IN RE: PETITION FOR VARIANCE
W/S of Middle River Road, 260 ft. N
centerline of Orems Road
15th Election District
7th Councilmanic District
(1421 Engeloss Avenue)

(1431 Fuselage Avenue)

Taco Bell of America, Inc., By: Bharat Parikh Petitioner BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 05-202-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by Taco Bell of America, Inc., by Bharat Parikh, the Petitioners. The Petitioners are requesting variance relief for property located at 1431 Fuselage Road in the Middle River area of Baltimore County. Variance relief is requested to allow 37 parking spaces in lieu of the required 54 spaces, to allow 1 foot landscape buffer in lieu of the required 20 ft., to permit five (5) enterprise signs on the building facades in lieu of the permitted three (3) signs, to permit three (3) enterprise signs on the front of the building façade in lieu of the permitted two (2) signs, to permit "canopy" directional signs in lieu of the permitted "wall mounted" or "freestanding signs", to permit sign/face area of 9.83 sq. ft. for directional sign in lieu of the permitted 8.0 sq. ft., to permit erection of the sign of the above face of the canopy in lieu of its erection on the face of canopy, and to permit a portion of the sign to extend above the parapet.

The property was posted with Notice of Hearing on November 12, 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 November 16, 2004 to notify any interested persons of the scheduled hearing date.

Applicable Law

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, offstreet 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 December 1, 2004, 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 Iwona Rostek-Zarska, civil engineer, and Bhasat Parikh on behalf of Petitioners. Brian M. Quinn, Esquire represented the Petitioners. There were no protestants or citizens who attended the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

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Mr. Quinn proffered that the subject site has been improved by a Taco Bell restaurant for the past 20 years. The parent corporation has determined that this restaurant should be upgraded to serve both Taco Bell and now Long John Silver food lines from the same location. The requests for variance arise from that change.

The property had been granted a variance in Case No. 01-217-A. This variance involved allowing 37 parking spaces in lieu of the required 49, variances concerning the drive-thru and from

provisions of the Landscape Manual. Apparently, Taco Bell's intention at the time was to raze the building and replace it with a larger one. The parking and traffic control were to be upgraded. However, corporate plans changed and the new larger building was never erected. Consequently, the existing Taco Bell restaurant is now three years older and it, rather than the new larger building, becomes the baseline for these requests. The Petitioner requested, however, that unless modified herein, the requirements of the order in Case No. 01-217-A continue to apply. Consequently, the Plan to Accompany assumes that variance 2 through 7 of the prior order remain in effect. Only variance 1 and 8 would be modified.

The first modification comes from the need to have a slightly larger building than proposed in the 2001 Plan to Accompany. The building would be 350 sq. ft. larger due the need for kitchen and service facilities. This raises the number of parking spaces from 49 required to 54 required. As before, 37 spaces can be provided. See Petitioner's Exhibit 1. However, whereas the 2001 design seated 72 customer, this design seats 60.

The Petitioner's engineer noted that she redesigned and improved the parking on the site compared to the existing conditions. By doing so she was able to pry another one foot for the landscape buffer required by the Landscape Manual which would be in lieu of the required 20 ft. of buffer width. She noted that the prior variance allowed a zero foot buffer so that the present proposal is slightly better than that previously granted.

Ms. Rostek-Zarska indicated that the lot was oddly shaped by nearly enclosing an existing dental office on Middle River Road. This greatly limits the parking spaces and traffic flow on this side of the building. In addition, the building is located close to the right-of-way for Martin Boulevard from which there is no access. Again, as a result there can be no parking on this side of the building. As a result, she indicated the property was unique in a zoning sense. She noted, however, that parking is shared with the adjacent Food Lion grocery store and the dental office, so that overall the center provides 240 spaces in lieu of 248 spaces required. She further opined that

Findings of fact and conclusions of law

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I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I agree the lot is oddly shaped. The existing building is located behind the dental office, which makes it very difficult to provide parking and traffic flow. I also find that strict compliance with the regulations would result in practical difficulty or unreasonable hardship. There is no other location on the lot to place more parking. The two food brands need a slightly larger restaurant so there is a slight increase in the number of spaces requires.

Furthermore, I find that these variances can be granted in strict harmony with the spirit and intent of said regulations, and in a manner as to grant relief without injury to the public health, safety and general welfare. I accept proffered testimony that parking is shared with the adjacent Food Lion and dental office and that overall the center is only slightly below parking requirements. I also note that the prior variance was based on 72 persons being served and that, in fact, the Petitioner is planning 60 persons being served even with the two food lines being offered.

In regard to the signage, I accept the Petitioner's need to announce the two food lines to the public and to present a nationally consistent signage in so doing. The square footage area of the proposed signs are within the regulations but this area is broken up into more signs at the site then allowed under the regulations. As such, I find the proposed signage meets the spirit and intent of the sign regulations and will not be a detriment to the community on this site, which has been a restaurant for more the twenty years.

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 requests should be granted.

THEREFORE, IT IS ORDERED, this ______ day of December, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for variance relief: to allow 37 parking spaces in lieu of

the required 54 spaces, to allow 1 foot landscape buffer in lieu of the required 20 ft., to permit five (5) enterprise signs on the building facades in lieu of the permitted three (3) signs, to permit three (3) enterprise signs on the front of the building façade in lieu of the permitted two (2) signs, to permit "canopy" directional signs in lieu of the permitted "wall mounted" or "freestanding signs", to permit sign/face area of 9.83 sq. ft. for directional sign in lieu of the permitted 8.0 sq. ft., to permit erection of the sign of the above face of the canopy in lieu of its erection on the face of canopy, and to permit a portion of the sign to extend above the parapet, be and they are hereby GRANTED subject to the following conditions:

- 1. The Petitioner must comply with the ZAC comments submitted by the Office of Planning dated December 1, 2004, a copy of which is attached hereto and made a part hereof;
- 2. In addition, pursuant to the Zoning Advisory Committee (ZAC) comments submitted by the Office of Planning, dated December 6,2000, the dumpster enclosure shall be constructed of brick or board-on-board material and additional major deciduous trees shall be provided in the northwest corner of the property adjacent to Martin Boulevard.
- 3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

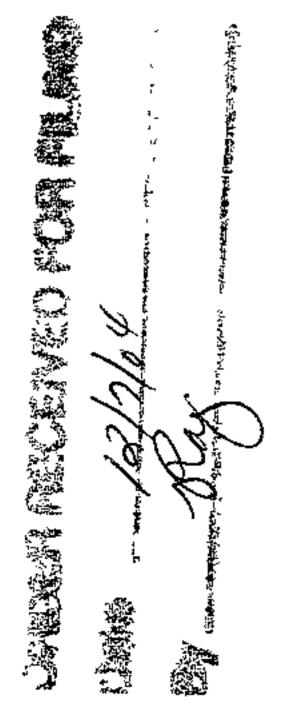
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN V. MURPHY

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

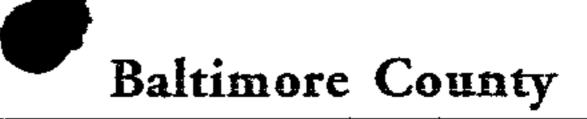
JVM:raj



Zoning Commissioner

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





James T. Smith, Jr., County Executive William J. Wiseman III, Zoning Commissioner

December 7, 2004

Paul A. Tiburzi, Esquire Brian M. Quinn, Esquire Piper, Marbury, Rudnick & Wolfe 6225 Smith Avenue Baltimore, Maryland 21209-3600

Re: Petition for Variance
Case No. 05-202-A
Property: 1431 Fuselage Avenue

Dear Messrs. Tiburzi & Quinn:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the 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: Iwona Rostek-Zarska, P.E., 222 Schilling Cir., Ste. 105, Hunt Valley, MD 21030 Bharat Parikh, 7250 Parkway Dr., Hanover, MD 21076



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





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1431 Fuselage Avenue which is presently zoned BM

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 NO. 1

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

SEE ATTACHMENT NO. 2

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 selemnly 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:

Legal Owner(s):

Name - Type or Print			Name -	Taco Bell of Type or Print				
Signature			-	Signature		<u> </u>	<u> </u>	
Address		Telephone No.	_	Bharat Parikh Name-Type dr Pdat	Const vu	tion Ma	nager	
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Attorney For Petitioner:				7250 Parkway	Drive	(410)	712-0500	(x102)
Paul A. Tiburzi				Address			Talaphona N	lo.
Brian M. Quinn	<u> </u>			Hanover,	MD	2	21076	
Name - Type or Print	7		City		State	2	p Code	
Signature M. L	~			Representative	to be Cont	acted:		
Signature			-		to be going			
Piper Rudnick LLP				Iwona Rostek-2	Zarska, B	LDG, Inc	L •	
Сотрану			-	Name		· · · · · · · · · · · · · · · · · · ·	······	
6215 Smith Avenue	(410)	580-3000		222 Schilling	Circle	(410)	229-9851	(x104)
Address		Telephone No.		Address Suite 10)5		Telephone No	·-
Baltimore, City	<u>MD</u>	21209-3600		Hunt Valley,	MD	2	1030	
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Attachment No. 1

Site Requests*

- 1. PER SECTION 409.6.A.2. (B.C.Z.R.) TO ALLOW 37 PARKING SPACES IN LIEU OF THE REQUIRED 54 SPACES (47 SPACES FOR TACO BELL/LONG JOHN SILVER'S AND 7 SPACES FOR THE DENTIST OFFICE). THE DENTIST OFFICE IS ENTITLED TO UTILIZE PARKING SPACES LOCATED WITHIN THE TACO BELL AND FOOD LION PARKING LOTS, PER DEED REFERENCE 7847/250.
- PER PART III, CONDITION G-STORAGE AND LOADING, 1.a. (BALTIMORE COUNTY LANDSCAPE MANUAL) TO ALLOW 1' LANDSCAPE BUFFER IN LIEU OF THE REQUIRED 20'.
- * The two site variance requests listed above are intended to modify the plan and two (2) of the eight (8) variances previously granted by the Baltimore County Zoning Commissioner through an order dated February 28, 2001 in Case No.: 01-217-A. See, February 28, 2001 Order enclosed herein ("Previous Order"). Specifically, Requests Nos. 1 and 2 above are intended to modify Requests Nos. 1 and 8, respectively, of the Previous Order. Moreover, the current Revised Petition requests confirmation that the remaining six (6) variances granted through the Previous Order remain in effect.

Request No. 1 above requests authorization for the same number of parking spaces (37) as approved in the Previous Order, however, the current restaurant requires 54 parking spaces (as opposed to 49 total spaces) because it is designed with a slightly larger kitchen than the previous restaurant.

Request No. 2 above requests authorization to permit a landscape buffer of 1 foot in lieu of the required 20 feet. The Previous Order granted relief from the identical section of the Baltimore County Landscape Manual (Part III, Condition G-Storage and Loading, 1.a) but permitted a landscape buffer of 0 feet in lieu of the required 20 feet.

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Sign Requests

- 1. VARIANCE FROM SECTION 450.4.5.a OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT FIVE (5) ENTERPRISE SIGNS ON THE BUILDING FACADES IN LIEU OF THE PERMITTED THREE (3) SIGNS (SIGNS #1, #2, #4, #6, AND #7).
- 2. VARIANCE FROM SECTION 450.4.5.a OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT THREE (3) ENTERPRISE SIGNS ON THE FRONT BUILDING FAÇADE IN LIEU OF THE PERMITTED TWO (2) SIGNS (SIGNS #1, #2, AND #4).
- 3. VARIANCE FROM SECTION 450.4.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT "CANOPY" DIRECTIONAL SIGNS IN LIEU OF THE PERMITTED "WALL-MOUNTED" OR "FREESTANDING" SIGNS (SIGNS #3, #5, AND #8).
- 4. VARIANCE FROM SECTION 450.4.3 OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT SIGN/FACE AREA OF 9.83 SF FOR DIRECTIONAL SIGN IN LIEU OF THE PERMITTED 8.0 SF (SIGN #5).
- 5. VARIANCE FROM SECTION 450.5.B.3.b OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT ERECTION OF THE SIGN ABOVE FACE OF THE CANOPY IN LIEU OF ITS ERECTION ON THE FACE OF CANOPY (SIGNS #1 & #8).
- 6. VARIANCE FROM SECTION 450.5.B.9.b OF THE BALTIMORE COUNTY ZONING REGULATIONS TO PERMIT A PORTION OF THE SIGN TO EXTEND ABOVE THE PARAPET (SIGN #2).

Attachment No. 2

- due to constraints caused by the location of existing buildings (i.e., dentist's office and supermarket) on the lot and Baltimore County landscaping requirements, the unique configuration of the property is insufficient to accommodate the number of parking spaces required by Section 409.6.A.2. (B.C.Z.R.);
- due to the unique configuration of the property, the petitioner faces a practical difficulty in complying with certain sections of the Baltimore County Landscape Manual as required by Section 409.8.A. (B.C.Z.R.) and, as such, requests relief from certain requirements contained therein;
- due to constraints caused by the location of existing buildings on the lot and the unique configuration of the property, the petitioner requests relief from certain sections of Section 450 (B.C.Z.R.) ("Signs") and requests authority to install certain additional signs to allow petitioner to effectively advertise its location to the public;
- 4. due to the unique configuration of the property and the location of existing buildings on the lot, the petitioner faces a practical difficulty in complying with certain sections Section 450 (B.C.Z.R.) ("Signs") and, as such, requests relief from certain requirements contained therein.



September 15, 2004

Beginning at a point on the west side of Middle River Road (60' wide) said point being northerly 260 feet, more or less, from the centerline of Orems Road (60' wide) thence running the following courses and distances:

- 1. South 05° 50' 00" East 34.89 feet, more or less, to a point; thence,
- 2. North 79° 08' 00" West 76.38 feet, more or less, to a point; thence,
- 3. South 10° 52' 00" West 20.00 feet, more or less, to a point; thence,
- 4. South 79° 08' 00" East 82.38 feet, more or less, to a point; thence,
- 5. South 05° 50' 00" East 68.59 feet, more or less, to a point; thence,
- 6. North 86° 40' 13" West 85.47 feet, more or less, to a point; thence,
- 7. South 69° 46' 05" West 162.42 feet, more or less, to a point; thence,
- 9. No. 4h 020 192 4522 To -4 105 CO Co-4 ----- -- 1--- 4- -----
- 8. North 03° 13' 45" East 195.60 feet, more or less, to a point; thence,
- 9. North 84° 30' 00" East 55.44 feet, more or less, to a point; thence,
- 10. South 79° 15' 00" East 155.00 feet, more or less, to a point; thence,
- 11. North 64° 00' 00" East 7.35 feet, more or less, to the point of beginning. Containing 32, 470 square feet or 0.7454 acres of land, more or less. Known as 1431 Fuselage Avenue located in the 15th Electric District of Baltimore County, Maryland.

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

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NOTICE OF ZONING HEARING

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

Case: #05-202-A
1431 Fuselage Avenue
Wyslde of Middle River Road, 260 ft. n/of Orems Road Wyslde of Middle River Road, 260 ft. n/of Orems Road 15th Election District. — 7th Councilmanic District Legal Owner(s): Taco Bell of America, Inc.
Legal Owner(s): Taco Bell of America, Inc.
Legal Owner(s): Taco Bell of America, Inc.
Variance: to allow 37 parking spaces in lieu of the permitted signs on the building facades in lieu of the permitted signs on the building facade in lieu of the permitted two front of the building facade in lieu of the permitted wall mounted: or "freestanding" signs, to permit sign/face area of 9.83 sq. ft. for directional sign in permit sign/face area of 9.83 sq. ft. for directional sign in permitted wall mounted: or "freestanding" signs in lieu of the permitted 8.0 sq. ft. to permit erection of the lieu of the above face of the camopy in lieu of its erection sign of the above the parapet.

Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Hearing: Thursday December 2, 2004 at 10:00 a.m. in Hearing: Thursday December 2, 2004 at 10:00 a.m. in the above the

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WILLIAM WISEMAN
Zoning Commissioner for Baltimore County
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handlcapped Accessible; for
NOTES: (1) Hearings are Handlcapped Accessible; for
Special accommodations Please Contact the Zoning
Commissioner's Office at (410) 887-4386.
Commissioner's Office at (410) 887-4386.
(2) For Information concerning the File and/or Hearing.
(2) For Information concerning the File and/or Hearing.
JT 11/708 Nov. 16

OF PUBLICATION

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

The Jeffersonian

Catonsville Times Arbutus Times

Towson Times

Owings Mills Times

/Reporter

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LEGAL ADVERTISING



Date: <u>November 10, 2004</u>

Petitioner/Developer: Taco Bell of America, Inc.

Date of Hearing/Closing: Thursday, December 2, 2004, 10:00 AM

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at 1431 Fuselage Avenue, west side of Middle River Road, 260 feet north of Orems Road

The sign(s) were posted on_

(Month, Day, Year)

(Signature of Sign Poster)

J. Lawrence Pilson

(Printed Name of Sign Poster)

McKee and Associates, Inc.

5 Shawan Road, Suite 1

(Street Address of Sign Poster)

Cockeysville, MD 21030

(City, State, Zip Code of Sign Poster)

<u>(410) 527-1555</u>

(Telephone Number of Sign Poster)

Revised 3/1/01 - SCJ

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

November 1, 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: 05-202-A

1431 Fuselage Avenue W/side of Middle River Road, 260 ft. n/of Orems Road 15th Election District – 7th Councilmanic District Legal Owners: Taco Bell of America, Inc.

<u>Variance</u> to allow 37 parking spaces in lieu of the required 54 spaces, to allow 1 foot landscape buffer in lieu of the required 20 feet, to permit five (5) enterprise signs on the building facades in lieu of the permitted three (3) signs, to permit three (3) enterprise signs on the front of the building façade in lieu of the permitted two (2) signs, to permit "canopy" directional signs in lieu of the permitted "wall mounted" or "freestanding" signs, to permit sign/face area of 9.83 sq. ft. for directional sign in lieu of the permitted 8.0 sq. ft., to permit erection of the sign of the above face of the canopy in lieu of its erection on the face of canopy, and to permit a portion of the sign to extend above the parapet.

Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Paul Tiburzi, Brian Quinn, 6225 Smith Avenue, Baltimore 21209 Bharat Parikh, 7520 Parkway Dr., Hanover 21076 Iwona Rostek-Zarksa, 222 Schilling Circle, Ste. 105, Hunt Valley 21030

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 17, 2004.
 - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
 - (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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

TO: PATUXENT PUBLISHING COMPANY

Tuesday, November 17, 2004 Issue - Jeffersonian

Please forward billing to:

Piper Rudnick 6225 Smith Avenue Baltimore, MD 21209-3600

410-580-3000

NOTICE OF ZONING HEARING

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1431 Fuselage Avenue
W/side of Middle River Road, 260 ft. n/of Orems Road
15th Election District — 7th Councilmanic District
Legal Owners: Taco Bell of America, Inc.

Variance to allow 37 parking spaces in lieu of the required 54 spaces, to allow 1 foot landscape buffer in lieu of the required 20 feet, to permit five (5) enterprise signs on the building facades in lieu of the permitted three (3) signs, to permit three (3) enterprise signs on the front of the building façade in lieu of the permitted two (2) signs, to permit "canopy" directional signs in lieu of the permitted "wall mounted" or "freestanding" signs, to permit sign/face area of 9.83 sq. ft. for directional sign in lieu of the permitted 8.0 sq. ft., to permit erection of the sign of the above face of the canopy in lieu of its erection on the face of canopy, and to permit a portion of the sign to extend above the parapet.

Hearing: Thursday, December 2, 2004 at 10:00 a.m. in Room 106, County Office Building,

11 W. Chesapeake 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.

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: x 05-202-A
Petitioner: X TACO BELL OF AMERICA INC.
Address or Location: × 1431 FUSELAGE AVE.
PLEASE FORWARD ADVERTISING BILL TO.
Name: * PIPER RUDNICK
Address: x 6225 SMITH AVE.
* BACTIMORE, HARYLAND 21209-3600
Telephone Number: x 410 - 580 - 3000

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

November 22, 2004

Paul A. Tiburzi Brian M. Quinn Piper Rudnick, LLP 6225 Smith Avenue Baltimore, Maryland 21209-3600

Dear Mr. Tiburzi and Mr. Quinn:

RE: Case Number: 05-202-A, 1431 Fuselage Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 18, 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,
U. Call Rillal D

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Taco Bell of America, Inc. Bharat Parikh 7250 Parkway Drive Hanover 21076
Iwona Rostek-Zarska, Bldg. Inc. 222 Schilling Circle, Ste. 105 Hunt Valley 21030

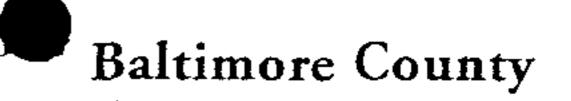


Visit the County's Website at www.baltimorecountyonline.info

Fire Department

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





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

November 3, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: November 1, 2004

Item No.: 196-204, 206 200



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.

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

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

cc: File



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



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

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

Maryland Department of Transportation

Date: //.9.04

Baltimore County

Item No. 207

RE:

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

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,

Steven D. Foster, Chief

1. J. Gredh

Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

MOV 5 0 2004

TO:

Tim Kotroco

PDM

FROM:

John D. Oltman, Jr Do

DEPRM

DATE:

November 29, 2004

SUBJECT:

Zoning Items # See List Below

Zoning Advisory Committee Meeting of November 1, 2004.

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

05-197

05-200

05-201

05-202

05-203

05-204

05-206

Reviewers:

Sue Farinetti, Dave Lykens

90/2

DATE: December 1, 2004

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

1431 Fuselage Avenue

INFORMATION:

Item Number:

5-202

Petitioner:

Taco Bell

Zoning:

BM

Requested Action: V

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request. However sign #3 that is labeled as a directional sign but asks the question "Hungry?" should read "Welcome", similar to the other entry sign or shall be eliminated.

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

Prepared by:

China and the second

京本 教育

Division Chief:

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: November 4, 2004

TO:

Timothy M. Kotroco, Director

Department of Permits & Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For November 8, 2004

Item Nos. 197, 198, 200, 201, 202,

and 203

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

RWB:CEN:jrb

cc: File

RE: PETITION FOR VARIANCE

1431 Fuselage Avenue; W/side Middle

River Road, 260' N Orems Road

15th Election & 7th Councilmanic Districts

Legal Owner(s): Taco Bell of America, Inc, *

Bharat Parikh, Construction Manager

Petitioner(s) *

* BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

* 05-202-A

* * * * * * * * *

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

RECEIVED

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47

BC......

400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of October, 2004, a copy of the foregoing Entry of Appearance was mailed to, Iwona Rostek-Zaska, BLDG, Inc, 222 Schilling Circle, Hunt Valley, MD 21030, and Paul A Tiburzi and Brian M. Quinn, Piper Rudnick, LLP, 6225 Smith Avenue, Baltimore, MD 21209-3600 Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



W/S Middle River Road, 260' N of the c/l of Fuselage Avenue and Orems Road (1431 Fuselage Avenue)
15th Election District
5th Council District

Tricon Global Restaurants, Inc. Petitioner

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY

* Case No. 01-217-A
*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Tricon Global Restaurants, Inc., by Isaac Showell, Construction Manager, through their attorneys, Paul A. Tiburzi, Esquire, and Brian Quinn, Esquire. The Petitioner seeks relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 37 parking spaces in lieu of the required 49; from Section 409.10.B of the B.C.Z.R. to permit a drive-thru lane to cross a principal pedestrian access and to permit the required stacking lane to encroach into the required drive lane; and, from Section 409.4.B of the B.C.Z.R. to permit parking on a travel way. In addition, the Petitioner seeks relief from Part III of the Baltimore County Landscape Manual as follows: from Condition F, Service Lanes, Section 2, to permit a landscape space between paved surfaces and lot lines of 0 feet in lieu of the required 6 feet; from Condition B, Parking Lots, Section 2.c to permit a minimum parking island distance from face of curb to face of curb of 2.5 feet in lieu of the required 9 feet; from Condition B, Parking Lots, Section 2.d to permit a distance between face of curb and face of building of 6 inches in lieu of the required 6 feet; and from Condition G, Storage and Loading, Section 1.a to permit a landscape buffer of 0 feet in lieu of the required 20 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

PLEASE PRINT CLEARLY

CASE NAME 1431 Justillage Our CASE NUMBER 05-202-AB

CITIZEN'S SIGN-IN SHEET

E- MAIL	129 rska @ blog inc cons	Bharat. Parkh & yum.com,										
ITY, STATE, ZIP	Munt Valley N. 10 20	MD									-	
ADDR	UZZ SCMITTING CIVETE STE 105	Ponkway D										
NAME	Tabra Boseli Zavslea	Propar Parith	Parkh									

Iwona Rostek - Zarska, P.E.

24 English Saddle Court Parkton, Maryland, 21120 410-343-1208

Professional Registration

Licensed Professional Engineer in the State of Maryland (1995) PE 21245

Education

Masters of Science in Civil Engineering, Polytechnic of Bialystok / Technical University, Bialystok, Poland, June 1981, with honors

Essex Community College, Baltimore, MD (1982 - 1984) placed on the Dean's Highest List for Fall, 1983

- Computer Programming
- Engineering Courses

Seminars: HEC-2, TR20

Summary of Qualifications

- Licensed professional engineer with over 20 years of experience in site development engineering, planning and management for various commercial, industrial, institutional and residential projects.
- Background in design, budget management, project scheduling, project coordination with the
 design team, design and construction supervision, obtaining regulatory land-use approvals and
 permits, bidding procedures, and employees training.
- Experience in developing innovative and the most cost effective design solutions.
- Strengths in design and analysis of storm water management facilities, water and wastewater systems, close and open channel drainage systems, site grading, erosion and sediment control, site planning, roads, flood plains.
- Knowledge and experience with preparation of drawings using CADD

Work Experience:

February 1999 - present Principal with the engineering firm of Baltimore Land Design

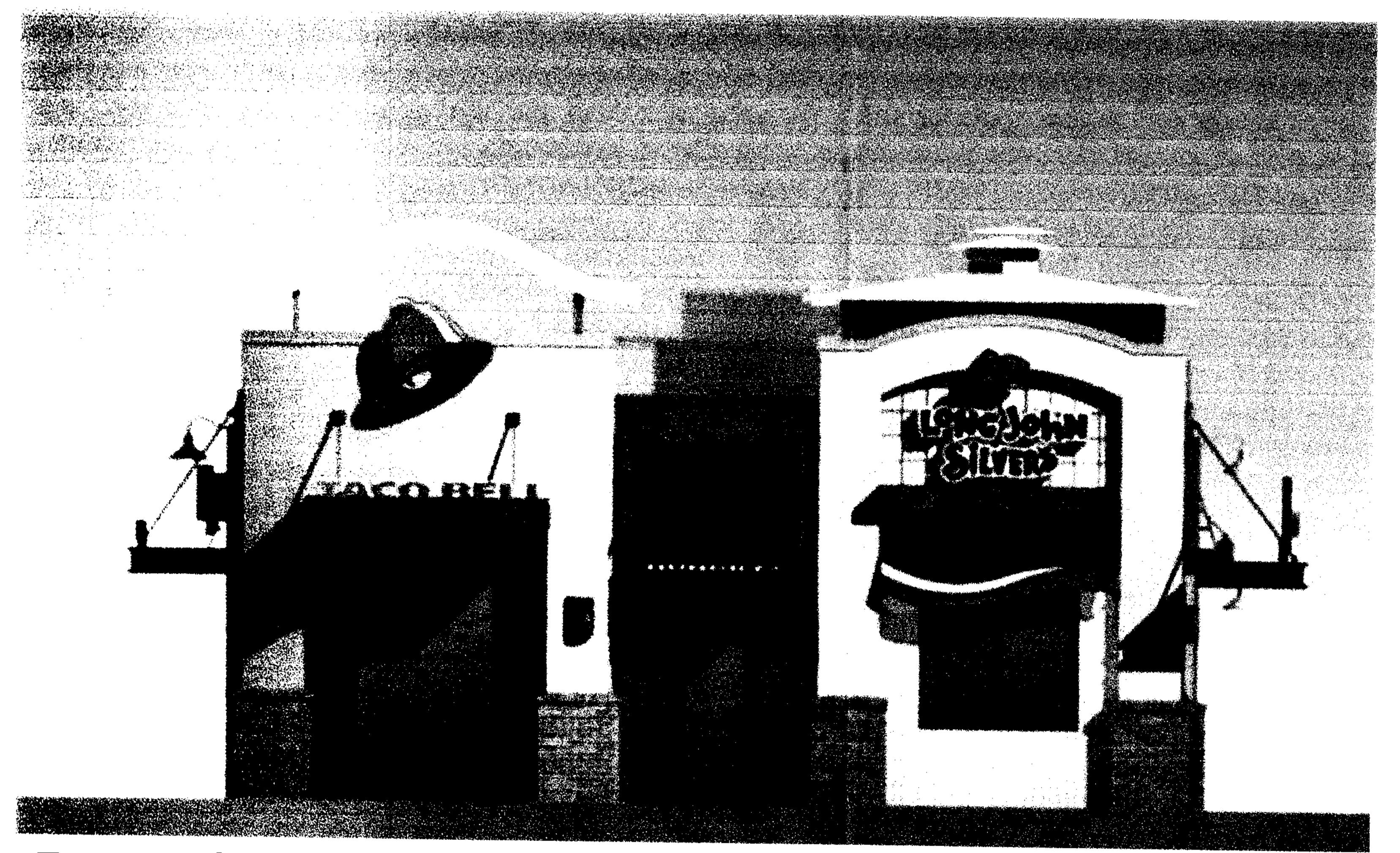
Group, Inc., Baltimore, Maryland.

Responsible for overall engineering and administrative tasks.

Directly responsible for seeking work, contract negotiation and

project management.

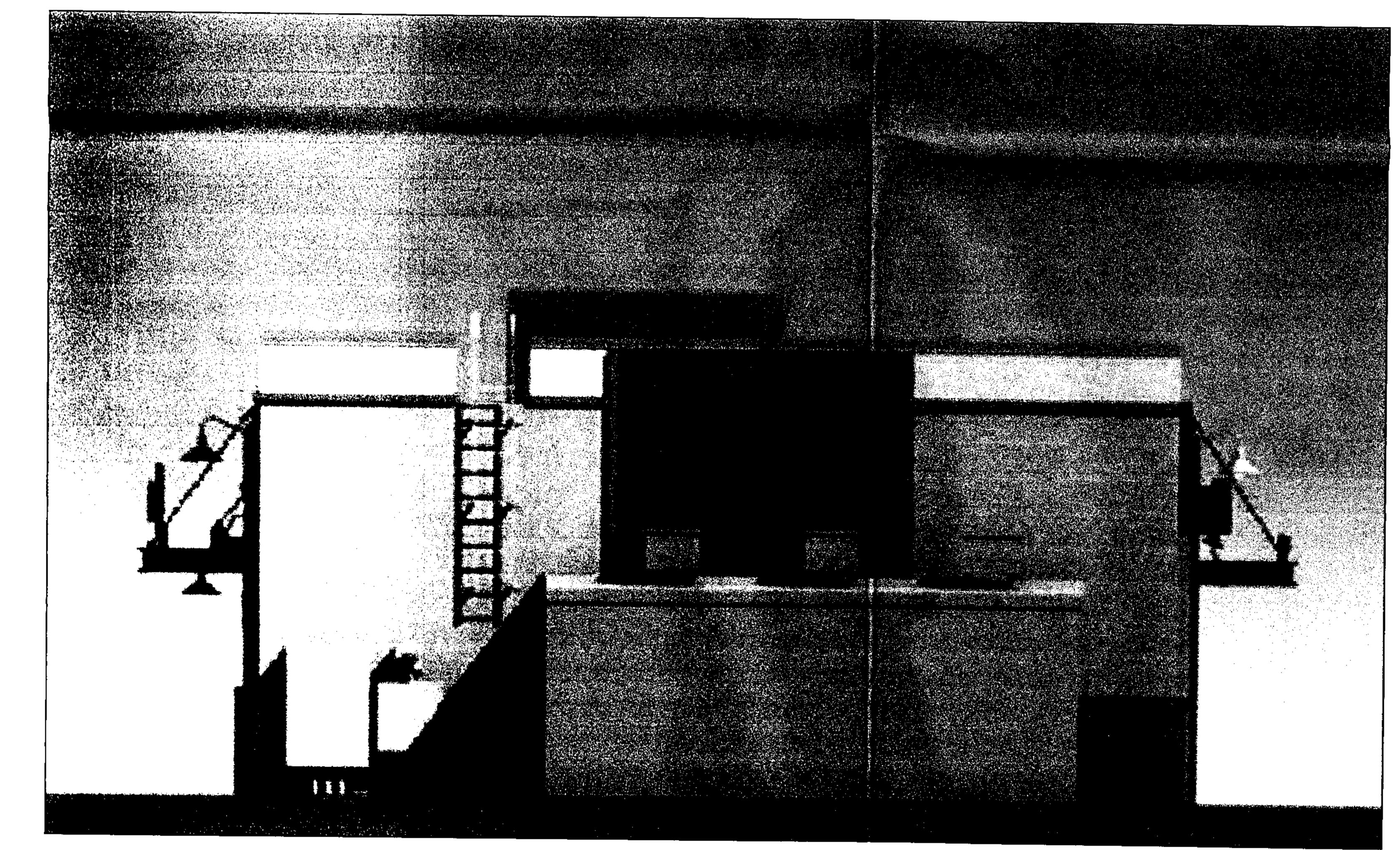
Set #2



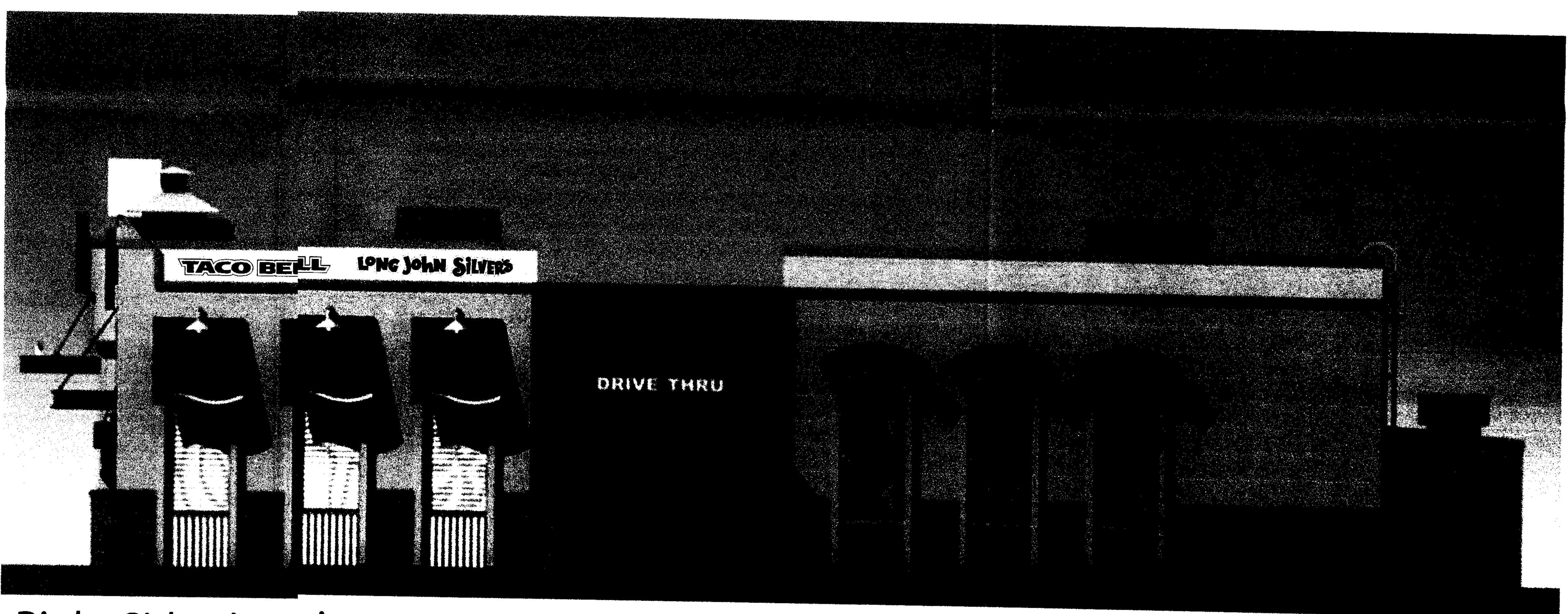
Front Elevation



Left Side Elevation



Rear Elevation

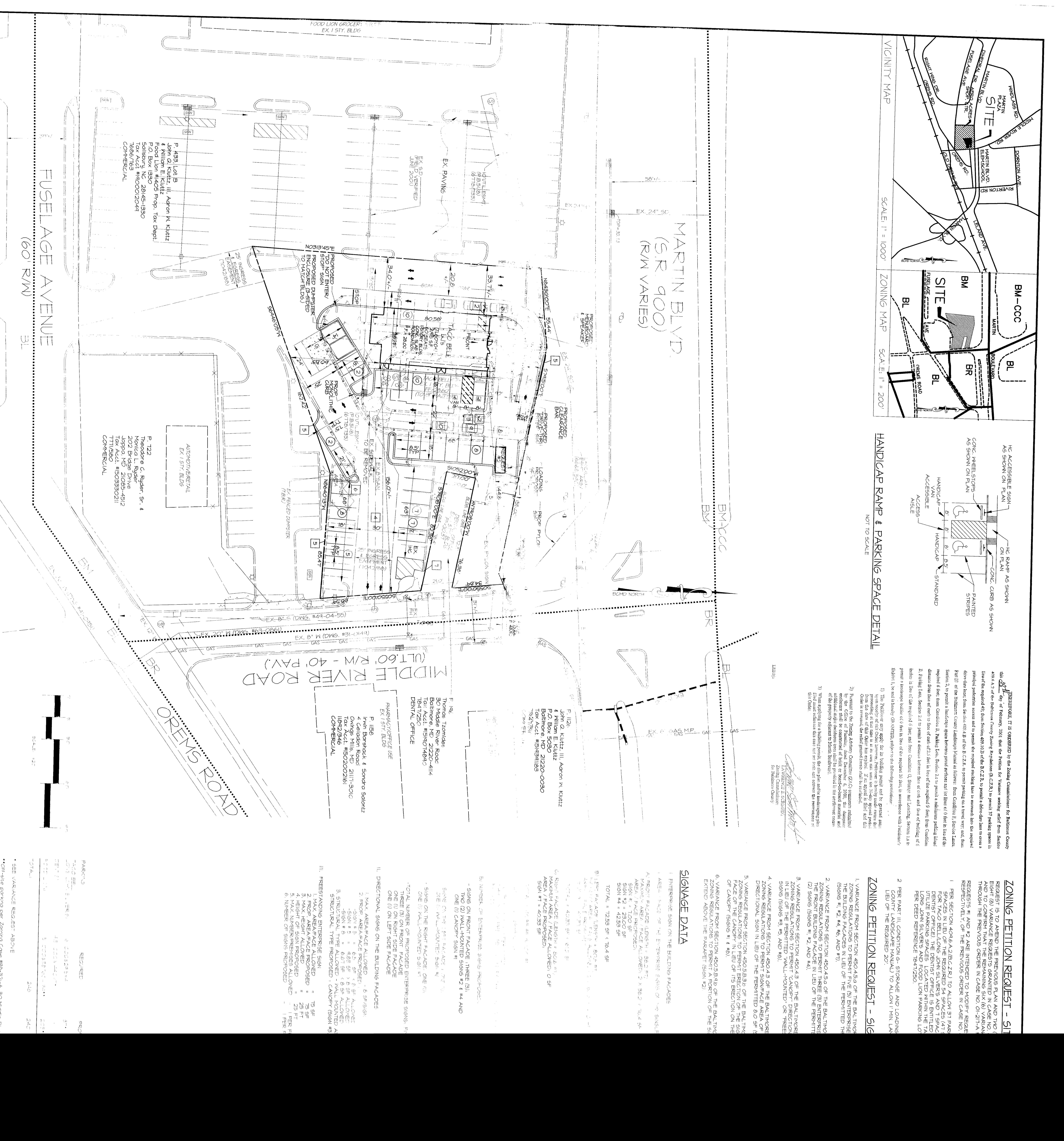


Right Side Elevation

TL60-Y04 COLOR EXTERIOR ELEVATIONS

12-5831 Middle River, MD

THE THE



PLAT TO ACCOMPANT TO PETITION

SITE NO. 12-5831 (FORMER 11 62021)

SITE NO. 12-5831 (FORMER 11 62021)

the owner would suffer practical difficulty if the variances were denied and that this difficulty is caused by the uniqueness of the property. Finally, she noted that the present condition of the building is not good, having been used as a restaurant for these past 20 + years, and the new building would be an improvement to the neighborhood. Mr. Parikh noted that the proposed upgrade would be a \$1.2 million investment by the parent company. In addition, traffic flow would be greatly improved.

The remaining variances arise because of the need to announce two food lines rather than one to the public. Testimony indicated that the signage requested reflects the standard dual line signage for these restaurants, which the parent company is implementing nationally. The six signage variances requested are shown on Petitioner's Exhibit 1B and Exhibit 3. For example, the Petitioner requests five enterprise signs, three on the front façade, one on the right and one on the left façade in their first two variance requests. The regulations allow three enterprise signs total and only two signs on a building facade. Testimony indicated these were needed to announce the two food lines to the public. However, Ms. Rostek-Zarska noted that although more signs are being requested then allowed under the regulations, the square footage of all the signs is well within the square footage allowed by the regulations.

These requests stem from the style of signage requested by the national program and are technical in nature. Finally, although the directional signs are of proper number and design, they are slightly larger than allowed, i.e., 9.5 sq. ft. in lieu of 8 sq. ft. The engineer noted these larger signs improved traffic flow and safety for the public.

Taken together, the Petitioner indicated that the proposed signage met the spirit and intent of the sign regulations, which were needed to announce the two food lines. She noted that there was similar signage through the area announcing the commercial uses therein. As such these signs would not be detrimental to the community.