IN RE: PETITION FOR SPECIAL HEARING
S/W Corner of Baltimore National Pike
and St. Agnes Lane
1st Election District
1st Councilmanic District
(5507 & 5509 Baltimore National Pike)

Q-C Catonsville LLC Petitioner

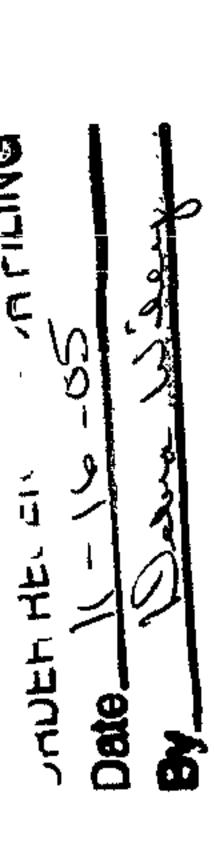
- * BEFORE THE
- * DEPUTY ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * CASE NO. 06-119-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by the legal owners of the subject property, Q-C Catonsville LLC by James Quillen, President and by the Southland Corporation, (7/Eleven) lessee. The Petitioner is requesting special hearing for property owned at 5507 & 5509 Baltimore National Pike in the western area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an extension of the utilization period for the special exception granted in Case No. 04-033 SPHXA from two years to five years and to approve minor changes to the site plan.

The property was posted with Notice of Hearing scheduled for October 11, 2005 on September 25, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. However the notice of the hearing was not advertised in "The Jeffersonian" newspaper in time for the Hearing on October 11, 2005.

The property was then re-posted with Notice of Hearing scheduled for November 2, 2005 on October 15, 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 18, 2005 to notify any interested persons of the scheduled hearing date.



JOHN MENTOR FILING

Preliminary Matter

The Petitioner's attorney noted at the October 11, 2005 hearing that the necessary advertisement in a Countywide newspaper had not occurred through a fault of the Petitioner. This advertising is handled by the County and newspaper directly. The attorney noted that the two-year limitation on the special exception expired October 21, 2005 and there would be no opportunity for the Petitioner to reschedule, readvertise, and repost the property before the deadline expired. Consequently, she requested by Motion that the expiration of the special exception be tolled to allow for proper readvertisement and reposting of the property. This Motion was granted by this Deputy Commissioner.

Applicable Law

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

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 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;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air; [Bill No. 45-1982]
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the 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]

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Zoning Advisory Committee Comments

The Zoning Advisory Committee Comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated September 16, 2005, and also from the Maryland Department of Transportation – State Highway Administration dated September 6, 2005, copies of which are attached hereto and made a part hereof.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing and variance relief were Andrew Ferrettti, from the firm of D.S. Thaler who prepared the site plan and Ross Warner representing 7/Eleven, the Corporate Lessee. Pat Malone, Esq. represented the Petitioner/Lessee. Steve Whisler, who represented the Westview Park Improvement Association, attended the first hearing as an interested citizen. No protestants or other interested citizens attended either the first or second hearings. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Mr. Whisler, who represented the Westview Park Improvement Association, indicated at the initial hearing that he was familiar with the original plan, that he checked with other community associations in the area and no one was opposed to this request.

The Petitioner proposed and this Commission granted special hearing relief, special exception and certain variances for this property in case 04-033-SPHXA dated October 21, 2003. Essentially, the Petitioner in that case proposed a fuel service station/convenience store on this property which fronts on Baltimore National Pike and St. Agnes Lane across from St. Agnes Church and School. Ms. Malone indicated that after some discussions with St. Agnes, the Petitioner made certain promises as to noise, landscape buffers, sidewalks etc., which were incorporated into the 04-033-SPHXA Order as conditions of approval.

PADEH HEUELVEU TOTALINE DAG STATE OF TOTALIN Ms. Malone who represents 7/Eleven indicated that the owner has incurred some difficulty in pursuing the approved plan, which caused a two-year delay in getting the project going. In the meantime, the County notified the owner that they required St. Agnes Lane to be widened which pushed the improvements shown on the original plan further away from St. Agnes Lane. Finally, the original plan contemplated that the owner would acquire a small triangular parcel on St. Agnes Lane as the State had declared this surplus property. However, the owner has not been able to acquire this parcel which, in turn, affects the buffer and setbacks of the facility. These changes which ms. Malone characterizes as minor are reflected most clearly on Petitioner's exhibit 3 and shown on the revised site plan, exhibit 2. Ms. Malone indicated however that in spite of changes to the plan for the reasons above, the site plan meets all County requirements given the variances requested in the prior case.

Mr. Warner indicated that 7/Eleven still was anxious to pursue this location for one of its stores and has invested considerable effort and expense not only in the initial design but in the revised plans presented at this hearing. He indicated that given the problems, which have surfaced so far, he believed that the time for the utilization of the special exception should be extended to the full five years.

Findings of Fact and Conclusions of Law

Considering the testimony and evidence presented in this case I will approve the extension of the utilization period from two to five years as requested. I understand that the Petitioner has run into trouble pursuing the plan but that the Lessee is still anxious to proceed. Given the expenses incurred so far, I find this a most reasonable request. I also find that the minor changes to the site plan have occurred because of factors outside the Lessee's control and that these changes will not adversely affect the community as long as the conditions given in case no. 04-033 SPHXA are complied with. The Petitioner expressed no desire to modify these conditions. Finally I find that the revised plan meets the criteria of Section 502.1 of the BCZR.

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 Petitioner, I find that the Petitioners' special hearing request should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 16 day of November, 2005, that the Petitioners' request for special hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an extension of the utilization period for the special exception granted in Case No. 04-033 SPHXA from two years to five years and to approve minor changes to the site plan, be and is hereby GRANTED subject to the following conditions from Case no. 04-033 SPHXA repeated here for convenience:

- (1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- (2) There shall be no public address system outside the buildings; however, an intercom system can be provided at the fuel pump island to assist patrons.
- (3) There will be no outside pay phones on the 7-Eleven property and no outside vacuum cleaners.
- A landscape buffer of 19 feet will be provided along St. Agnes Lane across from St. Agnes School and taper to a width of 10 feet near the corner at Baltimore National Pike as shown on Petitioner's Exhibit 2. The intent of this restriction is to have the buffer at the maximum width possible in this area, dependent upon any improvements that may be required by the Maryland State Highway Administration (SHA) to Baltimore National Pike. This restriction may be modified, if required, by SHA.
- (5) The Petitioners shall provide a sidewalk connection and appropriate crosswalks from the public sidewalk to the building entrance.
- (6) Trash removal/pick-up will be at reasonable hours so as not to be disruptive to the neighbors. Moreover, the dumpster enclosure shall be constructed of similar materials as the building.

- (7) All lighting on the site will be designed so as not to shine and/or reflect onto adjacent properties.
- (8) A barrier shall be installed to prevent vehicular access from the adjacent car wash through the subject property to St. Agnes Lane.
- (9) The Petitioners shall consult with Ray Heil, Baltimore County Street Coordinator for Baltimore National Pike (Maryland Route 40) improvements to prepare a landscape plan that addresses the total area between the curb along St. Agnes Lane and Route 40 and the proposed site improvements.
- (10) The Petitioners shall submit architectural elevations of all facades and signs, as well as a landscape plan and lighting plan to the Office of Planning prior to the issuance of any building permits. Said architectural elevations shall be substantially similar to those submitted at the hearing and marked as Petitioner's Exhibits 2 and 5.
- (11) The Petitioners shall contact the Baltimore County Police Department and establish a community police station on-site at the 7-Eleven store, if practical.
- (12) 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: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 15, 2005

Patricia A. Malone, Esquire Venable, LLP 210 Allegheny Avenue Towson, Maryland 21204

Re: Petition for Special Hearing
Case No. 06-119-SPH
Property: 5507 & 5509 Baltimore National Pike

Dear Ms. Malone:

Enclosed please find the decision rendered in the above-captioned case.

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

c: James Quillen, President, Q-C Catonsville LLC, 7 W. Ridgely Rd., Ste. 100, Lutherville, MD 21093

Andrew C. Ferretti, 7115 Ambassador Road, Baltimore, MD 21244

Ross W. Warner, 40 Colettes Ct., North Wales, PA 19454

Steve Whisler, Westview Park Improvement Association, 6124 Moorefield Road, Catonsville, MD 21228

People's Counsel; DEPRM; Case File





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Dette.

) REV 9115198

Case No. 06-119-899

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at St. Agnes Lane

which is presently zoned BM-CCC

OFFICE USE ONLY

Date_0

ESTIMATED LENGTH OF HEARING _

UNAVAILABLE FOR HEARING

Reviewed By TRA

SW Corner of Route 40 and

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

See Attached.

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.

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

			-		-	the penalties of the property which
Contract Purchaser	<u>Lessee:</u>		<u>Legal Owne</u>	r(s):		-
				See Attacl	hed	
Name - Type or Print			Name - Type or F	rint		
Signature		····	Signature			
Address	 -	Telephone No.	Name - Type or P	'rint		· · · · · · · · · · · · · · · · · · ·
City	State	Zip Code	Signature			· · · · · · · · · · · · · · · · · · ·
Attorney For Petition	ner:					
Patricia A. Malone	е		Address			Telephone No.
Name - Type or Print	\		City		State	Zip Code
Signature			Representat	ive to be Cor	ntacted:	
Venable LLP ·			Patricia A.	Malone		
Company		-	Name			
210 Allegheny Aver	nue (40	1) 494-6200	210 Alleghe	eny Avenue	(410)	494-6200
Address		Telephone No.	Address			Telephone No.
	MD	21204	Towson,	MD	2	1204
City	State	Zip Code	City		State	Zip Code

Petition for Special Hearing

Saint Agnes Retail Center

Legal Owner:

Q-C Catonsville LLC

BY:

Name: James Quillen

Title: President

7 West Ridgely Road, Suite 100 Lutherville, Maryland 21093

(410) 560-6696

Petition for Special Hearing

Saint Agnes Retail Center

Special Hearing, pursuant to B.C.Z.R. Section 502.3, to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033-SPHXA from two years to five years and to approve minor changes to the site plan.

PROPERTY DESCRIPTION

SAINT AGNES RETAIL CENTER (For Zoning Purposes Only)

Beginning for the first at a point located on the southern right-of-way line of Baltimore National Pike (MD Route 40) located approximately 343 feet, more or less, from the intersection of Saint Agnes Lane, thence running the following courses and distances:

- Northeasterly 178.66 feet by a curve to the left, having a radius of 14248.95 feet and a chord bearing North 76°15'14" East 178.66 feet, more or less, to a point; thence,
- 2. South 50°27'17" East 57.27 feet, more or less, to a point; thence,
- 3. South 08°49'10" West 51.00 feet, more or less, to a point; thence,
- 4. South 85°40′50" East 54.41 feet, more or less, to a point; thence,
- 5. South 07°49'10" West 21.28 feet, more or less, to a point; thence,
- 6. South 75°19'00" West 71.44 feet, more or less, to a point; thence,
- 7. South 14°41'01" East 5.00 feet, more or less, to a point; thence,
- 8. South 75°19'00" West 56.30 feet, more or less, to a point; thence,
- 9. South 14°41'00" East 51.50 feet, more or less, to a point; thence,
- 10. North 75°57'44" East 103.86 feet, more or less, to a point; thence,
- 11. South 07°49'10" West 106.77 feet, more or less, to a point; thence,
- 12. South 82°22'10" West 170.45 feet, more or less, to a point; thence,

H. ACCRESSED CONDENSES APROXECTES Agreen Redail Control Property Description SPL of \$ 23 04, do

North 14°55'48" West 268.92 feet, more or less, to the point of beginning.Containing 1.17 acres of land, more or less.

Located with the First Councilmanic District and First Election District of Baltimore County, Maryland.

NOTICE OF ZOMING 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: #06-119-SPH

5507 & 5509 Baltimore National Pike
S/west comer of Baltimore National Pike and St. Agnes Lane
1st Election District - 1st Councilmanic District

Legal Owner(s): Q-C Catonsville, LLC, James Quillen, President

Special Hearing: to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033-SPHXA for two years to five years and

to approve minor changes to the site plan.

Hearing: Tuesday, November 22, 2005 at 9:00 a.m. in

Room 407, County Courts Building, 401 Besley
Avenue, Towson 21204.

WILLIAM J. WISEMAN, III 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/11/643 Nov. 8



CERTIFICATE OF PUBLICATION

11/10/, 2005
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 $11/8$, 2005 .
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
□ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

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: #06-119-SPH

5507 & 5509 Baltimore National Pike
S/west comer of Baltimore National Pike and St. Agnes Lane
1st Election District - 1st Councilmanic District

Legal Owner(s): Q-C Catonsville, LLC, James Quillen, President

Special Hearing: to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033-SPHXA from two years to five years and to approve minor changes to the site plan.

Hearing: Wednesday, November 2, 2005 at 9:00 a.m. in Room 186, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

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.

J1710/730 Oct. 18

CERTIFICATE OF PUBLICATION

1020,2005
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
on 10/18 ,20 <u>05.</u>
The Jeffersonian
Arbutus Times
☐ Catonsville Times
☐ Towson Times
☐ Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

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RE: Case No.: 06 - 119 - SPH Petitioner/Developer: Q-C CATONSVILLE JAMES QUILLEN Date of Hearing/Closing: OCT 11, 2005 **Baltimore County Department of** Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204 **ATTN: Kristen Matthews {(410) 887-3394}** Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _ 5507 + 5509 BALTIMORE NATIONAL PIKE 9-25-05 The sign(s) were posted on (Month, Day, Year) Sincerely, 7-27-05. (Date) (Signature of Sign Poster) SSG Robert Black (Print Name) 1508 Leslie Road (Address) Dundalk, Maryland 21222 (City, State, Zip Code) (410) 282-7940 (Telephone Number)

BACTO NATUL PIKE

CERTIFICATE OF POSTING

RE: Case No.: 06-119.5PH.

	Petitioner/Developer: Q CATOLUSV
	JAMES QUILLEN PRES.
	Date of Hearing/Closing: 10/2, 200
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204	
ATTN: Kristen Matthews {(410) 887-3394}	•
Ladies and Gentlemen:	
This letter is to certify under the penalties of perjury the posted conspicuously on the property located at:	at the necessary sign(s) required by law-were
5507-5509 BALTO. 1	VATN'L PIKE DATE, TIME
ALSO HEARING AT RM-106	COUNTY OFFICE BLAG . "W ch
The sign(s) were posted on	15-05
(Monti	h, Day, Year)
Sincere	ely,
	Signature of Sign Poster) (Date)
•	SSG Robert Black
•	(Print Name)
The second secon	1508 Leslie Road
	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)
	₹-

5507 - 5509 BALTO. WATE

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 ubject 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:
tem Number or Case Number: 06-119-5PH
Petitioner: OC Catomsin/le LLC
address or Location: 5507 and 5509 Baltimore Nathoral
LEASE FORWARD ADVERTISING BILL TO:
ddress: Vengble LLP
210 Meghenn Areque
Jowson, Many/and 21209
elephone Number:
(410) 494 6285
Revised 2/20/98 - SC.1



Tuesday, October 18, 2005 Issue - Jeffersonian

Please forward billing to:

Amy Dontell Venable, LLP 210 Allegheny Avenue Towson, MD 21204

410-494-6285

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: 06-119-SPH

5507 & 5509 Baltimore National Pike S/west corner of Baltimore National Pike and St. Agnes Lane 1st Election District – 1st Councilmanic District Legal Owners: Q-C Catonsville, LLC, James Quillen, President

<u>Special Hearing</u> to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033-SPHXA from two years to five years and to approve minor changes to the site plan.

Hearing: Wednesday, November 2, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake 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.

Department of Permits d 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

October 13, 2005

NEW 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: 06-119-SPH

5507 & 5509 Baltimore National Pike S/west corner of Baltimore National Pike and St. Agnes Lane 1st Election District – 1st Councilmanic District Legal Owners: Q-C Catonsville, LLC, James Quillen, President

<u>Special Hearing</u> to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033-SPHXA from two years to five years and to approve minor changes to the site plan.

Hearing: Wednesday, November 2, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Director

TK:klm

C: Patricia Malone, 210 Allegheny Avenue, Towson 21204 James Quillen, 7 West Ridgely Road, Ste. 100, Lutherville 21093

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 18, 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.



Department of Permits and Development Management

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



Baltimore County

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

October 31, 2005

Patricia A. Malone Venable, LLP. 210 Allegheny Avenue Towson, Maryland 21204

Dear Ms. Malone:

RE: Case Number: 06-119-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 25, 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,

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel



Department of Permits and Development Management

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



Baltimore County

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

October 3, 2005

Patricia A. Malone Venable, LLP. 210 Allegheny Avenue Towson, Maryland 21204

Dear Ms. Malone:

RE: Case Number: 06-119-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 25, 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.

W. Callinal J. Callinal D.

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel



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BALTIMORE COUNTY, MARYLAND SEP 2 1 2005

INTER-OFFICE CORRESPONDENCE

ZONING COMMISSIONER

DATE: September 16, 2005

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

5507 & 5509 Baltimore National Pike

INFORMATION:

Item Number:

6-119

Petitioner:

James Quillen c/o Patricia Malone

Zoning:

BM-CCC

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the petitioner's request to approve an extension of the utilization period for the special exception relief granted in Case No. 04-033 from two years to five years.

The Office of Planning is unable to comment on the minor changes to the site plan due to the petitioner not indicating the changes on the plan that accompanied the subject petition.

For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Division Chief:

AFK/LL: CM





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

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

Maryland Department of Transportation

Date: September 6, 2005

Ms. Kristen Matthews
Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
Towson, Maryland 21204

RE: Baltimore County

Item No. 119 (JRA)

5507 & 5509 Balto. Natl. Pike

Dear Ms. Matthews:

This office has reviewed the referenced Item and has no objection to approval of the Special Hearing. However we will require the owner to obtain an access permit through our office and as a minimum the following roadway improvements may be required:

- Replacement of existing curb, gutter and sidewalk from property corner to property corner.
- The proposed entrance shall be a standard right-in/right-out.
- Provide a typical section showing the proposed improvements.
- A hydraulic analysis may be required.

Please have their representative contact this office regarding the roadway improvements conditioned to the permit.

Should any additional information be required 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. Sull

Engineering Access Permits Division

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 12, 2005

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 19, 2005 Item Nos. 116, 117, 118, 119, 120, 122,

123, and 125

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- 09122005.doc

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 September 8, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: September 12, 2005

Item No.: 116-125

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.

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

Lieutenant J.D.Mezick Fire Marshal's Office 410-887-4880 MS-1102F

cc: File







RE: PETITION FOR SPECIAL HEARING *

5507 & 5509 Baltimore National Pike; SW

corner Baltimore National Pike & St. Agnes Ln*

1st Election & 1st Councilmanic Districts

Legal Owner(s): Q-C Catonville, LLC

by James Quilen, President

BEFORE THE

ZONING COMMISSIONER

FOR

Petitioner(s) * BALTIMORE COUNTY

* 06-119**-**SPH

* * * * * * * * *

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 8th day of September, 2005, a copy of the foregoing Entry of Appearance was mailed to Patricia Malone, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

SEP 0 8 200E

Per.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

From:

Debra Wiley

To:

rwarner@comcast.net

Date:

11/30/2005 11:08:26 AM

Subject:

Case No. 06-119-SPH, Pet. for Spec. Hear., 5507 & 5509 Balto. Nat'l Pike, Q-C

Catonsville LLC

Mr. Warner,

The Baltimore County Zoning Commissioner's Office has attempted to mail you a copy of a decision for the above-referenced matter. Unfortunately, it was returned as not deliverable as addressed - unable to forward. Our office used the mailing address supplied on the attendance sheet as follows: Ross W. Warner, 40 Colettes Ct., North Wales, PA, 19454.

Please supply us with a new mailing address if you would like a copy mailed to you. Thanking you in advance and have a great day.

From:

Debra Wiley

To:

Matthews, Kristen

Date:

11/30/2005 10:25:33 AM

Subject:

Returned Mail

Hi Kristen,

When you get a chance, can you pull a file and check an address on the sign in sheet for me? I have received returned mail.

Case 06-119-SPH - Ross W. Warner (I have 40 Colettes Ct., North Wales, PA 19454)

Thanks very much for all your help!

(Court - per Kristen)

IN RE: PETITIONS FOR SPECIAL HEARING, *
SPECIAL EXCEPTION & VARIANCE SW/Corner Baltimore National Pike
(Maryland Route 40) and St. Agnes Lane
(Parcels 235, 273, 279 & 300, aka
*
5501-5511 Old Frederick Rd., and
Parcel 326, aka 5500 Old Frederick Rd.)*
1st Election District/1st Council District

Walter R. Mohler, Trustee and Bank of America, N.A., Owners, (Parcels 235, 273, 279 & 300) Damian Birchess, M.D. and Christine L. Commerford, Owners (Parcel 326) Q-C Enterprises, Inc., Contract Purchasers/ Developers BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 04-033-SPHXA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property and the Contract Purchasers/Developers identified above, through their attorney Robert A. Hoffman, Esquire. The Petitioners request special hearing relief, pursuant to Section 500.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), that the proposed fuel service station/convenience store is a separate operation from the adjoining retail establishment and is not a "use in combination" pursuant to Section 405.4.E of the B.C.Z.R. In addition the Petitioners request a determination that the proposed joint identification sign for the subject fuel service station/convenience store and the retail establishment is permitted by right. A special exception is requested to permit a proposed fuel service station as a use in combination with a convenience store with a sales area larger than 1500 sq.ft., pursuant to Section 405.2.B.1 and 405.4.E.1 of the B.C.Z.R. Finally, variance relief is requested, if necessary, from Section 405.4.A.2.b of the B.C.Z.R. to permit a landscape transition area abutting non-residentially zoned property of 0 feet in lieu of the required 6 feet and 0 feet in lieu of the required 10 feet along a public right-of-way; and, from Section 405.4.5.e to permit two fuel service station canopy signs of 245 sq.ft. each and two fuel service station canopy signs of 44 sq.ft. each, in lieu of the permitted four fuel service station canopy signs of 25 sq.ft. each. The

subject property and requested relief are more particularly described on the amended site plan marked as Petitioner's Exhibit 2, which reflects the proposed development of this project as agreed upon following negotiations between the Petitioners and the adjacent property owners.

Appearing at the requisite public hearing in support of the request were Walter Mohler, Trustee; H. Eric Chadwick on behalf of Q-C Enterprises, Inc., Contract Purchasers; Eric Roemer, on behalf of 7-Eleven Corporation; Ken Schmid, Traffic Engineer; Andrew Feretti, the Professional Engineer who prepared the site plan for this property; and Patricia A. Malone, Esquire, attorney for the Petitioners. Also appearing in support of the request were James W. Mohler, and Arthur W. Putzel. Appearing as interested citizens were John McCaul, Principal, and Sister Magdalene Buckmeister of St. Agnes School, adjacent property owner, and their attorney, Ryan Potter, Esquire.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the southwest corner of Baltimore National Pike (Maryland Route 40) and St. Agnes Lane in Catonsville. The property is comprised of five separate parcels, four of which (Parcels 235, 273, 279 & 300) are owned by Walter R. Mohler and Bank of America as Trustees, and the fifth parcel (Parcel 326), which is owned by Damian E. Birchess and Christine L. Commerford. The overall tract contains 3.039 acres, more or less, zoned B.M.-C.C.C. and is improved with several block buildings which are currently vacant; however, were previously used over the years for commercial and retail purposes. The Petitioners have contracted to sell the entire tract to Q-C Enterprises, Inc., who proposes a major redevelopment of the site with a 7-Eleven Convenience Store and fuel service station, and an Auto Zone store.

For purposes related to the subject Petitions, the property has been bifurcated into two separate parts. As shown on the site plan, approximately one-half of the overall tract will be excluded from the proposed special exception area and developed with an Auto Zone automotive parts store. The Auto Zone building will be 90' x 60' in dimension (5400 sq.ft. in area) and oriented to face Baltimore National Pike. Additionally, there will be 32 parking spaces to serve that store. The remainder of the site will contain the fuel service operation/convenience store and unrelated retail use. This portion of the site will be improved with a building 4703 sq.ft. in area. A

part of that building (2,980 sq.ft.) will contain a 7-Eleven convenience store. The remaining 1,723 sq.ft. will be occupied by a retail use unrelated to the 7-Eleven store; either a sub shop or other similar use. The balance of this portion of the site will contain 16 multi-product fuel dispensers, parking and drive areas.

A special exception is necessary for the proposed fuel service operation use in combination with the proposed convenience store with a sales area greater than 1500 sq.ft. It appears that this use is appropriate, given the commercial uses in the vicinity and the location of the property immediately adjacent to Baltimore National Pike, which is a highly traveled roadway. I am persuaded that the special exception requirements of Section 502.1 of the B.C.Z.R. have been met and that the proposed fuel service station/convenience store use will not be detrimental to the health, safety or general welfare of the locale. Moreover, the proposal complies with the requirements of Section 405 for a fuel service operation.

Special hearing relief is requested to clarify the application of Section 405.4.e of the B.C.Z.R., which allows certain uses in combination with a fuel service station operation. As noted above, a single building is proposed with a common wall separating the 7-Eleven store from the yet to be identified tenant of the retail space. The Petitioners request a finding that the proposed retail use is not a use in combination with the fuel service operation in that they are not related to one another and will be managed and operated separately. Based upon the testimony and evidence offered, I am persuaded to grant this relief. Even though the retail use will be located within the same building footprint as the convenience store, it is clear that it will be a separate use unrelated to the fuel service operation/convenience store. Thus, the relief requested should be granted.¹

The Petitioners also seek approval that the proposed identification sign for the 7-Eleven store/fuel service station operation and the yet to be identified retail tenant is a joint identification sign and as such, is permitted by right. The proposed sign is more particularly described on Page 2 of the amended plan marked as Petitioner's Exhibit 2. It is clear that the sign, by definition, is a joint identification sign and is permitted as of right.

¹ See, also, the decision rendered by the Co. Board of Appeals in Case No. 00-309-A wherein under similar circumstances, the Board held that separate/unrelated uses on the same lot were not uses in combination.

Lastly, variance relief is requested from the landscape transition area requirements. In this regard, the Petitioner argued that relief might not be necessary due to the peculiar nature of the property. Specifically, Section 405.4.A.2b of the B.C.Z.R. could be interpreted to require a landscape transition area between the two uses proposed within the one building. Obviously, landscaping cannot be provided between the two uses unless the building is separated. In addition, landscaping cannot be provided between the special exception area and the proposed Auto Zone store in that the uses are located on the same lot and utilize the same vehicular access. Nonetheless, in order to resolve this issue, variance relief will be granted to waive/modify the landscape transition area requirements between the two separate uses within the one building and the special exception use and the Auto Zone store. The unique layout of this property and proposed uses easily justify variance relief.

The final variance request relates to the proposed canopy signage for the fuel service station operation. In this regard, there have been numerous prior cases before the Zoning Commissioner seeking an interpretation of the sign regulations for canopy signs and questions raised regarding whether the painting and striping as part of the logo of those canopy signs should be calculated as part of the actual lettering. In those cases, the Zoning Commissioner's office has consistently held that painting and striping should not be counted as signage. The Office of People's Counsel disagrees. To resolve that issue in this case, I will grant the requested variance. I find that there is sufficient testimony and evidence in the record to satisfy the requirements of Section 307.1 of the B.C.Z.R. I am persuaded that the signs as proposed are appropriate in this instance and should be approved.

It should be noted that the amended plan marked as Petitioner's Exhibit 2 resulted after negotiations and substantial discussions between the adjacent St. Agnes School and the Petitioners over the proposed redevelopment of this site. An agreement was entered into between the parties and a series of restrictions reflecting that agreement have been incorporated herein as requested by the parties. I concur that these restrictions are appropriate, pursuant to Section 502.2 of the B.C.Z.R. Moreover, the Zoning Advisory Committee (ZAC) comments submitted by the Office of Planning shall be adopted and incorporated herein as restrictions to the relief granted.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth herein, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this Alay of October 2003 that the Petition for Special Hearing to approve that the proposed fuel service station/convenience store is a separate operation from the adjoining retail establishment and is not a "use in combination" pursuant to Section 405.4.E of the B.C.Z.R., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the proposed joint identification sign for the subject fuel service station/convenience store and the retail establishment is permitted by right, and as such, the Petition for Special Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit a proposed fuel service station as a use in combination with a convenience store with a sales area larger than 1500 sq.ft., pursuant to Section 405.2.B.1 and 405.4.E.1 of the B.C.Z.R., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 405.4.A.2.b of the B.C.Z.R. to permit a landscape transition area abutting non-residentially zoned property of 0 feet in lieu of the required 6 feet and 0 feet in lieu of the required 10 feet along a public right-of-way; and, from Section 405.4.5.e to permit two fuel service station canopy signs of 245 sq.ft. each and two fuel service station canopy signs of 44 sq.ft. each, in lieu of the permitted four fuel service station canopy signs of 25 sq.ft. each, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) There shall be no public address system outside the buildings; however, an intercom system can be provided at the fuel pump island to assist patrons.

- 3) There will be no outside pay phones on the 7-Eleven property and no outside vacuum cleaners.
- 4) A landscape buffer of 19 feet will be provided along St. Agnes Lane across from St. Agnes School and taper to a width of 10 feet near the corner at Baltimore National Pike as shown on Petitioner's Exhibit 2. The intent of this restriction is to have the buffer at the maximum width possible in this area, dependent upon any improvements that may be required by the Maryland State Highway Administration (SHA) to Baltimore National Pike. This restriction may be modified, if required, by SHA.
- 5) The Petitioners shall provide a sidewalk connection and appropriate crosswalks from the public sidewalk to the building entrance.
- 6) Trash removal/pick-up will be at reasonable hours so as not to be disruptive to the neighbors. Moreover, the dumpster enclosure shall be constructed of similar materials as the building.
- 7) All lighting on the site will be designed so as not to shine and/or reflect onto adjacent properties.
- 8) A barrier shall be installed to prevent vehicular access from the adjacent car wash through the subject property to St. Agnes Lane.
- 9) The Petitioners shall consult with Ray Heil, Baltimore County Street Coordinator for Baltimore National Pike (Maryland Route 40) improvements to prepare a landscape plan that addresses the total area between the curb along St. Agnes Lane and Route 40 and the proposed site improvements.
- 10) The Petitioners shall submit architectural elevations of all facades and signs, as well as a landscape plan and lighting plan to the Office of Planning prior to the issuance of any building permits. Said architectural elevations shall be substantially similar to those submitted at the hearing and marked as Petitioner's Exhibits 2 and 5.
- 11) The Petitioners shall contact the Baltimore County Police Department and establish a community police station on-site at the 7-Eleven store, if practical.

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

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

CITIZEN'S SIGN-IN SHEET

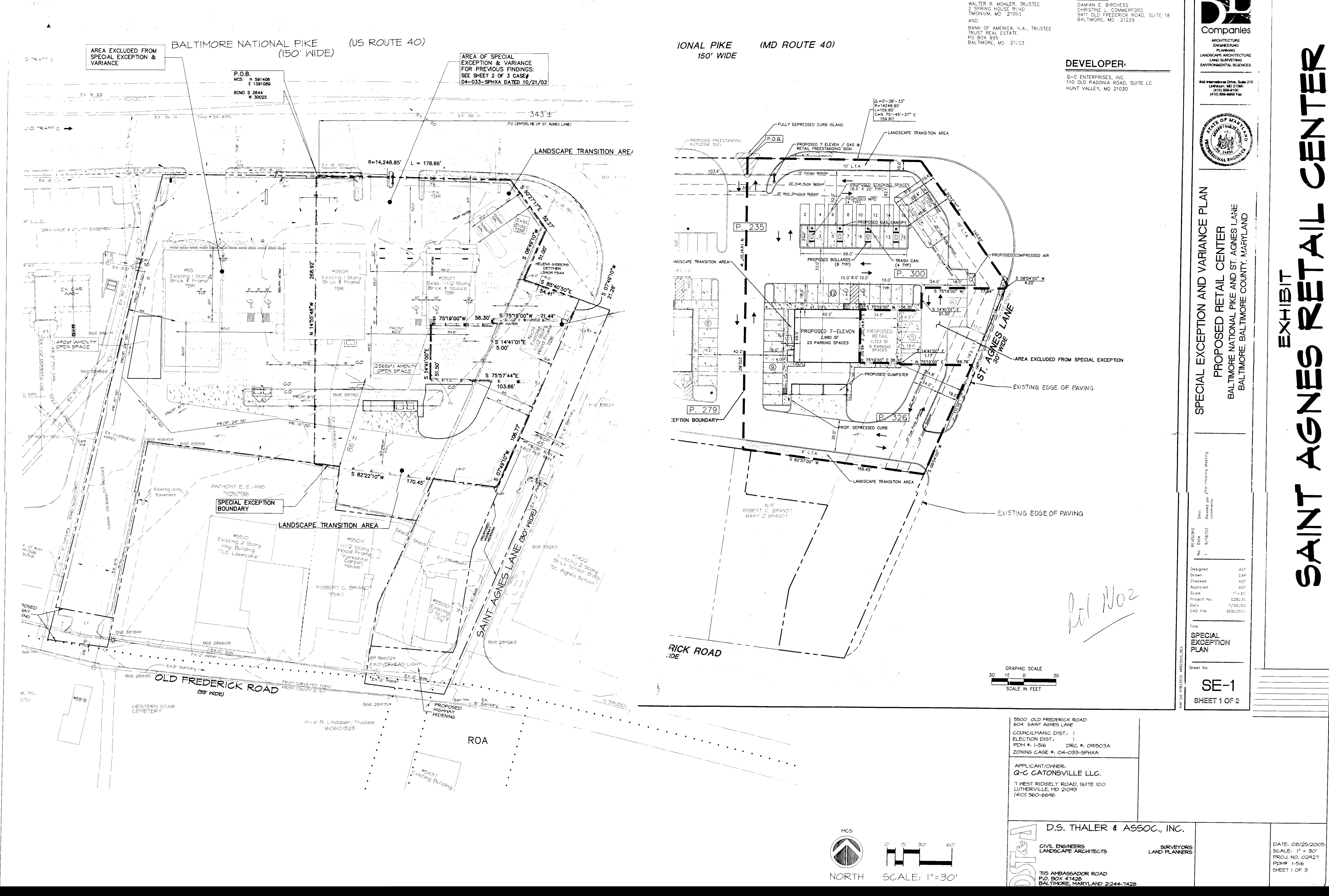
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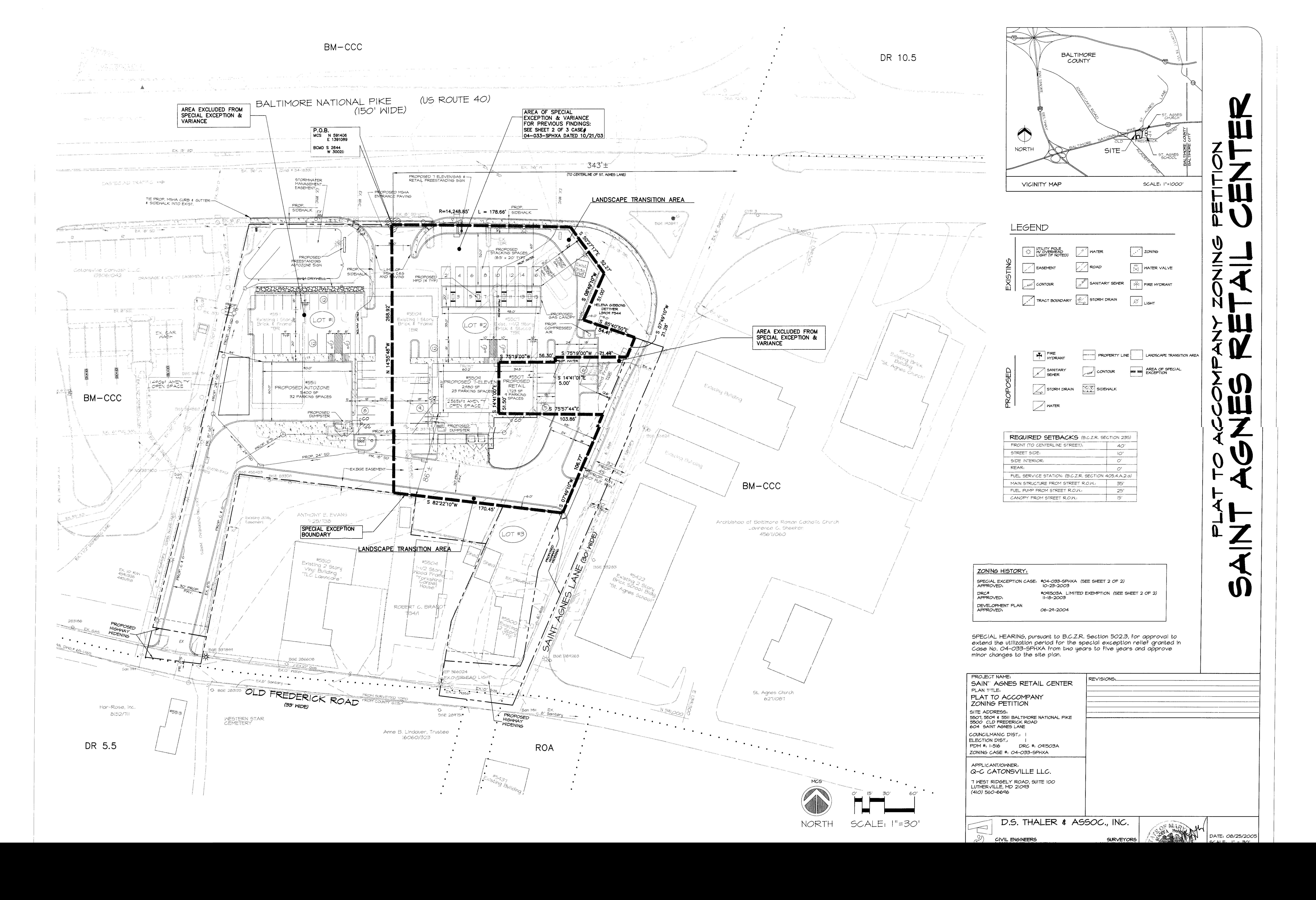
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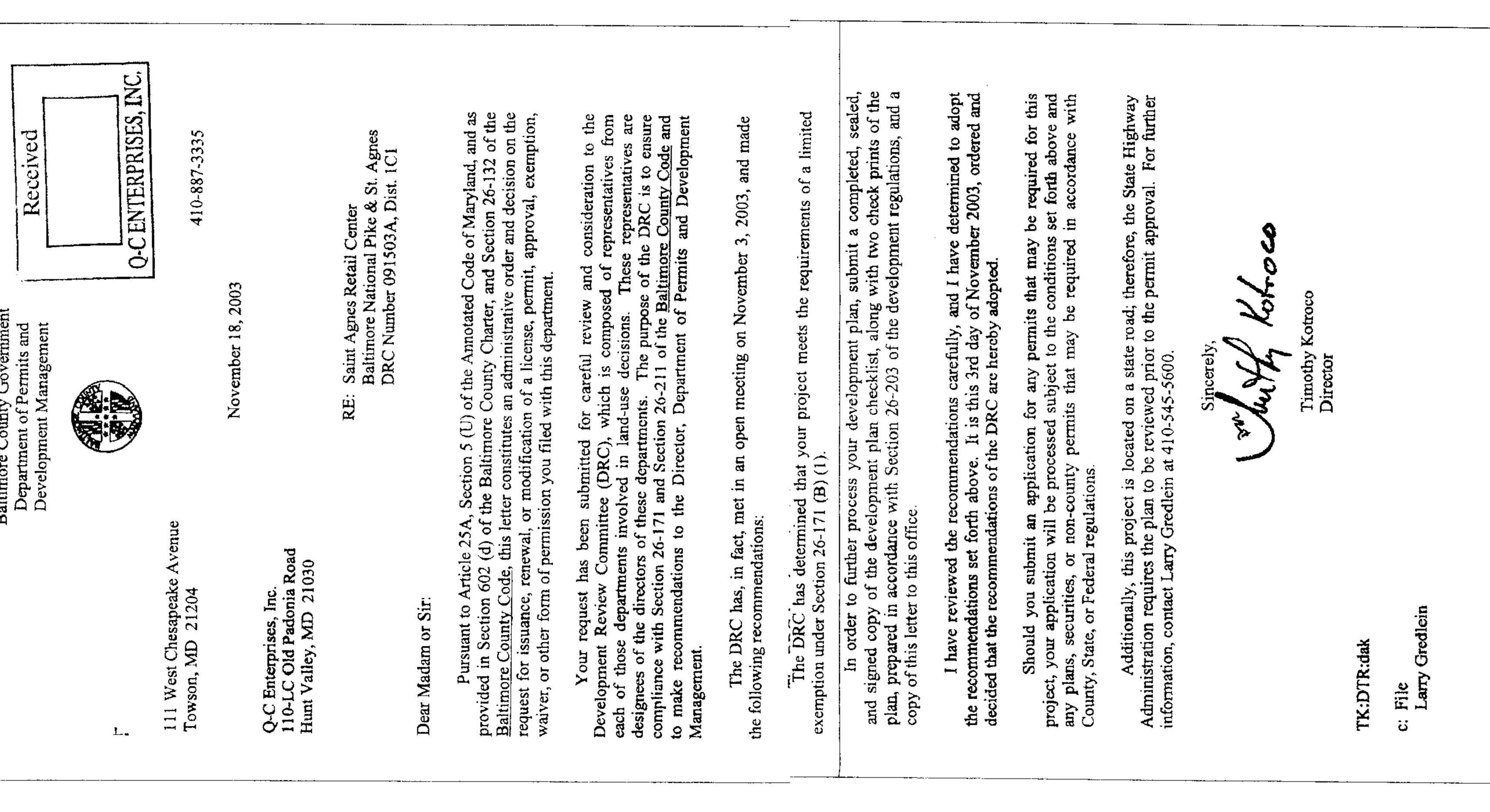
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CITY, STATE, ZIP	Tousson MD 21204	12 dw	N. Wales PA 19454								
ADDRESS	210 Albaheny Are.	7115 AMBASSYDON RD O	400 Coletter Ct.								
NAME	Tabricia A. Malor	AUREW C. FERRETTI	Kass W. Warn								

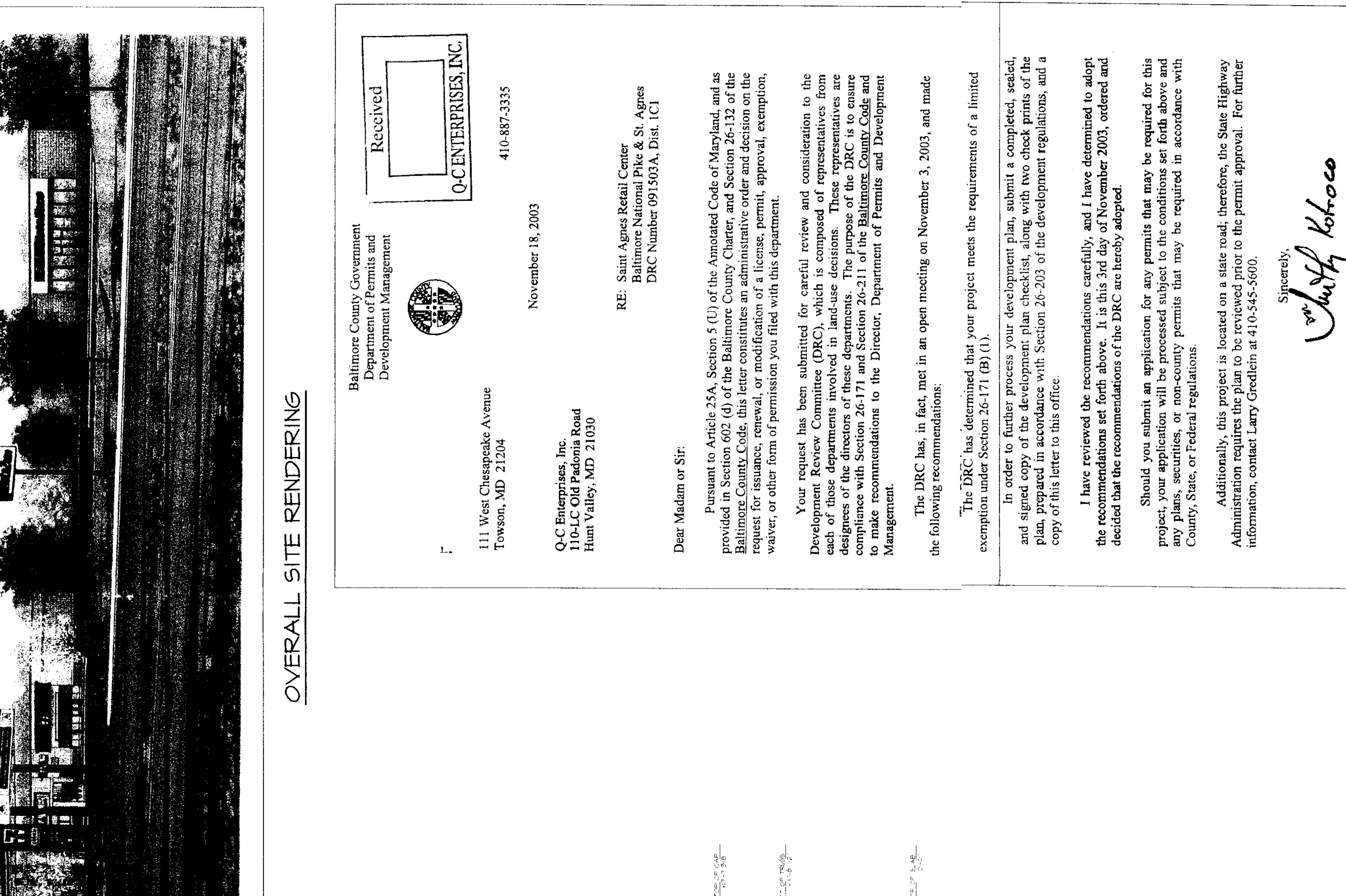


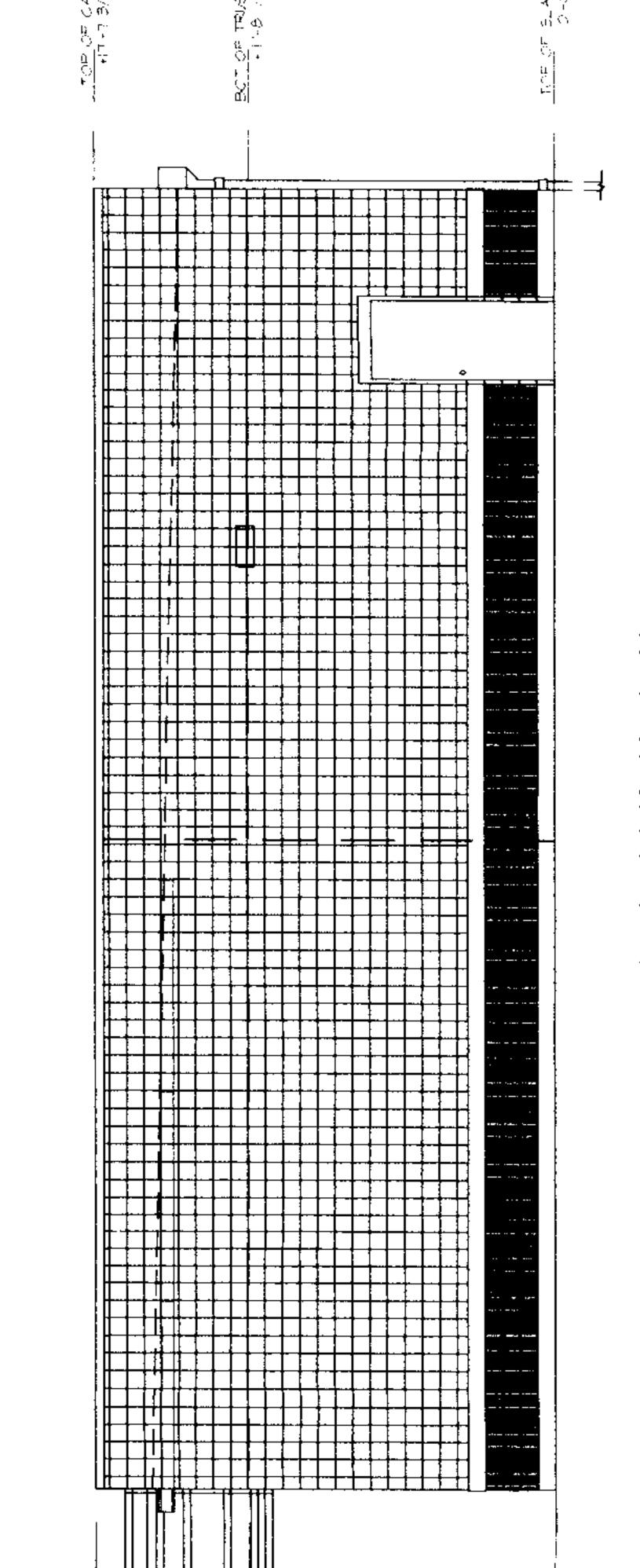
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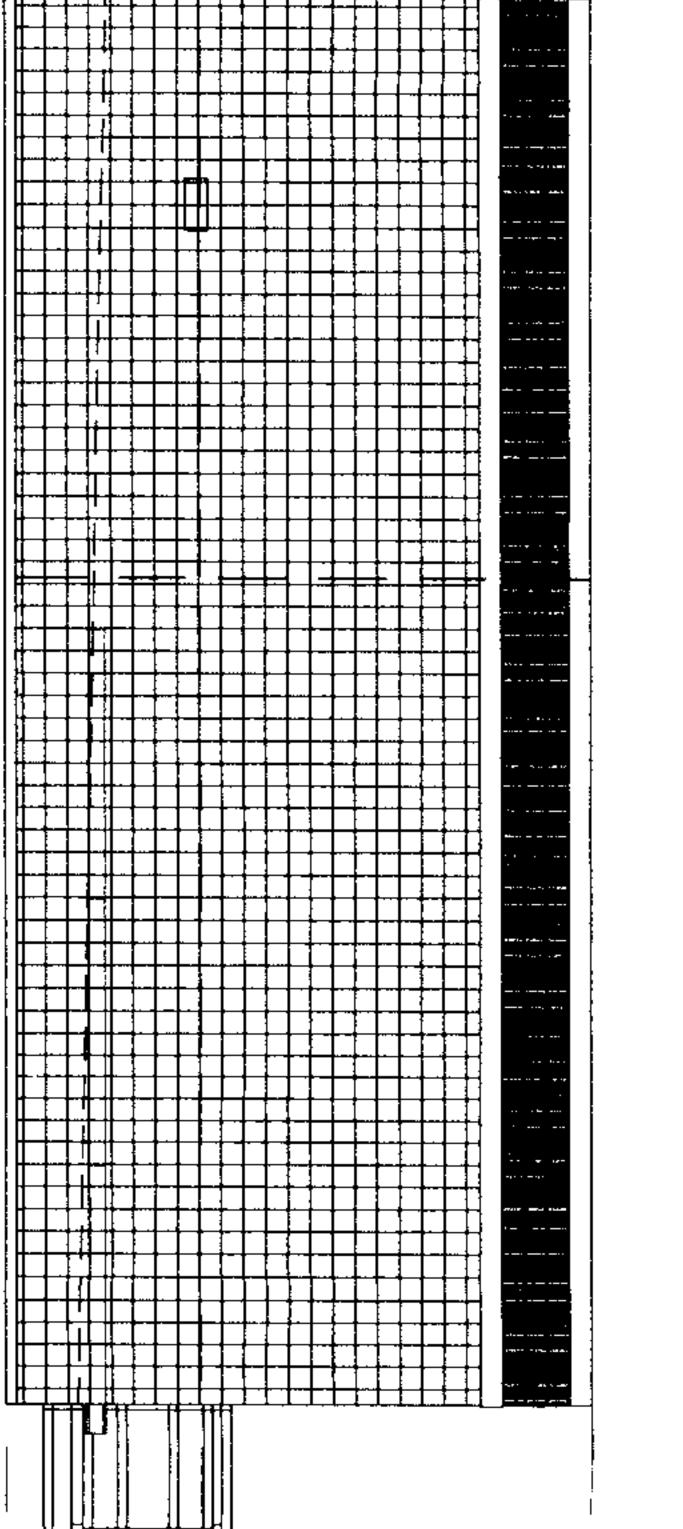


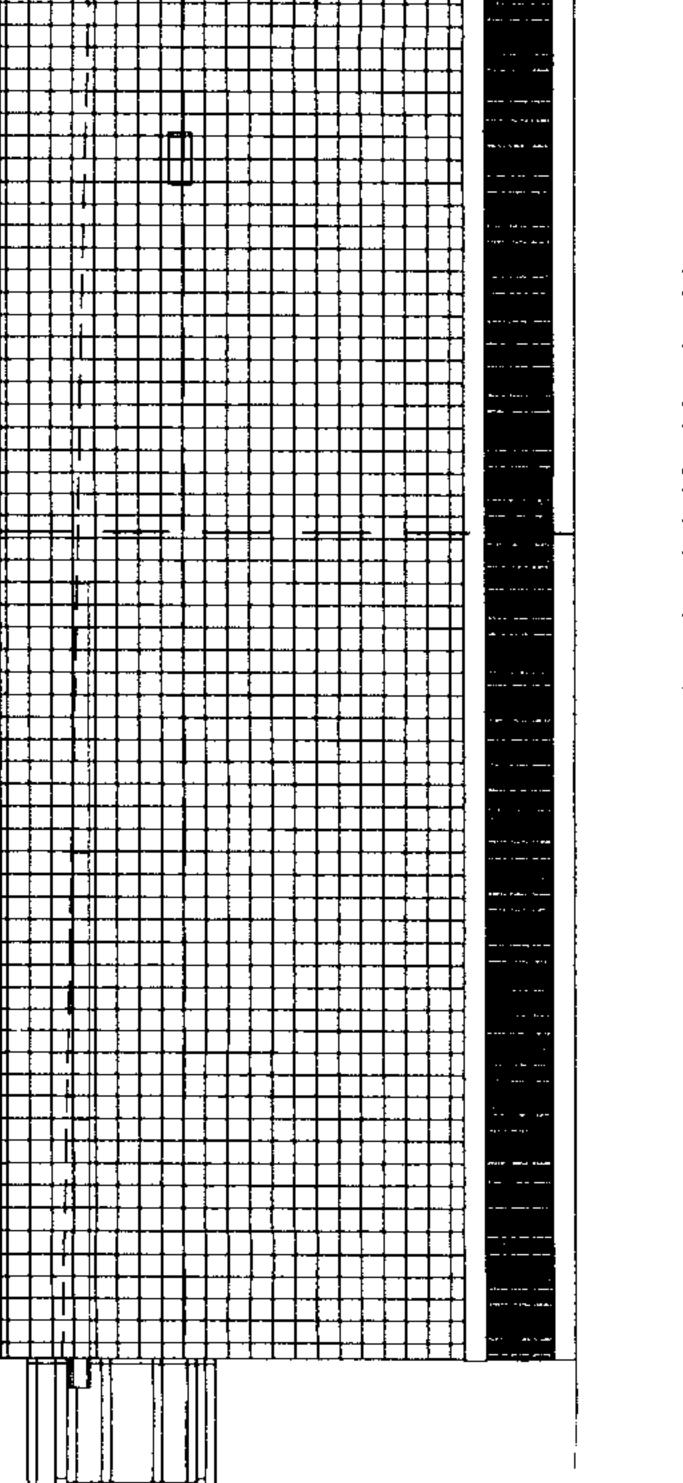
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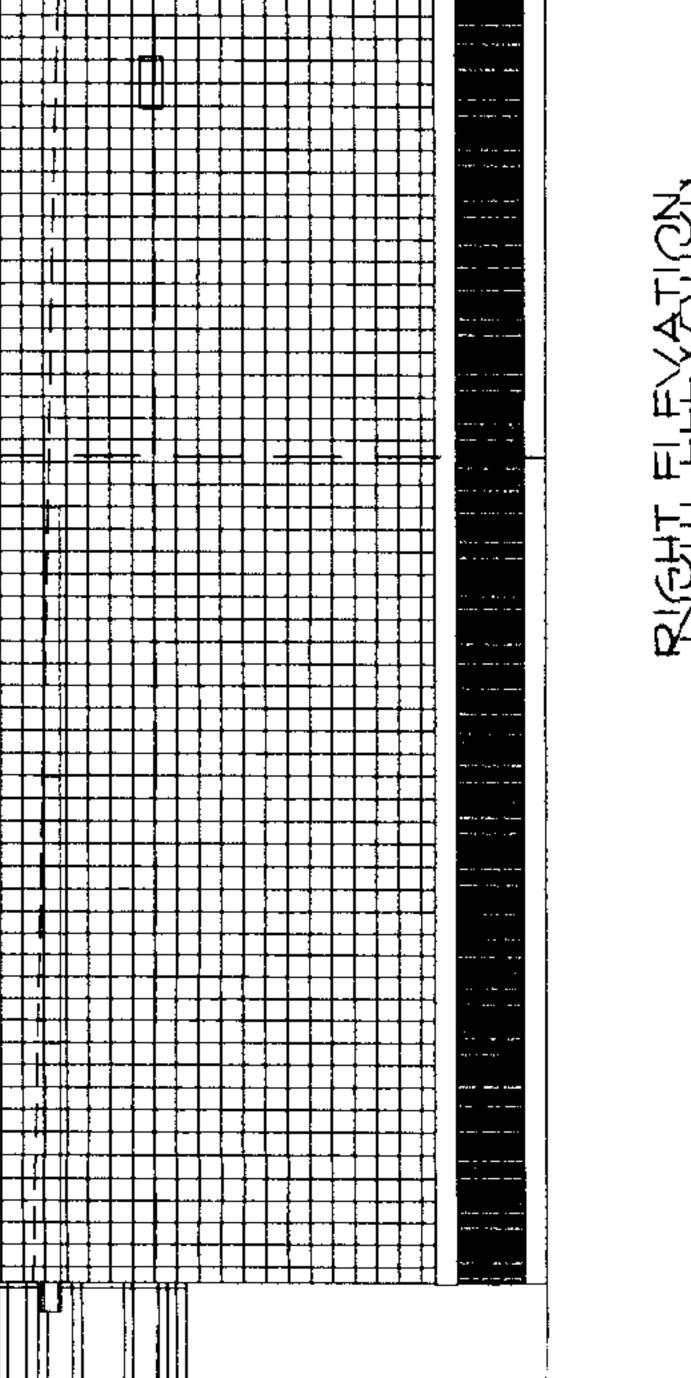


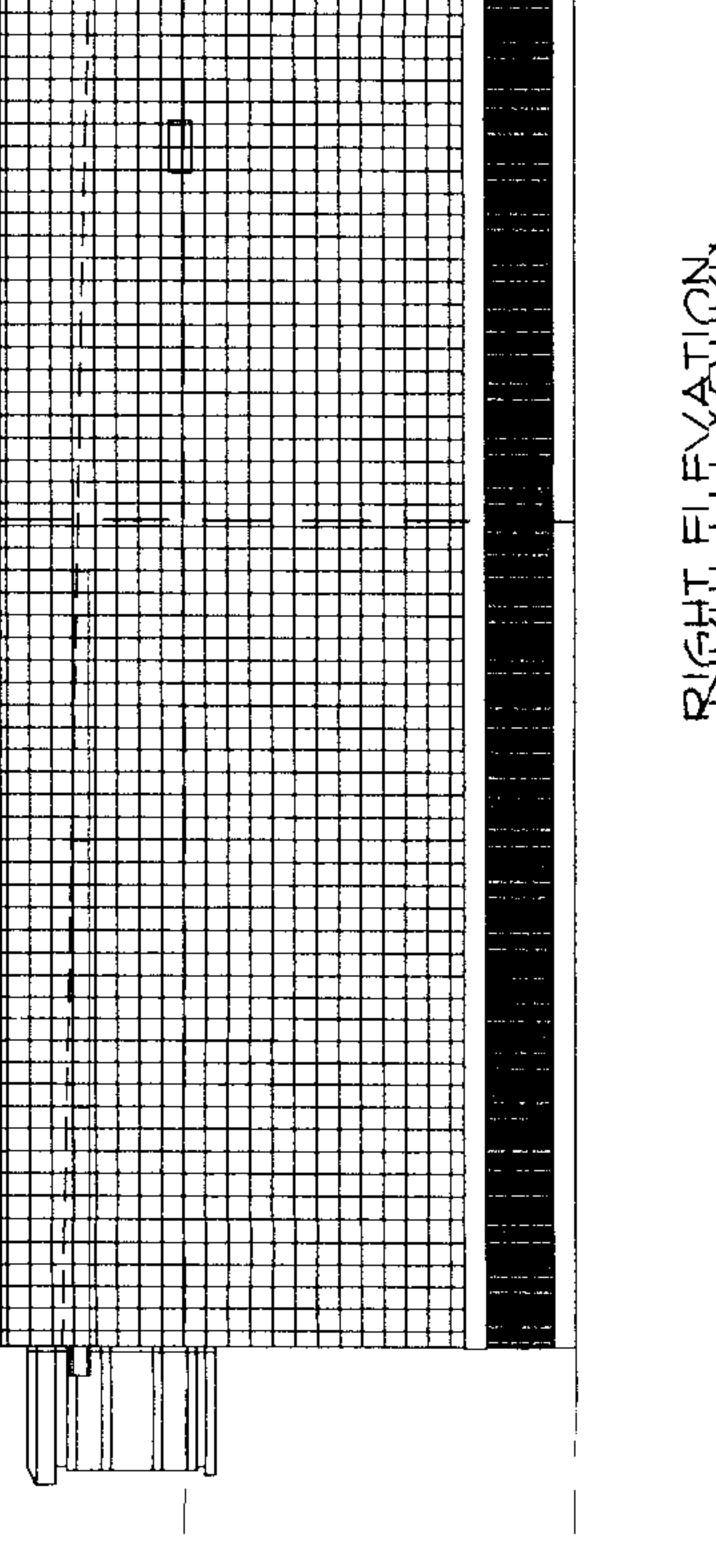


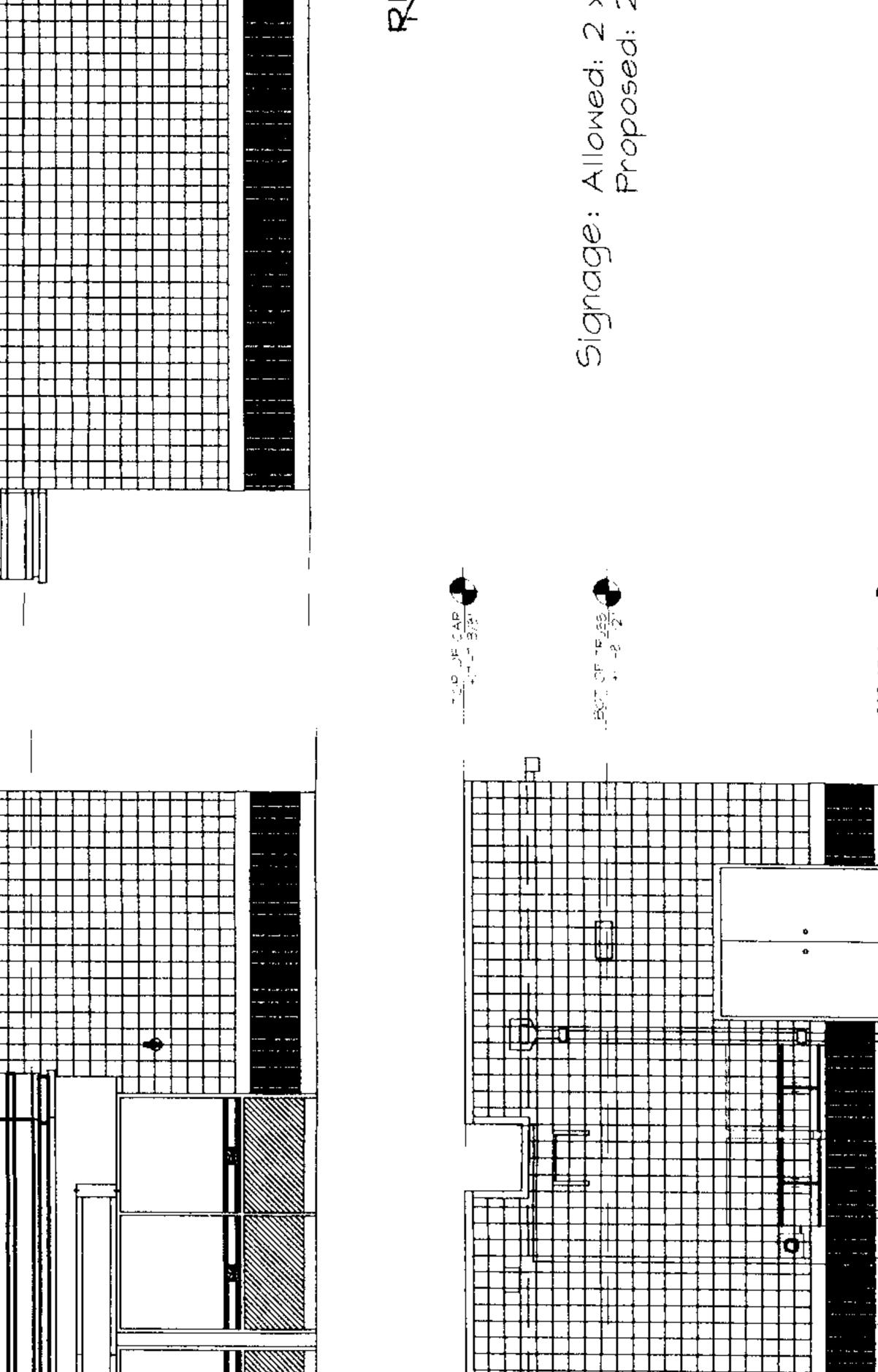












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own critical areas, archaeological sites cles, or hazardous materials* on the site.

I the applicant; location and description of arricle as defined by Section 7-101 of the interval of the annotated Code of Maryland, to time amended.

I Article of the annotated Code of Maryland, to time amended.

I tile within the limits of the Chesapeake Bay Critical Annotation is requested by the Department of Environmentsource Management to determine compliance with the ection Program pursuant to Section 26-442(a).

In with BCZR Section 450, all zoning policles and the Zalings Case No. 04-033-5PHXA as shown hereon.

35 feet. 18+/- high buildings are proposed.

40 and along a portion of St. Agnes Lane, as shown in proposed development on site are shown heron.

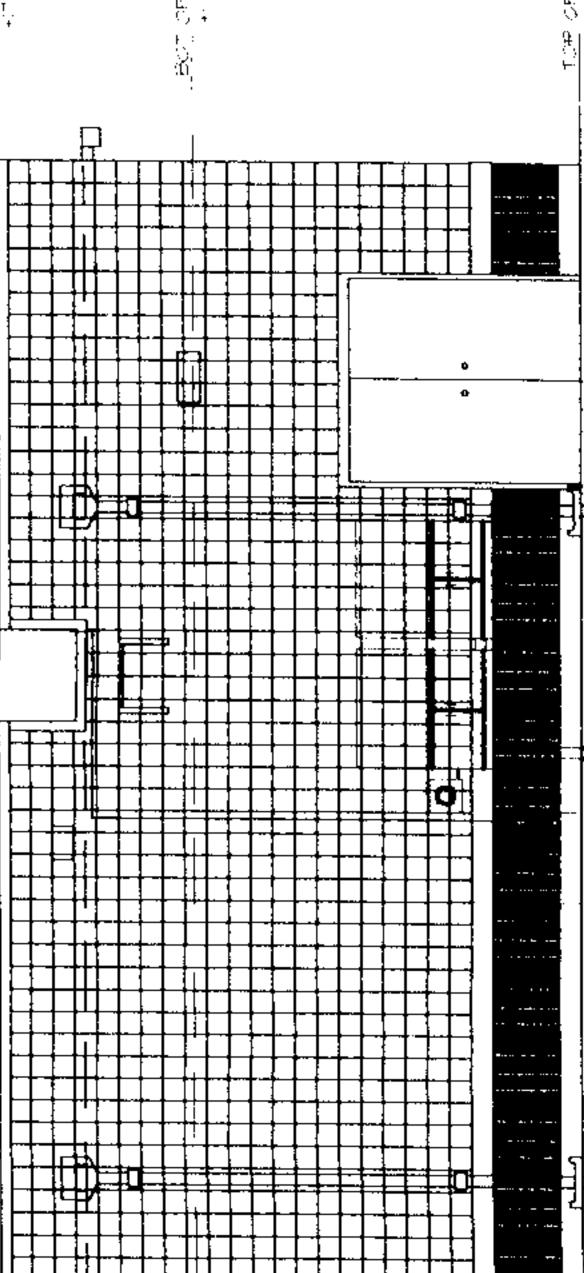
In Areas (RTA's) on site.

The site fronts on Route 40, a major arterial road, and is neither a major arterial or a collector road.

Agnes Lane to be provided by the Developer for the required to be excuted between the Developer and

than 15,000 S.F. or 1,500 times imes the square footage of the 50 x 8 = 12,000, use 15,000 so x 4 = 11,920 so x 4 = 11,920 so x 5.F.

S.F. (Special Exception Area) xception Area= 45,562 S.F.



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PROPOSED GAS CANOPY SIGN "A"

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