IN RE: PETITION FOR SPECIAL EXCEPTION

BEFORE THE

Falls Road, 4131 feet from the centerline

of Benson Mill Road

5th Election District

3rd Election District

(15722 Falls Road)

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 06-106-X

Berto & Marilyn E. Basignani **Petitioners** 

\*

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## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception filed by the legal owners of the subject property, Berto L. and Marilyn E. Basignani. The Petitioners are requesting a special exception for property located at 15722 Falls Road in the Sparks area of Baltimore County. The special exception request is filed pursuant to Section 1A01.2.C.29.h of the Baltimore County Zoning Regulations (B.C.Z.R.), for a winery.

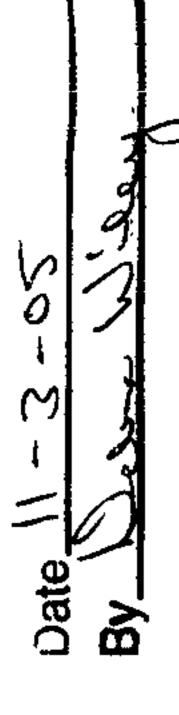
The property was posted with Notice of Hearing on October 4, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on October 4, 2005 to notify any interested persons of the scheduled hearing date.

## Applicable Law

Section 502.1 of the B.C.Z.R. - Special Exceptions

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

- A. Be detrimental to the health, safety or general welfare of the locality involved;
  B. Tend to create congestion in roads, streets or alleys therein;
  C. Create a potential hazard from fire, panic or other danger;
  D. Tend to overcrowd land and cause undue concentration of population;
- Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- Interfere with adequate light and air; [Bill No. 45-1982]
- Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the sprit and intent of these Zoning Regulations; [Bill No. 45-1982]



- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor [Bill No. 45-1982]
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 zone. [Bill No. 74-2000]

# Uses permitted by special exception in RC 2 zones

The following uses, only, may be permitted by special exception in any R.C.2 Zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 29, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-1979]

## **Zoning Advisory Committee Comments**

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None

# **Interested Persons**

Appearing at the hearing in support of the request were Brent Petersen, Landscape Architect, and Bert Basignani, Petitioner. Patrick Roddy, Esquire represented the Petitioners. Anna Berer, Edward Seth, Marguerite Seth, Herbert Harmand and Darren O'Brien appeared at the hearing as adjacent property owners and interested citizens. Duncan Kern, a law student from the University of Baltimore, attended the hearing as well. Peter Max Zimmerman, entered the appearance of his office in this case.

#### Testimony and Evidence

The subject property contains 15.9 acres and is zoned RC 2. It is improved by an existing winery known as the Basignani Winery comprised of vineyards, a fermentation building, east winery building and a single family dwelling. Mr. Roddy proffered that the Basignani family has owned the property since 1969, began growing grapes on the property in 1974 and first opened the winery in 1986.

ORDER RECEIVED FOR FILING

Mr. Roddy explained that the Basignani family plans no new buildings or features but will operate the winery as it has previously for the past several years. The Petition was filed as the result of his legal assessment that this ongoing winery needed a special exception under the Baltimore County Zoning Regulations in this RC 2 zone.

Mr. Roddy also proffered that because there was no new buildings of any kind or change to the operation of this existing winery, the request for special exception would meet each of the criteria of Section 502.1 of the B.C.Z.R. For example, there would be no increased traffic, no increased fire danger, etc. from that inherent in the present operation. He noted that growing grapes is compatible with the RC 2 spirit and intent of preserving agriculture in this zone. He indicated that there would not be any adverse impact on the community as the result of this special exception. He proffered that they met with the Valley's Planning Council who have no objection to the request.

The adjacent property owners indicated that they were very pleased by the existing operation and had no objection to granting the requested relief. Apparently there are a number of "movies in the vineyard" night put on by the Petitioners which are greatly welcomed by the adjoining property owners. When asked if they recommended any restrictions or conditions on the special exception, they declined to suggest any.

# Findings of Fact and Conclusions of Law

I find that the requested special exception meets all the criteria of Section 502.1 of the B.C.Z.R. and will not adversely affect the health, safety, or welfare of the community. From the evidence presented as supported by the neighbors, the Basignani family operates winery, which is a welcome addition to the community and directly aids the spirit and intent of the RC 2 regulations to preserve productive agricultural uses.

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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' request for special exception should be granted.

THEREFORE, IT IS ORDERED, this <u>3</u> day of November, 2005, by the Deputy Zoning Commissioner, that the Petitioners' request for special exception filed pursuant to Section 1A01.2.C.29.h of the Baltimore County Zoning Regulations (B.C.Z.R.), for a winery, be and is hereby GRANTED.

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:dlw

# 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
William J. Wiseman III, Zoning Commissioner

November 3, 2005

Patrick Roddy, Esq. Rifkin, Livingston, Levitan & Silver, LLC 600 Washington Avenue Towson, Maryland 21204

> Re: Petition for Special Exception Case No. 06-106-X Property: 15722 Falls Road

Dear Mr. Roddy:

Enclosed please find the decision rendered in the above-captioned case. The petition for special exception 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

John V. meuphy

JVM:dlw Enclosure

c: Berto L. and Marilyn E. Basignani, 15722 Falls Road, Baltimore, MD 21203
Brent Petersen, 1020 Cromwell Bridge Road, Towson, MD 21286-3396
Anna Beren, 15732 Falls Road, Butler, MD 21023
Edward R. and Marguerite S. Seth, 15734 Falls Road, Butler, MD 21023
Duncan Kern, 14200 Dove Creek Way, #306, Sparks, MD 21023
Herbert Harmand, 15730 Falls Road, Butler, MD 21023
Darren O'Brien, 15906 Falls Road, Sparks, MD 21152
People's Counsel; Case File



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



# Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 15722 Falls Road

which is presently zoned RC-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 Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

Awinery per Section 1A01. 2.C. 29. h BCZR.

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

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

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

Contract Purchase	er/Lessee:	Legal Owner(s):							
		Berto L. Basic							
Name - Type or Print		Name Type	or Print						
Signature	· · · · · · · · · · · · · · · · · · ·	Signature		<u> </u>					
		Marilyn E. Ba	signani						
Address	Telephone No.	Name - Type	or Print	rsegnani					
City State	Zip Code	Signature	70 2. 2.						
Attorney For Petiti	oner:	15722 Fall F	Road						
m - ( ) ) m - () )		Address		Telephone No					
Patrick Roddy Name - Type or Print Signature	Zodly	City 	State entative to b	Zip e Contacted:					
Rifkin, Livingston, Levita	n & Silver, LLC	Patrick Rode	dy						
Company		Name							
600 Washington Ave.	410-583-9433	<u>600 Washin</u>	gton Ave	410-573-9433					
Address  Towson  MD	Telephone No. 21204	AddressTowson	MD	Telephone No. 21204					
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#### FROM THE OFFICE OF

# GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND PLANNERS • LAND SURVEYORS 1020 CROMWELL BRIDGE ROAD • TOWSON. MARYLAND 21286-3396

May 5, 2005 Page 1 of 1

Description of a 15.27 Acre Parcel of Land known as the Basignani Property for Special Exception

Beginning for the description of a 15.27 Acre area, at a point at or near the centerline of Falls Road, said point of beginning having a Maryland State (nad83/91) Coordinate Value of North 688,416 and East 1,384,055 being measured South 17 degrees 54 minutes 52.7 seconds East 4131.35 feet from the centerline intersection of said Falls Road and Benson Mill Road, running thence leaving said point of beginning and binding at or near the centerline of Falls Road the following course;

- 1. South 20 degrees 40 minutes 1.7 seconds East 66.71 feet thence, leaving said Falls Road, the following courses,
- 2. South 50 degrees 20 minutes 58.3 seconds West 812.85 feet thence,
- 3. South 39 degrees 34 minutes 58.3 seconds West 434 feet thence,
- 4. North 54 degrees 48 minutes 44.7 seconds West 581.40 feet thence,
- 5. North 42 degrees 34 minutes 8.3 seconds East 588.13 feet thence,
- 6. North 43 degrees 24 minutes 8.3 seconds East 467.23 feet thence,
- 7. along a curve to the right having a radius of 75.00 feet and a length of 92.89 feet thence,
- 8. South 65 degrees 38 minutes 1.7 seconds East 268.81 feet thence,
- 9. South 72 degrees 11 minutes 1.7 seconds East 320.16 feet back to the point of beginning.

Containing 695653.2 Square Feet or 15.97 Acres of Land more or less.

Being Lot 1 in the Subdivision of Basignani Property as recorded in Baltimore County Plat Book #43, Folio #15. Also known as 15722 Falls Road and located in the 5<sup>th</sup> Election District.

The above bearings are based on the Maryland State Coordinate System (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.

# NOTICE OF ZOWING

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 tentified herein as follows:

Case: #06-106-X
15722 Fails Road
W/side of Fails Road
W/side District
Wednesday

t bica r

# CERTIFICATE OF PUBLICATION

106,2005
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
once in each ofsuccessive weeks, the first publication appearing on $10/4/_{,20}05$ .
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
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LEGAL ADVERTISING

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# CERTIFICATE OF POSTING

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RE.	Case Number 06-X Petitioner/Developer: BETRO + M Date of Hearing/Diosing Octobe	2000 BASIGNANI 2,19,2005
were	This is to certify under the penalties of posted schapicuously on the property loc	perjury that the necessary signis) required by law sated at 15722 FALLS ROAD
	The sign(s) were posted on	0/4/05 (Monn, Day Year)
		(Signature of Sign Poster)  LINDA O KEEFF (Printed Name of Sign Poster)  523 PENNY LANE (Street Address of Sign Poster)  HUNT VALLEY MD 210 (City, State, Zlp Code of Sign Poster)  410-666-5366 (Telephone Number of Sign Poster)

# 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.

or Newspaper Advertising:	
em Number or Case Number:	
etitioner: Bertor Marilyn Basignani	
ddress or Location: 15722 FAIIs Road	
LEASE FORWARD ADVERTISING BILL TO:  ame: PAtlick Roddy	
ddress: Rifkin, Livingston Levitan And Silver	
Suite 305-600 Washington Ave	
Towson, Md 21204	
elephone Number: 4/0-583-9433	

# Department of Permits Development Management

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





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

September 6, 2005

# **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: 06-106-X

15722 Falls Road

W/side of Falls Road, 4,131 feet south of centerline Benson Mill Road

5<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owners: Berto L. & Marilyn E. Basignini

Special Exception to permit a winery.

Hearing: Wednesday, October 19, 2005 at 9:00 a.m. in Room 407, County Courts Building,

401 Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: Patrick Roddy, 600 Washington Avenue, Towson 21204 Berto & Marilyn Basignani, 15722 Falls Road, Baltimore 212023

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 4, 2005.

- (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.

Post-it® Fax Note 7671	Date Q # of pages
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Fax #	Fax #

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TO: PATUXENT PUBLISHING COMPANY

Tuesday, October 4, 2005 Issue - Jeffersonian

Please forward billing to:

Patrick Roddy

Rifkin, Livingston, Levitan & Silver, LLC

600 Washington Avenue

Towson, MD 21204

410-583-9433

# **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:

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15722 Falls Road

W/side of Falls Road, 4,131 feet south of centerline Benson Mill Road

5<sup>th</sup> Election District – 3<sup>rd</sup> Councilmanic District

Legal Owners: Berto L. & Marilyn E. Basignini

Special Exception to permit a winery.

Hearing: Wednesday, October 19, 2005 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J WISEMAN III

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.

# PLEASE SCHEDULE HEARING DATE NO EARLIER THAN OCTOBER.

# 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

October 17, 2005

Patrick Roddy Rifkin, Livingston, Levitan & Silver, LLC. 600 Washington Avenue Towson, Maryland 21204

Dear Mr. Roddy:

RE: Case Number: 06-106-X, 15722 Falls Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 22, 2005.

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.

Callilally

Callilally

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Berto L. and Marilyn E. Basignani 15722 Falls Road Baltimore 21203



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

# BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director DATE: September 6, 2005

Department of Permits & Development

Management

FROM: Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting

For September 12, 2005

Item N. s. 106, 108, 110, 112, 114 and 115

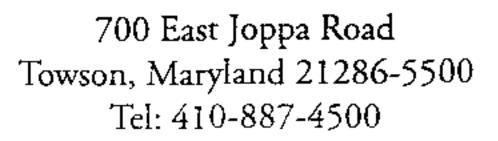
The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-09062005.doc

# Fire Department







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 1, 2005

ATTENTION: Zoning Review Planners

Distribution Meeting of: September 12, 2005

Item# 6-106-7,6-107-SPHA

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.

. **Proposed buildings** shall be designed and constructed so as to meet the applicable provisions of the Baltimore County Fire Prevention Code.

Lieutenant J.D.Mezick Fire Marshal's Office (0)410-887-4881 (C)443-829-2946 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: 8.32.05

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

RE: Balt

Baltimor County
Item Ni 1776

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Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's 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, Chief

1. f. And

Engineering Access Permits Division

# BALTIMORE COUNTY, MARYLAND

# INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

DATE: August 30, 2005

CEVED

AUG 3 1 2005

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

ZONING COMMISSIONER

Zoning Advisory Petition(s): Case(s) 6-106- Special Exception

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Bill Hughey in the Office of Planning at 410-887-3480.

**Division Chief:** 

CM/LL

RE: PETITION FOR SPECIAL EXCEPTION

15722 Falls Road; W/side Galls Road,

4,131' S c/line Benson Mill Road

5<sup>th</sup> Election & 3<sup>rd</sup> Councilmanic Districts

Legal Owner(s): Berto & Marilyn Basignani \*
Petitioner(s)

**BEFORE THE** 

ZONING COMMISSIONER

FOR

\* BALTIMORE COUNTY

\* 06-106-X

\* \* \* \* \* \* \* \* \*

# 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 and documentation filed in the cace.

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 30th day of August, 2005, a copy of the foregoing Entry of Appearance was mailed Patrick Roddy, Esquire, Rifkin, Livingston, Levitan & Silver, LLC, 600 Washington Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

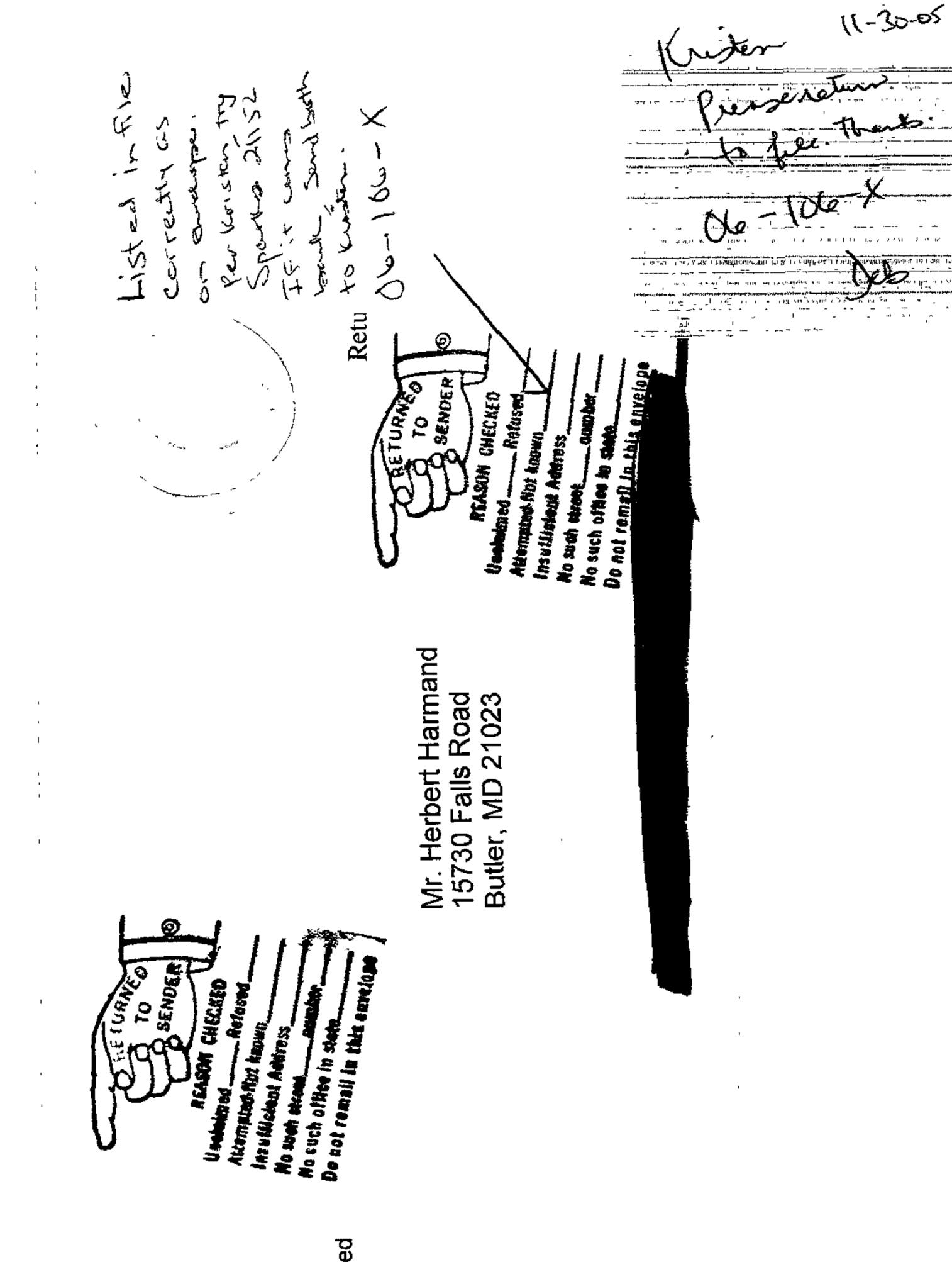
AUG 3 0 2005

Per

LECKING SIMPLEMON

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



2 BALTIMORE COUNT

Return Address Requested

CASE NAME
CASE NUMBER 06-106-1
DATE 10/19/05

# CITIZEN'S SIGN-IN SHEET

E- MAIL						
CITY, STATE, ZIP	1380. 1387.	Sexte my 211523 Sparks LMD 21152				
ADDRESS	15732 FALLS RD 15734 FALLS RD 15734 EP115 RD 14200 Don Greek 236	15730 Fails RD				
NAME	* HIND BOVED FINAND R. SETA ** MAKGUEKITE S. SETA ** Durger Keiner	mund Hours				

PLEASE PRINT CLEARLY

CASE NAME MACHINANI
CASE NUMBER 00-100-X
DATE 10 10 00

# PETITIONER'S SIGN-IN SHEET

E- MAIL	Large 1 W. Land Long	1100/100/2000										
CITY, STATE, ZIP	-121 MAN MAS	7	Jun 5 pm/(52) 20 4									
ADDRESS	BOMMER	ital	15722 FA/15 Rd									
NAME	MANT DEPENDED	Matrick Roddy	Bet BASIONIN	-								

