ML-1M | 8.8 AC. | 6TH ~~EDITION~~ 14TH ED.

20070158 "A"

supplemental

5/11/10

RE: PETITION FOR SPECIAL HEARING	* BEFORE THE COUNTY
9811 York Road & 9814 & 9812 Monroe Street, W/S Monroe Street, 70' S c/line Jefferson Avenue	* BOARD OF APPEALS
	* FOR
8th Election District 3rd Councilmanic District	* BALTIMORE COUNTY
Legal Owner(s): Carbroc, LLC, by Grant & Todd Pivec, and Todd Pivec, Individually *Petitioners*	* **Case No.: 07-158-SPH**
	*

* * * * * * * * * * * *

OPINION AND ORDER

This case involves a one-story commercial structure, currently operated as restaurant known as "Piv's Pub," at 9811 York Road in Cockeysville. The restaurant operation is located on a 1.104 acre split-zoned property on the east side of York Road owned by Carbroc, LLC (the "Petitioner"). The York Road frontage, which includes the restaurant and a portion of the parking area, is in a business zone, B.L.-C.C.C. The rear area is zoned residential, D.R. 3.5 and extends back to Monroe Street. The case also involves two residential lots adjacent to the rear area, 9812 Monroe Street (.131 acre) and 9814 Monroe Street (.131 acre), both owned by Carbroc, LLC. (Recently, Carbroc, LLC acquired 9814 Monroe Street from Todd Pivec, Grant's brother.)

There is a long zoning history to this property, which includes decisions in 1973 and 1985, Cases No. 74-5-SPH and 86-176-A, respectively. As recited in Deputy Zoning Commissioner John V. Murphy's December 26, 2006 decision in the instant case, these previous zoning matters authorized commercial parking in a residential zone and a parking variance for previous incarnations of the restaurant.

The rear of the property adjoins a residential community known as County Home Park. Several individual members of that community have actively participated in this case (collectively the "Protestants"). George Cummings, President of the County Home Park Community Association, and Stephen Weber, Treasurer, have been most active.

Unfortunately, there arose zoning complaints and enforcement issues about the extension of commercial parking beyond that permitted in the previous zoning approvals, which led the current owner, who purchased the property in 2004, to file the present petition. The Petition requests a special hearing to (i) amend the use permit for commercial parking in a residential zone, and (ii) to approve a modified parking plan.

Commissioner Murphy issued a detailed opinion and granted the petitions, subject to certain conditions, based on a modified site plan. He attempted to achieve a resolution to address all of the parties' concerns and comply with the applicable provisions of the law. For various reasons, there were motions for reconsideration filed by Protestants Cummings and Weber and by Petitioner Carbroc, LLC.

On February 8, 2007, Commissioner Murphy granted the Mr. Cummings' Motion for Reconsideration to specify the minimum fence height, but denied Mr. Weber's motion to require the transfer of property by lot line adjustment from 9812 Monroe Street to 9814 Monroe Street. Commissioner Murphy's final decision dated June 29, 2007, entitled "Second Motion for Reconsideration," denied Petitioner Carbroc, Inc's motion relating to the landscape buffer, and the location of the fence running along Monroe Street. The Commissioner stated his appreciation of "the efforts by all to resolve this matter."

Carbroc, LLC. thereupon filed a timely appeal of the Commissioner's decision to the Board of Appeals. As a result, all of the parties, joined by People's Counsel for Baltimore County, resumed efforts to reach a resolution to address the concerns of the parties consistent with the spirit and intent of the zoning law. After many discussions and meetings, the parties were successful in reaching an agreement on a revised request and site plan to present to the County Board of Appeals for consideration at its *de novo* hearing held on March 23, 2010. Lawrence E. Schmidt, Esquire, represented Carbroc, LLC. Principal owner Grant Pivec was present. As noted, Carbroc, Inc. now owns 9811 York Road, 9812 Monroe Street and 9814 Monroe Street. Stephen Weber appeared for County Home Park Community Association and testified. Peter Max Zimmerman, People's Counsel for Baltimore County, represented his office.

The parties presented a revised site plan, marked as Joint Exhibit 1. It was prepared originally by Spellman, Larson & Associates, entitled "Plat to Accompany Special Hearing for Piv's Pub. Subsequently, James Grammer of McKee and Associates, Inc. prepared the final plan, which has a final revision date of March 22, 2010, and contains the words "Relief Requested, Amended Petition for Special Hearing for a Use Permit to allow Business Parking in a Residential Zone and for a Modified Parking Plan." He testified to and described the revised plan at the hearing.

The revised petitions and site plan provide for the restaurant and revised parking layout in the residential zone, a modified parking plan, and a potential future one-story front deck, (see Notes 20-22, 27) and yet also enhance protection to the County Home Park single-family home residential area to the east along and beyond Monroe Street. For the restaurant, the plan shows 92 parking spaces, 56 in the D.R. 3.5 Zone (Note 19).

The plan improves parking circulation and accommodates the concerns of the community. A new lot line will be established between 9814 Monroe Street and 9811 York Road, the lot known as 9812 York Road will be eliminated as well as the dwelling at 9812 York Road (Notes 11 & 23). This effectively approves a lot line adjustment to eliminate 9812 Monroe Street and expand both 9811 York Road and 9814 Monroe Street (Note 24). It also requires the expanded 9814 Monroe Street lot to remain as a single-dwelling lot in tax account, and that it not be resubdivided. (Note 25). The expanded size of this lot is expected to improve its attractiveness for single-family residential use and be more compatible with other lots in County Home Park.

Given the economic climate, it is understandable that completion of the parking lot renovation and demolition of the dwelling at 9812 Monroe Street will require a reasonable amount of time. The parties have agreed and proposed that Carbroc, LLC will make good faith efforts to accomplish these conditions as soon as reasonably possible, but that July 15, 2011 shall be the deadline for their completion. This is also the deadline for establishment by deed of the new lot line between 9814 Monroe Street and 9811 York Road and the elimination of 9812 Monroe Street lot. The Order in this case is intended to approve this change, without the necessity of further review by the Development Review

Committee. Until the above renovation, demolition, and lot line changes are undertaken, Carbroc, LLC shall utilize the existing property lines as the divider.

For Petitioner Carbroc, LLC, these conditions afford the rear parking lot some additional area to the east for expansion and circulation, with ample ingress, egress and aisle widths. The expansion of the 9814 Monroe Street lot makes it a larger, more attractive dwelling lot. As noted, it also will be a more compatible size with other County Home Park lots. This is expected to provide a reasonable and enduring boundary between the commercial and residential uses.

In conjunction with these conditions, the site plan provides not only that the 9812 Monroe Street dwelling be eliminated, but also that the paved parking area (not approved) to the rear of 9812 and 9814 Monroe Street be removed and that a new wood fence along that area also be removed, while retaining a fence at the rear boundary of the lots.

For County Home Park, the plan mitigates the impact of the commercial use on the residential community. There has been significant fencing installed to shield visibility (Note 13 and Legend). The plan requires an 8' high wood fence along the 9811 York property boundaries on the north (bordering new 9814 Monroe Street), on the south (bordering what is shown as the Vaughan property), and on the east (bordering the length of Monroe Street). As noted, there will likewise remain a fence at the rear of the new 9814 Monroe Road, bordering the rear of the commercial establishment at 9825 York Road, currently shown on the site plan as the Wendy's Restaurant.

Furthermore, there is a provision for lighting to be directed away from residential properties and for existing lighting to be redirected or relocated subject to approval of the County Landscape Architect (Notes 6 and 16). Landscaping shall be provided along the Monroe Street boundary as specified (Note 12), and the owner shall preserve the existing evergreen tree at 9814 Monroe Street, if possible (Note 26).

To accommodate the desire of Carbroc, LLC for an outdoor seating area, the plan includes a one-story deck to be constructed on the west side of the building (facing York Road), not higher than the roof of the building. To accommodate the concerns about

noise, live outdoor performances are not permitted. Any speakers on the permitted front deck shall be no closer than 30 feet to the northwest and southwest corners of the building. Consultation with the community about volume adjustments are to be made after the installation (Note 15). To insure reciprocity in the timing, the approved front deck construction shall not be undertaken prior to, but may be simultaneous with, the renovation, demolition, and lot conditions described above in pages 3-4. Therefore, if begun simultaneously, the rear improvements described in pages 3-4 must be reasonably pursued to completion and not left to languish. Lastly, no deck shall be permitted along the rear or sides of the building (Note 14).

There are other notes and provisions on the site plan, which speak for themselves and need not be repeated herein. As is apparent from these provisions, the parties have worked intensively to arrive at a plan to accommodate growth of a successful commercial establishment, protect quality of life in the County Home Park residential neighborhood and enhance the viability of 9814 Monroe Street as a residential property.

Based on the presentation, revised site plan, testimony, and evidence presented in open hearing on March 23, 2010, including statements of counsel and testimony of James Grammer and Stephen Weber, the Board finds that the amended petition for special hearing for a use permit for commercial parking in a residential zone satisfies the requirements of BCZR § 409.8.B and the incorporated § 502.1 special exception standards. The amended proposal, if implemented according to the detailed site plan and conditions, will not have any particular or unusual adverse impact on the neighborhood. The provisions for fencing, landscaping, and lighting mitigate these impacts. The new lot configuration also represents an improvement, both to minimize any potential congestion in the expanded parking area and to establish a more viable residential lot at 9814 Monroe Street. In this context, we are also satisfied that the modified parking plan meets the requirements of BCZR § 409.12.

Our approval, as noted, benefits petitioners in affording an expanded and improved parking area, and a potential future deck. It should be underlined that the

conditions to protect the community are integral to the approval of these benefits. They demonstrate reciprocity of advantage at the heart of this resolution.

The record reflects that there have been controversies and difficulties in the past occasioned by the impact of the commercial use on the residential community. The coming together of the current owners and community representatives in the present case on an agreed resolution gives rise to a reasonable hope and expectation that such difficulties will be avoided or mitigated in the future. The approval here, therefore, is one which gives rise to the prospect of an enduring successful accommodation. It also involves substantial modification to the existing situation on the ground.

ORDER

Therefore, it is this 14th day of May, 2010, ORDERED by the County Board of Appeals of Baltimore County, that the Amended Petitions for Special Hearing and for a Modified Parking Plan, be, and hereby is GRANTED, subject to the following simultaneous approvals and conditions:

1. Petitioners Carbroc, LLC, et al. shall comply with the revised site plan described above and identified as Joint Exhibit 1.

2. Petitioners shall comply with all the notes and conditions on the revised plan, including all the conditions described hereinabove in this opinion, as if fully set forth in this order.

3. There are hereby approved the following property line changes and conditions: a new lot line between 9814 Monroe Street and 9811 York Road may be established as shown; elimination of the lot known as 9812 Monroe Street and the razing of the dwelling at 9812 Monroe Street may occur as shown; the simultaneous lot line adjustments enlarging both 9811 York Road and 9814 Monroe Street; and the requirement that the enlarged 9814 Monroe Street lot remain as a single-dwelling lot in one tax account;

4. There are hereby approved and required the implementation of fencing, lighting, landscaping, and signage conditions as discussed in this opinion and described on the site plan;

5. There is hereby allowed a one-story front deck for the restaurant, subject to area and height restrictions and parameters described in this opinion and on the site plan and to applicable building code requirements.

6. The timing and deadlines for completion of all the renovation, demolition, construction, and other conditions are as described in this opinion and incorporated herein as if fully set forth, including the deadline of July 15, 2011 as described herein.

Any petition for judicial review of this Order shall be filed within 30 days of its entry.

COUNTY BOARD OF APPEALS FOR
BALTIMORE COUNTY

Lawrence M. Stahl, Panel Chair

Andrew M. Belt, Panel Member

Robert W. Witt, Panel Member

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

May 11, 2010

Lawrence E. Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Ave, Suite 200
Towson, MD 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Carbroc, LLC-Petitioner/Legal Owner*
Case No.: 07-158-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

Duplicate Original Cover letter

c: Carbroc, LLC/Shawn Pivec; Grant Pivec; Todd D. Pivec
George Cummings, President/County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates
Robert and Julia Donatelli
Matt Kallenberger
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM
Sophia Jennings, Code Enforcement /PDM
John E. Beverungen, County Attorney
Mr. and Mrs. Robert Shortall
Michael Noppenburger
Stephen Weber
Pat Keller, Planning Director
Nancy West, Assistant County Attorney
[CC-04-3644 & 05-2161]

1/25/07

IN RE: PETITION FOR SPECIAL HEARING W/S of Monroe Street, 70 feet S of c/l Of Jefferson Avenue 8th Election District 3rd Councilmanic District (9811 York Road, 9812 and 9814 Monroe Street) Carbroc, LLC Legal Owner Before the Deputy Zoning Commissioner of Baltimore County Case No.: 07-158-SPH	*	BEFORE THE BALTIMORE COUNTY BOARD OF APPEALS Case No.:

* * * * * * * * * * * * * * *

PETITION FOR APPEAL

CARBROC, LLC, Petitioner, in the above captioned matter, by and through its attorneys, Lawrence E. Schmidt and Gildea & Schmidt, LLC, files this Petition, pursuant to Baltimore County Code Section 32-4-281, and states as follows:

1. The subject properties are located at 9811 York Road, 9812 Monroe Street and 9814 Monroe Street in Baltimore County.
2. The Petitioner filed a request for special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") to approve a modified site plan and modified parking plan and authorizing commercial parking in a residential zone.
3. On December 26, 2006, the Deputy Zoning Commissioner for Baltimore County granted some special hearing relief pursuant to a parking plan submitted by the surrounding County Home Park Community Association, Inc..

4. On February 8, 2007, the Deputy Zoning Commissioner for Baltimore County granted in part and denied in part a Motion for Reconsideration filed by the County Home Park Community Association, Inc.
5. On June 29, 2007, the Deputy Zoning Commissioner for Baltimore County denied a Second Motion for Reconsideration filed by Petitioner.
6. The Deputy Zoning Commissioner erred in denying some of the relief requested by the Petitioner.

WHEREFORE, the Petitioner hereby appeals the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law in the above captioned matter for the reasons set forth herein and to be presented at the de novo hearing.

Respectfully submitted,

Lawrence E. Schmidt
Gildea & Schmidt, LLC
600 Washington Ave., Suite 200
Towson, MD 21204
(410) 821-0070

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 25th day of July, 2007, a copy of the foregoing Petition for Appeal was mailed, first class, postage prepaid, to:

Steve Weber
Country Home Park Community Association, Inc.
9801 Van Buren Lane
Cockeysville, MD 21030

George Cummings
Country Home Park Community Association, Inc.
102 Gibbons Road
Cockeysville, MD 21030

Mr. and Mrs. Robert Shortall
9816 Monroe Street
Cockeysville, MD 21030

Robert and Julia Donatelli
9807 Monroe Street
Cockeysville, MD 21030

Michael Noppenburger
5 Gibbons Road
Cockeysville, MD 21030

Matt Kallenberger
4 Jefferson Avenue
Cockeysville, MD 21030

Lawrence E. Schmidt

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
F. GILLIS GREEN
ERIC N. LAMB
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
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600 WASHINGTON AVENUE
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ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

July 26, 2007

Sent via Hand Delivery
Ms. Kristin Matthews
Baltimore County Zoning
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204

Re: Petition for Special Hearing
Case No. 07-158-SPH

Dear Ms. Matthews:

Enclosed please find an appeal and a check in the amount of $400.00 in the above referenced matter. If you have any questions or comments, please contact me. As always, I am.

Very truly yours,

Lawrence E. Schmidt

6/29/07

IN RE: PETITION FOR SPECIAL HEARING W/S of Monroe Street, 70 feet S of c/l Of Jefferson Avenue 8th lection District 3rd Councilmanic District **(9811 York Road, 9812 and 9814 Monroe Street)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Carbroc, LLC *Legal Owner and Petitioner*	*	CASE NO. 07-158-SPH

* * * * * * * * * * *

SECOND MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as a Second Motion for Reconsideration filed by Lawrence E. Schmidt, Esquire, attorney for the Petitioner, Carbroc, LLC.

Original Case

The Petitioner, Carbroc, LLC, originally filed a Petition for Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R) to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

First Motions for Reconsideration

On January 23, 2007, George Cummings, President, County Home Park Community Association, Inc., filed a timely Motion for Reconsideration of this Deputy Zoning Commissioner's December 26, 2006 Order requesting revision to Condition No. 2 of the Order. Mr. Cummings noted that my Order indicated that the height and composition of the fence along the Petitioner's parking lot would be determined by the Baltimore County Landscape Architect. He noted that the fence at present is 6 feet high and its composition blocks sight of the parking

6/29/07

lot. He requested that condition 2 be clarified to require at least a fence of 6 feet high that would solidly shield visibility between the parking lot and residential area.

On January 23, 2007, Stephen E. Weber, Treasurer, County Home Park Community Association, Inc., filed a timely Motion for Reconsideration of this Deputy Zoning Commissioner's December 26, 2006 Order regarding adjustment of lot lines between 9812 and 9814 Monroe Street. He expressed concern that the Order does not require the lot line between the properties to be moved. The Petitioner indicated that they would move the lot line 8 feet from the house at 9814 while the community requested the lot line be moved 30 feet.

Mr. Weber expressed concern that by not ordering the Petitioner to move the lot line as requested by the community, this left the remainder of the lot (22 feet) on the other side of the fence separating 9812 from 9814 with no defined purpose or condition or maintenance. He opined that moving the lot line as requested by the community would make 9814 more compatible, valuable and similar in size with other lots in the community. Finally he noted the history of the site and the need to reassure the community something is being done to halt further commercial incursions into the residential community.

On February, 8, 2007 the Motion for Reconsideration filed by Mr. Cummings was GRANTED and Condition No. 2 changed to read "The height and composition of the fence shown in community exhibit 1 shall be a minimum of 6 feet in height and shall solidly shield visibility between the parking lot and the residential area and shall be constructed as required by the Baltimore County Landscape Architect". Mr. Weber's Motion to Reconsider to transfer property by lot line adjustment as shown in Community exhibit 1 from 9812 Monroe Street to 9814 Monroe Street was denied.

06-276-A

Second Motion for Reconsideration

On March 9, 2006, Lawrence E. Schmidt, Esquire, filed a timely Second Motion for Reconsideration filed by George Cummings and Stephen E. Weber. The primary concern of the Petitioner was that the landscape buffer along Monroe Street would attract litter, and that patrons of the Petitioner's restaurant would attempt to park in the buffer causing complaints from neighbors. The Petitioner proposed moving the fence adjacent to Monroe Street which would also allow the parking lot to hold more vehicles and to solve a problem of vehicle circulation the Petitioner foresees with the parking plan adopted in the original order. Mr. Schmidt requested that the undersigned reconsider the matter and convene a public hearing.

On March 26, 2007, Mr. George Cummings, President, County Home Park Community Association, Inc., filed a response to Mr. Schmidt's Second Motion for Reconsideration. Mr. Cummins requests that Mr. Schmidt's request be denied and that the property owner to bring the property into compliance with the Order.

Thereafter the Parties met on site, exchanged proposals for resolving the matter raised in correspondence.

Finds of Fact and Conclusions of Law

I had great hopes that the Parties would resolve their differences and express my appreciation for the substantial efforts both have made in this regard. However it appears that they are not going to be able to do so.

Fundamentally the Petitioner would like additional room for parking and deliveries which elimination of the 6 foot buffer would provide. There presently is a fence 12 feet from Monroe Street and some parking along Monroe Street which all agree is not desirable. I understand the concerns the Petitioner raises with litter in the buffer area and complaints that could occur from

the neighborhood.

The parking plan adopted in the original order meets all County regulations. I have no doubt that eliminating the 6 foot buffer would allow parking on the Petitioner's property to expand but in my view at the expense of a minimal landscape buffer which is needed to protect the community. While I sincerely appreciate the efforts by all to resolve this matter, Mr. Schmidt's Second Motion for Reconsideration raises the same issues that were litigated in the original case. There is no reason to order a new hearing nor any reason to disturb the Order as modified in the First Motion for Reconsideration.

THEREFORE IT IS NOW ORDERED by the Deputy Zoning Commissioner for Baltimore County on this 29th day of June, 2007 that the Second Motion for Reconsideration filed by Lawrence E. Schmidt in the above-captioned matter is DENIED.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

RECEIVED FOR FILING
6/29/07

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

June 29, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

ROGER J. SULLIVAN, ESQUIRE
DIPAULA & SULLIVAN, LLC
34 SOUTH MAIN STREET
BEL AIR MD 21014

Re: Petition for Special Hearing
Order on Second Motion for Reconsideration
Case No. 07-158-SPH
Property: 9811 York Road, 9812 and 9814 Monroe Street

Dear Mr. Sullivan:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: Todd Pivec, 1617 Broadway Road, Timonium MD 21093
Joseph Larson, 105 West Chesapeake Avenue, Towson MD 21204
Shawn Pivec, 14000 Phoenix Road, Phoenix MD 21131
Grant Pivec, 14012 Phoenix Road, Phoenix MD 21131
Stephen Weber, 9801 Van Buren Lane, Cockeysville MD 21030
George Cummings, 102 Gibbons Blvd., Cockeysville MD 21030
Mr. and Mrs. Robert Shortall, 9816 Monroe Street, Cockeysville MD 21030
Robert and Julia Donatelli, 9807 Monroe Street, Cockeysville MD 21030
Michael Noppenburger, 5 Gibbons Blvd., Cockeysville MD 21030
Matt Kallenberger, 4 Jefferson Avenue, Cockeysville MD 21030

5/1/07

GILDEA & SCHMIDT, LLC

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95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

May 1, 2007

Sent Via Facsimile and Regular Mail
John V. Murphy
Deputy Zoning Commissioner
Baltimore County
401 Bosley Ave, 4th Floor
Towson MD 21204

RECEIVED
MAY 03 2007.
BY:.....

Re: PIV's Pub
Motion for Reconsideration
Case No. 07-158-SPH

Dear Mr. Murphy:

Please accept this letter as a clarification of this office's Motion for Reconsideration, filed on March 9, 2007 pursuant to Rule 4.K of the Zoning Commissioner's Rules of Practice and Procedure. On December 26, 2006, you issued an order for Case No. 07-158-SPH regarding a Petition for Special Hearing for 9811 York Road, as well as 9812 & 9814 Monroe Street. On January 23, 2007, George Cummings, and Steven E. Weber, filed a timely Motion for Reconsideration of that decision. On the 8th of February, 2007, you issued a decision which granted the Motion filed by Mr. Cummings, denied the Motion by Mr. Weber, and affirmed the terms and conditions of the original order. The Motion for Reconsideration filed by this office followed.

The Order dated December 26, 2006 states on page seven that you are unclear about the reasons behind the Petitioner's desire to eliminate the landscaped six-foot buffer along Monroe Street. Pursuant to the community's adopted plan, this buffer is to exist between the road and a fence to be erected by the Petitioner adjacent to the restaurant parking lot. In an attempt to clarify the Petitioner's concerns, please note that the main problems regarding the landscaped buffer are potential litter and use of the buffer for parking. Regarding litter, it is clear that the landscaped buffer has acted as a magnet to attract litter from cars driving along Monroe Street. This in turn has prompted complaints from the community regarding the attractiveness of the landscaped area. The Petitioner wishes to eliminate this problem by erecting a fence immediately adjacent to the street so that there is no area between the street and fence where litter can accumulate. Additionally, by moving the fence towards Monroe Street, the parking lot can be expanded. Secondly, regarding potential use of the buffer for parking, there was testimony at the hearing regarding restaurant patrons who currently park on Monroe Street. The plan drawn up by the community permits a landscaped buffer of roughly six feet in width. Although that area is undersized for a legal parking space (i.e. six feet wide versus the standard eight foot width) Petitioner is concerned that people might park in this area, thereby creating a hazardous condition for those driving along Monroe Street.

A second issue is the lot line adjustment addressed at the hearing. The Order requires that the Petitioner erect a fence down the center of the 9812 Monroe Street property. This requirement creates a hardship for the Petitioner not only through maintenance of a thirty-foot wide grass area, but also it leaves no viable use for that side. This action was taken under the rubric of making 9814 more viable for residential uses. The Petitioner questions any impact that an additional thirty-foot side yard on different adjacent lot would have on a house that sits behind a fast food restaurant.

The Order raises a concern regarding the general parking circulation, which is inappropriate in the newly adopted plan. Even though the spaces meet the county standards of eight and a half feet in width and eighteen feet long, due to the number of patrons that drive larger cars and sports utility vehicles, customer complaints have arisen about the parking layout. In order to accommodate these cars the Petitioner needs extra space for parking, in particular around the restaurant entrance. That is why angled spaces were used in this location on the Petitioner's plan. The approved plan requires non-angled spaces, and thereby creates unsafe circulation. The additional area provided by a relocation of the fence and lot line adjustment would remedy these problems.

Therefore, Petitioner, through its undersigned attorney, asks that you reconvene a public hearing to receive further testimony to clarify the issues discussed above and such other and further material as may be presented at the public hearing on this matter.

Very truly yours,

Lawrence E. Schmidt

LES: sf
Cc: Grant Pivec, Carbroc, LLC
Todd Pivec
Shawn Pivec
Joseph Larson, Spellman, Larson & Associates, Inc.
Steven E. Weber
George Cummings
Roger Sullivan, Esquire
David K. Gildea, Esquire
Charles B. Marek, III, Esquire

3/26/07

County Home Park Community Assn., Inc.
102 Gibbons Boulevard
Cockeysville, MD 21030

RECEIVED

MAR 27 2007

ZONING COMMISSIONER

March 26, 2007

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RE: CASE NUMBER: 7-158-SPH, 9811 York Road, 9812 & 9814 Monroe Street

Dear Mr. Murphy:

This letter is in response to Lawrence Schmidt's March 9, 2007 letter requesting reconsideration of your February 8, 2007 decision, his letter being received by our Association on March 12th. We would correct Mr. Schmidt's statement that the Deputy Zoning Commissioner issued an original order for the subject case on September 26, that order actually being issued on December 26, 2006.

Mr. Schmidt indicates that the approved parking plan has several problems:
(1) Does not contain a scale
(2) Does not depict the width of the rear drive aisle
(3) The rear drive aisle apparently does not meet the BCZR
(4) The petitioner feels the drive aisle behind the restaurant needs to be at least 30 feet wide for deliveries

First of all, the Community Exhibit which we presented is a scaled duplicate of the petitioner's exhibit presented in this case. We would agree it would have been best had we restated the scale already stated on the petitioner's drawing; however since it was an exact duplicate we failed to note that it was a 1" = 30' scale. There are numerous dimensions across the drawing, both from the petitioner's original exhibit and those added by the community association, all of which scale as a 30 scale drawing. In addition, we left all the original lines from the petitioner's drawing in the Community's Exhibit so that one could see the relative differences between the two. We did check with Joe Larson of Spellman, Larson & Associates, Inc. to find out whether the drawing they prepared for the original hearing was a scaled drawing of the actual field conditions which exist on the site and they indicated they were. Therefore, scaling from the petitioner's exhibit, the Association computed all the dimensions which we showed and based them on the fact that the petitioner's engineer indicated that his drawing was an accurate and scaled representation of the site. Therefore, while there is not a scale specified on the Community Exhibit, it is in fact a 30 scale drawing which is an exact copy of the petitioner's exhibit with numerous dimensions stated throughout the drawing from which the scale could in fact be easily determined.

Second, while the rear drive aisle width was not dimensioned on the Community Exhibit, the attached drawing has this dimension highlighted as an additional dimension from that which was presented at the original hearing. The dimension is in fact 24 feet and scales 24 feet.

Third, the rear drive aisle width is 2 feet wider than that required by Section 409 of the BCZR. Therefore, the Association presented a proposal which exceeds the BCZR with regard to the rear drive aisle width. It more than meets the BCZR.

Fourth, we do seem to remember that the petitioner did argue that they needed a 30-foot wide drive aisle immediately behind the restaurant in order to receive deliveries. We didn't agree with the argument. Behind the building is a small 4.5' wide and 3' deep extension (scaled) which sticks into the subject drive aisle. So of the building's 81-foot length, there is a 4.5' wide length which sticks out 3 feet. On the petitioner's original exhibit, their engineer dimensioned this small extension to be a total of 111 feet west of the west right-of-way line of Monroe Street, i.e., 1' + 18' + 26' + 18' + 18' + 30' = 111'. Given that the current fence is required to be located 14 feet west of the right-of-way line and assuming a required minimum 22-foot wide rear drive aisle width under BCZR, this makes the

current drive aisle behind the restaurant to be 111' – 14' – 18' – 22' – 18' – 18' = 21'. Scaling aerial photographs of the site as currently striped, this dimension appears to be accurate. Regardless, it is something within this range – far from the 30 feet the petitioner says that they need. In fact, they have been operating with deliveries at this location with a minimum width drive aisle for an extended number of years, yet for some reason now the site can't function unless it has an excessively wide drive aisle for deliveries. The Community Exhibit did indicate under our proposal that it would leave a 26-foot wide drive aisle immediately behind the restaurant at this small extension. The attached drawing also has an additional 29-foot dimension added to indicate the width of this drive aisle along the vast majority of the rear of the building. While we showed a 24-foot wide rear drive aisle width because of the petitioner's concern for wider drive aisles than the 22 feet required under BCZR, the rear drive aisle could be reduced from the Community Exhibit to 22 feet if the petitioner wants a 28-foot drive aisle next to the small 3-foot wide extension and a 31-foot drive aisle adjacent to the majority of the building. Regardless, the Community Exhibit provides drive aisles in excess of those required under BCZR and even with the Community Exhibit as presented at the hearing, this will significantly increase the available width and area in which the petitioner can make deliveries, making their operations easier over what existed for an extended number of years. We also have no objection if the petitioner would want to decrease the rear drive aisle width to 22 feet in order to increase the drive aisle next to the rear of the building by an additional 2 feet to 28 feet and 31 feet, respectively.

We would also note the apparent inconsistencies in what the petitioner argues in one case and presents and accepts on their own in another. Please note that at the front of the building the petitioner's exhibit shows a dimensioned 22-foot drive aisle which they apparently accept in what would normally be considered among the most valuable parking places on a site. Even a couple of those spaces are compromised by the restaurant sign/supports/bollards which restrict the drive aisle to 11 feet. On the south side of the building, the petitioner removed the 22-foot dimension of the drive aisle from the exhibit which was presented at the hearing. This was shown on an earlier plan dated December 9, 2005 from Spellman, Larson & Associates, Inc. (which we can present to you if you wish). The attached drawing has this 22-foot dimension added and highlighted and is still accurate. Therefore, while Mr. Schmidt has great concerns dealing with the aisle widths in the rear of the restaurant where we modified the parking layout (and where we actually provided more width than on the sides or front of the restaurant), he apparently has no similar concern where the petitioner themselves proposed aisle widths only meeting minimum BCZR standards. The lack of consistency gives one cause for questioning the legitimacy of the concern.

Therefore, we find nothing in Mr. Schmidt's points that are legitimate with the exception that we probably should have noted that the Community Exhibit was an exact copy of the petitioner's exhibit and was therefore still the same 30 scale drawing. While putting a scale to both drawings would have caused one to be able to make that conclusion, we probably should have stated the obvious. Mr. Schmidt's request to reconvene a public hearing on this matter is without basis as he brings nothing different to the table and the petitioner had the ability to have his case heard already. If the petitioner is going to ask that the case be reheard, the Community Association may as well ask that the entire petitioner's request be denied and then the Community Association can pursue the corrections to the property through the current 1985 & 1973 Zoning Orders which are already in place and cause the property to be brought into compliance with the existing orders. We ask that Mr. Schmidt's request be denied and that the property owner start to bring the property into compliance with your Order.

We appreciate your consideration of our request in this matter and look forward to hearing your decision.

Sincerely,

George Cummings, President
County Home Park Community Association, Inc.

cc: Lawrence E. Schmidt, Esq.
Peter Max Zimmerman, Peoples' Counsel

EX. 8" WATER MAIN

N 12° 31' 00" W 232.77'

BL-CCC

CABLE BX

CONC PAD

SIGN BOX

WATER METER

BOLLARDS

EXIST SIGN

22'

111.2

INLET

245.97'

60.9

22'

9811

1 STORY

BLOCK, STUCCO

FRAME & GLASS

RESTAURANT

8490 SQ. FT.

ENTRANCE SIDE OF BUILDING FOR DETAILS OF ENTRANCE SEE INSET

82.6'

82.0'

52.4

45.7

18.9

23.5

31.9

BLOCK ADD

CONC RAMP

GAS VALVE

PROPOSED NEW FENCE

LIGHT POLE (TO BE REMOVED)

50'

(12 - 9' SPACES @ 10.39' = 124.7')

30'

(1 - 8.5' SPACES = 136')

OR

KELPP LLC
C/O DAVCO RESTAURANTS INC
12231-010
TAX NO. 1800001002

SCALE: 1" = 30'

WENDY'S RESTAURANT

PROPOSED LOT LINE ADJUSTMENT

EXIST. LOT LINE

PROPOSED FENCE

S 83° 00' 00" E 160.06'

N 12° 31' 00" W 121.10'

BL-CCC

DR3.5

DR3.5

MACADAM PAVING TO BE REMOVED IN THIS AREA

STORAGE SHED (TO BE REMOVED)

N 77° 29' 00" E 96.10'

30'

TRANSFER TO #9814

1914 FRAME DWLG #9814 [5,700 FT²]

PANTS

DECK

WALK

CONC

STEP

RAMP

WILLIAM R. SHORTALL
SANDRA J. SHORTALL
12027-55
TAX NO. 0806020075
[8,613 FT²]
#9816

ENTRANCE INSE

SCALE: 1" = 10'

COVERED BRICK WALK

0.2

2.5

0.8

5.5

3.7

2.0'

2'

1.1

6.9

5.4

24.5

0.4

2.0

82.0

S 77° 29' 00" W 245.97'

[7,560 FT²]
#9804

PROPOSED 6' HIGH WOOD FENCE

(12 - 9' SPACES @ 10.39' = 124.7')

(1 - 8.5' SPACES = 136')

29'

26'

30'

(12 - 8.5' SPACES = 102')

25'

(14 - 8.5' SPACES = 119')

24'

26'

(20 - 8.5' SPACES = 170')

INLET

TRANSFORMER PAD

LIGHT POLE (TO BE REMOVED)

8.5' SPACES = 76.5'

8.5' SPACES = 59.5'

#9812

6'

S 12° 31' 00" E 300.00'

EX. 18" STORM DRAIN

EX. 8" SEWER

EX. 2" GAS MAIN

EX. 8" WATER MAIN

MIN. 6' WIDE LANDSCAPING BUFFER

ALL NEW PERIMETER FENCE (FINISHED SIDE FACING RESIDENTIAL AREA)

#9807 [12,516 FT²]

#9811 [13,500 FT²]

#9813 [8,625 FT²]

#9815 [9,702 FT²]

3/9/07

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI
JOSEPH R. WOOLMAN, III

600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
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BALTIMORE, MD OFFICE
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SUITE 1440
BALTIMORE, MARYLAND 21202
TELEPHONE 410-234-0070

ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

March 9, 2007

Sent Via Hand Delivery
John V. Murphy
Deputy Zoning Commissioner
Baltimore County
401 Bosley Ave, 4th Floor
Towson MD 21204

RECEIVED
MAR - 9 2007
ZONING COMMISSIONER

Re: PIV's Pub
Motion for Reconsideration
Case No. 07-158-SPH

Dear Mr. Murphy:

Please accept this letter as a Motion for Reconsideration, pursuant to Rule 4.K of the Zoning Commissioner's Rules of Practice and Procedure. On the September 26, the Deputy Zoning Commissioner issued an order for Case No. 07-158-SPH regarding a Petition for Special Hearing for 9811 York Road, as well as 9812 & 9814 Monroe Street. On the 23rd of January, 2007, George Cummings, and Steven E. Weber, filed a timely Motion for Reconsideration of your decision. On the 8th of February, 2007, the Deputy Zoning Commissioner issued a decision which granted the Motion filed by Mr. Cummings, denied the Motion by Mr. Weber, and affirmed all the terms and conditions of the original order.

The original Special Hearing relief requested approval for modified site and parking plans. The hearing was attended by members of the community, who put forth their own modified parking and site plans. Deputy Zoning Commissioner, under the rubric of granting the Petitioner's relief, approved the parking plan submitted by the Protestants.

The approved parking plan has several problems. It first does not contain a scale, by which one would be able to verify the measurements and depictions as accurate. Additionally, the plan does not depict the width of the rear drive aisle which has been changed from the Petitioner's request.

In addition to lacking necessary details, the Protestants parking plan makes for unsafe traffic circulation. Upon an estimated scale, the measurement the drive aisle on the southern

side of the restaurant apparently does not meet the County standards set forth in Section 409 of the BCZR. This is particularly problematic because the spaces have been changed from angled to perpendicular. The Zoning Commissioner failed to take into account that when coupled with the fact that this is the entrance side of the restaurant, which receives the heaviest pedestrian traffic, and the change to perpendicular spaces could create a dangerous condition.

Moreover the Petitioners believe that the testimony at the hearing shows, the drive aisle behind the restaurant to the east needs to be at least 30 feet wide. This exceeds the County standards set forth in Section 409 of the BCZR because the restaurant receives its deliveries along that stretch.

Therefore, Petitioner, through its attorney Lawrence E. Schmidt, asks the Office of the Zoning Commissioner to reconsider the above referenced matter and to convene a public hearing, for the reasons herein listed and such other and further relief as may be presented at the public hearing on this matter.

Very truly yours,

Lawrence E. Schmidt

CBM: sf
Cc: Grant Pivec, Carbroc, LLC
Todd Pivec
Shawn Pivec
Joseph Larson, Spellman, Larson & Associates, Inc.
Steven Weber
George Cummings
Roger Sullivan, Esquire

2/8/07

IN RE: PETITION FOR SPECIAL HEARING W/S of Monroe Street, 70 feet S of c/l Of Jefferson Avenue 8th lection District 3rd Councilmanic District **(9811 York Road, 9812 and 9814 Monroe Street)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Carbroc, LLC *Legal Owner and Petitioner*	*	CASE NO. 07-158-SPH

* * * * * * * * * * *

MOTION FOR RECONSIDERATION

This matter comes before this Deputy Zoning Commissioner as Motions for Reconsideration filed by George Cummings, President, County Home Park Community Association, Inc., and Stephen E. Weber, Treasurer, County Home Park Community Association, Inc.

Original Case

The Petitioner, Carbroc, LLC, originally filed a Petition for Special Hearing relief requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R) to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

Motions for Reconsideration

On January 23, 2007, George Cummings, President, County Home Park Community Association, Inc., filed a timely Motion for Reconsideration of this Deputy Zoning Commissioner's December 26, 2006 Order requesting revision to Condition No. 2 of the Order. Mr. Cummings noted that my Order indicated that the height and composition of the fence along the Petitioner's parking lot would be determined by the Baltimore County Landscape Architect. He noted that the fence at present is 6 feet high and its composition blocks sight of the parking

lot. He requested that condition 2 be clarified to require at least a fence of 6 feet high that would solidly shield visibility between the parking lot and residential area.

On January 23, 2007, Stephen E. Weber, Treasurer, County Home Park Community Association, Inc., filed a timely Motion for Reconsideration of this Deputy Zoning Commissioner's December 26, 2006 Order regarding adjustment of lot lines between 9812 and 9814 Monroe Street. He expressed concern that the Order does not require the lot line between the properties to be moved. The Petitioner indicated that they would move the lot line 8 feet from the house at 9814 while the community requested the lot line be moved 30 feet.

Mr. Weber expressed concern that by not ordering the Petitioner to move the lot line as requested by the community, this left the remainder of the lot (22 feet) on the other side of the fence separating 9812 from 9814 with no defined purpose or condition or maintenance. He opined that moving the lot line as requested by the community would make 9814 more compatible, valuable and similar in size with other lots in the community. Finally he noted the history of the site and the need to reassure the community something is being done to halt further commercial incursions into the residential community.

Finds of Fact and Conclusions of Law

Both Motions for Reconsideration showed mailing copies of each to Mr. Sullivan, the Petitioner's attorney and not receiving any response from him within 15 days, I understand that his client does not oppose either Motion.

Regarding Mr. Cummings request after reviewing the evidence in the case file and his Motion for Reconsideration, it is appropriate that Condition No. 2 be revised as suggested by Mr. Cummings. I will require the fence be at least 6 feet high and be constructed to solidly shield the parking lot from the residential community.

Regarding Mr. Weber's Motion, I agree with everything he states. The Order leaves in limbo the 22 additional feet of side yard which clearly should be attached to 9814. I agree moving the lot line as requested by the community would make 9814 more compatible, valuable and similar in size with other lots in the community. I further recognize the history of the site he relates and the need to reassure the community something is being done to halt further commercial incursions into the residential community.

Yet having agreed to all his concerns and reasons, I will deny his request for the reasons I stated in the original Order. As an attorney I realize I cannot encroach on the real property rights of the Petitioner in this regard or the jurisdiction of the Circuit Court. I simply have no authority to order the Petitioner to make a lot line adjustment the community requests. I hear zoning cases. The lot line adjustment is a real property issue. If any Petitioner requests to make a lot line adjustment between lots, there may be zoning implications and public hearings required on those implications. But the Petitioner who owns both properties alone can initiate this request. Perhaps an example would help. Say the community for all the right reasons wants Mr. Weber to give up some land to a neighbor or the public or to adjust boundary lines between two lots he owns. He alone can make that decision. The Circuit Court in certain instances can order him to make such changes. But a lowly Zoning Commissioner can not. Said another way, I believe if I were to order the Petitioner to make the full lot line adjustment requested by the community, the Petitioner would easily win an appeal of my Order, if not at the Board of Appeals, certainly at the Circuit Court level and above.

I think the Petitioner will see the merit of moving the line a full 30 feet as this will clearly make 9814 more valuable. I have adopted the community parking plan which is only compatible with the full 30 foot lot line adjustment. Any incursion of parking past the confines of the community parking plan would constitute a zoning violation. No further incursion of

commercial into the residential community can occur without the Petitioner filing a new request and thereafter have a public hearing.

In summary much this will seem like so much legal mumbo jumbo to members of the community, I will deny Mr. Weber's Motion.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 8th day of February, 2007 that the Motion for Reconsideration filed by Mr. Cummings in the above-captioned matter is GRANTED and Condition No. 2 shall now read "The height and composition of the fence shown in community exhibit 1 shall be a minimum of 6 feet in height and shall solidly shield visibility between the parking lot and the residential area and shall be constructed as required by the Baltimore County Landscape Architect".

IT IS FURTHER ORDERED, that Mr. Weber's Motion to Reconsider to transfer property by lot line adjustment as shown in Community exhibit 1 from 9812 Monroe Street to 9814 Monroe Street is hereby DENIED; and

IT IS FURTHER ORDERED that all of the terms and conditions of the Order issued on December 26, 2006 not modified herein shall remain in full force and effect.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

February 8, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

George Cummings, President
County Home Park Community Association, Inc.
102 Gibbons Blvd.
Cockeysville MD 21030

Stephen E. Weber, Treasurer
County Home Park Community Association, Inc.
9801 Van Buren Lane
Cockeysville MD 21030

Re: Petition for Special Hearing
Case No. 07-158-SPH
Order on Motions for Reconsideration
Property: 9811 York Road, 9812 and 9814 Monroe Street

Dear Messrs. Cummings and Weber:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner for Baltimore County

Enclosure

c: Roger J. Sullivan, Esquire, Dipaula & Sullivan, LLC, 34 South Main Street, Bel Air MD 21014
Todd Pivec, 1617 Broadway Road, Timonium MD 21093
Joseph Larson, 105 West Chesapeake Avenue, Towson MD 21204
Shawn Pivec, 14000 Phoenix Road, Phoenix MD 21131
Grant Pivec, 14012 Phoenix Road, Phoenix MD 21131
Mr. and Mrs. Robert Shortall, 9816 Monroe Street, Cockeysville MD 21030
Robert and Julia Donatelli, 9807 Monroe Street, Cockeysville MD 21030
Michael Noppenburger, 5 Gibbons Blvd., Cockeysville MD 21030
Matt Kallenberger, 4 Jefferson Avenue, Cockeysville MD 21030

2/1/07

DIPAULA & SULLIVAN, LLC

ATTORNEYS AT LAW

Anthony J. DiPaula
ajd@dipaulasullivan.com

34 South Main Street
Bel Air, Maryland 21014

Roger J. Sullivan
rjs@dipaulasullivan.com

Telephone: 410-893-4255
Fax: 410-893-4277

February 7, 2007

RECEIVED

FEB ( ) 2007

John V. Murphy, Deputy Zoning
Commissioner for Baltimore County
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RE: Case No. 7-158-SPH
9811 York Road, 9812 and 9814 Monroe Street

Dear Mr. Murphy:

I am writing you in response to the January 22, 2007 letter from Stephen E. Weber and the January 21, 2007 letter which accompanied it from George Cummings, President of County Home Park Community Association, Inc. With respect to the January 21, 2007 letter written by George Cummings, please be advised that the Petitioners are not opposed to the suggested amendment to Item 2 on Page 9 as indicated in his letter.

As to Mr. Weber's letter, he is being disingenuous with the arguments made. I point out for your edification the following:

1. While it is true that Mr. Kotrocco thought that a lot line adjustment could be made, he was also of the opinion that the 30' adjustment sought by the Community was excessive.

2. Mr. Weber's statement that "the fact that the Petitioner even proposed a relocation of the outline by about 8' in their submitted site plan would indicate that they were prepared to relocate this line" is misleading. It is true that the Petitioners were willing to do so, but only provided that all of the other improvements as set forth on Petitioners' amended site plan were granted, which they were not. In your discretion, you elected to adopt the Community's parking plan, which was within your discretion as the trier of fact. That the Petitioners were "willing" to move the lot line by 8' ignores the reality that Petitioners' accommodation in this regard was predicated on getting the other portions of their parking plan approved, which they were not.

As a practical matter, forcing the parking requirements into the somewhat constricted parking plan advanced by the Community Association creates a very constricted traffic flow, as testified to by Mr. Larson.

Accordingly, while you are reconsidering this matter, it is respectfully requested that the adjustment to be made be to have the fence moved to the 8' mark, which, if done, Petitioners will memorialize with a lot line adjustment.

Doing so will still leave the remaining lot at 9814 with an enhanced yard, the green space behind 9814 will still be recaptured, the fence line will be "permanent" by virtue of the lot line adjustment, your concern about having authority to do so will be alleviated because the Petitioners are consenting to this, and there will be a clear demarcation between the commercial and residential areas of this neighborhood.

His Honor's consideration of this proposal is greatly appreciated.

Very truly yours,

Roger J. Sullivan

RJS/dh
cc: Grant Pivec
Stephen E. Weber
George Cummings
s:\das\rjs\D&S Pivec.47\Murphy.ltr.1

1/22/07

9801 Van Buren Ln
Cockeysville, MD 21030
January 22, 2007

RECEIVED
JAN 23 2007
ZONING COMMISSIONER

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RE: Case Number: 7-158-SPH, 9811 York Road, 9812 & 9814 Monroe Street

Dear Mr. Murphy:

I am writing to you as a private citizen and community association Board member who appeared at the subject special exception hearing. My request deals with the decision made regarding the adjustment of the lot line between 9812 & 9814 Monroe Street.

I would ask for a reconsideration of your decision where you state you have no jurisdiction to require the Petitioner to adjust the lot lines between 9812 & 9814. Discussion of the adjustment of the lot line occurred over a year ago in our first meeting with Tim Kotroco and the petitioner. At that Tim Kotroco seemed to think that the lot line adjustment could be made, as is oftentimes done during the development review process when the lot layouts on old subdivisions no longer make sense with current factors that exist. The fact that the petitioner even proposed a relocation of the lot line by about 8 feet in their submitted site plan would indicate that they were prepared to relocate this line. The community plan asking for the change of 30 feet, which is essentially what we requested in 2006, is just more area to be transferred than what the petitioner was already prepared to do. The cost of having the lot line adjustment made is no more where it is 8 feet or 30 feet.

The special exception is gaining permission to raze #9812 Monroe Street and your current Order then is allowing the southern half of the lot of #9812 to be used for commercial parking in a D.R. 3.5 zone. However, the Order then leaves the remainder of this lot on the other side of the fence with no defined purpose or condition of maintenance. The owner of #9814 Monroe Street is party to the Petition for the Special Exception, through their relationship to Carbroc, LLC. Therefore, they are not a disinterested party. The community's request that the lot line be adjusted to increase the size of the lot for #9814 is not only to make this property more compatible, valuable, and similar in size to all the surrounding lots, but more importantly is to help insure that this 30-foot wide area is taken out of the ownership and direct control of the restaurant and thereby help insure that there will not be future requests for expanding the commercial parking in a residential zone. This is the third time this property has come to the Zoning Commissioner since 1973 for issues dealing with the Special Exception and every time it seems we keep giving up more of our community a piece at a time. Making the lot line adjustment of 30 feet a part of the Order would help insure the community that something is being done this time to halt any further incursions. Leaving the lot lines alone only appears to set up stage 4 of a parking lot expansion. In Arnold Jablon's earlier 1985 decision, he said he was making certain decisions to help better ensure the stabilization of the residential community

from commercial intrusion. Instead, we ended up with further commercial intrusion anyway. Leaving a 30-foot wide strip of property owned by the restaurant on the other side of their fence, with it serving no specified purpose instead directly sets up the potential for a fourth hearing before the Zoning Commissioner in future years for further commercial intrusion. As part of a special-hearing proceeding, this appears to be under control of the Zoning Commissioner.

Since the Petitioner was open to a lot line adjustment, showed a lot line adjustment on their submitted site plan to you, it was an agreed-upon element of earlier discussions with the petitioner, their attorney, Tim Kotroco, Marcie Goodman from Councilman McIntire's office, and the County Home Community Association, we feel that an Order from the Zoning Commissioner to have the lot line adjusted as shown on Community Exhibit #1 is not only proper but is absolutely needed to help guarantee the residents are not going to continue to be adversely affected by the operations of the restaurant.

Therefore, I ask for your reconsideration on this issue. While I spoke with Mr. George Cummings, president of the community association on this issue, we were unable to get this request coordinated to insure that it was submitted to you prior to the 30 day period. Therefore, I am submitting it to you personally and on the community's behalf. The request is no different than that submitted in writing to you at the time of the hearing from the Community Association, so it contains nothing different from our initial request. This reconsideration is then in addition to the January 21, 2007 letter from Mr. Cummings to you requesting a reconsideration of the wording in the Order regarding Item #2 on Page 9 dealing with the fence. We thank you for your consideration on both of the community's requests.

Sincerely,

Stephen E. Weber, Treasurer
County Home Park Community Association, Inc.

cc: Roger J. Sullivan, Esq.
Peter Max Zimmerman, Peoples' Counsel
George Cummings

1/21/07

JM
12-7-06

COUNTY HOME PARK COMMUNITY ASSN., INC.
102 GIBBONS BOULEVARD
COCKEYSVILLE, MD 21030

RECEIVED

JAN 23 2007

ZONING COMMISSIONER

January 21, 2007

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RE: CASE NUMBER: 7-158-SPH, 9811 York Road, 9812 & 9814 Monroe Street

Dear Mr. Murphy:

First of all, our community appreciates the findings you made in this case. However, while your Order approves a modified site and parking plan pursuant to Community exhibit #1, there is one item for which we would request reconsideration and/or clarification in the Order to insure no misunderstanding between the petitioner and the community nor an element of confusion that might exist with Code Enforcement should they ever be called to review this issue in the future.

Community exhibit #1 only specifies that an "all new perimeter fence (finished side facing residential area)" be installed; the plan does not call out a particular height. While the community's letter to you dated December 6, 2006 requests that the fence be an 8-foot high stockade fence, your Order makes this issue subject to Item #2 on page 9, i.e., "The height and composition of the fence shown in community exhibit 1 shall be as required by the Baltimore County Landscape Architect." While we are certainly generally comfortable in the determinations of the County Landscape Architect and agree that some latitude can be reasonable, at the same time we want to insure that he community does not end up getting a new fence that is less capable of shielding the community from the commercial activity than the fence that exists on the parking lot today. The current fence is a 6-foot high stockade fence. While a new fence would not necessarily have to be a stockade fence, we would want it to be of some composition that prevents visibility of the parking lot and light from that parking lot from reaching beyond the fence into the residential area. It should solidly shield visibility between the parking lot and the residential area.

Therefore, we would ask that Item #2 on page 9 be amended to read:
"2. The height and composition of the fence shown in community exhibit 1 shall be as required by the Baltimore County Landscape Architect with the stipulation that it be a minimum height of 6 feet and that it solidly shield visibility between the parking lot and the residential area; and"

We feel that this minor change, or similar language, will insure that fence not be any less effective than the current fence.

We appreciate your consideration of our request in this matter and look forward to hearing your decision.

Sincerely,

George Cummings, President
County Home Park Community Association, Inc.

cc: Roger J. Sullivan, Esq.
Peter Max Zimmerman, Peoples' Counsel

12/26/06

IN RE: PETITION FOR SPECIAL HEARING
W/S of Monroe Street, 70 feet S of c/l
Of Jefferson Avenue
8th lection District
3rd Councilmanic District
(9811 York Road, 9812 and 9814 Monroe Street)

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

Carbroc, LLC
Legal Owner

* CASE NO. 07-158-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the properties located at 9811 York Road, as well as 9812 and 9814 Monroe Street. The Petition was filed by Carbroc, LLC, the property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

The property was posted with Notice of Hearing on October 22, 2006, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 21, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

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

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

ORDER RECEIVED FOR FILING
Date 12-26-06
By

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: ZAC comment letters were received from the Bureau of Development Plans Review dated October 18, 2006 which contains a restriction, and a copy of which is incorporated herein and made a part hereof the file. Planning Office comments dated December 7, 2006 were received after the public hearing and, while part of the file of this case, were not considered as evidence in the case.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing were Joseph Larson with Spellman, Larson and Associates, who prepared the site plan, George Cummings, Shawn Pivec, Grant Pivec, Todd D. Pivec, with Carbroc, LLC. Roger Sullivan, Esquire, represented the Petitioner. Protestants and interested citizens attending the hearing included Mr. And Mrs. Robert Shortall, Robert and Julia Donatelli, Michael Noppenburger, Matt Kallenberger and Stephen Weber. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 1.37 acres zoned BL-CCC and DR 3.5 and fronts on the east side of York Road as well as Monroe Street. The property at 9811 York Road contains a one story block, stucco, frame and glass restaurant. The properties at 98123 and 9814 Monroe Street are each improved by a one story frame dwelling. The Petitioner owns these three properties and the Petition involves all three.

Mr. Sullivan gave a short history of the zoning on the property which included the 1973 special hearing allowing commercial parking in a residential zone pursuant to Section 409.8 B, and a 1985 variance to allow 100 parking spaces in lieu of the required 133 spaces for a restaurant. In addition the County Code enforcement cited the owner with commercial parking on 9812 and 9814

RECEIVED FOR FILING
Date: 12-26-06
By: BB

Monroe Street which was not covered by the 1973 use permit. The Petitioner purchased the property in 2004.

The present owner would like to clean up the zoning complaint and generally update the parking on the property. To do so the Petitioner proposes to raze the dwelling on 9812 Monroe Street. This will free space for an updated parking field in the rear of the restaurant and also provide an additional side yard for the dwelling at 9814 Monroe Street. The modified parking plan would move the parking field in the rear of the restaurant to the right of way of Monroe Street where the Petitioner proposes a fence without a gate to keep restaurant customers from parking on Monroe Street in the adjacent community. Finally the Petitioner proposes to add an outdoor patio on the south side of the restaurant for warm weather use. Overall the slightly larger restaurant will require 136 parking spaces and the new parking field will provide 108 spaces.

All agree that 9812 Monroe Street should be razed and replaced with parking for the restaurant. All further agree that the macadam parking spaces west of 9814 Monroe Street which were constructed by a prior restaurant owner are not allowed by the 1973 site plan and should be removed. All also agree that there should be some adjustment of the size of the lot for 9814 Monroe Street so as to make the dwelling more viable. However the location of the rear fence, the size of the lot line adjustment for 9814, and the new patio on the south side of the restaurant are very much in controversy.

In regard to the location of the fence in the rear of the restaurant, the Petitioner indicates that the fence should be located on the rear property line rather than its present location 12 feet west of the Monroe Street right of way. Mr. Sullivan opined that this location would best keep trash out of the neighborhood and above all prevent customers from parking along the west side of Monroe Street even though customers have parked there for many years. See Petitioner's aerial photograph, exhibit 3. He argued that providing a landscaped strip along the fence as suggested by neighbors would

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9-29-06

simply accumulate trash and debris in the landscaped strip. He worried that snow would be pushed up onto the fence if it remained in its present location.

In regard to the location of the lot line adjustment for 9814, Mr. Sullivan opined that given the need for parking for the restaurant, the existing south lot line should be moved about 8 feet to the south. Finally he noted that a new outdoor patio is being proposed along the south side of the restaurant for customers to enjoy outdoor dining.

Mr. Larson indicated that the best location for the rear fence is next to the right of way of Monroe Street as shown in the Plat to Accompany, Petitioner's exhibit 1. The 1985 approved site plan is shown in Petitioner's exhibit 2. Mr. Larson noted the substantial discrepancies between what was constructed by prior owners and the 1985 site plan.

He indicated that moving the fence next to the Monroe Street right of way was in response to complaints from neighbors that customers were parking behind the fence and using a gate to get to the restaurant. As important this allowed better traffic flow within the parking field by having wider aisles and more generous spaces. Finally he opined a new fence will provide the best buffer for the community preventing pedestrian traffic to and from the restaurant.

He opined that the lot line adjustment of 30 feet suggested by the community would unduly restrict the flow of traffic in the parking field. He noted that a stockade fence was required by the 1985 zoning case between the subject property and the adjacent Wendy's restaurant but that there is no need to buffer between commercial enterprises. Finally he noted the outdoor patio on the south end of the subject restaurant will be located where three parking spaces now exist.

Upon questioning he denied that Wendy's was leasing parking spaces from the Petitioner but admitted that there is an agreement between the two to allow parking by customers of either on the other's parking field. He also noted that most trash on the subject property originates from the Wendy's fast food operation.

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He explained that given the 1983 parking variance allowing 33 less spaces than required, the new parking field had 5 more spaces than required. Consequently the Petitioner could consider removing three spaces to put in a patio.

In response to questions by Mr. Weber, he opined the 22 foot drive aisle specified by the County regulations results in drive aisles which are too tight in the rear of the building. He indicated that 30 foot drive aisles are required for truck traffic such as deliveries, etc. He denied that drive aisles of 24 feet are all that is needed even for shopping centers.

Grant Pivec indicated that after the Petitioner purchased the restaurant, the County issued a citation noting that the actual parking field did not match the approved 1985 site plan. He wanted to clean up this problem and eliminate vagrancy problems on the east side of the rear fence. He also noted that most trash on the subject property originates from Wendy's and a nearby skate park for children. He lamented the fact that the rear fence had been vandalized to reopen the rear gate nailed shut by the Petitioner and that the County snow plows push snow up against the rear fence. He opined foliage could not survive between the right-of-way and a fence set back from the property line. Finally he noted that the Petitioner will be investing over $100,000 in clean up, repaving the parking field, and the proposed plan for lot line adjustment and parking will improve the neighborhood.

He indicated that the proposed patio is a future plan only which in fairness should be disclosed to the community. He noted if the patio were denied as part of this plan, he would simply install a few more parking spaces.

Upon questioning he asserted that snow plows actually push snow against the fence even though the fence is 12 feet from the edge of the Monroe Street right of way and opined if the fence is not moved up to the right of way bad element will continue to park there. He indicated there had been car break-ins in this area and that the proposed fence at the right of way line would not be damaged by snow plows because of the substantial footer on the base. He presented a letter of support from nearby Roeder Travel Agency on York Road, Petitioner's exhibit 4.

RECEIVED FOR FILING
Date 12-26-06
By

When asked why it took 3 or 4 months to fix the rear fence, Mr. Pivec noted that area children constantly knock down the fence, the restaurant has been at this location for 25 years with only minor problems and there is another 5 or 6 feet between the paving the right of way line of Monroe Street.

Mr. Weber, who works for the County as Chief of Traffic Engineering and is a registered professional engineer, testified as an individual and for the community. He recalled the long history of problems on this property with prior owners, and the complaint from the community in 2000 regarding paving of portions of 9812 and 9814 Monroe Street for additional parking for the restaurant. He admitted that the Petitioners inherited many problems, that 9812 should be razed as the Petitioners propose, and indicated the community wants to work with them so that customers of the restaurant do not park in the neighborhood.

However he indicated that he opposed taking any more residentially zoned property to support the restaurant. In addition he said the community wants the side yard of 9814 to be 30 feet wider rather than 8 feet as proposed by the Petitioner on Petitioner's exhibit 1. He reasoned that 9814 has to become a viable residential property, that 9814 already has an undersized lot compared to others in the community and that making the side yard 30 feet wider will make it a desirable place to live.

He presented an alternative parking plan as Community exhibit 1, which has 108 parking spaces, meets all County standards for aisle width and parking space size, and allows the side yard of 9814 to expand by 30 feet. This design also preserves a 6 foot area outside the fence along Monroe Street which if landscaped will provide a buffer for the community against the restaurant use. He requested the fence be 8 feet tall and "no parking " signs be posted along Monroe Street to prevent employees and customers from using this area to park.

In regard to the patio or deck he expressed community opposition to such use because of the noise customers would generate during warm months of the year. He requested that the variance

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10-26-06

granted in 1985 be amended to allow a variance of 28 spaces instead of 33 spaces and that all lighting be directed onto the parking lot with no visible light coming into the community. Finally he requested the tree in the northeast corner of 9812 be saved and the macadam previously installed in the rear yard of 9814 be removed and replanted with grass.

Mr. Kallenberger, a nearly neighbor, expressed his concern with the proposed patio as he would be able to hear the noise from customers of the restaurant into the night if the patio were permitted.

In rebuttal Mr. Larson indicated that the parking plan of Petitioner's exhibit 1 works well for the commercial purposes for which it was designed, and that the County standard for aisle width are too restrictive for truck deliveries to the restaurant. Mr. Sullivan agreed that a landscaping plan can be referred to the County Landscape Architect for review.

Findings of Fact and Conclusions of Law

Sometimes a point so clear to a party simply escapes me. I never grasped why a fence 6 feet back from the right of way of Monroe Street would have a problem with snow plowed onto it compared to the Petitioner's request for fence essentially on the right of way line. Surely the closer fence would be in greater danger. Nor do I understand why a landscape buffer along Monroe Street would have a problem with salt from road clearing.

On the other hand the community requests that I order the side yard of 9814 to be widened by 30 feet not the 8 feet proposed by the Petitioner. While I understand their logic that this would make the dwelling more desirable, I have no jurisdiction to require the Petitioner to adjust the lot lines between 9812 and 9814 as the community proposes.

I have jurisdiction to adopt a modified parking plan pursuant to Section 409.12 of the BCZR. I find that without a modified parking plan, the Petitioner would suffer undue hardship given the restrictions of the property and the existing uses on the premises. However I also find that the community plan prepared by Mr. Weber and presented as community exhibit 1, is the better choice. Mr. Weber is a fully qualified traffic engineer who tells me that community exhibit 1 meets all

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Date 12-26-06
By

County standards. I believe him. This plan also allows a 6 foot wide landscape buffer between the fence and the right of way of Monroe Street to screen the Petitioner's commercial uses from the adjacent residential neighborhood. This is an important consideration for approval of the modified parking plan. While this plan also allows the side yard of 9814 to be widened 30 feet as the community proposes, as above I cannot require the Petitioner to do so. I sincerely hope the Petitioner will see the wisdom in doing so voluntarily. The Petitioner can leave the lot line of 9814 as is and own a small landlocked portion of 9812 if they chose.

Also I cannot order the County to post no parking signs along the Monroe Street landscape buffer. I sincerely believe such are needed but only the County can decide such matters. Perhaps Mr. Weber can request this.

Nor can I specifically prevent the Petitioner from creating a deck or patio on its property. These accessory uses are allowed by right in this BL-CCC zone. I believe, however, that a deck or patio could be a detriment to the nearby residential community if operated after dark. My way of addressing this concern is to adopt the modified parking plan proposed by the community. This plan shows the area in which the patio is proposed by the Petitioner to be two parking spaces. I will adopt that specific parking plan and any deviation from that plan would be a zoning violation. This approach also addresses the community's request I modify the 1985 parking variance reducing the varied spaces from 33 to 28. Said another way the community parking plan, which I adopt shows 108 spaces and any deviation from this number would be a zoning violation.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be granted pursuant to the modified parking plan presented by the community.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 26th day of December, 2006, that the Petitioners' request for Special Hearing relief filed

ORDER RECEIVED FOR FILING
Date 12-26-06
By

pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a modified site plan and modified parking plan pursuant to Community exhibit 1 which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street is hereby GRANTED, subject to the following:

1. The Petitioner shall submit a lighting and landscape plan to the Baltimore County Landscape Architect for review and approval which shall include a landscape buffer along Monroe Street to screen the fence and commercial uses on the Petitioner's property from the adjacent residential neighborhood; and
2. The height and composition of the fence shown in community exhibit 1 shall be as required by the Baltimore County Landscape Architect; and
3. The Petitioner is not required to transfer property by lot line adjustment as shown in Community exhibit 1 from 9812 Monroe Street to 9814 Monroe Street but may do so voluntarily.

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

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

ORDER RECEIVED FOR FILING
Date 12-26-06
By

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

December 26, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

ROGER J. SULLIVAN, ESQUIRE
DIPAULA & SULLIVAN, LLC
34 SOUTH MAIN STREET
BEL AIR MD 21014

Re: Petition for Special Hearing
Case No. 07-158-SPH
Property: 9811 York Road, 9812 and 9814 Monroe Street

Dear Mr. Sullivan:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy / pz

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz
Enclosure

c: Todd Pivec, 1617 Broadway Road, Timonium MD 21093
Joseph Larson, 105 West Chesapeake Avenue, Towson MD 21204
Shawn Pivec, 14000 Phoenix Road, Phoenix MD 21131
Grant Pivec, 14012 Phoenix Road, Phoenix MD 21131
Stephen Weber, 9801 Van Buren Lane, Cockeysville MD 21030
George Cummings, 102 Gibbons Blvd., Cockeysville MD 21030
Mr. and Mrs. Robert Shortall, 9816 Monroe Street, Cockeysville MD 21030
Robert and Julia Donatelli, 9807 Monroe Street, Cockeysville MD 21030
Michael Noppenburger, 5 Gibbons Blvd., Cockeysville MD 21030
Matt Kallenberger, 4 Jefferson Avenue, Cockeysville MD 21030

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Date 12-26-06
By pz

COUNTY HOME PARK COMMUNITY ASSN., INC.
102 GIBBONS BOULEVARD
COCKEYSVILLE, MD 21030

December 6, 2006

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RE: CASE NUMBER: 7-158-SPH, 9811 York Road, 9812 & 9814 Monroe Street

Dear Mr. Murphy:

This matter comes before you after almost two years of trying to work through the Department of Permits & Development Management to correct non-compliance issues on this property and after two meetings we have had with the owner's representative and engineer and with Tim Kotroco, Jim Thompson, and Marcie Goodman of Councilman McIntire's office. The majority of the issues deal with the paving of the rear yards of residential properties at 9812 & 9814 Monroe Street and illegally incorporating these yards into the commercial property at 9811 York Road. Attached is a site plan submitted in 1973 under Case No. 74-5-SPH which was to allow for commercial parking in a residential zone (DR 3.5). The edges of the current parking area are highlighted in yellow showing how the parking lot has been expanded into the rear yards of #9812 & 9814 Monroe Street and beyond the boundaries authorized in that 1973 Deputy Zoning Commissioner Order. In addition, the required 5-foot landscaped buffer along the south property line of #9812 has been eliminated and paved over. Also, the fence around the parking area which is supposed to be 8'-0" tall is only 6 feet tall. Also attached is an aerial photograph showing the site and how the parking areas currently exist and are marked. In addition, a copy of the July 20, 1973 Order is also attached.

In 1985 this issue came before the Arnold Jablon, Zoning Commissioner, under Case No. 86-176-A for a parking variance to provide 100 spaces in lieu of the required 133 spaces. This was to allow for an expansion of the existing building to allow it to increase in size from 5,136 sq. ft. to 6,632 sq. ft. The arguments made at that time was that the restaurant was operating without the need for the spaces it already had on the lot and that the expansion could be made without the parking demands exceeding the lot size. The variance was granted for the 33 parking spaces.

Throughout the 1990's our community has had various problems with what was then the Kosmakos Restaurant. One of the big issues during those years was the failure to adequately maintain the fence and putting gates in the fence to allow foot traffic between Monroe Street and the parking lot. Interestingly this was in direct opposition to the statement made in Mr. Jablon's 1985 Order (top of Page 2) stating, "There is no access from the residential zone in the rear to the site. **Vehicles of customers could not invade the residential area.**" (emphasis added). Hundreds of times we have had vehicles perpendicular parked between the fence and Monroe

Street, creating a rutted muddy mess along the road and introducing many restaurant patrons and/or employees into the neighborhood rather than keeping them on the parking lot. Therefore, while the parking variance was granted in 1985, the arguments made at that time appeared to no longer be applicable since the parking lot was no longer able to contain the restaurant operations. Likewise the Kosmakos family seemed to have little regard for the community in insuring that the fence was adequately maintained, as it more often had openings in the fence to allow pedestrian passage to Monroe Street than those periods of time when the access was denied. Then Gus Kosmakos in the early 2000's decided he was going to obtain additional parking for his restaurant by paving the back yards of the two homes he owned at #9812 & 9814 Monroe Street. There were no County permits obtained for any grading or paving nor was any request made through the Zoning Commissioner to expand the area in which commercial parking was allowed in a residential zone. He just tore down fences and landscaping and did what he wanted, illegally converting residential D.R. 3.5 zoned property into a commercial parking area. In the attached aerial photograph you can see cars parked behind the fence near the portion of fence that is missing, even though there are plenty of empty spaces on the lot.

In 2004 the Kosmakos family sold the property to the current owner, Carbroc, LLC, and the closed restaurant operations were opened again as Courtney's Restaurant. Courtney's Restaurant turned out to be more successful than Kosmakos Restaurant or Bare Bones Restaurant which followed. Thus the parking problems on Monroe Street became more intolerable and finally on January 24, 2005 the attached letter from our community association was sent to Timothy Kotroco to enlist his department in addressing all the non-compliance issues, including addressing all the illegal actions taken by the Kosmakos family prior to selling the property to Carbroc, LLC. After further follow-up by our association, the attached Correction Notice (Citation No. 04-3644) was issued by Jim Thompson to Carbroc, LLC on June 29, 2005. Then on July 15, 2005 Mr. Roger Sullivan, Esq. advised Mr. Thompson that his client was going to seek correcting the issue by preparing a new site plan for the site and requesting a hearing. Mr. Thompson advised the community association on July 25, 2005 that Code Enforcement was going to withhold further action pending the outcome of the petition filing. Our association was cooperative in being willing to work with the new property owners.

We met with the property owner's representatives, Tim Kotroco, Jim Thompson, and Marcie Goodman in August 2005 to discuss what the owner wanted to do and what the community was looking for. Certainly our association was very disturbed with illegally converting residential properties into commercial parking and we were not willing to accept the takeover and conversion of residential property. The property owner was concerned with losing too much of their existing parking. We made it clear at that time that if the property owner did not move to significantly address the violations, it would be our intent to get the County to strictly enforce the 1985 Zoning Commissioner Order and forget any type of compromise position. After that meeting there was an extremely protracted period of time where no action was taken. Then in August 2006 we had another meeting with the same people where the property owner appeared to move slightly to address some of the community's requests, but in a very limited fashion. Then we note in the plan which has been submitted to you for your current consideration, now they are adding a patio to the building by eliminating parking at the same time they are still requesting a parking variance.

At this point, we have the following concerns. We are aware of the need to insure the restaurant has sufficient parking so that their customers/employees do not have any need or desire to enter into the community to park their cars. However, granting an excess of parking seems to have future consequences in that arguments similar to those made in 1985 in Case No. 86-176-A are used to then expand the building, thus creating future inadequacies in the parking lot, thereby generating the parking overflow into the community again. Thus cyclical arguments are made to just make the operation bigger and bigger. Our association wants to insure that whatever action is taken in this case serves to establish a final recognition that this commercial operation can no longer expand into our community. At the same time, we are aware that the property at #9812 Monroe Street has been allowed to deteriorate and the two properties of #9812 & 9814 are the smallest properties in this area. This makes them less desirable and viable from a residential standpoint and reduces their compatibility with the surrounding residential properties in the neighborhood. We would like to see that the house and property at #9814 be stabilized and strengthened as a viable residential property, compatible in character with the other nearby properties.

As such, we are presenting the following requests to you from the County Home Park Community Association in response to the plan submitted by the petitioner. These proposals are further identified on our submitted revisions to the petitioner's plan:

1. The current fence is located approximately 15 feet from the western right-of-way line of Monroe Street. The petitioner's plan is submitting a 1-foot setback. We ask that the fence be located a **minimum** of 6 feet from the right-of-way line in order to guarantee a minimum width landscape buffer that must be maintained in order to help cover the fence. The proposed parking layout on the lot could still accommodate all the identified parking spaces as outlined by the Association with a landscaping buffer of up to 8 feet wide. It could further be widened up to 12 feet wide by losing one additional parking space. There are a number of Monroe Street residents who would like the setback to be more similar to what exists today. In examining both the minimum width we are willing to accept and the desire by the adjacent residents for additional setback, it would be our request that the **setback of the fence be 8 feet from the right-of-way line** in order to maximize the setback and still retain all the parking shown. The landscaping buffer should contain some type of vegetation that is an evergreen that provides a good cover and grows quickly, such as Leyland Cyprus. However, we can work with Avery Harden, the County landscape architect, to come up with an acceptable cover. If the parking area is located closer than 10 feet to the right-of-way line, it is our understanding that a variance would be required to reduce the 10-foot setback zoning requirement of any parking area from the adjacent right-of-way line.

2. We are agreeable to the one-foot setbacks of the fence from the side-yard residential properties. On the current 1985 plan this setback is 5 feet. However, the petitioner has done little to maintain this landscaping strip along #9804 Monroe Street thus creating an unattractive strip of ground and also setting up a possible 5-foot wide path by which restaurant employees can go around the edge of the fence to get back to Monroe Street.

Having the fence near the property line would enable the property owner at #9804 to tie into this fence and legally prohibit pedestrian trespass across their property. (The property owner at #9804 has already tied their fence into the restaurant fence by going across the 5-foot strip in order to prevent trespassers through this area.) We ask that the western terminus of the fence be located a minimum of 50 feet from the rear property line of #9804 Monroe Street to help block out vision of the commercial operations and parking lot of the restaurant from the rear yard and house of #9804. The north terminus of the fence behind #9814 Monroe Street must tie into the existing fence located behind Wendy's Restaurant.

3. The fence should be a NEW **8-foot** high stockade fence, with the finished side facing the residential community, the same height as specified in the original 1973 Order Site Plan to replace the current substandard fence that exists.

4. We will not object to razing #9812 Monroe Street and taking over a portion of this property for an expansion of commercial parking in a residential zone **provided that a minimum of half the 60-foot wide lot be transferred under a lot line adjustment to #9814 Monroe Street**. If 30 feet of the frontage is transferred to #9814, this will increase the lot size for #9814 from 5,700 sq. ft to 8,550 sq. ft. and from the current 60-foot frontage to a 90-foot frontage. That will make it comparable to the other nearby properties which are #9804 at 7,560 sq. ft, #9807 at 12,516 sq. ft., #9811 at 13,500 sq. ft., #9813 at 8,625 sq. ft., #9815 at 9,702 sq. ft, and #9816 at 8,613 sq. ft. We feel this will help to strengthen #9814 as a desirable viable residential property and help anchor our residential properties to prevent further efforts to expand commercial operations into our neighborhood. Any lot line adjustment must be done by insuring that whatever portion is added to #9814 is incorporated into one property tax I.D. number so that it is treated and considered as one single lot, not two separate parcels. This was mentioned at both our 2005 and 2006 meetings, but the petitioner's proposal is for just a token and rather inconsequential lot line adjustment.

5. We are **adamantly opposed** to any allowance for outside patios and/or decks on this restaurant. We are concerned with the noise that can be generated from such areas and such areas likewise increase the number of customers which can be served and at the same time take away valuable area that is needed to provide parking. The petitioner is already requesting a sizable parking variance and adding patios and/or decks only serves to increase the parking demand and decrease the available parking, thus working in direct conflict with one another and in opposition to the allowances which are already being requested. Our residents are already faced with noises of customers/employees waking them up in early morning hours when the restaurant is closing down and the last thing we want is something outside that will generate more people being outdoors creating more noise.

6. The proposed parking layout revised plan from our Association provides a total of 108 parking spaces plus one potential additional space which is dashed in the middle of the lot. This is essentially what the petitioner is showing and is more than the 103 spaces the petitioner says they need with the 33 parking space variance granted under Case No. 86-176-A. However, we will point out an inconsistency we note on the various plans and ask that the issue be examined and addressed. The 1985 plan called for a requirement of 133 spaces for the building which was to be expanded to 6,632 sq. ft. at that time. We now note that the building is cited as being 8,490 sq. ft. large and only requires 136 spaces. While the parking requirements may have changed between 1985 and 2006, how did the building manage to grow by almost 2,000 sq. ft. with no hearing before the Zoning Commissioner and no apparent recognition of any need for additional parking? Is this another case of just modifying the site with no permits and no review by the County or was this addition to the building legitimately accomplished? Whatever the final plan that would be approved, we would ask that the Zoning Order amend the 1985 order and provide for the exact parking variance that is needed. That is, if they are required to have 136 spaces and 108 spaces are provided, the order should state that the parking variance is amended to 28 spaces, instead of 33. This will help avoid someone adding additional area to the restaurant without adding any parking. Further, we would prefer seeing the order limit the restaurant to the current square footage so that it cannot be made any larger without having to go through another hearing.

7. All lighting of the parking lot should be positioned so that no direct light reaches any residential property. Any lighting fixtures within the area of the parking lot zoned D.R. 3.5 should not be visible from any residential property. All that should be visible from this area is reflected indirect light.

8. All macadam paving and concrete curbs shall be removed from the rear of #9814 Monroe Street and the portion of #9812 that will be transferred to #9814, and this area shall be graded and seeded.

If the petitioner is not willing to agree to these eight items, we would pray that you deny the petitioner's request in its entirety and we will go back to Code Enforcement and ask that Tim Kotroco move forward with enforcement of the code violations under Citation No. 04-3644 and return all properties to the conditions cited in the 1985 & 1973 Zoning Orders.

Lastly, we comment on the review made by Arnold Jablon in 1985 with respect to the descriptions of "practical difficulty" for consideration of granting an area variance under McLean v. Soley, 270 Md. 208 (1973). There are three criteria which Mr. Jablon outlined on Page 2 of his Order. We find that the past actions of the Zoning Commissioners and the subsequent failure of County Code Enforcement to enforce the orders of the Commissioners has served to place a substantial injustice to the property owners in the district. The relief granted to the subject property has only served to create a future, now current, problem of further commercial intrusion into a residential area and emboldened the prior property owner to basically take the law into his own hands without the County being able to keep him in check and within the bounds that the past Zoning Commissioners ordered. Now the current property owner seeks further relief, at the residential community's expense. Given the County's poor

history of insuring the compliance of the Zoning Commissioners' Orders and its own Zoning Regulations on this site, we are obviously significantly suspect of any further relaxation of the controls on this property. That is why we find that all eight items listed above, in addition to all others you find appropriate, must be implemented if this community has any hope of insuring that this property is not going to continue to be a thorn in our sides and its property owners are not going to keep coming back every 10 years or so asking for additional variances and special exceptions from the Zoning Regulations that are put in place to help preserve the residential integrity of the County's established communities. Our community has been here since the 1920's, when the area was still farmland and there was little to no commercial activity along this portion of York Road. It is our intent that we will still be here another 80 years from now and that the commercial properties along York Rd will be managed in a way to insure that they do not adversely impact the continued viability of our neighborhood. We ask that the past actions taken by Zoning Commissioners and past property owners, along with the County's failure to enforce its own Regulations and Orders, be taken into consideration on any further relaxation of rules with respect to this property.

We appreciate your consideration of our views in this matter and hope that you will act to insure the residential integrity of our neighborhood. While we are aware that the petitioner may have been left with a problem by the prior property owner taking illegal actions, our community should not be made to suffer because of someone else breaking the law. If the current owners of the property have been financially harmed by the Kosmakos family, their remedy is in the court system to seek financial damages from them. Their remedy is to not expect our community to have to continue to give up more residential property for their desire to have a larger commercial operation than is allowed.

Sincerely,

George Cummings, President
County Home Park Community Association, Inc.

Attachments

1. 1973 Order for Case No. 74-5-SPH dated July 20, 1973 and site plan with current parking area superimposed
2. Current Aerial Photograph of the subject three properties.
3. 1985 Order for Case No. 86-176-A dated October 31, 1985 and site plan
4. January 24, 2005 letter from David Jordan, President, County Home Park Community Assn. to Timothy Kotroco
5. Code Enforcement Correction Notice, Citation/Case No. 04-3644 dated June 29, 2005
6. July 15, 2005 letter from Roger Sullivan to James Thompson
7. July 25, 2005 letter from James Thompson to David Jordan
8. County Home Park Community Assn. revised and colored site plan identifying requested modifications

cc: The Honorable T. Bryan McIntire, Councilman, 3rd District
Eric Rockel, President, Greater Timonium Community Council

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9814 Monroe St. 9811 York Road., 9812 Monroe St.

which is presently zoned BL-CCC and DR 3.5

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

The modified site plan and modified parking plan to permit the changes depicted on the modified site plan (attached) which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Roger J. Sullivan
Name - Type or Print

Signature

DiPaula & Sullivan, LLC
Company

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

Legal Owner(s):

Carbroc, LLC (9812 Monroe St. & 9811 York Rd.)
Name - Type or Print

Signature GRANT PIVEC, MANAGER

Todd D. Pivec (9814 Monroe St.)
Name - Type or Print

Signature

2219 York Road 410-453-9824
Address Telephone No.

Timonium, MD 21093
City State Zip Code

Representative to be Contacted:

Roger J. Sullivan
Name

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 07-158-SPH

Reviewed By D.T. Date 10/5/06

REV 9/15/98

~~TOWN RECEIVED FOR FILING~~
Date 12-26-06

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9811 York Road., 9812 Monroe St. 9814 Monroe St.

which is presently zoned BL-CCC and DR 3.5

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

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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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Carbroc, LLC (9812 Monroe St. & 9811 York Rd.)
Name - Type or Print

Signature
GRANT PIVEC, GM
MANAGER

Todd D. Pivec (9814 Monroe St.)
Name - Type or Print

Signature

2219 York Road 410-453-9824
Address Telephone No.

Timonium, MD 21093
State Zip Code

Attorney For Petitioner:

Roger J. Sullivan
Name - Type or Print

Signature

DiPaula & Sullivan, LLC
Company

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

Representative to be Contacted:

Roger J. Sullivan
Name

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 10/5/06

Case No. 07-158-SPH

REV 9/15/98

Date 12-26-06

RB

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9811 York Road., 9812 Monroe St. 9814 Monroe St.

which is presently zoned BL-CCC and DR 3.5

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

The modified site plan and modified parking plan to permit the changes depicted on the modified site plan (attached) which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

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:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

Carbroc, LLC (9812 Monroe St. & 9811 York Rd.)
Name - Type or Print

Signature
GRANT PIVEC, MANAGER

Todd D. Pivec (9814 Monroe St.)
Name - Type or Print

Signature

2219 York Road 410-453-9824
Address Telephone No.

Timonium, MD 21093
City State Zip Code

Attorney For Petitioner:

Roger J. Sullivan
Name - Type or Print

Signature

DiPaula & Sullivan, LLC
Company

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

Representative to be Contacted:

Roger J. Sullivan
Name

34 S. Main St. 410-893-4255
Address Telephone No.

Bel Air, MD 21014
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 07-158-SPH

Reviewed By D.T. Date 10/5/06

REV 9/15/98

Date 12-26-06

PB

SPELLMAN, LARSON
& ASSOCIATES, INC.

ROBERT E. SPELLMAN, P.L.S.
JOSEPH L. LARSON

CIVIL ENGINEERS AND LAND SURVEYORS
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
TEL (410) 823-3535 / FAX (410) 825-5215

DESCRIPTION TO ACCOMPANY ZONING PETITION
9811 YORK ROAD, 9812 MONROE STREET, 9814 MONROE STREET

BEGINNING for the same on the west side of Monroe Street 40 feet wide at a point 70 feet more or less south of the center line of Jefferson Avenue and thence leaving the west side of Monroe Street for a line of division south 77 degrees 29 minutes 00 seconds west 245.97 feet to a point on the east side of York Road 80 feet wide running thence along the east side of York Road north 12 degrees 31 minutes 00 seconds west 232.37 feet to a point on the east side of York Road thence for three lines of division south 83 degrees 00 minutes 00 seconds east 160.06 feet north 12 degrees 31 minutes 00 seconds west 121.10 feet thence north 77 degrees 29 minutes 00 seconds east 95.10 feet to a point on the west side of Monroe Street thence along the west side of Monroe Street south 12 degrees 31 minutes 00 seconds east 300.00 feet to the place of beginning.

BEING Lots 1-10, 28-35, 36-39, 40-42 in Block BB as shown on the Plat entitled Timonium Heights which said Plat is recorded among the Land Records of Baltimore County in Plat Book W.P.C. 7 at Folio 17.

CONTAINING 1.37 acres of land more or less.

File#D09200601

07-158-SPH

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: 07-158-SPH

Petitioner: CARBROC, LLC / PIVEC

Address or Location: 9811 YORK RD / 9812-14 MONROE ST.

PLEASE FORWARD ADVERTISING BILL TO:

Name: CARBROC, LLC (GRANT PIVEC)

Address: 2219 YORK RD

TIMONIUM, MD 21093

Telephone Number: ~~410-893-425~~ 410-453-9824

Revised 7/11/05 - SCJ

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 21719

DATE 10/5/06

ACCOUNT 001001616150

AMOUNT $ 325 00

RECEIVED FROM: CARROLL LKC

FOR: ITEM # 158 07-158-SPH

9811 YORK RD; 9815-H MONROE ST. D.T.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	ACTUAL	TIME	DRN
10/05/2006	10/05/2006	10:23:27	2

REG WS02 MAIL JEVA JEE

>>RECEIPT # 0032677 10/05/2006 OFLN

Dept 5 BCB 001616 VERIFICATION

CR NO. 021719

Recpt Tot $325.00

$325.00 CK $.00 CA

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: # 07-158-SPH
9811 York Road, 9812 and 9814 Monroe Street
W/side of Monroe Street, 70 feet south of centerline of Jefferson Avenue
8th Election District — 3rd Councilmanic District
Legal Owner(s): Carbroc, LLC

Special Hearing: to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

Hearing: Thursday, December 7, 2006 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 11/697 Nov. 21 116757

CERTIFICATE OF PUBLICATION

11/22/, 2006

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 11/21/,2006.

- [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

ATTENTION: KRISTEN MATHHEWS **DATE:** 11/24/06

Case Number: 07-158-SPH

Petitioner/Developer: ROGER SULLIVAN~~CARBROC LLC~~JOE LARSON

Date of Hearing (Closing): 12/07/06

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: ONE SIGN LOCATED @ 9811 YORK ROAD AND 1 SIGN LOCATED 9812 MONROE STREET

The sign(s) were posted on: 10/22/06

SEE PHOTOS

Linda O'Keefe

(Signature of Sign Poster)

Linda O'Keefe

(Printed Name of Sign Poster)

523 Penny Lane

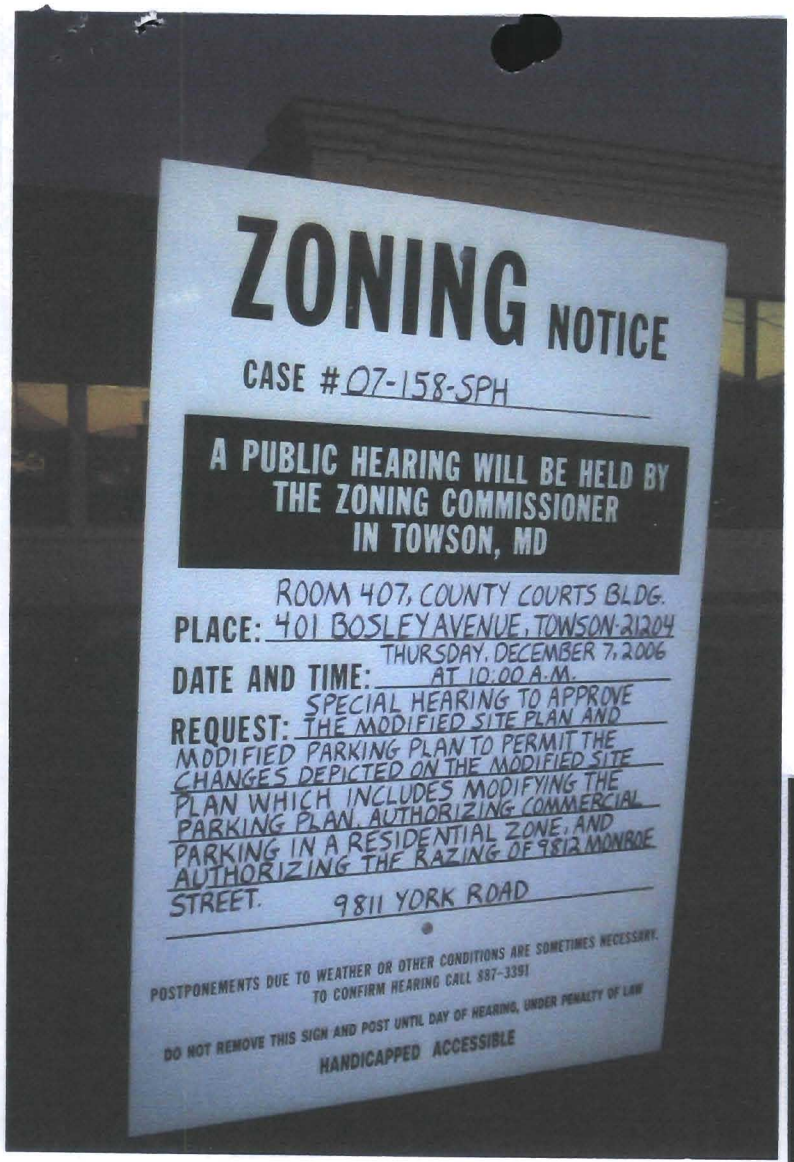
(Street Address of Sign Poster)

Hunt Valley Maryland 21030

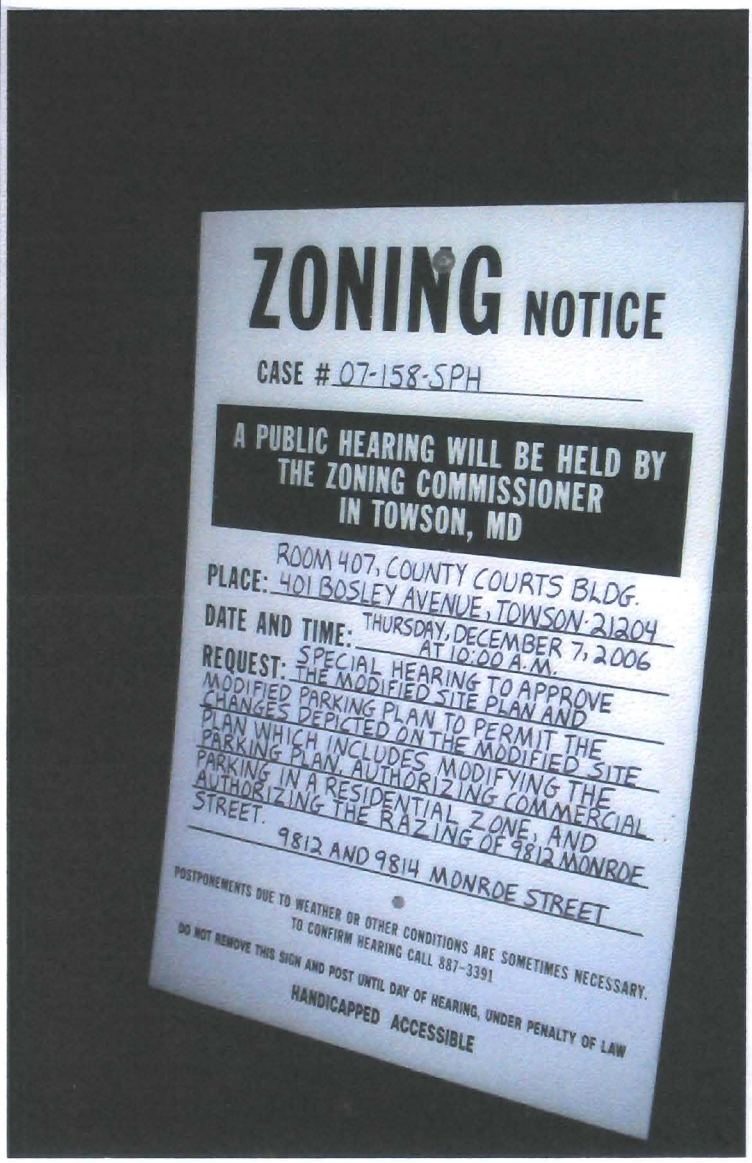
(City, State, Zip Code of Sign Poster)

410-666-5366

(Telephone Number of Sign Poster)



(1) SIGN LOCATED AT
9811 YORK ROAD



(1) SIGN LOCATED AT
9812 MONROE STREET

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 21, 2006 Issue - Jeffersonian

Please forward billing to:
Grant Pivec
Carbroc, LLC
2219 York Road
Timonium, MD 21093

410-453-9824

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: 07-158-SPH
9811 York Road, 9812 and 9814 Monroe Street
W/side of Monroe Street, 70 feet south of centerline of Jefferson Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Carbroc, LLC

Special Hearing to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

Hearing: Thursday, December 7, 2006 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 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

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 2, 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: 07-158-SPH
9811 York Road, 9812 and 9814 Monroe Street
W/side of Monroe Street, 70 feet south of centerline of Jefferson Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Carbroc, LLC

Special Hearing to approve the modified site plan and modified parking plan to permit the changes depicted on the modified site plan which includes modifying the parking plan, authorizing commercial parking in a residential zone, and authorizing the razing of 9812 Monroe Street.

Hearing: Thursday, December 7, 2006 at 10:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Roger Sullivan, 34 S. Main Street, Bel Air 21014
Grant Pivec/Todd Pivec, 2219 York Road, Timonium 21093

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 22, 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.

1859

Requested: Nov. 7, 2007

APPEAL SIGN POSTING REQUEST

CASE NO. 07-158-SPH

9811, 9812, 9814 MONROE STREET

W/side of Monroe Street, 70' s/of c/line of Jefferson Ave.

8TH ELECTION DISTRICT APPEALED: 7/26/2007

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 07-158-SPH

LEGAL OWNER: CARBROC, LLC

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

9811, 9812, 9814 MONROE STREET

W/side of Monroe Street, 70' s/of c/line of Jefferson Ave.

The sign was posted on 4-7-08, 2007.

By: _____
(Signature of Sign Poster)

PHOTOGRAPHIC RECORD

Citation/Case No.: _____

Date of Photographs: _____





I HEREBY CERTIFY that I took the _____ photographs set out above, and that these photographs
(number of photos)
fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

_____
Enforcement Officer

11/14/00

PHOTOGRAPHIC RECORD

Citation/Case No.: _____

Date of Photographs: _____



I HEREBY CERTIFY that I took the _____ photographs set out above, and that these photographs
(number of photos)
fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

_____
Enforcement Officer

11/14/00

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

ppd to 5/22/08 - mtg of counsel for petitioner

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

January 4, 2008

NOTICE OF ASSIGNMENT

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

ASSIGNED FOR: WEDNESDAY, APRIL 2, 2008 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Robert and Julia Donatelli
Michael Noppenburger
Matt Kallenberger
Stephen Weber

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildealic.com

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

April 1, 2008

Via Facsimile & Regular Mail
Kathleen C. Bianco
Board of Appeals
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Carbroc, LLC/Courtney's Restaurant
CBA: 07-158

Dear Ms. Bianco:

As we spoke of over the phone, we are requesting a postponement of the appeal hearing for the above referenced case scheduled for April 2, 2008 at 10:00 a.m. This postponement is requested due to Mr. Schmidt's scheduling conflicts. I have also contacted Peter Max Zimmerman, People's Counsel, and he has no objections to this postponement.

Should you have any comments or questions, please contact me. With kind regards, I am

Very truly yours,

Charles B. Marek III

LES: jk
CC: Grant Pivec, Carbroc, LLC
Peter Max Zimmerman, People's Counsel
George Cummings, Country Home Park Community Association, Inc.
Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI

600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildealc.com

ANNAPOLIS, MD OFFICE
85 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

FACSIMILE TRANSMITTAL SHEET

TO: **Kathleen C. Bianco**	FROM: **Charles B. Marek III**
COMPANY: **Board of Appeals**	DATE: **April 1, 2008**
FAX NUMBER: **410-887-3182**	TOTAL NO. OF PAGES INCLUDING COVER: **2**

RE: **Appeal Hearing Postponement**

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

This facsimile contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this facsimile in error, please notify Gildea & Schmidt, LLC by telephone (410-821-0070) immediately.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

April 1, 2008

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

which was scheduled to be heard on 4/02/08 has been POSTPONED at the request of Counsel for Petitioner due to court schedule conflict; and has been

REASSIGNED FOR: THURSDAY, MAY 22, 2008 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

---

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Robert and Julia Donatelli
Michael Noppenburger
Matt Kallenberger
Stephen Weber

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM

COUNTY BOARD OF APPEALS

ROOM 49, OLD COURTHOUSE •
400 WASHINGTON AVENUE • TOWSON, MD 21204
PHONE: 410-887-3180 • FAX: 410-887-3182

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

LAWRENCE E. SCHMIDT, ESQUIRE
410-821-0071

ATTN: Kristen

FROM:

KATHLEEN BIANCO
FAX: 410-887-3182

TELEPHONE: 410-887-3180

DATE:
APRIL 2, 2008

TOTAL NO. OF PAGES INCLUDING COVER:
TWO (2)

RE: IN THE MATTER OF: CASE NO. 07-158-SPH /CARBROC LLC

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

Larry:

Attached FYI is a copy of the Notice of PP and Reassignment that went out early this morning. I had intended to get this to you yesterday, but we had a computer problem late yesterday and I couldn't do it until this morning.

Call me if you have any questions.

kathi

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Next to Suite 203)

May 22, 2008

NOTICE OF REASSIGNMENT

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was continued on the record 5/22/08 and reassigned as follows by agreement of Counsel:

REASSIGNED FOR: THURSDAY, SEPTEMBER 11, 2008 at 10 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Robert and Julia Donatelli
Michael Noppenburger
Matt Kallenberger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)

September 11, 2008

NOTICE OF ASSIGNMENT /Agreed Date

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was continued on the record 9/11/08 and reassigned as follows by agreement of Counsel:

REASSIGNED FOR: THURSDAY, NOVEMBER 20, 2008, at 9:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Robert and Julia Donatelli
Michael Noppenburger
Matt Kallenberger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

November 18, 2008

HAND DELIVERED
Kathleen Bianco, Administrator
County Board of Appeals
of Baltimore County
105 West Chesapeake Avenue, Suite 203
Towson, MD 21204

RECEIVED
NOV 18 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Carbroc, LLC/PIV's Pub
Case No.: 07-158-SPH

Dear Ms. Bianco:

At the September 11, 2008 hearing, the Board granted the parties' request to reschedule the case to provide an opportunity for the parties to reach a consensus on a revised plan. The Board set a new date as November 20, 2008 at 9 A.M.

By mutual agreement, we must again request a relatively short postponement in order to finalize such a plan for the Board's review. I spoke with Lawrence Schmidt, attorney for Petitioner, and he is agreeable to a reasonable postponement. I also spoke with Stephen Weber, of the County Home Park Association, and he concurs.

The parties intend instead to meet on November 20 to review a revised plan just received from Petitioner's engineer. We hope to reach a consensus on additions, corrections, and/or details in order to reflect the agreed substantive points. That will hopefully put us in a position to present an agreed plan for review by the Board and expedite a final resolution of this case.

Thank you for your consideration.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ\rmw
cc: Lawrence E. Schmidt, Esquire
Stephen Weber
George Cummings

COUNTY BOARD OF APPEALS

ROOM 203, JEFFERSON BUILDING •
105 WEST CHESAPEAKE AVENUE • TOWSON, MD 21204
PHONE: 410-887-3180 • FAX: 410-887-3182

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

LAWRENCE E SCHMIDT, ESQUIRE
410-821-0071

attn: Kelly

FROM:

KATHLEEN BIANCO
FAX : 410-887-3182

TELEPHONE : 410-887-3180

DATE:
NOVEMBER 19, 2008

TOTAL NO. OF PAGES INCLUDING COVER:
TWO (2)

RE: IN THE MATTER OF: CARBROC / CASE NO.: 07-158-SPH

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

KELLY:

ATTACHED IS THE NOTICE OF POSTPONEMENT AND RE-ASSIGNMENT.

Call me if you have any questions.

kathi

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

PP to be next

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)

November 19, 2008

NOTICE OF POSTPONEMENT AND RE-ASSIGNMENT

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was scheduled for Thursday, November 20, 2008 and has been postponed by mutual agreement of Counsel.

REASSIGNED FOR: THURSDAY, DECEMBER 11, 2008, at 9:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Robert and Julia Donatelli
Michael Noppenburger
Matt Kallenberger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM

County Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)

December 10, 2008

NOTICE OF POSTPONEMENT

CASE #: 07-158-SPH

IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was scheduled for Thursday, December 11, 2008 and has been postponed by mutual agreement of Counsel; **TO BE RE-ASSIGNED.**

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date. Kathleen C. Bianco, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
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Michael Noppenburger
Matt Kallenberger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM

COUNTY BOARD OF APPEALS

ROOM 203, JEFFERSON BUILDING •
105 WEST CHESAPEAKE AVENUE • TOWSON, MD 21204
PHONE: 410-887-3180 • FAX: 410-887-3182

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

LAWRENCE E SCHMIDT, ESQUIRE
410-821-0071

attn: Kelly

FROM:

KATHLEEN BIANCO
FAX: 410-887-3182

TELEPHONE: 410-887-3180

DATE:
DECEMBER 10, 2008

TOTAL NO. OF PAGES INCLUDING COVER:
TWO (2)

RE: IN THE MATTER OF: CARBROC, LLC; CASE NO.: 07-158-SPH

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

Attached is the Notice of Postponement for the matter that was scheduled to be heard on Thursday, December 11, 2008.. Please call if you have any questions. Thank you.

This message is intended only for the addressee and may contain information that is privileged and/or confidential in nature. If the reader is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, and/or received this communication in error, please notify the sender immediately by telephone and return the original message to the sender.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)

April 30, 2009

NOTICE OF RE-ASSIGNMENT

CASE #: 07-158-SPH **IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner**
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was continued on the record on 5/22/08 and 9/11/08 and is re-assigned as follows:

REASSIGNED FOR: TUESDAY, JUNE 23, 2009, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Michael Noppenburger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney
Robert and Julia Donatelli
Matt Kallenberger

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
SUITE 200
TOWSON, MARYLAND 21204
TELEPHONE 410-821-0070
FACSIMILE 410-821-0071
www.gildeallc.com

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

RECEIVED
JUN 17 2009
BALTIMORE COUNTY
BOARD OF APPEALS

June 17, 2009

Via Hand Delivery
Ms. Theresa R. Shelton
County Board of Appeals of Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Carbroc, LLC/PIV's Pub
Case No.: 07-158-SPH

Dear Ms. Shelton:

This letter is to request a continuance of the appeal hearing for the above referenced matter scheduled for June 23, 2009. Since this matter was last before the Board, the parties have worked continuously to resolve their differences and agree to a site plan with which all sides are accepting. Although we are "almost there," several issues remain and in view of certain vacation schedules, I do not believe a full resolution cannot be accomplished by June 23, 2009 hearing date. I would therefore ask for brief continuance. I have spoken with Peter Max Zimmerman of People's Counsel for Baltimore County he concurs with this request. We will contact you to reschedule this matter within the next thirty (30) days.

Should you have any comments or questions, please contact me.

Very truly yours,

Lawrence E. Schmidt

LES: jkl
CC: Grant Pivec, Carbroc, LLC
Peter Max Zimmerman, People's Counsel
Stephen E. Weber, Division of Traffic Engineering
George Cummings, Country Home Park Community Association, Inc.
Charles B. Marek III, Esquire

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Jefferson Building
105 W. Chesapeake Ave., Second Floor
(Adjacent to Suite 203)

June 17, 2009

NOTICE OF POSTPONEMENT

CASE #: 07-158-SPH **IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner**
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was continued on the record on 5/22/08 and 9/11/08 and was scheduled for a hearing on June 23, 2009. The matter has been postponed by agreement of counsel and will be re-assigned.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC, c/o Lawrence E. Schmidt, Esquire
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Michael Noppenburger
Stephen Weber
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

Robert and Julia Donatelli
Matt Kallenberger

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

December 18, 2009

NOTICE OF RE-ASSIGNMENT / DAY #3

CASE #: 07-158-SPH **IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner**
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

12/26/2006 – D.Z.C.'s Decision in which requested zoning relief was GRANTED with conditions.
2/08/07 – D.Z.C. decision granting in part and denying in part the Motion for Reconsideration filed by County Home Park Community Assn.
6/29/07 – D.Z.C. decision denying the Motion for Reconsideration filed by Petitioner.

This matter was continued on the record on 5/22/08 and 9/11/08 and is re-assigned as follows:

REASSIGNED FOR: TUESDAY, MARCH 23, 2010, at 10:00 a.m./DAY #3

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

---

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Michael Noppenburger
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Matt Kallenberger
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

April 29, 2010

NOTICE OF DELIBERATION

CASE #: 07-158-SPH **IN THE MATTER OF: CARBROC, LLC –Legal Owner /Petitioner**
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C

Having proferred a settlement agreement at the hearing on this matter on 3/23/2010; public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, MAY 11, 2010 at 9:00 a.m.**

LOCATION : **Hearing Room #2, Jefferson Building**
105 W. Chesapeake Avenue, Second Floor, Suite 206
(adjacent to Suite 203)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton
Administrator

---

c: Counsel for Appellant /Petitioner : Lawrence E. Schmidt, Esquire
: Charles B. Marek, III
Appellant /Petitioner : Carbroc, LLC
Shawn Pivec; Grant Pivec; Todd D. Pivec

George Cummings, President
County Home Park Community Association, Inc.
Joseph Larson /Spellman, Larson & Associates

Mr. and Mrs. Robert Shortall
Michael Noppenburger
Stephen Weber
Robert and Julia Donatelli
Matt Kallenberger

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Sophia Jennings, Code Enforcement /PDM **[CC-04-3644 & 05-2161]**
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

November 29, 2006

Roger J. Sullivan
DiPaula & Sullivan, LLC
34 S. Main Street
Bel Air, Maryland 21014

Dear Mr. Sullivan:

RE: Case Number: 07-158-SPH, 9811 York Rd, 9812 Monroe St and 9814 Monroe St

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 5, 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Grant Pivec Todd Pivec 2219 York Road Timonium 21093

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 18, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For October 23, 2006
Item No. 07-158

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

A 10-foot setback from the Monroe Street right-of-way should be provided.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 07-158-10182006.doc

Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

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

October 20, 2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 23, 2006

Item Number(s): 157 through 169

158

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.

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

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

cc: File

Printed with Soybean Ink
on Recycled Paper

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: October 20, 2006

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

RE: Baltimore County
Item No. 7-158-SPH
MD 45 (York Rd)
9814 & 9814 Monroe Street
PIVS PUB
Special Hearing - To Approve
Modified Site Plan & Parking
Plan

Dear Ms. Matthews:

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. 7-158-SPH.

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,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 7, 2006

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

SUBJECT: 9811 York Road (9814 Monroe Street)

RECEIVED
DEC 07 2006
ZONING COMMISSIONER

INFORMATION:

Item Number: 7-158

Petitioner: Carbroc, LLC

Zoning: BL-CCC and DR 3.5

Requested Action: **Special Hearing**

SUMMARY OF RECOMMENDATIONS:

After reviewing the petition and a site visit the Office of Planning offers the following comments:

The petitioner is requesting a modification to an earlier approved parking and site plan as well as authorization to increase commercial parking in a residential zone. The original approvals were part of zoning case 86-176-A.

The Office of Planning had several meetings with representatives of the Gibbons Avenue Community Association. As a result of those meetings and other information this office recommends the petition be granted subject to approval of an amended site plan and recommendations that the Gibbons Avenue Community Association will present(ed) at the Zoning Commissioner's hearing. A summary of the community's recommendations concurred with and known by this office are:

1) Install a new perimeter fence with finished side facing the residential area.

2) Plant a six-foot wide landscape buffer, (outside the new fence) along Monroe Street frontage. The buffer should be reviewed and approved by Avery Harden, Baltimore County Landscape Architect.

3) The proposed lot line adjustment between 9814 Monroe Street and the parking lot should be appropriately approved and consistent with the wishes of the Gibbons Avenue Community Association.

4) Lastly, the Association's suggested parking plan should be accepted.

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

Reviewed by: Curtis Murray

Division Chief: Lynn Lanham
AFK/LL: CM

RE:	PETITION FOR SPECIAL HEARING 9811 York Road & 9814 & 9812 Monroe St; W/S Monroe Street, 70' S c/line Jefferson Ave* 8th Election & 3rd Councilmanic Districts Legal Owner(s): Carbroc, LLC by Grant & Todd Pivec Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-158-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 and all 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 17th day of October, 2006, a copy of the foregoing Entry of Appearance was mailed to, Roger Sullivan, Esquire, DiPaula & Sullivan, LLC, 34 South Main Street, Bel Air, MD 21014 , Attorney for Petitioner(s).

RECEIVED
OCT 17 2006
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

August 15, 2007
TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

Roger Sullivan, Esq.
DiPaula & Sullivan, LLC
34 South Main Street
Bel Air, MD 21014

Dear Mr. Sullivan:

RE: Case: 07-158-SPH, 9811, 9812 & 9814 Monroe Street

Please be advised that an appeal of the above-referenced case was filed in this office on July 26, 2007 by Lawrence Schmidt. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Todd Pivec, 1617 Broadway Road, Timonium 21093
Joseph Larson, 105 W. Chesapeake Avenue, Towson 21204
Shawn Pivec, 14000 Phoenix Road, Phoenix 21131
Grant Pivec, 14012 Phoenix Road, Phoenix 21131
Stephen Weber, 9801 Van Buren Lane, Cockeysville 21030
George Cummings, 102 Gibbons Blvd., Cockeysville 21030
Mr. & Mrs. Robert Shortall, 9816 Monroe Street, Cockeysville 21030
Robert & Julia Donatelli, 9807 Monroe Street, Cockeysville 21030
Michael Noppenburger, 5 Gibbons Blvd., Cockeysville 21030
Matt Kallenberger, 4 Jefferson Avenue, Cockeysville 21030

APPEAL

9811 York Rd
Petition for Special Hearing
9811, 9812, 9814 Monroe Street
W/side of Monroe Street, 70 ft. s/of c/line of Jefferson Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Carbroc, LLC

Case No.: 07-158-SPH

- Petition for Special Hearing (October 5, 2006)
- Zoning Description of Property
- Notice of Zoning Hearing (November 2, 2006)
- Certification of Publication (November 21, 2006 – The Jeffersonian)
- Certificate of Posting (October 22, 2006) by Linda O'Keefe
- Entry of Appearance by People's Counsel (October 17, 2006)
- Petitioner(s) Sign-In Sheet – One Sheet
- Protestant(s) Sign-In Sheet - None
- Citizen(s) Sign-In Sheet – One Sheet
- Zoning Advisory Committee Comments

Petitioners' Exhibit
1. Plat to accompany Zoning Petitions
2. Parking Requirement
3. Topo Map
4. Letter dated 12/6/06

Shown as Attach (?):
1. Request for Special Hearing – 1973
2. Map showing currently 111 parking spaces
3. Findings of Fact and Conclusion of Law (86-176-A)
4. Letter dated January 24, 2005
5. Code Enforcement Correction Notice
6. Letter dated 7/15/05
7. Letter dated 7/25/05

Community Exhibit:
1. Site Plan
2. Letter dated December 6, 2006

Miscellaneous (Not Marked as Exhibit)
1. Letter dated 12-9-06
2. Letter of opposition from Mr. & Mrs. Donatelli
3. Letter dated January 21, 2007 (motion for reconsideration) Behind Z.C. Dec.
4. Letter dated January 22, 2007 (motion for reconsideration) Behind Z.C. Dec.
5. Letter dated February 7, 2007
6. Letter dated February 8, 2007 (order on motion for reconsideration) Beh. Z.C. Dec.
7. Letter dated March 9, 2007 (2nd motion for reconsideration) Behind Z.C. Dec.
8. Email dated March 15, 2007
9. Letter dated March 26, 2007
10. Clarification of Motion filed on March 9, 2007 (May 1, 2007)
11. Letter dated June 14, 2007
12. Email dated 6/16/07
13. Order on Section motion for reconsideration Behind Z.C. Decision
14. Photos

- Deputy Zoning Commissioner's (GRANTED – December 26, 2006)
- Notice of Appeal received on July 26, 2007 by Lawrence Schmidt

c: People's Counsel of Baltimore County, MS #2010
Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See attached

2/08/07 – DZC G in part and D in part Motion for Reconsideration filed by County Home Park Community Association
6/29/07 – D.Z.C. D a second Motion for Reconsideration filed by Petitioner

date sent August 16, 2007, klm

RECEIVED
AUG 21 2007
BALTIMORE COUNTY
BOARD OF APPEALS

RE: CARBROC, LLC

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 07-158-SPH

RECEIVED
MAY 13 2008
BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * * *

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Sophia C. Jennings
Baltimore County Code Enforcement
111 West Chesapeake Avenue
Room 213
Towson, MD 21204

YOU ARE HEREBY COMMANDED TO: ( ) Personally appear; ( ) Produce documents and/or objects only; (X) Personally appear and produce documents or objects; **in Hearing Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on Thursday, May 22, 2008 at 10:00 a.m.**

YOU ARE COMMANDED TO produce the following documents or objects **(for general purpose as stated)**:

All County Code Enforcement files related to matter of Carbroc, LLC

SUBPOENA REQUESTED BY:
LAWRENCE E. SCHMIDT
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVE., SUITE 200
TOWSON, MD 21204
(410) 821-0070

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (____) the Sheriff, (X) Private Process Server, to issue the summons set forth herein.

Kathleen C. Bianco

County Board of Appeals for
Baltimore County

IN THE MATTER OF

CARBROC, LLC

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

* CASE NO. 07-158-SPH

* * * * * * * * *

AFFIDAVIT OF SERVICE

I, the undersigned, certify that on May 20, 2008, I effected service of process by personally serving a Subpoena upon Sophia C. Jennings at Baltimore County Code Enforcement, 111 West Chesapeake Avenue, Room 213, Towson, Maryland 21204, to appear before the County Board of Appeals of Baltimore County.

I further certify that I am over the age of 18 and am not a party to this action.

I solemnly affirm under penalty of perjury that the contents of this Affidavit are true and correct to my knowledge.

(signature)

Name: Kristen Pascucci

Firm: Gildea + Schmidt, LLC

Address: 600 Washington Ave. Ste. 200
Towson, MD 21204

RECEIVED
MAY 21 2008
BALTIMORE COUNTY
BOARD OF APPEALS

COPY

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI

600 WASHINGTON AVENUE
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FACSIMILE 410-821-0071
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ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

FACSIMILE TRANSMITTAL SHEET

TO: Kathleen Bianco	FROM: Cristen J. Pascucci
COMPANY: Board of Appeals	DATE: 5/20/08
FAX NUMBER: (410) 887-3182	TOTAL NO. OF PAGES INCLUDING COVER: 2
RE: Case No. 07-158-SPH	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Kathi – – and copy of subpoena for your records –
Attached is the Affidavit of Service for Sophie Jennings, per our conversation this morning. I will throw the original in the mail.
Don't hesitate to call with any questions, and thanks again for your help.
Cristen

RECEIVED
MAY 21 2008
BALTIMORE COUNTY
BOARD OF APPEALS

RECEIVED
MAY 20 2008
BALTIMORE COUNTY
BOARD OF APPEALS

This facsimile contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this facsimile in error, please notify Gildea & Schmidt, LLC by telephone (410-821-0070) immediately.

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

April 13, 2010

Lawrence E. Schmidt, Esquire
Gildea & Schmidt LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Peter Max Zimmerman
People's Counsel for
Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204

Re: CARBROC, LLC –Legal Owner /Petitioner
9811 York Road; 9812, 9814 Monroe Street 8th E; 3rd C
Case No.: 07-158-SPH

Dear Counsel:

On March 23, 2010 the Board convened for a hearing on the above captioned matter. At that hearing a settlement was proffered on the record.

It is my understanding that an Agreement/Order was to be forwarded to the Board's Panel for signature; and attached to same would be the submitted red-lined Plan.

This matter is still pending before the Board. Please contact this office upon receipt of this letter to provide a status on the above mentioned documentation.

Thank you for your time and assistance. I remain,

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original
/trs

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Carbroc, LLC 07-158-SPH

DATE: May 11, 2010

BOARD/PANEL: Lawrence M. Stahl
Andrew M. Belt
Robert W. Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Proposed Opinion and Order as submitted by Counsel for parties.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. The Board held a hearing on this matter then held the matter sub curia. The Board discussed the meaning of "sub curia." In this instance, "sub curia" means that they held the matter pending the proffered Opinion and Order as submitted by Counsel.
- The Board then discussed whether the "...potential future 1-story front deck..." as sited in the Opinion and Order was originally requested and not slipped in to avoid further procedure. The Board determined that the deck was included in the request at a different location on the building and a different size. Counsel agreed to move the deck and change the size so that it conformed with the Code and Regulations of the County.

DECISION BY BOARD MEMBERS: The Board determined that Opinion and Order conformed to the Code and Regulations of the County and would be approved and signed.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to approve and sign the proposed Opinion and Order as submitted by Counsel.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

Sunny Cannington

Sunny Cannington

GILDEA & SCHMIDT, LLC

DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
DAMIAN C. O'DOHERTY
JASON T. VETTORI
JOSEPH R. WOOLMAN, III

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BALTIMORE, MD OFFICE
300 EAST LOMBARD STREET
SUITE 1440
BALTIMORE, MARYLAND 21202
TELEPHONE 410-234-0070

ANNAPOLIS, MD OFFICE
95 CATHEDRAL STREET
SUITE 100
ANNAPOLIS, MARYLAND 21401
TELEPHONE 410-295-0070

June 14, 2007

Mr. George Cummings
102 Gibbons Blvd.
Cockeysville, MD 21030

RECEIVED
JUN 18 2007
BY:.....

Re: 9811 York Road, 9812 & 9814 Monroe Street
Petition for Special Hearing Case #07-158 SPH

Dear Mr. Cummings:

This is to follow up our recent meeting at the above-referenced property regarding the Petition for Special Hearing filed by the owners of Courtney's Restaurant.

As we discussed, there are several concerns that my client has expressed regarding the community plan adopted by Deputy Commissioner Murphy. In order to resolve the outstanding issues and concerns, Mr. Pivec has authorized me to offer the following:

1) Mr. Pivec continues to be concerned about the six-foot wide landscaping buffer between the fence and right-of-way for Monroe Street. He is concerned that this area will be difficult to maintain and will attract parking on Monroe Street. He also questions whether planting an effective screen along that strip is feasible. Thus, he proposes that the fence be moved two feet off of the right-of-way line and that the landscape buffer be eliminated. This reduced buffer would prevent patrons of the restaurant from parking in the residential community and attempting to directly access the property by way of Monroe Street.

2) In exchange for an elimination of the buffer referenced above, he is willing to relocate the lot line which presently divides 9812 Monroe Street from 9814 Monroe Street. As you recall, the community requested a relocation of that lot line, however, Deputy Commissioner Murphy correctly concluded that he did not have the authority to require this lot line adjustment. Mr. Pivec is agreeable to relocating the lot line a distance of 15 feet towards the south. The total lot area of 9814 Monroe Street would be increased from approximately 5,700 square feet to over 7,000 square feet, bringing it more in line with the rest of the community. This lot line adjustment should assuage

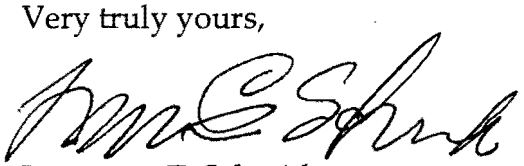
any fears about further encroachment into the neighborhood of parking expansion since the restaurant would no longer own the land.

3) Although not directly related to any community concern, Mr. Pivec also proposes the extension of a fence so as to prohibit traffic directly between his property and the Wendy's restaurant next-door. As you know, present conditions allow the circulation of traffic between these sites and Mr. Pivec has experienced problems with customers of the restaurant driving through his property and depositing trash thereon. Thus, he proposes an extension of the fence to eliminate that existing condition.

4) Insofar as the proposed fence facing the community, the same would be designed so as to be attractive and present a finished side facing the residential community. It should be noted that this nearly doubles the cost of the fence because it would have two finished sides. If relocated to have a buffer between the property line and the right-of-way, there would be a hidden "trap door" to facilitate the restaurant employee's clean-up of the buffer zone.

Please also note that we intend to request that Deputy Commissioner Murphy revise his order to confirm that the relief granted in this case will apply and be binding on any potential restaurant use in the future. That is, if Mr. Pivec sells his business or converts the operation to a permitted use under the BL Zone, the relief and conditions granted under this case shall remain in full force and affect. Kindly contact me at your earliest convenience to discuss these matters. Please be advised that I understand that Deputy Commissioner Murphy is scheduled to retire at the end of this month. Therefore, your prompt attention to this matter is appreciated.

Very truly yours,



Lawrence E. Schmidt

LES:jls
CC: Honorable John (Jack) V. Murphy
Grant Pivec, Carbroc, LLC
Joseph L. Larson, Spellman, Larson & Associates, Inc.
Stephen E. Weber, Division of Traffic Engineering
Charles B. Marek, Esquire

GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE
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TELEPHONE 410-821-0070
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DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

April 1, 2008

Via Facsimile & Regular Mail
Kathleen C. Bianco
Board of Appeals
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED
APR 03 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Carbroc, LLC/Courtney's Restaurant
CBA: 07-158

Dear Ms. Bianco:

As we spoke of over the phone, we are requesting a postponement of the appeal hearing for the above referenced case scheduled for April 2, 2008 at 10:00 a.m. This postponement is requested due to Mr. Schmidt's scheduling conflicts. I have also contacted Peter Max Zimmerman, People's Counsel, and he has no objections to this postponement.

Should you have any comments or questions, please contact me. With kind regards, I am

Very truly yours,

Charles B. Marek III

LES: jk
CC: Grant Pivec, Carbroc, LLC
Peter Max Zimmerman, People's Counsel
George Cummings, Country Home Park Community Association, Inc.
Lawrence E. Schmidt, Esquire

GILDEA & SCHMIDT, LLC
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DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

December 23, 2008

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204

Re: Carbroc, LLC/PIV's Pub
Case No. 07-158-SPH

Dear Mr. Zimmerman:

Please advise if you have completed your review of the revised plan for the above referenced matter. If the revisions are acceptable, I will contact the Board of Appeals to obtain a new hearing date. Thank you for your prompt cooperation in this matter as I know that all parties would like to put this matter to rest.

Very truly yours,

Lawrence E. Schmidt

LES: jk
CC: Steve Weber, Division of Traffic Engineering
Kathleen C. Bianco, Baltimore County Board of Appeals
Grant Pivec, Carbroc, LLC
Charles B. Marek III, Esquire

RECEIVED
DEC 24 2008
BALTIMORE COUNTY
BOARD OF APPEALS

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DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

SEBASTIAN A. CROSS
CHARLES B. MAREK, III
JASON T. VETTORI

RECEIVED
APR 2 8 2010
BALTIMORE COUNTY
BOARD OF APPEALS

April 28, 2010

Sent via hand delivery
Ms. Theresa R. Shelton
County Board of Appeals
105 West Chesapeake Avenue
Towson, MD 21204

Re: Petition for Special Hearing
Case No. 07-158-SPH

Dear Ms. Shelton:

I represent the Petitioner in the above referenced case, which was heard on March 23, 2010, and would like to formally request a deliberation date. I understand that Mr. Zimmerman wants to attend the deliberation, but will be out of the office all this week. Therefore, please take this into account when setting a deliberation date.

Also, enclosed please find a proposed order that has been jointly drafted by the parties. I believe that all are in agreement with the language contained herein and I respectfully request the Board members consider adopting it as the official order. If there are any questions, please contact me. As always, I am.

Very truly yours,

Charles B. Marek, III

CBM: jkl
Enclosure
CC: Steven Weber, County Home Park Community Association (w/enclosure)
Peter M. Zimmerman, People's Counsel of Baltimore County (w/enclosure)
Grant Pivec, Carbroc, LLC (w/enclosure)

RE: PETITION FOR SPECIAL HEARING	* BEFORE THE COUNTY
9811 York Road & 9814 & 9812 Monroe Street, W/S Monroe Street, 70' S c/line Jefferson Avenue	* BOARD OF APPEALS
	* FOR
8th Election District 3rd Councilmanic District	* BALTIMORE COUNTY
	* **Case No.: 07-158-SPH**
Legal Owner(s): Carbroc, LLC, by Grant & Todd Pivec, and Todd Pivec, Individually *Petitioners*	*

* * * * * * * * * * * *

OPINION AND ORDER

This case involves a one-story commercial structure, currently operated as restaurant known as "Piv's Pub," at 9811 York Road in Cockeysville. The restaurant operation is located on a 1.104 acre split-zoned property on the east side of York Road owned by Carbroc, LLC (the "Petitioner"). The York Road frontage, which includes the restaurant and a portion of the parking area, is in a business zone, B.L.-C.C.C. The rear area is zoned residential, D.R. 3.5 and extends back to Monroe Street. The case also involves two residential lots adjacent to the rear area, 9812 Monroe Street (.131 acre) and 9814 Monroe Street (.131 acre), both owned by Carbroc, LLC. (Recently, Carbroc, LLC acquired 9814 Monroe Street from Todd Pivec, Grant's brother.)

There is a long zoning history to this property, which includes decisions in 1973 and 1985, Cases No. 74-5-SPH and 86-176-A, respectively. As recited in Deputy Zoning Commissioner John V. Murphy's December 26, 2006 decision in the instant case, these previous zoning matters authorized commercial parking in a residential zone and a parking variance for previous incarnations of the restaurant.

The rear of the property adjoins a residential community known as County Home Park. Several individual members of that community have actively participated in this case (collectively the "Protestants"). George Cummings, President of the County Home Park Community Association, and Stephen Weber, Treasurer, have been most active.

John Murphy - FW: Piv's Pub - 9811 York Rd

From: "Steve Weber" <steveweb@verizon.net>
To: <jvmurphy@baltimorecountymd.gov>
Date: 06/16/07 11:37 PM
Subject: FW: Piv's Pub - 9811 York Rd
CC: <vgcummings@comcast.net>

Mr. Murphy –
As I told you on the phone, we did finally meet with Larry Schmidt and his client on June 6th. I called Larry about a week later and was only able to leave a voice mail saying we were wondering what they were planning to do since we hadn't heard from them and I asked him to give me a call. He never called me back.

At our meeting on the 6th, there was nothing resolved although Larry is now up to speed where the community association is coming from and now understands the issues. At this point, I do not feel anything further is going to come of the meeting. We would ask that you go ahead and respond to Larry's request for an additional hearing and as we asked in our follow-up letter we would request that no consideration be given for either reconsideration or a re-hearing. At this point, there were requests for reconsideration which you have already considered and responded to. The community association is satisfied with the Order as it stands. At this point, if Larry Schmidt and his client are not satisfied with the ruling, we feel they will need to proceed to the Board of Appeals. This issue has dragged on far too long and it almost appears that Piv's Pub is intentionally trying to drag out the system. From our first meeting with Jim Thompson and Tim Kotroco on this issue, in a couple of months it will be **THREE** years. It is past the point of discussing the issue and they need to proceed with getting this property into compliance again.

I am on vacation this coming week, so I wanted to get this request to you knowing that you are trying to wrap up a number of these outstanding issues. We hope that you will advise Larry that the Order stands as is and that is it. Thank you for all your consideration that you have given to this matter.

Steve Weber

From: Steve Weber [mailto:steveweb@verizon.net]
Sent: Monday, March 26, 2007 1:33 AM
To: 'jvmurphy@baltimorecountymd.gov'
Subject: FW: Piv's Pub - 9811 York Rd

Dear Mr. Murphy:
The following DRAFT letter will be delivered to your office on Tuesday with the attachment. I just wanted to let you know that it was coming.
Steve Weber

From: Steve Weber [mailto:steveweb@verizon.net]
Sent: Thursday, March 15, 2007 11:51 AM
To: 'jvmurphy@baltimorecountymd.gov'
Subject: Piv's Pub - 9811 York Rd

Dear Mr. Murphy:
I just wanted to let you know that I received a copy of Larry Schmidt's letter to you dated 3/9/07 on this matter. Our community association will be sending you a response to the letter next week along with the community's plan and all associated dimensions. I spoke with the petitioner's engineer and said as long as their drawing is an accurate scaled drawing, we can supply all the requested dimensions and those can then be evaluated against Baltimore Co. Zoning Regulations dealing with parking spaces and drive aisles.
Just wanted to let you know that we were going to be sending you further information to show all dimensions on

the Community's plan.
Steve Weber

From: Kathleen Bianco
To: Sophia Jennings
Date: 1/7/2008 10:41 AM
Subject: Re: 9811 York Road
Attachments: Carbroc LLC 07-158-SPH.doc

Soph:

Attached is a copy of the Notice of Assignment for April 2, 2008. I didn't include you or Code Enforcement on the notice; wasn't aware there was anything outstanding.

And the holidays went well. Hope yours were good as well. And a happy 2008!

kath

>>> Sophia Jennings 1/7/2008 9:00 AM >>>
Do we have a hearing date for this property yet ---

it's 9811 York Road (used to be Courtney's Restaurant, now PIV's)
also 9812 & 9814 Monroe Street

attorney is Larry Schmidt

You had told me before it probably wouldn't be held until January

Thanks. Hope you had a Merry Christmas & Happy New Year

Sophia C. Jennings
Code Enforcement Officer
phone: 410-887-3351
fax: 410-887-2824
e-mail: sjennings@baltimorecountymd.gov

From: "George, Shirley" <sgeorge@rosenbergmartin.com>
To: "Kathleen Bianco" <kbianco@baltimorecountymd.gov>
Date: 12/3/2007 10:06 AM
Subject: RE: Case No. 07-158-SPH

Thank you very much for your help.

-----Original Message-----
From: Kathleen Bianco [mailto:kbianco@baltimorecountymd.gov]
Sent: Monday, December 03, 2007 10:05 AM
To: George, Shirley
Subject: Re: Case No. 07-158-SPH

I'm in the process of having a copy of the appeal faxed to you.

Kathleen C. Bianco, Administrator
County Board of Appeals
Room 49, Old Courthouse
Towson, MD 21204
410-887-3180
410-887-3182 (FAX)
kbianco@baltimorecountymd.gov

>>> "George, Shirley" <sgeorge@rosenbergmartin.com> 12/3/2007 9:31 AM >>> >>>
Ms. Bianco - I work in Stanley Fine's office and, if possible, he would like a copy of the Appeal documents filed in the above case.

Thank you for all of your help this morning.

Shirley M. George, Paralegal
Rosenberg | Martin | Greenberg, LLP
25 South Charles Street, Suite 2115
Baltimore, Maryland 21201-3305
410-727-0393
410-727-1115 - fax

COUNTY BOARD OF APPEALS

ROOM 49, OLD COURTHOUSE •
400 WASHINGTON AVENUE • TOWSON, MD 21204
PHONE: 410-887-3180 • FAX: 410-887-3182

FACSIMILE TRANSMITTAL SHEET

TO AND FAX NUMBER:

SHIRLEY GEORGE, PARALEGAL / STANLEY FINE, ESQUIRE
FAX : 410-727-1115

FROM:

KATHLEEN BIANCO
FAX : 410-887-3182

TELEPHONE : 410-887-3180

DATE:
DECEMBER 3, 2007

TOTAL NO. OF PAGES INCLUDING COVER:
FOUR (4)

RE: CARBROC, LLC /CASE NO. 07-158-SPH

URGENT FOR REVIEW FOR YOUR RECORDS PLEASE REPLY PLEASE RECYCLE

PERSONAL AND CONFIDENTIAL

ATTACHED IS A COPY OF THE APPEAL AND ACCOMPANYING DOCUMENT FILED IN THE SUBJECT MATTER.

SHOULD YOU WISH TO BE INCLUDED IN THE FILE AND ON THE NOTICE OF ASSIGNMENT, THEN YOU'LL RECEIVE THE MORE FORMAL WRITTEN NOTICE UPON RECEIPT OF AN ENTRY OF APPEARANCE.

UNLESS I HEAR OTHERWISE, I WILL SEND YOU AN E-MAIL WITH THE HEARING DATE WHEN ASSIGNED.

This message is intended only for the addressee and may contain information that is privileged and/or confidential in nature. If the reader is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, and/or received this communication in error, please notify the sender immediately by telephone and return the original message to the sender.

Julie and Rob Donatelli, 9807 Monroe Street

1. This proposed plan is a big deal to us because we are right across the street from the parking lot—our bedroom window faces it. We are opposed to any plan that would bring the lot and its noise any closer at all.

2. We already have a problem with noise from the parking lot associated with this particular business. In the past 2-3 months, we've been woken up three times at 2:00 in the morning—twice by horns honking repeatedly, once by shouting. –When other businesses were in the building, we did sometimes get woken by early-morning garbage trucks emptying dumpsters, but we've never before been woken up by activities in the parking lot at 2 a.m. (It should be said that as parents of a 2-year-old, we are already up often at night, and to be woken one more time is rough.)

3. We are already a neighborhood under pressure from the noise and commercialization around us. As these encroach on our neighborhood, it becomes a less and less desirable place to live. ~~This plan threatens both our property values and our quality of life~~.

4. I understand that when the building was originally built, the owners received a variance to build without the required amount of parking space. Now yet another variance is being requested to make up for that lack of space. It~~'s as if~~ seems the residents of the neighborhood are being asked to pay the price for these business owners' ~~poor decisions~~ mistakes.

07-158-SPH

John Murphy - Piv's Pub - 9811 York Rd

From: "Steve Weber" <steveweb@verizon.net>
To: <jvmurphy@baltimorecountymd.gov>
Date: 03/15/07 11:52 AM
Subject: Piv's Pub - 9811 York Rd

Dear Mr. Murphy:
I just wanted to let you know that I received a copy of Larry Schmidt's letter to you dated 3/9/07 on this matter. Our community association will be sending you a response to the letter next week along with the community's plan and all associated dimensions. I spoke with the petitioner's engineer and said as long as their drawing is an accurate scaled drawing, we can supply all the requested dimensions and those can then be evaluated against Baltimore Co. Zoning Regulations dealing with parking spaces and drive aisles.
Just wanted to let you know that we were going to be sending you further information to show all dimensions on the Community's plan.
Steve Weber

jhm 12/7

Julia and Robert Donatelli
9807 Monroe Street
Cockeysville, MD 21030
12-9-06

RECEIVED

DEC 1 8 2006

ZONING COMMISSIONER

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
410 Bosley Avenue
Towson, MD 21204

RE: CASE NUMBER: 07-158-SPH

Dear Mr. Murphy:

My husband and I attended the hearing on this case on Thursday, but we did not stand up to speak at length. We are both very concerned about this issue, and our views differ somewhat from our community association's spokespersons. We hope through this letter to get a second chance to express our concerns.

We are one of three houses that are closest to the parking lot—our house is directly across the street from the back of the lot. The strip of land that is now the 15-foot buffer between the fence and the road is already very slender, and we feel that to decrease it at all would have a very negative effect on the neighborhood, both in terms of how the area looks and in terms of noise. For one, right now there are ten twenty-foot-Eastern red cedar trees along the fence that are a extremely attractive—they are old trees and create a very nice silhouette that distracts from the commercial properties beyond the fence. To cut them down in order to extend the fence would be a shame. In addition, we think that the pub owners' lawyer may be quite right in arguing that little landscaping is likely to thrive on a smaller strip of land due to the salting of the roads and the piling up of snow in the winter. We certainly would welcome more planting of trees or shrubs on this area to discourage parking there, but to destroy the trees that are thriving there and which create an attractive edge to the neighborhood would be very distressing.

Additionally, we believe that to move the parking lot any closer to the road would only increase the problem we already have with noise from this particular business. In the past two or three months, we have been woken up three times around 2:00 a.m.—twice by horns honking repeatedly, and once by shouting. We have lived here for 11 years, and while we have at times been woken up in the early morning by garbage trucks emptying dumpsters, we have never, until now, been woken up in the middle of the night. (It should be said that as parents of a 2-year-old, we already up often at night, and to be woken one more time is all the much more difficult. If we were to switch bedrooms with our son, it would only result in him being woken instead of us—an even more dire scenario.)

Another important point is that the current fence is poorly maintained—it is usually months before gaps are repaired. It seems unlikely, given this business's record so far, that a fence closer the road (and to our houses) would be any better maintained. Instead, it would bring the noise of the parking lot and the ugliness of a gaping, broken fence even closer to our properties.

We do not agree with our community association that the community should compromise with the business owners and allow an expansion of their parking lot in order to prevent parking by patrons and employees in our neighborhood. These persons have only parked back here when

there was a gate or other opening in the fence for them to pass through to move between the parking lot and the neighborhood. **We believe that if the fence were kept completely intact, there would be absolutely no problem with restaurant patrons or employees parking in the neighborhood**. With the fence intact, the difficulty of getting from the restaurant back into the neighborhood would be too great. We hope that the county will recognize the need to enforce the current guidelines for this business (such as keeping the fence intact) rather than granting it further variances or leniency with regard to its code violations.

We feel that our neighborhood is already under pressure from the noise and commercialization around us. This business's plan to extend their parking lot further into our neighborhood threatens to make our neighborhood a less desirable place to live. We dread that it may negatively affect not just the quality of our lives but also the property values of our homes.

We certainly don't believe that the business owners have proven that they face hardship or practical difficulty with their current parking lot. As our community association's spokespersons have pointed out, the business has been operating successfully for many years with as much parking space as they have now, and the lot is by no means always full. To us, it appears that this business just wants to take and take from our neighborhood, burdening it further with noise and ugliness, while giving nothing back. We urge you to let the entire 15-foot strip of land between the fence and the street to continue to provide our neighborhood with trees and a minimal green buffer between us and this business.

Sincerely,

Julia Donatelli
Robert Donatelli

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: July 1, 2010

TO: Timothy Kotroco, Director
Permits & Development Management

FROM: Sunny Cannington, Legal Secretary
Board of Appeals

SUBJECT: CLOSED APPEAL CASE FILES

The following cases have been closed as of the above date and are being returned to your office.

Case No:	Case Name:
07-158-SPH	Carbroc, LLC
09-265-A	Boumi Temple Corporation

c: John Beverungen, County Attorney

PLEASE PRINT CLEARLY

CASE NAME 07-158-SPH
CASE NUMBER Mandan St.
DATE 12.7.06

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ROGER SULLIVAN	34 S. MAIN ST.	BEL AIR MD 21014	RJS@DIPAULASULLIVAN.com
JOSEPH LARSON	105 W. Chesapeake Ave	Towson, Md 21204	Spelarson@Verizon.net
Sharon Pivec	14000 Phoenix Rd.	Phoenix MD 21131	
Grant Pivec	14012 Phoenix Rd	Phoenix MD 21131	gp@plvspub.com
Todd Pivec	1617 Broadway Rd	Timonium MD 21093	todd@pivec@pivec.com
Stephen Weber	9801 Van Buren Ln	Cockeysville MD 21030	steveweb@verizon.net
GEORGE CUMMINGS	102 GIBBONS BLVD	COCKEYSVILLE, MD 21030	vgcummings@comcast.NET

PLEASE PRINT CLEARLY

CASE NAME 07-158-SPH
CASE NUMBER Monroe St
DATE 12/2/06

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Dr. W. Robert Shortall	9816 Monroe St.	Cockeysville Md. 21030	
Robert + Julia Donatelli	9807 Monroe St.	Cockeysville Md 21030	robtelli@yahoo.com
Michael Poppenberger	5 Hebbons Blvd	cockeysville md 21030	
Matt Kallen Berger	4 Jefferson Ave.	Cockeysville MD 21030	mattsbimmer@netscape.net
mrs Shortall			
Stephen Weber	9801 Van Buren Ln	Cockeysville MD	21030

People's Counsel Sign-In Sheet

Case Name: In Re Hoss/Smith/Cuddles Day Care
Case No.: 2009-0153-SPHX
Date: 4-27-10

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	Paul Donoghue	508 Gun Rd 21227	410 206-5376	pdonoghue@rsrm.com	Self	Strong Opp to Expansion
✓	Wm. H. Moore IV	510 Gun Road 21227	410 242-5494	billy@southwaybuilders.com	Comm. Assoc. / Resident	Strong Opposition
✓	Charles Macgill	319 Gun Rd.	410 455 5211	cgmsr@aol.com	" "	Commercial Expansion
✓	Joe Bennett J	516 Gun Rd Relay 21227	410-247-2919	bennettjoseph@excite.com	Self	opposed to Business in RCS
	GLORIA CARRION	428 GUN RD 21227	410-242-8513	WEG57@COMCAST.NET	GUN RD. ASSOC.	OPPOSED TO
	Shelly Reed	307 Gun Rd 21227	410-247-0802	WHRMMR@yahoo.com	Gun Rd Assoc.	Opposed
	JACKIE HEDEMAN	408 GUN Rd 21227	410-242-8137	—	GUN RD ASSN.	OPPOSED
	Mary Jane Macgill	319 Gun Rd. 21227	4102423027	mjmacgill@gmail.com	" "	opposed
✓	Lucy McKean	403 Gun Rd. 21227	410-442-8854	Lucymckean@comcast.net	self	opposed
✓	Paul McKean	" "	"	flavianschoice@hotmail.com		"

IN ONLY

CBA PRO. NO. 32

People's Counsel Sign-In Sheet

Case Name: PETITION FOR SPECIAL EXCEPTION, CUDDLES DAY CARE
Case No.: 2009-0153-SPHX
Date: 6-30-2010

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	Paul Donoghue	504 Gun 21227	410 206-5576	pdonoghue@jsim.com	self-employed	Contra business in area
✓	Wilma Moore	510 Gun 21227				
✓	Joe Bennett	516 Gun Rd 21227	410 247-2919	bennett.joseph@excite.com	self	Against granting special Exception
	Paul McKean	403 Gun Rd 21227	4102428854	Flavianschoice@hotmail.com	Gun Road	Against Special Exception
	Lucy McKean	403 " "	" " "	Lucymckean@comcast.net	"	" " "
	Naomi Baldwin	324 Gun Rd 21227	410 247 6941	nmferbal@hotmail.com	Gun Rd	Against Special Exception
	Michele Reed	307 Gun Rd 21227	410-247-0802	wmrmmr@juno.com	self	Against Special Exception
✓	FRANK LINDBERG	511 GUN RD 21227	410-242-2169	FRANK_LINDBERG@COMCAST.NET	AGAINST SITE	
✓	Mary Jane Maggi	319 Gun Rd. 21227	410-242-3027	mjmaggi11@gmail.com		Against Special Exception

IN ONLY
CBA PRO. NO. 33

People's Counsel Sign-In Sheet

Case Name: Elizabeth Smuth & Lynn Hogg
Case No.: 09-153-X
Date: 7-15-10

The Office of People's Counsel was created by the County Charter to participate in zoning matters on behalf of the public interest. While it does not actually represent community groups or protestants, it will assist in the presentation of their concerns, whether they have their own attorney or not. If you wish to be assisted by People's Counsel, please sign below.

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
✓	Paul Donoghue	504 Gun Rd	(410) 206-5576		CTPA/HAS	Opposed to Day Care
✓	Wm. H. Mook, IV	510 Gun Rd.	(Hm) 242-5494	willesmookbuilder.com	Gun Rd. Assoc.	Oppose class B
	Joe Bennett	516 Gun Rd	410 247-2919	bbennett.joseph@excite.com	Self	opposed to Class B Exception
	FRANK LINDBERG	511 GUN RD	410 242 7139	FRANK_LINDBERG@COMCAST.NET	SELF	OPPOSED TO CLASS B
	Susan Schneider	512 Gun Road	410 242-0985	sschneid@vmbc.edu	Gun Rd	Traffic, property value, noise
	FRED L. SCHNEIDER	512 GUN ROAD	410 242-0985	FRED.SCHNEIDER@NAVY.MIL	GUN RD	OPPOSED TO CLASS B
	Elizabeth Donoghue	504 Gun Rd	410 raf 3789	pandedonoghue@comcast.net		opposes to class B

CBA Peoples Counsel No. 41 (PRO)

EXHIBITS

RE: PETITION FOR SPECIAL HEARING : BEFORE THE
W/S of Monroe Street, 218.45'
N of Gibbons Boulevard - 8th District : DEPUTY ZONING
Marvin J. Roeder, et ux - Petitioners
NO. 74-5-SPH (Item No. 233) : COMMISSIONER

74-5-SPH

: OF

: BALTIMORE COUNTY

This Petition represents a request for a Special Hearing to determine if a permit should be granted for off-street parking on a residentially zoned parcel of land, pursuant to Section 409.4 of the Baltimore County Zoning Regulations. The property in question contains .46 of an acre, more or less, and is located on the west side of Monroe Street, 218.45 feet north of Gibbons Boulevard, in the Eighth Election District of Baltimore County.

Testimony on behalf of the Petitioners indicated that the subject property lies adjacent to and binds on a commercially zoned parcel that it is intended to serve. The commercial site is located on the east side of York Road, one hundred and sixty (160) feet, more or less, north of Gibbons Boulevard, and is intended to be improved with a restuarant containing forty-two hundred (4200) square feet of floor area.

The residentially zoned tract which is the subject of this Petition is proposed to be impro... six (6) foot high screen ... es and the westernmost ri... or egress to Monroe Street ...

The Petitioners f... uld serve a need for off-stre... e the zoning in the area by ... zoned D.R. 3.5 property ...

There were no are... were there any letters of ... were proposed

Attach #1

ORDER RECEIVED FOR FILING
DATE 11/29/73
BY Marvin J. Roeder

ORDER RECEIVED FOR FILING
DATE 11/29/73
BY Marvin J. Roeder

ADMINISTRATIVE ASSISTANT

#74-5-SPH

IN RE: PETITION ZONING VARIANCE
E/S of York Road, 160' N of
Gibbons Boulevard (9811 York
Road) - 8th Election District
George Kosmakos, et al,
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 86-176-A

86-176-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit 100 parking spaces instead of the required 133 spaces, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, by Kosmos Kosmakos, appeared and testified and were represented by Counsel, Cicero Brown, a registered architect, appeared on behalf of the Petitioners. There were no Protestants.

Testimony indicated that the property, which is located at [illegible] B.L., is improved with an existing [illegible] Road, with Monroe Street, a de[illegible]itioners propose to raze an exis[illegible] to the rear of the building and co[illegible] feet. The Petitioners have i[illegible] reasing and that more space is ne[illegible] restaurant business. This prop[illegible]

Since May, 1[illegible]ent times to determine whether the[illegible] utilized. They were not. Mr. Kos[illegible]ng area has never been full, and both he [illegible]lieve the 100 parking spaces provided will satisfactorily serve the parking needs of the customers.

The site is surrounded by other commerical sites and by some residential homes to the rear sides of the property. These homes, owned by the Petitioners

Attach #3

ORDER RECEIVED FOR FILING
DATE October 31, 1985
BY Linda L. Lamb

ORDER RECEIVED FOR FILING
DATE October 31, 1985
BY Linda L. Lamb

MICROFILMED

COUNTY HOME PARK COMMUNITY AS:
120 GIBBONS BOULEVARD
COCKEYSVILLE, MD 21030

Attach #4

January 24, 2005

Mr. Timothy Kotroco, Director
Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Zoning Violation: 9811 York Road, Courtney's Restaurant (ID #17-00-001275)

Dear Mr. Kotroco:

I am writing to request your enforcement of a Special Exception for the subject property which allows for parking for a commercial establishment (a restaurant) in a D.R. 3.5 zone. We have complained about this issue in the past. In late 2001 we issued a few complaints about the fact that the subject property had two missing portions of fence which were allowing for employees and customers to park behind the property along Monroe Street and within our community. It took a few months for the violation to be corrected in early 2002 after correction notices were issued and extension dates were granted (Citation #01-7556). In March 2003 we issued another complaint after the same section of fence was missing again and Code Enforcement Office had it taken care of in a reasonably quick time frame.

Then, this past summer, Bare Bones Restaurant closed operations and the Kosmakos family (which had been leasing the restaurant and property to Bare Bones) sold the property on 6/25/04 to Carbroc, LLC, 2219 York Rd, Timonium, MD 21093. This new owner had the building refurbished and it is now occupied by Courtney's Restaurant. This new business seems to be more successful than Kosmakos Restaurant or Bare Bones Restaurant and the parking lot is regularly filled. In addition, as happened in the past, the same section of fence is missing again. This time, the degree of parking within the neighborhood is worse than it ever was with the previous two restaurants and the employees and customers are regularly parking off the west side of Monroe Street behind the fence creating a rutted muddy mess, killing all the grass, and dragging mud into the streets. They have also been parking in front of other residents' homes and on a very narrow Jefferson Avenue, cutting it down to a one-lane roadway where it intersects with Monroe Street.

The fence is to be a solid continuous fence with no missing sections or gates according to the Zoning Commissioner's Order. If it were, we would not be having the problems with the employee and customer parking taking place in our neighborhood. We request your office examine the following items and have all violations corrected immediately:

1. Have all missing sections of the fence replaced and insure that it is one integral fence without sections that are easily removed, as has been continually happening in the past. Have the gate behind 9812 Monroe Street removed and replaced with a solid immovable fence.

Resident Agent: Roger J. Sullivan

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

#1

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:
04-3644	17-00-001275	~~DR-3.5~~ BL-CCC

Name(s): CARROC LLC

Address: 2219 York Road Timonium MD, 21093

Violation Location: 9811 York Road

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:
102.1; 1B01.1A; 230; 500.6 - BCZR
32-3-102 - BCC

Non-compliance with the site plan filed in variance hearing 86-176A in that:

1) Property lacks required number of parking spaces.

2) Stockade fence & compact planting fail to exist adjacent to 9817 York Rd. & the residence known as 9812 Monroe Street.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

Date Issued:

COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR
TION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER
DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Attach #5

STOP WORK NOTICE

O INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK
IOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN
H THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT.
ITIONS MUST BE CORRECTED NOT LATER THAN:

Date Issued:

NAME: _____
(PRINT NAME)

Copy Distribution: White: Agency Yellow: Violation Site Pink: Defendant Goldenrod: Remains in Book

Rev: 5/05

SCJ

DIPAULA & SULLIVAN, LLC

Anthony J. DiPaula*
ajd@dipaulasullivan.com

Roger J. Sullivan
rjs@dipaulasullivan.com

*Also admitted in D.C.

ATTORNEYS AT LAW

34 South Main Street
Bel Air, Maryland 21014

Telephone: 410-893-4255
Fax: 410-893-4277

Elizabeth Anne Boyle-Donahue
eabd@dipaulasullivan.com

Towson Office
300 Allegheny Avenue
Towson, MD 21204
410-823-8705

July 15, 2005

Attach #6

Baltimore County Department of
Permits and Development Management
Code Inspections and Enforcement
111 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: James H. Thompson

RE: Citation Case No. 04-3644
Property Location: 9811 York Road
Property Owner: Carbroc, LLC

Dear Mr. Thompson:

As you are aware, I am the Resident agent for the above referenced property owner. I am responding to the correction notice dated June 29, 2005 with respect to 9811 York Road. Please treat this letter as confirmation that I have secured a review date with Baltimore County for August 26, 2005 for the purpose of having the site plan and Petition for Special Hearing reviewed by the County prior to submission of same.

I will be coordinating with Mr. Joseph Larson to see that the special hearing request and amended site plan are timely filed. In the interim, if you have any questions, please do not hesitate to contact my office.

Very truly yours,

Roger J. Sullivan

RJS/dh
cc: Carbroc, LLC
Joseph Larson
s:\das\rjs\D&S Pivec.7\Dept. of Permits.ltr.1

Department of Permits and Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmenforce@co.ba.md.us
pdminspect@co.ba.md.us

Baltimore County

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

TE - TP
AUG 0 4 2005

July 25, 2005

David L. Jordan, President
County Home Park Community Association, Inc.
120 Gibbons Boulevard
Cockeysville, Maryland 21030

Re: Case No. 04-3644
9811 York Road

Dear Mr. Jordan:

As a follow up to the correction notice issued by the Code Enforcement Division on June 29, 2005, I am enclosing a copy of the letter sent to this department dated July 15, 2005, by Roger J. Sullivan, Esquire on behalf of the property owner.

Mr. Sullivan has an appointment review date set for August 26, 2005, code enforcement will withhold further action pending the outcome of this petition filing.

If additional questions remain as to this case, please contact this office at 410-887-3351.

Sincerely,

James H. Thompson, Supervisor

JHT/lmh

c: Council Aid Marcie Goodman
Chief Traffic Engineering Stephen E. Weber
Inspector Sophie Jennings

Attach #7

Printed on Recycled Paper

COUNTY HOME PARK COMMUNITY ASSN., INC.
102 GIBBONS BOULEVARD
COCKEYSVILLE, MD 21030

December 6, 2006

Mr. John V. Murphy, Deputy Zoning Commissioner
Office of the Zoning Commissioner
401 Bosley Avenue
Towson, MD 21204

RE: CASE NUMBER: 7-158-SPH, 9811 York Road, 9812 & 9814 Monroe Street

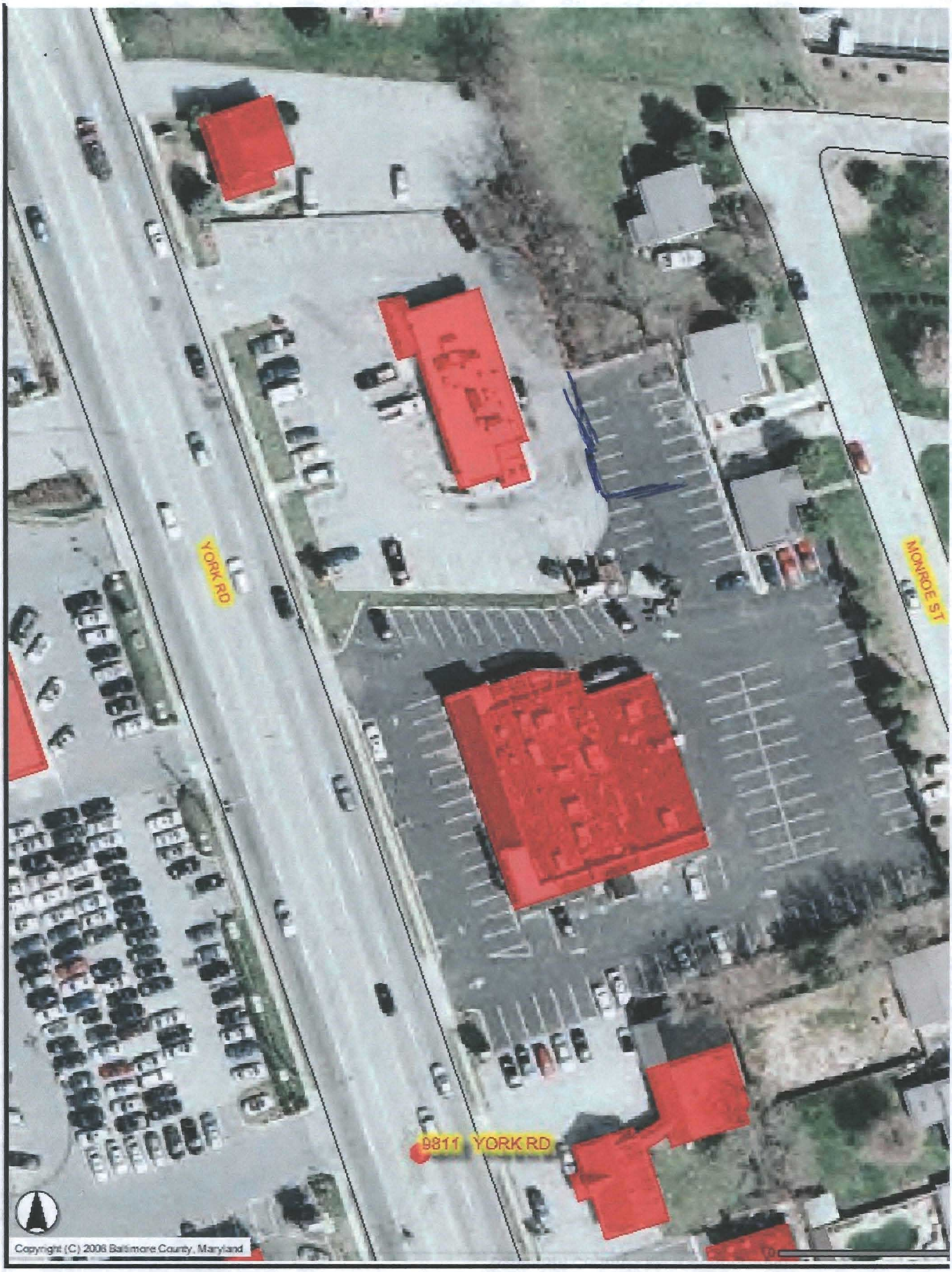
Dear Mr. Murphy:

This matter comes before you after almost two years of trying to work through the Department of Permits & Development Management to correct non-compliance issues on this property and after two meetings we have had with the owner's representative and engineer and with Tim Kotroco, Jim Thompson, and Marcie Goodman of Councilman McIntire's office. The majority of the issues deal with the paving of the rear yards of residential properties at 9812 & 9814 Monroe Street and illegally incorporating these yards into the commercial property at 9811 York Road. Attached is a site plan submitted in 1973 under Case No. 74-5-SPH which was to allow for commercial parking in a residential zone (DR 3.5). The edges of the current parking area are highlighted in yellow showing how the parking lot has been expanded into the rear yards of #9812 & 9814 Monroe Street and beyond the boundaries authorized in that 1973 Deputy Zoning Commissioner Order. In addition, the required 5-foot landscaped buffer along the south property line of #9812 has been eliminated and paved over. Also, the fence around the parking area which is supposed to be 8'-0" tall is only 6 feet tall. Also attached is an aerial photograph showing the site and how the parking areas currently exist and are marked. In addition, a copy of the July 20, 1973 Order is also attached.

In 1985 this issue came before the Arnold Jablon, Zoning Commissioner, under Case No. 86-176-A for a parking variance to provide 100 spaces in lieu of the required 133 spaces. This was to allow for an expansion of the existing building to allow it to increase in size from 5,136 sq. ft. to 6,632 sq. ft. The arguments made at that time was that the restaurant was operating without the need for the spaces it already had on the lot and that the expansion could be made without the parking demands exceeding the lot size. The variance was granted for the 33 parking spaces.

Throughout the 1990's our community has had various problems with what was then the Kosmakos Restaurant. One of the big issues during those years was the failure to adequately maintain the fence and putting gates in the fence to allow foot traffic between Monroe Street and the parking lot. Interestingly this was in direct opposition to the statement made in Mr. Jablon's 1985 Order (top of Page 2) stating, "There is no access from the residential zone in the rear to the site. **Vehicles of customers could not invade the residential area.**" (emphasis added). Hundreds of times we have had vehicles perpendicular parked between the fence and Monroe

Com#2


YORK RD
MONROE ST
9811 YORK RD
Copyright (C) 2006 Baltimore County, Maryland

#3

Roeder Travel Ltd.

9805 York Road
Cockeysville, MD 21030-4991

12/6/06

To whom It May Concern—

I own Roeder Travel at 9805 York Road Cockeysville, Md. 21030. I also own 9804 Monroe right next door to Pivec's. I also own 2 houses on Jefferson - the street next to Monroe. I am happy that Grant Pivec wants to improve the site by moving the fence back 12 feet. I think it will benefit the neighborhood that I have been involved with for 34 years.

Mimi Roeder Vaughan

Barbara L Knopp.
Notary public
My Commission expires
August 1, 2007.
Baltimore County,
Maryland

Phone: 410-667-6090 — Fax: 410-667-0106

(II-54)

Case No: 07-158-SPH Case Name: CARROC, LLC

Exhibit List

Party: ~~COUNTY ATTORNEY~~ PEOPLES' COUNSEL Date: 3/23/10

Exhibit No:	Description:
✓ 1	SECTION 8 PAPERS FOR STEPHEN WEBER
✓ 2	HISTORY OF 9811 YORK RD, 9812/9814 MONROE ST.
	—

Verified trw 3/23/10

County Home Park Community Association, Inc.

102 Gibbons Boulevard
Cockeysville, MD

October 25, 2007

This document is to affirm the current names and offices of those individuals on the Association's Executive Committee:

President	George Cummings
Vice President	Gary Lay
Treasurer	Stephen Weber
Secretary	Denise Buck
Community Member At-Large	Matt Kallenberger

These members' terms are current, running from October 25, 2007 to September 30, 2011, having been voted on by the general membership.

George Cummings, President

Attested to:
Denise Buck, Secretary

Date: 5/20/08

CBA Pc EA No. 1

County Home Park Community Association, Inc.

102 Gibbons Boulevard
Cockeysville, Maryland

October 25, 2007

Be it resolved, by the membership of the County Home Park Community Association at its meeting of October 25, 2007, that the members of the Executive Committee, acting as a Zoning Committee, are duly authorized to speak for or testify on behalf of the Association in matters before the County government, the Zoning Commissioner, Board of Appeals, and similar bodies with regard to zoning matters and other matters of interest to the Association,

and be it further resolved, that the members of the Executive Committee are specifically authorized to speak for and testify on behalf of the members of the Association with regard to the Board of Appeals case involving Piv's Pub at 9811 York Road, north of Gibbons Boulevard, which adjoins the west property lines of those residential properties located in the 9800 block of Monroe Street.

Approved by affirmative vote at a General Meeting of the members of the Association on the 25th of October, 2007.

George Cummings, President

Attested to:
Denise Buck, Secretary

Date: 10/25/07

Outlined History of 9811 York Rd and 9812 / 9814 Monroe Street

1. July 20, 1973 – Case No. 74-5-SPH – Deputy Zoning Commissioner grants Order for permitting commercial parking use on a residentially zoned 0.46 acres of D.R. 3.5 property behind Pappy's Restaurant, between the restaurant and Monroe Street, also allowing the razing of an existing residential home on that property. The Deputy Zoning Commissioner further found that this use, "would, in effect, tend to stabilize the present residential character of the area in general."

2. October 31, 1985 – Case No. 86-176-A – Petitioner, George Kosmakos, et. al, wishes to increase the size of the restaurant from 5,136 sq. ft. to 7,568 sq. ft. which accordingly increases the parking requirements and simultaneously reduces the size of the parking area. Petitioner testifies that the existing parking area, "has never been full" and the requested parking variance will satisfactorily serve the parking needs of the customer. Zoning Commissioner grants Order for a Parking Variance of 100 parking spaces in lieu of the required 133 parking spaces.

3. Early 2000's – Gus Kosmakos illegally paves the area behind the two residential properties at 9812 and 9814 Monroe Street, all the way from the houses to the Wendy's parking lot, as well as paves the area immediately south of 9812 Monroe Street, and incorporates these D.R. 3.5 areas into the parking lot for Kosmakos Restaurant. He also then relocates the fence around the commercial parking to go around the new perimeter of his expanded parking lot. Somewhere along the time line, the restaurant was also increased in size from the approved 7,568 sq. ft. to 8,490 sq. ft. with no apparent notification to the Zoning Commissioner.

4. January 24, 2005 – David Jordan, for the County Home Park Community Assn., writes to Timothy Kotroco complaining about the apparent zoning violations on 9812 & 9814 Monroe Street as well as violations of the Zoning Commissioner Orders of July 20, 1973 and October 31, 1985. The primary elements of the complaint were:
    a. Several sections of the perimeter fence around the parking lot were missing, allowing employees and patrons to park within the community.
    b. The fence around the commercial parking in a residential zone had been illegally relocated to incorporate the rear yards of 9812 & 9814 Monroe Street, thus expanding such parking into a residential zone for which no permission had been granted.
    c. The size of the restaurant seemed to have increased beyond what was approved by the Zoning Commissioner's Order of October 31, 1985.
    d. The landscaping buffer required along Monroe Street behind the fence has been allowed to deteriorate and was no longer in keeping with a defined landscape buffer.
    e. It was questionable whether 9812 & 9814 Monroe Street were being used as residential properties. Also the rear yards of 9812 & 9814 Monroe Street had been paved and the properties were no longer viable as truly residential properties. Storm water from the paved rear yards appeared to be illegally discharging into the residential area.

CBA PC NO. 2

Case No: 07-158-SPH Case Name: CARBROC, LLC

Exhibit List

Party: APPELLANT/PETITIONER Date: 3/23/10

Exhibit No:	Description:
✓ 1	SITE PLAN (RED LINED) TO BE SUBMITTED
✓ 2	22 PICTURES OF SITE W/ORDER

Verified trs 3/23/10



WEST (ROADSIDE) ELEVATION



SOUTH ELEVATION (BUILDING ENTRANCE)

CASE NO.:07-158-SPH
9811 YORK ROAD
8TH ELECTION DISTRICT

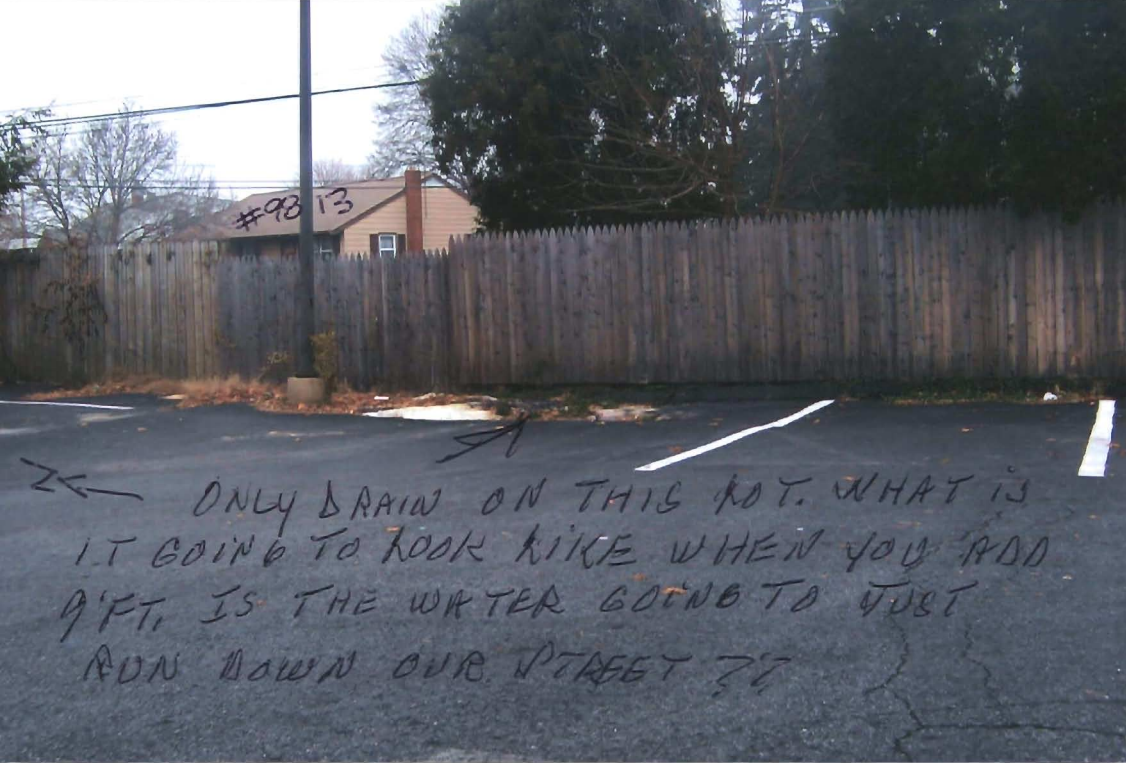
CBA Pet. No. 2

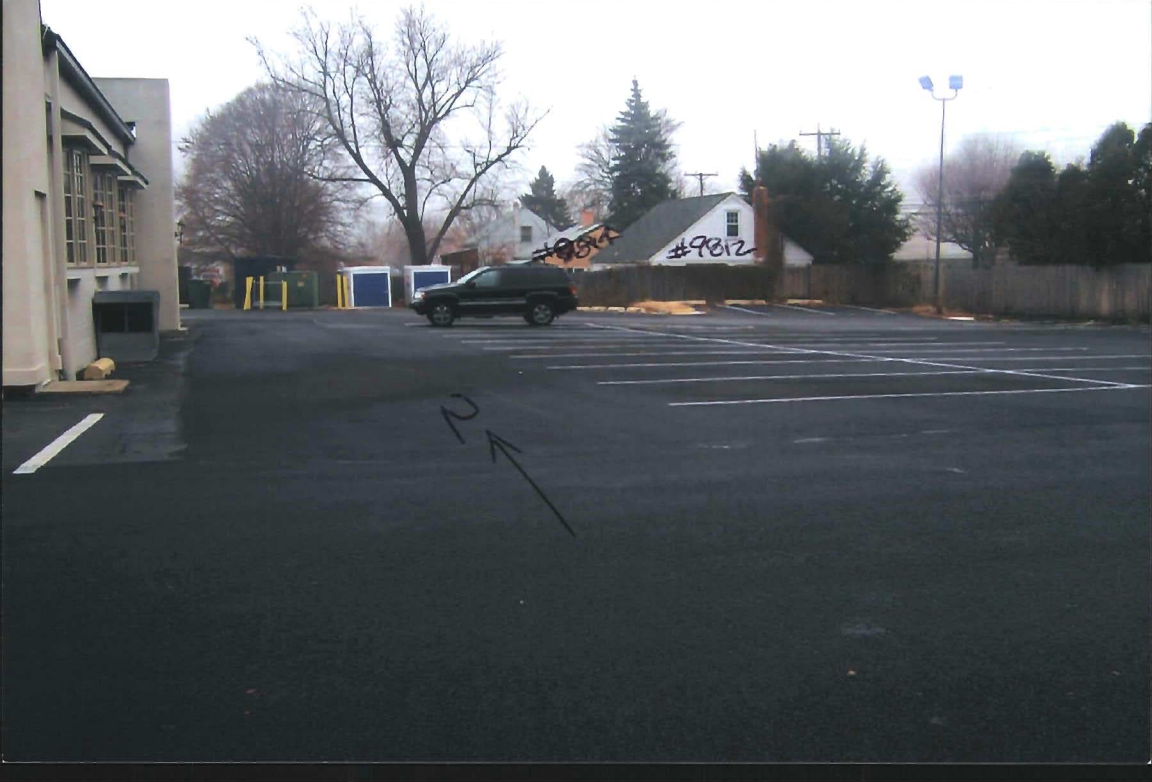







#9804


#9813
ONLY DRAIN ON THIS LOT. WHAT IS IT GOING TO LOOK LIKE WHEN YOU ADD 9'FT. IS THE WATER GOING TO JUST RUN DOWN OUR STREET ??


#9814
#9812


#9812
#9813


#984
IF THEY NEED MORE PARKING, WHAT ARE THESE DOING ON THIS LOT??
N


#9814
#9812
N


of Hunt Valley
BFI


PODS
Portable On Demand Storage
Moving & Storage
1-800-776-PODS
#9814
PARKING


WHAT A VIEW !


Piv's
PUB · RESTAURANT
9911


EMPLOYES PARKED THIE CARS
HERE BECAUSE MUD & DUST
ALL DOWN THIS STREET


#981A




N
9812
9814


ZONING NOTICE
LEAVE THIS TREE.
9812
N


#9812




#9812
THIS IS WHAT THE BACK
SIDE OF MY HOUSE LOOKS LIKE
N

PROTESTANT'S Exhibits

6, 17, 27, 30, 32, 33
& 41

FOR ID PURPOSES
ONLY

HOGG
BOA# 09-153-SPHX
CCT #- 03-C-11-003309

Plat revised to accompany petition for zoning

special exception

special hearing to approve a modified parking plan as per BCZR Section 409.12.B

Zoning relief requested: Special exception as per section 424.5.A of the BCZR for a Class B Group Child Care Center for a maximum of 24 children

Maximium number employees at largest shift to be five (5) that is 1 employee or shift person care provider= 5

screening in accordance with landscape manual and regulations according to Baltimore County Standards

typical parallel parking space 8'-6" x 22'-0"

closet adjacent house 250'

511 Gun Road
frank lindberg
13 18 350590

N 50°46'54" E 30.00'

250'±

Conc Mon

S 45°48'52" E 72.53'

20'-0" planting buffer

508 Gun Road
elizabeth & paul donoghue
19 00 001143

Conc Mon

S 43°32'03" E 15.00'

S 57°46'44" E 271.16'

In Ground POOL Area

S 43°32'03" E 21.70'

Deck

32'±

existing structure

front

Elizabeth & lynn hogg
19 00 013720

230'±

81'±

53'±

existing adjacent barn

255.20'

S 46°27'17" W

14'-0" wide paving for parallel parking

Parking. 5 spaces provided

existing stone walls

Existing macadam & gravel paving

14238/378
2.442 Ac.±

rta line (100')

5958 Ivy League drive
laura & james rudy
20 00 013412

20'-0" setback typical

Play area with 4'-0" high fence surround

Keech Rdad

N 14°11'00" E 78.61'

N 54°03'46" W 133.36'

N 45°56'05" W 202.72'

S 46°27'17" W

IPF

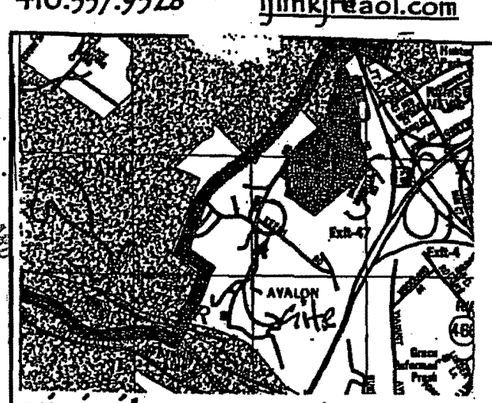
500 Gun Road
sarah & leon joseph sanchez
119 00 005100

419 Gun Road
patricia & ramon salas
13 19 000601

site plan
1"=50'-0"

north

PETITIONER'S
EXHIBIT NO. No 1



vicinity map
n.t.s.

Property address: 505 Gun Road 21227
Subdivision name
Liber 14238 folio no. 378
Owner: Elizabeth A Smith & Lynn Hogg
Tax a/c no. 19 00 013720

information prepared by
l.j.link jr., inc. architect
box 727 Brooklandville, Md 21022
410.337.9528 ljlinkjr@aol.com

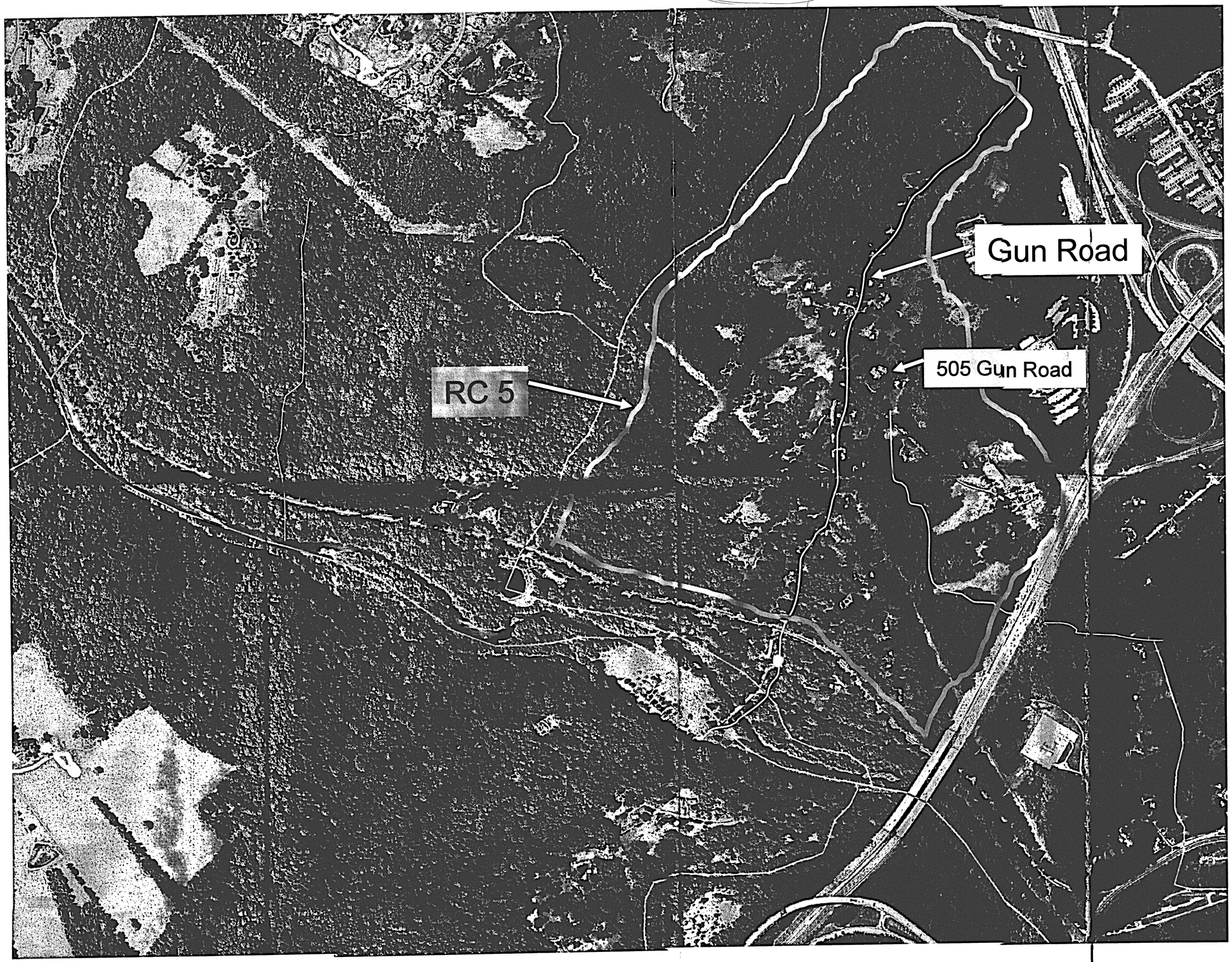
Property address: 505 Gun Road 21227
Subdivision name
Liber 14238 folio no. 378
Owner: Elizabeth A Smith & Lynn Hogg
Tax a/c no. 19 00 013720

Location information
Election district..... 13
Councilmatic district..... 1
1"=200'-0" scale map no.
zoning RC-5
lot size 2.440 ac (+/-)
public water.....Yes
public sewer.....No...private syste
Chesapeake bay critical area...No
100 year flood zone (zone X)...No
historic property/building.....No
prior zoning hearing.....None

zoning office use only
reviewed by | item no. | case no

Bd of App ID
Plat
ID only

CBA PRO. NO. 17



IN ONLY CBA PRO. NO. 17

A. That's true.
Q. Did you live on --
A. I never lived on Gun Road, no.
A. -- Gun Road, no.
THE CHAIRMAN: Let him ask the question so the

court reporter can get down everything. Let him finish.
Q. When you decided to purchase Gun Road, did you do it with the express intent of operating a commercial day care operation there?
A. No, sir.
Q. You acquired the property just because you wanted to live there?
A. Well, yes, sir.
Q. And you previously acknowledged that you closed on the property on February 29th, and you have also submitted an exhibit, Petitioners' Exhibit 3, which indicates that on March 7, or seven days later, you marched into Baltimore County's office and applied for a Class A group home permit, is that correct?
A. I'm not sure of exactly March 7, but if that's what it says, then, yes, it was March.
Q. Seven days after you settled on property, you come to the conclusion that you wanted to operate a day care center there, right?
A. Yes, sir.
Q. And it hadn't entered your mind that you wanted

ID ONLY

CBA. Pet. 27

PATAPSCO VALLEY STATE PARK

PATAPSCO VALLEY STATE PARK

PATAPSCO VALLEY STATE PARK GLEN ARTNEY AREA

OBLATE SISTERS OF PROVIDENCE

UMBC TECHNOLOGY RESOURCE CENTER

511

505

555

KEECH ROAD

WAVELAND 1837

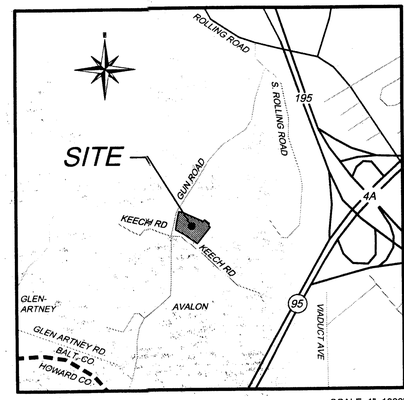
PAUL G DONOGHUE &
ELIZABETH A DONOGHUE
508 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900001143
MAP: #108 PARCEL: #60
ZONE: RC 5
RESIDENTIAL

LEON JOSEPH MANUAL SANCHEZ
& SARAH OLIVE SANCHEZ
500 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900005100
MAP: #108
PARCEL: #511
ZONE: RC 5
RESIDENTIAL

FRANK A LINDBERG
511 GUN RD
BALTIMORE , MD 21227-3826
TAX NO.: 1318350590
MAP: #108
PARCEL: #587
ZONE: RC 5
RESIDENTIAL

JAMES E RUDD &
LAURA C RUDD
555 KEECH RD
BALTIMORE , MD 21228-5783
TAX NO.: 2000013412
MAP: #108
PARCEL: #555
ZONE: RC 5
RESIDENTIAL

PATRICIA A SADIS
419 GUN RD
BALTIMORE , MD 21227-382
TAX NO.: 1900009000600
MAP: #108
PARCEL: #368
ZONE: RC 5
RESIDENTIAL



VICINITY MAP

SCALE: 1"=1000'

LEGEND

EX. LOT LINE
EX. BUILDING
EX. 2' CONTOUR
EX. PAVING
EX. ROAD CENTERLINE
EX. TREE LINE
EX. STREAM

13.75 / 1.9125 = 7.58

JVHermann & Associates, LLC
1895 Eden Mill Road
Pylesville, Maryland 21132
Phone: 410-688-6005
Email: jvhermann@gmail.com

CONTEXT EXHIBIT

505 GUN ROAD

BALTIMORE COUNTY, MARYLAND

ELECTION DISTRICT 13 | COUNCILMANIC DISTR

SCALE: 1"=100' | DWG NO. 2009-116A | DATE: 12/08/2009 | SHEET: 1 OF

IT only

Lot D
ARA Partn

Petitioner's Exhibits
8, 10a & 10b
FOR ID PURPOSES ONLY

HOGG
BOA # 09-153-SPHX
CC# 03-C-11-003309

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
ENVIRONMENTAL HEALTH SECTION

COMPLAINT INVESTIGATION FORM

Record ID: CO0013625 Area: D-17

Property Information

Property Name: Residential Property
Legal Address: 505 Gun Rd
City, St, Zip: Baltimore MD 21227
Phone:

FA:
PR:

Complainant: [redacted]
Address:
City, St, Zip:
Work Phone: [redacted]
Home Phone:

PE: 6513 Map Coordinate: 4937E4
Councilmanic District: 01 Status: A
Original Priority: 1 24 Hours - Original Status
Director Tracking Number:
SSO Number of Gallons:

Received By: EE0000013 Joyce Broadnax Date: 05/15/2009
Assigned To: EE0000064 Chris Keller Date: 05/15/2009

Nature of Complaint: Complainant says that the neighbors septic tank is overflowing into his yard.

Record ID: CO0013625 Area: D-17

05/18/09			
05/18/2009	Visited the property. In the corner of the lot near the large barn is where the suspected overflow was. It appears to be runoff from the rain we had. Met with the property owner Jaime Rudy. He thinks it is sewage overflow from the neighbors septic tank. I will ask supervisor for a second opinion of the suspected overflow.	65 01--14	Visited the property. In the corner of the lot near the large barn is where the suspected overflow was. It appears to be runoff from the rain we had. Met with the property owner Jaime Rudy. He thinks it is sewage overflow from the neighbors septic tank. I will ask supervisor for a second opinion of the suspected overflow.
05/19/09			
05/19/2009	No violation noted. Water seeping from ground and puddling in ruts made by vehicle and lawn mowing equipment in an area that may be noted wetland. Met with property owner who offered inspection of septic tank. No evidence of failure.		
05/19/2009	Inspection conducted with Michael Mince. We went to site of suspected sewage over flow. Mike did not observe any odor or sewage. Mike suspected water was from run off from rain we had. Met with Mr. Lyn Hog the property owner of 505 Gun Rd. He showed us his property. There are two septic tanks. A back up tank incase of septic problems with the main tank. There are no leaks observed around septic fields. The complainant will be called in the morning.	65 01--14	Inspection conducted with Michael Mince. We went to site of suspected sewage over flow. Mike did not observe any odor or sewage. Mike suspected water was from run off from rain we had. Met with Mr. Lyn Hog the property owner of 505 Gun Rd. He showed us his property. There are two septic tanks. A back up tank incase of septic problems with the main tank. There are no leaks observed around septic fields. The complainant will be called in the morning.
05/22/09			
05/22/2009	Left a message for complainant. No return message.	65 01--14	Left a message for complainant. No return message.

IT ONLY

CBA Pet. No. 8

PAUL G DONOGHUE &
ELIZABETH A DONOGHUE
508 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900001143
MAP: #108
PARCEL: #60
ZONE: RC 5
RESIDENTIAL

EX. BLDG.

EX. BLDG.

EX. BLDG.

FRANK A LINDBERG
511 GUN RD
BALTIMORE , MD 21227-3826
TAX NO.: 1318350590
MAP: #108
PARCEL: #587
ZONE: RC 5
RESIDENTIAL

EX. 16" WATER
DWG #1962-0550
EX. FIRE HYDRANT

S 70° 10' 16" E
54.75'

POB

PROPOSED RELOCATED FENCE
LOCATION AND/OR EXISTING
FENCE TO BE REMOVED.

18'±

13'±

N 20° 14' 05" E
84.02'

250' SIGHT DISTANCE

S 57° 4' 44" E
217.16'

PROPOSED OUTDOOR PLAY SPACE
(MINIMUM 5' HIGH BOARD ON BOARD
OR STOCKADE FENCE)

N 60° 46' 54" E 30.00'

S 43° 32' 03" E 15.00'

S 45° 48' 52"
72.59'

44'±

45'

40'

52'±

LEON JOSEPH MANUAL SANCHEZ
& SARAH OLIVE SANCHEZ
500 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900005100
MAP: #108
PARCEL: #511
ZONE: RC 5
RESIDENTIAL

EX. FENCE
EX. WATER
METER
EX. WALL

EX. GUY WIRE
EX. TP #285339

10'±

18'±

236'±

EX. MACADAM DRIVEWAY

52'±

EX. SEPTIC
AREA

EX. POOL

EX. 2 CAR
GARAGE

EX.
2 STORY
HOUSE

EX. DECK/
PAVILION

S 43° 32' 03"
21.70'

S 10° 05' 07" W
40.36'

DROP OFF
AREA

EX. TP #285340
EX. ONE WAY SIGN

ONE WAY

GUN ROAD

N 14° 11' 00" E
78.61'

400' SIGHT DISTANCE

KEECH ROAD

N 54° 03' 46" W
133.36'

143'±

WAY

101'

91'±

JAMES A RUDY &
LAURA C RUDY
555 KEECH RD
BALTIMORE , MD 21228-5763
TAX NO.: 2000013412
MAP: #108
PARCEL: #555
ZONE: RC 5
RESIDENTIAL

EX. BARN

S 46° 27' 17" W
255.20'

N 45° 56' 05" W
202.72'

EX. PLAYGROUND
EQUIPMENT AREA

S 46° 27' 17" W 14.10'

EX. GUARD RAIL

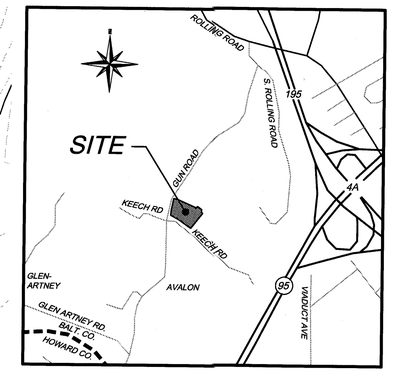
IPF

KEECH ROAD

PATRICIA A SALAS
419 GUN RD
BALTIMORE , MD 21227-3824
TAX NO.: 1319000600
MAP: #108
PARCEL: #368
ZONE: RC 5
RESIDENTIAL

20'±

EX. BLDG.



VICINITY MAP SCALE: 1"=1000'

LEGEND

EX. LOT LINE
EX. BUILDING
EX. 2' CONTOUR
EX. PAVING
EX. ROAD CENTERLINE
EX. PARKING SPACE
EX. TREE LINE
EX. FENCE
EX. STREAM
EX. TREE

SITE DATA:

1. OWNER/ADDRESS: LYNN HOGG
ELIZABETH A. SMITH
505 GUN ROAD
BALTIMORE, MARYLAND 21227
2. APPLICANT: LYNN HOGG
ELIZABETH A. SMITH
505 GUN ROAD
BALTIMORE, MARYLAND 21227
3. PROPERTY ADDRESS: 505 GUN ROAD
BALTIMORE, MARYLAND 21227
4. TAX MAP #/PARCEL: MAP #108 PARCEL 556
5. TAX NO.: 13-1900013720
6. DEED/REFERENCE NO.: 26974/482
7. ACREAGE: 2.442 ACRES ± ((106,373 sf)
8. ZONING: RC 5
9. PROPOSED USE: RESIDENTIAL (RES.) - (4,157 S.F.) AND
GROUP CHILD CARE CENTER (GCCC) - (1,169 S.F.)
10. REQ. PARKING (RES.): 2 PARKING SPACES
11. PROV. PARKING (RES.): 2 PARKING SPACES (LOCATED IN GARAGE)
12. REQ. PARKING (GCCC): 5 PARKING SPACES (MAX. # OF EMPLOYEES
ON LARGEST SHIFT WITH MIN. OF 2)
13. PROV. PARKING (GCCC): 7 PARKING SPACES
14. ELECTION DISTRICT: 13
15. COUNCILMANIC DISTRICT: 1
16. UTILITIES: PUBLIC WATER, PRIVATE SEPTIC

GENERAL NOTES:

1. ALL FENCING SHALL COMPLY WITH THE REQUIREMENTS OF THE BCZR SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF EDUCATION'S OFFICE OF CHILD CARE.
2. PROPOSED SIGNAGE SHALL COMPLY WITH SECTION 450 OF THE BCZR.
3. REQUEST A SPECIAL EXCEPTION TO PERMIT A CLASS B GROUP CHILD CARE CENTER FOR A MAXIMUM OF 24 CHILDREN PER SECTION 424.5.A OF THE BCZR.
4. REQUEST A SPECIAL HEARING TO APPROVE A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12.B OF THE BCZR.
5. BOUNDARY INFORMATION WAS TAKEN FROM A LOCATION DRAWING FOR 505 GUN ROAD PREPARED BY: NTT ASSOCIATES, INC. DATED 2-27-08, DRAWING #20731CAT.
6. GIS DATA: BALTIMORE COUNTY GIS TILE 108B2
7. ZONING: BALTIMORE COUNTY "MY NEIGHBORHOOD ZONING" WEBSITE 11-6-2009.
8. THE CLOSEST ADJOINING STREET IS KEECH ROAD AND IT IS 50± FEET FROM THE 505 GUN ROAD PROPERTY.
9. THERE ARE NO PROPOSED STREET IMPROVEMENTS AND OR RIGHT-OF-WAY HIGHWAY WIDENING FOR THIS PROJECT.
10. PER FEMA FLOOD INSURANCE RATE MAPS # 2400100505F AND 2400100502F THE SITE IS IN ZONE X AND IS NOT WITHIN A 100 YEAR FLOODPLAIN.
11. NO CURBING OR WHEELSTOPS ARE PROPOSED FOR THIS PROJECT.
12. NO ADDITIONAL LIGHTING IS PROPOSED FOR THIS PROJECT.
13. PER BOB MAIOLATESI A REAL ESTATE SPECIALIST II IN BALTIMORE COUNTY'S DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT'S, BUREAU OF LAND ACQUISITION GUN AND KEECH ROADS HAVE AND CONTINUE TO BE MAINTAINED BY BALTIMORE COUNTY AND THERE IS NO RIGHT-OF-WAY.
14. EXCEPT AS SHOWN NO LANDSCAPE IMPROVEMENTS ARE PROPOSED FOR THIS PROPERTY.
15. THE SUBJECT PROPERTY IS NOT WITHIN THE SHED OF A FAILING INTERSECTION OR FAILING WATER OR SEWER AREA PER BALTIMORE COUNTY'S BASIC SERVICES MAPS.
16. THERE ARE NO PRIOR ZONING HEARINGS/CASES FOR THIS PROPERTY ON FILE WITH BALTIMORE COUNTY'S ZONING OFFICE.
17. THE ADJACENT PROPERTY LABELED AS PARCEL 513 ON TAX MAP 108 COULD NOT BE FOUND ON THE MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION, BALTIMORE COUNTY'S REAL PROPERTY DATA SEARCH WEBSITE.

STATE OF MARYLAND
JAMES VINCENT JVHERMANN
No. 1044
REGISTERED LANDSCAPE ARCHITECT
7/9/10

JVHermann & Associates, LLC
1895 Eden Mill Road
Pylesville, Maryland 21132
Phone: 410-688-6005
Email: jvhermann@gmail.com

PLAN TO ACCOMPANY SPECIAL EXCEPTION AND SPECIAL HEARING PETITIONS

Pet 10 A
09-153-SPHX
12-10-09

505 GUN ROAD

BALTIMORE COUNTY, MARYLAND

ELECTION DISTRICT 13 COUNCILMANIC DISTRICT 1

SCALE: 1"=40'	DWG NO. 2009-116A	DATE: 12/08/2009	SHEET: 1 OF 1

PATAPSCO VALLEY STATE PARK

OBLATE SISTERS OF PROVIDENCE

PATAPSCO VALLEY STATE PARK

PAUL G DONOGHUE &
ELIZABETH A DONOGHUE
508 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900001143
MAP: #108 PARCEL: #60
ZONE: RC 5
RESIDENTIAL

LEON JOSEPH MANUAL SANCHEZ
& SARAH OLIVE SANCHEZ
500 GUN RD
BALTIMORE , MD 21227-3825
TAX NO.: 1900005100
MAP: #108
PARCEL: #511
ZONE: RC 5
RESIDENTIAL

FRANK A LINDBERG
511 GUN RD
BALTIMORE , MD 21227-3826
TAX NO.: 1318350590
MAP: #108
PARCEL: #567
ZONE: RC 5
RESIDENTIAL

GUN ROAD

KEECH ROAD

KEECH

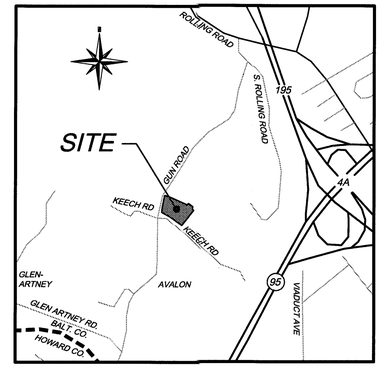
JAMES A RUDY &
LAURA C RUDY
555 KEECH RD
BALTIMORE , MD 21228-5783
TAX NO.: 2000013412
MAP: #108
PARCEL: #555
ZONE: RC 5
RESIDENTIAL

PATRICIA A SALAS
419 GUN RD
BALTIMORE , MD 21227-3824
TAX NO.: 1319000600
MAP: #108
PARCEL: #388
ZONE: RC 5
RESIDENTIAL

ROAD

UMBC TECHNOLOGY RESOURCE CENTER

PATAPSCO VALLEY STATE PARK GLEN ARTNEY AREA



VICINITY MAP

SCALE: 1"=1000'

LEGEND

EX. LOT LINE
EX. BUILDING
EX. 2' CONTOUR
EX. PAVING
EX. ROAD CENTERLINE
EX. TREE LINE
EX. STREAM

Pet 10B

JVHermann & Associates, LLC
1895 Eden Mill Road
Pylesville, Maryland 21132
Phone: 410-688-6005
Email: jvhermann@gmail.com

Pet Ex 10B
09-153-SPHX
12-10-09

CONTEXT EXHIBIT

505 GUN ROAD

BALTIMORE COUNTY, MARYLAND

ELECTION DISTRICT 13 — COUNCILMANIC DISTRICT 1

SCALE: 1"=100'	DWG NO. 2009-116A	DATE: 12/08/2009	SHEET: 1 OF 1

COUNTY HOME PARK COMMUNITY ASSN., INC.
120 GIBBONS BOULEVARD
COCKEYSVILLE, MD 21030

January 24, 2005

Mr. Timothy Kotroco, Director
Department of Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

RE: Zoning Violation: 9811 York Road, Courtney's Restaurant (ID #17-00-001275)

Dear Mr. Kotroco:

I am writing to request your enforcement of a Special Exception for the subject property which allows for parking for a commercial establishment (a restaurant) in a D.R. 3.5 zone. We have complained about this issue in the past. In late 2001 we issued a few complaints about the fact that the subject property had two missing portions of fence which were allowing for employees and customers to park behind the property along Monroe Street and within our community. It took a few months for the violation to be corrected in early 2002 after correction notices were issued and extension dates were granted (Citation #01-7556). In March 2003 we issued another complaint after the same section of fence was missing again and Code Enforcement Office had it taken care of in a reasonably quick time frame.

Then, this past summer, Bare Bones Restaurant closed operations and the Kosmakos family (which had been leasing the restaurant and property to Bare Bones) sold the property on 6/25/04 to Carbroc, LLC, 2219 York Rd, Timonium, MD 21093. This new owner had the building refurbished and it is now occupied by Courtney's Restaurant. This new business seems to be more successful than Kosmakos Restaurant or Bare Bones Restaurant and the parking lot is regularly filled. In addition, as happened in the past, the same section of fence is missing again. This time, the degree of parking within the neighborhood is worse than it ever was with the previous two restaurants and the employees and customers are regularly parking off the west side of Monroe Street behind the fence creating a rutted muddy mess, killing all the grass, and dragging mud into the streets. They have also been parking in front of other residents' homes and on a very narrow Jefferson Avenue, cutting it down to a one-lane roadway where it intersects with Monroe Street.

The fence is to be a <u>solid continuous fence</u> with no missing sections or gates according to the Zoning Commissioner's Order. If it were, we would not be having the problems with the employee and customer parking taking place in our neighborhood. We request your office examine the following items and have all violations corrected immediately:

1. Have all missing sections of the fence replaced and insure that it is one integral fence without sections that are easily removed, as has been continually happening in the past. Have the gate behind 9812 Monroe Street removed and replaced with a solid immovable fence.

2. Check the location of the current fence behind house numbers 9812 & 9814 Monroe Street (both also owned by Carbroc, LLC) to insure that its location matches the location of the fence approved in the Zoning Commissioner's Order. It has recently come to the Association's attention from one of our members that this fence was moved (likely during the time Bare Bones occupied the property) to incorporate the rear yards of these two homes into the parking lot. We believe that this fence relocation, adjacent to and near the rear of the homes, has illegally incorporated the rear yards of these homes within the commercial activity of the restaurant and the parking lot. We do not believe that there is any Special Exception allowing for these rear yards (D.R. 3.5) to be used for parking and they certainly can't be used for part of the commercial activities of the restaurant. (In addition, please be advised that we suspect that the original metal septic tank behind #9812 was never removed when the garage was removed and instead was simply covered up. We similarly suspect that the septic tank behind old #9810, which was torn down many years ago, was also never removed. We suspect both of these tanks to be under the current paved parking lot.)

3. Check to insure that the seating capacity inside the restaurant does not exceed the number of parking spaces allowed for in the Zoning Commissioner's Order. There have been modifications made to the building in the past by the previous owners, and it appears to us that the building has grown to a point that the parking lot is incapable of adequately handling the demands placed on it by the seating capacity being provided within the restaurant. This is probably why the community is taking the brunt of the overflow and why sections of the fence keep mysteriously vanishing.

4. Have Avery Harden check the vegetation (trees) behind the property along the west side of Monroe Street to insure that they meet the requirements of the Zoning Commissioner's Order. A number of the trees have died (or been run into by parked cars and had to be "removed"). In addition, those trees which were planted are very columnar and do extremely little to create a buffer between the restaurant's fence and parking lot and the community. Evergreen trees, such as pines, would take up a much larger space near the trunk of the tree to help ensure that people wouldn't or couldn't park in the space between the fence and Monroe Street. The current trees were planted so close to the fence, they leave considerable room for illegal parking to take place. See what needs to be done to either reseed or re-sod the area between the fence and Monroe Street.

5. Check the two residential properties at 9812 & 9814 to insure that there is no commercial activity taking place within the homes and on the properties themselves. Based on activity levels at the homes and the use of the areas between and behind the homes, it appears that they are not being maintained as residential properties and are really no longer viable as truly residential properties. To our knowledge, there has been no special exceptions granted to allow them to be used in any manner other than single-family homes. In addition, it appears

the rear of the yards were illegally paved, increasing impervious area on the property, and the storm water from this paved area has been channeled onto the residential properties and into Monroe Street. (This paving is new with new concrete curb, gutter, and flume.) Therefore the illegal paving has also been done at the expense of discharging increased storm water runoff directly into our community without any attempt to control it.

We appreciate your attention to this matter and hope that something can be done to bring this new owner into compliance with the Special Exception Zoning Order. While we have had our problems with the previous owner, never have we had such blatant violations as are occurring now. We are aware that some of the noncompliance issues may have been created by the previous owners, the Kosmakos family; however that is not an excuse to force such adverse results upon the community. Instead, if that is the case, the current owner may have legal recourse against the seller. We have attempted to maintain the residential integrity of our neighborhood and have worked with our past County Council members on numerous zoning issues to successfully do so. This is the only property along York Road adjacent to our community where a Special Exception has been granted for parking within a D.R. 3.5 zone. While we don't have a problem with the special exception itself, it is only if it is going to be used in compliance to the original Zoning Order and if the property owner is making a good faith effort to guarantee that their employees are not using our neighborhood as an extension of their parking lot. Previous discussions took place with the County and the Bare Bones management indicating that if they needed overflow parking for their employees, they could use the public parking lot for the County skate park off of Galloway Avenue adjacent to the fire station. Such employees could then walk along Galloway Avenue and York Rd to reach the front entrance of the restaurant for work, if they need to.

We look forward to hearing from you on this matter so we can advise our residents what is going to be done to address this most recent abuse. Should you have any questions, or should the Code Enforcement Office wish to discuss the issue with us, please feel free to give me a call at 410-628-0623.

Sincerely,

David L. Jordan, President
County Home Park Community Assn., Inc.

cc: The Honorable Bryan T. McIntire, Councilman, 3rd District
David A. C. Carroll, Director, Dept. of Environmental Protection & Resource Mgmt.
Lou Miller, President, Greater Timonium Community Council

Resident Agent: Roger J. Sullivan

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

#1

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953
Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY *UNIFORM* CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning: ~~DR-3.5~~
04-3644	17-00-001275	BL-CCC

Name(s): CARROL LLC

Address: 2219 York Road Timonium MD. 21093

Violation Location: 9811 York Road

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:
102.1, 1B01.1A, 230, 504.6 - BCZR
32-3-102 - BCC

Non-compliance with the site plan filed in variance hearing 86-176A in that:

1) Property lacks required number of parking spaces.

2) Stockade fence & compact planting fail to exist adjacent to 9817 York Rd. & the residence known as 9812 Monroe Street.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name _____

INSPECTOR: _____

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:

INSPECTOR NAME: _____
(PRINT NAME)

Copy Distribution: White: Agency Yellow: Violation Site Pink: Defendant Goldenrod: Remains in Book

Rev. 5/05

Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

#2

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:

Name(s):

Address:

Violation Location:

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

3) Compact planting again does not exist in the rear portion of this property adjacent to Monroe Street.

4) A wooden gate has been placed in the rear stockade fence that permits access to this property from Monroe Street.

Correct all issues outlined above or obtain an appointment review date with Zoning Review

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN

Not Later Than:	Date Issued:

INSPECTOR NAME: _____
(PRINT NAME)

Copy Distribution: White: Agency Yellow: Violation Site Pink: Defendant Goldenrod: Remains in Book

Rev. 5/05

Baltimore County
Department of Permits and
Development Management

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

#13

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.

Property No.

Zoning:

Name(s):

Address:

Violation Location:

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

(410-887-3391) TO FILE FOR A SPECIAL HEARING. THE PURPOSE OF THE PUBLIC HEARING WILL BE TO AMEND CASE NO. 86-176A TO PERMIT EXISTING CONDITIONS OVER WHAT WAS ORIGINALLY GRANTED BY THEN ZONING COMMISSIONER ARNOLD JABLON ON 10/31/85.

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 7-21-05

Date Issued: 6-29-05

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF $200, $500, OR $1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name: JAMES H. THOMPSON

INSPECTOR: J. H. Thompson

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:

Date Issued:

INSPECTOR NAME: _____
(PRINT NAME)

Copy Distribution: White: Agency Yellow: Violation Site Pink: Defendant Goldenrod: Remains in Book

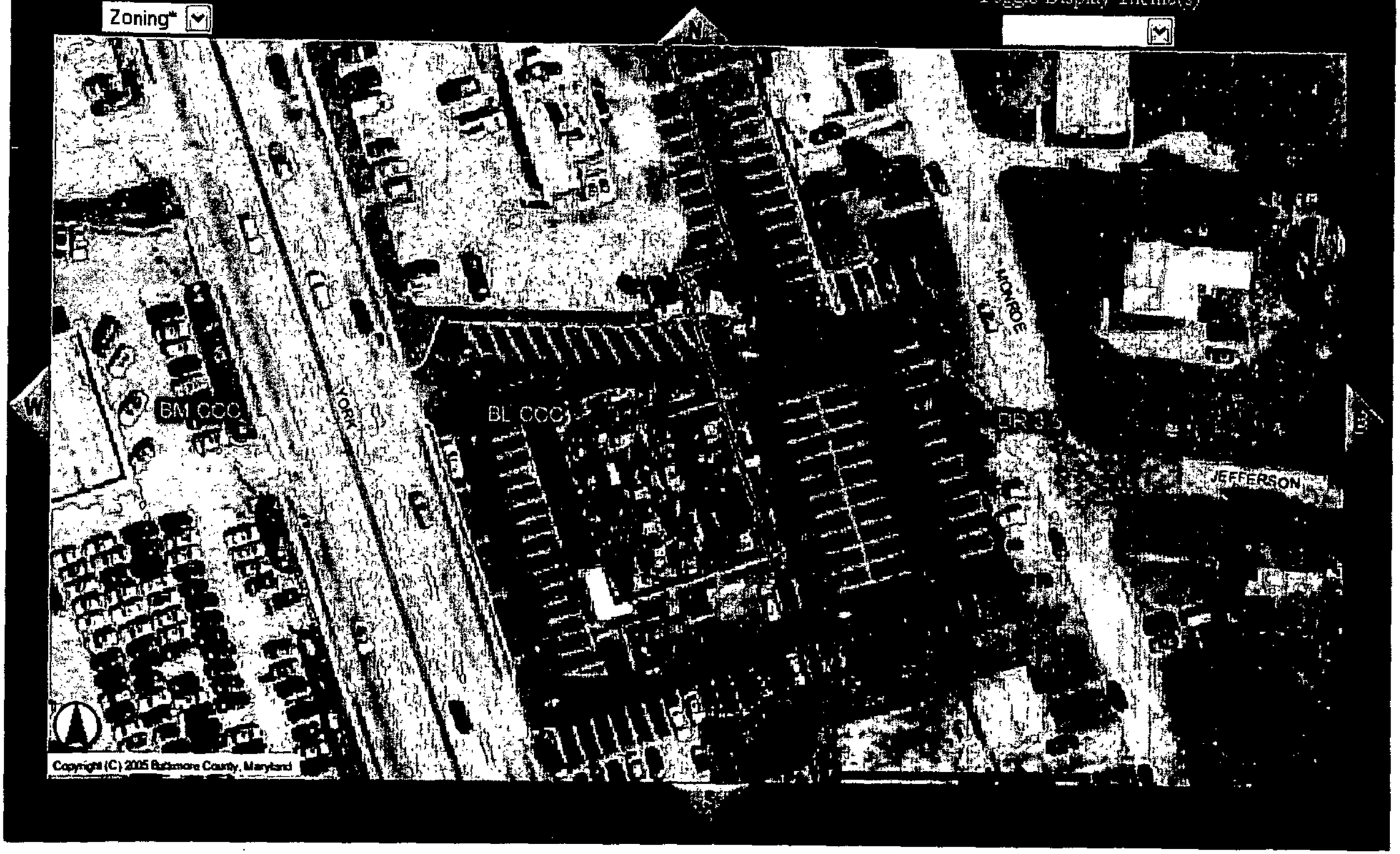
welcome to

Baltimore County, *Maryland*

Select Identify Theme

Zoning*

Toggle Display Theme(s)



IN RE: PETITION ZONING VARIANCE
E/S of York Road, 160' N of
Gibbons Boulevard (9811 York
Road) - 8th Election District
George Kosmakos, et al,
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 86-176-A

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit 100 parking spaces instead of the required 133 spaces, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, by Kosmos Kosmakos, appeared and testified and were represented by Counsel. Mr. Cicero Brown, a registered architect, appeared on behalf of the Petitioners. There were no Protestants.

Testimony indicated that the subject property, zoned B.L., is improved with an existing 5,136 square foot restaurant located on York Road, with Monroe Street, a dead-end street, adjacent to the rear. The Petitioners propose to raze an existing storage area containing 936 square feet to the rear of the building and construct a new addition containing 2,432 square feet. The Petitioners have found that their bar and lounge business is increasing and that more space is needed so as not to disrupt or impede the existing restaurant business. This proposed addition requires 33 more parking spaces.

Since May, 1985, Mr. Brown has visited the site at different times to determine whether the existing 100 parking spaces were ever fully utilized. They were not. Mr. Kosmakos testified that the existing parking area has never been full, and both he and Mr. Brown believe the 100 parking spaces provided will satisfactorily serve the parking needs of the customers.

The site is surrounded by other commerical sites and by some residential homes to the rear sides of the property. These homes, owned by the Petitioners

ORDER RECEIVED FOR FILING
DATE October 31, 1985
BY

ORDER RECEIVED FOR FILING
DATE October 31, 1985
BY

MICROFILMED

MICROFILMED

and by Roeder Travel Agency, which is adjacent to the south on York Road, are screened from the parking lot by a fence and screening. There is no access from the residential zone in the rear to the site. Vehicles of customers could not invade the residential area.

The Petitioners seek relief from Section 409.2.b.(6), pursuant to Section 307, Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning regulation would cause practical difficulty to the petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement from which the Petitioners seek relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

ORDER RECEIVED FOR FILING
Date Oct. 31, 1985
By Ann M. Nastarowicz

MICROFILMED

86-166

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 31st day of October, 1985, that the Petition for Zoning Variance to permit 100 parking spaces instead of the required 133 spaces be and is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Zoning Commissioner of
Baltimore County

AJ/srl

cc: Konstantine Prevas, Esquire

People's Counsel

ORDER RECEIVED FOR FILING
DATE 10/31/85
BY Linda L. Kommel
ADMINISTRATIVE ASSISTANT

PAGE FILMED

Roeder Travel Ltd.

9805 York Road
Cockeysville, MD 21030-4991

12/6/06

To whom It May Concern—

I own Roeder Travel at 9805 York Road Cockeysville, Md. 21030. I also own 9804 Monroe right next door to Pivec's. I also own 2 houses on Jefferson - the street next to Monroe. I am happy that Grant Pivec wants to improve the site by moving the fence back 12 feet. I think it will benefit the neighborhood that I have been involved with for 34 years.

Mimi Roeder Vaughan

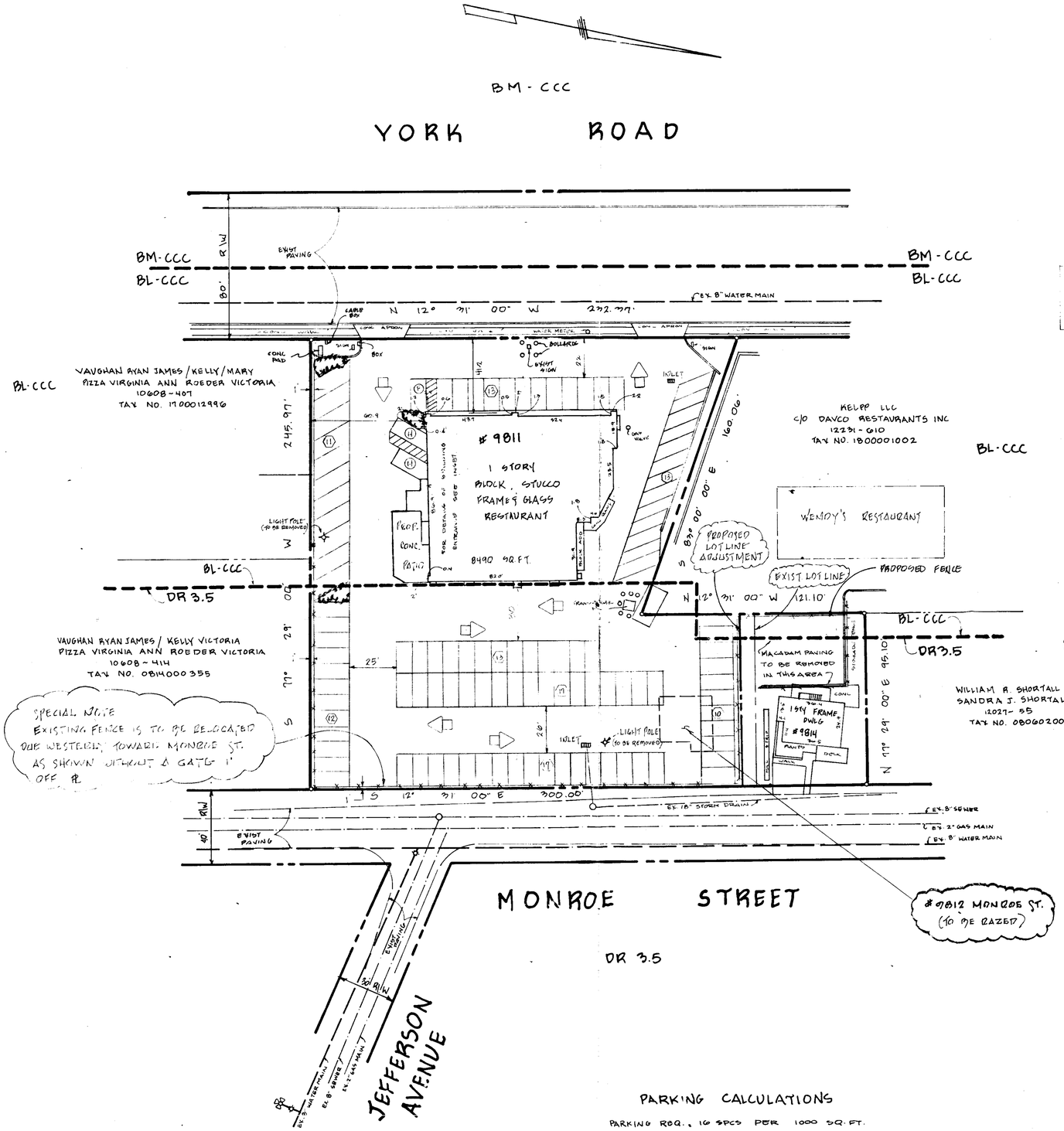
Barbara L Knopp.
Notary public
My Commission expires
August 1, 2007.
Baltimore County,
Maryland

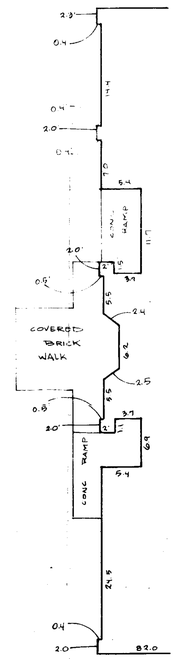
Phone: 410-667-6090 — Fax: 410-667-0106

(11-4)

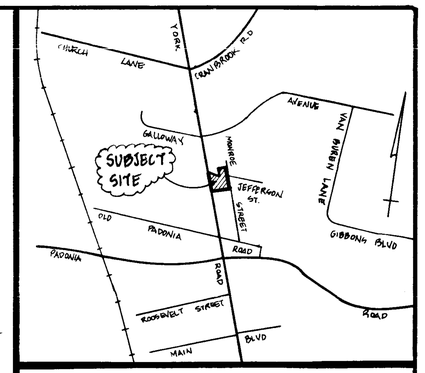
GENERAL NOTES

1. THERE ARE NO ARCHEOLOGICAL SITES, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, CRITICAL AREAS OR HISTORIC BUILDINGS ON THE SUBJECT SITE.
2. THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
3. ALL PARKING SPACES SHALL BE PERMANENTLY STRIPED.
4. THE PARKING LOT SHALL BE PAVED WITH AN APPROVED DUSTLESS & DURABLE SURFACE.
5. HANDICAP PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH STANDARD A.D.A. REGULATIONS.
6. THE PARKING LOT LIGHTING WILL NOT REFLECT ONTO ADJACENT RESIDENTIAL LOTS.
7. THERE ARE NO STREAMS, BODIES OF WATER, OR SPRINGS ON OR ADJACENT TO THE SUBJECT SITE.
8. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.
9. ALL SIGNAGE WILL COMPLY WITH SECTIONS 450 & 250.3.C.7 OF THE BCZR.
10. THERE ARE NO UNDERGROUND STORAGE TANKS ON THE SUBJECT PROPERTY.





ENTRANCE INSET DETAIL
SCALE: 1" = 10'



VICINITY MAP
SCALE: 1" = 1000'

SITE DATA

SITE AREA	1.37 AC.+-
EXIST ZONING	BL-CCC & DR 3.5
ZONING MAP	051 C2
COUNCILMANIC DIST	3RD
EXIST. USE	RESIDENTIAL & RESTAURANT
UTILITIES	EX. SEWER - PUBLIC EX. WATER PUBLIC
TAX MAP / GRID / PARCEL	81 | 18 | 375
DEED REFERENCE	20919 - 681
TAX ACCOUNT NOS.	1100001275, 0807015950 0826020270, 0807051011 0808080071-78

ZONING CASE HISTORY

CASE NO. 86-176-A

OCTOBER 31, 1985. A VARIANCE TO PERMIT 100 PARKING SPACES IN LIEU OF THE REQUIRED 133 SPACES WAS GRANTED.

CASE NO. 74-5-SPH

JULY 20, 1973. A REQUEST FOR COMMERCIAL PARKING IN A RESIDENTIAL ZONE ON THE SUBJECT PROPERTY WAS GRANTED

PARKING CALCULATIONS

PARKING REQ. = 16 SPCS PER 1000 SQ.FT.
AREA = 8490 SQ.FT.
= 16 x 8.49 = 136
PARKING REQ = 136 SPCS MINUS 33 SPCS. (CASE NO. 86-176A) = 103 SPACES
PARKING PROV. = 108 SPCS.

OWNER INFORMATION

CARBROC LLC
2219 YORK ROAD
LUTH-TIMONIUM, MD 21093

REVISIONS		
NO.	DATE	DESCRIPTION
1	1-6-06	PER ATTORNEYS COMMENTS
2	3-31-06	PER ATTORNEYS COMMENTS
3	5-22-06	PER SITE INSPECTION W/OWNER
4	7-19-06	PER ATTORNEYS COMMENTS
5	9-29-06	PER FILING CONFERENCE

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BLDG., TOWSON, MD 21204
PHONE: 823-3535

PLAT TO ACCOMPANY ZONING PETITION
"PIVS PUB"
9811 YORK RD.
9812 MONROE ST.
9814 MONROE ST.

8TH ELECTION DISTRICT — BALTIMORE COUNTY

SCALE 1" = 30'	DES. BY:	SHT.	OF
DATE: DEC. 2, 2005	DRN. BY: S.V.E.		

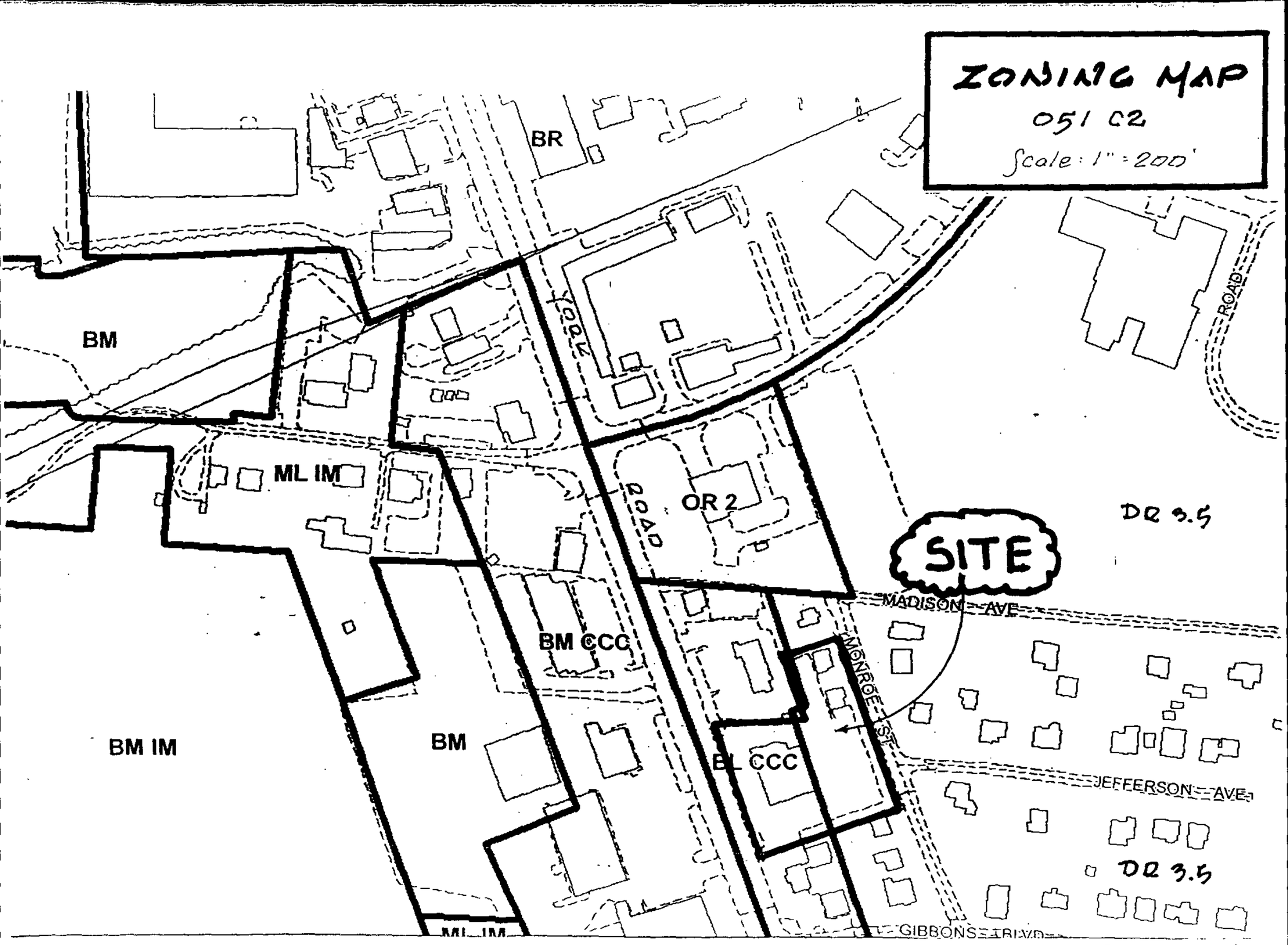
204080

07-158-SPH

ZONING MAP

051 C2

Scale: 1" = 200'



07-158-SPH

BL-CCC

EX. 8" WATER MAIN

N 12° 31' 00" W 232.77'

CABLE BOX

CONC WALK

CONC APRON

WATER METER

CONC PAD

SIGN

BOX

BOLLARDS

EXIST SIGN

22'

INLET

Y TORIA

245.97'

124.7'

60.3

111.2

52.4

9811

1 STORY BLOCK, STUCCO FRAME & GLASS RESTAURANT

8490 SQ. FT.

FOR DETAILS OF BUILDING ENTRANCE SEE INSET.

82.0'

23.5

18.9

GAS VALVE

KELPP LLC
C/O DAVCO RESTAURANTS INC
12231-010
TAX NO. 1800001002

BL-CCC

160.06'

S 83° 00' 00" E

WENDY'S RESTAURANT

PROPOSED LOT LINE ADJUSTMENT

EXIST. LOT LINE

PROPOSED FENCE

50'

PROPOSED NEW FENCE

LIGHT POLE (TO BE REMOVED)

(12 - 9' SPACES @ 10.39' = 124.7')

30'

(12 - 8.5' SPACES = 136')

OR II

N 12° 31' 00" W 121.10'

TRANSFORMER PAD

12 - 8.5' SPACES = 102'

25'

26'

30'

BL-CCC

DR3.5

DR3.5

MACADAM PAVING TO BE REMOVED IN THIS AREA

STOCKADE FENCE (TO BE REMOVED)

30' TRANSFER TO #9815

CONC

1STY FRAME DWLG

9814 [5,700 FT²]

PLANTS

DECK

WALK

CONC STEPS

N 77° 29' 00" E 95.10'

WILLIAM R. SHORTALL
SANDRA J. SHORTALL
12027-55
TAX NO. 0806020075
[8,613 FT²]
9816

[7,560 FT²]
9804

14 - 8.5' SPACES = 119'

20 - 8.5' SPACES = 170'

INLET

LIGHT POLE (TO BE REMOVED)

9812

8.5' SPACES = 76.5'

8.5' SPACES = 59.5'

6'

S 12° 31' 00" E 300.00'

EX. 18" STORM DRAIN

EX. 8" SEWER

EX. 2" GAS MAIN

EX. 8" WATER MAIN

MIN. 6' WIDE LANDSCAPING BUFFER

ALL NEW PERIMETER FENCE (FINISHED SIDE FACING RESIDENTIAL AREA)

9807 [12,516 FT²]

9811 [13,500 FT²]

9813 [8,625 FT²]

9815 [9,702 FT²]

COMMUNITY

EXHIBIT NO. 1

COVERED BRICK WALK

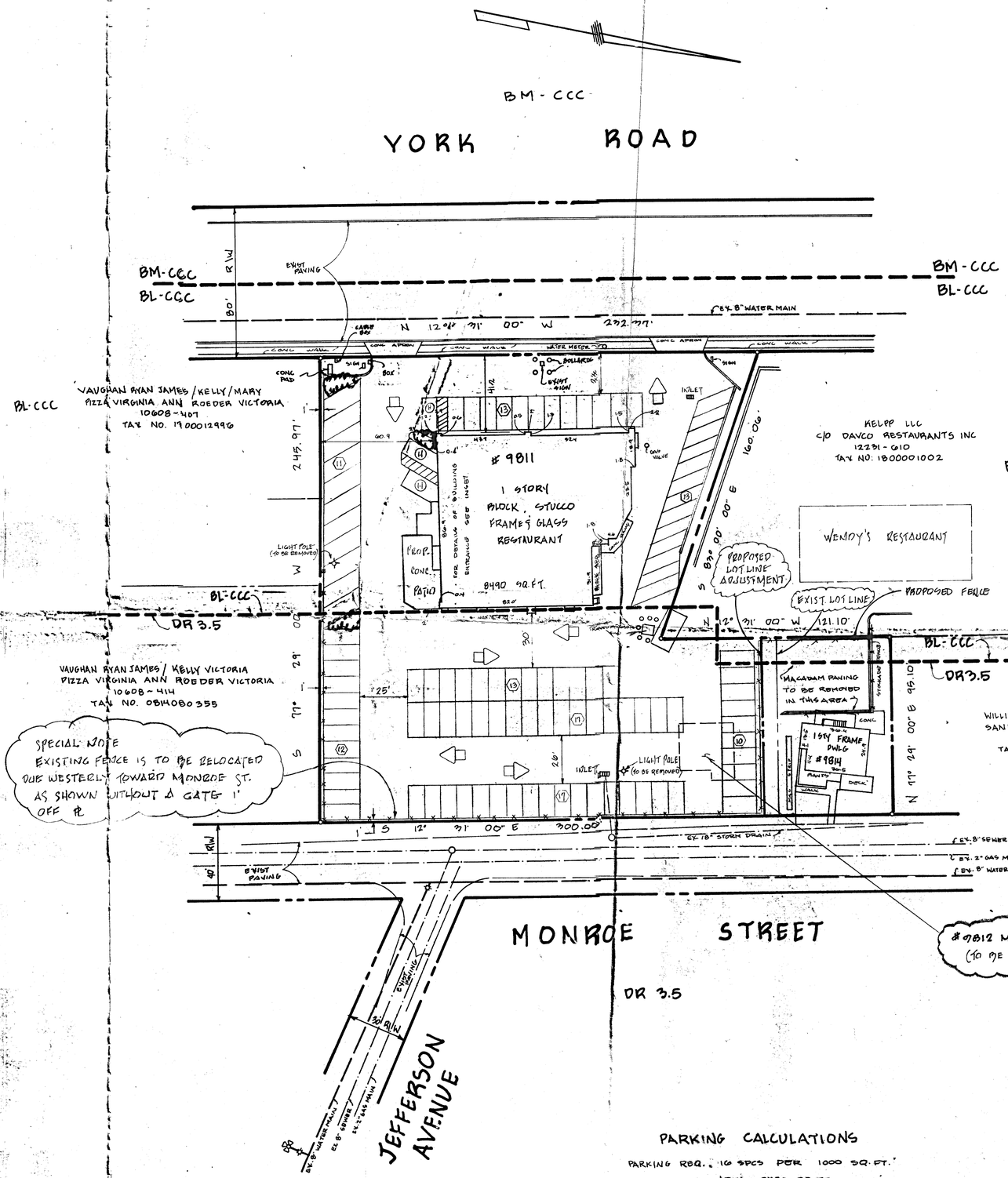
CONC RAMP

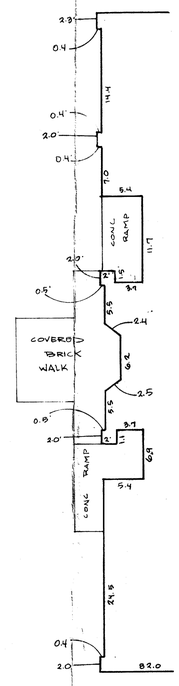
ENTRANCE INSE

SCALE: 1"=10'

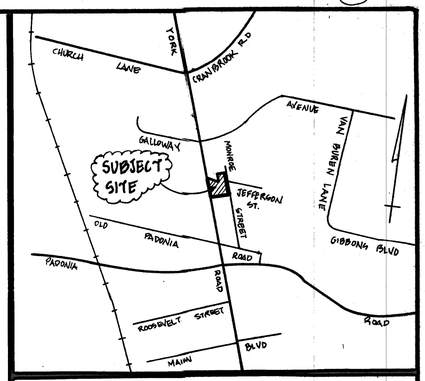
GENERAL NOTES

1. THERE ARE NO ARCHEOLOGICAL SITES, HAZARDOUS MATERIALS, ENDANGERED SPECIES HABITATS, CRITICAL AREAS OR HISTORIC BUILDINGS ON THE SUBJECT SITE.
2. THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
3. ALL PARKING SPACES SHALL BE PERMANENTLY STRIPED.
4. THE PARKING LOT SHALL BE PAVED WITH AN APPROVED DUSTLESS & DURABLE SURFACE
5. HANDICAP PARKING SPACES SHALL BE PROVIDED IN ACCORDANCE WITH STANDARD A.D.A. REGULATIONS.
6. THE PARKING LOT LIGHTING WILL NOT REFLECT ONTO ADJACENT RESIDENTIAL LOTS.
7. THERE ARE NO STREAMS, BODIES OF WATER, OR SPRINGS ON OR ADJACENT TO THE SUBJECT SITE.
8. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.
9. ALL SIGNAGE WILL COMPLY WITH SECTIONS 450 & 250.3.C.7 OF THE BCZR.
10. THERE ARE NO UNDERGROUND STORAGE TANKS ON THE SUBJECT PROPERTY.





ENTRANCE INSET DETAIL
SCALE: 1" = 10'



VICINITY MAP
SCALE: 1" = 1000'

SITE DATA

SITE AREA	1.37 AC +-
EXIST ZONING	BL-CCC & DR 3.5
ZONING MAP	051 C2
COUNCILMANIC DIST	3RD
EXIST. USE	RESIDENTIAL & RESTAURANT
UTILITIES	EX. SEWER - PUBLIC EX. WATER PUBLIC
TAX MAP / GRID / PARCEL	81 / 18 / 375
DEED REFERENCE	20919 - 651
TAX ACCOUNT NOS.	1900001275, 0807015950 0826020270, 0807061011 0806080077-78

ZONING CASE HISTORY

CASE NO. 86-176-A

OCTOBER 31, 1985, A VARIANCE TO PERMIT 100 PARKING SPACES IN LIEU OF THE REQUIRED 133 SPACES WAS GRANTED.

CASE NO. 74-5-SPH

JULY 20, 1973, A REQUEST FOR COMMERCIAL PARKING IN A RESIDENTIAL ZONE ON THE SUBJECT PROPERTY WAS GRANTED

PARKING CALCULATIONS

PARKING REQ. = 16 SPCS PER 1000 SQ. FT.
AREA = 8490 SQ. FT.
= 16 x 8.49 = 136
PARKING REQ. = 136 SPCS MINUS 33 SPCS. (CASE NO. 86-176A) = 103 SPACES
PARKING PROV. = 108 SPCS.

This is 1

OWNER INFORMATION

CARIBROC LLC
2219 YORK ROAD
LUTH-TIMONIUM, MD 21093

REVISIONS		
NO.	DATE	DESCRIPTION
1	1-6-06	PER ATTORNEYS COMMENTS
2	3-31-06	PER ATTORNEYS COMMENTS
3	5-24-06	PER SITE INSPECTION W/OWNER
4	9-19-06	PER ATTORNEYS COMMENTS
5	9-29-06	PER FILING CONFERENCE

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BLDG., TOWSON, MD 21204
PHONE: 823-3535

PLAT TO ACCOMPANY ZONING PETITION
"PIVS PUB"
9811 YORK RD.
9812 MONROE ST.
9814 MONROE ST.

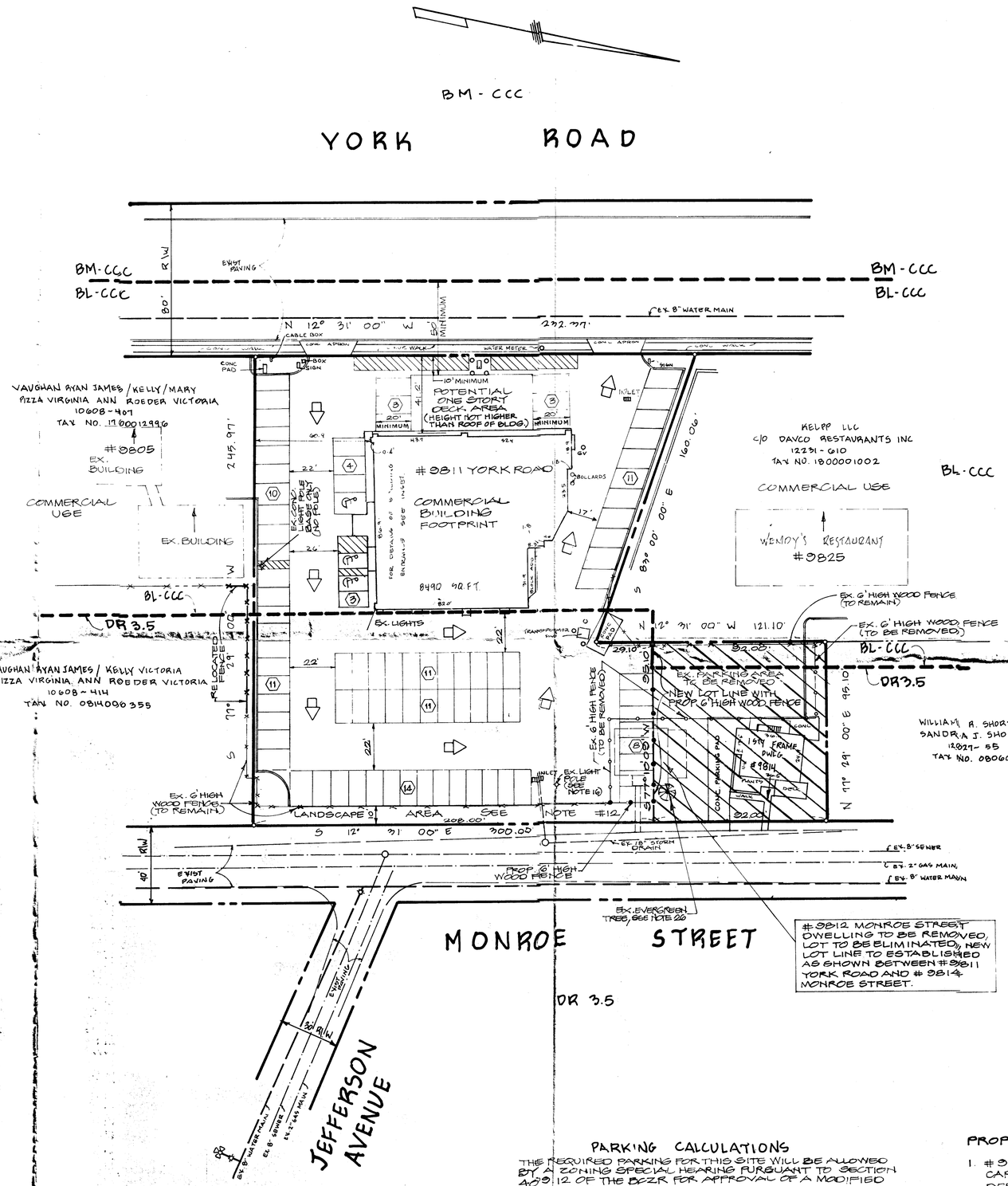
8TH ELECTION DISTRICT BALTIMORE CO. MD.

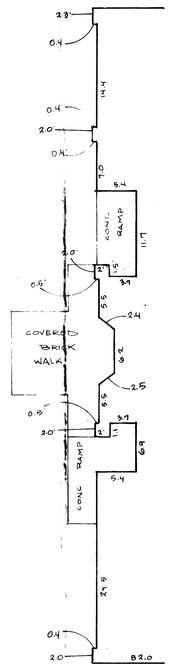
SCALE: 1" = 30' | DES. BY: | SHT. OF
DATE: DEC. 7, 2005 | DRN. BY: JLE

204030

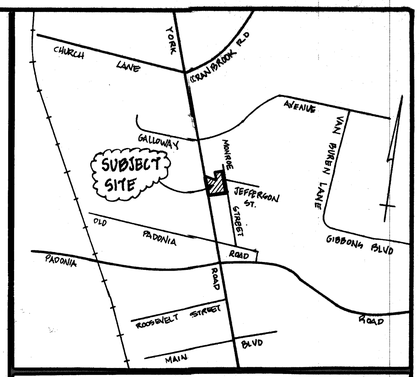
GENERAL NOTES / REVISED REQUEST & CONDITIONS

1. There are no archeological sites, hazardous materials, endangered species habitats, critical areas or historic buildings on the subject site.
2. The subject property does not lie within the Chesapeake Bay Critical Area.
3. All parking spaces shall be permanently striped.
4. The parking lot shall be paved with an approved dustless & durable surface.
5. Handicapped parking spaces shall be provided in accordance with standard ADA Regulations.
6. The parking lot lighting will not reflect onto adjacent residential lots.
7. There are no streams, bodies of water, or springs on or adjacent to the subject site.
8. The subject property does not lie within a 100 year flood plain.
9. All signage will comply with Sections 450 & 250.3.c.7 of the BCZR.
10. There are no underground storage tanks on the subject property.
11. A new lot line will be established between 9814 Monroe Street and 9811 York Road and the lot and dwelling originally identified as 9812 Monroe Street will be eliminated.
12. Landscaping along Monroe Street shall be provided by planting arborvitae along the fence at 10 foot intervals, each a 4 foot distance from the fence.
13. Fencing shown is 8' high stockade to shield visibility. (See Legend)
14. No live outdoor performances shall be permitted on the future deck, and no deck shall be permitted along back or sides of building.
15. Any speakers on the deck shall be located no closer than 30 feet to the northwest and southwest corners of the building, respectively. Consultation with the community about any volume adjustments should be made after the installation.
16. All lighting will be installed in such a fashion to be directed away from any neighboring residential properties. Existing poles & lighting will be either redirected or relocated subject to County Landscape Architect, with 250 watt shoebox lighting or similar.
17. Amenity open space provided. NOT APPLICABLE
Amenity open space required- .2 (minimum).
18. Floor area ratio provided 8490÷50928=0.167.
Floor area ratio allowed- .4 (maximum).
19. Number of parking spaces provided-88, 53 in the D.R. 3.5 zone.
20. This Plan is submitted to approve a modified parking plan to permit the number and configuration of the parking area as shown; and,
21. to approve an amended site plan from the plan approved in cases #74-5-SPH and 86-176-A; and,
22. to confirm that commercial/business parking is permitted in a residential zone as shown on this amended Plan; and,
23. to permit the dwelling at 9812 Monroe Street to be razed; and,
24. to approve a lot line adjustment to eliminate 9812 Monroe Street and expand 9811 York Road and 9814 Monroe Street as shown.
25. 9814 Monroe Street (92'x95.1') shall be single dwelling lot in one tax account as shown as ▨. Existing parking area to be removed and such lot shall not be resubdivided.
26. Existing evergreen tree on 9814 Monroe Street shall be preserved, if possible.
27. A deck may be built within the potential deck area shown on the plan. It may have a covered roof and is subject to the restrictions contained in these notes.





ENTRANCE INSET DETAIL
SCALE: 1"=10'



VICINITY MAP
SCALE: 1"=1000'

EX. SITE AREA :

TOTAL :	1.366 AC. ±
9811 YORK ROAD :	1.044 AC. ±
9812 MONROE STREET:	0.192 AC. ±
9814 MONROE STREET:	0.131 AC. ±

PROP SITE AREA :

TOTAL :	1.366 AC. ±
9811 YORK ROAD :	1.165 AC. ±
9812 MONROE STREET :	0.000 AC. ±
9814 MONROE STREET :	0.201 AC. ±

EX. ZONING : BL-CCC & DR 3.5
ZONING MAP NO. : 05 I C 2
COUNCILMANIC DISTRICT : 3RD
EX. USE : RESIDENTIAL & RESTAURANT
UTILITIES : EX. SEWER - PUBLIC
EX. WATER - PUBLIC
TAX MAP 51 · GRID 18 · PARCEL 375

LEGEND

PROPERTY LINE
ZONING LINE — BL-CCC / DR 3.5
EX. 6' HIGH WOOD FENCE (TO REMAIN)
RELOCATED 6' HIGH WOOD FENCE
EX. 6' HIGH WOOD FENCE (TO BE REMOVED)
PROP. 6' HIGH WOOD FENCE

ZONING CASE NO. 07-158-SPH

RELIEF REQUESTED
AMENDED PETITION FOR SPECIAL HEARING FOR A USE PERMIT TO ALLOW BUSINESS PARKING IN A RESIDENTIAL ZONE AND FOR A MODIFIED PARKING PLAN.

REVISIONS		
NO.	DATE	DESCRIPTION
1	5-14-08	REV. PER ATTORNEY'S COMMENTS
2	9-10-08	REV. PER ATTORNEY'S COMMENTS
3	10-2-08	REV. PER ATTORNEY'S COMMENTS
4	11-14-08	REV. PER ATTORNEY'S COMMENTS
5	12-10-08	REV. PER ATTORNEY'S COMMENTS

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BLDG., TOWSON, MD 21204
PHONE: 823-3535

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

"PIVS PUB"
9811 YORK RD.
9812 MONROE ST.
9814 MONROE ST.

8TH ELECTION DISTRICT BALTIMORE CO. MD.

SCALE: 1"=20' | DES. BY: N/A
DATE: MAY 28, 2008 | DRN. BY: J.R.K.
SHT. 1 OF 1

ZONING CASE HISTORY

CASE NO. 86-176-A

OCTOBER 31, 1985, A VARIANCE TO PERMIT 100 PARKING SPACES IN LIEU OF THE REQUIRED 133 SPACES WAS GRANTED.

CASE NO. 74-5-SPH

JULY 20, 1973, A REQUEST FOR COMMERCIAL PARKING IN A RESIDENTIAL ZONE ON THE SUBJECT PROPERTY WAS GRANTED

PARKING CALCULATIONS

THE REQUIRED PARKING FOR THIS SITE WILL BE ALLOWED BY A ZONING SPECIAL HEARING PURSUANT TO SECTION 409.12 OF THE BCZR FOR APPROVAL OF A MODIFIED PARKING PLAN.

PROPERTY OWNERS

1. # 9811 YORK ROAD
CARBROC LLC
DEED 20319/651 TA NO. 17000012775
2. # 9814 MONROE STREET
TODD D. PIVEC
DEED 23688/706 TA NO. 0826020270
3. # 9812 MONROE STREET
CARBROC LLC
DEED 20319/651 TA NO. 0808080077

#2

6-21-85

CASE No. 86-176-A

PARKING REQUIREMENTS

EXISTING RESTAURANT	5138 Sq Ft.
EXIST. STORAGE ADDITION TO BE RAZED:	(MINUS) 930 Sq Ft.
PROPOSED ADDITION	2432 Sq Ft.
TOTAL AREA	6632 Sq Ft

6632/50 = 133 SPACES REQUIRED
100 SPACES PROVIDED
VARIANCE REQUEST FOR 33 SPACES.

