IN RE: **PETITION FOR SPECIAL HEARING** NE/Cor. Hanover Rd. & Embry Road **(15303 Hanover Road)** 4th Election District 3rd Council District	*	BEFORE THE HEARING OFFICER /
	*	ZONING COMMISSIONER
	*	OF
Four D's Associates, LLP and Highs of Baltimore - Petitioners	*	BALTIMORE COUNTY
	*	Case No: 06-229-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commission on a Petition for Special Hearing filed by Four D's Associates, LLP, owners of the subject property, through their attorney, Dino C. LaFiandra, Esquire. The Petitioners request an extension for utilization of the special exception relief granted in prior Case No. 04-125-SPHXA on January 9, 2004 for an additional three years, subject to the terms, conditions and limitations of the original approval.

Appearing at the requisite public hearing in support of the request was Brian Darnell, a principal in the Four D's organization and Vice President of High's of Baltimore, Inc., an entity affiliated with Four D's, and the user of the property. Also present for the Petitioner were Wayne Newton, P.E., of Messick and Associates, the consultants who prepared the site plan, and Dino C. La Fiandra of Whiteford, Taylor & Preston, attorney for the Petitioner. Mr. Bob Walker and Mr. S. Glenn Elseroad, both from the Hanover Road Improvement Association ("HRIA"), were also present at the hearing in support of the Petition.

ORDER RECEIVED FOR FILING
Date 12/21/05
By

Four D's owns 1.15 acres at the northeast corner of Hanover Road and Emory Road, which is split zoned BL-CR and RC 2. This Petition for Special Hearing involves only the BL-CR zoned portion of the property, which contains 0.76 acres, more or less (the "Subject Property"). The Subject Property is presently improved with a 24 year old High's Dairy Store, without fuel service. On January 9, 2004, Zoning Commissioner Lawrence E. Schmidt approved Petitions for Special Exception, Variance, and Special Hearing in case number 04-125-SPHXA relating to the redevelopment of the entire tract (1.15 acres) with a modern High's Dairy Store consisting of a convenience store greater than 1500 square feet with fuel service. The relief granted included appropriate Special Exceptions for the fuel service station and convenience store, as detailed therein. The Special Exceptions were limited to the BL-CR zoned portion (0.76 acre) of the tract. The Order granting the relief did not specify an expiration date for the Special Exception approval.

Mr. La Fiandra proffered for the Petitioners that Mr. Darnell and Mr. Newton have been diligently pursuing development and permit approvals since shortly after the original January 9, 2004 zoning approval. The Petitioners secured a limited exemption from the development review and approval process. Mr. La Fiandra proffered that the bureaucratic obstacles have been interposed largely by the Maryland State Highway Administration and the Baltimore County Department of Environmental Protection and Resource Management. In particular, the design for stormwater management has been troublesome and time consuming. This is still an unresolved issue, despite the fact that

the Petitioner has been engaged with DEPRM on this subject since as early as May, 2004. There has been no material change in the vicinity of the Subject Property that would impact the special exception approval. I accepted Mr. La Fiandra's proffer and the representatives of the HRIA had no questions for him.

The representatives from the HRIA voiced their strong support for the redevelopment of the High's store. They supported the Petition for Special Hearing to extend the Special Exception approvals.

BCZR § 502.3 provides:

> A special exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. . . . After a final order granting a special exception, the Zoning Commissioner, at any time prior to expiration of the period of time authorized for its utilization, may grant one or more extensions of such period, provided that a maximum time for utilization of the special exception is not thereby extended for a period of more than five years from the date of the final order granting same.

Accordingly, but for the instant Petition for Special Hearing and the Order contained herein, if not utilized, the original Special Exception approval would lapse on January 10, 2006, two years and one day after the date of the original approval.

I am persuaded to grant the relief requested in the Petition for Special Hearing. There is no indication that a fuel service station and a convenience store as originally approved in Case No. 04-125-SPHXA do not remain as appropriate for the subject property today as they were on January 9, 2004. It should be noted that the extension

ORDER RECEIVED FOR FILING
Date 12/21/05
By

granted herein only applies to the Special Exception relief originally granted. The original Variance and Special Hearing relief granted in Case No. 04-125-SPHXA do not expire and therefore do not require extension.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of December, 2005, that the Petition for Special Hearing to approve an extension of the Special Exception approval in Case No. 04-125-SPHXA for an additional 3 years, subject to the terms, conditions and limitations of the original approval, be and hereby is GRANTED; and

IT IS FURTHER ORDER that all terms, conditions and limitations as set forth in the Findings of Fact and Conclusions of Law dated January 9, 2004 in Case No. 04-125-SPHXA shall remain in full force and effect.

William J. Wiseman, III
Zoning Commissioner for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/21/05
By

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

December 21, 2005

WILLIAM J. WISEMAN III
Zoning Commissioner

Dino C. LaFiandra, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: **PETITION FOR SPECIAL HEARING**
NE/Corner Hanover Road and Embry Road
(15303 Hanover Road)
4th Election District – 3rd Council District
Four D's Associates, LLP and Highs of Baltimore - Petitioners
Case No. 06-229-SPH

Dear Mr. LaFiandra:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

cc: Mr. Brian Darnell, President, Four D's Associates, LLP
7477 New Ridge Road, Hanover, Pa. 21076
Mr. Wayne Newton, Messick & Assoc., 2120 Renard Court, Annapolis, Md. 21401
Mr. Bob Walker, 14625 Hanover Road, Upperco, Md. 21155
Mr. S. Glenn Elseroad, 5423 Mt. Gilead Road, Reisterstown, Md. 21136
People's Counsel; Case File

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 15303 Hanover Road and RC-8

which is presently zoned BL-CR

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

An extension of the Special Exception approval in Case No. 04-125 SPHXA for an additional 3 years, subject to all terms, conditions and limitations of the original approval. DL

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

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

Contract Purchaser/Lessee:

N/A
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Four D's Associates, LLP
Name - Type or Print

Signature By: Brian Darnell (PRES.)

Name - Type or Print

Signature

7477 New Ridge Road 410-859-3636
Address Telephone No.

Hanover, Pennsylvania 21076
City State Zip Code

Attorney For Petitioner:

Dino C. La Fiandra
Name - Type or Print

Signature

Whiteford, Taylor & Preston LLP
Company

210 W. Pennsylvania Ave. 410-832-2000
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Representative to be Contacted:

Dino C. La Fiandra
Name

210 W. Pennsylvania Ave. 410-832-2000
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1HR

UNAVAILABLE FOR HEARING —

Reviewed By JL Date 10/28/05

Case No. 06-229-SPH

REV 9/15/98

ORDER RECEIVED FOR FILING
Date 12/21/05
By

DESCRIPTION OF ZONING AREA A
BARNES/ELMO PROPERTY
HIGHS @ FOWBLESBURG
15301 HANOVER ROAD
TAX MAP 31, PARCEL 12 & 13, BALTIMORE COUNTY, MD

Tax Account No. 04-0402001450
Tax Account No. 04-0402085125

Beginning at the ~~southeast~~ NORTHEAST corner of the intersection of Hanover Road and Emory Road. Said property now being described based on a survey by Design Tech Associates, Inc. dated January, 2003, leaving said point and traversing the following courses and distances:

(1) Running with & binding on the eastern right of way line of Hanover Road, North 05 degrees, 23 minutes, 44 seconds East 225.49', thence

(2) Leaving said right of way line, South 84 degrees 29 minutes 07 seconds East 142.66 feet, thence

(3) South 03 degrees, 13 minutes, 00 seconds West 224.71 feet, to a point on the Northern right of way line of Emory Road, thence

(4) Running with & Binding on said Emory Road right of way, North 84 degrees, 51 minutes, 00 seconds West 151.20 feet, to the place of beginning.

CONTAINING 33,062 square feet or 0.76 acres of land more or less.

#229

STATE OF MARYLAND
WAYNE ALAN NEWTON
No. 21891
REGISTERED
PROFESSIONAL ENGINEER

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

JL #229 **No.** 1127

DATE 10/25/05 **ACCOUNT** 001 006 6150

AMOUNT $ 325.00

RECEIVED FROM: Whiteford Taylor + Preston LLP

FOR: Zoning hearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

Baltimore County, Maryland

CASHIER'S VALIDATION

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: #06-220-SPH
15303 Hanover Road
Northeast corner Hanover Road and Emory Road.
4th Election District - 3rd Councilmanic District
Legal Owner(s): Four D's Associates, LLP

Special Hearing: to approve an extension of the utilization time for Special Exception approval in Case No. 04-125-SPHXA for an additional 3 years subject to all terms, conditions and limitations of the original approval.

Hearing: Tuesday, December 13, 2005 at 10:00 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 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/11/712 Nov. 22 75948

CERTIFICATE OF PUBLICATION

11/23/, 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 1 successive weeks, the first publication appearing on 11/22/, 2005.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 06-229-SPH

Petitioner/Developer: FOUR D'S ASSOCIATES, LLP

Date of Hearing/Closing: DEC 13, 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: 15303 HANOVER RD

The sign(s) were posted on 11-27-05
(Month, Day, Year)

Sincerely,

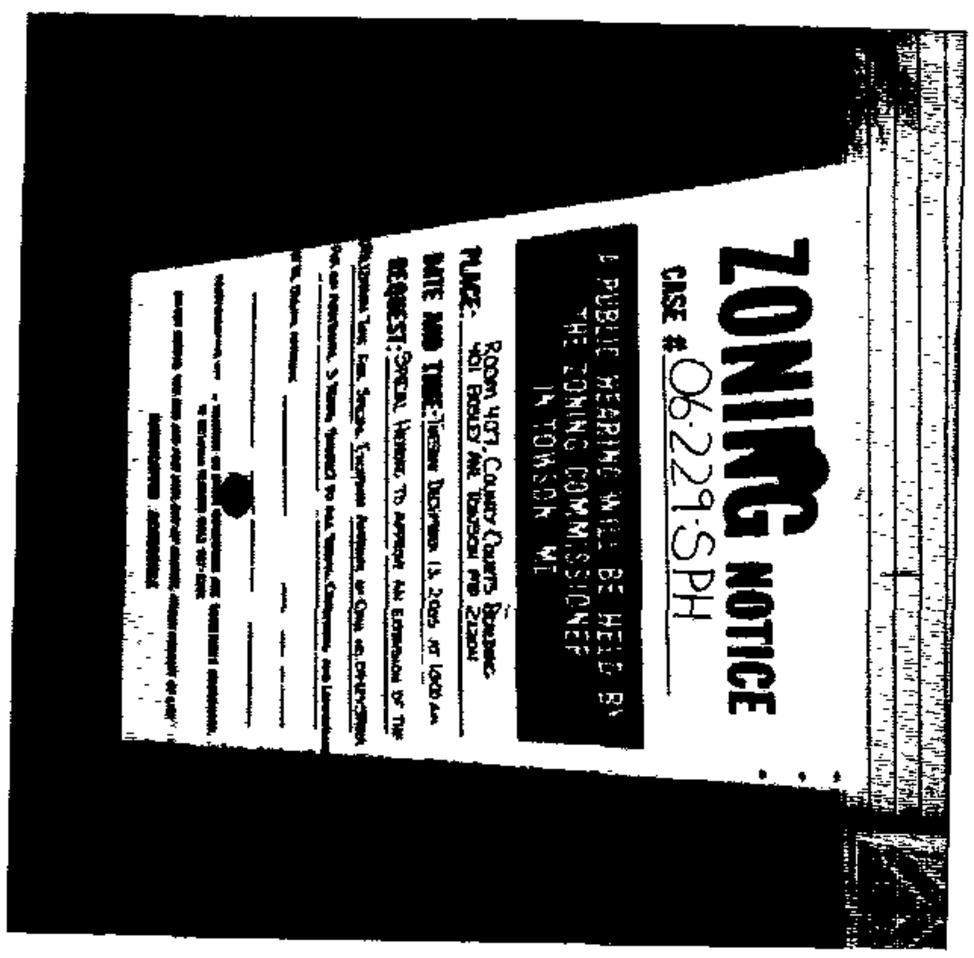
Robert Black 11-29-05
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

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

(410) 282-7940
(Telephone Number)



DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 06 229 SPH

Petitioner: FOUR D'S ASSOCIATES, LLP

Address or Location: 15303 HANOVER RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: DINO LA FIANDRA

Address: WHITEFORD TAYLOR + PRESTON LLP
210 W. PENNSYLVANIA AVE.
TOWSON MD 21204

Telephone Number: 410-832-2000

Revised 7/11/05 - SCJ

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

Baltimore County

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

November 8, 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: 06-229-SPH
15303 Hanover Road
Northeast corner Hanover Road and Emory Road.
4th Election District, 3rd Councilmanic District
Legal Owner: Four D's Associates, LLP.

Special Hearing to approve an extension of the utilization time for Special Exception approval in Case No. 04-125-SPHXA for an additional 3 years subject to all terms, conditions and limitations of the original approval.

Hearing: Tuesday, December 13, 2005 at 10:00 a.m., in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK: clb
C: Dino C. LaFiandra Whiteford, Taylor & Preston 210 W. Pennsylvania Avenue Towson 21204
Four D's Associates, LLP. 7477 New Ridge Road Hanover PA 21076

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY NOVEMBER 29, 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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 22, 2005 Issue - Jeffersonian

Please forward billing to:
Dino LaFiandra 410-832-2000
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

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: 06-229-SPH
15303 Hanover Road
Northeast corner Hanover Road and Emory Road.
4th Election District, 3rd Councilmanic District
Legal Owner: Four D's Associates, LLP.

Special Hearing to approve an extension of the utilization time for Special Exception approval in Case No. 04-125-SPHXA for an additional 3 years subject to all terms, conditions and limitations of the original approval.

Hearing: Tuesday, December 13, 2005 at 10:00 a.m., in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

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

December 12, 2005

Dino La Fiandra
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Dear Mr. LaFiandra:

RE: Case Number: 06-229-SPH, 15303 Hanover Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 28, 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
Four D's Associates,LLP. 7477 New Ridge Road Hanover PA 21076

Printed on Recycled Paper

Fire Department

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

Baltimore County

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

November 9, 2005

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

ATTENTION: Zoning Review Planners

Distribution Meeting of: October 31, 2005

Item No.: 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 233, 234, 235, 236, 237, 238, 239, 241 and 242

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.

Acting Lieutenant Don W. Muddiman
Fire Marshal's Office
410-887-4880
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 16, 2005

DAK

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For November 7, 2005
Item No. 229

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment(s).

We have no comment regarding the extension of the Special Exception however; the proposed layout for the site does not meet out requirements at this time. We hereby reserve comments on the layout until this plan is submitted for development plan approval.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 229-11162005.doc

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

SHA State Highway Administration *Driven to Excel*

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

Maryland Department of Transportation

Date: 11·15·05

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

RE: Baltimore County
Item No. 229 JLL

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/~~US~~ 30. are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

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

Very truly yours,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

RW
12/13

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 9, 2005

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-229- Special Hearing**

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.

Prepared By: Curtis Murray

Division Chief: Lyn Lanham

CM/LL

W:\DEVREV\ZAC\6-229 doc

RE: PETITION FOR SPECIAL HEARING 15303 Hanover Road; NE corner Hanover Road & Emory Road 4th Election & 3rd Councilmanic Districts Legal Owner(s): Four D's Associates, LLP by Brian Darnell, President Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 06-229-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
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 2005, a copy of the foregoing Entry of Appearance was mailed to Dino LaFiandra, Esquire, Whiteford, Taylor & Preston, LLP, 210 West Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

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

RECEIVED
NOV 07 2005
Per CLB

PLEASE PRINT CLEARLY

CASE NAME Highs Fowblesburg
CASE NUMBER 229
DATE 12/13/05

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Bob Walker	14625 Hanover Road	Upperco MD 21155	rbw14625@aol.com
J. Glenn Elseroad	5423 Mt Gilead Rd	Reisterstown MD 21136	SGElseroad@ComCast.net

PLEASE PRINT CLEARLY

CASE NAME Highs Fowblesburg
CASE NUMBER 229 SPH
DATE 12/13/05

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
DINO LaFiandra	210 W. Penn #400	Towson 21204	
Brian Darnell	7477 New Ridge Rd	Hanover MD 21076	bdarnell@highsdairystores.com
Wayne Newton	2120 Renard Ct.	Annapolis MD 21401	wayne@mcmasterkandassoc.com

Case No.: 06 229 SPH

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	SITE PLAN Page 1 of 2 - 1A Page 2 of 2 - 1B	
No. 2	PRIOR ORDER - CASE NO. 04-125-SPHXA	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

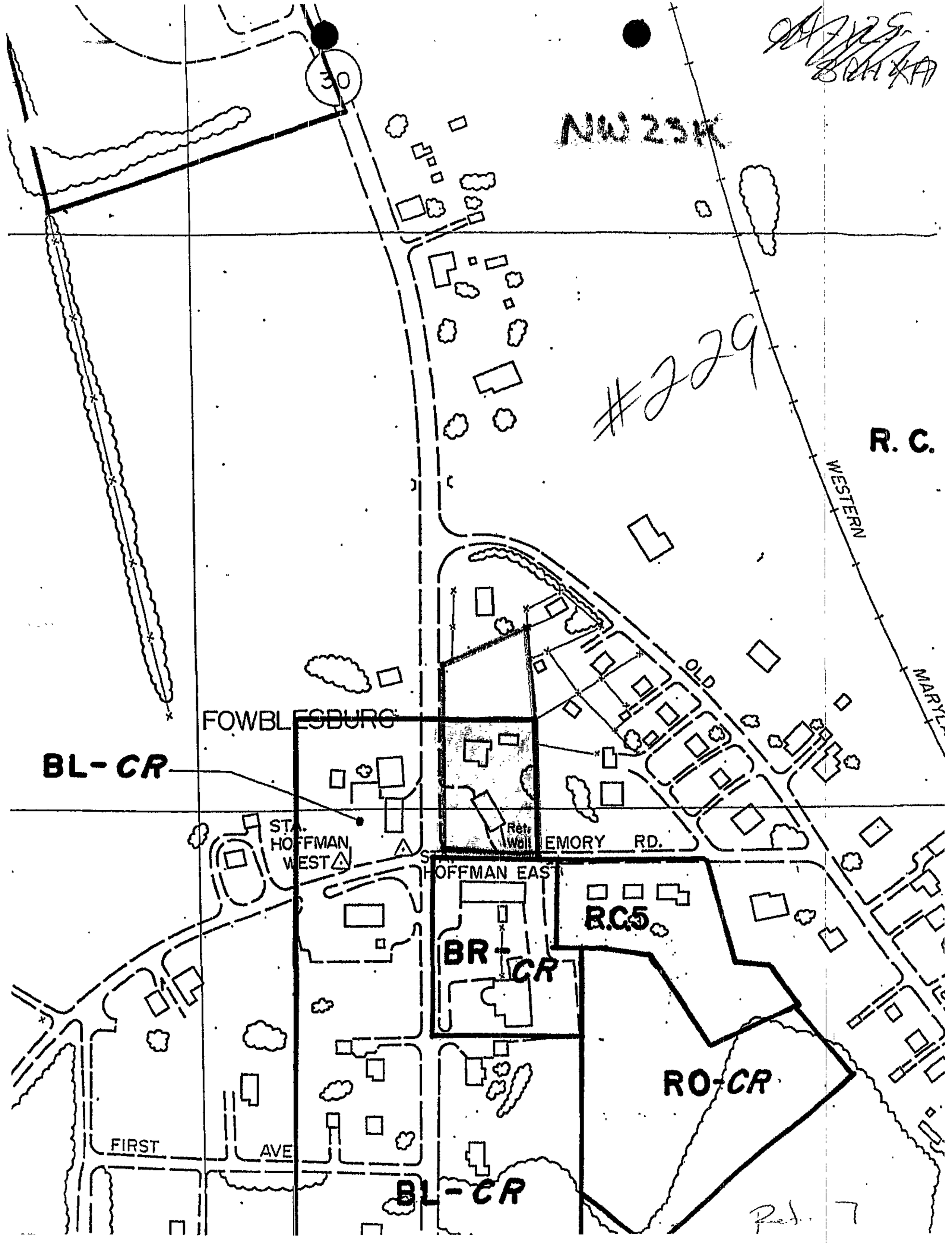

30
NW 23K
#229
R. C.
WESTERN
MARYL
OLD
FOWBLESBURG
BL-CR
STA.
HOFFMAN
WEST
Ret.
Wall
EMORY RD.
S
HOFFMAN EAST
R.C.5
BR-CR
RO-CR
FIRST
AVE
BL-CR

EXHIBIT #229

IN RE: PETITIONS FOR SPECIAL HEARING, SPECIAL EXCEPTION & VARIANCE - SE/Corner Hanover Road & Emory Road **(15303 Hanover Road)** 4th Election District 3rd Council District	*	BEFORE THE
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
	*	Case No. 04-125-SPHXA
Joseph N. Elmo and Margaret M. Barnes, Owners; High's of Baltimore, Inc., Contract Purchasers	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing, Special Exception and Variance filed by the owners of the subject property, Joseph N. Elmo and Margaret M. Barnes, and the Contract Purchasers, High's of Baltimore, Inc., by Brian Darnell, Vice President, through their attorneys, G. Scott Barhight, Esquire, and Dino C. LaFiandra, Esquire. The Petitioners request a special exception to permit a fuel service station in a B.L.-C.R. zone, pursuant to Section 405.2.B.2, in that portion of the property designated as Zoning Area A, and to allow a convenience store greater than 1,500 sq.ft. as a use in combination with said fuel service station, pursuant to Section 405.4.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). In addition, the Petitioners request special hearing relief as follows: **1)** to approve an amendment to the previously approved site plan in Case No. 82-168-SPHXA to reflect the proposed improvements for the overall site, designated as Zoning Area C; **2)** to allow business parking in an R.C.2 zone (Zoning Area B), pursuant to Section 409.8.B of the B.C.Z.R.; and, **3)** to permit illumination of signage on the site which is not otherwise allowed, pursuant to Section 259.3.C.7(c) of the B.C.Z.R. (Zoning Area A). Lastly, the Petitioners request a series of variances from the B.C.Z.R. as follows: **1)** From Section 259.3.C.2(b) to permit a rear yard setback of 0 feet in lieu of the required 15 feet in Zoning Area A; **2)** from Section 259.3.C.4 to permit 11 parking spaces within the C.R. district in lieu of the required 19, in addition to 11 other parking spaces located elsewhere on the site (not within the C.R. district) in Zoning Area A; **3)** from Section

PETITIONER'S

EXHIBIT NO. 2

259.3.C.7(a) to permit a wall-mounted enterprise sign of 74 sq.ft. in lieu of the maximum allowed 8 sq.ft. and to allow said sign to project 8" from the building line in lieu of the maximum allowed 6" (Zoning Area A); **4)** from Section 259.3.C.7(b) to permit a double-sided, freestanding enterprise sign with a surface area of 77 sq.ft. per side, in lieu of the maximum allowed 25 sq.ft. per side (Zoning Area A); **5)** from Section 405.4.2(b) to permit a landscape transition area of 0' along the north side and along the rear/east side of Zoning Area A in lieu of the required 15' to coincide with rear yard setback variance; and, **6)** from Section 450.4 to permit one service station canopy sign of 125.52 sq.ft., and two service station canopy signs of 137.01 sq.ft. each, all in lieu of the maximum allowed 25 sq.ft. (Zoning Area A). The subject property and requested relief are more particularly described on the original plat submitted and marked as Petitioner's Exhibit 1A, and the revised plat marked as Petitioner's Exhibit 1B.

Appearing at the requisite public hearing in support of the request were Brian Darnell, Vice President of High's of Baltimore, Inc., Contract Purchasers of the subject property; Wayne A. Newton, Civil Engineer with Messick & Associates, the consultants who prepared the site plan; and Dino LaFiandra, Esquire, attorney for the Petitioners. Also appearing were Kenneth Schmid, Traffic Engineer, and John Sherwood, an Economist. Robert Walker with the Hanover Road Improvement Association, and Becky Gautreau, a nearby resident, appeared as interested citizens.

The subject property is located at the northeast corner of the intersection of Hanover Road and Emory Road in northwestern Baltimore County, near the Carroll County Line. The property contains a gross area of 1.15 acres, more or less, and is split zoned B.L.-C.R. (Zoning Area A) and R.C.2 (Zoning Area B). Presently, the property is improved with a High's convenience store, and a TV repair/sales shop. The Petitioners propose a redevelopment of the subject property.

At the onset of the hearing, the Petitioner offered a revised site plan marked as Petitioner's Exhibit 1B and amended the zoning relief requested. The revisions to the plan significantly reduced the extent of zoning relief sought. Specifically, there is no change in the relief sought within the Petition for Special Exception. The Petitioners still seek relief for a fuel

service station use in combination with a convenience store greater than 1,500 sq.ft. in that portion of the site zoned B.L.-C.R. The Petition for Special Hearing was amended by the deletion of request No. 2, which sought approval of business parking in the R.C.2 zoned portion of the site. Under the revised plan, the business parking has been relocated so that it is entirely within the B.L.-C.R. zoned portion of the site. However, the Petitioners still seek approval of the amended site plan and to allow illuminated signage on the property.

Turning to the Petition for Variance, several of the requests have been deleted. As shown on the revised plan, the proposed building has been relocated so that a 15-foot rear yard setback is now provided. Thus, Variance Request No. 1 is no longer necessary. In addition, due to the reconfiguration of business parking, Variance Request No. 2 to allow 11 spaces in the C.R. district in lieu of the 19 required has been deleted. Next, the sign package has been modified so that Variance Request No. 3 to permit a wall-mounted sign of 74 sq.ft. in lieu of the maximum allowed 8 sq.ft. is no longer necessary. In addition, Variance Request No. 4 is no longer necessary in that the double-sided, freestanding enterprise sign will now be 25 sq.ft. per side. The message board will be a maximum of 25 sq.ft. per side and in accordance with Maryland Law, that section of the sign that indicates fuel prices is exempt from this local zoning ordinance. (See, Md. Code Ann., Business Regulations, Section 10-315.) Lastly, Variance Request No. 6 to allow canopy signs greater than the 25 sq.ft. allowed is no longer necessary, due to the reconfiguration of the sign package. In view of the amendments made to the site plan, the sole remaining variance needed is Request No. 5, which relates to landscape transition area requirements.

Testimony was received from Brian Darnell, a principal of High's of Baltimore, Inc., who has been so employed since 1974. Mr. Darnell testified that the subject property has been occupied by a High's store for over 22 years and that during that time, High's leased the property. The Petitioner's have contracted to buy the property from Mr. Elmo and Ms. Barnes and propose redeveloping the site with a new High's store, which will feature a fuel service station component. The existing building, which is 1800 sq.ft. in area, will be razed, and a new store, 2850 sq.ft. in area, constructed in its place. It was indicated that the proposed structure would be substantially

similar to the High's store at another location, a photograph of which was submitted into evidence as Petitioner's Exhibit 3. In addition to the new convenience store, a fuel service station will operate seven days a week, from 5:30 AM to 11:00 PM. It was indicated that the lighting on-site would be turned off after hours, and that security lighting as is necessary would remain on.

Testimony was also received from Wayne A. Newton, the civil engineer who prepared the site plan. He described the subject property and existing and proposed uses thereon. As noted above, both the existing High's building and the TV repair/sales shop will be razed and the new store constructed as discussed above and shown in Petitioner's Exhibit 2. Mr. Newton also described the proposed fuel service station operation, which will feature four multi-product dispensers under a canopy. Additionally, landscaping will be provided on the site as shown on the plan. Mr. Newton also described traffic in the area and access to the property. As shown on the plan, there will be two access points; a one-way in and one-way out on Hanover Road, and a second entrance off of Emory Road.

Mr. Newton testified about the special exception requirements set forth in Section 502.1 of the B.C.Z.R. as construed by the appellate courts of this State (see Schultz v. Pritts, 432 A.2d 1319 (1981). He also addressed the compatibility requirements of Section 26-282 of the Code, and the requirements for development in the C.R. zone, pursuant to Section 259. He opined that the Petitioners' proposal satisfies all the standards and criteria applicable to the zones.

Testimony was also received from Ken Schmid, a traffic engineer, who indicated that the intersection of Emory Road and Hanover Road operates at a Service Level "B" and did not anticipate that the proposal would generate additional traffic on either of those roads. He noted that the subject site is not a "destination stop;" rather, it intercepts traffic that is already on the road. That is, most people will stop to and from another destination to purchase fuel and convenience items. He also testified about the realignment and configuration of the access points to the site. He indicated that the proposal would comply with the criteria set forth in the Zoning Advisory Committee (ZAC) comments submitted by the State Highway Administration.

Finally, testimony was received from John Sherwood, an Economist retained by High's of Baltimore, Inc. Mr. Sherwood concluded that there is a need for the use proposed here, and that given the commuter traffic in the area and based on his market studies, the requirements of Section 405 have been met.

Turning first to the Petition for Special Exception, I am easily satisfied that the relief requested meets the requirements of Sections 502.1, 259 and 405 of the B.C.Z.R. The proposed improvements appear to be an appropriate redevelopment of the subject site. The fact that a High's store has operated at this location for many years is a compelling factor and the addition of a fuel service station component is consistent with other uses in the area. In sum, I find that the proposed use will not result in any detrimental impacts to the health, safety and general welfare of the surrounding locale.

Similarly, I am persuaded to grant the special hearing relief to amend the previously approved plan to reflect the proposed improvements and incorporate the entire parcel, designated as Zoning Area C. Moreover, I find that the proposed illumination of the signs on the property should be approved, consistent with the restrictions set forth hereinafter.

Finally, the requested variance from landscape transition area requirements shall be granted. The unusual configuration of the property, its split zoning, and the fact that it is located in a rural/commercial area of Baltimore County justifies the requested modification and meets the requirements of Section 307 of the B.C.Z.R. for relief to be granted.

Although relief will be granted, a comment is also in order regarding the ZAC comments submitted by the Office of Planning. In this regard, there were three recommendations made, the first of which seeks a limit to the lighting on the property. That comment recognizes the rural location of the subject property and suggests limitations on the lighting so that improper levels of lighting do not spill over onto adjacent public roads or private properties. In this regard, the Petitioners suggested that the lighting conform to the lighting design guidelines set out in the Hanover Road Corridor Study. This seems to be an appropriate limitation and a copy of those guidelines shall be attached hereto and made a part hereof.

The second comment requests that the Petitioner submit architectural elevation drawings of the proposed building and fuel service station canopy to the Office of Planning for review and approval prior to the issuance of any permits. The drawings submitted at the hearing indicate the proposed design is appropriate for this area. Thus, the elevation drawings submitted to the Office of Planning shall be consistent with that submitted at the hearing.

The third comment relates to the R.C.2 zoned portion of the property. That comment opines that the storm water management and septic reserve areas shown on the plan should not be located in the R.C.2 zone. Counsel for the Petitioners submitted a brief/Memorandum addressing this issue. It was indicated that the storm water management facility could be located in the B.L.-C.R. zoned portion of the property. The relocation of this facility seems to be appropriate, and thus, makes moot that issue. However, the Office of Planning opines that the septic reserve area for this property cannot be located in the R.C.2 zoned portion of the site and relies on the decision made in the matter of Orville Jones, zoning Case No. 93-93-SPH, Circuit Court Case No. 94-CV-10257. The undersigned Zoning Commissioner/Hearing Officer is familiar with that matter in that I presided over the initial hearing in that case. That matter related to a commercially zoned property (B.L.-C.R.), approximately 1.056 acres in area, in the Kingsville area of Baltimore County. The property had been used for many years as a commercial operation known as the Long Green Hotel; however, when Mr. Jones acquired the site, he razed the old building and was determined to replace that structure with another commercial use. He proposed a new building to be occupied by a High's Dairy Store, a dentist's office, and a Laundromat. The essence of Jones related to the septic reserve system, which was required to support the commercial uses on that property. Obviously, given the rural location of the site, public water and sewer facilities were not available. Additionally, as a result of construction activities on the site, a septic reserve system could not be installed within the 1.056-acre lot. Due to this situation, Mr. Jones entered into an arrangement with the owner of an adjacent property zoned R.C.2. He purchased an easement and proposed to install the required septic reserve system on the adjacent property.

Wastewater from the uses on Mr. Jones' property would be piped offsite and disposed of on the adjacent property.

In a written decision which followed the public hearing, I held that the matter was properly before the Zoning Commissioner and that the septic reserve system was a use of land as contemplated by the B.C.Z.R. I further found that the use was not permitted as a principle use on the R.C.2 property, either by right or as an accessory. However, I determined that the septic system (which had been implemented by the time of the hearing) could remain under the doctrine of estoppel.

An appeal of my decision was filed with the County's Board of Appeals. Although conducting a de novo hearing, the Board reached similar conclusions and entered a nearly identical decision. The matter was then appealed to the Circuit Court of Maryland for Baltimore County. That appeal was considered by then Judge James T. Smith, Jr., who has gone on to greener pastures since his term as a Circuit Court Judge. A reading of then Judge Smith's decision indicates that he generally concurred with the prior determinations of the Zoning Commissioner and Board of Appeals relating to the use aspects of the septic reserve system. That is, he confirmed that a septic system is a use and that it was not permitted in the R.C.2 zone as a specifically identifiable principle use, either by right or as an accessory use. However, Judge Smith's decision primarily focused upon the estoppel/laches issue. In this respect, he affirmed in part and reversed in part the Board's decision, determining that Baltimore County was estopped from bringing about any zoning enforcement proceedings against Mr. Jones; however, that the neighbors and private citizens could pursue an action for injunction or other relief.

It is quite coincidental in this case that the issue of laches/estoppel is also raised as was the circumstance in Jones. The Department of Environmental Protection and Resource Management (DEPRM) requires an area for the septic field, and a separate "reserve area" in the event the primary area fails. The septic reserve area in this case is the reserve area, and not the primary area. It is also to be noted that there was undisputed testimony and evidence offered that High's, as Lessee of the property when they originally built the store, entered into an agreement

with DEPRM for establishing that reserve area 21 years ago. Thus, it has been designated as the reserve area for the past 21 years. This is a strikingly similar situation to Jones, where the Petitioner in that case likewise dealt with Baltimore County fairly and above-board and the County approved an area which was later challenged as improper under the zoning regulations. I find that the same result that Judge Smith reached in the appeal of that case should be entered here. That is, I find that the septic reserve area may remain in the R.C.2 zoned portion of the property because Baltimore County is now estopped from prohibiting same, given its longstanding designation as such and prior approval by Baltimore County.

Based upon all of the testimony and evidence presented, I am persuaded to grant the relief requested, as modified. The proposed improvements appear to be an appropriate redevelopment of the subject site. The fact that a High's store has operated at this location for many years is a compelling factor and the addition of a fuel service station component is consistent with other uses in the area. Moreover, I find that the use proposed meets the special exception requirements set forth in Sections 502.1, 259 and 405 of the B.C.Z.R. and that there will be no detriment to the health, safety and general welfare of the surrounding locale. Thus, the amended plan shall be granted.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of January 2004 that the Petition for Special Exception to permit a fuel service station in a B.L.-C.R. zone, pursuant to Section 405.2.B.2, in that portion of the property designated as Zoning Area A, and to allow a convenience store greater than 1,500 sq.ft. as a use in combination with said fuel service station, pursuant to Section 405.4.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1B, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 82-168-SPHXA to reflect the

proposed improvements for the overall site (designated as Zoning Area C) and to permit illumination of signage on the site which is not otherwise allowed, pursuant to Section 259.3.C.7(c) of the B.C.Z.R. (Zoning Area A), in accordance with Petitioner's Exhibit 1B, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that Variance Request No. 5 of the Petition for Variance seeking relief from Section 405.4.2(b) to permit a landscape transition area of 0' along the north side and along the rear/east side of Zoning Area A in lieu of the required 15', in accordance with Petitioner's Exhibit 1B, 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) Compliance with the State Highway Administration ZAC comments regarding the access points to this site from Hanover and Emory Roads.

3) All lighting on the subject property shall be in compliance with the Hanover Road Corridor Study, Design Guidelines for Lighting and Signs, a copy of which is attached hereto and made a part hereof.

4) Prior to the issuance of any permits, the Petitioners shall submit elevation drawings of the proposed building and fuel service station canopy consistent with that offered at the hearing to the Office of Planning for review and approval.

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

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval to allow business parking in an R.C.2 zone (Zoning Area B), pursuant to Section 409.8.B of the B.C.Z.R., be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the B.C.Z.R. as follows: **1)** From Section 259.3.C.2(b) to permit a rear yard setback of 0 feet in lieu of

the required 15 feet in Zoning Area A; **2)** from Section 259.3.C.4 to permit 11 parking spaces within the C.R. district in lieu of the required 19, in addition to 11 other parking spaces located elsewhere on the site (not within the C.R. district) in Zoning Area A; **3)** from Section 259.3.C.7(a) to permit a wall-mounted enterprise sign of 74 sq.ft. in lieu of the maximum allowed 8 sq.ft. and to allow said sign to project 8" from the building line in lieu of the maximum allowed 6" (Zoning Area A); **4)** from Section 259.3.C.7(b) to permit a double-sided, freestanding enterprise sign with a surface area of 77 sq.ft. per side, in lieu of the maximum allowed 25 sq.ft. per side (Zoning Area A); **(6)** from Section 450.4 to permit one service station canopy sign of 125.52 sq.ft., and two service station canopy signs of 137.01 sq.ft. each, all in lieu of the maximum allowed 25 sq.ft. (Zoning Area A), be and is hereby DISMISSED AS MOOT.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

(d) Design Guidelines For Lighting and Signs

Signs and lighting should be compatible with the rural area. The business zones (B.L., B.R., and B.M.) are permissive regarding the provision and design of signs.

The C.R. district regulations provide for strict controls on signs and lighting (B.C.Z.R. 259.3.C.7). These include a limit of one stationary attached sign that projects no more than six inches from the building with a surface area not more than eight square feet. There can be one free-standing sign with a surface area of no more than 25 square feet per side. In addition, the sign must be landscaped and the location approved by the director of the Office of Planning and Zoning. No sign can be illuminated unless approved by the zoning commissioner after a special hearing.

Lighting should provide appropriate illumination, ensure property protection and security, and promote and maintain public safety.

Lighting:

- ☐ Signs may be lit only during business hours.
- ☐ All ground-level flood and spot lights should reflect only on signs or points of interest. Light beams may not cross or interfere with any line of vision or sight view of pedestrians and vehicular traffic.
- ☐ Light sources must be covered with reflecting shield and meet safety guidelines as stated under Illumination of Signs.
- ☐ Wattage is addressed under Illumination of Signs.
- ☐ Projecting signs may be illuminated by concealing lighting at top of sign, reflecting down on sign, with a shield covering sources of light.

Free-standing and wall mounted signs may be illuminated by:

- ☐ a.Shielded, safety protected light at ground level - must be stationary, grilled covered and tamper proof. Source must be concealed. Not to exceed 300 watts on any one side;
- ☐ b.Enclosed soft glow internal illumination. Not to exceed 50 candle foot power illumination level - Maximum of 5 amps per unit.
- ☐ No flashing, rotating or moving parts.

Parking Lots Lighting Specifications:

- ☐ Pole lights may not exceed 25 feet.
- ☐ Illumination may not exceed one to two candle feet at most distance point on lot.
- ☐ Illumination must be reduced after business hours or 11 p.m. except to maintain adequate security.

General Lighting:

Particular care and planning must be given to the entire property area to eliminate crime spots and maintain public safety.

Important areas for proper illumination are streets, sidewalks, stairwell, walkways, paths, and parking areas.

Security lighting must be maintained after business hours.

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

State Highway Administration
Driven to Excel

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: September 24, 2003

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

RE: Baltimore County
Item No. 125 (BPR)
15303 Hanover Road
Highs Convenience Store
Mile Post 7.49

Dear Ms. Hart:

This office has reviewed the referenced Item and has no objection to approval of the Reclassification and Redistricting Petition.

However we will require the owner to obtain an access permit through our office and as a minimum the following roadway improvements will be required:

- Standard 8" curb and gutter across the commercial portion of the property along MD 30, offset 4' from the edge of the existing travel lane and paved with full depth paving.
- The proposed entrance shall be 25'-35' wide with 25' curbed radii and be relocated as far north as possible.
- The intersection of MD 30 and Emory Road shall be constructed with a 30' curbed radius.
- Provide a typical section showing the proposed improvements.
- Sidewalk may be required.

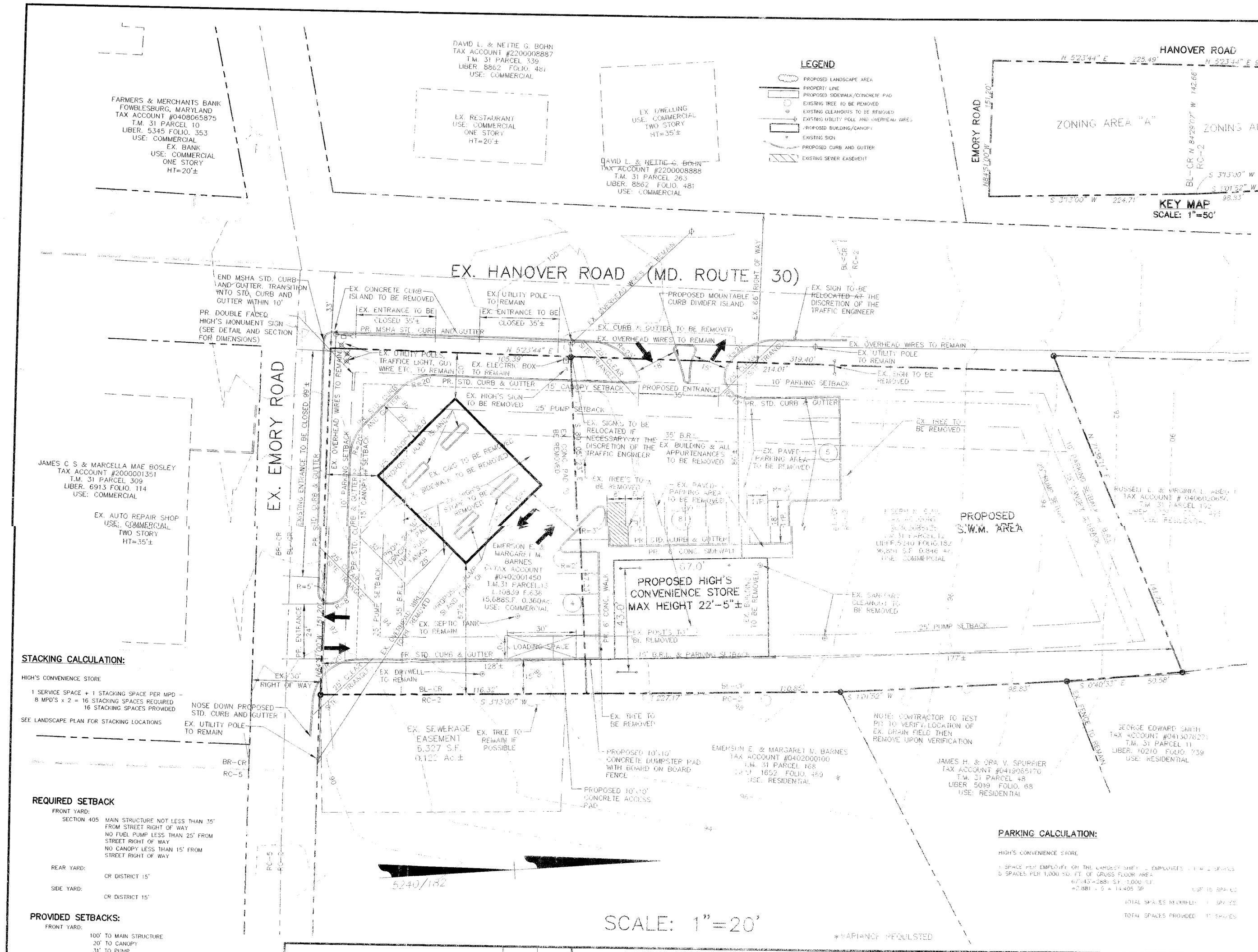
Please have their representative contact this office regarding the roadway improvements conditioned to the permit.

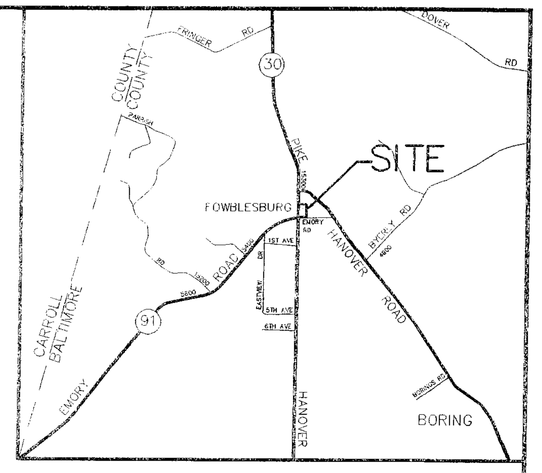
Should any additional information be required please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

CC: Robert W. Bowling, P.E.





VICINITY MAP

SCALE: 1" = 2,000'

SITE INFORMATION:

1. THIS PLAN REFERENCES A SURVEY BY: DESIGN TECH ASSOCIATES, DATED 03/03.
2. SITE AREA: 50,028 S.F. OR 1.15 AC.
3. ZONE: BL-CR BUSINESS LOCAL/COMMERCIAL RURAL (MAP#NW23K)
4. EXISTING FLOOR AREA: 4419.21 S.F.
5. MAXIMUM FLOOR AREA: 6,800 S.F. MAX. W/ 6,600 S.F. MAX. ON THE GROUND
6. PROPOSED FLOOR AREA: 2665.00 S.F.
7. MAXIMUM FLOOR AREA RATIO: 0.20 (C.R. DISTRICT)
8. PROPOSED FLOOR AREA RATIO: 0.053
9. MAXIMUM BUILDING HEIGHT: 30'
10. PROPOSED BUILDING HEIGHT: 22'-5"±
11. DEED REFERENCE: 5240/182 & 10839/636
12. OWNER: JOSEPH N. ELMO & EMERSON & MARGARET BARNES
13. CONTRACT PURCHASER: FOUR D'S ASSOC. LLP
14. TAX ACCOUNT NUMBER: 04-0402085125 & 04-0402001450
15. ELECTION DISTRICT: 4
16. COMMISSIONER DISTRICT: 3
17. WATER SHED: LIBERTY
18. SEWER SHED: NONE
19. EXISTING USE: CONVENIENCE STORE/TV REPAIR SHOP
20. PROPOSED USE: FUEL SERVICE STATION/CONVENIENCE STORE
21. CENSUS TRACT: 406.00
22. IMPERVIOUS AREA: 29,014 S.F.
23. PERVIOUS AREA: 21,011 S.F.
24. LANDSCAPE AREA: 532 S.F. PER BCZR259.3.C.3.B, 7% OF PARKING LOT IS PERVIOUS W/ 1 TREE PER 8 SPACES PROVIDED.
25. FLOODPLAIN: THE SITE IS LOCATED OUTSIDE THE 100 YEAR FLOODPLAIN PER FEMA.
26. WETLANDS: NO WETLANDS FOUND ON OR ADJACENT TO THE SITE.
27. STEEP SLOPES: NO STEEP SLOPES ARE FOUND ON THIS SITE.
28. ANY PARKING USED TO ILLUMINATE AT OFF - STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL ZONED PROPERTIES AND PUBLIC STREETS. NO LIGHTING STANDARDS SHALL EXCEED 18' HEIGHT.
29. ALL OUTDOOR LIGHTS TO BE PLACED UNDER CANOPY AND FLOOR WALL MOUNTED FIXTURES.
30. THE NUMBER OF FUEL SERVICES SPACES PROVIDED ARE 8.
31. PURSUANT TO 405.4.A AND 405.4.E. THE MINIMUM SITE AREA CALCULATIONS IS AS FOLLOWS

MIN. SITE AREA	15,000 SQUARE FEET
ADDITIONAL REQUIRED SITE AREA	2,881 S.F. (STORE) x 4 = 11,524 S.F.
REQUIRED SITE AREA	26,524 SQUARE FEET
SITE AREA PROVIDED	33,001 SQUARE FEET (BL-CR ZONE AREA ONLY)

29. "THERE ARE NO ABANDONED FUEL SERVICE STATIONS WITHIN 1 MILE OF THE SITE"
30. THE FACADE TREATMENT FOR THE PROPOSED CONVENIENCE STORE IS AS FOLLOWS: FACE BRICK, DRY VIT AND FIBERGLASS ASPHALT SHINGLES. THIS FACADE TREATMENT IS THE SAME ON ALL FOUR SIDES OF THE BUILDING PURSUANT TO 405.4.C.1.b WHICH REQUIRES THE REAR AND SIDE OF BUILDINGS ON LOTS ABUTTING RESIDENTIALLY ZONED PROPERTIES TO BE FINISHED IN A MANNER RESEMBLING THE FRONT OF THE BUILDING.

ZONING/DEVELOPMENT:

RELIEF ~~NEEDED:~~ GRANTED: DC

1. SPECIAL EXCEPTION FOR A FUEL SERVICE STATION IN A BL-CR ZONE (BCZR § 405.2.B.3) (ZONING AREA A).
2. SPECIAL EXCEPTION FOR A CONVENIENCE STORE LARGER THAN 1,500SQUARE FEET AS A USE IN COMBINATION WITH A FUEL SERVICE STATION IN THE BL-CR ZONE (BCZR § 405.4.E.1)(ZONING AREA A).
3. SPECIAL HEARING TO AMEND THE APPROVED SITE PLAN IN CASE 82-168-SPHZA (ZONING AREA C).
4. SPECIAL HEARING UNDER § 259.3.C.7.c TO PERMIT ILLUMINATION OF THE SIGNAGE OF THE SITE (ZONING AREA A).
5. VARIANCE FROM BCZR § 405.4.2.b TO PERMIT A 0' LANDSCAPE TRANSITION AREA ALONG THE NORTH SIDE OF ZONING AREA A, IN LIEU OF THE 15' REQUIRED.

STACKING CALCULATION:

HIGH'S CONVENIENCE STORE

1 SERVICE SPACE + 1 STACKING SPACE PER MPD - 8 MPD'S x 2 = 16 STACKING SPACES REQUIRED
16 STACKING SPACES PROVIDED

SEE LANDSCAPE PLAN FOR STACKING LOCATIONS

REQUIRED SETBACK

FRONT YARD:
SECTION 405 MAIN STRUCTURE NOT LESS THAN 35' FROM STREET RIGHT OF WAY
NO FUEL PUMP LESS THAN 25' FROM STREET RIGHT OF WAY
NO CANOPY LESS THAN 15' FROM STREET RIGHT OF WAY

REAR YARD:
CR DISTRICT 15'

SIDE YARD:
CR DISTRICT 15'

PROVIDED SETBACKS:

FRONT YARD:
100' TO MAIN STRUCTURE
20' TO CANOPY
31' TO PUMP

REAR YARD:
15' TO MAIN STRUCTURE

SIDE YARD:
128' TO MAIN STRUCTURE
23' TO CANOPY
34' TO PUMP

PARKING CALCULATION:

HIGH'S CONVENIENCE STORE

1 SPACE PER EMPLOYEE ON THE LARGEST SHIFT = EMPLOYEES = 1 = 2 SPACES
5 SPACES PER 1,000 SQ. FT. OF GROSS FLOOR AREA
67'x43'=2881 S.F. / 1,000 S.F.
=2.881 x 5 = 14.405 SP. USE 15 SPACES

TOTAL SPACES REQUIRED: 17 SPACES

TOTAL SPACES PROVIDED: 17 SPACES

229

REVISION	DESCRIPTION	BY	DATE

MORRIS & RITCHIE ASSOCIATES
CONSULTING ENGINEERS
31 OLD SOLOMONS ISLAND RD., SUITE 201
ANNAPOLIS, MARYLAND 21401
(410) 266-3212

STATE OF MARYLAND — WAYNE ALAN NEWTON — No. 21201 — REGISTERED PROFESSIONAL ENGINEER
10-30-03

OWNERS:
JOSEPH N. ELMO
EMERSON & MARGARET BARNES
FOUR D'S ASSOC. LLP

DEVELOPER:

HIGHS OF BALTIMORE

PROPOSED STORE @ FOWBLESBURG

SITE PLAN TO ACCOMPANY

SPECIAL HEARING & VARIANCE

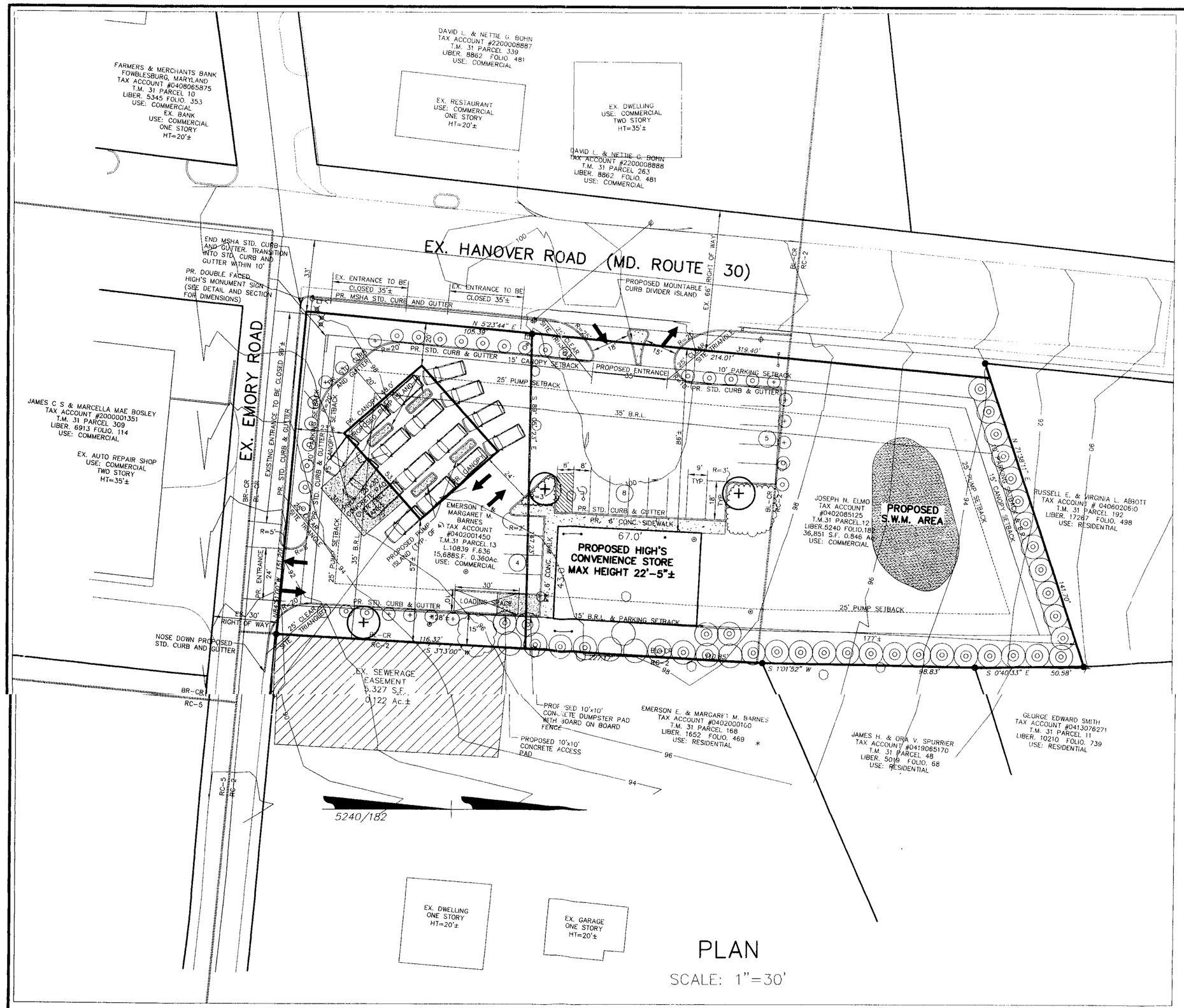
PETITIONER'S EXHIBIT NO. 1A

DC

FOWBLESBURG, MARYLAND

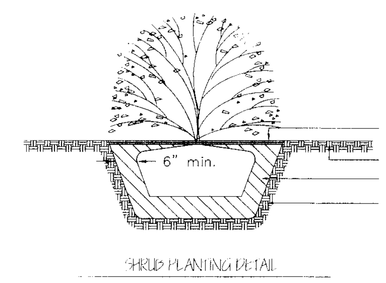
DATE: OCTOBER 2003

SHEET 1 OF 2

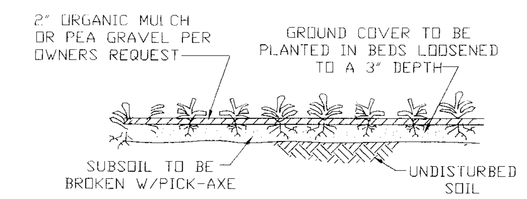


PLAN

SCALE: 1"=30'

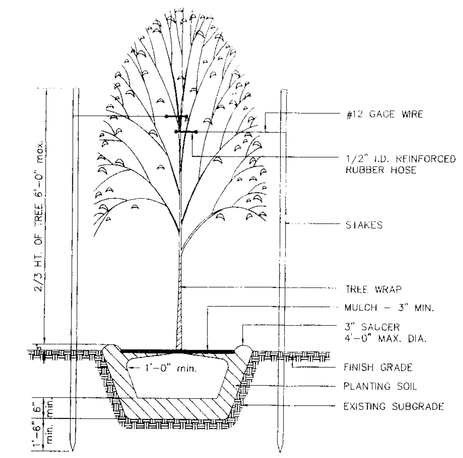


SHRUB PLANTING DETAIL



GROUNDCOVER PLANTING DETAIL

NOT TO SCALE



TREE PLANTING DETAIL (LESS THAN 4" CAL.)

PLANTING NOTES:

1. All plants shall be nursery grown.
2. All plants shall conform to the standards of AAN. They shall be typical of their species or variety and shall have a normal habit of growth. They shall be sound, healthy and vigorous, well-branched and densely foliated when in leaf. They shall be free of disease and insect pests, eggs, or larvae. They shall have healthy, well-developed root systems.
3. No substitutions shall be made without the approval of the landscape architect.
4. Balled and burlapped plants shall be dug with firm natural balls of earth, of diameter and depth to include most of the fibrous roots. Container grown stock shall have been grown in a container long enough for the root system to be have developed sufficiently to hold its soil together firm and whole. No plants shall be loose in the container.
5. Root balls of all plants shall be adequately protected at all times from sun and drying winds or frost.
6. Owner or his representative shall be notified prior to beginning planting operations.
7. All trees shall be wrapped immediately after they are planted.

   Approved tree wrap shall be installed according to accepted industry practice.
8. Each tree and shrub shall be pruned in accordance with the American Association of Nurserymen Standards to preserve the natural character of the plant. All dead wood or suckers and all broken or badly bruised branches shall be removed. Cuts over 1" in diameter shall be painted with an approved tree paint.
9. Mulch: immediately after planting operations are completed all trees and shrub planting pits shall be covered with a 2" layer of Shredded Hardwood Bark Mulch or other material approved by the owner or his representative. The limit of this mulch for trees shall be the area of the pit and for shrubs in beds, the entire area of the shrub bed.
10. Trees in leaf when planted shall be treated with anti-desiccant such as Wilt-proof.
11. Conditions detrimental to plants: the contractor shall notify the project representative in writing of all soil or drainage conditions which the contractor considers detrimental to the growth of plants. He shall state the conditions and submit a proposal for correcting the conditions, including any change in cost for review and acceptance by the project representative.
12. Minor adjustments to tree location may be necessary due to field conditions and final grading. The contractor shall notify the owner if major adjustments are required.

INTERIOR LANDSCAPING CALCULATION

PARKING AREA ON-SITE = 5,343 SQ. FT.
7% OF PARKING AREA = 374 SQ. FT. INTERIOR LANDSCAPING REQUIRED
INTERIOR LANDSCAPING AREA PROVIDED = 450 SQ. FT.
TREE REQUIRED = 1/8 PARKING SPACES = 3 TREE'S REQUIRED (17 PARKING SPACES)
TREE'S PROVIDED = 3

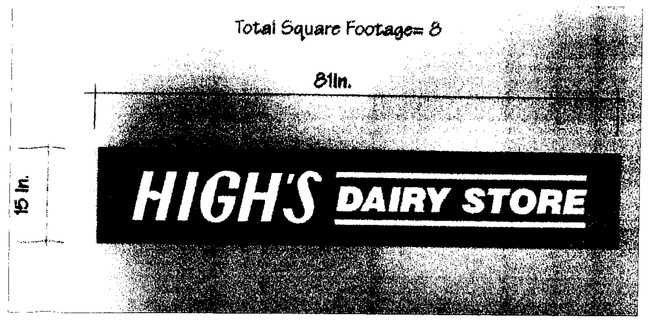
PLANT LIST

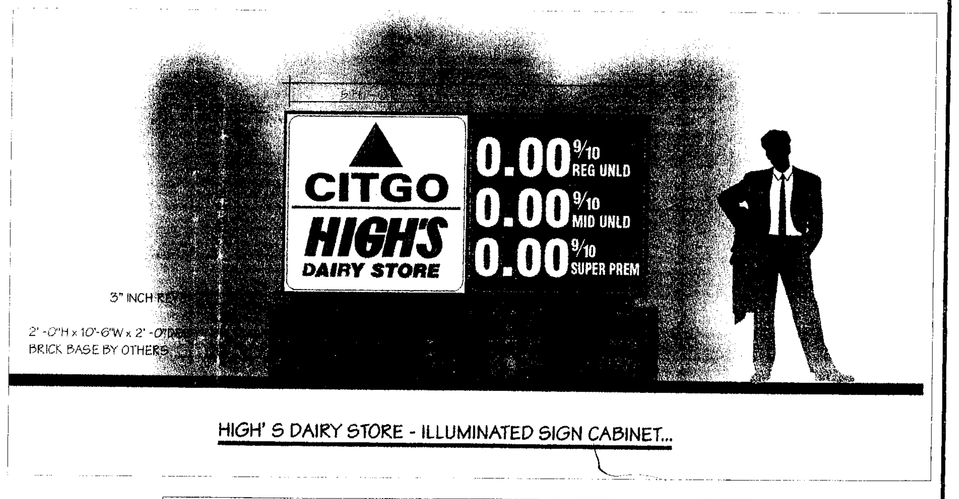
SYMBOL	KEY	QUAN	BOTANICAL NAME / COMMON NAME	SIZE	SPACING
	T1	3	Japanese Zelkova / Village Green	2 to 2-1/2" Cal. B&B	AS SHOWN
	E1	5	Ilex Opaca / American Holly	5' to 6' HGT. B&B	AS SHOWN
	E2	36	Cupressicyparis Leiandii / Leyland Cypress	5' to 6' HGT. B&B	AS SHOWN
	S2	12	Euonymus Kiautschovica X Manhattan / Manhattan Euonymus	2 Gal. Cont.	10' o/c
	S3	24	Euonymus Alatus Compactum / Compact Burning Bush	2'-3' Hgt. B&B	10' o/c
	G1	36	Juniperus Horizontalis / Blue Rug Juniper	1 Gal. Cont.	3' o/c

Zoning History:

Case No. 3115 – Petition for special permit – dated 10/7/54 – Petition for re-classification from "A" Residence Zone to an "E" Commercial Zone, and petition for a special permit to use said property for a gasoline service station and underground storage of fuel oil (not exceeding 10,000 gallons). Approved 10/25/54.

Case No. 82-168-SPHXA – Petition for Special Exception for a food store as a use in combination with a service station. Granted 2/22/82. Terminated by operation of Law for non-use, 2/22/84.





HIGH' S DAIRY STORE - ILLUMINATED SIGN CABINET...

PROPOSED SIGN AREA = 25 S.F. x 2 SIDES = 50 S.F

REVISION DESCRIPTION	BY	DATE

MESSICK & ASSOCIATES

CONSULTING ENGINEERS

31 OLD SOLOMONS ISLAND RD., SUITE 201
ANNAPOLIS, MARYLAND 21401
(410) 266-3212
www.messickandassociates.com

• MESSICK GROUP, INC. T/A MESSICK AND ASSOCIATES

STATE OF MARYLAND — WAYNE KLAN NEWTON — No. 21591 — REGISTERED PROFESSIONAL ENGINEER

10/30/03

OWNERS:
JOSEPH N. ELMO, 5410 EMORY ROAD, UPPERCO, MD 21155
EMERSON & MARGARET BARNES, 5310 EMORY ROAD, UPPERCO MD. 21155

DEVELOPER: HIGHS OF BALTIMORE, INC
BRIAN DARNELL, V.P.
1340-L CHARWOOD RD.
HANOVER, MD. 20794

HIGHS OF BALTIMORE

PROPOSED STORE @ FOWBLESBURG
LANDSCAPE PLAN TO ACCOMPANY

SPECIAL HEARING & ~~VARIAN~~ PETITIONER'S EXHIBIT NO. 18 ~~TION~~

TAX MAP No. 31 GRI

4TH TAX ASSESSMENT DISTRICT BALTIMORE COUNTY, MARYLAND

SCALE: AS SHOWN DATE: APRIL,2003 SHEET 2 OF 2