IN SHEET

E- MAIL	Granke @ Maryer									
CITY, STATE, ZIP	Bariner MD 21202	E CACE AS								
ADDRESS	120 2. Betrome 57 429 E Cake Brong	2								
NAME	Tindy Gower Gared	(the Mosan)								



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

Antochurch Spring















Department of Public Works

Office of the Director
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3300 • Fax: 410-887-3406

Baltimore County

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

July 26, 2004

Gower Thompson Inc. 429 East Lake Avenue Baltimore, Maryland 21212

Attn.: Fred Thompson

Subject: Cove Point Apartments

Waiver of Floodplain Regulations

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Please present this letter when applying for the waiver of floodplain regulations.

If there are questions, please feel free to contact Dave Thomas of my office at (410) 887-3984.

Sincerely,

Edward C. Adams, Jr.

Director

ECA/DLT/s

Attachment: Memo of July 19, 2004

CC: John Joyce, Bob Bowling, Steve Walsh

Q XX



Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: July 19, 2004

TO:

Dave Thomas, Assistant to the Director

FROM:

Steve Walsh, Chief Situ Storm Drain Design Section

SUBJECT:

Cove Point Apartments

100-Year Floodplain Study

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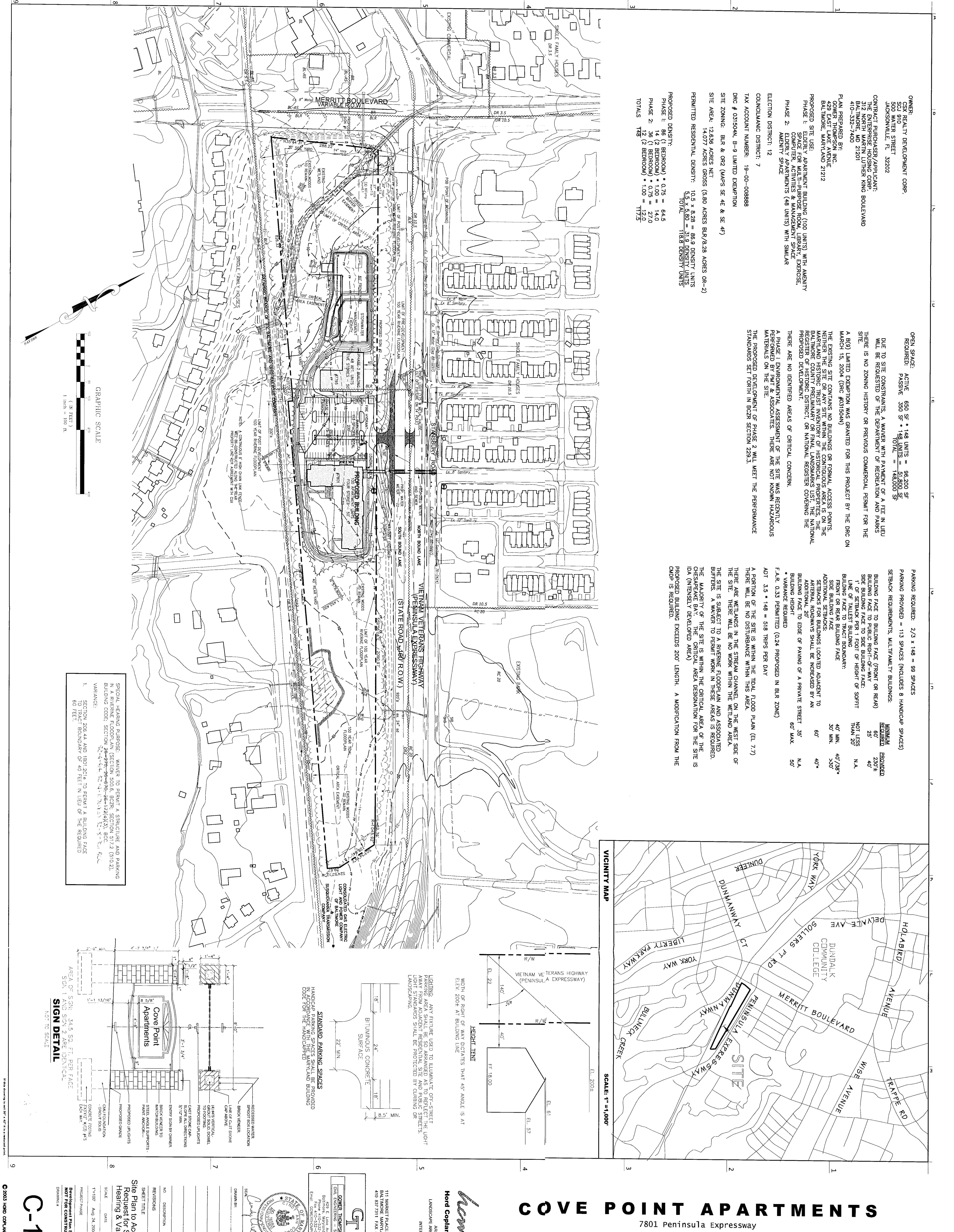
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SAW/DAS

CovePointApts1.DOC



7801 Peninsula Expressway
7795 Peninsula Expressway
Raltimore County Maryland

