



IN RE: PETITIONS FOR SPECIAL HEARING *

AND VARIANCE – S/S Eastern Avenue,

N/S North Point Boulevard

(Eastpoint Mall)

15th Election District 7th Councilmanic District

Thor Eastpoint Mall LLC, Petitioner

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 07-112-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance and filed by the owner of the subject property, Thor Eastpoint Mall LLC, through its attorney David H. Karceski, Esquire. The Petitioner seeks relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces to serve the property. Additionally, Petitioner requests, pursuant to Section 500.7 of the B.C.Z.R., an amendment to the site plan approved in Case No. 05-099-SPHA. The subject property and requested relief are more particularly described on the site plan submitted and the color rendering which were accepted into evidence and marked as Petitioner's Exhibit Nos. 1 and 2 respectively.

Appearing at the requisite public hearing in support of the requested relief were Lino A. Solis, Esquire and Philip Poppinga, representatives of Thor Eastpoint Mall LLC, developer and owner of the property, as well as Geri Moore, the General Manager of the Mall. Also appearing as expert witnesses on behalf of the Petitioner were Matthew T. Allen and John M. Conwell Jr., professional engineers with Bohler Engineering, P.C., the consultants who prepared the site plan for this site, and Mickey Cornelius, a traffic engineer with The Traffic Group. Appearing and testifying in support of the request was Chris McCollum, a Revitalization Specialist with the

CALIBRATION OF FILING



Department of Economic Development for Baltimore County. David H. Karceski, Esquire appeared as attorney for Petitioner. There were no Protestants or other interested persons present.

Testimony and evidence revealed the subject property is irregularly shaped and located adjacent to and south of Eastern Avenue, north of North Point Boulevard, just west of I-695 in eastern Baltimore County. Immediately east and adjoining the property is a parcel owned by Baltimore Gas and Electric wherein lies several BGE high-power transmission lines. The entire site is zoned BM-CT (Business, Major-Commercial, Town-Center Core) and consists of approximately 66.44 acres improved with an existing shopping center known as the Eastpoint Mall. The shopping center has been at this location for many years and is a well-known landmark in the eastern end of the County. As evidenced on Petitioner's Exhibit 1, in addition to the main mall structure, the site is improved with other retail and service-oriented buildings as well as existing off-street parking to support the Mall and tenant uses.

There is a zoning history for the property that dates back to 1959. In the most recent zoning case (Case No. 05-099-SPHA), a parking variance to provide 4,043 parking spaces in lieu of the required 4,839 spaces was requested and granted. By way of the Petition for Variance filed in the instant case, Petitioner requests a new parking variance for the property to accommodate certain improvements to the Mall property. As noted, the petition, as filed, is a request to provide 3,343 parking spaces in lieu of the required 4,659 spaces. As shown on the site plan, four new structures are proposed, namely; a 119,598 square-foot retail building with associated fuel service pumps and three pad site structures, labeled "PROP. RETAIL/RESTAURANT" and "PROP. RETAIL." The two retail/restaurant structures are 3,915 and 3,902 square feet in size and the retail structure is 3,707 square feet. The largest of the structures will serve as an anchor tenant on the shopping center property and will be located in close proximity to North Point Boulevard along with one of the smaller future retail/restaurant uses. The other two smaller retail/restaurant uses



will be located on the opposite side of the Mall property along Eastern Avenue, between an existing bank and restaurant buildings. In connection with these improvements, the proposed parking variance is requested.

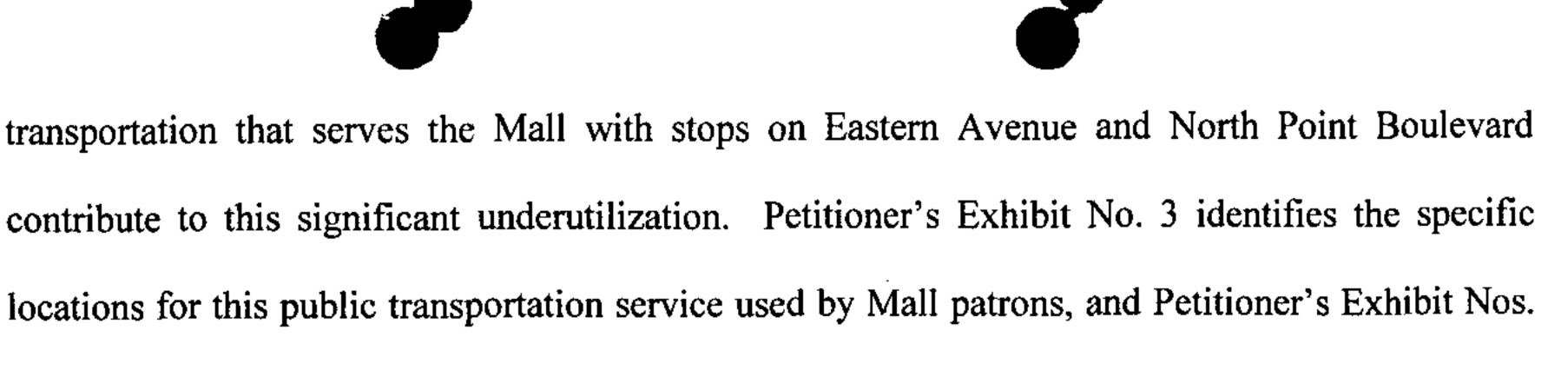
There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any of the County reviewing agencies. Moreover, Petitioner has worked closely with the Department of Economic Development and Office of Planning. The Department of Economic Development supported the project with Chris McCollum testifying as to the benefits Baltimore County and the surrounding locale will receive from this development. The Office of Planning issued a comment, dated September 26, 2006, confirming support for the requested variance noting that the proposed improvements to the Mall property are "consistent with the revitalization efforts of Eastern Baltimore County." The Office of Planning's ZAC comment further provides for certain requests in connection with this Petition for Variance. The requests in pertinent part are as follows:

- 1. Building materials used shall be consistent on all sides;
- 2. Elevations adjacent to rights-of-way shall be articulated with details and high quality architectural materials; and
- 3. Architectural elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits.

Petitioner agreed to comply with these comments and will provide the Office of Planning architectural elevations for the future retail and restaurant buildings prior to issuance of building permits.

The question to be considered is whether sufficient parking will exist when the Petitioner completes the proposed improvements. In this regard, Petitioner offered the testimony of Matthew Allen, a professional engineer, Mickey Cornelius, a traffic engineer, and Geri Moore, the Mall General Manager. Petitioner's exhibits and the testimony of these witnesses indicate that the existing Mall parking is now underutilized on a consistent basis. The presence of existing public





consistent under use of the Mall parking during the Mall's busiest shopping times. Furthermore, the testimony of Ms. Moore, the Mall General Manager, and Mr. Cornelius was that, with the

6A, 6B, and 6C, a series of aerial photographs of the existing Mall parking, make clear the

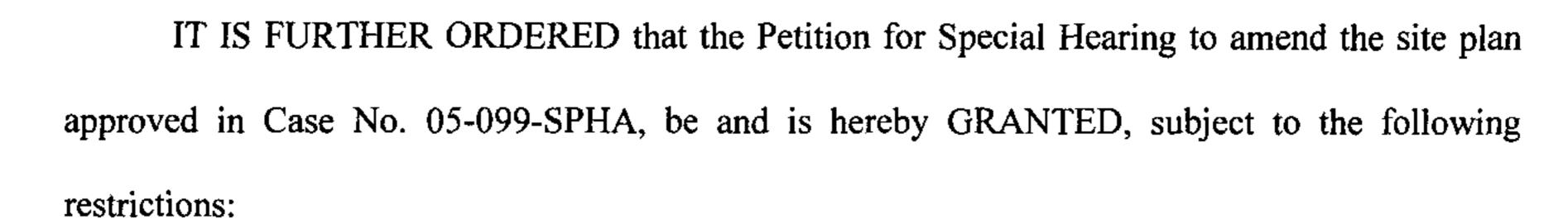
proposed improvements, the parking provided on Petitioner's Exhibit No. 1 will be more than

adequate to serve the Mall and its tenants.

Based upon the testimony and evidence offered, I am easily persuaded to grant the requested special hearing and variance relief. I am impressed with the proposed development and the support received from the Office of Planning and Department of Economic Development. I find that the Petitioner has met the requirements of Section 307 of the Zoning Regulations in regard to its variance request. The nature and operation of this commercial use, size and configuration of the property, and constraints associated with the site are all persuasive factors that a grant of the Petition for Variance is appropriate. I find that the property is unique, and practical difficulty would result, if the relief is denied. Furthermore, the Petitions for Special Hearing and Variance can be granted without any adverse impact to the surrounding locale.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, on day of December, 2006, that the Petition for Variance pursuant to Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED; and



- 1. Petitioner may apply for building permits and be granted the same upon receipt of this Order; however, the Petitioner is 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. Petitioner will submit architectural elevations in accordance with the Office of Planning's September 26, 2006 ZAC comment (copy attached) for review and approval prior to the issuance of any building permits for the proposed retail/restaurant buildings shown on Petitioner's Exhibit No. 1.

WILLIAM J. WISEMAN, III Zoning Commissioner for

Baltimore County



JAMES T. SMITH, JR. County Executive

WILLIAM J. WISEMAN III

Zoning Commissioner

December 4, 2006

David Karceski, Esquire Venable, Baetjer & Howard, LLP 210 Allegheny Avenue Towson, MD 21204

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE

S/S Eastern Avenue, N/S North Point Boulevard (Eastpoint Mall)

15th Election District – 7th Council District
Thor Eastpoint Mall LLC - Petitioner

Case No. 07-112-SPHA

Dear Mr. Karceski:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted with restrictions, 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 fully yours,

Zoning Commissioner for Baltimore County

WJW:dlw

c: Lino A. Solis, Esq., Thor Equities, 139 5th Avenue, New York, NY 10010 Mr. Philip Poppinga, Director of Development, Thor Equities, 139 5th Avenue, New York, NY 10010

Ms. Geri Moore, General Manager, Eastpoint Mall, 7839 Eastpoint Mall, Suite 10, Baltimore, Md. 21224

Messrs. Matthew T. Allen and John M. Conwell, Jr., Bohler Engineering, P.C., 810 Gleneagles Court, Suite 300, Towson, Md. 21286

Mr. Mickey Cornelius, The Traffic Group, 9900 Franklin Square Drive, Suite H, Baltimore, Md. 21236

Mr. Chris Collum, Revitalization Specialist, Department of Economic Development Saundra J. Buck, 723 Hollen, Baltimore, Md. 21212 Office of Planning; DEPRM; DPR; People's Counsel; Case File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DATE: September 26, 2006

RECEIVED

0CT - 3 2006

SUBJECT: Zoning Advisory Petition(s): Case(s) 7-112- Special Hearing April 1965 (revised comment)

The Office of Planning has reviewed the above referenced case(s) and supports the petitioner's request, as it is consistent with the revitalization efforts of Eastern Baltimore County.

Notwithstanding the aforementioned the Office of Planning requests the following:

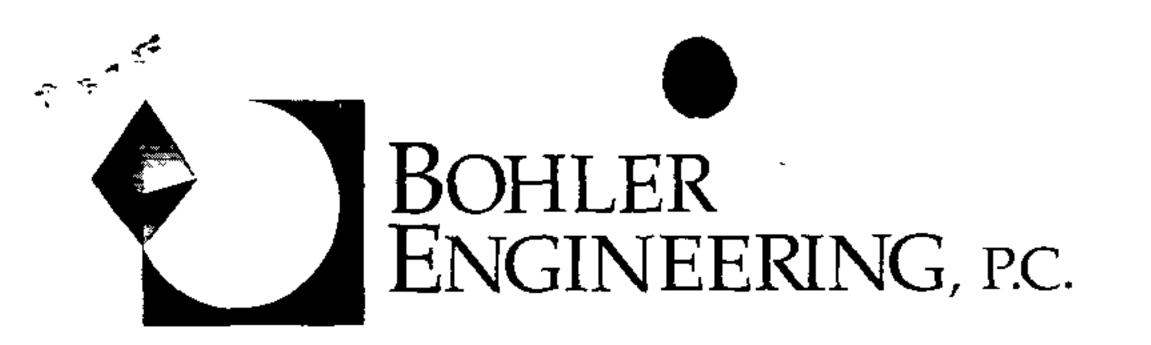
- Building materials used shall be consistent on all sides.
- Those elevations adjacent to rights- of- ways shall be articulated with details and high quality materials.
- Architectural elevations shall be submitted to the Office of Planning for review and approval prior to the issuance of any building permits.

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

Prepared Ry:

Division Chief:

CM/LL



810 Gleneagles Court, Suite 300 Towson, MD 21286 410.821.7900 410.821.7987 fax md@bohlereng.com

September 6, 2006

ZONING DESCRIPTION OF THE LANDS KNOWN AS
PARCEL 21, TAX MAP 96, GRID 17 WITH DEED REFERENCE 23281/198
PARCEL 490, TAX MAP 96, GRID 17 WITH DEED REFERENCE 23281/198
AND

PARCEL 418, TAX MAP 96, GRID 17 WITH DEED REFERENCE 5489/589
WHICH IS OF VARIABLE WIDTH AT A DISTANCE OF 2075'
NORTHEAST OF THE EASTERN AVENUE (MD RTE 150)
INTERCHANGE WITH NORTH POINT BOULEVARD (MD RTE 151)
AS RECORDED IN THE DATABASE OF
BALTIMORE COUNTY, MARYLAND
15TH DISTRICT

Beginning for the same at a steel pin and cap 8440 set on the southeast side of Eastern Avenue (65.33 feet wide) where it is intersected by the west side of the Baltimore Gas and Electric Company Right of Way (205 feet wide), said pin also being at the point of beginning of land firstly described in a deed dated August 9, 1979 and recorded among the Land Records of Baltimore County in Liber 6059, Folio 357 from Monumental Properties Trust to Bellwether Properties, L.P. and also being identified by the coordinates of South 400.41 feet and East 30952.63 feet, as referred to the Baltimore County Metropolitan Coordinate System, as now surveyed and also referring all courses to the Baltimore County Metropolitan Grid District, running thence binding on the west side of said Baltimore Gas and Electric Company Right of Way for the three following courses and distances, and also binding on the outline of the abovementioned firstly described land for the six following courses and distances (1st through 5th and part of the 6th lines of land) and leaving said Eastern Avenue, (1) S 00° 20' 25" E 249.70 feet to a steel pin and cap 8440 set, (herein after referred to as a marker set), (2) N 89° 39' 35" E 15.00 feet to a market set, (3) S 00° 20' 25" E 414.60 feet to a marker set on the northmost side of the Baltimore City Sanitary Sewer Outfall Right of Way, running thence leaving Baltimore County Gas and Electric Right of Way and binding on the northmost, the westmost and the southernmost outfall right of way for the following five courses and distances by a line curving to the right (4) having a radius of 918.00 feet and an arc length of 162.65 feet and having a chord of N 71° 26' 58" W 162.44 feet to a PK Nail set, (5) N 66° 22' 25" W 182.00 feet to a PK Nail set, (6) S 00° 20' 25" E 54.72 feet to a PK Nail set at the beginning of the third line of land described in a deed dated December 28,1989 and recorded among the aforesaid Land Records Liber 8364, Folio 294, from Baltimore Gas and Electric Foundation Inc. to Eastpoint Partners, L.P., running thence binding on the 3rd, 4th and 5th lines of land described in just mentioned deed for the following three courses and distances, (7) S 66° 22' 25" E 216.64 feet to a PK Nail set, running thence by a curve to the left, (8) having a radius of 1343.25 feet an arc length of 80.26 feet and having a chord of S 68°05' 07" E 80.25 feet to a PK Nail set on the west side of the

Other Office Locations:

[■] Sterling, VA 703.709.9500

[■] Southborough, MA 508.480.9900

[■] Albany, NY 518.438.9900



abovementioned Baltimore Gas and Electric Company right of way N, running thence binding on justmentioned right of way for the three following courses and distances and also parallel to and 2 feet west of an existing fence line for the following course and distance, (9) S 00° 20' 21" E 880.40 feet to a marker set on the 7th line of the land firstly described in abovementioned deed Liber 6059, Folio 357, running thence binding on the remainder of the justmentioned 7th line of land and also binding on the 8th through 30th lines of land described in justmentioned deed for the twenty four following courses and distances, (10) S 49° 11' 09" E 103.35 feet to a steel pin and cap 8440 set, (11) S 00° 20' 25" E. 458.46 feet to a marker set on the northeast side of North Point Boulevard, as widened at the off ramp leading from Merritt Boulevard to the west bound lane of North Point Boulevard, running thence binding on said ramp, (12) N 86° 47' 19" W 39.58 feet to a marker set on the northeast side of said North Point Boulevard (150 feet wide), running thence binding on the northeast side of justmentioned Merritt Boulevard for the five following courses and distances, (13) N 70° 12' 57" W 103.55 feet to a marker set, (14) N 19° 47' 03" E 23.00 feet to a marker set, (15) N 70° 12' 57" W 45.00 feet to a market set, (16) S 19° 47' 03" W 23.00 to a marker set, (17) N 70° 12' 57" W 2303.94 feet to a marker set at the Eastern Avenue Interchange and passing over a concrete monument found 1026.89 feet from the beginning of this line, running thence binding on the off ramp leading to Eastern Avenue for the four following courses and distances, (18) N 00° 46' 11" W 329.46 feet to a marker set, (19) N 37° 01' 19" E 137.41 feet to a marker set, (20) N 66° 07' 18" E 291.82 feet to a marker set, (21) N 13° 59' 40" W 16.45 feet to a marker set on the southeast side of Eastern Avenue as widened to a varying width, running and binding on the southeast side of justmentioned Eastern Avenue for the remaining courses and distances, (22) N 67° 00" 36" E 181.89 feet to a PK Nail set, (23) N 74° 23" 46" E 157.60 feet to a PK Nail set, (24) N 71° 39' 29" E 160.07 feet to a PK Nail set, (25) N 68° 52' 06" E 168.80 feet to a PK Nail set, (26) N 73° 56' 31" E 185.16 feet to a cross cut set on the top of concrete curb, (27) N 70° 13' 34" E 160.00 feet to a PK Nail set, (28) N 67° 03' 42" E 217.39 feet to a PK Nail set, (29) N 70° 13' 34" E 316.40 feet to a market set, (30) N 67° 47' 56" E 141.68 feet to a PK Nail set, (31) S 29° 32' 43" E 26.00 feet to a marker set, (32) N 60° 27' 17" E. 186.33 feet to a marker set, still binding on the southeast side of Eastern Avenue, (now 65.33 feet wide), (33) N 70° 13' 34" E 199.03 feet to the place of beginning. Containing 66.4402 acres of land more or less. Being known as 7800 block Eastern Avenue. Being known as Tract 1.

Being all of the same land firstly described in a deed dated August 8, 1979 and recorded among the Land Records of Baltimore County in Liber 6059 Folio 357 from Monumental Properties Trust to Bellwether Properties, L.P.

Being all of the same land described in a deed dated December 28, 1989 and recorded among the Land Records of Baltimore County in Liber 8364, Folio 294 from Baltimore Gas and Electric Foundation, Inc. to Eastpoint Partners, L.P.



Together with the benefit of those provisions set forth in a Entry Agreement between the Mayor and City Council of Baltimore and Bellwether Properties, L.P. dated November 5, 1984 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. No 6824, Folio 779 and in an Easement Agreement between the Mayor and City Council of Baltimore and Eastpoint Partners, L.P. dated April 20, 1988 and recorded among the Land Records of Baltimore County in Liber SM No. 7916, Folio 161.





REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

S/S Eastern Avenue, N/S for the property located at North Point Boulevard which is presently zoned BM-CT

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 amendment to the site plan approved in Case No. 05-099-SPHA.

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. IWe 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: Legal Owner(s): THOR EASTPOINT MALL LLC. a Delaware limited liability company Name - Type or Print By: Thor Urban Operating Fund, L.P., Signature a Delaware limited partnership, its sole member Address Telephone No. By: Thor Operating Fund, L.L.C., City State Zip Code a Delaware limited liability company, Attorney For Petitioner: its general partner David H. Karceski By: Name - Type or Frint Joseph J. Sittl Sole Member Representative to be Contacted: Signature Venable LLP David H. Karceski Сопрапу Name 210 Allegheny Avenue 494-6200 410 410-494-6200 210 Allegheny Avenue Address Telephone No. Address Telephone No. Towson, MD 21204 Towson, MD 21204 City State City Zip Code Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING Case No. 07-1/2-5PHA UNAVAILABLE FOR HEARING Date 9/12/06



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at North Point Boulevard

which is presently zoned BM-CT

IWe do solemnly declare and affirm, under the cenalties of

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

409.6.A.2 of the Baltimore County Zoning Regulations to permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces.

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

To be determined at hearing.

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

REVISION UNDERTHEUEIVED FUR FILING	UNAVAILABLE FOR HEARING Reviewed By Bh Date 9/12/06
Case No. 67-112-58HA	ESTIMATED LENGTH OF HEARING
•	OFFICE USE ONLY
City State Zip Code	City State Zip Code
Address Telephone No. Towson, Maryland 21204	Address Telephone No. Towson, Maryland 21204
Company 210 Allegheny Avenue 410-494-6200	Name 210 Allegheny Avenue 410-494-6200
Signature Venable LLP	David H. Karceski
	Representative to be Contacted:
David H. Karceski Name-Type of Pfint	By: Joseph J. Sitt, Sole Member
Attorney For Petitioner:	its general partner
City State Zip Code	By: Thor Operating Fund, L.L.C., a Delaware limited liability company,
Address Telephone No.	a Delaware limited partnership, its sole member
Signature	By: Thor Urban Operating Fund, L.P.,
Name - Type or Print	THOR EASTPOINT MALL LLC, a Delaware limited liability company
Contract Purchaser/Lessee:	Legal Owner(s):
	perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

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NOTICE OF ZONING HEARING

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

Case: #07-112-SPHA

South side Eastern Avenue, North side North Point Boulevard Southeast corner of Eastern Avenue and North Point Boulevard 15th Election District - 7th Councilmanic District Legal Owner(s): Thor Eastpoint Mall LLC; Joseph J. Sitt, Sole Member

Special Hearing: To approve an amendment to the site plan approved in Case No. 05-099-SPHA Variance: To permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces.

Hearing: Tuesday, November 14, 2006 at 9:00 a.m. In Boom 407 County County Building 404 Booley Ave.

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) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391. 10/335 Oct. 26

CERTIFICATE OF PUBLICATION

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THIS IS TO CERT	FY, that the annex	ed advertisement was published
		hed in Baltimore County, Md.,
once in each of	_successive weeks	the first publication appearing
on 10 26 ,200	2_,	
The Jeffe	ersonian	
Arbutus '	Times	
☐ Catonsyi	lle Times	
☐ Towson	Times	
Owings I	Mills Times	
	ter/Reporter	
☐ North Co		
	J. Will	Un 81
	LEGAL A	DVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 07-112-5PHA

Petitioner/Developer: Thore EASTPOINT MALL LIC JOSEPH J. SITT Date of Hearing/Closing: NOV 14 2006 **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: The sign(s) were posted on (Month, Day, Year) Sincerely, (Signature of Sign Poster) CASE # (71123:44) SSG Robert Black A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD (Print Name) PLACE. YOU CHARTY COUNTY COUNTY BUILDING 1508 Leslie Road DATE AND TIME: har Lay, November 14, 100 6 to 14 REQUEST: SPACIAL HEAVIES TO AFFRING AN AMELO-(Address) HARRY TO POS CHE AVIN WELLERSED IN CIRCLE HE CO. CO.J.J. C. BANT. Avant to beside That My Will House yes Dundalk, Maryland 21222 IN PURE OF THE SPRINGERS A 1974 CHARLES (City, State, Zip Code) alle in wine adamitieba tat bemitimit mittittab. 29 COMMEN AN ARMAGE CALL SET 3393 A MENNING MARKET PERSONS OF LAW (410) 282-7940 (Telephone Number)

RE: PETITION FOR SPECIAL HEARING AND VARIANCE

S/S Eastern Avenue; N/S North Point Blvd. 15th Election & 7th Councilmanic Districts Legal Owner(s): Thor Eastpoint Mall LLC; Joseph J. Sitt, Sole Member

Petitioner(s)

* BEFORE THE

* ZONING COMMISSIONER

* FOR

* BALTIMORE COUNTY

* 07-112-SPHA

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 18th day of September, 2006, a copy of the foregoing Entry of Appearance was mailed David Karceski, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

BECEIVED

012 18 2015

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per annones and

Department of Permits del Development Management

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





Baltimore County

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

September 27, 2006

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: 07-112-SPHA

buth Kotroco

South side Eastern Avenue, North side North Point Boulevard Southeast corner of Eastern Avenue and North Point Boulevard 15th Election District – 7th Councilmanic District Legal Owner(s): Thor Eastpoint Mall LLC; Joseph J. Sitt, Sole Member

SPECIAL HEARING To approve an amendment to the site plan approved in Case No. 05-099-SPHA

VARIANCE To permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces.

Hearing: Tuesday, November 14, 2006 at 9:00 a.m. in Room 407, County Courts Building, 407 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:amf

C: David H. Karceski Venable LLP 210 Allegheny Avenue Towson 21204 Amy Dontell Venable LLP 210 Allegheny Avenue Towson 21204

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, OCTOBER 30, 2006.

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



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

TO: PATUXENT PUBLISHING COMPANY

Thursday, October 26, 2006 Issue - Jeffersonian

Please forward billing to:

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

410-494-6244

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: 07-112-SPHA

South side Eastern Avenue, North side North Point Boulevard Southeast corner of Eastern Avenue and North Point Boulevard 15th Election District – 7th Councilmanic District Legal Owner(s): Thor Eastpoint Mall LLC; Joseph J. Sitt, Sole Member

SPECIAL HEARING To approve an amendment to the site plan approved in Case No. 05-099-SPHA

VARIANCE To permit 3,343 off-street parking spaces in lieu of the required 4,659 spaces.

Hearing: Tuesday, November 14, 2006 at 9:00 a.m. in Room 407, County Courts Building, 407 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

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

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:
Item Number or Case Number: 07-1/2-58HA
Petitioner: Thur East point Mall LLC
Address or Location: S/S Eastern Avenue, N/S North Point B.
PLEASE FORWARD ADVERTISING BILL TO: Name: Dontell
Address: Venable LLP
20 Meghenry Avenue
Transon MD 2120 F
Telephone Number:

http://bamaps1.co.ba.md.us/arcims_path/bcgims?ServiceName=Zoning&ClientVersion=4...

/9/2006 a.md.us/arcims_path/bcgims?ServiceName=Zoning&ClientVersion=4....



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

November 8, 2006

David H. Karceski Venable LLP 210 Allegheny Avenue Towson, MD 21204

Dear Mr. Karceski:

RE: Case Number: 07-112-SPHA,

South side Eastern Avenue, North side North Point Boulevard

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 12, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

U. Callibal)

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Amy Dontell Venable LLP 210 Allegheny Avenue Towson 21204

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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: SEPT. 20, 2006

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

Dear Ms. Matthews:

RE: **Baltimore County** Item No. 112 #07-112 -SPHA

THOR EASTDOINT MALL LLC

MO 151 (NORTH POINT BLVD)
VARIANCE - PERMIT 3, 343 PARKING
SPACES INLIEUD FREQUIRED 4,659

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 112

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Engineering Access Permits

Division

SDF/MB



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

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 September 24, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: September 18, 2006

Item Number(s): 100 thru 112, 114,115, 116

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.

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4881 (C) 443-829-2946 MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 25, 2006

Department of Permits & Development

Management

OR

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 25, 2006

Item Nos. 07-101, 102, 103, 105, 106, 107, 108, 109, 110, 111, 112, 114, 115,

And 116

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-09212006.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO:	Timothy M. F	Cotroco								
FROM:	Dave Lykens,	Dave Lykens, DEPRM - Development Coordination w								
DATE:	September 28	September 28, 2006								
SUBJECT:	Zoning Item Address	# 07-112-SPHA 7800 Eastern Avenue (Eastpoint Mall)								
Zon	ing Advisory Co	mmittee Meeting of September 18, 2006								
- -	-	nvironmental Protection and Resource Management has no ve-referenced zoning item.								
	-	nvironmental Protection and Resource Management offers ents on the above-referenced zoning item:								
	Protection of	Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Section 33-3-101 through 33-3-120 of the Baltimore County Code).								
	-	of this property must comply with the Forest Regulations (Sections 33-6-101 through 33-6-122 of the inty Code).								
<u></u>	Critical Area	of this property must comply with the Chesapeake Bay Regulations (Sections 33-2-101 through 33-2-1004, and s, of the Baltimore County Code).								
Add	litional Comment	<u>S;</u>								
		-								
Rev	iewer: RAE	Date: 9/27/2006								



VENABLE, BAETJER AND HOWARD, LLP Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147
www.venable.com

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

Writer's Direct Number: (410) 494-6285

dhkarceski@venable.com

VENABLE

January 6, 2003

Amold Jablon, Director
Department of Permits and
Development Management
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

07-112SPA

Re:

Request for Zoning Verification

Eastpoint Mall

15th Election District, 5th Councilmanic District

11-14

Dear Mr. Jablon:

This firm represents Shopco Management Corporation ("Shopco"), legal owner of the Eastpoint Mall. Shopco intends to construct a Checkers drive-thru restaurant on the Mall property as shown on the enclosed site plan entitled, "EASTPOINT MALL-PLAN TO ACCOMPANY DRC REQUEST." I am writing to confirm that the required parking for the existing Mall tenants and that parking necessary to accommodate the Checkers may be calculated based on gross leasable area or "GLA," consistent with the current parking regulations, rather than total building area as done in Case No. 94-197-A, the last zoning case for the Mall. Calculating parking based on GLA should, as explained below, be within the spirit and intent of the Order issued by the Board of Appeals in the 1994 case. I have enclosed a copy of the Order and site plan approved in the case for your convenience.

By way of brief history, the Board of Appeals granted a Petition for Variance in Case No. 94-197-A to allow 4,073 parking spaces in lieu of the required 4,773 spaces to serve the Mall and its tenants based on a total building area calculation (see enclosed Clarified/Amended Opinion and Order, dated June 16, 1994). The parking deficit approved in the 1994 case was 700 spaces.

Today, the total GLA for the Mall is 861,563 square feet, and, with the addition of the Checkers, the total GLA will be 862,318 square feet. Section 409.6 of the Baltimore County Zoning Regulations ("Zoning Regulations"), entitled "Required number of parking spaces," provides that shopping centers with 100,000 square feet or more of

Pel M



Amold Jablon, Director January 6, 2003 Page 2

gross leasable area outside of the C.T. District of Towson require 5 parking spaces per 1,000 square feet of gross leasable area. Based on this 5 per 1,000 ratio, the required parking for the existing Mall tenants and the proposed Checkers is 4317 spaces. The provided parking will be 3953 spaces. The difference between the number of parking spaces required and the parking that will be provided does not exceed the 700-space deficit approved in the 1994 case and, therefore, should be within the spirit and intent of the 1994 case.

Clearly, determining parking based on GLA is consistent with Section 409.6.A.2 of the current Zoning Regulations. At this time, I am requesting that you provide written confirmation that calculating the required amount of off-street parking for the Eastpoint Mall on the basis of the Mall's total GLA is within the spirit and intent of the Board of Appeals' Clarified/Amended Opinion and Order, dated June 16, 1994, and does not require any additional zoning relief.

With this letter, I have enclosed a check in the amount of \$40.00 made payable to "Baltimore County, Maryland" to cover the administrative costs associated with your review. If you need any further information in order to complete your review, please feel free to give me a call.

Thank you for your assistance with the matter.

very truly yours,

David H. Karceski

DHK/bl Enclosure

cc: Mr. John L. Lewis

TO1DOCS1/DHK01/#151877 v1



Baltimore County
Department of Permits and
Development Management

Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

January 14, 2003

David H. Karceski Venable, Baejter and Howard, LLP 210 Allegheny Avenue P.O. Box 5517 Towson, Maryland 21285-5517

Dear Mr. Karceski:

RE: Zoning Verification, Eastpoint Mall, Parking Calculation, 15th Election District

Having reviewed your letter of January 6, 2003, it is the opinion of this Office that given the facts presented, calculating parking at 5 parking spaces per 1000 square feet of "Gross Leasable Area" is within the spirit and intent of the Baltimore County Zoning regulations generally, and zoning case 94-197-A for the above referenced property.

Should you have any questions regarding the above, I may be reached at 410-887-3391.

Sincerely,

Joseph G. Merrey

Planner 1

Zoning Review



SITE DATA:

The state of the s

- OWNER: BELLWETHER PROPERTIES C/O SHOPCO MANAGEMENT CORPORATION 1250 BROADWAY NEW YORK, NY 19001 301-797-0707
- 2. AREA OF PROPERTY: 66.438 ACRE, GROSS AREA OF PROPERTY 70 #
- 3. DEVELOPER: EASTPOINT DRIVE THRU, INC. PO BOX 2155 CALIFORNIA MD 20619
- 4. PROPERTY ADDRESS: EASTPOINT MALL 7800 BLOCK EASTERN AVENUE BALTIMORE, MD 21224
- ELECTION DISTRICT: 15
- 6. COUNCILMANIC DISTRICT: 7
- 7. TAX MAP/PARCELS: MAP 96, PARCELS 21,418,490.32
- 8. TAX ACCOUNT NUMBERS:1505000500, 17000000373, 1700000374, 2100007054, 1513751037
- 9. ZONING MAPS: SE JE / SE JF
- 10. SETBACKS (BM-CT)
 - a. FRONT 15' from Property / 40' from Center Street b. SIDE/REAR 0°
- 11. PARKING
 - a. REQUIRED: *862,381 SF Bldg + 1200 SF Outdoor Seating @ \$/1000

*(GROSS LEASABLE AREA PROUDED) BY SHOPCO ADUNORY CORP +

- PARKING PROVIDED
 - Existing parking provided 4010** ii. Existing Spaces Lost for Checkers
 - 133 New Spaces Provided 67

iv. Proposed Spaces Provided (**EXISTING PARKING PROVIDED BASED ON ALTA SURVEY BY WILLLAM E. DOYLE, REVISED JULY 11, 1997. THE SURVEY IS ON RIMID IN CITETAL &

PLEASE PRINT CLEARLY

CASE NUMBER 07 -116-504

ETITIONER'S SIGN-IN SHEET

Hoperan CHarquistins in 4 Solis & Therefore in the Constraint mall on	moornelius@trafficgroup.com			
五 五 五 五 五 3	BALTIMORE MO 21236			
Alleshen And Who have the way had been to make the hours of the hours	8900 FRANKLIN SO, DE, STE. H 810 Ghreyhs Gt Suk 300			
MAME KARCISACI Sambad & BUCK Germand & BUCK Germand & BUCK Line A. Solis	Markey GORNELIUS			

PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

SIGN-IN SHEE COUNTY REPRESENTATIVE'S

E- MAIL	CACCOLUMDCO. BA. Ma. US									
CITY, STATE, ZIP										
	In who such in the Med									
NAME	Chess Milain									

Case No.: 07-112 SPHA THOR EASTPOINT MALL LLC

Exhibit Sheet

Petitioner/Developer

Protestant

		
No. 1	Site Han	
No. 2	Colorined Plan- denoting landscaping -	
No. 3	Public Transportson Exhib	
No. 4	acrial Map	
No. 5	ZONING MAP.	
No. 6A	10/26/06 - Thursday - Under W 11/5/06 -	Hizator
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

(SIGN IN SHEETS - OPPORTUNITY TO SIGN) - (RECORDER)

Good Morning – My name is Bill Wiseman, I am the Zoning Commissioner for Baltimore County and I've been assigned to hear your case pursuant to Art. 32 of the Baltimore County Code. THESE PROCEEDINGS ARE BEING RECORDED

	FOR THE RECORD, THIS IS A PUBLIC HEARING ON case number 07-112 SPHA.
	This is a Petition for
ts.	filed by the thirties of VENABLE LAW FIRM for property located 20 N 5/5 P. Enotern ave and N/s 8) North Point Boulevard and zoned BM - CT.
•	"Read language from file"
	The Code requires that notice of today's hearings be provided to neighbors and interested parties by the posting of a sign on the property for at least 15 days prior to the hearing. The sign was posted
•	The Code further requires that notice be placed in a newspaper of general circulation, in this case the Jeffersonian, and the file contains the requisite certification of publication.
	I THEREFORE FIND THAT THE POSTING AND NOTICE REQUIREMENTS HAVE BEEN SATISFIED
	IF ATTORNEYS PRESENT, HAVE THEM IDENTIFY THEMSELVES; ASK IF THERE ARE ANY PRELIMINARY MATTERS
	LOOK AROUND ROOM – AND ASK – IS ANYONE HERE APPEARING IN OPPOSITION TO THE REQUEST?
	NO PROTESTANTS: For the record, no one is here in opposition to the request. Mr./Ms. , since there is no opposition, if you want to make AN INFORMAL PROFFER of the testimony and evidence, you're welcome to do so.
	IF PROTESTANTS: This is your opportunity to come forward and have a seat at the table. You will be able to see and hear better, so come forward and I have a sign-in sheet here for you

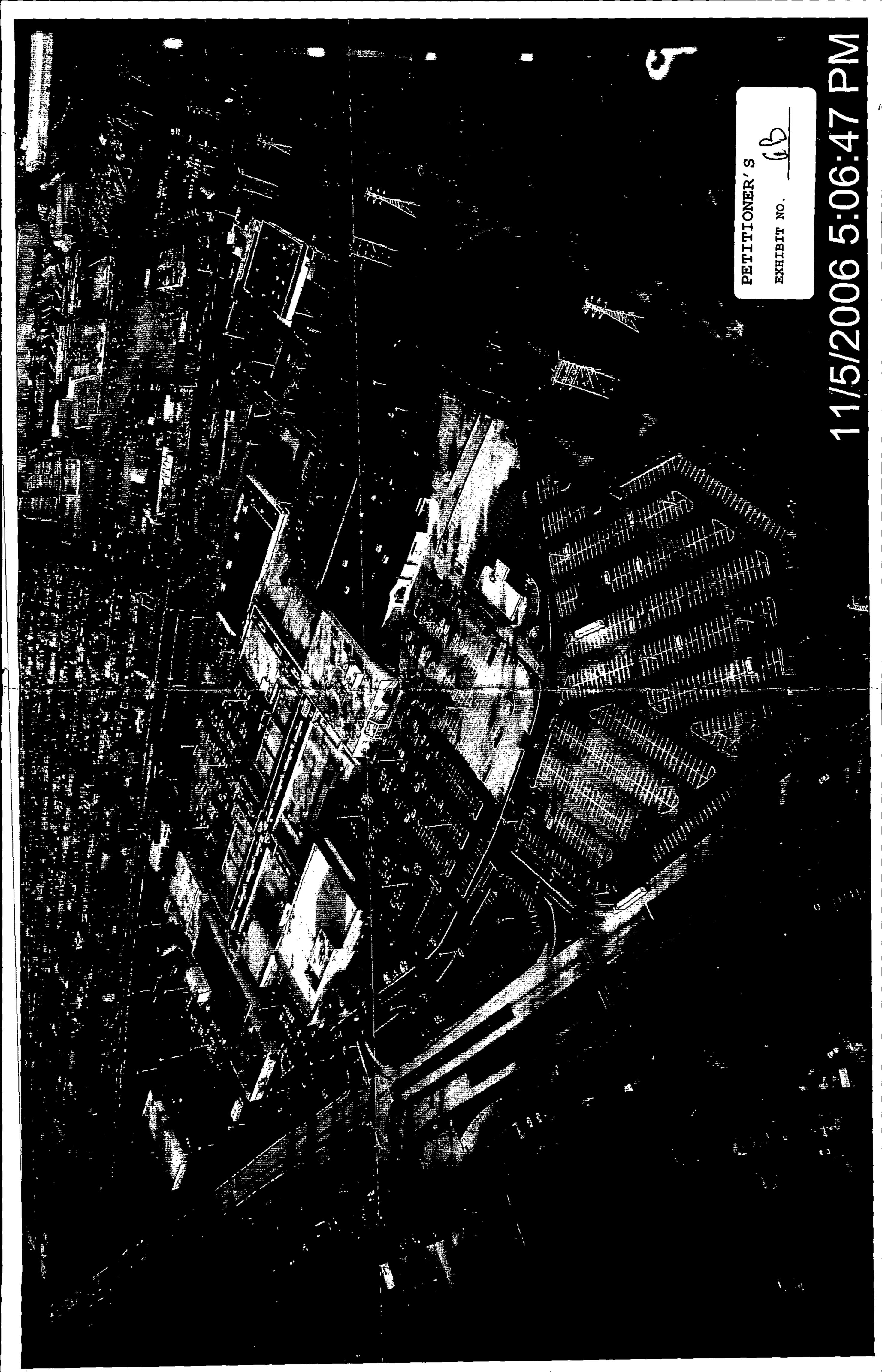
OP-Blog Slevetrons?

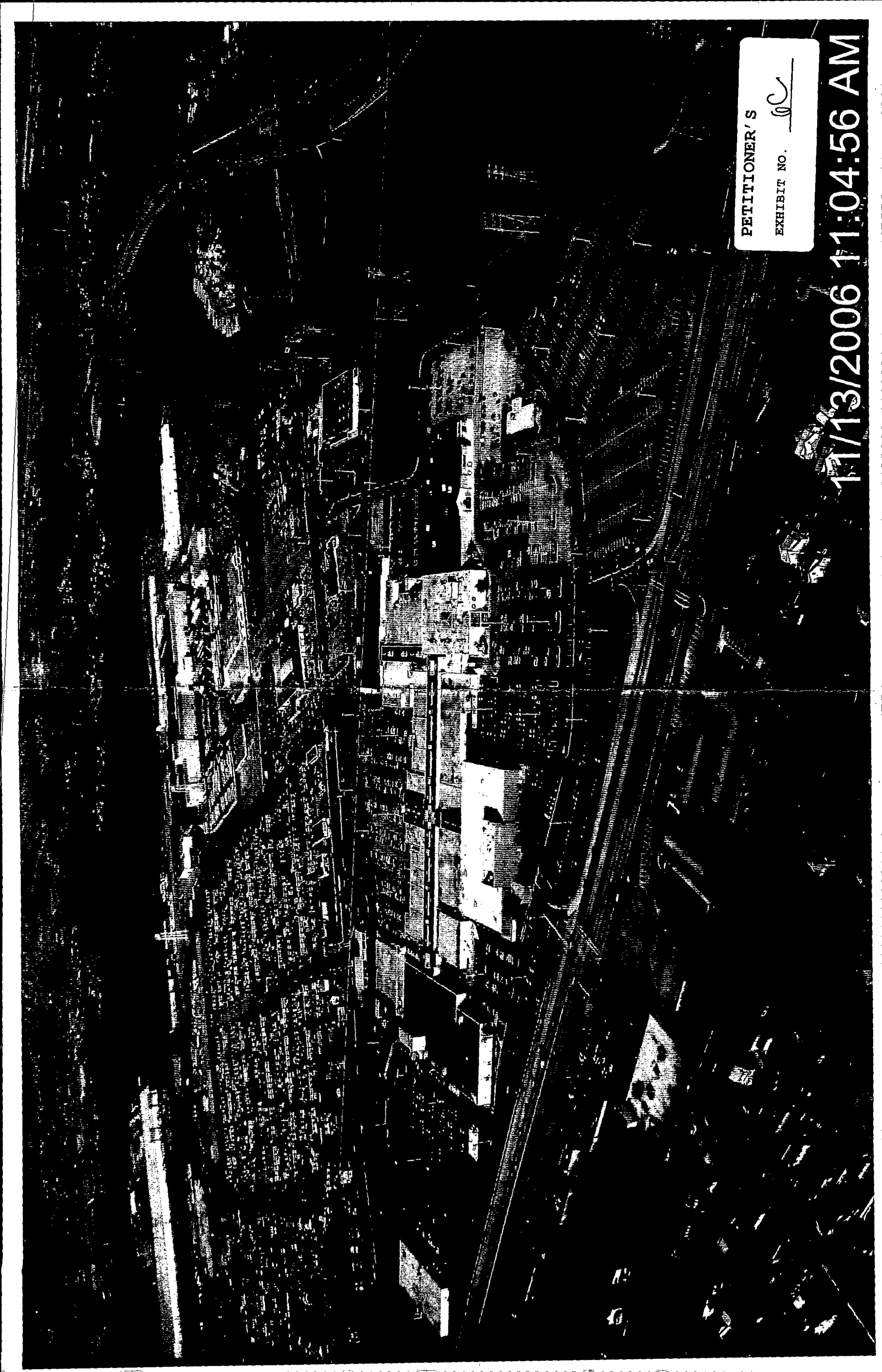
to sign so that we can mail you a copy of the decision in this case.


EXPLAIN PROCESS:


First the owner of the property will have an opportunity to present testimony and evidence regarding the request for the property at
Listen carefully, if you have any questions that you want to ask of any witness who testifies, I'll give you an opportunity to do so.
Once Petitioner is finished putting forward their testimony, and you've had an opportunity to ask questions, you will be given an opportunity to present testimony and evidence for me to consider in this request. I'll tell you when it's appropriate to ask questions and when it's appropriate to testify – help you along as we proceed.
PRESENT CASE
SWEAR WITNESS - NAME AND ADDRESS - HAVE A SEAT
All right Mr./Ms, please proceed with your case:
TO PROTESTANTS: Do you have any questions about the testimony that Mr./Ms. just gave? I don't want to hear any testimony from you at this point, but if you would like to ask him/her any questions go ahead.
CLOSE OF PETIONERS CASE: This is your opportunity to tell me why you might be opposed to this Where do you live? How long have you lived there? What is it about the that bothers you/or what would you like to tell me about this case.
CONCLUSION: ALRIGHT – THANK YOU. THIS WILL CONCLUDE THE MATTER. THANK YOU FOR ATTENDING
I'm not prepared to make a decision here and now.
I want some time to think about the evidence presented – might want to look at the property
Hopefully, within a few weeks, I'll issue a written decision in the case
If you do not like my decision, YOU HAVE A RIGHT TO APPEAL TO THE Board of Appeals. This must be done within 30 days from date of my Order.

















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