ORDERS
OPINIONS
MEMORANDA

(1)

~~May 25, 2010 @ 10 AM~~

~~Initial Order~~
~~Initial Status~~

~~09-323-A~~

20070245 "A"
supplemental

rd of
h the
SHARON SUREO
3416 Zion Road

10/31/08

IN THE CIRCUIT COURT *
FOR BALTIMORE COUNTY
*
PETITION OF:
WINDSOR ROLLING ROAD PROPERTY, LLC *
AND ST. JOHN PROPERTIES, INC.
2650 LORD BALTIMORE DRIVE *
BALTIMORE, MARYLAND 21224
*
and
*
FOR JUDICIAL REVIEW OF THE OPINION OF * CIVIL ACTION
THE COUNTY BOARD OF APPEALS No. **03-C-08-009183**
OF BALTIMORE COUNTY *
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue *
Towson, Maryland 21204
*
IN THE MATTER OF THE APPLICATION OF
WOODLAND SERVICES, LLC, Legal Owner *
FOR SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE e/S OF ROLLING ROAD *
1,100' N C/LINE OF TUDSBURY ROAD
(2701 ROLLING ROAD) *
2ND ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT
*
BOARD OF APPEALS CASE NO. 07-245-X
*

RECEIVED AND FILED
2008 OCT 31 PM 12:51
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file with the Zoning Commissioner and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 07-245-X

November 30, 2006	Petition for Special Exception filed by Woodland Services, LLC, through its attorney, Michael P. Tanczyn, Esquire, for a car wash as a use in combination with uses previously approved in Case No. 02-016-X
December 11	Entry of Appearance filed by People's Counsel for Baltimore County.
January 31, 2007	Notice of Zoning Hearing
February 22	Publication in newspaper
February 28	ZAC Comments
March 5	Certificate of Posting.
March 5	Hearing held before the Zoning Commissioner
April 24	Findings of Fact and Conclusions of Law issued by the Zoning Commissioner. Petition for Special Exception was GRANTED with restrictions.
May 9	Notice of Appeal filed by Arnold Jablon, Esquire, on behalf of Windsor Rolling Road, LLC and St. John Properties, Protestants.
October 23	Originally scheduled for hearing before the Board with related Case No. 06-583-SPH. This case (no. 07-245-X) was continued pending the outcome of Case No. 06-583-SPH. A copy of the transcript for this date is attached for your reference.
March 20, 2008	Hearing before the Board

Exhibits submitted at hearing (two days) before the Board of Appeals:

Petitioner's Exhibit No.

1 – Site Plan 2701 Rolling Road 7/5/01
2 – Site Plan Osprey Food Market 5/30/02
3 – Site Plan Osprey Food Market for the Board of Appeals 10/22/07
4 – Copy of Baltimore County Tax Map
5 – Aerial Photographs 87-C2, 87-3 of the site

6 – Baltimore County Zoning Map of the area
7 – Signed Contract to correct the parking spaces
8 – Eight photographs taken in the vicinity of the car wash before the corrective measures Labeled A-H
9 – Four photographs same as Exhibit No. 8
10 – Case No. 02-016-X
11 – Site Plan before the Zoning Commissioner (Petitioner's No 3)
12 – Permit for sign
13 – Permit for sign

Protestants' Exhibit No.

1 – Petition for Special Exception 07-245-X
2 – Zoning Hearing Checklist
3 – Case No. 06-583-SPH before the Deputy Zoning Commissioner
4 – Declaration of Easements, Covenants and Restrictions.

April 21	Memorandum of Protestants filed by Arnold Jablon, Esquire on behalf of Windsor Rolling Road, LLC and St. John Properties, Inc, Protestants.
April 21	Petitioners Memorandum filed by Michael P. Tanczyn, Esquire on behalf of Woodland Services, LLC, Petitioners.
May 29	Public deliberation held by Board of Appeals.
July 31	Final Opinion and Order issued by the Board in which the Petition for Special Exception relief was GRANTED.
August 28	Petition for Judicial Review filed in the Circuit Court for Baltimore County by Christopher D. Mudd, Esquire, and Arnold Jablon, Esquire on behalf of Windsor Rolling Road, LLC and St. John Properties, Inc.
September 4	Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.
September 5	Answer to Petition for Judicial Review filed in the Circuit Court for Baltimore County by Michael P. Tanczyn, Esquire on behalf of Woodland Services, LLC.
September 9	Certificate of Notice sent to interested parties.
October 31, 2008	Transcript of testimony filed.
October 31, 2008	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Sunny Cannington

Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204
410-887-3180

c: Michael Tanczyn, Esquire
Arnold Jablon, Esquire
Christopher D. Mudd, Esquire
Woodland Services, LLC/Sajid Choudhry, Managing Member
Iftkhar Ahmad
Windsor Rolling Road, LLC./Gerard Wit, Vice President
St. John Properties, Inc./Tom Pilon
Office of People's Counsel

PETITION OF WINDSOR ROLLING ROAD PROPERTY, LLC AND ST. JOHN PROPERTIES, INC. 2650 Lord Baltimore Drive Baltimore, Maryland 21224	* * *	IN THE CIRCUIT COURT FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Jefferson Building Second Floor, Suite 203 105 West Chesapeake Avenue Towson, Maryland 21204	* * * *	BALTIMORE COUNTY Civil Action No.: 03-C-08-9183
IN THE MATTER OF THE APPLICATION OF WOODLAND SERVICES, LLC, Legal Owner FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE E/S OF ROLLING ROAD 1,100' N C/Line Tudsbury Road (2701 Rolling Road) Case No.: 07-245-X	* * * * *	

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

ANSWER TO PETITION FOR JUDICIAL REVIEW

Now comes, WOODLAND SERVICES, LLC, Legal Owner of the property and responded herein by its attorney, ***Michael P. Tanczyn, Esquire***, and pursuant to Maryland Rule 7-204, responds to the Petition for Judicial Review filed as follows:

1. Woodland Services, LLC, was a party below and intends to participate in the Petition for Judicial Review.

2. Windsor Rolling Road Property, LLC was found to lack standing as a party because of its position as a competitor of the Osprey station. Therefore, Respondent denies the Petitioner's allegations that Windsor participated in the Board of Appeals hearing in Case No.: 07-245-X before the Board of Appeals as a party following its dismissal as a competitor. Further, the Circuit Court for Baltimore County in Case No.: 03-C-08-001373 issued August 20, 2008, by The Honorable Dana M. Levitz affirmed the Board of Appeals' Decision in Case No.: 06-583 SPH. (Copy of Opinion attached). Therefore Windsor Rolling Road Property, LLC should not be a party in this appeal as it was not a party before the Board of Appeals and the hearing on Case No.: 07-245-X.

Respectfully submitted,

MICHAEL P. TANCZYN, Esquire
606 Baltimore Avenue
Suite 106
Towson, Maryland 21204
410-296-8823
Attorney for Respondent,
Legal Property Owner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of September, 2008, a copy of the aforegoing Answer to Petition for Judicial Review was mailed, first-class mail, postage pre-paid to: Arnold Jablon, Esquire, Christopher D. Mudd, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, Maryland 21204, Attorney for Petitioners, Windsor Rolling Road Property, LLC and St. John Properties, Inc.

MICHAEL P. TANCZYN, Esquire

9/66/08

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

RECEIVED
SEP 18 2008
BALTIMORE COUNTY
BOARD OF APPEALS

September 16, 2008
#2006-030

Clerk
Circuit Court
for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Response to Petition for Judicial Review of Windsor Rolling Road Property, LLC, et al.
Case No.: 03-C-08-9183

Dear Madam Clerk:

Enclosed herewith is the Response to Petition for Judicial Review of Windsor Rolling Road Property, LLC, *et al.* for filing in this matter.

Thank you for your assistance in this regard.

Very truly yours,

Michael P. Tanczyn

MPT:mlg

Enclosure

cc: Ms. Kathleen Bianco
County Board of Appeals
Arnold Jablon, Esquire
Christopher Mudd, Esquire
Woodland Services, LLC

9/9/08

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY	*	
	*	
PETITION OF: WINDSOR ROLLING ROAD PROPERTY, LLC AND ST. JOHN PROPERTIES, INC. 2650 LORD BALTIMORE DRIVE BALTIMORE, MARYLAND 21224	* * *	CIVIL ACTION
	*	NO.: 03-C-08-009183
FOR JUDICIAL REVIEW OF THE OPINION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING – ROOM 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	* * *	
IN THE MATTER OF: WOODLAND SERVICES, LLC, Legal Owner FOR SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE e/S OF ROLLING ROAD 1,100' N C/LINE OF TUDSBURY ROAD (2701 ROLLING ROAD)	* * *	
	*	
2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	
BOARD OF APPEALS CASE NO.: 07-245-X	*	

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

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

Woodland Services, LLC
Sajid Choudhry, Managing Member
2913 George Howard Way
Davidsonville, MD 21035

Arnold Jablon, Esquire
Christopher D. Mudd, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Iftkhar Ahmad
10346 Champion Way
Laurel, MD 20707

RECEIVED AND FILED
2008 SEP -9 AM 11: 11
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Gerard Wit, Vice President
Edward St John, General Manager
Windsor Rolling Road Property, LLC
2560 Lord Baltimore Drive
Baltimore, MD 21244

Office of Peoples Counsel
The Jefferson Building, Suite 204
150 W. Chesapeake Avenue
Towson, MD 21204

Tom Pilon
St John Properties Inc
2560 Lord Baltimore Drive
Baltimore, MD 21244

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Sunny Cannington

Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

I HEREBY CERTIFY that on this 9th day of September, 2008, a copy of the foregoing Certificate of Notice has been mailed to: Michael Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, MD 21204; Arnold Jablon, Esquire, Christopher D. Mudd, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204; Woodland Services, LLC, Sajid Choudhry, Managing Member, 2913 George Howard Way, Davidsonville, MD 21035; Iftkhar Ahmad, 10346 Champion Way, Laurel, MD 20707; Gerard Wit, Vice President, Edward St John, General Manager, Windsor Rolling Road Property, LLC, 2560 Lord Baltimore Drive, Baltimore, MD 21244; Tom Pilon, St John Properties Inc, 2560 Lord Baltimore Drive, Baltimore, MD 21244; Office of Peoples Counsel, The Jefferson Building, Suite 204, 150 W. Chesapeake Avenue, Towson, MD 21204.

Sunny Cannington

Sunny Cannington, Legal Secretary
County Board of Appeals
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180

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

September 9, 2008

Arnold Jablon, Esquire
Christopher D. Mudd, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21285

RE: Circuit Court Civil Action No. 03-C-08-9183
Petition for Judicial Review of Windsor Rolling Road Property, LLC, et al.
Woodland Services, LLC
Board of Appeals Case No.: 07-245-X

Dear Counsel:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit the same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-828-4160
HEARING DATE: October 23, 2007 and March 20, 2008

This office has also notified Ms. Peatt that the transcripts on the above captioned matter are due by November 3, 2008, for filing in the Circuit Court. A copy of your Petition, which includes your telephone number, has been provided to the Court Reporter, which enables her to contact you for payment provisions.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Sunny Cannington

Sunny Cannington
Legal Secretary

Enclosure

c: Carolyn Peatt
Woodland Services, LLC
Iftkhar Ahmad
St. John Properties, LLC
Michael Tanczyn, Esq.
Sajid Choudhry
Windsor Rolling Road Properties, LLP
Peter M. Zimmerman, Esq.

9/3/08

PETITION OF WINDSOR ROLLING ROAD PROPERTY, LLC AND ST. JOHN PROPERTIES, INC. 2650 Lord Baltimore Drive Baltimore, Maryland 21224	*	IN THE CIRCUIT COURT FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Jefferson Building Second Floor, Suite 203 105 West Chesapeake Avenue Towson, Maryland 21204	*	BALTIMORE COUNTY Civil Action No.:_____
IN THE MATTER OF THE APPLICATION OF WOODLAND SERVICES, LLC, Legal Owner FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE E/S OF ROLLING ROAD 1,100' N C/Line Tudsbury Road (2701 Rolling Road) Case No.: 07-245-X	*	

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

ANSWER TO PETITION FOR JUDICIAL REVIEW

Now comes, WOODLAND SERVICES, LLC, Legal Owner of the property and responded herein by its attorney, ***Michael P. Tanczyn, Esquire***, and pursuant to Maryland Rule 7-204, responds to the Petition for Judicial Review filed as follows:

1. Woodland Services, LLC, was a party below and intends to participate in the Petition for Judicial Review.

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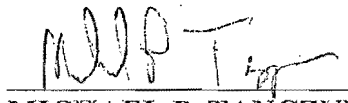
BALTIMORE COUNTY
BOARD OF APPEALS

2. Windsor Rolling Road Property, LLC was found to lack standing as a party because of its position as a competitor of the Osprey station. Therefore, Respondent denies the Petitioner's allegations that Windsor participated in the Board of Appeals hearing in Case No.: 07-245-X before the Board of Appeals as a party following its dismissal as a competitor. Further, the Circuit Court for Baltimore County in Case No.: 03-C-08-001373 issued August 20, 2008, by The Honorable Dana M. Levitz affirmed the Board of Appeals Decision in Case No.: 06-583 SPH. (Copy of Opinion attached). Therefore Windsor Rolling Road Property, LLC should not be a party in this appeal as it was not a party before the Board of Appeals and the hearing on Case No.: 07-245-X.

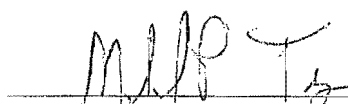
Respectfully submitted,



MICHAEL P. TANCZYN, Esquire
606 Baltimore Avenue
Suite 106
Towson, Maryland 21204
410-296-8823
Attorney for Respondent,
Legal Property Owner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3d day of September, 2008, a copy of the aforegoing Answer to Petition for Judicial Review was mailed, first-class mail, postage pre-paid to: Arnold Jablon, Esquire, Christopher D. Mudd, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, Maryland 21204, Attorney for Petitioners, Windsor Rolling Road Property, LLC and St. John Properties, Inc.



MICHAEL P. TANCZYN, Esquire

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

September 2, 2008
#2006-089

Clerk
Circuit Court
for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Application of Woodland Services, LLC, Petition for Judicial Review
Case No.: _____

Dear Madam Clerk:

Enclosed herewith is the response with Opinion Exhibit of the Legal Owner, Woodland Services, LLC, Respondent for filing in this matter.

Thank you for your assistance in this regard.

Very truly yours,

Michael P. Tanczyn

MPT:mlg

Enclosure

cc: Ms. Kathleen Bianco
County Board of Appeals
Arnold Jablon, Esquire
Christopher Mudd, Esquire
Woodland Services, LLC

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BALTIMORE COUNTY
BOARD OF APPEALS

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

September 9, 2008

Michael Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, MD 21204

RE: Circuit Court Civil Action No. 03-C-08-9183
Petition for Judicial Review of Windsor Rolling Road Property, LLC, et al.
Woodland Services, LLC
Board of Appeals Case No.: 07-245-X

Dear Mr. Tanczyn:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on August 28, 2008 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 03-C-08-009183.**

Very truly yours,

Sunny Cannington

Sunny Cannington
Legal Secretary

Enclosure

c: Arnold Jablon, Esquire
Christopher D. Mudd, Esquire
Woodland Services, LLC
Sajid Choudhry
Iftkhar Ahmad
Kenneth Colbert
Nicholas J. Brader, III, PE
Windsor Rolling Road Property, LLP/Gerard Wit, Vice President
St. John Properties, LLC/Tom Pilon
Leonard Wasilewski, Code Inspector/PDM
Office of People's Counsel
William J. Wiseman, III/Zoning Commissioner
Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney

8/28/08

PETITION OF	*	IN THE
WINDSOR ROLLING ROAD PROPERTY, LLC AND ST. JOHN PROPERTIES, INC.	*	CIRCUIT COURT
2650 LORD BALTIMORE DRIVE BALTIMORE, MD 21244	*	FOR
	*	BALTIMORE COUNTY
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY JEFFERSON BUILDING SECOND FLOOR, SUITE 203 105 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204	*	
IN THE MATTER OF THE APPLICATION OF WOODLAND SERVICES, LLC – LEGAL OWNER, FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON THE E/S OF ROLLING RD, 1,100' N C/LINE TUDSBURY RD (2701 ROLLING ROAD)	*	CIVIL ACTION NO. _____ C089183
CASE NO. 07-245-X	*	

* *

PETITION FOR JUDICIAL REVIEW

Windsor Rolling Road Property, LLC ("Windsor") and St. John Properties, Inc. ("SJP"), Petitioners, by Arnold Jablon and Christopher D. Mudd with Venable LLP, its attorneys, pursuant to Maryland Rules 7-202 and 203, files this Petition for Judicial Review, as follows:

1. Windsor and SJP request judicial review of an order by the County Board of Appeals for Baltimore County in Case No. 07-245-X, dated July 31, 2008.

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2008 AUG 28 PM 4: 08
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

RECEIVED
SEP - 4 2008
BALTIMORE COUNTY
BOARD OF APPEALS

2. Windsor and SJP participated in the Board of Appeals' proceedings as parties.

Arnold Jablon
Christopher D. Mudd
Venable LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, MD 21285-5517
(410) 494-6254
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2008, a copy of the foregoing **Petition for Judicial Review** was mailed first-class, postage prepaid to:

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, Maryland 12104-4026
Attorney for Protestant Woodland Services, LLC

Ms. Kathleen C. Bianco
Administrator
County Board of Appeals for Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204
Administrative Agency

Christopher D. Mudd

TO1DOCS1/#262252v1

VENABLE® LLP

(410) 494-6365 cdmudd@venable.com

August 28, 2008

VIA HAND DELIVERY

Clerk (Civil)
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204-0754

Re: In the Matter of: The Application of Woodland Services, LLC.
Case No.: 07-245-X

Dear Clerk:

Enclosed are an original and two copies of Petitioners Windsor Rolling Road Property, LLC and St. John Properties, Inc.s' Petition for Judicial Review. Please accept the original for filing in the above-captioned case, mail one copy to the County Board of Appeals for Baltimore County to inform the agency that this Petition has been filed (Md. Rule 7-202(d)(1)), and date stamp the second copy and return it to the waiting messenger.

Thank you for your assistance in this matter.

Very truly yours,

Christopher D. Mudd

Enclosure
cc: Ms. Kathleen Bianco, County Board of Appeals
Michael P. Tanczyn, Esquire
Arnold Jablon, Esquire

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SEP - 4 2008
BALTIMORE COUNTY
BOARD OF APPEALS

TO1DOCS/262761v1

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-08-009183

TO: COUNTY BOARD OF APPEALS OF BALITMORE COUNTY
Jefferson Building Second Floor Suite
203 105 W Chesapeake Avenue
Towson, MD 21204

7/31/08

IN THE MATTER OF THE APPLICATION OF WOODLAND SERVICES, LLC.- LEGAL OWNER FOR A SPECIAL EXEMPTION ON PROPERTY LOCATED ON THE E/S OF ROLLING RD 1,100' N C/LINE TUDSBURY RD (2701 ROLLING ROAD) 2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	* * * * * *	BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 07-245-X

* * * * * * *

OPINION

This matter comes before the Board of Appeals as an appeal of the Zoning Commissioner's order dated April 24, 2007 granting approval of a Petition for Special Exception for a roll-over car wash as a use in combination with a fuel service station, convenience store and carry-out restaurant which were previously approved in Case No.: 02-216-X dated September 21, 2001.

On Thursday, March 20, 2008 the Board of Appeals held a public de novo hearing. The Appellants, St. John Properties and Windsor Rolling Road Property, LLC were represented by Arnold Jablon, Esquire and David Karceski, Esquire. The Petitioner, Woodland Services, LLC, was represented by Michael P. Tanczyn, Esquire. At the conclusion of the hearing, Counsel for the Appellant and Counsel for the Petitioner agreed to submit Post Hearing Memoranda. After receipt of the Memoranda, the Board held a Public Deliberation on Thursday, May 29, 2008 at 9:00 a.m.

Background

The subject property is located at 2701 Rolling Road in the 2nd Election District, 4th Councilmanic District in Baltimore County, in the Rutherford Business Park and is known as the Osprey Food Market. It is improved with a fuel service station, a convenience store, a carryout

restaurant, and a rollover car wash. It has been in operation since June 2003 and is owned by Woodland Services, LLC, having purchased the property from Eastern Petroleum Corporation.

In 2001, the owners of the property, Rolling Road, LLC, and the Contract Lessee, Eastern Petroleum Corporation, filed a Petition for a Special Exception for a fuel service station use in combination with a convenience store. The Petition was amended in the open hearing before the Zoning Commissioner to also allow a carryout restaurant as a use in combination with the fuel service station and convenience store. The subject property and requested relief were more particularly described on the site plan submitted which was accepted into evidence at the hearing before the Zoning Commissioner and marked as Petitioner's Exhibits No. 1. This was case No. 02-016-X. Also included in the site plan was a proposed car wash facility. On September 21, 2001, the Zoning Commissioner ordered that the Special Exception, as amended in accordance with Petitioner's Exhibit No.1, be Granted subject to the following restriction:

> The Petitioner may apply for their building permit and be granted same upon receipt of the order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

There were no Protestants present at the hearing and no appeal was filed within the 30-day appeal period. The Order stood as rendered. It should be noted that the Zoning Commissioner failed to mention the car wash in his decision.

Subsequently, Woodland Services, LLC, purchased the property from Eastern Petroleum Corporation, and applied for and was issued a building permit. The buildings and uses as rendered in the site plan presented at the 2001 hearing were completed, including a rollover car wash, and a use and occupancy permit was issued by Baltimore County in 2003.

In 2006, Windsor Rolling Road Property and St. John Properties filed a Petition for a Special Hearing, Case No. 06-583-SPH, challenging the Zoning Commissioner's Order dated

September 21, 2001 in Case No. 02-616-X and the construction of the car wash. By Order dated July 26, 2006, the Deputy Zoning Commissioner denied the Petitioner's request to find the Zoning Commissioner's Order dated September 21, 2001 in Case No. 02-616-X void with respect to the Special Exception for the fuel service station in combination with a convenience store and carry-out restaurant and granted the Petitioners request as to the car wash. Timely appeals were filed by both the Petitioner and Woodland Services, LLC.

Prior to the hearing of the appeals filed in Case No. 06-583-SPH, Woodland Services, LLC, on November 30, 2006, filed a Petition for a Special Exception requesting approval of the existing car wash which was shown on the site plan in Case No. 02-016-X in September 21, 2001. The Petition for Special Exception, Case No. 07-245-X, was granted with restriction by Order of the Zoning Commissioner dated April 24, 2007. The order was appealed to the Board of Appeals on May 8, 2007 by Windsor Rolling Road Property and St. John Properties.

On October 23, 2007, the Board held a public hearing on the appeal of case No.: 06-583-SPH. Briefs were submitted by the parties on November 13, 2007, and a public deliberation was held on December 4, 2007. After review of the evidence presented and the briefs provided, the Board reached the following decision:

1. Windsor Rolling Road Property, LLC lacked standing as a party in Case No.: 06-583-SPH because of its position as a competitor of the Osprey Station. St. John Properties as the owner of Rutherford Business Park was found to have standing to participate as a party and the appeal hearing continued.

2. The Board found that an appeal of the 2001 decision by the Zoning Commissioner in Case No.: 02-016-X was barred by latches and was therefore moot.

3. The Board felt that the remedy sought by Woodland Services, LLC in its Petition for Special Exemption in Case No.: 07-245-X to conform the carwash to the site plan for the original fuel service station and convenience store will render any request for relief with respect to Case No: 06-583-SPH moot. Therefore, the Board dismissed Case No.: 06-583-SPH.

4. The Board scheduled a hearing in Case No. 07-245-X

Issue

Whether or not the carwash and service station owned by Petitioners met the requirements of BCZR Sections 502.1, 253.2B and 405.4.C.1c.

On November 30, 2006, Petitioner filed a Petition with the Zoning Commissioner of Baltimore County for a "special exception for a carwash, pursuant to Baltimore County Zoning Regulations (BCZR) §253-2B(1)(2). For reasons to be set forth at the time of the hearing, the carwash proposal was shown on the site plan in Case No.: 02-016-X, previously approved as a Special Exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed carwash herein, as originally shown on the site plan, is for use in combination with the uses approved in Case No.: 02-016-X."

Baltimore County Zoning Regulations 253.2 states:

> ...Uses permitted by Special Exception. The uses listed in this subsection are permitted by Special Exception only.

BCZR 253.2B(1)(2) states:

> The following auxiliary service uses, provided that any such use shall be located in a planned industrial park at least 25 acres in net area or in an I.M. District; provided, further, that it is shown that any such use will serve primarily the industrial uses and related activities in the surrounding industrial area:
>
> 1. Automotive-service stations, subject, further to the provision of Section 405.
> 2. Car washes, subject, further to the provision of Section 419.
> 3. Garages, service, including establishments for the service or repair of trucks, of truck trailers or of freight-shipping containers designed to be mounted on chassis for part of all of their transport.
> 4. Union halls or other places of assembly for employment-related activities.

On April 24, 2007, the Zoning Commissioner granted the Special Exception with restrictions. An appeal was timely filed by the Appellant on May 8, 2007.

Evidence and Testimony

At the beginning of the hearing, Mr. Tanczyn asked to move the Petitioner's prior exhibits from the Zoning Commissioner's hearing in Case No.: 07-245-X into the Board's file in this proceeding.

Mr. Tanczyn presented Mr. Kenneth Colbert as the Petitioner's first witness. Mr. Colbert is a Registered Civil Engineer in the firm Colbert, Matz, & Rosenfelt, Inc., Engineer, Surveyor and Planner. Mr. Colbert was accepted as an expert witness and testified he had been involved with the project since 2001 following the Zoning Commissioner's order in case No. 02-016-X. His firm prepared the surveys, site plans, engineering plans, grading and sediments contracts to obtain the building permit which was issued by Baltimore County for the site as it exists today. The original site plan presented to the Zoning Commissioner in Case No.: 02-016-X in 2001 was prepared by Morris & Ritchie Associates, Inc., Engineers, Planners, Surveyors and Landscape Architects. This site plan was entered as Petitioners Exhibit No. 1 and the site plan prepared by Mr. Colbert was entered as Petitioner's Exhibit No. 2. Both site plans included a carwash.

Mr. Colbert testified that the site and location of the carwash as a use in combination with the other uses mentioned, is an appropriate location for that use and that the relief requested satisfies the requirements and provisions of Section 502.1 of the BCZR as they apply to Special Exception. He testified that the site is zoned M.C.-I.M. and satisfies the requirements of BCZR 253.2B. There were no adverse comments in the Zoning Advisory Committee report.

Mr. Colbert, on cross-examination by Mr. Jablon, was asked and gave testimony to many items which pertained to the operation of the fuel service station, the convenience store, and the carryout restaurant. For example, he was asked to comment on the location of the propane and kerosene tanks and the size of the convenience store and carryout restaurant.

In direct testimony, Mr. Colbert testified that the carwash contained sufficient area for standing and parking. Mr. Colbert testified that he had visited the site during and after

construction and his firm had done as-built surveys on the site and found that, with the exception of normal adjustments and construction, it is in keeping with the site plan as proposed. He testified that several parking spaces were built incorrectly by the contractor and not in accordance with the plans. He testified he located a contractor to do the repairs for the owner and that work was completed. He testified the propane tank has been relocated and some of the vacuum machines that were installed have been removed, pursuant to the contract entered into by the owner which was presented as Petitioner's Exhibit No 7. He testified that the site was located within the Rutherford Business Park.

Mr. Colbert testified that nothing is different in regard to the carwash since it was built and existed. He testified that the carwash as presented in Petitioner's Exhibit No. 3 complies with the BCZR Sections 405 and 419 as they apply to carwashes and their use in common with convenience stores, fuel service stations and carryout restaurants. He testified that no variance was needed. He testified that the signage on the site met the requirements of Section 450 of the BCZR.

On cross-examination, Mr. Colbert was asked his interpretation and experiences with Section 102.2 of the BCZR requiring setbacks between buildings which states: "...no yard space or minimum area required for building or use shall be considered as part of the space or minimum area for another building or use." He said he was familiar with it, but never had to use it for side yards. He testified that he was familiar with the zoning office's longstanding policy that you cannot use the same space twice and has encountered it in some instances and that the zoning office saw fit through this process to not require it or not apply it, or did not think it was applicable to the side yard. He stated that the zoning office makes these decisions.

The Petitioners second witness was Mr. Sajid Chaudhry. Mr. Chaudhry testified that he is the managing member of Woodland Services, LLC, and had purchased the site from Eastern

Petroleum prior to any construction and improvements were made. He testified that the carwash, fuel service station, convenience store and carryout opened in June 2003 and has remained open since that time. Mr. Chaudhry testified that tenants or owners of lots in the industrial park have house accounts and are billed monthly including companies that have fleets of vehicles that buy car washes using their fleet cards. He testified, based on his review of the revenues of the Company, business goes down more than 50% on the weekends when the business park is either closed completely or somewhat closed. He testified he has been in this business 17 years and would not have sold propane if it was under a canopy. He said he has not seen, in his 17 years in the business, propane under a canopy. As to the kerosene under a canopy, he testified that people might put it in their vehicle and harm their motor. When asked if a canopy could be put over the propane and kerosene at their present location, he testified you could do anything but he would not know the purpose. He testified it all depends on safety. He would not have sold propane if it was under the canopy.

The Protestants called one witness, Mr. Carl Richards. Mr. Richards testified that he is a Zoning Supervisor in the Zoning Office of Baltimore County. He has been employed in that capacity since 1966 and has experience in site plans being submitted for special exception and variances and experience in applying the BCZR. He was asked if he was familiar with Section 102.2 of the BCZR and how zoning applies to that section. He testified that, when you are reviewing buildings for compliance, each building has its own set of setbacks and one building can't consider or use the setbacks required for the other building. Each one is self-sufficient. The setbacks have to be added up if there's more than one building, either the side to side, front to front, rear to rear. Whatever side is approved, you have to add up those separate setbacks. He was referred to Petitioner's Exhibit No 11, the Site Plan to Accompany Zoning Petition, Osprey Food Market, that shows the convenience store and carwash and a setback of 56 feet between the

two buildings. When asked, based on his knowledge of the zoning regulations and experience, if that satisfies the zoning regulations, he testified it does not. He testified the property is zoned M.L-I.M. and you use the setbacks in B.R. (Business Roadside) which requires 30 foot side yard setbacks and looking at the site plan its opposing side yards would require 60 feet. He testified that there are no exceptions that he is aware of unless a variance is granted. In his opinion a variance is required in this instance.

Under cross-examination by Mr. Tanczyn, Mr. Richards was asked, when, if, in review of a request for a special exception or variance, the situation that he testified to existed, what would be the procedure at the builing permit application. He testified that they would notify the applicant and tell them to get a variance or building connection. When asked, in his experience, how many cases of this type he is aware of that have come up, he testified quite a bit. When asked, what do you do? He said get a variance or do a building connection, one or the other. When asked by Mr. Tanczyn "Am I to understand you correctly to say that if there was a canopy between these buildings, that would satisfy this requirement?" He testified, "yes it would".

Mr. Tanczyn recalled Mr. Colbert who confirmed that he heard Mr. Richards' testimony, which he would not dispute, and that he spoke with the managing member of the property, Mr. Chaudhry, who proposed to provide a connection between the two buildings, eliminating the need to have 60 feet between the buildings or a variance. Mr. Colbert testified that a commitment had been made to connect the buildings, and if the Board and relative attorneys agree he could show that on an amended plan, provide that to all parties involved, get their approval that they are comfortable with it and provide that to the Board. Mr. Tanczyn requested that the hearing be held open to allow Petitioner to come back with the plan which showed the formal connection. Mr. Jablon objected on behalf of the Protestants. After discussion off the record, at the bench, the Chairman stated the Board would not hold the hearing open to allow that.

Protestants contend that the Osprey carwash is located in an ML-IM (Manufacturing Light – Industrial Major) zone therefore it must satisfy not only the special exception requirements of BCZR section 502.1A through I but also section 253.2B. This would require Respondent to prove that the carwash would "service primarily the industrial uses and related activities in the surrounding industrial area."

In addition Protestants contend that Respondents were not in compliance with BCZR 405.4C.1c which states:

> Except for the temporary outdoor sale of items permitted under section 230.9, the outside display of merchandise is permitted only under the canopy, or if there is no canopy, on or between the pump island or in an area immediately adjacent to the cashiers kiosk. Such goods may not block access drives, stacking spaces or interfere with the site's circulation pattern.

Protestants contend that the dispenser for kerosene and the propane tank do not meet the requirements of section 405.4C.1.c. of the BCZR.

Attorneys for the Petitioner and Protestant agreed to submit Post Hearing Memoranda and the hearing adjourned.

Decision

Mr. Colbert testified for the Petitioner that in his opinion the carwash, as constructed with the convenience store, carryout restaurant, and fuel facility and later corrected per the restrictions placed by the Zoning Commissioner in his order, does meet the requirement of the BCZR for a carwash. Mr. Richards, however, for the Protestant, said the setbacks between the carwash and the convenience store are 56 feet, as shown on Petitioner's Exhibit No 11, and do not meet the minimum of 60 feet as required by the BCZR. He testified that because the property is zoned ML-IM it must use the setbacks for BR (Business, Roadside), and BR requires 30 foot side yard setbacks for each building. He said there are no exceptions unless a variance is granted. He testified, however, that many times distances between existing buildings can be solved in different ways. One way is to connect the two buildings, for example by way of a canopy. If this

was done a variance would not be necessary and the 60-foot requirements would be satisfied. Mr. Colbert was recalled and on direct examination by Mr. Tanczyn testified that he did not dispute Mr. Richards' testimony and agreed that a connection between the two buildings would satisfy the requirements of 60 feet. He further testified that the owner would accept this remedy if that was the Board's decision as a condition of its order. Mr. Tanczyn moved that the hearing be held open to allow the Petitioner to amend the site plan to show a canopy between the carwash and convenience store. The Board, after deliberation of the motion at the bench, refused the motion and continued the hearing.

The Board finds that Petitioner has met the requirements of BCZR section 502. The Osprey station and carwash have been in operation for five years. The Board credits the testimony of Mr. Colbert that Petitioner has met all of the regulations applicable to special exceptions.

In addition the Board credits the testimony of Mr. Chaudhry that the service station and carwash, service the surrounding industrial area based on his review of Petitioners revenue. No evidence was presented to counter Mr. Chaundhry's testimony. Therefore the Petitioner meets the requirements of BCZR section 253.2B.

The Board also feels that the pump for dispensing kerosene should remain where it is presently located so that it will not be confused with the gasoline. In its present location it will be covered by the connecting canopy between the carwash and the service station building and will comply technically with BCZR section 405.4.C.1.c.

The Board finds that the propane tank is a storage tank not covered by BCZR section 405.4.C.1.c. and should remain where it is presently located for safety reasons.

The Board will grant the Petition for Special Exception for the rollover carwash provided that a canopy is constructed to connect the carwash and the service station buildings.

ORDER

THEREFORE, IT IS, this 31st day of July, 2008, by the Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception for a carwash, pursuant to §253.2B(1)(2) of the Baltimore County Zoning Regulations (BCZR) is hereby **GRANTED** with the condition that a connection, such as a canopy, be provided between the carwash and the convenience store.

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.*

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence Wescott, Panel Chairman

Lawrence Stahl

Robert Witt

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
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410-887-3180
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July 31, 2008

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 Allegheny Avenue
Towson, Md 21204

RE: *In the Matter of: Woodland Services, LLC – Legal Owner;*
Case No. 07-245-X

Dear Mr. Jablon:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the 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 of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** 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,

Kathleen Bianco/sc

Kathleen C. Bianco
Administrator

Enclosure

c: David Karceski, Esquire
Tom Pilon, St. John Properties
and Edward St. John
Michael P. Tanczyn, Esquire
Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad
Ken Colbert
Nicholas Brader III, PE /Matis-Warfield, Inc.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Mike Mohler /PDM
Timothy M. Kotroco, Director /PDM

4/21/08

IN RE:PETITION FOR SPECIAL EXCEPTION*		BEFORE THE
E/S Rolling Road, 1,100' N of the c/l Tudsbury Road **(2701 Rolling Road)**	*	BOARD OF APPEALS
2nd Election District 4th Council District	*	OF
	*	BALTIMORE COUNTY
Woodland Services, LLC Petitioner/Owner	*	Case No. 07-245-X

* * * * * * *

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BOARD OF APPEALS

PETITIONER'S MEMORANDUM

Petitioner, by its undersigned counsel, submits the within Memorandum to assist the Board in its deliberation of this case.

PREAMBLE

This is an unusual case. Petitioners herein were assignees of contract purchasers of the subject site then unimproved in Case No. 02-016-X, which was approved by the then Zoning Commissioner after hearing in September 2001 for a fuel service station with a use in combination for a convenience store, carry out restaurant, and car wash. There was no opposition present at the time of the hearing. Once that Order became final, Woodland Services, LLC, as the property owners, submitted plans and were issued a building permit and the buildings on site at present were built and a use and occupancy permit was issued by Baltimore County in 2003 when construction was completed. The property was occupied thereafter by the same owners for the enumerated uses without incident or accident until a competitor, Windsor Rolling Road Property, LLC, and St. John Properties, Inc., represented by Arnold Jablon, Esquire[1] and David

[1] At the time the original zoning petition request was made, upon information and belief, Arnold Jablon served as Director of Permits and Development Management for Baltimore County. Part of the duties and responsibilities of that position included, then as now, the supervision of zoning personnel and the processing of applications for zoning relief.

Karceski, Esquire, of Venable LLP, filed a special hearing case in 2006, challenging the original approval nearly five years after it became a final order.

As to Case No. 06-583-SPH, by Order July 26, 2006, after hearing, the Deputy Zoning Commissioner denied Petitioner's request to find the order and site plan in Case No. 02-016-X void with regard to the special exception for a fuel service station in combination with a convenience store and carry out restaurant and granted the Petitioner's request as to the car wash for the reasons stated in the Opinion. Timely appeal was filed by both Petitioner and property owner as to the various aspects of the Deputy Zoning Commissioner's Order to the Board of Appeals of Baltimore County. Subsequent to the Deputy Zoning Commissioner's decision, the property owner filed through present counsel Case No. 07-245-X requesting after the fact approval of the as-built operating car wash in conjunction with the existing previously approved aforementioned uses.

The Zoning Commissioner, after hearing that case 07-245-X, by Order April 24, 2007, granted the car wash as a use in combination with a fuel service station, convenience store, and carry out restaurant previously approved in Case No. 02-216-X. Significantly in that Order, the Zoning Commissioner characterized the Windsor Rolling Road Property, LLC, and WAWA, Inc., as market competitors to Woodland Services, LLC, and the Osprey Food Market. The only protestants before the Zoning Commissioner in the instant case were Windsor Rolling Road Property, LLC, and St. John Properties, all of whom were represented by Arnold Jablon, Esquire, and David Karceski, Esquire of Venable LLP. The Zoning Commissioner found that the as-built car wash was as shown on the site plan approved in Case No. 02-016-X. He further noted that once that Order became a Final Order, the property was subsequently built out to provide the

proposed improvements as shown on the original site plan including the car wash building. He further noted in Case No. 06-583-SPH that there were no adverse Zoning Advisory Committee comments received from any of the County reviewing agencies including Zoning. (Page 3 of the Opinion)

The Zoning Commissioner, most significantly, in his Opinion found Case No. 07-245-X to be an endeavor only to meet the technical objection raised by the Deputy Zoning Commissioner in Case No. 06-583-SPH that the car wash was not specifically mentioned on the Petition in that in the original case, 02-216-X, and therefore had not been properly advertised and posted. The Zoning Commissioner significantly further note that Protestants' attorney, Mr. Jablon, candidly admitted his clients were or would be, if successful with its zoning request, a business competitor of the Petitioner in Case No. 07-245-X, noting his decision in Case No. 06-449-X for Windsor Rolling Road Property, LLC, and WAWA.

Following appeal by Mr. Jablon's clients of the decision of the Zoning Commissioner in Case No. 07-245-X, the matter was scheduled for hearing before the Board of Appeals on October 23, 2007 on both cases, 06-583-SPH and 07-245-X. After brief hearing on October 23, 2007, the Board requested Memoranda of the parties which it received and after deliberation issued its Orders December 27, 2007 dismissing Case No. 06-583-SPH as moot.

STATEMENT OF FACTS

At the hearing on March 20, 2008, Petitioner, through counsel, moved Petitioner's prior exhibits in from the Zoning Commissioner's hearing. Petitioner's first witness, Kenneth Colbert, an expert witness and expert civil engineer with familiarity with zoning regulations in Baltimore County, was accepted by the Board as such (T-8). Mr. Colbert had been involved with the

project from 2001 following the time of Mr. Schmidt's zoning order and his firm was engaged to do surveys, prepare site plans, engineering plans, grading, sediment controls and to obtain a building permit for the site as it exists today (T-9). CBA Exhibit 1 was the copy of the site plan as approved by the Zoning Commissioner in Case No. 02-216-X, including his signature and hand note on the plan (T-10). He testified at the time of the hearing before Mr. Schmidt that this was an unimproved site (T-11). His firm obtained a building permit after they did a boundary and topographic survey of the property and then prepared site plans, grading plan, sediment control plans. CBA 2 was a copy of the site plan which was submitted with the building permit application for everything that was constructed on the site, the convenience store, the carry out restaurant complex, car wash, canopy, fuel service station, grading and everything (T-12).

He testified a building permit was issued by Baltimore County (T-12). He had visited the site during and after construction and his firm had done as-built surveys on the site and found, with the exception of normal adjustments in construction, it was in keeping with the site plan as proposed (T-12-13). He explained that several of the parking spaces were built incorrectly by the contractor and not in accordance with the plans and that subsequently those spaces have been reconstructed since the hearing before the Zoning Commissioner (T-13) pursuant to the contract entered into and presented to the Zoning Commissioner below (Petitioner's Exhibit 9, T-14). He testified the other work on that contract, including relocation of the propane tank, has occurred (T-14), and the vacuum machines that were installed as shown on CBA 3 prepared for the Board of Appeals hearing which shows the parking spaces as they currently exist, the two vacuums and the one compressed air station, and adjustments made to the gasoline island canopy (T-15), agreed that that Exhibit showed the current conditions on the site

(T-16). He testified that that Exhibit was the same as in the hearing below, where a redline exhibit was submitted (T-17).

He testified the zoning of the site was ML-IM (T-17) which had not changed since he became involved in the project (T-17), nor had the acreage (T-17). He testified that to the best of his knowledge there had been no takings by the government by way of eminent domain to reduce the site acreage (T-18), nor outconveyancing by the owners (T-18).

He testified that Petitioner's site was located in an industrial park known as the Rutherford Business Park (T-18). On CBA Exhibit 4 which he prepared, he had outlined the site in red and identified it as Lot B7 on RBC south (T-18). To the best of his knowledge, that was a planned industrial park of approximately 125 acres and located adjacent to another industrial park called Windsor Industrial Park of 80 acres (T-18-19). He identified Petitioner's site as located on the western boundary of the industrial park and a little bit north of center with direct access to Rolling Road (T-19).

He described Rolling Road as a major collector roadway (T-19). Rolling Road had four lanes immediately in front of the site with a mutual turn lane in the middle with an additional mutual turn lane in the middle (T-20). He introduced CBA Exhibit 5 which was an aerial photograph showing the road network obtained from the Baltimore County GIS on which he had labeled the roads for reference. Petitioner introduced through Mr. Colbert CBD Exhibit 6 which was an except of the official County Zoning Map which shows ML-IM as the zoning of the site and the adjacent industrial park property. He described the uses in a clockwise direction starting from the south of the site as general light industry office flex space which extends from Rolling Road all the way to I-695 to the east, the Beltway.

He identified the parallel major collector road to the east as Lord Baltimore Drive (T-23). He identified residential property south of Tudsbury Road to the south of the site and residential property across Rolling Road from the site and extending up to Windsor. To the east and north of the site was all zoned ML-IM being part of the two business parks he identified earlier (T-24). He testified that at the time the 06-583 SPH case would have been filed in 2006, the car wash had already been built and was in operation (T-28). He further testified that nothing new and different was proposed with regard to the car wash from the one that was built and has existed since sometime in 2002 (T-28). The car wash requested then and in operation since being built was a rollover car wash and not a self-service car wash (T-28). He testified that Petitioner's site plan met the parking requirements under Section 409 (T-29) of the Baltimore County Zoning Regulations on the current plan (T-29) and he further testified that all the uses that were requested in the 02-016-X case were still in operation at the site (T-29).

Since the property had been developed with the improvements he had described, he had visited the site between six and ten times (T-30). He described the circulation plan on the site with the access from Rolling Road and, with regard to the car wash, that the access was from the south side of the convenience store/carry out restaurant as shown on the site plan and behind the main building (T-31). He testified no variances were needed or requested with this Petition (T-32-33). He testified that 40 parking spaces were now provided on the site (T-35). He testified that there were 130 feet from the car wash building to the front property line on Rolling Road (T-36). He testified a fuel station, carry out restaurant, and convenience store were not requested in the instant case because they were approved in 02-016-X and as confirmed in 06-583-SPH (T-37). He testified that the signage on the site met the requirements of Section 450 of the

Baltimore County Zoning Regulations (T-37-38). He testified that adequate stacking spaces were provided as to prevent stacking on Rolling Road from the car wash (T-38).

He offered his expert opinion that this site, as a location for a car wash as a use in combination with other uses previously mentioned, was an appropriate location at this site in the affirmative (T-38). He testified that the site met the requirements of, in his opinion, of Section 502.1 of the Zoning Regulations applicable to Special Exceptions (T-40-44). He also testified that the car wash in his opinion as a use in common would have no adverse impacts in any way in the areas surrounding this site, including the site (T-44) or elsewhere in the ML-IM zone (T-45). CBA Exhibit 7 mentioned earlier was the signed contract for the repairs to the site which had been Petitioner's Exhibit 9 before the Zoning Commissioner which was accepted by the Board of Appeals (T-46-47). There were in the Zoning Advisory Committee comments no adverse comments concerning this petition and site, just as there had been no adverse Zoning Advisory Committee comments in Case No. 06-583-SPH, or Case No. 02-216-X.

When questioned on cross examination concerning Section 102.2 of the Zoning Regulations requiring setbacks between buildings (beginning at page T-62), he testified that he interpreted Section 102.2 which talks about no yard space or a minimum area required for a building can be shared without saying anything about setbacks. In the Definition section 101 of the BCZR, the definition of setbacks was defined as the minimum horizontal distance between the building line and a property line (T-64-65). He testified that the minimum side yard for the property line of 30 feet existed for the car wash and it was 111 feet for the convenience store (T-66-66). He expressed familiarity with the Zoning Office's policy that when asked whether the same space could be used twice and said **that the Zoning Office apparently saw fit all through**

this process to not require it, not apply it, and didn't think it was applicable to the side yard (T-66). He explained, when asked on cross, that K-1 kerosene was not a motor fuel for road use, but rather for off-road vehicles, because it is taxed differently and the pump and dispenser is labeled (T-79) as shown on CBA Exhibit 8, four photographs taken in the general vicinity of the car wash (T-79-80). The blow up of the pictures showing the difference in labeling was admitted as CBA Exhibit 8 showing eight photos (T-80) Petitioner's four before the Zoning Commissioner. He explained that dyed diesel included dyed kerosene and was for non-taxable use only with a penalty for taxable use (T-81). He further testified that that was not to be used as a motor fuel that someone would drive up to a dispenser and place it in their vehicle (T-82). On cross examination, he acknowledged that the kerosene pump was not under a canopy (T-84). He explained the Zoning Office did not require that the signage be shown on the site plan after the fact but only when you were going for a sign permit (T-86).

Mr. Schmidt's original Zoning Commissioner decision in Case No. 02-016-X was admitted as Petitioner's Exhibit 10 (T-89). Mr. Colbert, on redirect, testified he would seal CBA Exhibit 3 (T-90). The Board accepted CBA Exhibit 11 which had been Petitioner's Exhibit 3 below before the Zoning Commissioner to show the existing conditions as surveyed under seal by Mr. Colbert's firm (T-91-93). He identified the grassy area to the north of the parking lot on which the propane tank was located immediately north of the car wash (T-94). He testified in his opinion that relocating the propane tank under the multiple pump dispensers would be a potential hazard (T-95). He pointed out that placing the dyed kerosene near the multiple pump dispensers would create the potential for people to pull up to the multiple dispensers and erroneously or ignorantly dispense kerosene into their vehicle (T-97). He testified that in his opinion the

propane and kerosene was safer where they were located at present than being relocated under the gasoline and diesel MPD canopy (T-98).

He testified that no adverse ZAC comments had been received from the Zoning Office raising any of the points raised by Protestants' counsel under Section 405 (T-102). He further testified that because his plan showed the buildings the same as they were shown on the original plan before Zoning Commissioner Schmidt in Case No. 02-216-X, it was not a plan to amend the fuel service station, the carry out restaurant, or the C-store, or the car wash for that matter (T-104).

The sign permits introduced below were admitted without testimony as CBA Exhibits 12 and 13 showing the permit applications and approvals for the signage for the car wash.

Petitioner's second witness, Mr. Sajid Choudhry, testified that he was the Managing Member of Woodland Services, LLC. He testified at the time of the original zoning hearing that Eastern Petroleum was the contract purchaser at the time of that hearing and that he acquired the site from Eastern Petroleum prior to any construction or improvements (T-108-109). He testified all construction and improvements made to the site had been done by Woodland Services, LLC, or its contractors (T-109). He testified as to his duties and responsibilities as a Managing Member, that he was on site seven days a week when the site first opened for six months in which he did everything from making sandwiches to selling gas and convenience store and all that (T-109). At the present time, he was there three to four days per week and he checked the books and pricing, banking, etc. (T-109). He testified that to the best of his recollection, the fuel service station with car wash, convenience store and carry out restaurant first opened in June of 2003 (T-109-110) and has remained in operation from that time to the present (T-110). He

testified that the business had grown since he opened and so far as the restaurant, car wash, and convenience store and gas, but has declined in sales of cigarettes because of rising taxes (T-110). He identified the interior layout of the C-store and located the carry out restaurant for the members of the Board on CBA Exhibit 2 and 3 (T-110-111) as being less than 1,000 square feet dedicated for the carry out restaurant (T-111). He testified that before purchasing the property, they had a marketing study done (T-112). He testified as to long hours that he was present at the business from the time it opened (T-113). He testified as to accounts with tenants or owners of lots in the industrial park which have house accounts and are billed monthly (T-114) including companies that have fleets of vehicles that buy car washes using their fleet cards (T-114). He testified, based on his review of revenues of the company for this site, that business at this site goes down more than 50% on the weekend when the business park is either closed completely or somewhat closed (T-115). He testified to his knowledge that the business park was active Monday to Friday from 6 a.m. until about 7 p.m. (T-115). He testified in his experience the car wash is weather dependent and seasonal, generally being good in February and slow time in June, July and August when people can choose to wash their own cars at home (T-116). He confirmed the existence of a roll over car wash and he affirmed the description of Mr. Colbert as to the approach to the car wash (T-116). He testified that once the improvements were approved in the site plan by Mr. Schmidt's order, they were built in the location and to the size that were shown on the plans to the best of his knowledge (T-116). He further testified there have been no additions or alterations to the principal buildings from that time to the present (T-116-117). Based on his 17 years experience in this business, he testified that the propane, from a safety standpoint, should not be under the MPD canopy because it is not safe (T-118) and that the dyed

kerosene should not be under a canopy because if used in error it could damage the motors of the patrons if it were put under the canopy and they utilized it (T-118-119).

Protestants introduced in their case a Declaration of Covenants as Protestants' Exhibit 4. Protestants called one witness, Carl Richards, Zoning Supervisor for Baltimore County (beginning at T-125). He testified he had been employed in the Zoning Office of Baltimore County since 1966 (T-125); that he had experience in reviewing site plans being submitted for special exceptions (T-125). When shown CBA Exhibit 11 which was entitled "Site Plan to Accompany Zoning Petition Osprey Food Market" showing certain buildings, he issued his opinion that the setback of 56 feet between two buildings did not satisfy the Zoning Regulations (T-127). He testified in his opinion, a variance would be required (T-128).

On cross examination, he acknowledged that the requirements of Section 102 of the Zoning Regulations have been part of the law since 1955 (T-129) and that requests for zoning relief are reviewed by his department as well as other County agencies routinely for all the requirements (T-129). He further stated that any applicant for a building permit would encounter a similar review by the Zoning Office (T-130-131). He testified candidly that if they notices a discrepancy that it wouldn't meet the regulations they would notify the applicant, tell them they would have to get a variance or a building connection (T-131). He acknowledged after looking at the site plan submitted in the hearing before Mr. Schmidt, as reviewed by the County, as well as the building permit plan submitted by Petitioner prior to construction, had shown the buildings as they were subsequently built and that the labeled setback was not picked up in the building permit review either (T-130-132).

He acknowledged that the building plans were labeled correctly. He further stated when

asked that a mistake made in the Zoning Office would not equal compliance (T-132). The solution would be to connect the two buildings with a canopy which would eliminate the need for the larger setback (T-133-134). He testified that Case No. 07-245-X, the application for special exception, had been reviewed by Zoning and that there were no comments of the type of his testimony before the County Board of Appeals for the car wash that was dimensioned on the drawing at 56 feet which he acknowledged was the case (T-134-135). He stated that there was no policy he was aware of for buildings that had been built in place and are there for a certain number of years concerning zoning errors. He stated that this situation comes up quite a bit where people can't meet a setback and a typical situation like this (T-137) and he testified the solution was you get a variance or you do a building connection, one or the other (T-137).

He testified a canopy between the two buildings would satisfy the requirement in his opinion and remove the need for a variance (T-137). He is familiar with the Petitioner's engineer, Mr. Colbert (T-139).

Mr. Colbert was then recalled by Petitioners and testified that with the Petitioner's approval which he obtained, he could provide a connection as he suggested between the two buildings eliminating the need to have 60 feet between them (T-143-144). He testified he had never received any comments from any County staff person raising the issue that had been testified to by Mr. Richards prior to the hearing on March 20, 2008 (T-145). He testified that had the issue been raised at the time of the building permit, they would have moved the building to provide the necessary separation (T-145). He testified the exterior wall structures of the car wash are masonry and that the operative car wash equipment is hooked up within the exterior perimeter wall (T-145). Mr. Colbert testified that the commitment had been made to connect the

buildings and he could show on an amended plan provided to all parties and provided to the Board (T-148).

Petitioner at that point, through counsel, requested that the hearing be held open to allow Petitioner to come back with the plan which formed the connection which was objected to by counsel for the Protestants (T-148).

After discussion, the Board Chairman announced the Board's decision that they were not going to hold it open to allow that (T-149).

ISSUES PRESENTED

1. The appeal of St. John Properties, Inc. should be dismissed for lack of standing or because, in the context of this case, it is a *de facto* competitor.

In the Board's prior decision resolving Case No. 06-583-SPH, the Board dismissed the case as moot because of the pendency of Case No. 07-245-X awaiting further Board hearing. The Board did dismiss Windsor Rolling Road Property, LLC, as a competitor. At the hearing March 20, 2008, no one appeared as a witness for St. John Properties, Inc., to establish its interest in the case or objection to Petitioner's car wash. Petitioner's car wash had been in existence and operating since 2003. Without further argument, Petitioner incorporates its Memorandum of Petitioner's in Support of Motion to Dismiss Appeal filed heretofore in Case No. 07-245-X without repetition. There is literally nothing in the record for the Board to know what, if any, relationship St. John Properties, Inc. may have to the Petitioner's site or as to any other site because that is not in the record and not before the Board.

The Board can and should recall that there was no opposition present at the time of the original approval before Zoning Commissioner Schmidt in Case No. 02-216-X and that the first

opposition stated was that in Case No. 06-583-SPH brought by Mr. Jablon in 2006..

The sole point developed through Protestants' sole witness before the Board had to do with the building setback requirements between the convenience store and the car wash. Neither the County at any time when Mr. Jablon was Director of PDM from the time Petitioner's predecessors obtained the zoning approval from Mr. Schmidt in Case No. 02-216-X, nor anyone when Petitioner's obtained their building permit and constructed the building, ever objected to the four foot building separation shortfall, nor did they bring it to the attention of Mr. Colbert at any time before March 20, 2008. With the dismissal of Windsor Rolling Road Property, LLC, as a competitor, the Board should have been presented with testimony as to St. John Properties, Inc.'s interest in this case and any material objections that it had to the Petitioner's request for after the fact special exception approval for buildings built in accordance with and at the location shown since the site plan was first approved by Mr. Schmidt in September 2001. Absent that, they should be seen by the Board for what they are, a mimic competitor who should be dismissed for the same reasoning employed by the Board in dismissing Windsor Rolling Road Properties, LLC.

2. The Petitioner presented substantial evidence, including expert opinion, that the requirements of BCZR Section 502.1 were met in the after the fact approval special exception requested for the car wash as built at 2701 Rolling Road. As the Board can tell from the drawings, the car wash as built in 2002 is the exact same size building shown on Petitioner's site plan as it was when approved in Case No. 02-216-X.

The Board has the unusual benefit in this case as do all of the parties in having experience after construction and after beginning operations to see if the car wash plan as

designed has caused any on site problems since operations began. In this case, there was no allegation or contention that the car wash was not well-located with stacking spaces behind the C-store furthest from the residential community across the street. In the Board's experience, any substantial or probative opposition to a car wash might be expected to come from those adjacent residential neighbors. However, in this case, none of them appeared after four years plus of car wash activity, just as none appeared back in 2001 when the site plan showed a car wash and the site plan was approved by Zoning Commissioner Schmidt.

Mr. Colbert testified that the plan met the County zoning requirements and the requirements of Section 502.1. Mr. Choudhry testified in his actual experience, not with a proposed market study for a project not yet built, that more than 50% of the business came from the industrial park which he understood from his actual experience because of the drop in business on the weekend when the industrial park was generally closed for business between late Friday until Monday.

Not one witness testified for the Protestants as to any on-site problems with the operation of the C-store, fuel service station or carry out restaurant or, for that matter, the car wash. Therefore, Petitioners demonstrated compliance with BCZR Section 502.1. Petitioners examined the proposed/existing car wash in the context of BCZR Section 502.1 and established before the Board it would have little or no impact on the surrounding community. Petitioners are thus entitled to the relief requested by way of their Petition for Special Exception as it relates to BCZR Section 502.1.

The Board accepted Kenneth Colbert as a professional engineer with expertise in the Baltimore County Zoning Regulations. Protestants produced no testimony as to BCZR Section

502.1, expert or otherwise, to contradict the clear and unambiguous testimony presented by Mr. Colbert, as well as Mr. Choudhry, for Petitioners on these points.

3. Petitioners have provided substantial evidence to prove the proposed special exception uses will serve primarily the surrounding industrial area.

In order to meet its burden before the Board, Petitioners must prove the proposed uses satisfy the requirements of BCZR Section 253.2(b). Specifically, Petitioners must prove special exception uses will serve primarily the industrial uses and related activities in the surrounding industrial area. (BCZR Section 253.2(b)). Petitioners presented substantial evidence through Mr. Choudhry, as well as Mr. Colbert, to satisfy their burden. Therefore, the Board should approve the Petition for Special Exception.

Mr. Choudhry, based on his personal first hand experience, explained how he knew that since the car wash and the C-store and fuel service station with carry out restaurant opened for business, that the business receipts reflected more than 50% of the business came from the industrial park. He also testified about the businesses located in the industrial park who have house accounts with Osprey including for use of the car wash.

In approving the Special Exception for a fuel service station and convenience store and carry out restaurant for the WAWA, the Board relied on the testimony presented at that hearing that the Osprey primarily served the industrial area as was relied upon by Mr. Jablon in his memorandum to the Board.

4. The last question and issue before the Board will be this. The request for approval of a car wash has met technical objections brought piecemeal by Mr. Jablon on behalf of his clients. However, at no time prior to March 20, 2008, was the issue of setback distances between

the existing car wash building and the C-store ever made an issue. The Board needs to consider the long chronology of this case and the fact that the County review for zoning issues began in 2001 prior to Mr. Schmidt's hearing in Case No. 02-216-X. There were no protestants, no issue raised by the County comments, case approved which became a Final Order.

When the building permit was applied for, no comments made by the Zoning Office, and the buildings were built, inspected and a use and occupancy permit issued which allowed the property to be used for a fuel service station, convenience store, carry out restaurant and car wash from 2003.

Even when Case No. 06-583-SPH was filed by Mr. Jablon on behalf of his clients who are competitors to the Osprey service station, no comments were raised by Zoning as to the side yard or setback between the C-store and the car wash.

If the Board reviews the Code Correction Notice presented in the Zoning Commissioner exhibits, the correction notice lists no citation for alleged setback violations between the C-store and the car wash building.

When Case No. 07-245-X was filed, there were no Zoning comments at the Zoning Commissioner level filed raising any question about the distance between the car wash building and the C-store.

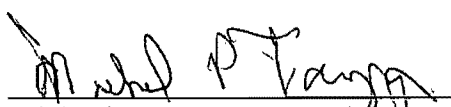
In the last half hour of the hearing before the Board of Appeals of Case No. 07-245-X, Mr. Carl Richards was called as a witness by Protestants. Mr. Richards, for the first time, identified something which he acknowledged could have been and should have been looked at back at the time of the original submittal back in 2001 but was not. He explained there were two ways to fix the problem. The Petitioner could either apply for a variance or connect the

buildings. The Petitioner put on testimony after Mr. Richards' testimony requesting permission to hold the hearing open for purposes of drawing in a canopy on revised plans to be reviewed by all parties including Baltimore County so that that technical objection could be met. It now lies to the Board to consider all the evidence and to make a determination as to whether the plan should be approved or not. Petitioners request the Board to approve the plan and to impose a condition that it be subject to a connecting canopy to be approved by Baltimore County between the car wash building and the C-store.

CONCLUSION

During the hearing before the Board of Appeals, Petitioners demonstrated through strong and substantial evidence that it is entitled to the requested special exception relief. Petitioners therefore respectfully request that the Board of Appeals approve the Petition for Special Exception for the proposed/existing car wash.

Respectfully submitted,



Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, MD 21204
(410) 296-8823
Attorney for Petitioners

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of April, 2008, I mailed, postage prepaid, a copy of the foregoing Memorandum to Arnold Jablon, Esquire, and David Karceski, Esquire, of Venable LLP, 210 Allegany Avenue, Towson, MD 21204, attorneys for the Protestants, County Board of Appeals of Baltimore County, Attn: Kathleen Bianco,

Administrator, 105 W. Chesapeake Avenue, Room 203, Towson, MD 21204, and to the Office of People's Counsel for Baltimore County, 105 W. Chesapeake Avenue, Room 204, Towson, MD 21204.

Michael P. Tanczyn, Esquire

LAW OFFICES
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April 21, 2008

HAND DELIVERED

County Board of Appeals of Baltimore County
Attn: Kathleen C. Bianco, Administrator
105 W. Chesapeake Avenue, Room 203
Towson, MD 21204

Re: Case 07-245-X
Woodland Services - 2701 Rolling Road

Dear Kathy:

Enclosed herewith please find the Petitioners' Memorandum of Law, original and three copies, as directed by the Board.

Very truly yours,

Michael P. Tanczyn

Michael P. Tanczyn, Esquire

MPT:kds
Encl.
cc: Arnold Jablon, Esquire
Office of People's Counsel for Baltimore County
Woodland Services, LLC.

RECEIVED
APR 21 2008
BALTIMORE COUNTY
BOARD OF APPEALS

4/21/08

IN THE MATTER OF WOODLAND SERVICES, LLC	*	BEFORE THE COUNTY
	*	BOARD OF APPEALS OF
2701 ROLLING ROAD	*	BALTIMORE COUNTY
	*	
2nd Election District 4th Councilmanic District	*	Case No. 07-245-X
	*	

* * * * * * * * * * *

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APR 21 2008
BALTIMORE COUNTY
BOARD OF APPEALS

MEMORANDUM

St. John Properties, Inc. ("SJP" or "Protestant"), by Arnold Jablon and David H. Karceski with Venable LLP, its attorneys, respectfully submit this Memorandum in support of SJP's position regarding certain legal issues raised at the public hearing before this Board and in opposition to the instant Petition for Special Exception, as follows:

INTRODUCTION

This matter relates to the existing Osprey fuel service station/car wash/ convenience store located at 2701 Rolling Road, which is owned by Woodland Services, LLC ("Woodland" or "Petitioner"). In 2006, Windsor Rolling Road Property, LLC ("Windsor") filed a Petition for Special Hearing requesting a determination that an order and site plan approved by the Zoning Commissioner for Baltimore County ("Zoning Commissioner") in Case No. 02-016-X (or the "2002 Case"), which approved Woodland's Osprey station, should be declared void because it was issued illegally. Windsor identified several illegalities with the Osprey station and the zoning relief granted in Case No. 02-016-X, including Woodland's failure to obtain a special exception for Osprey's roll-over car wash, yet Woodland obtained permits and constructed the car wash anyway. The Deputy Zoning Commissioner granted Windsor's Petition for Special

Hearing in part and denied it in part, and Woodland and Windsor appealed that decision to this Board in Case No. 06-583-SPH.

Following Woodland's appeal and prior to any hearing on the appeal, Woodland filed a Petition for Special Exception in Case No. 07-245-X to approve the roll-over car wash use at the Osprey. The Zoning Commissioner granted that Petition, which Windsor and SJP appealed to this Board. By an order dated December 27, 2007, Windsor was dismissed as a party for lack of standing, but the Board ruled SJP is a proper party. Protestant now asks the Board to (1) order Woodland to file an amended site plan pursuant to Section 405.5.B of the Baltimore County Zoning Regulations ("BCZR" or "Zoning Regulations"); (2) find that the County may not process Woodland's Petition until it corrects certain zoning violations on the Osprey property; (3) determine that Petitioner has not met its burden of proof for approval of the instant Petition for Special Exception; and (4) deny the requested relief as filed in this case.

I. Woodland Must File a Petition for Special Exception for a Fuel Service Station in Combination with a Roll-Over Car Wash, Convenience Store with a Sales Area Larger than 1,500 Square Feet, and Carry-Out Restaurant.

The Zoning Regulations require additional zoning relief for approval of Petitioner's car wash special exception. The proposed roll-over car wash is identified by the Zoning Regulations as a fuel service station "use in combination." (Transcript for 3/20/08 Board of Appeals Hearing ("T."), p. 76); *See also* Protestant's Exhibit No. 1 (Case No. 07-245-X, Petition for Special Exception). Approval of the car wash as a "use in combination" to the existing fuel service station requires a change to the site plan originally approved in Case No. 02-016-X, as ordered by the Deputy Zoning

Commissioner in Case No. 06-583-SPH, which became final by order of the Board of Appeals. Additionally, the car wash structure requires a setback variance from another existing on-site building. Because Petitioner has not requested this relief, the instant special exception must be denied. The additional required zoning relief is explained below in subsections A and B of this section of the Memorandum.

A. BCZR Section 405.5.B: Fuel Service Station Plan Amendments.

In Case No. 07-245-X, Woodland requests only a special exception for a roll-over car wash in combination with its fuel service station use. However, the Fuel Service Station Regulations require Woodland to file its Petition for Special Exception to include a request to amend the prior approved special exception for the fuel station. Without this request, Woodland's Petition, as filed, is insufficient and must be denied.

Section 405.5.B of the Zoning Regulations requires a new special exception for an existing fuel service station if a change to the prior approved fuel station plan is requested. ***See*** **Memorandum Exhibit No. 1.** As described above, the original relief granted in Case No. 02-016-X for the fuel service station did not include a car wash. In that case, the Zoning Commissioner examined Woodland's original petition, pursuant to the special exception burden of proof contained in BCZR Section 502.1.A through I. Only after determining that Woodland's fuel service station met each requirement of Section 502.1 did the Zoning Commissioner grant the special exception for a "fuel service station use in combination with a convenience store and carryout restaurant, greater than 1,500 sq. ft. in area, pursuant to Sections 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations...." *See* Petitioner's Exhibit No. 10, p. 3. No such finding was made for a car wash.

Woodland now seeks Board approval to introduce an additional special exception use at the Osprey and has requested approval for this car wash without addressing re-approval of the site plan approved in the 2002 Case. Section 405.5.B provides that "[f]or all service station sites requiring a special exception, any amended plan shall constitute a new plan and be subject to the same requirements of these regulations." ***See*** **Memorandum Exhibit No. 1.** Plan amendments for fuel service stations, therefore, require a re-examination of the fuel station site as a whole, pursuant to the special exception burden on proof contained in BCZR Section 502.1. A through I. The Board's approval of the proposed car wash would constitute a change to the relief granted by way of the original special exception order for this site, because a car wash is an additional fuel service station use in combination, which was not granted in Case No. 02-016-X.

Pursuant to Section 405.5.B, Woodland must file a Petition for Special Exception not only for an evaluation of its proposed roll-over car wash in the context of Section 502.1, but also for a re-evaluation of its fuel service station use, convenience store, and carry-out restaurant in combination with the car wash. Petitioner's request for special exception for the car wash must be denied for failure to satisfy Section 405.5.B of the Zoning Regulations.

B. There is no "Dispute" that a Variance is Required for Approval of Petitioner's Car Wash Building.

Petitioner's own professional engineer, Mr. Colbert, testified that a setback variance is required between the existing convenience store building and existing car wash structure, which are shown on Petitioner's site plan. (T., pp. 143-144); *See also* Petitioners' Exhibit No. 3. The distance between these two structures is approximately fifty-six (56) feet, and the required side building façade to side building façade setback is

sixty (60) feet. (T., pp. 128,132); *See also* Petitioner's Exhibit No. 2 (Site Plan to Accompany Application for Building Permit). Petitioner did not file for a Petition for Variance as part of the instant case. Mr. Colbert did, however, explain that these two building are "not moving anywhere" due to their construction. (T., p. 145) "To comply with Mr. Richards' testimony – which I won't dispute – we can provide a connection, as he suggested, between the two buildings, eliminating the need to have sixty feet in between them." (T. pp. 143-144, emphasis added) Any such connection, in the form of a canopy, would have to "structurally attach" the buildings. (T., p. 134)

Carl W. Richards, Jr., Supervisor of the Zoning Review Office, provided testimony to this Board prior to this admission by Mr. Colbert. Mr. Richards has been a Baltimore County employee for forty-one (41) years, starting in 1966, and, over this time period, has gained experience (1) reviewing site plans submitted for variance and special exception hearings and (2) in the interpretation and application of the Zoning Regulations. Mr. Richards first testified regarding the method by which the Zoning Review Office calculates required setbacks between buildings, explaining this method as follows:

> Q. Let me refer you to Section 102.2 of the zoning regulations, and I will pass this over to you, and ask if you're familiar with this section of the zoning regulations?
>
> A. Yes, sir, I am.
>
> Q. Can you provide to the Board how the zoning [office] applies that section?
>
> A. Typically, when you're reviewing buildings for compliance, each building has its own set of setbacks and yard areas, and one building can't coincide or use the setbacks or yard areas required for the other building.
>
> Each one is self-sufficient. The setbacks have to be added up if there's more than one building, either side to side, front to front, rear to rear. Whatever

side is opposed, you have to add up those separate setbacks. It also applies [to] yard areas, too, so it's not just setbacks.

(T., p. 126, emphasis added) Two buildings are not permitted to share setback areas when located on a single lot. (T., p 126); ***See also*** **Memorandum Exhibit No. 2** (BCZR Section 102.2). In the instant case, the Osprey is located on a single lot improved with two separate structures, the roll-over cash and convenience store buildings. *See* Petitioner's Exhibit No. 3.

Petitioner's own site plan lists the setbacks required for on-site commercial buildings and provides that the required setback generated from a side building wall of any on-site building is thirty (30) feet. *See* Petitioner's Exhibit No. 3. Pursuant to Section 102.2 of the Zoning Regulations and consistent with Mr. Richards' testimony, the required distance between the sides of two buildings is sixty (60) feet. (T., p. 126); ***See also*** **Memorandum Exhibit No. 2**. Again, required side yard setbacks may not be shared, which results in the need to double the side yard setback requirement between the side building walls of two structures. (T., p. 126); ***See also*** **Memorandum Exhibit No. 2**. Following his explanation to this Board of the proper method for calculating required setbacks between buildings, Mr. Richards verified that a variance is required between the existing roll-over car wash building and convenience store building.

Q. Let me, on the board, [show you] what has been marked as CBA Exhibit No. 11, which is entitled Site Plan to Accompany Zoning Petition, Osprey Food Market, it shows certain buildings that are located there. This shows the convenience store, a one-story, and it shows a car wash?

A. Yes.

Q. Now, I'm going to point out to you where it shows a setback of fifty-six feet between two buildings.

A. Yes.

Q. Based on your knowledge of the zoning regulations and based on your experience, does that satisfy the zoning regulations?

A. It does not.

Q. What would satisfy the zoning regulations?

A. I believe the property is zoned M.L.?

Q. That's correct.

A. M.L., you use the setbacks in the B.R., and the B.R. requires thirty foot side yard setbacks, and it appears by looking at the plan – I haven't really [looked] at it that close – but it appears it's opposing side yards, would require sixty feet.

Q. Now are there exceptions?

A. Not that I'm aware of, unless a variance is granted.

Q. So in order to, based on your experience in the zoning office, you're your reviewing of the plans, based on your experience, that if it were less than sixty feet distance between two buildings in an M.L. zone, and this is M.L.-I.M., does it make any difference?

A. Not in setbacks, no.

Q. So in your opinion, a variance should be required?

A. Yes.

(T., pp. 127-128, emphasis added) Petitioner does not dispute that a variance is required for this roll-over car wash. (T., pp. 143-144)

Without an approved variance, the special exception for the car wash must be denied.

II. BCC Section 32-4-114(c): "County prohibited from processing if violations exist."

The Fuel Service Station Regulations limit where merchandise may be displayed outside on a fuel service station property. ***See*** **Memorandum Exhibit No. 1** (BCZR Section 405.4.C.1.c). Specifically, Section 405.4.C.1.c of the Zoning Regulations restricts the outdoors sale of merchandise to "under the canopy, or if there is no canopy, on or between the pump island or in the area immediately adjacent to the cashier's kiosk." *See* Id. By Petitioner's own admission, the Osprey station sells two "retail" items, kerosene and propane, outdoors and in a location that does not comply with this section. (T., pp. 82-84); *See* Petitioner's Exhibit No. 3. There is no requirement that such outside sales be adjacent to or near the fuel station pumps. Canopies could be constructed over the outside retail areas dedicated to propane and kerosene. (T., pp. 120-121)

Woodland now asks this Board to grant relief for another special exception use on its property, even though its business operation is in not compliance with the Zoning Regulations. Section 32-4-114(c) of the Baltimore County Code addresses processing of site plans by Baltimore County and provides as follows:

> The county may not process plans or permits for a proposed development if the applicant owns or has an interest in property located in the county upon which there exists, at the time of the application or during the processing of the application, a violation of the zoning or development regulations of the county.

See **Memorandum Exhibit No. 3.** This failure to comply with Section 405.4.C.1.c of the Zoning Regulations requires that the special exception for the car wash be denied.

III. There Exists No Equitable Defense to Permit Woodlands to Continue Operation of the Car Wash.

In 2001, the Zoning Commissioner granted Woodland's Petition for Special Exception for a fuel service station in combination with a convenience store. Only those two uses were approved by the Zoning Commissioner. Woodland has argued that, because it has substantially relied upon the special exception granted in 2001 by building and continually operating its fuel service station/car wash/convenience store, SJP should be estopped from challenging the relief granted. However, the equitable principles asserted by Woodland have no application in this case.

A property owner may not continue to enjoy the fruits of an illegality. Time and expense does not cure the illegality. Neither the Zoning Commissioner's approval in the 2001 Case or the County's acceptance of the Petition filed in the instant case provide a defense for the failure of Woodland to comply with the Zoning Regulations. The Maryland Court of Appeals has recognized this principle for years. In *Marzullo v. Kahl*, 366 Md. 158 (2001), a landowner petitioned Baltimore County for a special exception for a reptile and snake breeding farm, which the County granted. The County subsequently issued permits to the landowner who thereafter undertook construction of a barn on his property to support the reptile and snake breeding use. Unhappy neighbors complained to the County and filed a Petition for Special Hearing to challenge the permissibility of the reptile and snake breeding use in the zone in which the landowner's property was situated. Among other defenses, the landowner asserted both "that he ha[d] obtained a vested right to use his property" as a reptile and snake breeding farm and "that Baltimore County should be estopped from preventing him from using his property" as such. *Marzullo*, 366 Md. at 191-99. Each theory relied on the premise that the landowner had

performed substantial work (and spent considerable funds) on the barn for which the County issued a permit. However, with regard to both arguments, the Court of Appeals' rationale was the same: the permit granted to the landowner, upon which he relied, was not lawfully issued and, therefore, the equitable defenses asserted by the landowner were not viable. *See id.* at 200 (holding "Respondent is not entitled to a vested right to use his property to raise, breed, and keep reptiles and snakes....because his permit was never properly issued....We also hold that Baltimore County is not estopped from preventing respondent from using his property to conduct his business by enforcing the BCZR....").

Similarly, in *Permanent Financial Corp. v. Montgomery County,* 308 Md. 239 (1986), a developer began construction of an office building following Montgomery County's issuance of a building permit. After the developer worked on the building for eight months and spent $2 million in construction costs, the County "issued a stop work order on the grounds that the building violated statutory height limitations, set-back requirements, and floor area ratio restrictions." *Id.* at 241-42.

For nearly the same reasons as discussed in *Marzullo*, the developer in this case contended "that the doctrine of equitable estoppel should be applied against the County" to prohibit the County from halting construction that it had previously approved. *Id.* at 242. While the *Permanent Financial* Court found that the County should be estopped from reversing its initial interpretation of an ambiguous zoning regulation regarding building height, it nevertheless found that there was no ambiguity in the County's floor area ratio definition and that because the "building exceeds the prescribed [floor area ratio]...the County is not estopped to require correction of that deficiency." *Id.* at 254. In other words, because the building, as constructed, clearly violated County zoning laws,

the County was not estopped from requiring the developer to comply with those laws, even though the County had previously approved the construction (including the illegal aspect) in error.

Both the *Marzullo* and *Permanent Financial* Courts rely upon an older Court of Appeals case – *Lipsitz v. Parr*, 164 Md. 222 (1932) – in determining the inapplicability of equitable defenses. It was in *Lipsitz* where the Court of Appeals most clearly stated the law in Maryland that

> even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act of its officer or agent, it is not estopped by the unauthorized or wrongful act of its officer or agent in issuing a permit that is forbidden by the explicit terms of an ordinance.

Lipsitz, 164 Md. at 228. Indeed, "[i]t follows that, because [an] ordinance prohibit[s] the use of the premises in question...any permit issued *would be void*, and the person who received the permit would derive *no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss....*" *Id.* (emphasis supplied).

In the instant case, the Board must reach the same conclusion. Under the longstanding law in Maryland, the relief granted to Osprey in Case No. 02-016-X and its permits issued as a result were void. Woodland must comply with the law. *See Marzullo, Permanent Financial,* and *Lipsitz, supra.*[1] Woodland seems to invoke a defense akin to laches, asserting that SJP, by waiting 6 years after Woodland's zoning relief and permits were granted, has waived any right to challenge that relief. However, just like the neighbors in *Marzullo*, SJP should not be precluded from challenging zoning

[1] Woodland seemingly has also invoked the defense of res judicata, asserting that the County's prior decision regarding its zoning relief and permits is final and, therefore, precludes a subsequent reversal of or change to that decision. However, as with equitable estoppel, Maryland courts have determined that "the principle of res judicata should not apply to an erroneous determination of law by an administrative body." *Bd. of County Commissioners of Cecil County v. Racine*, 24 Md. App. 435, 452 (1972).

relief and permits that were issued illegally – no matter when they mount such a challenge. *See Marzullo*, 366 Md. at 200.

No Prejudice to Woodland.

Furthermore, in order for Woodland to successfully assert a laches defense, it must establish both "negligence or lack of diligence on the part of" SJP in making its claim, as well as "prejudice or injury to" Woodland stemming from SJP's alleged lack of diligence. *Staley v. Staley,* 251 Md. 701, 703 (1968); *see also Jahnigen v. Smith,* 143 Md. App. 547, 555 (2002) ("In essence, a plaintiff will be estopped from bringing a claim when the plaintiff has not diligently asserted his rights in a timely manner and the delay will prejudice or injure the defendant."). Here, SJP acted promptly once it discovered the illegality of Woodland's approvals, and Woodland cannot identify any reasonable prejudice that it suffered *due to any perceived delay* on Windsor's part to challenge the approvals. In fact, Woodland has been able to operate its business uninterrupted for the 6 years since it received its approvals, which should be evidence enough that Woodland has actually *benefited* from the delay in identifying the illegality of those approvals. *See, e.g., Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1015-16 (D.C., 1992) (finding that dentist's ability to practice his trade uninterrupted during alleged 3-year "delay" period between Board of Dentistry's investigation and subsequent charging of dentist was among reasons why dentist suffered no prejudice for purposes of laches defense). Consequently, Woodland's purported laches defense should fail.

In summary, because, Baltimore County illegally granted zoning relief and issued permits to Woodland for its fuel service/car wash/convenience store use, and because Woodland has benefited from the receipt of those approvals for 6 years, the Board of

Appeals should find that SJP is well within its rights to suggest to this Board that additional zoning relief is necessary. Likewise, SJP is well within its rights to require Woodland to comply with the law, and, in any event, SJP has the obligation and right to require compliance with the law upon discovery of an illegally issued approval. Equity will not bar such rights.

IV. BCZR Section 253.2.B: Must "Primarily Serve."

The Osprey property is zoned ML-IM (Manufacturing, Light – Industrial, Major). *See* Petitioner's Exhibit No. 3. The proposed car wash must, therefore, satisfy not only the special exception requirements of BCZR Section 502.1(A) through (I) but also Section 253.2.B because it is located in the ML-IM zone. ***See* Memorandum Exhibit No. 4.**

Petitioner must prove that this special exception use will "serve primarily the industrial uses and related activities in the surrounding industrial area." *See* Id. The majority of the proposed car wash business must, therefore, come from within the surrounding industrial area and those car wash customers must be industrial-related businesses. Petitioner presented no testimony, expert or otherwise, or any evidence before this Board to satisfy its burden of proof with regard to Section 253.2.B. Petitioner's only expert witness was accepted by this Board as a "civil engineer," without any expertise to offer testimony regarding Section 253.2.B. (T., pp. 7-8) On direct examination, Mr. Colbert confirmed that a fuel service station located in a ML-IM zone must meet the requirements of Section 253.2.B. (T., pp. 36-37) He stopped short of

offering any testimony to prove that Petitioner's roll-over car wash will comply with Section 253.2.B. *See* Id.

Petitioner's only other witness, Sajid Choudhry, is Petitioner's own managing member. Petitioner relied solely on the testimony of this witness to satisfy the requirements of Section 253.2.B. Mr. Choudhry offered only lay testimony insufficient to prove that the proposed car wash primarily serves the industrial uses and related activities in the surrounding industrial area. Mr. Choudhry represented to this Board that Osprey has "house accounts" by which vehicles of businesses located in an industrial park are served. (T., pp. 114-115) Mr. Choudhry was, however, unable to tell this Board the percentage of Osprey's business generated by its house accounts. (T., p. 115) When asked "to determine what business [Osprey] was getting from the industrial park patrons, employees or visitors, as opposed to the rest of the public area," Mr. Choudhry responded "<u>it would be hard to tell just that . . .</u>." (T., p. 115, <u>emphasis added</u>) Section 253.2.B of the Zoning Regulations requires the Petitioner to establish that the car wash will "primarily" serve the surrounding industrial area. Petitioner did not establish for this Board that the majority of its business is generated by the industrial and related uses in the surrounding industrial area.

The relevance of the testimony Petitioner did provide this Board regarding Section 253.2.B was unclear. Mr. Choudhry provided this Board the names of six (6) businesses with Osprey "house accounts." (T., pp. 114-115) Petitioner provided no documentation to confirm that these accounts were for businesses located in the surrounding industrial area. (T., pp. 114-115) The nature of these businesses was also not addressed. Are they industrial uses, retail uses, residential uses, car dealerships, or

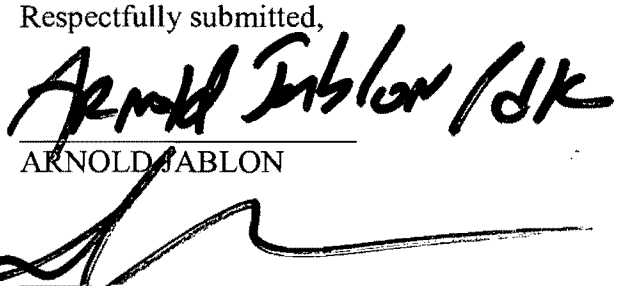
religious uses? Again, no information was provided at the public hearing before this Board. One of the few house accounts named by Mr. Choudhry, Arlington Baptist Church, is certainly not an industrial use, and it is not even located in an industrial zone. (T., pp. 114-115); **See also Memorandum Exhibit No. 5** (Baltimore County Aerial Photograph / Zoning Map). This property is zoned residential (DR10.5). *See* Id. Another account mentioned by Mr. Choudhry was Petitioner's Koons Ford account. This car dealership is also not located in an industrial zone. **See also Memorandum Exhibit No. 6** (Baltimore County Aerial Photograph / Zoning Map). It is zoned Business Major (BM). *See* Id. Business from these non-industrial uses should, therefore, not be considered by this Board in the context of Section 253.2.B. If considered, Petitioner did not assign a percentage of its total revenues to these business accounts.

BCZR Section 253.2.B does not require Protestant to prove whether or not the Osprey roll-over cash wash will primarily serve the surrounding industrial area. It is Petitioner's burden to prove compliance with this section of the Zoning Regulations. Without any credible testimony, expert or otherwise, or evidence to prove that the roll-over wash will "primarily serve" the surrounding industrial area, this Board must deny the instant Petition for Special Exception.

CONCLUSION

SJP now asks the Board to (1) order Woodland to file an amended site plan pursuant to Section 405.5.B of the Zoning Regulations; (2) find that the County may not process Woodland's Petition until it corrects certain zoning violations on the Osprey property; (3) determine that Petitioner has not met its burden of proof for approval of the instant Petition for Special Exception; and (4) deny the requested relief as filed in this case.

Respectfully submitted,



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Venable LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Protestant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of April, 2008, a copy of the foregoing MEMORANDUM was mailed, first-class delivery, postage prepaid, to Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204-4098, Attorney for Woodland Services, LLC.

Arnold Jablon

ARNOLD JABLON

TO1DOCS1/dhk01/#257751 v1

for review. The Director of Permits and Development Management shall allow the Board a maximum of 30 days, before taking action, to comment on an alleged violation. **[Bill Nos. 51-1993; 74-1999]**

Section 405
Fuel Service Stations
[Bill No. 172-1993[2]]

405.1 Statement of legislative findings and policy.

A. Bill No. 40-1967 enacted six commercial districts (C.N.S., C.C.C., C.T., C.S.A., C.S.-1 and C.S.-2) and one industrial district (I.M.). One of the main purposes of the new commercial districts was to control the location of service stations and the uses associated with them. In 1975, the C.R. District was added to govern service stations and other commercial uses in rural areas.

B. While the C.T., C.C.C., C.R. and I.M. Districts have special use and bulk regulations which make each one unique, the remaining districts (C.N.S., C.S.A., C.S.-1 and C.S.-2) do not include provisions which make them distinct. As a consequence, the C.S.A., C.N.S., C.S.-1 and C.S.-2 Districts are consolidated into the automotive services (A.S.) District.

C. The design and operation of service stations has changed significantly and the provisions set forth in Bill No. 40-1967 no longer reflect contemporary business practices. Due to the rise of self-service stations, the number of businesses that "service" motor-vehicles by providing repair facilities has been steadily declining, while the number of stations with convenience stores or car wash operations has been increasing. To better reflect the evolving role of this use, the name of "automotive service station" is being changed to "fuel service station," and regulations which govern the permitted ancillary uses are being amended to reflect contemporary business practices and to facilitate the upgrading of existing stations.

D. It is the intent of this section to permit fuel service stations in accordance with the goals of the Master Plan and duly adopted community plans by requiring performance standards that will regulate their location and appearance as well as the additional uses which may be developed at such sites.

405.2 Locations in which fuel service stations are permitted.

A. A fuel service station is permitted by right subject to Section 405.4, provided that no part of the lot is within 100 feet of a residentially zoned property and is integrated with and located:

1. In a planned shopping center of which at least 20% has been constructed at the time the building permit for the fuel service station is issued, but not to

[2] **Editor's Note: This bill also repealed former Section 405, which was part of BCZR 1955, as amended by Resolution, November 21, 1956, and Bill Nos. 40-1967; 69-1968.**

MEMORANDUM EXHIBIT NO. 1

Section 102
General Requirements
[BCZR 1955]

102.1 No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use.

102.2 No yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area for another building or use.

102.3 No portion of an alley shall be considered as any part of a side or rear yard.

102.4 No dwelling, other than a multifamily building, shall be built on a lot containing less than 20,000 square feet which does not abut on a right-of-way at least 30 feet wide over which the public has an easement of travel, except as provided for panhandle lots in § 32-4-409 of the Baltimore County Code. **[Bill Nos. 172-1989; 2-1992; 137-2004]**

102.5 On a corner lot in any residential zone, no planting, fence, wall, building or other obstruction to vision more than three feet in height shall be placed or maintained within the triangular area bounded on two sides by the front and side street property lines, or by projections of said lines to their point of intersection, and on the third side by a straight line connecting points on said lot lines (or their projections), each of which points is 25 feet distant from the point of intersection. At the intersection of a street and an alley, the dimension corresponding to the 25 feet noted above shall be 15 feet and 10 feet at the intersection of two alleys. Poles, posts and guys for streetlights and for other utility services shall not be considered obstructions to vision within the meaning of this section. **[Resolution, November 21, 1956]**

102.6 No building permit shall be issued for any commercial, industrial or apartment development until the proposed plan for vehicular access thereto shall have been first approved by the Baltimore County Department of Permits and Development Management. **[Resolution, November 21, 1956]**

102.7 Where development of a property includes both a special exception and a residential subdivision, the area allocated for use as a special exception shall not be included in the calculation of residential density. **[Bill No. 74-2000]**

Section 103
Application of Zoning Regulations[1]
[BCZR 1955]

103.1 These regulations shall apply as of the date of their adoption but the provisions pertaining to use, height, area and density of population shall not apply to any development, subdivision or parcel of land, the preliminary plan for which was

[1] **Editor's Note: Section 4 of Bill No. 24-2006, a bill which amended Article 32, Planning, Zoning and Subdivision Control, of the Baltimore County Code 2003, stated as follows: "This Act is adopted independently of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the rights to the vesting of a development that would otherwise accrue from the zoning or development regulations or other County laws."**

MEMORANDUM EXHIBIT NO. 2

administrative procedures for the review and processing of plans and plats under the provisions of Subtitle 2 of this title.
(1988 Code, § 26-178) (Bill No. 1, 1992, § 2; Bill No. 69-95, § 10, 7-1-1995; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-113. DELINQUENT ACCOUNTS.

(a) *Payment required before processing.* Before the county may process plans or permits for a proposed development, the applicant shall pay all delinquent accounts of the applicant.

(b) *Exception.* The provisions of subsection (a) of this section do not apply if the applicant disputes the county's claim and posts collateral to satisfy the claim pending resolution of the dispute.
(1988 Code, § 26-179) (Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-114. COMPLIANCE WITH OTHER LAWS AND REGULATIONS.

(a) *Compliance with other county laws required.* Except as otherwise provided in this title, all development shall comply with this title and all other applicable laws or regulations of the county.

(b) *Laws not superseded by this title; exception.* Other laws or regulations of the county that affect development are not superseded by this title unless specifically stated in this title.

(c) *County prohibited from processing if violations exist.* The county may not process plans or permits for a proposed development if the applicant owns or has an interest in property located in the county upon which there exists, at the time of the application or during the processing of the application, a violation of the zoning or development regulations of the county.
(1988 Code, § 26-180) (Bill No. 18, 1990, § 2; Bill No. 79-01, § 2, 7-1-2004)

§ 32-4-115. ENFORCEMENT AND REMEDIES.

(a) *In general.* A permit may not be issued without compliance with this title.

(b) *Remedies.* The county may bring an action:

(1) For specific performance of a provision of this title; or

(2) To set aside a conveyance made in violation of this title at the cost and expense of the transferor.
(1988 Code, § 26-175) (Bill No. 79-01, § 2, 7-1-2004)

MEMORANDUM EXHIBIT NO. 3

Section 253
Manufacturing, Light (M.L.) Zone Use Regulations
[Bill No. 100-1970[57]]

253.1. Uses permitted as of right. The uses listed in this section, only, shall be permitted as of right in M.L. Zones, subject to any conditions hereinafter prescribed.

A. The following industrial uses:[58]

1. Airplane assembly.
2. Automobile assembly.
3. Boatyards (including marinas or marine railways).
4. Bottling establishments, soft-drink.
5. Brewery, Class 5B, if within the urban rural demarcation line **[Bill No. 185-1995]**
6. Candy manufacture, packaging or treatment.
7. Carpet or rug cleaning.
8. Cellophane-products manufacture or processing-restricted production (see Section 253.3).
9. Cleaning or dyeing.
10. Concrete products manufacture, including manufacture of concrete blocks or cinder blocks.
11. Cork products manufacture or processing-restricted production (see Section 253.3).
12. Cosmetics manufacture, compounding, packaging or treatment.
13. Drug manufacture, compounding, packaging or treatment.
14. Electrical appliance assembly.
15. Enameling, japanning or lacquering.
16. Excavations, controlled, except those involving the use of explosives.
17. Fiber products manufacture or processing, including the manufacture or processing of articles made of felt or yarn, or of textiles, canvas or other cloth-restricted production (see Section 253.3).
18. Food products manufacture, compounding, packaging or treatment, including but not limited to wholesale bakeries; canning plants or packing

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57 **Editor's Note: This bill also repealed former Subsections 253.1 through 253.5, derived from part of BCZR 1955, as amended by County Commissioners' Resolution of November 21, 1956, and County Council Bill Nos. 64-1960; 56-1061; 64-1963; 40-1967; 61-1967; and 85-1967.**

58 **Editor's Note: All provisions of this subsection are originally from Bill No. 100-1970, except as otherwise noted.**

MEMORANDUM EXHIBIT NO. 4

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw1.1)

Go Back
View Map
New Search

Account Identifier: District - 02 Account Number - 0202571970

Owner Information

Owner Name: BOARD OF TR ARLINGTON BAPTIST CH INC
Use: EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: 3030 N ROLLING RD
BALTIMORE MD 21244-2021
Deed Reference: 1) / 4830/ 448
2)

Location & Structure Information

Premises Address
3030 N ROLLING RD

Legal Description
16.0462 AC SWS
ROLLING RD
2000 NW CLAYS LA

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
87	11	231						1	Plat Ref:

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000	73,382 SF	16.04 AC	01

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2007	Phase-in Assessments As Of 07/01/2007	As Of 07/01/2008
Land	680,900	1,400,900		
Improvements:	8,163,300	9,396,000		
Total:	8,844,200	10,796,900	9,495,100	10,146,000
Preferential Land:	0	0	0	0

Transfer Information

Seller: ARLINGTON BAPTIS T CHURCH **Date:** 12/06/1967 **Price:** $0
Type: NOT ARMS-LENGTH **Deed1:** / 4830/ 448 **Deed2:**

Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**

Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: COUNTY AND STATE
Exempt Class: CHURCHES, SYNAGOGUES, & PARSONAGES
Special Tax Recapture:
* NONE *

MEMORANDUM EXHIBIT NO. 5

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw1.1)

Go Back
View Map
New Search

Account Identifier: **District** - 01 **Account Number** - 1800011832

Owner Information

Owner Name:	KOONS JAMES E KOONS CECILIA Z	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	8905 ABBET TERRACE POTOMAC MD 20854-5434	**Deed Reference:**	1) / 6855/ 258 2)

Location & Structure Information

Premises Address
6970 SECURITY BLVD
BALTIMORE MD 21244-2410

Legal Description
7.8748 AC

CHAMPION FORD DEALERSHI

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
94	6	123					1	3	**Plat Ref:** 44/ 98

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1979	54,859 SF	7.87 AC	22

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2006	Phase-in Assessments As Of 07/01/2007	As Of 07/01/2008
Land	1,968,700	2,362,400		
Improvements:	1,846,700	2,113,400		
Total:	3,815,400	4,475,800	4,255,666	4,475,800
Preferential Land:	0	0	0	0

Transfer Information

Seller:	SAMUELSON FREDERICK C	**Date:**	01/23/1985	**Price:**	$4,500,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6855/ 258	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

MEMORANDUM EXHIBIT NO. 6

IN THE MATTER OF:	* BEFORE THE
WOODLAND SERVICES, LLC -	* COUNTY BOARD OF APPEALS
Legal Owner/Petitioner	* OF
2791 Rolling Road	* BALTIMORE COUNTY
2nd Election District	* Case No. 07-245-X
4th Councilmanic District	* March 20, 2008

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at Hearing Room #2, Second Floor, Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, at 9 a.m., March 20, 2008.

* * * * *

Reported by:

C.E. Peatt

MEMORANDUM EXHIBIT NO. _____

H

Court of Appeals of Maryland.
Mary Pat MARZULLO et al.
v.
Peter A. KAHL.
No. 10, Sept. Term, 2001.

Oct. 12, 2001.

Landowner sought review of county board of appeals' decision that his business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in zone implementing resource conservation and watershed protection. The Circuit Court, Baltimore County, John Grason Turnbull II, J., reversed. Neighbor and county attorney appealed. The Court of Special Appeals, 135 Md.App. 663, 763 A.2d 1217, affirmed. Parties petitioned for a writ of certiorari. The Court of Appeals, Cathell, J., held that landowner's business was not a permitted use.

Reversed and remanded with directions.

West Headnotes

[1] Zoning and Planning 605
414k605 Most Cited Cases
On appellate review of zoning case, Court of Appeals would take into consideration county board of appeals' expertise and would afford appropriate deference to board's decision that landowner's business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in a residential resource conservation and watershed protection zone.

[2] Zoning and Planning 279
414k279 Most Cited Cases
Landowner's business of breeding, raising, and selling snakes and reptiles was not "commercial agriculture" within scope of zoning regulation's definition of "farm,", and thus, it was not a permitted use in zone implementing resource conservation and watershed protection; legislative intent suggested that drafters of regulation intended "animal husbandry" aspect of "commercial agriculture" to relate to production and care of domestic animals, and landowner's business involved wild animals.

[3] Statutes 174
361k174 Most Cited Cases
Courts do not set aside common experience and common sense when construing statutes.

[4] Statutes 181(2)
361k181(2) Most Cited Cases
Absurd statutory constructions are to be avoided.

[5] Zoning and Planning 465
414k465 Most Cited Cases
Landowner did not have a vested right to conduct on his property the business of breeding, raising, and selling snakes and reptiles, which was not a permitted use in zone implementing resource conservation and watershed protection; although landowner obtained a permit and completed substantial construction of business building, there was no change in zoning law and permit was improperly issued.

[6] Zoning and Planning 461
414k461 Most Cited Cases
Generally, in the absence of bad faith on the part of the remitting official, applicants for permits that involve the official's interpretation of zoning laws accept the afforded interpretation at their risk.

[7] Zoning and Planning 762
414k762 Most Cited Cases
County was not equitably estopped from preventing landowner from conducting on his property the business of breeding, raising, and selling snakes and reptiles, which was not a permitted use in zone implementing resource
conservation and watershed protection; even though county official granted landowner a construction permit, the permit was issued in violation of zoning ordinances.

****170*159** Carole S. Demilio, Deputy People's Counsel, and Peter Max Zimmerman, People's Counsel, Office of People's Counsel for Baltimore County, Towson; (J. Carroll Holzer of Holzer & Lee, Towson, all on brief), for petitioners/cross-respondents.

***160** Michael J. Moran (Law Offices of Michael J. Moran, P.C., Towson); John B. Gontrum (Romadka, Gontrum & McLaughlin, P.A., Baltimore), all on brief, for respondent/cross-petitioner.

Argued before BELL, C.J., and ELDRIDGE, RAKER, WILNER, CATHELL, HARRELL and

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Court of Appeals of Maryland.
PERMANENT FINANCIAL CORPORATION, Trustee
v.
MONTGOMERY COUNTY, Maryland et al.
No. 69 Sept. Term 1985.

Dec. 5, 1986.

Builder sought judicial review of decision of the county board of appeals denying it relief from suspension and stop work order and refusing to grant variance. The Circuit Court, Montgomery County, Stanley Frosh, J., affirmed, and builder appealed. The Court of Special Appeals affirmed, and builder petitioned for certiorari. The Court of Appeals, McAuliffe, J., held that: (1) penthouse failed to qualify as "roof structure housing mechanical equipment," so that penthouse was not exempted from height controls imposed by local zoning ordinance; (2) county was estopped from claiming that fourth floor of building exceeded height controls imposed by local zoning ordinance; (3) structures contained within penthouse did not qualify as "rooftop mechanical structures," under local zoning ordinance providing that area occupied by such mechanical structures is not included in gross floor area of building for purpose of area restrictions; and (4) county was not barred by laches from enforcing local zoning requirements against builder.

Affirmed.

West Headnotes

[1] Zoning and Planning 253
414k253 Most Cited Cases
Penthouse did not have "mansard roof," for purpose of height controls imposed by local zoning ordinance, where roof had no greater slope than was necessary for drainage purposes.

[2] Zoning and Planning 253
414k253 Most Cited Cases
Penthouse failed to qualify as "roof structure housing mechanical equipment," so that penthouse was not exempted from height controls imposed by local zoning ordinance, where penthouse not only housed various mechanical equipment, but also contained office for janitorial or security personnel.

[3] Zoning and Planning 762
414k762 Most Cited Cases
County was equitably estopped from claiming that building's upper floor exceeded height control imposed by local zoning ordinance, where builder had designed and constructed building in reliance on building permit and on long-standing and reasonable interpretation of county as to how building's height should be calculated.

[4] Zoning and Planning 253
414k253 Most Cited Cases
Structures enclosed within penthouse that had structural head room of six feet,
six inches were not "rooftop mechanical structures," under local zoning ordinance providing that area of such mechanical structures is not included in gross floor area of building for purpose of area restrictions.

[5] Zoning and Planning 624
414k624 Most Cited Cases
Court of Appeals would permit builder to argue that building did not violate local setback requirements, though stop work order from which builder appealed referred only to building's alleged violations of local height and area limitations, where county had notified builder subsequent to appeal that its stop work order was also based on building's failure to comply with local setback requirements, and question of setbacks was fully considered by county board of appeals.

[6] Zoning and Planning 762
414k762 Most Cited Cases
County was not barred by laches from enforcing local zoning requirements against builder, though county had waited more than eight months after it had issued building permit and after construction had begun to issue stop work order, and though builder had by that time spent more than $2 million on project, where record disclosed that county acted promptly when violations were brought to its attention by neighboring property owners.
****124 *241** Joseph P. Blocker and Larry A. Gordon (Linowes & Blocher, on brief), Silver Spring, for appellant.

Clyde C. Henning, Asst. Co. Atty. (Paul A. McGuckian, Co. Atty. and Alan M. Wright, Sr. Asst. Co. Atty., on brief), Rockville, for Montgomery

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LIPSITZ v. PARR ET AL.
Md. 1933.

Court of Appeals of Maryland.
LIPSITZ
v.
PARR ET AL.
No. 112.

Feb. 15, 1933.

Appeal from Circuit Court of Baltimore City; Charles F. Stein, Judge.

Suit by Morris Lipsitz, trading as the Northwestern Lumber Company, against William A. Parr, Buildings Engineer of the Mayor and City Council of Baltimore City, and others. From the decree, plaintiff appeals.

Affirmed.
West Headnotes
Eminent Domain 148 ⚷2.1

148 Eminent Domain
148I Nature, Extent, and Delegation of Power
148k2 What Constitutes a Taking; Police and Other Powers Distinguished
148k2.1 k. In General. Most Cited Cases
(Formerly 148k2(1))
Reasonable regulation which is not confiscatory, but which leaves owner in substantial enjoyment of property, although diminishing value through restriction of use, is valid without compensation. Comp.Pub.Gen.Laws Supp.1929, art. 66B.

Equity 150 ⚷71(1)

150 Equity
150II Laches and Stale Demands
150k68 Grounds and Essentials of Bar
150k71 Lapse of Time
150k71(1) k. In General. Most Cited Cases
"Laches" is inexcusable delay without necessary reference to duration, in assertion of right.

Equity 150 ⚷72(1)

150 Equity
150II Laches and Stale Demands
150k68 Grounds and Essentials of Bar
150k72 Prejudice from Delay in General
150k72(1) k. In General. Most Cited Cases
Unless mounting to statutory period of limitations whose application is not denied on equitable considerations, mere delay is insufficient to constitute "laches," if delay has not worked disadvantage.

Estoppel 156 ⚷62.5

156 Estoppel
156III Equitable Estoppel
156III(A) Nature and Essentials in General
156k62 Estoppel Against Public, Government, or Public Officers
156k62.5 k. Acts of Officers or Boards. Most Cited Cases
Municipality held not estopped by unauthorized act of officer or agent in issuing permit to erect ice factory forbidden by explicit terms of ordinance. Code Pub.Gen.Laws Supp. 1929, art. 66B.

Zoning and Planning 414 ⚷68

414 Zoning and Planning
414II Validity of Zoning Regulations
414II(B) Regulations as to Particular Matters
414k68 k. Use of Property in General. Most Cited Cases
Something more than admissible controversy is required to show that prohibition of certain use of premises under zoning ordinance is unlawful. Code Pub.Gen.Laws Supp.1929, art. 66B.

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Board of County Com'rs of Cecil County v. Racine, Md.App. 1975.

Court of Special Appeals of Maryland.
BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY et al.
v.
Elwood RACINE.
No. 303.

Feb. 13, 1975.

Owner of mobile home subdivision filed application for zoning and sanitary permit for use of one lot for mobile home without a permanent foundation. The County Board of Appeals denied the permit, and the owner appealed. The Circuit Court for Cecil County, J. Albert Roney, Jr., J., reversed, and appeal was taken. The Court of Special Appeals, Menchine, J., held that subject use of lot was a permissible use in the C-2 highway commercial zone, that at least some of the principles ples of the doctrine of res judicata are applicable to decisions by a zoning board and that where board's prior decision that requested use was not a permitted use was an erroneous interpretation of law, such decision did not, on principles akin to res judicata, preclude subsequent litigation of the matter before the board.

Order affirmed.
West Headnotes
[1] Zoning and Planning 414 ⚷278.1

414 Zoning and Planning
414V Construction, Operation and Effect
414V(C) Uses and Use Districts
414V(C)1 In General
414k278 Particular Terms and Uses
414k278.1 k. In General. Most Cited Cases
(Formerly 414k278)
Under provision of cumulative zoning ordinance that permitted uses in the C-2 highway commercial zone where all uses, except dwellings, that were permitted in the local commercial zone C-1, which authorized all uses permitted in residential zone R-3, i. e., multiple dwellings and mobile homes subdivisions, with a dwelling being defined as a residence on a permanent foundation and a mobile home being defined as a moveable or portable residence designed without a permanent foundation, use of lot in mobile home subdivision for a mobile home without a permanent foundation was an authorized use of land within the C-2 zoning.

[2] Zoning and Planning 414 ⚷360

414 Zoning and Planning
414VII Administration in General
414k358 Procedure
414k360 k. Determination in General. Most Cited Cases
A local zoning board's decision which is the product of an erroneous interpretation or application of the zoning ordinance is arbitrary and capricious in a legal sense.

[3] Zoning and Planning 414 ⚷363

414 Zoning and Planning
414VII Administration in General
414k358 Procedure
414k363 k. Conclusiveness of Determination and Collateral Attack. Most Cited Cases
At least some of the principles of the doctrine of res judicata are applicable to decisions of a zoning board.

[4] Administrative Law and Procedure 15A⚷501

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(D) Hearings and Adjudications

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H
Jahnigen v. Smith
Md.App.,2002.

Court of Special Appeals of Maryland.
Philip JAHNIGEN
v.
Mary Rosalie SMITH.
No. 852, Sept. Term, 2001.

April 2, 2002.

Residential tenant brought action against landlord for constructive trust, based on landlord's alleged promise to add tenant to title as tenant in common. The Circuit Court, Baltimore County, Kathleen G. Cox, J., entered order of dismissal, and tenant appealed. The Court of Special Appeals, Greene, J., held that: (1) proper cause of action was for resulting trust, not constructive trust; (2) laches period of 20 years applied; and (3) genuine issue of material fact whether landlord promised to create tenancy in common precluded summary judgment.

Reversed and remanded.
West Headnotes
[1] Pretrial Procedure 307A ⚷679

307A Pretrial Procedure
307AIII Dismissal
307AIII(B) Involuntary Dismissal
307AIII(B)6 Proceedings and Effect
307Ak679 k. Construction of Pleadings. Most Cited Cases
In analyzing a motion to dismiss, a trial court, assuming the truth of all well-pleaded facts in the complaint and taking all inferences from those facts in the light most favorable to the plaintiff, must determine whether the plaintiff has stated a claim upon which relief can be granted.

[2] Pretrial Procedure 307A ⚷622

307A Pretrial Procedure
307AIII Dismissal
307AIII(B) Involuntary Dismissal
307AIII(B)4 Pleading, Defects In, in General
307Ak622 k. Insufficiency in General. Most Cited Cases
Dismissal is appropriate only where the facts alleged fail to state a cause of action.

[3] Judgment 228 ⚷185(2)

228 Judgment
228V On Motion or Summary Proceeding
228k182 Motion or Other Application
228k185 Evidence in General
228k185(2) k. Presumptions and Burden of Proof. Most Cited Cases
When ruling on a motion for summary judgment, a court must view the facts, including all inferences, in the light most favorable to the opposing party. Md.Rule 2-501(e).

[4] Appeal and Error 30 ⚷863

30 Appeal and Error
30XVI Review
30XVI(A) Scope, Standards, and Extent, in General
30k862 Extent of Review Dependent on Nature of Decision Appealed from
30k863 k. In General. Most Cited Cases
The standard of appellate review of a summary judgment is whether the trial court was legally correct. Md.Rule 2-501(e).

[5] Equity 150 ⚷67

150 Equity
150II Laches and Stale Demands
150k67 k. Nature and Elements in General. Most Cited Cases
The doctrine of laches is based on the general principles of estoppel and implies that a plaintiff has exhibited negligence or lack of due diligence in

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C
Gropp v. District of Columbia Bd. of Dentistry
D.C.,1992.

District of Columbia Court of Appeals.
Stephen W. GROPP, Petitioner,
v.
DISTRICT OF COLUMBIA BOARD OF DENTISTRY, Respondent.
No. 90-1519.

Argued Dec. 2, 1991.
Decided April 3, 1992.
As Amended May 7, 1992.

Dentist challenged findings of the Board of Dentistry for revoking his license to practice and barring him from applying for reinstatement for two years. The Court of Appeals, King, J., held that: (1) substantial evidence sustained Board's findings that dentist filed false statements for services which were not performed; (2) sanctions imposed were not disproportionate to misconduct; and (3) dentist was not entitled to relief from sanctions imposed due to three-year delay between Board's completion of its investigation and filing informal charges.

Affirmed.
West Headnotes
[1] Health 198H ⚷218

198H Health
198HI Regulation in General
198HI(B) Professionals
198Hk214 Disciplinary Proceedings
198Hk218 k. Evidence. Most Cited Cases
(Formerly 299k11.3(3) Physicians and Surgeons)
Substantial evidence supported findings of fact and conclusions of law made by Board of Dentistry in support of its decision to revoke dentist's license based on charge that he submitted false statements to collect fees for services which were not provided; every date recorded by dentist was incorrect, the services listed as performed were not the same services the patient received, and dentist sought reimbursement for performance of identical services in three separate claims over a two-month period to two different insurers.

[2] Health 198H ⚷209

198H Health
198HI Regulation in General
198HI(B) Professionals
198Hk201 Discipline, Revocation, and Suspension
198Hk209 k. Advertising or Fraud; Dishonesty. Most Cited Cases
(Formerly 299k11.3(3) Physicians and Surgeons)
Substantial evidence supported Board of Dentistry's finding of fraud by dentist who submitted insurance claims for services which were never performed. D.C.Code 1981, § 2-3305.14(a)(3), (c)(3).

[3] Health 198H ⚷209

198H Health
198HI Regulation in General
198HI(B) Professionals
198Hk201 Discipline, Revocation, and Suspension
198Hk209 k. Advertising or Fraud; Dishonesty. Most Cited Cases
(Formerly 299k11.3(4) Physicians and Surgeons)
Two-year revocation of dentist's license was not disproportionate sanction for dentist's misconduct in submitting insurance claims for services he did not perform; dentist admitted that he forged patient's signature with respect to one of the specifications. D.C.Code 1981, § 2-3305.14(a)(13), (c)(3).

[4] Equity 150 ⚷85

150 Equity

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11/13/07

IN RE:PETITION FOR SPECIAL EXCEPTION*		BEFORE THE
E/S Rolling Road, 1,100' N of the c/l Tudsbury Road	*	BOARD OF APPEALS
(2701 Rolling Road) 2nd Election District 4th Council District	*	OF
	*	BALTIMORE COUNTY
Woodland Services, LLC Petitioner	*	Case No. 07-245-X

* * * * * * *

MEMORANDUM OF THE PETITIONER IN SUPPORT OF MOTION TO DISMISS APPEAL

NOW COMES Woodland Services, LLC, owners of 2701 Rolling Road, by their attorney, Michael P. Tanczyn, and submit the within Memorandum to assist the Board in resolving the Petitioner's Motion to Dismiss the Appeal filed by competitors.

History

This property was the subject of a Petition for Special Exception before the Zoning Commissioner in Baltimore County in Case No. 02-016-X. The owners of the property who were the Petitioners at the time were Rolling Road, LLC, and the contract Lessee, Eastern Petroleum Corporation. The Petition for a fuel service station use in combination with a convenience store greater than 1,500 feet and to allow a carry out restaurant as a use in combination was considered by the Zoning Commissioner. In his decision previously submitted to the Board in the instant case, he noted among those present in support of the request were Sajid Choudhry and Rias Ahmad, who are the principals in the present owner, Woodland Services, LLC, who were described as potential proprietors of the proposed business. The Zoning Commissioner's Opinion noted no protestants or other interested persons were present. The property described in that Petition is the same property described in the instant Petition. In a three page Opinion and Order the Zoning Commissioner notes on page 2 other site improvements include a 44 foot by 22 foot car wash facility. On the first page

of his Opinion the Zoning Commissioner notes the subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1. That site plan included the car wash facility. As further noted in the Zoning Commissioner's Opinion, the proposed use had been considered and approved by the Baltimore County Design Review Committee. He further noted that no zoning variances were requested, finding the property was sufficiently sized to accommodate the buildings. Significantly he notes the car wash contains sufficient area for stacking and parking. That Petition was granted by the Zoning Commissioner by Order September 21, 2001. No appeal was filed and the Petitioners applied for and obtained a building permit from Baltimore County and built the structure presently existing which was occupied and used early in 2002.

Subsequently in 2006, a competitor, Windsor Rolling Road Property LLC, filed a Petition for Special Hearing known as Case No. 06-583-SPH concerning 2701 Rolling Road. The Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law in that case apparently mix up the owners and the Petitioners and mistakenly states that the Petition was filed by the owner of the nearby property, Woodland Services, LLC. The matter was heard in the Summer of 2006 and by Order of the Deputy Zoning Commissioner of Baltimore County July 26, 2006, denied the Special Hearing Petition to confirm whether the prior decision in Case No. 02-016-X is void for a fuel service station in combination with a convenience store and carry out restaurant in part; and granted the Special Hearing as to the Special Exception for a car wash. That decision was timely appealed by both the owner of the property, and the Petitioner, who is the competitor, and is pending before the Board of Appeals.

However, subsequent to that decision the owner of the subject property, Woodland Services,

LLC, filed a Petition for Special Exception to approve the existing car wash in Case No. 07-245-X. The current Zoning Commissioner conducted a full hearing and issued his Findings of Fact and Conclusions of Law April 24, 2007 granting the approval of the rollover car wash as a use in combination with the fuel service station, convenience store and carry out restaurant previously approved in Case No. 02-016-X. The only protestants in that case were competitors Windsor Rolling Road Property LLC and St. John's Properties represented by Arnold Jablon, Esquire and David Karceski, Esquire, of Venable LLP.

The Zoning Commissioner in his Opinion found that the Order granting the Special Exception September 21, 2001 in Case No. 02-016-X was a Final Order and that the property was subsequently built out to provide the proposed improvements shown on the original site plan including the car wash. (Page 3). As the Zoning Commissioner further noted in his Opinion, there were no adverse Zoning Advisory Committee comments including from the Office of Planning, and he further found that the Petitioner's proposal was consistent with the adjacent and other existing commercial uses in the immediate area of the site. He further noted there were no interested citizens from the area in attendance at the hearing. Significantly, he found permits were issued based on plans approved in Case No. 02-016-X and the subject property was subsequently built out including the car wash. The Zoning Commissioner accepted the Petitioner's professional engineer's testimony that the Petition in Case No. 07-245-X only added the existing as-built car wash shown on the site plan in Case No. 02-016-X to the uses previously approved in Case No. 02-016-X. The Zoning Commissioner noted the contract for construction improvements to correct the site as built had been executed by the contractor as well as the owner admitted as Petitioner's Exhibit 9. That contract proposed to correct parking space deficiencies and relocate amenities and move a propane tank to

meet the landscape transition buffer requirements. The Zoning Commissioner also admitted as Petitioner's Exhibit the County aerial showing the site as built and its relationship to neighboring properties.

Significantly, Protestants called Leonard Wasilewski, a County Code Enforcement Officer, as stated in the Zoning Commissioner's Opinion. Mr. Wasilewski testified the sign requirements were in compliance for the signage on Petitioner's site at the time of hearing, and that other matters at the time of the Zoning Commissioner's hearing which had been subject of a Correction Notice issued by him, including the number of parking spaces and the size of those spaces required for various uses remained to be corrected. Protestants offered no other witnesses or evidence and called no witnesses other than Mr. Wasilewski.

The Zoning Commissioner in his Opinion found the Case No. 07-245-X to be an endeavor only to meet the technical objection raised by the Deputy Zoning Commissioner in Case No. 06-583-SPH that the car wash was not specifically mentioned on the Petition and therefore had not been properly advertised or posted. The Zoning Commissioner also found in his Opinion there was no testimony or suggestion that the car wash as built has been a problem at the site for either patrons or the surrounding locale. He further noted Protestant's attorney candidly admitted his client is or will be if successful with its zoning request a business competitor of the Petitioner in this case noting his decision in Case No. 06-449 X for Windsor Rolling Road Property LLC and WAWA. The Zoning Commissioner found the car wash as built was a mirror image in size and location as that proposed on the site plan in Case No. 02-016-X. He further found it was built and was operated for years without incident or accident and granted the Special Exception by Order April 24, 2007. The only appeal to that decision was filed by the present Protestants who are self-described competitors.

The Board has requested that the parties provide legal Memoranda dealing with the issues of standing of a competitor, vesting, any Code prohibitions on processing zoning applications if violations exist, and any aspect of statute of limitations or laches as may be found to be applicable to the parties. Copies of the Petitioner's authorities are attached as Exhibits to the original Memorandum.

On the initial hearing date, October 23, 2007, the Board received copies of the Opinions in Case Nos. 02-016-X, 06-583-SPH, and 07-245-X. Additionally, the Board received copies of letters from the Protestants to James Thompson October 20, 2006, October 25, 2006, and December 28, 2006 to Mr. Kotroco, as well as the ZAC comments.

A Competitor Lacks Standing to Oppose a Zoning Petition

The Protestants, as self-admitted competitors, lack standing to maintain this appeal. The Protestants never appeared at the 2001 hearing held in Case No. 02-016-X, nor did they appeal same. In fact, as Petitioners, the competitors did not even raise the question of propriety of the grant of the Special Exception in Case No. 02-016-X until at least 4 years after the initial approval had been granted on September 21, 2001 when they filed the Petition in Case No. 06-583-SPH. At that point in time, not only had permits for the construction issued but the property had been fully built out and operational since early Spring of 2002.

The Appellate Courts have frequently held that prevention of competition is not a proper element of zoning and the competitor opposing a zoning request would lack standing on that basis. Kreatchman v. Ramsburg, 224 Md. 209, 167 A.2d 345 (1961). In Eastern Service Centers, Inc. v. Cloverland Farms Dairy, Inc., 130 Md.App. 1, 744 A.2d 63 (2000), the Court held that a person

whose sole reason for appealing a decision from the Zoning Board is to prevent competition with his established business does not have standing to appeal. In that case the Court found that the Appellant was a service station owner who lacked standing to appeal a zoning board's decision granting a permit to construct a gas station with an accessory convenience store approximately a block from the owner's site since the owner's sole motive for appeal was to prevent competition. Significantly in that decision as may be found applicable to the instant case by Board of Appeals, the Court found that the zoning permit to construct a gas station with accessory convenience store on a site located in an industrial district in which automobile service stations are permitted as conditional uses and food grocery stores may be permitted as accessory uses that the approval of a convenience store did not change the basic nature of the gas station since it was not expressly prohibited by statute for the zone in question ML-IM. Uses in combination with a fuel service station including a car wash are permitted by approved special exception.

Further authority for this proposition is found in the case of Superior Outdoor Signs, Inc. v. Eller Media Company, 150 Md.App. 479, 822 A.2d 478 (2003). In that case the Court of Special Appeals found that the business owner whose business was a competitor of the media company was not an aggrieved person who had standing to appeal from the Board's decision and the same business owner's business status as a payer of real property taxes did not afford him any taxpayer status so as to have standing to appeal from the Board's decision. The Court recited in that case the "aggrieved person standard" as a two-part test in which the person whose standing is questioned must show he has a personal or property interest that will be adversely affected by the zoning decision. He then must show that the harm to that interest from the zoning decision is distinct from the harm to the general public from the zoning decision.

From another perspective, in Committee for Responsible Development on 25th Street v. Mayor and City Council of Baltimore, 137 Md.App. 60, 767 A.2d 906 (2001), a challenger to a pharmacy construction sought judicial review of the Board of Municipal and Zoning Appeals decision that upheld the grant of the construction permit. The Circuit Court dismissed the appeal and the Court of Special Appeals affirmed the Circuit Court determination that the challenger did not have standing to seek judicial review of the Board decision. The Court, significantly, also found in that case that a case is moot where there is no longer an existing controversy between the parties at the time it is before the Court so the Court cannot provide an effective remedy. As applied to the instant case, the situation as presented is that the Petitioner's property was fully built out including with the car wash as built proposed for approval in Case No. 07-245-X. From another perspective, the case of Red Roof Inns, Inc. v. People's Counsel for Baltimore County, 96 Md.App. 219, 624 A.2d 1281 (1993), in affirming the denial of a variance from the County's sign regulations, the Petitioner's plea that his competitors in the immediate neighborhood had signs which also violated the zoning regulations and would require a variance was found unavailing by the Court of Special Appeals.

Generally, on the issue of standing the Courts have found since Bryniarski v. Montgomery County Board of Appeals, 247 Md. 137, 230 A.2d 289 (1967) that a person aggrieved by a decision of a Board of Zoning Appeals is one whose personal or property rights are adversely affected by decision of the Board and the decision must not only affect the matter in which the protestant has a specific interest or property right but his interest therein must be such he is personally and specially affected in a way different from that suffered by the public generally. In the instant case the Protestants have candidly admitted, as was found by the Zoning Commissioner in his earlier

decision, that they are competitors and they are appealing this on that basis. There is no proffer that they are aggrieved from the Protestants under that sense as followed in the same year as Bryniarski in the case of Kennerly v. Mayor and City Council of Baltimore, 247 Md. 601, 233 A.2d 800 (1967). Of like accord is Ginn v. Farley, 43 Md.App. 229, 403 A.2d 858 (1979). The Protestants as self-described competitors lack standing to maintain this appeal. It should be significant to the Board that no one else from the time of the original grant in Case No. 02-016-X other than these competitors has raised any question about the construction, operation, or prior approval of the fuel station with use in combination including carry out restaurant and proposed car wash on the Petitioner's site.

Vesting of Constitutional Property Rights by a Final Order, Building Permit and Buildout/Occupancy

The case of United Parcel Service, Inc. v. People's Counsel for Baltimore County, 336 Md. 569, 650 A.2d 226 (1994), provides guidance on this issue. The competitors, Protestants in the instant case, and Petitioners in Case No. 06-583-SPH, request the Board of Appeals to second guess the Final Order of the Zoning Commissioner in Case No. 02-016-X rendered in September 2001. As they have acknowledged, they did not participate in that case as there were no protestants.

In the UPS case, UPS had approached Baltimore County Zoning Commissioner to obtain an informal determination whether its plan for the site conformed with the County zoning laws. After meeting with the Zoning Commissioner, he orally advised UPS that its proposed use at the Loveton site was permitted of right under the applicable zoning law. Following the meeting, UPS sent a letter to the Commissioner seeking confirmation of his view. UPS received a letter back from the Zoning Commissioner with a marginal note on which the Zoning Commissioner wrote, "The aforementioned use of the property zoned ML is one that is permitted as of right and is ok." UPS, supra, at 572. The

Court of Appeals then noted that following that determination, any party, in this case, has to obtain a building permit from the Office of the Building Engineer. UPS , supra at 572. Upon filing the application for a building permit the Building Engineer provides the Zoning Commissioner a copy of the application for his approval before a permit may issue, quoting BCZR Section 500.1. The Commissioner determines whether the application is in proper form and whether the proposed use complies in all respects with the regulations then in effect with respect to zoning. UPS, supra, at 572. If the Commissioner approves the application and all other requirements are met, the Building Engineer may then issue a building permit. If the application is denied the applicant may petition the County Board of Appeals for review of the denial.

UPS applied to the Building Engineer for a building permit and its application was approved by the Zoning Commissioner's office on August 18, 1986. UPS, supra, 572, 573. After construction began a citizen questioned by letter whether the proposed UPS building was a permitted use or whether it fell within the category of a Trucking Terminal, Class 1, requiring a special exception. UPS, supra, at 573. In response to his letter the Zoning Commissioner wrote back stating, "After review of the UPS proposal, it was determined that the proposed use was and is in fact a warehouse, rather than a trucking facility as you suggest.... I have determined that the use more closely resembles that of a warehouse than as a trucking facility.... Thus the building permit was issued.... I am more convinced than ever that the UPS is a warehouse operation and does not require a special exception." UPS, supra, 573, 574.

Mr. Hupfer and other community associations then sent a letter to the Zoning Commissioner requesting that the prior letter decision be set in for an appeal hearing before the County Board of Appeals. The community's issue was based on UPS's failure to apply for a special exception with

which they disagreed. UPS, supra, at 574. UPS contested the Board of Appeals' authority to entertain an appeal arguing that any appeal should have been taken within 30 days from the issuance of the building permit. UPS, supra, at 574. The Board of Appeals of Baltimore County then conducted a hearing in which it determined it had the authority to entertain the appeal. UPS, supra, at 574. While the Board rejected the Hupfer and Association argument that the most recent letter of the Zoning Commissioner was an appealable decision holding that the Zoning Commissioner in 1987 simply confirmed his earlier decision, the Board decided an appeal from the 1985 or earlier decision was not subject to a timeliness objection even though the Baltimore County Code required that appeals from decisions of the Zoning Commissioner be taken within 30 days. The Board reasoned that the discovery rule as applied to the running of the general statute of limitations was applicable under the circumstances. UPS, supra, 574. UPS, joined by the County, sought judicial review of this determination in the Circuit Court. UPS, supra, 575.

Subsequently, the case was heard on the merits by the Board of Appeals and by a two to one decision the Board held the use determination was properly made and that no special exception was necessary. The Board also held that UPS's use of the property was permitted under the equitable doctrine of estoppel. UPS, supra, at 575. Protestants appealed that decision to the Circuit Court for Baltimore County. That Court after hearing rejected UPS's contention that Board of Appeals lacked authority to entertain the appeal and held that the doctrine of equitable estoppel could not be applied to save "an illegal use", remanding the case to the Board of Appeals to determine whether a special exception was warranted. UPS, supra, 575-576. UPS and Baltimore County appealed and the Court of Special Appeals affirmed. Then the Court of Appeals granted petition for writ of certiorari. UPS, supra, 576.

The Court of Appeals concluded that the Board of Appeals, the Circuit Court, and the Court of Special Appeals erred as a matter of law when they held that the Board of Appeals had authority to entertain an appeal from the Zoning Commissioner's 1985 margin note to UPS or from his January 19, 1987 letter to Mr. Hupfer. UPS, supra, at 576. The Court of Appeals buttressed its holding on the substantial evidence test, "A Court's role is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." UPS, supra, at 577.

In reaching that conclusion, the Court of Appeals began by reviewing the Baltimore County Code and statute authorizing appeals to the Board of Appeals from decisions of the Zoning Commissioner. Current Baltimore County Code Section 32-3-401 provides the same requirement as then present, that anyone aggrieved by a decision of the Zoning Commissioner could file a notice of appeal in writing with the Permits and Development Management Office within 30 days of a final decision and pay the required fee. The Board of Appeals was then charged in that event to hear and dispose of the appeal as provided in the charter and the Board's rules.

In the UPS decision, the Court of Appeals found, "the Baltimore County statute authorizing appeals to the Board of Appeals from decisions of the Zoning Commissioner BCC § 26-132(a) states that notice of such appeal shall be filed ... within thirty (30) days of any final order appealed...." The Board of Appeals concluded that an appeal could be maintained from the Zoning Commissioner's marginal note dated July 10, 1985 although more than a year had passed since then. It premised its holding on the discovery rule... Furthermore, the Board without holding an evidentiary hearing found that Mr. Hupfer was unaware of the Zoning Commissioner's 1985 use determination

until receipt of the Commissioner's letter dated January 19, 1987. Therefore, according to the Board, the thirty day appeal period did not begin to run until Mr. Hupfer's receipt of the January 19, 1987 letter when Mr. Hupfer could reasonably have been expected to know of the Zoning Commissioner's determination." UPS, supra, at 578.

The Court of Appeals found that the Code section "is not a statute of limitations. Instead it is a 'time for appeal' provision like that set forth in Md. Rule § 8-202(a)...like other time for appeal provisions BCC § 26-132 neither contains the word 'accrue' nor speaks in term of 'accrual'. Moreover, there is no language in BCC § 26-132 which could furnish the basis for a flexible doctrine like the discovery rule. Rather the time for appeal begins to run from a fixed date. In mandatory language the Baltimore County statute states that a notice of appeal shall be filed within thirty (30) days of the decision from which the appeal is taken. Under language like that set forth in BCC § 26-132, this Court has consistently held that, where the notice of appeal was not filed within the prescribed period after the final decision from which the appeal was taken, the appellate tribunal had no authority to decide the case on its merits." UPS, supra, at 579-580. Finally, the Court of Appeals concluded that the reliance on the discovery rule by the Board of Appeals was error. UPS, supra, at 580-581.

The Court of Appeals also found that even if the Baltimore County Code Section had contained language authorizing a discovery rule, the Board's decision to exercise appellate jurisdiction from the earlier decision would have been erroneous on two other separate grounds, namely, the Board declined to hold an evidentiary hearing on the issue of its authority to entertain an appeal and its conclusion or finding was unsupported by substantial evidence. Secondly, the Board's conclusion that the July 10, 1985 marginal note by the Zoning Commissioner was an

appealable decision within the meaning of BCC § 26-132(a) seems doubtful. UPS, supra, at 581.

Significantly, the Court of Appeals then said,

> "As far as the record shows, no applications concerning this property were pending before any governmental body. In fact, UPS had not yet acquired the property. The first governmental decision or approval in this case would appear to have been the 1986 approvals of the UPS application for a building permit, culminating in the issuance of a building permit on October 28, 1986, by the Building Engineer. No timely appeals were taken from this action." UPS, supra, at 581.

The Court of Appeals, after further discussion, noted,

> "The approval or other form of permission in this case and the decision of the Baltimore County officials, occurred in 1986 when the Zoning Commissioner and other officials approved UPS application for a building permit and a Building Engineer issued a building permit." UPS, supra, at 583.

The Court of Appeals noted under the Baltimore County law, "once the Zoning Commissioner approves the application for a building permit and a Building Engineer issues the permit, the Zoning Commissioner does not have any further authority over that permit. The Building Engineer is the only official authorized to issue building permits, BCC § 7-36(a), and the authority to supervise activity pursuant to a building permit is vested in the Building Engineer, BCC § 7-2(a), and the Department of Permits and Licenses, § 529 of the Baltimore County Charter. More specifically, only the Building Engineer is granted authority to 'revoke, suspend, annul, or modify any building permit. BCC § 7-36(a)(3). An appeal to the Board of Appeals for review of the action of the Building Engineer may be taken within thirty (30) days and not longer. BCC § 7-36(a)(4). UPS, supra, at 583. The Court of Appeals then concluded the Zoning Commissioner, in responding

to Mr. Hupfer on January 19, 1987, did not grant, deny, decide, or order anything. The Commissioner's letter simply explained and defended the 1986 decision approving the application for a building permit. Consequently, the January 19, 1987 letter was not an approval or decision appealable to the Board of Appeals." UPS, supra, at 585. The Court of Appeals went on to note on the issue of jurisdiction that the Baltimore County Board of Appeals had no original jurisdiction in the matter. UPS, supra, at 585.

The Court of Appeals noted that "the Baltimore County Charter in § 602(e) grants to the Board of Appeals original and exclusive jurisdiction over all petitions for reclassification. This is the only original jurisdiction granted to the Board of Appeals by the Charter or laws of Baltimore County. Except for reclassifications, the Board's jurisdiction is exclusively appellate." UPS, supra, at 587. The Court of Appeals also noted, "A charter county is thus given the option, as to any particular matter encompassed by § 5(U), to vest the Board of Appeals with original jurisdiction or with appellate jurisdiction. Baltimore County has decided to give its Board of Appeals original jurisdiction in only one category of cases, namely reclassifications. In all other matters, Baltimore County has decided to vest only appellate jurisdiction in the Board of Appeals. This is consistent with the language and design of § 5(U)." UPS, supra, at 588. The Court of Appeals then concluded that, "in deciding that it had authority to entertain the appeal in this case, the Baltimore County Board of Appeals erred as a matter of law. It should have dismissed the appeal." UPS, supra, at 590. The Court of Appeals noted that its decision did not leave the protestants in the UPS case without a remedy. The Court quoted BCC § 26-120(a) which provided for the maintenance of an action for injunctive relief, "enjoining the erection, construction, reconstruction, alteration, repair, or use of buildings, structures and land in violation of the zoning regulations and restrictions adopted pursuant

to this title and requiring the return of property, to the extent possible, to its condition prior to the violation including removal of the source of the violation. In an equity action under this Section consideration can be given to equitable defenses such as laches. An action in § 26-120(a) involving the UPS facility is presently pending the Circuit Court for Baltimore County." UPS, supra, at 591.

As applied to the instant case, the actions of the Protestants in Case No. 07-245-X who are Petitioners in Case No. 06-583-SPH, are in patent disregard of the provisions of the Baltimore County Code which require that a final order of the Zoning Commissioner as well as a building permit be afforded legitimacy and honored. Present Code BCC § 32-3-301 authorizes the Zoning Commissioner to grant variances, interpret the zoning regulations and grant special exceptions, and provides that an appeal of the decision of the Zoning Commissioner lies to the Board of Appeals, the same as the prior law in effect when the Osprey station was first approved in 2001. There can be no claim to the contrary that a building permit issued following a final order that construction ensued under the building permit resulting in, upon completion, a use and occupancy permit for 2701 Rolling Road for a fuel service station with use in combination C-store and carry out restaurant with the same rollover car wash proposed on the original site plans and mentioned in the Zoning Commissioner's 2001 decision as built. No appeals were filed to either the Zoning Commissioners final order or to the building permit subsequently issued.

In the case of Board of County Commissioners of Cecil County v. Racine, 24 Md.App. 435, 332 A.2d 306 (1975, the Court of Special Appeals held that an unreversed final decision by a zoning board passed in the exercise of its discretion when issues of fact or on mixed issues of law and fact, is fully binding on the parties to the cause and their privies as to all issues determined thereby; it is only when there has been a substantial change of condition or it is shown that the decision was the

product of fraud, surprise, mistake or inadvertence, that such an administrative body may reverse its prior decision in litigation between the same parties. Other cases involving the issue of vesting sometimes deal with changes in the law which occur while a matter is pending before the approving authority which would otherwise be applicable to the petitioner's request. That is not the case with regard to 2701 Rolling Road. A determining factor in the cases studied when rights begin to vest seem to place emphasis, significance, and are based on the obtention of final court approval followed by actions taken to obtain a building permit. Cases which so hold which have been researched include Powell v. Calvert County, 368 Md. 400, 795 A.2d 96 (2002). In that case the Court held a special exception approval is not finally valid until all litigation concerning the special exception is final and that petitioners acting prior to finality are commencing at their own risk if they ultimately fail in obtaining the approval.

In dealing with downzoning of property while zoning requests were pending, the Court of Appeals held in Sycamore Realty Company v. People's Counsel of Baltimore County, 344 Md. 57, 684 A.2d 1331 (1995) that although downzoning is generally permissible under vested rights theory, when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his rights to complete and use that structure cannot be affected by any subsequent change of applicable building or zoning regulations. The Court concluded in that case that in order to obtain a vested right in existed zoning use which will be constitutionally protected against subsequent change in the zoning ordinance prohibiting or limiting that change, the owner must obtain a permit or occupancy certificate where required by applicable ordinance and must proceed under that permit or certificate to exercise it in land involved so that the neighborhood may be advised that the land is being devoted to that use.

In this case, the final order of the Zoning Commissioner in 2001 preceded the building permit applied for, issued, and under which the improvements were constructed. In the Sycamore case, the Court of Appeals considered the application of the zoning estoppel as a defense to government's attempt to enjoin the property use which may violate a new zoning scheme. The Court defined zoning estoppel as follows:

> "The traditional, 'black-letter' definition of zoning estoppel is:
> "A local government exercising its zoning powers will be estopped when a property owner,
> (1) relying in good faith,
> (2) upon some act or omission of the government,
> (3) has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights which he ostensibly had acquired. "
> Sycamore, supra, at 64.

The Court of Appeals noted that "it had never adopted zoning estoppel in Maryland, rather recognizing a legal defense cast in terms of whether the property owner acquired vested rights to use his land without governmental interference....Whereas zoning estoppel is derived from principles of equity and focuses upon whether it would be inequitable to allow the government to repudiate its prior conduct, vested rights is derived from principles of common and constitutional law and focuses upon whether the owner acquired real property rights which cannot be taken away by governmental regulation." Sycamore, supra, at 66-67. The Sycamore court then concluded, "Thus although downzoning is generally permissible, under Maryland's vested rights theory, 'when a property owner obtains a lawful building permit, commences to build in good faith, and completes substantial construction on the property, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or zoning regulations.'", quoting Richmond Corp. v. Board of County Commissioners, 254 Md. 244, 255 A.2nd 398 (1969).

As applied to the Osprey station, there is literally no more approval which the Osprey owners needed to get or failed to get prior to commencing construction and completing construction and occupying the site. The instant case, Case No. 07-245-X, as was found by the Zoning Commissioner in his Opinion, was an after the fact request for approval based on the technical objection raised by the Deputy Zoning Commissioner. (Zoning Commissioner's Opinion, Footnote 1.) Other cases researched with similar holdings include, Sterling Homes Corp. v. Anne Arundel County, 116 Md.App. 206, 695 A.2nd 1238 (1996) and Prince George's County v. Blumberg, 44 Md.App. 79, 407 A.2d 1151 (1979). The Blumberg case highlighted a significant point applicable to the Osprey case. The Court therein held that a building permit could not be suspended or revoked because the application did not contain something which was not prescribed when the application was first submitted.

The application filed by Osprey for a building permit if there were any objections to the approval obtained from the Zoning Commissioner at the time when that would be scrutinized would be at the time of the application for the building permit. Because the Zoning Commissioner in the first case described the car wash which was set forth on the building plan as well, it is not surprising that the building permit issued because the plan as submitted was in keeping with the site plan approved by the Zoning Commissioner which showed the car wash.

To allow a private competitor many years after the completion of construction to attempt to get the Board to revisit the original final Order in Case No. 02-016-X which became final in October 2001, is not supported by case law, Code or common sense. The same competitors could have attended the hearing before the Zoning Commissioner and raised one or more of the objections they now wish to entertain, but chose not to attend. The same competitors could have appealed the

issuance of the building permit for raising one or more of the reasons they now urge this Board of Appeals to take up but did not choose that avenue of appeal as well. These competitors present before the Board a contrived, after the fact, attempt to have the Board of Appeals revisit and reconsider the approval granted in Case No. 02-016-X which became final in October of 2001 in patent disregard of the UPS decision. This Board of Appeals should decline their invitation to do so and dismiss this appeal. There is simply no provision in the Code that would allow revisiting that appeal by the Board of Appeals. Cases of like accord in support of that principle include Baltimore County v. Penn, 66 Md.App. 199, 503 A.2d 257 (1986), Prince George's County v. The Equitable Trust Company, Inc., 44 Md.App. 272, 408 A.2d 737 (1979), Town of Sykesville v. West Shore Communications, Inc., 110 Md.App. 300, 677 A.2d. 102 (1996).

The Competitors Erroneously Confuse a Correction Notice With a Code Violation Notice

The competitor Protestants have urged the Board of Appeals to invoke a Code provision which argues against processing applications for zoning relief where Code violations are existing. The competitor Protestants in this case have urged the Board of Appeals to consider the Zoning Commissioner's decision approving *nunc pro tunc* the rollover car wash to be barred in part by what they claim to be Code violations on the property. If the Board simply reviews the Zoning Commissioner's Opinion and Order the Board will see the Zoning Commissioner's summary of Mr. Wasilewski's testimony before the Zoning Commissioner. At the time of that hearing, Mr. Wasilewski stated that a Code Correction Notice had been issued rather than a violation citation. The provisions in the County Code which set forth and set up the Code Enforcement structure are found in Baltimore County Code § 32-3-602. That provides the Permits and Development

Management Office is to enforce the BCZR. Baltimore County Code § 32-3-607 provides an injunctive procedure by which the County may seek to enjoin erection or construction in violation of the title.

In this case, the competitor Protestants are asking the Board to invoke the Code provisions which would otherwise prohibit the entertaining of a request for zoning relief where Code violations exist. The problem is that there are no Code violation citations issued by Baltimore County because Mr. Wasilewski testified that the signage was in keeping; and that the other items were the subject of a Code Correction Notice. The correction notice precedes the issuance of a violation citation which has not occurred to this time. The reason why it has not occurred is because the alleged inconsistencies with size of parking spaces, etc., which was the subject of the contract noted in Mr. Wiseman's opinion which were to be performed have in fact been performed. Stated another way, to this time, Baltimore County has not through the Code enforcement process, challenged the property owners on the buildings as built pursuant to the Final Order of the Zoning Commissioner and occupied after completion in 2002 to the present as being built without a permit. The owners obtained a building permit. Improvements were built. The improvements have been in existence from the time of completion to the present.

Conclusion

The competitors as Protestants' appeal should be dismissed for lack of standing on the basis that they are competitors. They should further be dismissed because the Board of Appeals lacks original jurisdiction to revisit final orders of the Zoning Commissioner or building permits issued where no appeal was filed to either and construction has been completed and occupied more than five years ago to this time.

Respectfully submitted,

Michael P. Tanczyn, Esquire

Certificate of Mailing

I HEREBY CERTIFY that on this 13th day of November, 2007, I mailed, postage prepaid, a copy of the foregoing Memorandum to Arnold Jablon, Esquire, and David Karceski, Esquire, of Venable LLP, 210 Allegany Avenue, Towson, MD 21204, attorneys for the Protestants.

Michael P. Tanczyn, Esquire

11/13/07

REAN 11/27/07

2-3-6

(6)

IN THE MATTER OF WOODLAND SERVICES, LLC	*	BEFORE THE COUNTY
	*	BOARD OF APPEALS OF
2701 ROLLING ROAD	*	BALTIMORE COUNTY
	*	
2nd Election District 4th Councilmanic District	*	Case No. 06-583-SPH Case No. 07-245-X
	*	

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BALTIMORE COUNTY
BOARD OF APPEALS

MEMORANDUM

Windsor Rolling Road Property, LLC ("Windsor") and St. John Properties, Inc. ("SJP"), by Arnold Jablon and David Karceski with Venable LLP, its attorneys, respectfully submit this Memorandum in support of their position regarding certain legal issues identified in the two cases at issue, as follows:

INTRODUCTION

This matter relates to the existing Osprey fuel service station/car wash/ convenience store located at 2701 Rolling Road, which is owned by Woodland Services, LLC ("Woodland"). Windsor is the owner of the property located at 2845 Rolling Road, which is located north of the Osprey along Rolling Road, and on which Windsor intends to construct a Wawa fuel service station use in combination with a convenience store and carry-out restaurant. In 2006, Windsor filed a Petition for Special Hearing with the Zoning Office, requesting a determination that an order and site plan approved by the Zoning Commissioner for Baltimore County ("Zoning Commissioner") in Case No. 02-016-X (Order attached), which approved Woodland's Osprey station, should be declared void because it was issued illegally. Windsor identified several illegalities with the Osprey station and the zoning relief granted in Case No. 02-016-X, including an assertion

that Woodland never requested or obtained a special exception for the Osprey's car wash use, yet obtained permits and constructed the car wash anyway. The Zoning Commissioner granted Windsor's Petition for Special Hearing in part and denied it in part, and Woodland and Windsor have each appealed that decision to this Board (Case No. 06-583-SPH).

Following Woodland's appeal, Woodland filed a Petition for Special Exception to approve the car wash use at the Osprey. The Zoning Commissioner granted that Petition and Windsor, along with SJP, whose office headquarters is located in the nearby Windsor Corporate Park, appealed that decision to this Board (Case No. 07-245-X). All appeals have been scheduled together for hearings before this Board.

Windsor and SJP now request that this Board determine that Windsor and SJP have standing and the corresponding right to participate before the Board in this matter. Additionally, Windsor and SJP ask the Board to order that Woodland must re-file the Petition for Special Exception filed in Case No. 07-245-X, and to find that the County may not process that Petition until Woodland corrects the zoning violations that have been identified by Baltimore County zoning inspectors.

ARGUMENT

I. Windsor's Appeals are Properly Before the Board of Appeals.

Woodland has suggested to the Board that Windsor has no right to present any arguments to the Board in either of the cases at issue. With regard to the appeal of Windsor's Petition for Special Hearing in Case No. 06-583-SPH, Woodland argues that Windsor and Baltimore County have failed to timely exercise any rights they may have to challenge the special exception granted to Woodland in Case No. 02-016-X and, in effect,

equity should bar them from doing so now. With regard to the appeal of both Woodland's Petition for Special Exception in Case No. 07-245-X and Windsor's Petition for Special Hearing in Case No. 06-583-SPH, Woodland argues that Windsor has no standing to appeal because of Windsor's status as a competitor to Woodland's existing fuel service station/convenience store use. As explained in detail below, both of Woodland's arguments are shortsighted and incorrect in several respects.

A. Equity does not bar Windsor's or Baltimore County's ability to challenge the special exception previously granted to Woodland.

In 2001, the Zoning Commissioner granted Woodland's Petition for Special Exception for a fuel service station in combination with a convenience store *only*. In petitioning for the instant special hearing, Windsor is seeking a determination that the special exception granted in that case was granted illegally and is, therefore, void ab initio. Woodland has argued that, because it has substantially relied upon the special exception granted in 2001 by building and continually operating its fuel service station/car wash/convenience store, Windsor should be estopped from challenging the granted relief. Furthermore, Woodland asserts that Baltimore County has no authority to subsequently declare void relief that it has previously granted and that, because Woodland has substantially relied upon the approval, the County should be estopped from declaring it void. However, the equitable principles asserted by Woodland have no application in this case.

Although, as discussed below, Windsor's ability to petition for the instant special hearing and its standing before this Board should not be in doubt, the key point for the Board to recognize is that Baltimore County absolutely has a right – indeed a duty – to assure that illegally granted zoning relief be declared void and that recipients of such

relief be required to comply with the law. The Maryland Court of Appeals has recognized this principle for years.

In *Marzullo v. Kahl*, 366 Md. 158 (2001), a landowner petitioned Baltimore County for a special exception for a reptile and snake breeding farm, which the County granted. The County subsequently issued permits to the landowner who thereafter undertook construction of a barn on his property to support the reptile and snake breeding use. Unhappy neighbors complained to the County and filed a Petition for Special Hearing to challenge the permissibility of the reptile and snake breeding use in the zone in which the landowner's property was situated.

Among other defenses, the landowner asserted both "that he ha[d] obtained a vested right to use his property" as a reptile and snake breeding farm and "that Baltimore County should be estopped from preventing him from using his property" as such. *Marzullo*, 366 Md. at 191-99. Each theory relied on the premise that the landowner had performed substantial work (and spent considerable funds) on the barn for which the County issued a permit. However, with regard to both arguments, the Court of Appeals' rationale was the same: the permit granted to the landowner, upon which he relied, was not lawfully issued and, therefore, the equitable defenses asserted by the landowner were not viable. *See id.* at 200 (holding "Respondent is not entitled to a vested right to use his property to raise, breed, and keep reptiles and snakes....because his permit was never properly issued....We also hold that Baltimore County is not estopped from preventing respondent from using his property to conduct his business by enforcing the BCZR....").

Similarly, in *Permanent Financial Corp. v. Montgomery County,* 308 Md. 239 (1986), a developer began construction of an office building following Montgomery

County's issuance of a building permit. After the developer worked on the building for eight months and spent $2 million in construction costs, the County "issued a stop work order on the grounds that the building violated statutory height limitations, set-back requirements, and floor area ratio restrictions." *Id.* at 241-42.

For nearly the same reasons as discussed in *Marzullo*, the developer in this case contended "that the doctrine of equitable estoppel should be applied against the County" to prohibit the County from halting construction that it had previously approved. *Id.* at 242. While the *Permanent Financial* Court found that the County should be estopped from reversing its initial interpretation of an ambiguous zoning regulation regarding building height, it nevertheless found that there was no ambiguity in the County's floor area ratio definition and that because the "building exceeds the prescribed [floor area ratio]...the County is not estopped to require correction of that deficiency." *Id.* at 254. In other words, because the building as constructed clearly violated County zoning laws, the County was not estopped from requiring the developer to comply with those laws, even though the County had previously approved the construction (including the illegal aspect) in error.

Both the *Marzullo* and *Permanent Financial* Courts rely upon an older Court of Appeals case – *Lipsitz v. Parr*, 164 Md. 222 (1932) – in determining the inapplicability of equitable defenses. It was in *Lipsitz* where the Court of Appeals most clearly stated the law in Maryland that

> even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act of its officer or agent, it is not estopped by the unauthorized or wrongful act of its officer or agent in issuing a permit that is forbidden by the explicit terms of an ordinance.

Lipsitz, 164 Md. at 228. Indeed, "[i]t follows that, because [an] ordinance prohibit[s] the

use of the premises in question...any permit issued *would be void*, and the person who received the permit would derive *no benefit, and whatever he might do in pursuance of this permission would be at his own risk and loss....*" *Id.* (emphasis supplied).

In the instant case, the Board must reach the same conclusion. Prior to the filing of this memorandum, the Board stopped short of hearing and considering all of the facts of the matter now before it. However, for purposes of its decision regarding Woodland's motion to dismiss the case, the Board should *assume* as true the fact that the zoning relief granted and subsequent permits issued to Woodland in 2001 for the construction of its fuel service station/car wash/convenience store were issued illegally.[1] *See Ronald M. Sharrow, Chartered v. State Farm Mut. Auto Ins. Co.*, 306 Md. 754, 768 (1986) (stating that in considering a motion to dismiss a court "must assume the truth of all relevant and material facts that are well pleaded and all inferences which can be reasonably drawn from those pleadings"). As such, under the longstanding law in Maryland, Baltimore County has the right to declare that relief and those permits void and to require Woodland to come into compliance with the law. *See Marzullo, Permanent Financial,* and *Lipsitz, supra.*[2]

Notwithstanding Baltimore County's right to review and compel remediation of Woodland's previously granted zoning relief and permits, Windsor maintains the

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[1] Actually, evidence of the illegality is already before the Board. The Board knows that Woodland has appealed from a decision of the Zoning Commissioner granting Windsor's Petition for Special Hearing to confirm the illegality of Woodland's previously granted zoning relief. Furthermore, the Board knows that, following the Zoning Commissioner's decision on the special hearing, Woodland filed for, and was granted, a special exception for the car wash use, which Windsor and SJP have now appealed. The mere fact that Woodland filed for the special exception is evidence of Woodland's *admission* that the zoning relief and permits it received for the construction of its fuel service station/car wash/convenience store were issued illegally.

[2] Woodland seemingly has also invoked the defense of res judicata, asserting that the County's prior decision regarding its zoning relief and permits is final and, therefore, precludes a subsequent reversal of or change to that decision. However, as with equitable estoppel, Maryland courts have determined that "the principle of res judicata should not apply to an erroneous determination of law by an administrative body." *Bd. of County Commissioners of Cecil County v. Racine*, 24 Md. App. 435, 452 (1972).

simultaneous right to challenge that relief at this juncture. Woodland seems to invoke a defense akin to laches, asserting that Windsor, by waiting 6 years after Woodland's zoning relief and permits were granted, has waived any right to challenge that relief. However, just like the neighbors in *Marzullo*, Windsor should not be precluded from challenging zoning relief and permits that were issued illegally – no matter when they mount such a challenge. *See Marzullo*, 366 Md. at 200.

Furthermore, in order for Woodland to successfully assert a laches defense, it must establish both "negligence or lack of diligence on the part of" Windsor in making its claim, as well as "prejudice or injury to" Woodland stemming from Windsor's alleged lack of diligence. *Staley v. Staley,* 251 Md. 701, 703 (1968); *see also Jahnigen v. Smith,* 143 Md. App. 547, 555 (2002) ("In essence, a plaintiff will be estopped from bringing a claim when the plaintiff has not diligently asserted his rights in a timely manner and the delay will prejudice or injure the defendant."). Here, Windsor acted promptly once it discovered the illegality of Woodland's approvals, and Woodland cannot identify any reasonable prejudice that it suffered *due to any perceived delay* on Windsor's part to challenge the approvals. In fact, Woodland has been able to operate its business uninterrupted for the 6 years since it received its approvals, which should be evidence enough that Woodland has actually *benefited* from the delay in identifying the illegality of those approvals. *See, e.g., Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1015-16 (D.C., 1992) (finding that dentist's ability to practice his trade uninterrupted during alleged 3-year "delay" period between Board of Dentistry's investigation and subsequent charging of dentist was among reasons why dentist suffered no prejudice for purposes of laches defense). Consequently, Woodland's purported

laches defense should fail.

In summary, because, as the evidence to be presented to the Board will show (and as the procedural history of the matter indicates), Baltimore County illegally granted zoning relief and issued permits to Woodland for its fuel service/car wash/convenience store use, and because Woodland has benefited from the receipt of those approvals for 6 years, the Board of Appeals should find that Windsor is well within its rights to petition the County for the requested special hearing. Likewise, the County is well within its rights to require Woodland to comply with the law, and, in any event, the County has the obligation and right to require compliance with the law upon discovery of an illegally issued approval. Equity will not bar such rights.

B. Windsor and SJP have standing to appear before the Board of Appeals in this matter.

Woodland argues that, because Windsor – as the owner of land nearby the subject Osprey station on which it proposes to construct a Wawa station – is a competitor of Woodland, Windsor has no standing to challenge any of Woodland's approvals; neither as a petitioner for special hearing, nor as an appellant in the special exception case. Although Windsor fully admits that it is a competitor of Woodland, it nevertheless refutes Woodland's assertion because, in making that assertion, Woodland ignores several key factors that together demonstrate Windsor's and SJP's collective rights to participate in this matter.

Despite the fact that Windsor is a competitor of Woodland, the real issue that the Board should consider is the illegality of Woodland's approval in 2001. As demonstrated above, a permit or zoning approval is of no effect if it was issued or granted illegally. This is the case no matter when the issue of the illegality is raised and no matter who

raises it. It is no matter whether the illegality is discovered and identified for the County by a citizen in the neighborhood, by a citizen from elsewhere in the County, by a competitor, or by the County itself. What is important is the illegality itself; the identification of the illegality obligates the County – indeed obligates this Board – to consider whether the challenged approval or permit was, in fact, granted or issued illegally. The identity of who discovered the illegality is of no importance.[3]

Furthermore, due to its involvement in the appeal of the Petition for Special Exception, there should be no debate over Windsor's standing to participate in the matter altogether. Woodland's decision to file for the special exception for the car wash use has effectively rendered Windsor's Petition for Special Hearing moot. Windsor filed its Petition for Special Hearing due to the fact that, among other things, Woodland's car wash was illegal without a validly granted special exception. Now that Woodland has recognized the illegality and subsequently filed its Petition for Special Exception, "there is no longer an existing controversy between the parties" with regard to the Petition for Special Hearing "so that there is no longer any effective remedy which the [Board] can provide" and that Petition is, therefore, moot. *People's Counsel for Baltimore County v. Elm Street Development, Inc.*, 172 Md. App. 690, 706, n.4 (2007) (upholding Circuit Court's decision that appeal of Baltimore County Development Review Committee approval was moot where developer had contemporaneously sought and received approval from the Hearing Officer for Baltimore County for similar relief, which

[3] Practically speaking, at this point, even if the Board were to determine that, as a competitor, Windsor has no standing, there is nothing that would stop another non-competitor neighbor or entity from filing another Petition for Special Hearing requesting the same relief. Furthermore, now that the County is on notice of the illegality, there is nothing to prevent the County from taking the necessary actions to require Woodland to comply with the law. In other words, preventing Windsor from participating in this matter would be a superfluous act that would only delay the inevitable.

approval was also appealed) (citation and internal quotations omitted)[4]; *see also Committee for Responsible Development on 25th Street v. Mayor & City Council of Baltimore,* 137 Md. App. 60, 69-70 (2001) (determining Protestant's appeal of building permits was moot where basis of appeal was to prevent destruction of certain buildings that had already been demolished, thus leaving courts incapable to "provide an effective remedy, as the buildings cannot be put back").

Assuming that the Petition for Special Hearing is now moot, that only leaves Windsor's participation in the appeal on the Petition for Special Exception which, likewise, should not be questioned by the Board. Again, Windsor admits that it is a competitor of Woodland with respect to its appeal of the Petition for Special Exception. However, Woodland's argument that Windsor's status as a competitor negates Windsor's standing is of no moment in this particular case. What Woodland ignores in making that argument is that SJP, who has also appealed the Petition for Special Exception, is *not* a competitor. Instead, SJP is merely a party feeling aggrieved by the decision of the Zoning Commissioner and, therefore, SJP has standing to appeal that decision to this Board. *See* Baltimore County Code § 32-3-401(a). Because there is no doubt as to SJP's

[4] Specifically, in *Elm Street*, the developer sought approval for a subdivision in the RC4 zone, which zone has certain conservancy area requirements. The Hearing Officer denied the plan, the Board reversed, and Protestants appealed to the Circuit Court. While on appeal there, the developer filed a plan with the Baltimore County Development Review Committee ("DRC") to request a limited exemption for a change to the development plan approved by the Board, which change would correct any potential issue with the conservancy area on site. The DRC approved the exemption, and the Protestants appealed to the Board of Appeals. Meanwhile, the Circuit Court remanded the original matter to require the developer to meet certain conservancy area requirements. While on remand to the Hearing Officer, the developer made red-lined changes to the development plan to correct the conservancy area issues, which the Hearing Officer approved. The Protestants also appealed that decision to the Board. The Board ultimately dismissed the protestant's appeal of the DRC's decision for mootness and found in favor of the developer on the remaining appeal, which decisions Protestants again appealed to the Circuit Court. The Circuit Court reached the same conclusion as to the mootness of the DRC appeal "finding that, because 'the case ha[d] gone forward on the [revised] "red-lined" development plan,' the 'need for the [DRC-granted] exemption [was] no longer operative.'" *Elm Street,* 172 Md. App. at 700. Protestants did not appeal this finding. *See id.* at 706.

status as a party with standing, any standing Windsor may or may not have as a competitor is entirely irrelevant. *See, e.g., Sugarloaf Citizens Ass'n v. Dept. of Env.*, 344 Md. 271, 297 (1996) ("It is a settled principle of Maryland law that, where there exists a party having standing to bring an action...we shall not ordinarily inquire as to whether another party on the same side also has standing.") (citations and internal quotations omitted).

II. BCZR Section 405.5.B: Woodland Must Re-file its Petition for Special Exception.

In Case No. 07-245-X, Woodland requests only a special exception for a roll-over car wash in combination with the fuel service station use. However, the Fuel Service Station Regulations require Woodland to re-file its Petition for Special Exception to include a request to amend the prior approved special exception for its fuel station. Without this request, Woodland's Petition, as filed, is insufficient and must be denied.

Section 405.5.B of the Baltimore County Zoning Regulations ("BCZR") requires a new special exception for an existing fuel service station, if a change to the prior approved fuel station plan is requested. As described above, the original relief granted in Case No. 02-016-X for the fuel service station did not include a car wash. In that case, the Zoning Commissioner examined Woodland's original petition pursuant to the special exception burden of proof contained in BCZR Section 502.1.A through I. Only after determining that Woodland's fuel service station met each requirement of Section 502.1 did the Zoning Commissioner grant the special exception for a "fuel service station use in combination with a convenience store and carryout restaurant, greater than 1,500 sq. ft. in area, pursuant to Sections 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations...."

Woodland now requests approval for a car wash on its site. Section 405.5.B provides that "[f]or all service station sites requiring a special exception, any amended plan shall constitute a new plan and be subject to the same requirements of these regulations." Plan amendments for fuel service stations, therefore, require a re-examination of the fuel station site as a whole, pursuant to the special exception burden on proof contained in BCZR Section 502.1. The Board's approval of the proposed car wash would constitute a change to the relief granted by way of the original special exception order for this site, because a car wash is an additional fuel service station use in combination, which was not granted in Case No. 02-016-X.

Pursuant to Section 405.5.B, Woodland must re-file its Petition for Special Exception not only for an evaluation of its proposed roll-over car wash, but also a reevaluation of its fuel service station use in combination with the car wash and convenience store. Until the relief requested in Woodland's Petition for Special Exception is corrected, this case is not properly before the Board.

III. BCC Section 32-4-114(c): "County prohibited from processing if violations exist."

Woodland's fuel service station is currently in violation of the BCZR. In Case No. 06-583-SPH, the Deputy Zoning Commissioner rendered an advisory opinion that addressed Woodland's site violations. This order was issued on July 26, 2006, more than fourteen months prior to the public hearing before this Board. In that order, the Deputy Zoning Commissioner determined that (1) Woodland's fuel station is operating without providing the required amount of off-street parking spaces; (2) Woodland installed free-standing signage in excess of that permitted by the sign regulations; and (3) Woodland installed a propane tank within the site's required landscape transition area. Each of the

above site conditions constitute a violation of the BCZR, and, to be considered acceptable to the County, would require a variance.

Following issuance of the Deputy Zoning Commissioner's Order, Baltimore County issued a Code Enforcement Correction Notice to Woodland (Notice attached). That Notice, which identifies violations that are nearly identical to those highlighted by the Deputy Zoning Commissioner in Case No. 06-583-SPH, was issued on December 6, 2006 – more than four (4) months after the date of the Deputy Zoning Commissioner's order. The mere issuance of that Notice confirms that Woodland did not correct its site violations during that four (4) month period. The Notice required the violations to be corrected by December 29, 2006.

23 DAYS

The public hearing before this Board occurred on October 23, 2007, at which Woodland failed to present to the Board confirmation that it has corrected all of its site violations. Although Woodland has had ample time to correct all of the identified zoning violations, it has failed to do so. Nevertheless, Woodland now asks this Board to grant relief for another special exception use on its property, when it has not otherwise confirmed that its business operation is in compliance with the BCZR.

Section 32-4-114(c) of the Baltimore County Code addresses processing of site plans by Baltimore County and provides as follows:

> The county may not process plans or permits for a proposed development if the applicant owns or has an interest in property located in the county upon which there exists, at the time of the application or during the processing of the application, a violation of the zoning or development regulations of the county.

Clearly, existing conditions on Woodland's site violate the BCZR. This Board should, therefore, rule that, until Woodland has confirmed for Baltimore County that its site

violations have been corrected, it will not permit Woodland to proceed with the requested special exception.

CONCLUSION

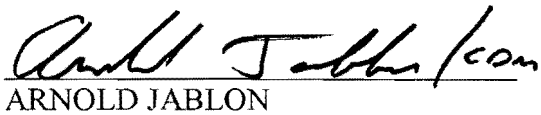
For the foregoing reasons, Windsor and SJP respectfully request that the Board determine that they both have the requisite standing to appear before the Board in this matter and that the matter should be set in for a hearing on the merits of the appeals. Furthermore, Windsor and SJP request that the Board require Woodland to re-file its Petition for Special Exception in proper form and to correct all previously identified zoning violations before any special exception relief may be granted.

Respectfully submitted,

ARNOLD JABLON
DAVID H. KARCESKI
Venable LLP
210 Allegheny Avenue
P.O. Box 5517
Towson, Maryland 21285-5517
(410) 494-6200
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of November, 2007, a copy of the foregoing MEMORANDUM was mailed, first-class delivery, postage prepaid, to Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204-4098, Attorney for Woodland Services, LLC.



ARNOLD JABLON

TO1DOCS1/CDM01/#252113 v2

5/9/07

IN RE: PETITION FOR SPECIAL EXCEPTION e/s Rolling Road, 1,100' N of the c/l Tudsbury Road (2701 Rolling Road)	*	BEFORE THE COUNTY
	*	ZONING COMMISSIONER
	*	OF BALTIMORE COUNTY
6^{2nd} Councilmanic District 4th Election District	*	
Woodland Services, LLC Petitioner	*	
	*	
Case No. 07-245X		

* * * * *

NOTICE OF APPEAL

Windsor Rolling Property, LLC and St. John Properties, by and through their attorney Arnold Jablon, Venable, LLP, feeling aggrieved by the final decision and determination of the Zoning Commissioner of Baltimore County granting the Petitioner's request for a special exception for a car wash in Case No. 07-245, dated 24 April 2007 and attached hereto and incorporated herein as Exhibit A.

Appellants herewith take exception to that final decision of the Zoning Commissioner as reflected in Exhibit A and appeal to the County Board of Appeals. Appellants submit that the review by the CBA from the final decision of the Zoning Commissioner shall be a hearing *de novo* pursuant to the Baltimore County Charter.

5/9/07

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs of the appeal.

Respectfully submitted

Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, Maryland 21204
410-494-6298

attorney for appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT copies of the foregoing Notice of Appeal was hand delivered to the Baltimore County Board of Appeals, Basement, Old Courthouse, 400 Washington Ave., Towson, Maryland 21204; Michael P. Tanczyn, Esq., 606 Baltimore Ave., Suite 106, Towson, Maryland 21204, Timothy Kotroco, Director, Department of Permits and Development Management, Towson, Maryland 21204, and to Hon. William Wiseman, Esq., Zoning Commissioner of Baltimore County, on this 9th day of May, 2007.

Arnold Jablon

VENABLE® LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

8 May 2007

Timothy Kotroco, Esq.
Director, Department of Permits and Development Management
111 West Chesapeake Ave.
Towson, Maryland 21204

Re: Petition for Special Exception
Case No. 07-245X

Dear Mr. Kotroco:

Please be advised that I represent St. John Properties and Windsor Rolling Road Property, LLC.

Attached hereto is our Notice of Appeal to the County Board of Appeals from the decision of the Zoning Commissioner, dated 24 April 2007, in which the Zoning Commissioner granted a special exception for a car wash.

Thank you for your attention in this matter.

Sincerely,

Arnold Jablon
AEJ/aj

c: Baltimore County Board of Appeals
Michael P. Tanczyn, Esq.
Hon. William Wiseman, Esq.

4/24/07

IN RE: **PETITION FOR SPECIAL EXCEPTION** *		BEFORE THE
E/S Rolling Road, 1,100' N of the c/l Tudsbury Road	*	ZONING COMMISSIONER
(2701 Rolling Road) 2nd Election District 4th Council District	*	OF
	*	BALTIMORE COUNTY
Woodland Services, LLC Petitioner	*	**Case No. 07-245-X**

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by Sajid Choudhry, managing member of the owner of the subject property, Woodland Services, LLC, through its attorney, Michael P. Tanczyn, Esquire. The Petition requests special exception approval of an existing car wash pursuant to Section 253.2.B (1) & (2) of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject car wash was originally shown on a site plan in Case No. 02-016-X as a use in combination, with the uses approved by Order in that case. On July 26, 2006, however, Deputy Zoning Commissioner John V. Murphy determined that the public had not been properly notified of the proposed car wash and accordingly, that this Commission had no jurisdiction to hear that aspect of the special exception request. He ruled that the car wash be closed or the instant petition filed and public notice given. The car wash herein, as originally shown on the site plan in 2001, is for a use in combination with those other uses approved in Case No. 02-016-X.[1] In any event, the subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 3.

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Date 4-24-07
By

[1] In trying to resolve ongoing disputes between Windsor Rolling Road Property, LLC & WAWA, Inc. (2845 Rolling Road – Case No. 06-449-X) and Woodland Services, LLC & Osprey Food Market (2701 Rolling Road (Case Nos. 06-583-SPH and 07-245-X) over-competing business interests for market share in the area, this Commission recognizes that it could make a bad situation worse. This opinion follows a careful and rational look at all of the exhibits, code enforcement actions, testimony and arguments of counsel as well as the pertinent history set forth in the opinions and Orders of this Commission originating in September 2001. It is hoped and suggested that the parties sit down together and find a way for their businesses to co-exist without carrying the fight further to the Board of Appeals and possibly for judicial review.

Appearing at the requisite public hearing in support of the request were Kenneth J. Colbert, P.E. of Colbert, Matz and Rosenfelt, Inc., the consultant who prepared the site plan for this property; Sajid Choudhry and Iftikhar Ahmad, the property owner representatives, and Michael P. Tanczyn, Esquire, attorney for Petitioner. The Protestant, Windsor Rolling Road Property, LLC and Tom Pilon of St. John Properties were represented by Arnold Jablon, Esquire and David Karceski, Esquire of Venable, LLP. Also appearing were Nicholas J. Brader, III, P.E. with Matis-Warfield, Inc. and Leonard Wasilewski, Code Inspector with the Department of Permits and Development Management's Bureau of Code Inspection.

As a preliminary matter, Mr. Jablon presented a Motion asking for the dismissal of the petition for special exception on multiple grounds. Initially, he asked for a dismissal on the grounds that Baltimore County Code (B.C.C.) Section 32-4-114(c) acts to prohibit Woodland Services, LLC from processing its petition as violation deficiencies have been determined to exist. Code enforcement inspection of the property (Case No. 06-9534) has indicated extra accessory uses have been added to the site – car vacuums, an air dispenser, ATM machine, and a kerosene pump, all requiring additional parking spaces. *See* Protestant's Exhibit 1. B.C.C. Section 32-4-114 (c) states in pertinent part:

> The County may not process plans or permits for a proposed development if the applicant owns or has an interest in property located in the County upon which there exists at the time of the application or during the processing of the application, *a violation of the zoning or development regulations* of the County.

In fiscal year 2006, over 688 zoning cases came before this Commission and 45 of these involved active zoning enforcement violation matters. Based on this fact and that zoning cases often involve "violation citations" under Article 3, Title 6 of the B.C.C. assigned to the jurisdiction of the Code Official and heard by this Commission, the Motion was denied.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the east side of Rolling Road, just north of its intersection with

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By DFW

Tudsbury Road in Randallstown. As noted, this property was the subject of a previous petition for special exception in Case No. 02-016-X, which was granted by Order of then Zoning Commissioner Lawrence E. Schmidt on September 21, 2001, for a fuel service station with accessory convenience store use, including six (6) multi-fuel dispensers and a 4,750 square foot building containing a convenience store and carry-out restaurant. Significantly noted in that Opinion, among the proposed improvements, was a 44' x 22' car wash facility. As no appeal was filed, that Order became a final Order and the property was subsequently built out to provide the proposed improvements shown on the original site plan, including the car wash. Also noted above, but pertinent to the history of the case is the petition for special hearing filed by Windsor Rolling Road Property, LLC, the Protestants herein, in Case No. 06-583-SPH, heard by the Deputy Zoning Commissioner. Significantly in his Order, he denied the special hearing relief, which asked whether the Order and site plan approved in Case No. 02-016-X is void for a fuel service station in combination with a convenience store and carry-out restaurant. However, his Order granted the special hearing relief, with regard to the special exception for a car wash. Subsequently, timely appeals were filed by both the Petitioner, Windsor Rolling Road Property, LLC, as well as the legal owner, Woodland Services, LLC to that decision, and that case awaits a hearing before the Board of Appeals at the time of the instant hearing on Case No. 07-245-X involving special exception approval for the car wash, as built previously. It should be noted that there were no adverse Zoning Advisory Committee (ZAC) comments received from any of the County reviewing agencies and Petitioner's proposal is consistent with the adjacent and other existing commercial uses in the immediate area of the site. Additionally, there were no interested citizens from the area in attendance at the hearing.

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By DJS

Kenneth Colbert, Petitioner's expert in zoning and land development matters, testified that the property was and is zoned M.L.-I.M. His firm became involved after the 2002 zoning approval for the purposes of preparing the actual building plans and drawings needed to apply for the building permit to build the improvements. In summary, permits were issued based on these plans and the subject site was subsequently built-out. Mr. Colbert explained, in the course of his testimony, that the site plan for this property (Case No. 02-016-X) showed the car wash on the plan. He explained that the contractor strayed during the construction phase from the approved plan when constructing the curbs and parking spaces depicted on the as-built drawing, which he had prepared in preparation for the hearing in this case. He explained that the site plan, presented in this case as Petitioner's Exhibit 3, only added the existing as-built car wash to the uses previously approved in Case No. 02-016-X. He further explained that the owners proposed to correct the contractor errors previously made during construction when the ground thawed in the spring of 2007. These corrections, Mr. Colbert opined, would provide the proper size parking spaces in several areas where construction appeared to be undersized as further documented by Mr. Wasilewski. Mr. Colbert further explained that the owner proposed to eliminate a number of site amenities, including vacuum systems and to relocate the air supply adjacent to another existing vacuum system, in order to have the amenities, including the ATM reduced to sufficient parking as required by B.C.Z.R. Section 409. He introduced a series of pictures, Petitioner's Exhibits 4A-H, showing different views of Petitioner's site as built. He testified as to the surrounding uses and zoning classifications and expressed opinions that the car wash as built meets the requirements of B.C.Z.R. Section 502.1. He presented a contract for construction improvements to correct the site, which had been executed March 1, 2007 by the contractor, as well as the owner, Woodland Services, LLC, which was admitted as Petitioner's

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By DZB

Exhibit 9. This agreement, in addition to correcting the parking space deficiencies would also relocate amenities, as well as move a propane tank to meet the 6-foot landscape transition buffer requirements on the north side of the Petitioner's property. He introduced a County aerial, showing the site as built and its relationship to neighboring properties.

Sajid Choudhry, as a managing member of Woodland Services, LLC, testified that he intended to honor the contract to correct the previous contractor's mistakes, as more particularly outlined on Petitioner's Exhibit 9, and that if required he would either move the propane storage tank, or remove it from the site, if that was the decision of the Zoning Commissioner in this case. He demonstrated the reasons that the propane tank was not under the fuel service multi-product dispenser canopy, because that would put it in proximity to automobiles fueling and would pose a risk if it were to be struck by one of those vehicles.

The Protestant summonsed and called Leonard Wasilewski, a County Code Enforcement Officer. Mr. Wasilewski presented updated insight based on recent site visits, testifying that the sign requirements were in compliance for the existing signs on the Petitioner's site as of the time of the hearing, and that the other matters, which had been the subject of a correction notice issued by him, including the number of parking spaces and the size of those spaces required for various uses on the site, remained to be corrected. At the conclusion of the Petitioner's case, the Protestant offered no witnesses or evidence and called no witnesses other than Mr. Wasilewski.

In considering the existing site conditions, evidence and the testimony before me, I find the Zoning Commissioner's Opinion and Order, in Case 02-016-X, to be significant when he approved the petition for special exception, as amended. *See* Petitioner's Exhibits 1 and 2. The site plan clearly shows the rollover car wash as a proposed contemplated improvement. In that

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Date 4-24-07
By 1823

same Opinion, Commissioner Schmidt noted that no zoning variances were requested by the Petitioner and that the "car wash contained sufficient area for stacking and parking". That decision, as all agree, was never appealed and became a final Order, and the improvements shown thereon were built out and have operated from the time of the issuance of a Use and Occupancy Permit to the present, without incident or accident. I view the instant petition for special exception as an endeavor to meet the technical objection raised by Deputy Zoning Commissioner Murphy in Case No. 06-583-SPH, that the car wash was not specifically mentioned on the "Petition", and therefore, not been properly advertised or posted.

There is no testimony or even the suggestion that the car wash, as built, has been a problem at this site, for either patrons or the surrounding locale. The Protestant's attorney candidly acknowledged that his client is, or will be, if successful with its zoning request a business competitor of the Petitioner in this case. My decision in Case No. 06-449-X evidences Windsor Rolling Road Property, LLC and WAWA seeking approval for another location in the community for a similar operation to the one Petitioner's have built.

Based upon the testimony and evidence offered, I am persuaded that the Petition for Special Exception should be granted. The use is consistent with the purposes of the property's zoning classification, and it is not in any way inconsistent with the spirit and intent of the B.C.Z.R. I believe that the rollover car wash meets the requirements of B.C.Z.R. Sections 419 and 405 and that the rebutted and undisputed testimony of Petitioner's expert, Mr. Colbert, that the site, as proposed, would meet the requirements of Section 502.1 of the B.C.Z.R. are credible for the reasons stated. I again note that this car wash is a mirror image in size and location as that proposed on the site plan in Case No. 02-016-X. Moreover, it was built and has operated for years without incident or accident from the time it was initially placed in service. I find that the

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Date 4-24-07
By DZB

Petitioner has met, under these circumstances, its burden of proof outlined in B.C.Z.R. Section 502.1. I am satisfied that the special exception use will be operated without any detrimental impact on the surrounding locale and that the proposed location is an appropriate location for the use proposed. I will order as a condition of the special exception approval that the propane tank be moved to honor the requirements of the landscape transition buffer area from the nearest property boundary line on Petitioner's site. I will impose an additional condition, as well, that the corrective work more particularly described on the contract admitted as Petitioner's Exhibit 9 be performed by Petitioner's contractor within ninety (90) days of obtaining any requisite permits required for that construction, subject only to an extension, if required, for bad weather or delays in obtaining any required permits due to processing time required by Baltimore County.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of April, 2007 that the Petition for Special Exception, pursuant to Sections 253.2B(2) and 405.4.E.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), seeking approval of a rollover car wash as a use in combination with a fuel service station, convenience store and carry-out restaurant previously approved in Case No. 02-216-X, in accordance with Petitioner's Exhibit 3, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioner shall apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

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Date 4-24-07
By DEJ

2) The Petitioner shall move the above ground propane tank, so that the minimum landscape transition buffer to the nearest boundary property line meets the County requirements within thirty (30) days of the date of this Order.

3) The Petitioner, directly or through its selected contractor, shall perform the work described as corrective work for the as-built conditions as outlined on the contract executed on March 1, 2007 and marked as Petitioner's Exhibit 9. Said work shall be completed in a timely manner and within ninety (90) days of obtaining requisite construction permits from Baltimore County.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

ORDER RECEIVED FOR FILING
Date 4-24-07
By DPB

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

April 24, 2007

Michael P. Tanczyn, Esquire
Law Offices Of Michael P. Tanczyn
606 Baltimore Avenue, Suite 106
Towson, MD 21204

RE: **PETITION FOR SPECIAL EXCEPTION**
E/S Rolling Road, 1,100' N of the c/l Tudsbury Road
(2701 Rolling Road)
2nd Election District - 4th Council District
Woodland Services, LLC – Petitioner
Case No. 07-245-X

Dear Mr. Tanczyn:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Messrs. Arnold Jablon, Esquire and David Karceski, Esquire,
Venable, Baetjer & Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204
Kenneth J. Colbert, P.E., Colbert, Matz and Rosenfelt, Inc., 2835 Smith Avenue,
Baltimore, Md. 21209
Sajid Chaudhry, 2913 George Howard Way, Davidsonville, Md. 21035
Iftkhar Ahmad, 10346 Champion Way, Laurel, Md. 20707
Tom Pilon, 2560 Lord Baltimore Drive, Towson, Md. 21244
Nicholas J. Brader, III, P.E., Matis-Warfield, Inc., 10540 York Road, Suite M,
Hunt Valley, Md. 21030
Leonard Wasilewski, Code Inspector, Code Inspection, DPDM
People's Counsel; Case File

[redacted]

PETITION

—

CORRESPONDENCE

2

2007 0245 "A"

Supplemental

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 2701 Rolling Road

which is presently zoned ML IM

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

See attached

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Attorney For Petitioner:

Michael P. Tanczyn, Esquire

Name - Type or Print

Signature

Michael P. Tanczyn, PA

Company

606 Baltimore Avenue Ste. 106

Address — Telephone No.

Towson, MD 21204 410 296-8823

City — State — Zip Code

Legal Owner(s):

Woodland Services, LLC

Name - Type or Print

Sajid Choudhry

Signature

Name - Type or Print

By: Sajid Choudhry
~~Managing Member~~

Signature

2318 Halls Grove Road 301 346 8680

Address — Telephone No.

Gambrills, MD 21054-1953

City — State — Zip Code

Representative to be Contacted:

Kenneth Colbert

Name

2835 Smith Avenue 410 653 3838

Address — Telephone No.

Baltimore, MD 21209

City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By LTM Date 11/30/06

DROP OFF

Case No. 07-245-X

REV 09/15/98

ORDER RECEIVED FOR FILING

Date 04-24-07

By DW

a special exception for a car wash, pursuant to BCZR 253.2B(1)(2). For reasons to be set forth at the time of the hearing, the car wash proposed was shown on the site plan for Case 02-016X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016X

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners

ZONING DESCRIPTION
2701 ROLLING ROAD

Beginning at a point on the east side of Rolling Road, which is 70 feet wide, at a distance of 1100 feet, more or less, north of the centerline of Tudsbury Road.

Being Lot B-7 in the plat known as "Resubdivision of Lots B-3 and B-4, RBC South", as recorded in Plat Book 72, page 22 of the Land Records of Baltimore County.

Containing 75,698 square feet (1.744 acre), more or less. Also known as 2701 Rolling Road and located in the 2nd Election District, 4th Councilmanic District.

STATE OF MARYLAND
KENNETH J. COLBERT
No. 9701
REGISTERED
PROFESSIONAL ENGINEER

245

2835 Smith Avenue, Suite G Baltimore, Maryland 21209
Telephone: (410) 653-3838 / Facsimile: (410) 653-7953

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: 07-245-X

Petitioner: WOODLAND SERVICES, LLC

Address or Location: 2701 ROLLING ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: Michael P TANCZYN

Address: STE 106
606 BALTIMORE AVE
TOWSON MD 21204

Telephone Number: 410 296 8823

Revised 7/11/05 - SCJ

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 448195

DATE 11/30/06 ACCOUNT 1001 006 6150

AMOUNT $ 380.00

RECEIVED FROM: M. TAYLOR

FOR: OTHER X

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	TIME	DRW
11/30/2006	11/30/2006 12:47:24	4

FY 2006 WALKIN KNEM KXM
RECEIPT # 531002 11/30/2006 DRLN
Rept 5 528 ZONING VERIFICATION
For Rec. 448195
Recpt Tot $380.00
$380.00 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: # 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District - 4th Councilmanic District
Legal Owner(s): Woodland Services, LLC, By Sajid Choudry

Special Exception: to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Wednesday, March 7, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special 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 2/690 Feb. 20 125433

CERTIFICATE OF PUBLICATION

2/22/, 2007

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 2/20/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

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: #07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of *centerline of Tudsbury Road*
2nd Election District - 4th Councilmanic District
Legal Owner(s): Woodland Services, LLC, By Sajid Choudry

Special Exception: to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Monday, March 5, 2007 at 11:00 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.

10 Mar. 1 126817

CERTIFICATE OF PUBLICATION

3/1/, 2007

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 3/1/, 2007.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 07-245-X

Petitioner/Developer: WOODLAND SERVICES, LLC.

Date of Hearing/Closing: MAR. 5, 2007

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: **Christen Matthews**

Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the propery located at

2701 ROLLING ROAD, S.E. SIDE OF ROLLING ROAD, NORTH OF TUDSBURY ROAD

The sign(s) were posted on FEB. 16, 2007 (Month, Day, Year).

Sincerely,

Garland E. Moore
(Signature of Sign Poster and Date)

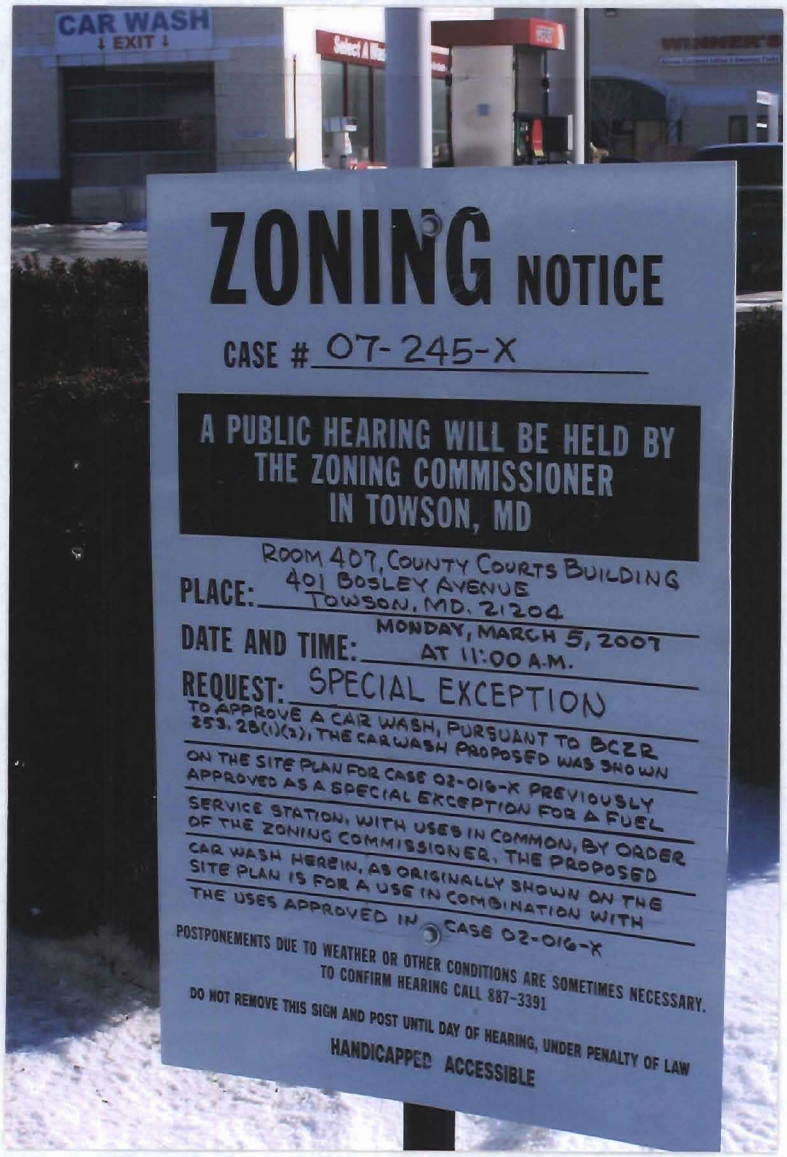
GARLAND E. MOORE
(Printed Name)

3225 RYERSON CIRCLE
(Address)

BALTIMORE, MD. 21227
(City, State, Zip Code)

(410) 242-4263
(Telephone Number)

CAR WASH
↓ EXIT ↓
WINNER'S
ZONING NOTICE
CASE # 07-245-X
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD
PLACE: ROOM 407, COUNTY COURTS BUILDING
401 BOSLEY AVENUE
TOWSON, MD. 21204
DATE AND TIME: MONDAY, MARCH 5, 2007
AT 11:00 A.M.


CAR WASH
↓ EXIT ↓
WINNER'S
ZONING NOTICE
CASE # 07-245-X
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD
PLACE: ROOM 407, COUNTY COURTS BUILDING
401 BOSLEY AVENUE
TOWSON, MD. 21204
DATE AND TIME: MONDAY, MARCH 5, 2007
AT 11:00 A.M.
REQUEST: SPECIAL EXCEPTION
TO APPROVE A CAR WASH, PURSUANT TO BCZR
253.28(1)(2), THE CAR WASH PROPOSED WAS SHOWN
ON THE SITE PLAN FOR CASE 02-016-X PREVIOUSLY
APPROVED AS A SPECIAL EXCEPTION FOR A FUEL
SERVICE STATION, WITH USES IN COMMON, BY ORDER
OF THE ZONING COMMISSIONER. THE PROPOSED
CAR WASH HEREIN, AS ORIGINALLY SHOWN ON THE
SITE PLAN IS FOR A USE IN COMBINATION WITH
THE USES APPROVED IN CASE 02-016-X
POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391
DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

21 December 2006

Kristen: OK to postpone until March. TMK

Timothy M. Kotroco, Esq.
Director, PDM
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Woodland Services, LLC
Case No. 07-245 X

Dear Kotroco:

I represent Windsor Rolling Road Property, LLC. We are adverse parties to the petitioner in the above matter. It is my understanding that this case has been scheduled for hearing in February. Please be advised that one of our primary witnesses, who will need to be summonsed to testify, is Jack Dillon. Mr. Dillon has informed me that he will be out of the country for the month of February. Therefore, I must request that this case be postponed until March.

Thank you.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

Kristin:
Try to work out
new date w/ Attys.
Set for 3/5 or 3/6
if possible
TMK

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

26 January 2007

Timothy M. Kotroco, Esq.
Director, Department of Permits and Development Management
County Office Building
111 W. Chesapeake Ave
Towson, Maryland 21204

Re: In Re: Woodland Services, LLC
Case No. 07-245X

Dear Mr. Kotroco:

I have just received the new hearing date set for the above captioned matter. Unfortunately, I have long planned to be out of state of 3/7th through 3/11th.

The new hearing date is set for March 7th. Therefore, I must request consideration to change the hearing date. I am available on either March 5th or March 6th. I apologize for this request. Thank you for your consideration.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

January 29, 2007

Baltimore County Zoning Office
Attn: Kristen
111 West Chesapeake Avenue
Room 105
Towson, MD 21204

Re: 2701 Rolling Road
Case #07-245X

Dear Kristen:

I just received a request for a second postponement. I am available on either March 5 or March 6, 2007, as well. If those dates are available, could you please mark one of them out for us, since I have already sent the original notice out to the sign poster. Please fax or email your response.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: Arnold Jablon, Esquire
Garland Moore
clients

RE:	PETITION FOR SPECIAL EXCEPTION 2701 Rolling Road; SE/S S. Rolling Road, 1,110' N c/line Tudsbury 2nd Election & 4th Councilmanic Districts Legal Owner(s): Woodland Services, LLC Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-245-X

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

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and documentation filed in the 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 11th day of December, 2006, a copy of the foregoing Entry of Appearance was mailed Kennerth Colbert, , PE, Colbert Matz Rosenfelt, Inc, 2835 Smith Avenue, Suite G, Baltimore, MD 21209 and Michael Tancyzn, Esquire, 606 Baltimore Avenue, St. 106, Towson, MD 21204 , Attorney for Petitioner(s).

RECEIVED
DEC 11 2006
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY KOTROCO, Director
Department of Permits and Development Management

December 15, 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: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2); the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Monday, February 5, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Michael Tanczyn, 606 Baltimore Avenue, Ste. 106, 21204
Woodland Services, Inc., Sajid Choudhry, 2318 Halls Grove Road, Gambrills 21054
Kenneth Colbert, 2835 Smith Avenue, Baltimore 21054

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JANUARY 20, 2007.**
(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.

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

January 31, 2007

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

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Monday, March 5, 2007 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Michael Tanczyn, 606 Baltimore Avenue, Ste. 106, 21204
Woodland Services, Inc., Sajid Choudhry, 2318 Halls Grove Road, Gambrills 21054
Kenneth Colbert, 2835 Smith Avenue, Baltimore 21054

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, FEBRUARY 17, 2007.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 20, 2007 Issue - Jeffersonian

Please forward billing to:
Michael Tanczyn
606 Baltimore Avenue, Ste. 106
Towson, MD 21204

410-296-8823

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: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Wednesday, March 7, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Faxed over 2/20/07

TO: PATUXENT PUBLISHING COMPANY
Thursday, March 1, 2007 Issue - Jeffersonian

Please forward billing to:
Michael Tanczyn
606 Baltimore Avenue, Ste. 106
Towson, MD 21204

410-296-8823

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: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Monday, March 5, 2007 at 11:00 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.

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 18, 2007 Issue - Jeffersonian

Please forward billing to:
Michael Tanczyn
606 Baltimore Avenue, Ste. 106
Towson, MD 21204

410-296-8823

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: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Monday, February 5, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

County Board of Appeals of Baltimore County

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

PP'd 10/23/07 - req. of Mr. Jablon

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

May 29, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-245-X

IN THE MATTER OF: WOODLAND SERVICES, LLC -
Legal Owner /Petitioner 2701 Rolling Road 2nd E; 4th C

4/24/2007 - .Z.C.'s Order in which requested special exception of rollover car wash in combination with fuel service station, convenience store, and carry-out restaurant was GRANTED with restrictions.

ASSIGNED FOR: **THURSDAY, AUGUST 2, 2007 at 10:00 a.m.** *

*** NOTE: THIS MATTER HAS BEEN SCHEDULED SAME DATE /TIME AS CASE NO. 06-583-SPH / INTHE MATTER OF 2701 ROLLING ROAD; Windsor Rolling Road Property, LLC – Petitioners.**

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 Appellants : Arnold Jablon, Esquire
David Karceski, Esquire
Appellants : Windsor Rolling Road Property LLC /
Edward St. John LLC /Gerard Wit, VP
Tom Pilon

Nicholas Brader III, PE /Matis-Warfield, Inc.

Counsel for Petitioner /Legal Owner : Michael P. Tanczyn, Esquire
Petitioner /Legal Owner : Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad

Ken Colbert
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

June 11, 2007

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 07-245-X

IN THE MATTER OF: WOODLAND SERVICES, LLC -
Legal Owner /Petitioner 2701 Rolling Road 2nd E; 4th C

4/24/2007 - .Z.C.'s Order in which requested special exception of rollover car wash in combination with fuel service station, convenience store, and carry-out restaurant was GRANTED with restrictions.

which was assigned to be heard on 8/02/07 has been POSTPONED at the request of Counsel for Petitioner, without objection by Counsel for Appellant; and has been

REASSIGNED FOR: **TUESDAY, OCTOBER 23, 2007 at 9:00 a.m. ***

*** NOTE: THIS MATTER HAS BEEN SCHEDULED SAME DATE /TIME AS CASE NO. 06-583-SPH / INTHE MATTER OF 2701 ROLLING ROAD; Windsor Rolling Road Property, LLC – Petitioners.**

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 Appellants : Arnold Jablon, Esquire
David Karceski, Esquire
Appellants : Windsor Rolling Road Property LLC /
Edward St. John LLC /Gerard Wit, VP
Tom Pilon

Nicholas Brader III, PE /Matis-Warfield, Inc.

Counsel for Petitioner /Legal Owner : Michael P. Tanczyn, Esquire
Petitioner /Legal Owner : Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad

Ken Colbert
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

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

pp'd to 3/20/08 - key of Joseph

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 4, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-245-X

IN THE MATTER OF: WOODLAND SERVICES, LLC -
Legal Owner /Petitioner 2701 Rolling Road 2nd E; 4th C

4/24/2007 - .Z.C.'s Order in which requested special exception of rollover car wash in combination with fuel service station, convenience store, and carry-out restaurant was GRANTED with restrictions.

ASSIGNED FOR: **TUESDAY, JANUARY 22, 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 Appellants : Arnold Jablon, Esquire
David Karceski, Esquire
Appellants : Tom Pilon, St. John Properties

Counsel for Petitioner /Legal Owner : Michael P. Tanczyn, Esquire
Petitioner /Legal Owner : Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad

Ken Colbert
Nicholas Brader III, PE /Matis-Warfield, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Mike Mohler /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

December 10, 2007

County Board of Appeals of Baltimore County
Attn: Kathleen C. Bianco, Administrator
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 07-245-X

Dear Kathy:

We are in receipt of your Notice of Assignment scheduling this matter for 10:00 a.m. on January 22, 2007 before the Board of Appeals. This date is in conflict with a criminal trial we have scheduled for January 22, 2008, at 8:30 a.m. in the District Court of Maryland for Harford County. Therefore, we respectfully request that the hearing for Case No. 07-245-X be rescheduled for a subsequent date and that you notify all parties accordingly.

Thank you for your attention to this request.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT:kds
Encl.
cc: Arnold Jablon, Esquire
Mr. Kenneth Colbert
Clients

RECEIVED
DEC 11 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Jan 22, 2007

DISTRICT COURT OF MARYLAND FOR HARFORD COUNTY
2 S BOND ST (C) 0901
BEL AIR MD 21014-3737

CASE NUMBER: 1R00059536

TO: HINES, LEON ROBERT JR
1822 STEVEN DRIVE
EDGEWOOD MD 21040

STATE OF MARYLAND VS. HINES, LEON ROBERT JR

SUMMONS

YOU ARE HEREBY SUMMONED TO APPEAR AS DEFENDANT ON OCTOBER 29, 2007 AT 08:30 AM. THE LOCATION OF THE TRIAL IS ROOM 02 , 2 S BOND ST , BEL AIR , MD.

FAILURE TO OBEY THIS SUMMONS MAY RESULT IN YOUR BEING CHARGED WITH CONTEMPT OF COURT AND BEING TAKEN INTO CUSTODY UNDER A WARRANT OR BODY ATTACHMENT.

BY: ARTHUR G. FORD, III DATE: 09/04/07
(CLERK)

FOR QUESTIONS CONCERNING THIS DOCUMENT TELEPHONE (410) 836-4545.

HEARING/SPEECH IMPAIRED CALLERS ONLY, TELEPHONE TTY/TT 1-800-925-9690 OR (410) 836-4545 (VOICE) THRU MARYLAND RELAY SERVICE AT 1-800-735-2258.

ANY REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES SHOULD BE REQUESTED BY CONTACTING THE COURT IMMEDIATELY.

PLEASE CONTACT THE ABOVE COURT LOCATION FOR RESTRICTIONS REGARDING CAMERAS AND CELL PHONES, FOR THEY MAY NOT BE ALLOWED IN THE COURTHOUSE.

1100026840
0002684A U TRACKING NUMBER:07-1001-71225-0

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

December 26, 2006

The Honorable Timothy M. Kotroco
Director, PDM
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Re: Woodland Services, LLC
Case No.: 07-245-X

Dear Mr. Kotroco:

I represent the Petitioner in the above case. I am writing to you in response to the letter of Arnold Jablon, Esquire, who wrote to you December 21, 2006 requesting the February 5, 2007 hearing date in this case be postponed until March, due to the non-availability of one of his witnesses. Although Mr. Jablon writes he represents an adverse party (business competitor to my client), he failed to mention that he initiated a code enforcement complaint against this property address, 2701 Rolling Road, which is active in Baltimore County at this time. The unusual circumstance present in this case is that prior to my representation of them, my clients' application for a special exception for a fuel service station and C-store, with other use in combination use as requested, showed on its site plan, a rollover car wash. However, their petition did not specifically mention a car wash and when the Zoning Commissioner's Order in that case approved the special exception, the car wash was placed in service at the time of its construction. Earlier in 2006, Mr. Jablon, on behalf of his client, filed a petition for special hearing, questioning whether the car wash, among other things, was legally approved. I was not involved in that case before the Deputy Zoning Commissioner who issued his ruling and which decision is presently on appeal to the Board of Appeals for Baltimore County, having been appealed by both my clients, as well as Mr. Jablon, on behalf of his clients. While that has not been set for hearing, in the interim, Mr. Jablon started the code enforcement action up, which is active.

My objection to the postponement is the continued maintenance of the code enforcement action, while attempting to delay or postpone the special exception, which if granted on hearing, would not only moot the code enforcement action, but would also moot one or more aspects of the appeal pending before the Board of Appeals for Baltimore County.

I would therefore suggest that the hearing date be held in, as long as the code enforcement action is to remain active. This appears to be a huge drain on the County's resources over what appears to be a technical oversight only on the petition and not on the site plan when my client's

special exception was previously approved more than four years ago. We therefore request that the case be held in for February 5, 2007. As we have already forwarded the request for posting, when received last week, to our poster Garland Moore.

Finally, I wish you and your family the best that a safe and healthy 2007 may bring you.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
cc: clients
Arnold Jablon, Esquire
Ken Colbert

From: Linda Fliegel
To: Kathleen Bianco
Date: 1/3/2008 11:40 AM
Subject: Mike Tanczyn

Kathi,

When you and I stepped out this morning around 11:00 Mr. Tanczyn called and left a voice mail message on our machine.

Mr. Tanczyn would like to the following:

1) The status on 06-411-SPH - Galleria; and

2) 07-245-X - Woodland Services - postponement

Apparently, according to his message, he had spoken with Arnold and there is no objection to the Jan. 22 date.

County Board of Appeals of Baltimore County

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

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 11, 2007

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 07-245-X

IN THE MATTER OF: WOODLAND SERVICES, LLC -
Legal Owner /Petitioner 2701 Rolling Road 2nd E; 4th C

4/24/2007 - .Z.C.'s Order in which requested special exception of rollover car wash in combination with fuel service station, convenience store, and carry-out restaurant was GRANTED with restrictions.

which had been assigned for 1/22/08 has been POSTPONED at the request of Counsel for Petitioner due to trial court conflict; and has been

REASSIGNED FOR: **THURSDAY, MARCH 20, 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 Appellants : Arnold Jablon, Esquire
David Karceski, Esquire
Appellants : Tom Pilon, St. John Properties
and Edward St. John

Counsel for Petitioner /Legal Owner : Michael P. Tanczyn, Esquire
Petitioner /Legal Owner : Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad

Ken Colbert
Nicholas Brader III, PE /Matis-Warfield, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Mike Mohler /PDM
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

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'd over
reassigned to
5/29/08 @
9 am
(date over
of term)

March 20, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

WOODLAND SERVICES, LLC -Legal Owner /Petitioner
Case No-07-245-X

Having heard this matter on 3/20/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, MAY 14, 2008 at 9:00 a.m.

LOCATION : Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

NOTE: Closing briefs are due on Monday, April 21, 2008
(Original and three [3] copies)

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.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellants : Arnold Jablon, Esquire
David Karceski, Esquire
Appellants : Tom Pilon, St. John Properties
and Edward St. John

Counsel for Petitioner /Legal Owner : Michael P. Tanczyn, Esquire
Petitioner /Legal Owner : Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad

Ken Colbert
Nicholas Brader III, PE /Matis-Warfield, Inc.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Mike Mohler /PDM
Timothy M. Kotroco, Director /PDM

Copy to: 3-2-6

From: Linda Fliegel
To: Kathleen Bianco
Date: 3/25/2008 12:10 PM
Subject: Deliberation Conflict

Kathi,

Mr. Stahl called today to say that he will be in California the week of May 12 and therefore, he will not be available for the May 14th deliberation on Woodland Serv.

L

Rescheduled to 5/29/08
@ 9:00 am
notice sent 3/25/08

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

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

February 28, 2007

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, MD 21204

Dear Mr. Tanczyn:

RE: Case Number: 07-245-X, 2701 Rolling Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 30, 2007.

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
Woodland Services, LLC Sajid Choudhry, Managing Member 2318 Halls Grove Road Gambrills 21054-1953
Kenneth Colbert 2835 Smith Avenue Baltimore 21209

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: 12-6-2006

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

RE: Baltimore County
Item No. 07-245-X
2701 ROLLING ROAD
WOODLAND SERVICES, LLC PROPERTY
VARIANCE/SPECIAL EXCEPTION

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. 07-245-X.

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

INTEROFFICE CORRESPONDENCE

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

DATE: December 11, 2006

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

SUBJECT: Zoning Advisory Committee Meeting
For December 11, 2006
Item Nos. 07-240, 242, 244, 245, 246, 247, 249 and 251

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

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-12112006.doc

Fire Department

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

Baltimore County

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

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

December 7,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 4, 2006

Item Number(s): 240 through 251 245

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 on Recycled Paper

TBW
3/5

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: December 13, 2006

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 7-245- Special Exception**

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

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

Prepared By: Cindy Murray

Division Chief: Lyn Lanham

CM/LL

RECEIVED
DEC 2 2006
ZONING COMMISSIONER

W:\DEVREV\ZAC\7-245.doc

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

January 22, 2007

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

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 07-245-X
2701 Rolling Road
S/east side of S. Rolling Road, 1110 feet north of centerline of Tudsbury Road
2nd Election District – 4th Councilmanic District
Legal Owners: Woodland Services, LLC, By Sajid Choudry

Special Exception to approve a car wash, pursuant to BCZR 253.2B(1)(2), the car wash proposed was shown on the site plan for Case 02-016-X, previously approved as a special exception for a fuel service station, with uses in common, by Order of the Zoning Commissioner. The proposed car wash herein, as originally shown on the site plan is for a use in combination with the uses approved in Case 02-016-X.

Hearing: Wednesday, March 7, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: *Michael Tanczyn, 606 Baltimore Avenue, Ste. 106, 21204*
Woodland Services, Inc., Sajid Choudhry, 2318 Halls Grove Road, Gambrills 21054
Kenneth Colbert, 2835 Smith Avenue, Baltimore 21054
Arnold Jablon, 210 Allegheny Avenue, Towson 21285-5517

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 20, 2007.**
(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.

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 16, 2007

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, MD 21204

Dear Mr. Tanczyn:

RE: Case: 07-245-X, 2701 Rolling Road

Please be advised that an appeal of the above-referenced case was filed in this office on May 11, 2007 by Arnold Jablon. 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.

RECEIVED
MAY 17 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Woodland Services, LLC Sajid Choudhry, Managing Member 2913 George Howard Way Davidsonville 21035-1500
Kenneth Colbert 2835 Smith Avenue Baltimore 21209
Arnold Jablon Venable LLP 210 Allegheny Avenue Towson 21204
Iftkhar Ahmad 10346 Champion Way Laurel 20707
Tom Pilon 2560 Lord Baltimore Drive Towson 21244
Nicholas J. Brader, III, P.E. Matis-Warfield, Inc. 10540 York Road, Suite M Hunt Valley 21030
Leonard Wasilewski Code Inspector Department of Permits and Development Management 111 W. Chesapeake Avenue Towson 21204

APPEAL

Petition for Special Exception
2701 Rolling Road
East side Rolling Road, 1,100 feet north of the centerline Tudsbury Road
2nd Election District – 4th Councilmanic District
Woodland Services, LLC

Case No.: 07-245-X

✓ Petition for Special Exception (November 30, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (January 31, 2007)

✓ Certification of Publication (February 22, 2007)

✓ Certificate of Posting (March 5, 2007) by Garland E. Moore

✓ Entry of Appearance by People's Counsel (December 11, 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. Findings and Fact and Conclusions of Law – 02-016-X
2. Site plan from 02-016-X
3. Site plan – 07-245-X
4. Collective Photographs
5. Zoning map
6. Subdivision plat (subject property)
7. Tax map
8. Aerial Photograph
9. Signed contract for site revisions
10. Permit applications
11. Sign permits for remaining signs

RECEIVED
MAY 17 2007
BALTIMORE COUNTY
BOARD OF APPEALS

Protestants' Exhibits:
1. Leonard Wasilewski, Code Inspector, Case 06-9534

Miscellaneous (Not Marked as Exhibit)
1) Subpoena for Leonard Waslewski
2) Subpoena for Jack Dillon
3) BCZR excerpts
4) Postponement request from Arnold Jablon
✓ 5) Letter from Arnold Jablon
✓ 6) Letter from Michael Tanczyn
7) Postponement request from Arnold Jablon
✓ 8) Letter from Arnold Jablon
9) Code inspection report and pictures
10) Drop-off request letter for initial filing

✓ Zoning Commissioner's Order (GRANTED on accordance w/order April 24, 2007)

Notice of Appeal received on May 11, 2007 from Arnold Jablon

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Woodland Services, LLC Sajid Choudhry, Managing Member 2913 George Howard Way Davidsonville 21035-1500
Kenneth Colbert 2835 Smith Avenue Baltimore 21209
Arnold Jablon Venable LLP 210 Allegheny Avenue Towson 21204
Iftkhar Ahmad 10346 Champion Way Laurel 20707
Tom Pilon 2560 Lord Baltimore Drive Towson 21244
Nicholas J. Brader, III, P.E. Matis-Warfield, Inc. 10540 York Road, Suite M Hunt Valley 21030
Leonard Wasilewski Code Inspector Department of Permits and Development Management 111 W. Chesapeake Avenue Towson 21204

date sent May 16, 2007, amf

12/11/07 – Letter requesting postponement filed by Mr. Tanczyn; scheduled for criminal trial in Harford County on that date.
-- Notice of Postponement and Reassignment sent to parties this date; reassigned to Thursday, March 20, 2008 at 10:00 a.m.

3/20/08 – Board convened for hearing (Wescott, Stahl, Witt); concluded hearing this date; memos due 4/21/08; deliberation scheduled for Wednesday, May 14, 2008 at 9:00 a.m.
-- Notice of Deliberation sent to parties; assigned for Wednesday, May 14, 2008 at 9:00 a.m.; fyi copy to 3-2-6

3/25/08 – T/C from L. Stahl – he will be out of town the week of May 12 and therefore unavailable on 5/14/08 for deliberation.
-- Notice of PP and Reassignment of Deliberation sent out this date; reassigned to Thursday, May 29, 2008 at 9 a.m.

4/21/08 – Memorandum of St. John Properties filed by Arnold Jablon, Esquire, and David Karceski, Esquire.
-- Petitioner's Memorandum filed by Michael P Tanczyn, Esquire.
-- Copies of Memos forwarded to 3-2-6 this date; delib assigned for 5/29/08.

5/29/08 – Board convened for public deliberation (3-2-6). Unanimous decision of Board that requested special exception relief is GRANTED with conditions to be added; appellate period to run from date of written Order. (6)

CASE #: 07-245-X

IN THE MATTER OF: WOODLAND SERVICES, LLC -
Legal Owner /Petitioner 2701 Rolling Road 2nd E; 4th C

SE – Filed by Woodland Services, LLC, Legal Owner – special exception approval of an existing car wash pursuant to § 253.2.B(1) and (2) of the BCZR

4/24/2007 - .Z.C.'s Order in which requested special exception of rollover car wash in combination with fuel service station, convenience store, and carry-out restaurant was GRANTED with restrictions.

5/29/07 --Notice of Assignment sent to following; assigned for hearing on Thursday, August 2, 2007 at 10:00 a.m.:

Arnold Jablon, Esquire
David Karceski, Esquire
Windsor Rolling Road Property LLC /
Edward St. John LLC /Gerard Wit, VP
Tom Pilon
Nicholas Brader III, PE /Matis-Warfield, Inc.
Michael P. Tanczyn, Esquire
Woodland Services, LLC
Sajid Chaudhry
Iftikar Ahmad
Ken Colbert
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Leonard Wasilewski, Code Inspector /PDM
Timothy M. Kotroco, Director /PDM

6/07/07 – Letter from Mr. Tanczyn formally requesting postponement of 8/02/07 hearing (letter references 06-449-X; however, this matter is NOT scheduled for 8/02/07 but rather 7/25/07 and 8/01/07 and therefore is not part of this postponement request. This matter was scheduled with 06-583-SPH, the referenced case on 8/02/07).
Notice of PP and Reassignment sent this date for this matter, as well as Case No. 06-583-SPH – assigned for hearing on Tuesday, October 23, 2007 at 9:00 a.m.

10/23/07 – Board convened for hearing (Wescott, Stahl, Witt); regarding threshold issue – memos due from counsel on 11/13/07 re 2001 original Development Plan and whole issue of vesting and latches. After review and deliberation of memos to be filed on 11/13/07, hearing on special exception may or may not be necessary; additional hearing in this matter may or may not be assigned.
-- Notice of Deliberation on threshold issue raised in Case No. 06-583-SPH sent this date; scheduled for Tuesday, December 4, 2007 at 9:00 a.m. FYI copy to 3-2-6. (Outcome of that deliberation will determine whether or not a hearing is needed in this matter – 07-245-X.)

11/13/07 – Memorandum filed by Arnold Jablon and David Karceski on behalf of Windsor Rolling Road Property, LLC, (with four sets of attachments).
-- Memorandum of the Petitioner in Support of Motion to Dismiss Appeal filed by Michael Tanczyn, Esquire, on behalf of Woodland Services, LLC.
(Public deliberation in related Case No. 06-583-SPH scheduled for 12/04/07, the outcome of which could determine next step in this matter.)

12/04/07 – As the result of the public deliberation held in related Case No. 06-583-SPH, in which the Board granted a Motion to Dismiss Appeal of Windsor Rolling Road Property in that matter, thereby removing Windsor as a party to both that case and the instant 07-245-X, a public hearing has been scheduled for Case No. 07-245-X, with copy of the notice sent to 3-2-6 (Wescott, Stahl, Witt), THE SAME PANEL TO BE ASSIGNED, and the hearing in 07-245-X has been scheduled for Tuesday, January 22, 2008 at 10:00 a.m.

4/6/09- Voluntary Dismissal w/ prejudice Granted

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

06/29/09

Case Number: 03-C-08-009183 AA OTH
Date Filed: 08/28/2008
Status: Closed/Inactive
Judge Assigned: To Be Assigned,
Location :
CTS Start : 08/28/08 Target : 02/24/10

In the Matter of Windsor Rolling Road Property L L C, et al

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	07-245-X
Case Folder ID	C08009183V01

INVOLVED PARTIES

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET	001	Windsor Rolling Road Property L L C	Party ID: 1291414	BT DC 04/06/09	09/02/08
		Mail: 2650 Lord Baltimore Drive Baltimore, MD 21244	09/02/08		09/02/08 NIW
		Attorney: 0811558 Mudd, Christopher D Venable, LLP 210 Allegheny Ave PO Box 5517 Towson, MD 21285-5517 (410)494-6200	Appear: 08/28/2008		09/02/08
PET	002	St John Properties Inc	Party ID: 1291415	BT DC 04/06/09	09/02/08

Mail: 2650 Lord Baltimore Drive 09/02/08 09/02/08 KTA
Baltimore, MD 21244

Attorney: 0811558 Mudd, Christopher D Appear: 08/28/2008 09/02/08
Venable, LLP
210 Allegheny Ave
PO Box 5517
Towson, MD 21285-5517
(410)494-6200

Type	Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
RES	001	Woodland Services L L C	Party ID: 1291421	BT DC 04/06/09	09/02/08

Capacity : Legal Owner For A Special Except On Propty Loc On The E/s Of Rolling Rd
Mail: 1.100 N C/line Tudsbury Road 09/02/08 09/02/08 KTA
2701 Rolling Road

Attorney: 0012544 Tanczyn, Michael P Appear: 09/22/2008 09/22/08
Michael P. Tanczyn, P.A.
606 Baltimore Avenue
Suite 106
Baltimore, MD 21204
(410)296-8823

ADA	001	County Board Of Appeals Of Balitmore County The	Party ID: 1291418	BT DC 04/06/09	09/02/08

Mail: Jefferson Building Second Floor Suite 09/02/08 09/02/08 KTA
203 105 W Chesapeake Avenue
Towson, MD 21204

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text	SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec				
04/07/09	09:30A	CR04	Civil Non-Jury Trial	Y		HPS 01 /01		MK AED
Cancelled/Vacated			03/30/09 A					

DISPOSITION HISTORY

Disp Date	Disp Code	Description	Stage Code	Description	User	Activity Date
04/06/09	DC	Dismissal	BT	BEFORE TRIAL/HEARING	CPM	04/06/09
04/06/09	DC	Dismissal	BT	BEFORE TRIAL/HEARING	JA	06/08/09

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	09/02/08	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0001000	Petition for Judicial Review	08/28/08	09/02/08	PET001	TBA		04/06/09	KTW CPM
0001001	Answer	09/05/08	09/22/08	RES001	TBA		04/06/09	SAP CPM
0001002	Answer	10/02/08	10/02/08	RES001	TBA		04/06/09	JBJ CPM
0002000	Certificate of Notice	09/23/08	09/23/08	000	TBA		04/06/09	MRS CPM
0003000	Transcript of Record from Adm Agency *	10/31/08	11/01/08	000	TBA		04/06/09	SAP CPM
0004000	Notice of Transcript of Record Sent	11/01/08	11/01/08	ADA001	TBA		11/01/08	SAP
0005000	Notice of Transcript of Record Sent	11/01/08	11/01/08	PET001	TBA		11/01/08	SAP
0006000	Notice of Transcript of Record Sent	11/01/08	11/01/08	PET002	TBA		11/01/08	SAP
0007000	Notice of Transcript of Record Sent	11/01/08	11/01/08	RES001	TBA		11/01/08	SAP
0008000	Memorandum in Support of Petition for Judicial Review	11/26/08	12/06/08	PET001	TBA		12/06/08	MDJ
0008001	Memorandum in Opposition with Exhibits	12/29/08	01/15/09	RES001	TBA		04/06/09	DLF CPM
0009000	Scheduling Order	12/23/08	12/23/08	000	TBA		12/23/08	MK
0010000	Reply Memorandum Filed by PET001-Windsor Rolling Road Property L L C, PET002-St John Properties Inc	01/12/09	01/24/09	PET001	TBA		01/24/09	SAP
0011000	*Voluntary Dismissal in Entirety with prejudice	04/06/09	04/06/09	000	TBA		04/06/09	CPM CPM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	CLOSED	09/05/08	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	CLOSED	08/28/09	365	no	no	DAAA	D	001	000
EXPU	Exhibit Pickup Notic	CLOSED	06/05/09	30	no	no			000	000
SLTR	Set List For Trial	CANCEL	09/05/08	0	yes	no	1ANS	1	001	001
SLTR	Set List For Trial	Done	10/31/08	0	yes	yes	DTRA	D	003	000

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp Dt	Dis	By
Offered By: ADA 001 County Board Of Appeals Of Ba									
000		B	Returned to cba 6/				06/08/09	O	cb

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
Assign Date: 12/23/08 Order Date : 12/23/08
Start Date : 12/23/08 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322(		01/07/09	04/06/09	CLOSED
All Motions (excluding Motions in Limine		02/26/09	04/06/09	CLOSED
TRIAL DATE is		03/23/09	04/06/09	CLOSED

ACCOUNTING SUMMARY

NON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct	Desc	Debit	Credit	MOP	Balance
08/29/08	200800021414/TW	1265	MLSC	.00	25.00	CK	-25.00
08/29/08	200800021414/TW	1500	Appearance F	.00	10.00	CK	-35.00
08/29/08	200800021414/TW	1102	CF-Civil Fil	.00	80.00	CK	-115.00
09/02/08		1500	Appearance F	10.00	.00		-105.00
09/02/08		1265	MLSC	25.00	.00		-80.00
09/02/08		1102	CF-Civil Fil	80.00	.00		.00
04/06/09		1101	CF-Civil Fil	15.00	.00		15.00
04/06/09	200900008195/CPM	1101	CF-Civil Fil	.00	15.00	CK	.00
04/06/09	200900008194/CPM	1500	Appearance F	.00	10.00	CK	-10.00

NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 BOSLEY AVENUE
P.O. BOX 6754
TOWSON, MARYLAND 21285-6754

County Board Of Appeals Of Balitmore County The Jefferson Building Second
203 105 W Chesapeake Aven
Towson MD 21204

Assignment Date: 12/23/08

Case Title: In the Matter of Windsor Rolling Road Property L L C, et al
Case No: 03-C-08-009183 AA

The above case has been assigned to the EXPEDITED APPEAL TRACK. Should you have any questions concerning your track assignment, please contact: Joy M Keller at (410) 887-3233.
You must notify this Coordinator within 15 days of the receipt of this Order as to any conflicts with the following dates:

SCHEDULING ORDER

1. Motions to Dismiss under MD. Rule 2-322(b) are due by..... 01/07/09
2. All Motions (excluding Motions in Limine) are due by..... 02/26/09
3. TRIAL DATE is..... 04/07/09
   Civil Non-Jury Trial; Start Time: 09:30AM; To Be Assigned; 1/2 HOUR ADMINISTRATIVE APPEAL

Honorable John Grason Turnbull II
Judge

Postponement Policy: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponement must be submitted in writing with a copy to all counsel/parties involved. All requests for postponement must be approved by the Judge.

Settlement Conference (Room 507): All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Special Assistance Needs: If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the Americans with Disabilities Act, please contact the Civil Assignment Office at (410) 887-2660 or use the Court's TDD line, (410) 887-3018, or the Voice/TDD M.D. Relay Service, (800) 735-2258.

Voluntary Dismissal: Per Md. Rule 2-506, after an answer or motion for summary judgment is filed, a plaintiff may dismiss an action without leave of court by filing a stipulation of dismissal signed by all parties who have appeared in the action. The stipulation shall be filed with the Clerk's Office. Also, unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action.

Court Costs: All court costs MUST be paid on the date of the settlement conference or trial.

Camera Phones Prohibited: Pursuant to Md. Rule 16-109 b.3., cameras and recording equipment are strictly prohibited in courtrooms

RECEIVED
DEC 24 2008
BALTIMORE COUNTY
BOARD OF APPEALS

and adjacent hallways. This means that camera cell phones should not be brought with you on the day of your hearing to the Courthouse.

cc: Michael P Tanczyn Esq
cc: Christopher D Mudd Esq
Issue Date 12/23/08

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

N O T I C E O F R E C O R D

Case Number: 03-C-08-009183 AA
Administrative Agency : 07-245-X
C I V I L

In the Matter of Windsor Rolling Road Property L L C, et al

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 31st day of October, 2008.

Suzanne Mensh
Clerk of the Circuit Court, per

Date issued: 11/01/08

TO: COUNTY BOARD OF APPEALS OF BALITMORE COUNTY THE
Jefferson Building Second Floor Suite
203 105 W Chesapeake Avenue
Towson, MD 21204

RECEIVED
NOV - 5 2008
BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-08-009183

TO: COUNTY BOARD OF APPEALS OF BALITMORE COUNTY THE
Jefferson Building Second Floor Suite
203 105 W Chesapeake Avenue
Towson, MD 21204

PBW 3/5

IN THE MATTER OF WOODLAND SERVICES, LLC	*	BEFORE THE
	*	ZONING COMMISSIONER
PETITION FOR SPECIAL EXCEPTION FOR PROPERTY	*	OF BALTIMORE COUNTY
LOCATED AT 2701 ROLLING ROAD ON THE SOUTHEAST SIDE OF	*	
ROLLING ROAD, 1110' NORTH OF C/L TUDSBURY ROAD	*	CASE NO. 07-245-X
2nd Election District 4th Councilmanic District	*	
	*	

* * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Zoning Commissioner of Baltimore County at the hearing for the matter captioned above on Monday, March 5, 2007, at 11:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson Maryland, 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Zoning Commissioner.

Witness	**Jack Dillon**
Address:	Jack Dillon & Associates 207 Courtland Avenue Towson, Maryland
General Purpose:	for the witness to testify regarding the property located as 2701 Rolling Road and to bring all files and information in his possession regarding the property located at 2845 Rolling Road
Requested By:	Arnold Jablon, Esquire Venable, LLP 210 Allegheny Avenue Towson, Maryland 21204 (410) 494-6298

The witness named above is hereby ordered to so appear before the Zoning Commissioner of Baltimore County.

Zoning Commissioner of Baltimore County

TBW
3/5

IN THE MATTER OF WOODLAND SERVICES, LLC	*	BEFORE THE
	*	ZONING COMMISSIONER
PETITION FOR SPECIAL EXCEPTION FOR PROPERTY	*	OF BALTIMORE COUNTY
LOCATED AT 2701 ROLLING ROAD ON THE SOUTHEAST SIDE OF	*	
ROLLING ROAD, 1110' NORTH OF C/L TUDSBURY ROAD	*	CASE NO. 07-245-X
2nd Election District 4th Councilmanic District	*	
	*	

* * * * * * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the Zoning Commissioner of Baltimore County at the hearing for the matter captioned above on Monday, March 5, 2007, at 11:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Ave., Towson Maryland, 21204, and continuing thereafter as necessary for such witness' testimony and as scheduled by the Zoning Commissioner.

Witness	**Leonard Wasilewski, Code Inspector** **Bureau of Code Inspection** **Baltimore County Department of Permits and Development Management**
Address:	County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204
General Purpose:	for the witness to testify and bring all files and information regarding the property located as 2701 Rolling Road

Requested By: Arnold Jablon, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204
(410) 494-6298

The witness named above is hereby ordered to so appear before the Zoning Commissioner of Baltimore County.

Zoning Commissioner of Baltimore County

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 6, 2006

To: Zoning File

From: Leonard Wasilewski
Code Inspector

Subject: 2701 S. Rolling Rd.
21244
Reference: Code Enforcement Case: 06-9534

To Whom It May Concern:

The property located at the above listed address was inspected as the result of a complaint to Code Enforcement and the following deficiencies were noted.

1) Additional parking spaces may be required due to extra accessory uses and deficient parking space widths not shown on the newest site plan dated 10/16/06.

a) (4) car vacuums
b) (1) air only dispenser
c) (1) ATM
d) (1) kerosene pump
e) (6) employees maximum per shift verified be Manager.
f) (3) parking spaces in front of car wash have deficient widths.

Required 8.5ft. widths x 3 = 25.5ft. Actual site measures 23.5ft total for three spaces curb to curb.

2) Signs erected without permits.

a) (2) directional
b) (1) canopy
c) (5) wall signs on car wash

3) Propane tank in the landscape transitional area.

Case Entry/Update Mode . . : CHANGE
Format . . . . . : CASREC File . . . . . : PDLV0001

Dt Rec: 11062006 Intake: GF Act: Case #: 06-9534
Insp: WASILEWSKI Insp Grp: ENF Insp Area: 2 Tax Acct: 2300007603
Address: 2701 ROLLING RD Apt #: Zip: 21244
Owner: WOODLAND SERVICES LLC, 2318 HALLS GROVE RD, GAMBRILLS MD 21054-1953

Problem Descript.: SETBACK PROBLEMS

Complainant Name (Last): JABLON (First): ARNOLD
Complainant Addr:
Complainant City: State: Zip:
Complainant Phone (H): (W):
Date of Reinspection: 11302006 Date Closed: Delete Code (P):

Case Entry/Update Mode . . . . . : CHANGE
Format . . . . . : CASREC File . . . . . : PDLV0001

Notes: 11/14/06 INSPECTED PROPERTY NOTICED INCONSISTANCIES PERSUANT TO LETTER FROM A JABLON. NEED TO GET SITE PLAN FROM 02-016X. 4 VACS 1 AIR PUMP 1 KERSENE PUMP 1 ATM,NUMEROUS SIGNS ERECTED W/O PERMITS, DID NOT COUNT EMPLOYEES.*****
****11/15/06 MET WITH SITE MGR. TOLD HIM ABOUT DEFICIENCIES INCLUDING NO SPECIAL EXCEPTION FOR A CAR WASH IN CONJUNCTION WITH A SERVICE STATION.HE ALSO VARIFIED THAT THERE ARE 6 EMPLOYEES MAX PER SHIFT. NOTE: PER JT THE ZONING ORDER # 06-583-SPH GIVES NOTICE OF CORRECTION. LW/LW*****
****11/24/06 MET WITH MIKE TANCZYN ESQ WHO SAID THAT HE HAS ALREADY DROPPED OFF PACKAGE FOR S/E TO ZONING. EXPLAINED SIGNS MISSING PERMITS. AND PARKING DEFICIENCIES. HE SAID HE WILL SEND ME A LETTER FOR THE FILE AND GIVE ME AN ITEM NUMBER AS SOON AS HE GETS ONE FROM ZONING. I WILL HOLD OFF ON CITATION UNTIL I GET THE LETTER AND GET DIRECTION. P/U 12/05/06. LW/LW****

6 on Target Shift

4 VACs on Site

1 ATM

1 Kerasene Pump

Per Site Visit

by Lenny W.

11. 15. 2006

Note: (4) VACS NOT ON SITE
PLAN Require (4) parking
Spaces
11. 15. 2006

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

November 6, 2006

VIA HAND-DELIVERY
W. Carl Richards
Zoning Administrator
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Petition for Special Exception
2701 Rolling Road

Dear Carl:

Enclosed herewith please find a drop off Petition for Special Exception for 2701 Rolling Road. We also enclose the following:

1. 12 copies of the plat, folded;
2. 3 copies of a sealed description;
3. 200 scale zoning map with the property outlined thereon;
4. Our check for costs.

Please schedule this for hearing as soon as possible.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: client

VENABLE® LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

8 December 2006

Timothy M. Kotroco, Esq.
Director, Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: In Re: Woodland Services LLC
Case No. 07-245-X

Dear Mr. Kotroco:

Please enter my appearance in this matter on behalf of Windsor Rolling Road Property, LLC.

Prior to scheduling this matter, please grant me the courtesy of letting me know what dates are available in order to avoid the possibility of a request for continuance. My client intends to take part and to present testimony and evidence in opposition to this request. I would also appreciate copies of all correspondence and ZAC comments when made.

Thank you for your cooperation.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

28 December 2006

Timothy M. Kotroco, Esq.
Director, PDM
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Woodland Services, LLC
Case No. 07-245 X

Dear Mr. Kotroco:

I am in receipt of a copy of a letter Michael Tanczyn, Esq. wrote to you dated 26 December 2006, in which he voices concerns to my request for a postponement in the above captioned matter.

While Mr. Tanczyn is correct in his accusation that my client is a competitor to his client, he fails to mention that his client objected to and has appealed a special exception for same and similar uses that was granted by the Zoning Commissioner of Baltimore County to my client. Yes, the bottom line is that these matters are interrelated and they do involve competitors.

However, what Mr. Tanczyn also fails to mention is that the code enforcement complaint filed by my client involves not just the continued operation of the car wash, which was found to be in violation of the original order, but also continued violations of various other zoning requirements that were confirmed by the code inspector after his site visit.

I requested the postponement because Jack Dillon, an expert land planner, will be out of the country for the entire month of February. Mr. Dillon, who is familiar with the instant site and is also intimately familiar with the entire surrounding neighborhood, will be an important witness. Certainly, my request for postponement was made well in advance to the necessary posting as required by law. And equally as important is that the code enforcement complaint is not conditioned on the petition for special exception filed by Mr. Tanczyn's client. As far as I know, no request for variances have been filed, the need for which was confirmed by the code inspector. The car wash is still in violation of Deputy Zoning Commissioner Murphy's order. These continued violations should not be permitted to occur even with the pending special exception for a car wash. Mr. Tanczyn's client should be held to the same standards as his client has imposed on mine. If my client cannot proceed to open its business because of the actions

taken by Mr. Tanczyn's client, then Mr. Tanczyn's client should not be permitted to operate his until all of the outstanding zoning issues are resolved.

The request for postponement, I suggest, is warranted. Thank you for your consideration.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

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

Phone: 410-887-3180 Fax: 410-887-3182

To: Michael Tanczyn

Fax: 410-296-8827

From: Sunny Cannington, Legal Secretary

Date: December 23, 2008

Number of Pages (Including cover): 12

Re: Opinion of Case No.: 07-245-X, Woodland Services, LLC

Attached please find a copy of the opinion you have requested. Should you have any questions please do not hesitate to contact me.

Thank you.

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: WOODLAND SERVICES, INC. — 06-583-SPH
WINDSOR ROLLING ROAD PROPERTY, LLC — 07-245-X
2701 ROLLING ROAD
2ND E; 4TH C

DATE: December 4, 2007

BOARD/PANEL Lawrence Wescott, Panel Chairman
Lawrence M. Stahl
Robert W. Witt

RECORDED BY: Linda B. Fliegel/Legal Secretary

PURPOSE: To confirm whether the Order and site plan approved in Zoning Case No. 02-016-X is void.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board has jurisdiction to hear the matter.
- Windsor is out of the matter since competition is not a basis to appeal.
- St. John's, as an owner of property, has a standing and can qualify as an aggrieved party.
- The filing of the petition in "07" makes this issue moot.
- The Board will dismiss case no. 06-583-SPH as moot and will move forward with case no. 07-245-X.

DECISION BY BOARD MEMBERS: The Board determined that only the petition for special exception case, case no. 07-245-X, will proceed forward and that St. John's Properties, as a property owner, can be a party to this case.

FINAL DECISION: After a thorough review of the facts, testimony, and law in the matter, the Board unanimously decided to *DISMISS* case no. 06-583-SPH as *MOOT* and proceed with case no. 07-245-X when scheduled by the Board.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that 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

Linda B. Fliegel
County Board of Appeals

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: WOODLAND SERVICES, LLC 07-245-X

DATE: May 29, 2008

BOARD/PANEL: Lawrence S. Wescott
Lawrence Stahl
Robert W. Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate an appeal of the following:

1. St John Properties request that Woodland Services, LLC be required to file a Motion for Special Hearing to Amend Petition that would require Woodland Services, LLC to start over from the original Petition, forward to include all requested structures.

2. Whether the outdoor sale of kerosene and propane must be under or near a canopy

3. Whether the Carwash and Service Station are serving the area

4. Whether the setbacks are to be allowed

5. Whether a canopy should be required between the carwash and service station.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The history of this particular case involved two previous cases. The original Order from the Zoning Commissioner omitted the carwash. The carwash was included in the original Plat, Petition and the Description in the Zoning Commissioner's Order but was not discussed in the final opinion of the Zoning Commissioner.
- There is no reason for the Motion for Special Hearing to Amend Petition. Everything else has been done correctly.
- Woodland Services, LLC did show evidence at the hearing indicating that the majority of their business is derived from the industrial businesses in the nearby industrial park. Regulations were read that indicate that the service station does not need to be located in the industrial park in order for it to serve the industrial park businesses.
- The outdoor sales of kerosene and propane were discussed. Regulations were read that indicated that merchandise on outside display must be under canopy and it cannot interfere with or block the circulation of traffic. The point was made that it is not safe to store kerosene tanks between the pumps, under the existing canopy.

- The setbacks were not considered an issue due to previous Order.

DECISION BY BOARD MEMBERS: There were several technical errors in the previous written Orders. It is reasonable to require a canopy between the carwash and service station to allow for the storage and sale of kerosene. It is also decided that it is not reasonable to put a canopy over the propane tank, as it would make refills almost impossible.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT Petitioner's request for the Carwash with the condition that a canopy be provided between the Carwash and Service Station for the sale of kerosene.

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

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: WOODLAND SERVICES, LLC 07-245-X

DATE: May 29, 2008

BOARD/PANEL: Lawrence S. Wescott
Lawrence Stahl
Robert W. Witt

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate an appeal of the following:

1. St John Properties request that Woodland Services, LLC be required to file a Motion for Special Hearing to Amend Petition that would require Woodland Services, LLC to start over from the original Petition, forward to include all requested structures.
2. Whether the outdoor sale of kerosene and propane must be under or near a canopy
3. Whether the Carwash and Service Station are serving the area
4. Whether the setbacks are to be allowed
5. Whether a canopy should be required between the carwash and service station.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The history of this particular case involved two previous cases. The original Order from the Zoning Commissioner omitted the carwash. The carwash was included in the original Plat, Petition and the Description in the Zoning Commissioner's Order but was not discussed in the final opinion of the Zoning Commissioner.
- There is no reason for the Motion for Special Hearing to Amend Petition. Everything else has been done correctly.
- Woodland Services, LLC did show evidence at the hearing indicating that the majority of their business is derived from the industrial businesses in the nearby industrial park. Regulations were read that indicate that the service station does not need to be located in the industrial park in order for it to serve the industrial park businesses.
- The outdoor sales of kerosene and propane were discussed. Regulations were read that indicated that merchandise on outside display must be under canopy and it cannot interfere with or block the circulation of traffic. The point was made that it is not safe to store kerosene tanks between the pumps, under the existing canopy.

PLEASE PRINT CLEARLY

CASE NAME WoodLAND SERVICES LLC
CASE NUMBER 07-245X
DATE MARCH 5, 2007

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
SAJID CHAUDHRY	2913 GEORGE HOWARD WAY	DIVIDSONVILLE MD 21035	SAJID212@AOL.COM
IFTKHAR AHMAD	10346 CHAMPION WAY	LAURAL MD 20707	
Michael TANCZYN	STE 106 6006 BALTIMORE AVE	TOWSON MD 21204	MPTLAW@VERIZON.NET
KEN COLBERT	2835 SMITH AVE	BALTIMORE, MD 21209	kcolbert@amrengineers.com

PLEASE PRINT CLEARLY

CASE NAME Woodland Services, LLC
CASE NUMBER 07-245-X
DATE 3/5/07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
ARNOLD JABLON	210 ALLEGHENY AVE	TOWSON	
DAVID KARNOFSKY	"	"	
Tom Pilon	2560 Lord Baltimore Drive	Towson, Md 21117	212-4th Floor Comments to Tom
Nick Brader	10540 York Rd Ste M	Hunt Valley, MD 21030	nick@matisworfield.com
Pilon / Sign-			
Len Wasolski - Zoning Enforcement			

11/13/07 LETTER OF MICHEAL TANCZYN WITH CITED CASES

20070245 "A"
supplemental

3

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827
Email: mptlaw@verizon.net

November13, 2007

HAND DELIVERED

County Board of Appeals of Baltimore County
Attn: Kathleen C. Bianco, Administrator
Old Court House, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 07-245-X

Dear Kathy:

Per direction of the Board at the time of the hearing, enclosed please find original and three copies of Petitioner's Brief in Support of its Motion on the issues as directed by the Board of Appeals.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT:kds
Encl.
cc: Arnold Jablon, Esquire
Mr. Kenneth Colbert
Clients

Packet given to attorney Tanczyn w/ submitted by L. Wescott 11-14-07

11/13/07

REA 11/27/07

2-3-6 (6)

IN RE: PETITION FOR SPECIAL EXCEPTION	*	BEFORE THE
E/S Rolling Road, 1,100' N of the c/l Tudsbury Road **(2701 Rolling Road)**	*	BOARD OF APPEALS
2nd Election District 4th Council District	*	OF
	*	BALTIMORE COUNTY
Woodland Services, LLC Petitioner	*	Case No. 07-245-X

* * * * * * *

MEMORANDUM OF THE PETITIONER IN SUPPORT OF MOTION TO DISMISS APPEAL

NOW COMES Woodland Services, LLC, owners of 2701 Rolling Road, by their attorney, Michael P. Tanczyn, and submit the within Memorandum to assist the Board in resolving the Petitioner's Motion to Dismiss the Appeal filed by competitors.

History

This property was the subject of a Petition for Special Exception before the Zoning Commissioner in Baltimore County in Case No. 02-016-X. The owners of the property who were the Petitioners at the time were Rolling Road, LLC, and the contract Lessee, Eastern Petroleum Corporation. The Petition for a fuel service station use in combination with a convenience store greater than 1,500 feet and to allow a carry out restaurant as a use in combination was considered by the Zoning Commissioner. In his decision previously submitted to the Board in the instant case, he noted among those present in support of the request were Sajid Choudhry and Rias Ahmad, who are the principals in the present owner, Woodland Services, LLC, who were described as potential proprietors of the proposed business. The Zoning Commissioner's Opinion noted no protestants or other interested persons were present. The property described in that Petition is the same property described in the instant Petition. In a three page Opinion and Order the Zoning Commissioner notes on page 2 other site improvements include a 44 foot by 22 foot car wash facility. On the first page

Kennerly v. Mayor and City Council of Baltimore, Md. 1967.

Court of Appeals of Maryland.
Benjamin J. KENNERLY et al.
v.
MAYOR AND CITY COUNCIL OF BALTIMORE et al.
No. 528.

Oct. 12, 1967.

Zoning case. The Baltimore City Court, Dulany Foster, C. J., affirmed zoning board's grant of variance and appeal was taken. The Court of Appeals, Hammond, C. J., held that verified allegation that parties were aggrieved and were taxpayers did not establish fact and that where parties did not show that they were aggrieved or taxpayers they had no standing to appeal and appeal would be dismissed.

Appeal dismissed.
West Headnotes
[1] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Where parties neither alleged nor proved that they were aggrieved by zoning board's grant of variance, they had no standing to appeal decision of board. Maryland Rules, Rule B 3; Code 1957, art. 66B, § 7(j).

[2] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Where parties failed to offer any evidence to establish that they were taxpayers, they had no standing to appeal zoning board's grant of variance. Maryland Rules, Rule B 3; Code 1957, art. 66B, § 7(j).

[3] Pleading 302 ⚷304

302 Pleading
302VIII Verification
302k304 k. Operation and Effect of Verification. Most Cited Cases
Verified pleading does not of itself constitute evidence of facts alleged therein.

[4] Zoning and Planning 414 ⚷590

414 Zoning and Planning
414X Judicial Review or Relief
414X(B) Proceedings
414k589 Pleading
414k590 k. Petition, Complaint, or Application. Most Cited Cases
Verification of parties' petition on appeal from decision of zoning board did not impose upon city or builder any other or greater burden than would have been necessary if pleading had not been verified. Maryland Rules, Rule 303 b.

[5] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Where record in zoning case did not show that at least one party had standing to appeal, appeal was subject to dismissal.

[6] Zoning and Planning 414 ⚷494

414 Zoning and Planning

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Bryniarski v. Montgomery County Bd. of Appeals Md.,1967.

Court of Appeals of Maryland.
Albert F. BRYNIARSKI, Jr., et al.
v.
MONTGOMERY COUNTY BOARD OF APPEALS et al.
No. 401.

June 8, 1967.

Proceeding on appeal from an order of the county board of appeals granting application of medical corporation for special exceptions to permit construction and operation of apartment hotel on land zoned for commercial-office use and for off-street parking, in conjunction with apartment use, on land zoned for single-family residential use. The Circuit Court, Montgomery County, Walter H. Moorman, J., affirmed action of board and further appeal was taken. The Court of Appeals, Barnes, J., held that ownere of property immediately contiguous owners of property immediately contiguous apartment hotel, for which special exception was sought, were 'persons aggrieved' by decision of county board of appeals granting application for special exception and were entitled to maintain appeal from board to circuit court and from circuit court to Court of Appeals. The court further held that refusal of county board of appeals to permit protesting property owners to cross-examine witnesses of applicant for special exception constituted prejudicial denial of due process of law.

Reversed and remanded with instructions.
West Headnotes
[1] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases

Zoning and Planning 414 ⚷582.1

414 Zoning and Planning
414X Judicial Review or Relief
414X(B) Proceedings
414k582 Parties
414k582.1 k. In General. Most Cited Cases
(Formerly 414k582)
Before person has standing to appeal to circuit court from decision of county board of appeals, he must have been party to proceeding before board and he must be aggrieved by decision of board.

[2] Zoning and Planning 414 ⚷531

414 Zoning and Planning
414IX Variances or Exceptions
414IX(B) Proceedings and Determination
414k531 k. In General. Most Cited Cases
Property owner, by filing letter which was accepted and filed by county board of appeals as part of record in case involving grant of special exception to permit construction and operation of apartment hotel, became party to proceeding before board.

[3] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
"Person aggrieved" by decision of board of zoning appeals is one whose personal or property rights are adversely affected by decision of board, and decision must not only affect matter in which protestant has specific interest or property right but his interest therein must be such that he is personally and specially affected in way different from that suffered by public generally. Code 1957,

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H

Court of Special Appeals of Maryland.
RED ROOF INNS, INC.
v.
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY.
No. 1406, Sept. Term, 1992.

May 26, 1993.

Motel operator appealed decision of county board of appeals denying variance respecting county zoning regulations governing size of signs. The Circuit Court, Baltimore County, Robert E. Cahill, Sr., affirmed. On appeal, the Court of Special Appeals, Garrity, J., held that: (1) board properly applied less stringent standard of "practical difficulty," rather than requiring more stringent "unreasonable hardship" standard to be met, and (2) evidence supported board's denial of variance.

Affirmed.

West Headnotes

|1| Zoning and Planning ⚷605
414k605 Most Cited Cases
Once decision has been rendered by **zoning** authority, it must be affirmed by reviewing court if it is "fairly debatable."

|2| Zoning and Planning ⚷624
414k624 Most Cited Cases
In reviewing **zoning** authority's decision, court must consider all evidence in administrative record.

|3| Zoning and Planning ⚷605
414k605 Most Cited Cases
Role of court reviewing **zoning** authority's decision is confined to determining legality of procedure employed and whether decision was fairly debatable in light of evidence adduced before authority.

|4| Zoning and Planning ⚷745.1
414k745.1 Most Cited Cases
In review of **zoning** authority's decision, role of Court of Special Appeals is essentially to repeat task of circuit court; that is, to be certain that circuit court did not err in its review.

|5| Zoning and Planning ⚷502.1
414k502.1 Most Cited Cases
Party seeking variance respecting sign regulations need only show "practical difficulty," rather than "unreasonable hardship," to be entitled to relief because variance from sign regulations is deemed to be "area variance," impact of which is viewed as being much less drastic than that of "use" variance.

|6| Zoning and Planning ⚷502.1
414k502.1 Most Cited Cases
County board of appeals properly applied less stringent standard of "practical difficulty," rather than requiring more stringent "unreasonable hardship" standard to be met, in denying motel operator variance from county zoning regulations governing size of signs; board considered both standards of review and board's opinion stated that height and size of sign requested was more for convenience of operator than necessity, alluded to testimony that led to conclusion that sign would seriously impact residential community, and stated that granting variance request would clearly be contrary to spirit of regulations.

|7| Zoning and Planning ⚷539
414k539 Most Cited Cases
Evidence supported county board of appeals' denial of variance sought by motel operator from county zoning regulations governing size of signs, despite fact that operator presented ample evidence to support its contention that practical difficulty warranting variance existed and prior determinations respecting petitions by other lodging establishments; party which opposed variance demonstrated that proposed sign would have

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H
Committee for Responsible Development on 25th Street v. Mayor and City Council of Baltimore Md.App.,2001.

Court of Special Appeals of Maryland.
COMMITTEE FOR RESPONSIBLE DEVELOPMENT ON 25TH STREET et al.,
v.
MAYOR AND CITY COUNCIL OF BALTIMORE et al.
No. 2927, Sept. Term, 1999.

March 1, 2001.

Challenger to pharmacy construction sought judicial review of board of municipal and zoning appeals' decision that upheld the grant of the construction permit. The Circuit Court, Baltimore City, Alfred Nance, J., dismissed. Challenger appealed. The Court of Special Appeals, Kenney, J., held that challenger did not have standing to seek judicial review of board's decision.

Affirmed.
West Headnotes
[1] Action 13 ⚷6

13 Action
13I Grounds and Conditions Precedent
13k6 k. Moot, Hypothetical or Abstract Questions. Most Cited Cases
A case is moot when there is no longer an existing controversy between the parties at the time it is before the court so that the court cannot provide an effective remedy.

[2] Appeal and Error 30 ⚷781(1)

30 Appeal and Error
30XIII Dismissal, Withdrawal, or Abandonment
30k779 Grounds for Dismissal
30k781 Want of Actual Controversy
30k781(1) k. In General. Most Cited Cases
Moot cases are generally dismissed without a decision on the merits.

[3] Appeal and Error 30 ⚷781(1)

30 Appeal and Error
30XIII Dismissal, Withdrawal, or Abandonment
30k779 Grounds for Dismissal
30k781 Want of Actual Controversy
30k781(1) k. In General. Most Cited Cases
In rare instances an appellate court can address a moot case if it presents unresolved issues in matters of important public concern that, if decided, will establish a rule for future conduct, or the issue presented is capable of repetition, yet evading review.

[4] Administrative Law and Procedure 15A⚷665.1

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions
15AV(A) In General
15Ak665 Right of Review
15Ak665.1 k. In General. Most Cited Cases
The requirements for administrative standing are such that one may have administrative standing, but lack standing to seek judicial review.

[5] Declaratory Judgment 118A ⚷299.1

118A Declaratory Judgment
118AIII Proceedings
118AIII(C) Parties
118Ak299 Proper Parties
118Ak299.1 k. In General. Most Cited Cases
Standing to bring a declaratory judgment action is the same as for other cases; there must be a legal interest, such as one of property, one arising out of

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C
Eastern Service Centers, Inc. v. Cloverland Farms Dairy, Inc.
Md.App.,2000.

Court of Special Appeals of Maryland.
EASTERN SERVICE CENTERS, INC.
v.
CLOVERLAND FARMS DAIRY, INC., et al.
No. 1814, Sept. Term, 1998.

Jan. 11, 2000.

Applicant sought zoning permit to construct gas station with accessory convenience store. The zoning board granted permit, and applicant's competitor sought judicial review. The Circuit Court, Baltimore City, John C. Byrnes, J., affirmed, and competitor appealed. The Court of Special Appeals, Sonner, J., held that evidence supported zoning board's finding that convenience store was an accessory use to gas station for purposes of application.

Dismissed.
West Headnotes
[1] Zoning and Planning 414 ⚷741

414 Zoning and Planning
414X Judicial Review or Relief
414X(E) Further Review
414k741 k. In General. Most Cited Cases
Circuit court properly exercised its revisory power to correct the mistake and irregularity of having two judgment dates in the record by revising the August 28 order, affirming zoning board's decision, to reflect August 31 as the date of judgment for purposes of determining whether appellant's appeal filed on September 29 was timely; entries in the court's computerized docket indicated that August 28 and August 31 were the judgment dates, while the handwritten docket, upon which appellant relied, listed only August 31. Md.Rule 2-535.

[2] Zoning and Planning 414 ⚷741

414 Zoning and Planning
414X Judicial Review or Relief
414X(E) Further Review
414k741 k. In General. Most Cited Cases
Having not received copy of trial court's order affirming zoning board's decision, appellant, who diligently inspected court's file to determine date of judgment for purposes of filing timely appeal, was entitled to rely on case docket in the court's file which listed judgment date as August 31, and appellant had no reason to, and was not required to, use computerized docket to search for earlier or inconsistent judgment date of August 28; appellant could look at file or docket to determine when judgment was entered and was entitled to rely on that date as public record.

[3] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Person whose sole reason for appealing decision from zoning board is to prevent competition with his established business does not have standing to appeal.

[4] Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Service station owner did not have standing to appeal zoning board's decision granting applicant permit to construct gas station with accessory convenience store approximately one block from owner's site since owner's sole motive for appeal was to prevent competition.

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C
KREATCHMAN v. RAMSBURG
Md. 1961

Court of Appeals of Maryland.
Charles A. KREATCHMAN
v.
H. Lee RAMSBURG et al.
No. 79.

Jan. 20, 1961.

Suit to restrain board of county commissioners from interfering with use of property for shopping center and for declaratory decree to effect that zoning regulations applying to the property were unconstitutional. The owner of projected liquor store in proposed shopping center approximately a mile and one half from complainants' property was permitted to intervene. The Circuit Court for Howard County, James Macgill, J., entered decree restraining interference with shopping center use, and intervenor appealed. The Court of Appeals, Brune, C. J., held that intervenor, whose only concern was preventing competition with his projected store did not have sufficient interest to maintain the appeal.

Appeal dismissed.
West Headnotes
|1| Zoning and Planning 414 ⚷564

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k563 Nature and Form of Remedy
414k564 k. Appeal. Most Cited Cases
Statute providing for appeal from county commissioners to circuit court is not applicable to zoning cases. Code 1957, art. 5, § 27.

|2| Appeal and Error 30 ⚷187(4)

30 Appeal and Error
30V Presentation and Reservation in Lower Court of Grounds of Review
30V(B) Objections and Motions, and Rulings Thereon
30k187 Parties
30k187(4) k. New Parties and Change of Parties. Most Cited Cases
Court of Appeals could determine whether intervenor had sufficient interest to maintain appeal although question was not decided by trial court. Maryland Rules, Rule 885.

|3| Appeal and Error 30 ⚷143

30 Appeal and Error
30IV Right of Review
30IV(A) Persons Entitled
30k137 Parties of Record
30k143 k. Interveners and Claimants. Most Cited Cases

Appeal and Error 30 ⚷148

30 Appeal and Error
30IV Right of Review
30IV(A) Persons Entitled
30k148 k. Persons Other Than Parties or Privies. Most Cited Cases
Fact that intervention has been allowed in trial court is not controlling as to right of appeal, and one who has sufficient interest may appeal even though he is not a party of record. Maryland Rules, Rule 835a, b.

|4| Appeal and Error 30 ⚷150(1)

30 Appeal and Error
30IV Right of Review
30IV(A) Persons Entitled
30k150 Interest in Subject-Matter
30k150(1) k. In General. Most Cited Cases
Appellant must have interest in subject matter of appeal in order to maintain appeal. Maryland Rules, Rule 835 b (1).

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822 A.2d 478

150 Md.App. 479, 822 A.2d 478

(Cite as: 150 Md.App. 479, 822 A.2d 478)

Court of Special Appeals of Maryland.
SUPERIOR OUTDOOR SIGNS, INC., et al.
v.
ELLER MEDIA COMPANY, et al.
No. 2545, Sept. Term, 2001.

April 30, 2003.

Sign company and business owner appealed from decision of town board of zoning appeals granting variances to property owner and media company, which leased property from owner for the placement and maintenance of billboards, thereby allowing them to replace two existing non-conforming billboards and to erect two new billboards on property. The Circuit Court for Wicomico County, D. William Simpson, J., affirmed, and sign company and business owner appealed. The Court of Special Appeals, Deborah S. Eyler, J., held that: (1) even if business owned land which was adjacent to property which was the subject of board's **zoning** decision, that did not mean that business owner had an ownership interest in his business' land, and therefore, he was not an "aggrieved person" so as to have **standing** to appeal from board's decision; (2) business owner, whose business was **competitor** of media company, was not an "aggrieved person" who had **standing** to appeal from board's decision; and (3) business owner's status as a payer of real property taxes outside the town did not afford him "any taxpayer" status so as to have **standing** to appeal from board's decision.

Appeal dismissed.

West Headnotes

[1] Zoning and Planning ⚷745.1
414k745.1 Most Cited Cases
A party's standing to appeal either to Court of Special Appeals or to Circuit Court from the decision of a zoning board is a question of law, which Court of Special Appeals decides de novo.

[2] Zoning and Planning ⚷743
414k743 Most Cited Cases
By raising issue in the trial court, property owner and media company, which leased property from owner for the placement and maintenance of billboards, preserved for appellate review issue of whether sign company and business owner had standing to appeal from decision of town's board of zoning appeals granting variances to property owner and media company, thereby allowing them to replace existing non-conforming billboards and to erect new billboards on property, notwithstanding fact that trial court did not expressly rule on this issue, and it was not necessary for property owner and media company to note a cross-appeal on the issue of standing for appellate court to address the question of standing that was raised below.

[3] Zoning and Planning ⚷571
414k571 Most Cited Cases
The "aggrieved person" standard for appealing decision of a zoning board to the circuit court is a two-part test in which the plaintiff first must show that he has a personal or property interest that will be adversely affected by the zoning decision and then must show that the harm to that interest from the zoning decision is distinct from the harm to the general public from the zoning decision. Code 1957, Art. 66B, § 4.08(a).

[4] Zoning and Planning ⚷571
414k571 Most Cited Cases
Owner of property adjacent to property that is the subject of a zoning decision is prima facie an "aggrieved person" within the meaning of statute conferring standing to appeal from zoning board's decision on aggrieved persons. Code 1957, Art. 66B, § 4.08(a).

[5] Zoning and Planning ⚷571
414k571 Most Cited Cases

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H
Ginn v. Farley
Md.App., 1979.

Court of Special Appeals of Maryland.
Mary Elizabeth GINN et al.
v.
John A. FARLEY et al.
No. 1407.

July 16, 1979.

Appeal was taken from judgment of the Circuit Court, Baltimore County, Edward A. DeWaters, Jr., J., which affirmed decision of zoning board. The Court of Special Appeals, Gilbert, C. J., held that: (1) one person who admitted that she was not aggrieved by the decision was not an aggrieved party with a right to appeal; (2) that person, by preparing notices of appeal and legal memoranda, was engaged in the unauthorized practice of law; (3) there was sufficient evidence to sustain the zoning change; and (4) in the absence of objections to questions asked of a person who was called to testify after the close of the evidence, the objections were waived.

Dismissed in part and affirmed.
West Headnotes
|1| Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Party appealing from an administrative zoning board decision to the circuit court must have been a party before the administrative body and must be aggrieved by the decision.

|2| Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
An "aggrieved party", who can appeal to the circuit court from administrative decision of zoning board, is one whose property right or specific interest is affected by a zoning or rezoning decision in a way which is different from that suffered by the public generally.

|3| Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Person who testified before the county board of appeals that she was not an aggrieved party and was just representing neighborhood was, by her own admission, not an aggrieved party within the meaning of the law and thus possessed no right to appeal zoning decision to the circuit court.

|4| Zoning and Planning 414 ⚷571

414 Zoning and Planning
414X Judicial Review or Relief
414X(A) In General
414k571 k. Right of Review. Most Cited Cases
Individual who was not an aggrieved party was not properly before the circuit court on appeal from decision of the zoning board and should not have been heard in the circuit court and did not have standing to maintain an appeal to the Court of Special Appeals.

|5| Attorney and Client 45 ⚷11(2.1)

45 Attorney and Client
45I The Office of Attorney
45I(A) Admission to Practice

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ZONING

FINAL ORDER

VESTING

United Parcel Service, Inc. v. People's Counsel for Baltimore County
Md.,1994.

Court of Appeals of Maryland.
UNITED PARCEL SERVICE, INC. et al. and Baltimore County, Maryland
v.
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Maryland et al.
No. 140, Sept. Term, 1992.

Dec. 6, 1994.

Neighboring landowners appealed county board of appeals' affirmance of zoning commissioner's issuance of building permit, and property owners cross-appealed. The Circuit Court, Baltimore County, Joseph F. Murphy, Jr., J., reversed board's decision and remanded. Property owners appealed. The Court of Special Appeals affirmed, 93 Md.App. 59, 611 A.2d 993, and certiorari was granted. The Court of Appeals, Eldridge, J., held that: (1) time to appeal decision of county zoning commissioner could not be extended by application of "discovery rule"; (2) zoning commissioner's letter responding to objection to approval of building permit application was not "approval" or " decision" appealable to board of appeals; and (3) Express Powers Act did not give board of appeals original jurisdiction over letter seeking appeal from zoning decision.

Reversed and remanded.
West Headnotes
[1] Administrative Law and Procedure 15A ⚷791

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions
15AV(E) Particular Questions, Review of
15Ak784 Fact Questions
15Ak791 k. Substantial Evidence. Most Cited Cases

Administrative Law and Procedure 15A ⚷796

15A Administrative Law and Procedure
15AV Judicial Review of Administrative Decisions
15AV(E) Particular Questions, Review of
15Ak796 k. Law Questions in General. Most Cited Cases
Court's role in reviewing agency action is limited to determining whether there is substantial evidence in record as whole to support agency's findings and conclusions, and to determine if administrative decision is premised upon erroneous conclusion of law.

[2] Zoning and Planning 414 ⚷442

414 Zoning and Planning
414VIII Permits, Certificates and Approvals
414VIII(C) Proceedings to Procure
414k440 Administrative Review
414k442 k. Procedure. Most Cited Cases
Time to appeal decision of county zoning commissioner could not be extended by application of "discovery rule"; county statute establishing 30-day appeal period was mandatory and did not speak in terms of accrual. Baltimore (Md) County Code § 26-132(a).

[3] Zoning and Planning 414 ⚷440.1

414 Zoning and Planning
414VIII Permits, Certificates and Approvals
414VIII(C) Proceedings to Procure
414k440 Administrative Review
414k440.1 k. In General. Most Cited Cases
Zoning commissioner's letter responding to objection to approval of building permit application was not "approval" or "decision" appealable to

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H

Court of Appeals of Maryland.
Mary Pat MARZULLO et al.
v.
Peter A. KAHL.
No. 10, Sept. Term, 2001.

Oct. 12, 2001.

Landowner sought review of county board of appeals' decision that his business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in zone implementing resource conservation and watershed protection. The Circuit Court, Baltimore County, John Grason Turnbull II, J., reversed. Neighbor and county attorney appealed. The Court of Special Appeals, 135 Md.App. 663, 763 A.2d 1217, affirmed. Parties petitioned for a writ of certiorari. The Court of Appeals, Cathell, J., held that landowner's business was not a permitted use.

Reversed and remanded with directions.

West Headnotes

[1] Zoning and Planning ⚷605
414k605 Most Cited Cases
On appellate review of zoning case, Court of Appeals would take into consideration county board of appeals' expertise and would afford appropriate deference to board's decision that landowner's business of breeding, raising, and selling snakes and reptiles was not a farming activity and was not a permitted use in a residential resource conservation and watershed protection zone.

[2] Zoning and Planning ⚷279
414k279 Most Cited Cases
Landowner's business of breeding, raising, and selling snakes and reptiles was not "commercial agriculture" within scope of zoning regulation's definition of "farm,", and thus, it was not a permitted use in zone implementing resource conservation and watershed protection; legislative intent suggested that drafters of regulation intended "animal husbandry" aspect of "commercial agriculture" to relate to production and care of domestic animals, and landowner's business involved wild animals.

[3] Statutes ⚷174
361k174 Most Cited Cases
Courts do not set aside common experience and common sense when construing statutes.

[4] Statutes ⚷181(2)
361k181(2) Most Cited Cases
Absurd statutory constructions are to be avoided.

[5] Zoning and Planning ⚷465
414k465 Most Cited Cases
Landowner did not have a **vested** right to conduct on his **property** the business of breeding, raising, and selling snakes and reptiles, which was not a permitted use in **zone** implementing resource conservation and watershed protection; although landowner obtained a permit and completed substantial construction of business building, there was no change in **zoning** law and permit was improperly issued.

[6] Zoning and Planning ⚷461
414k461 Most Cited Cases
Generally, in the absence of bad faith on the part of the remitting official, applicants for permits that involve the official's interpretation of **zoning** laws accept the afforded interpretation at their risk.

[7] Zoning and Planning ⚷762
414k762 Most Cited Cases
County was not equitably estopped from preventing landowner from conducting on his **property** the business of breeding, raising, and selling snakes and reptiles, which was not a permitted use in **zone** implementing resource

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332 A.2d 306

Page 1

24 Md.App. 435, 332 A.2d 306

(Cite as: 24 Md.App. 435, 332 A.2d 306)

Court of Special Appeals of Maryland.
BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY et al.
v.
Elwood RACINE.
No. 303.

Feb. 13, 1975.

Owner of mobile home subdivision filed application for zoning and sanitary permit for use of one lot for mobile home without a permanent foundation. The County Board of Appeals denied the permit, and the owner appealed. The Circuit Court for Cecil County, J. Albert Roney, Jr., J., reversed, and appeal was taken. The Court of Special Appeals, Menchine, J., held that subject use of lot was a permissible use in the C-2 highway commercial zone, that at least some of the principles ples of the doctrine of res judicata are applicable to decisions by a zoning board and that where board's prior decision that requested use was not a permitted use was an erroneous interpretation of law, such decision did not, on principles akin to res judicata, preclude subsequent litigation of the matter before the board.

Order affirmed.

West Headnotes

[1] Zoning and Planning ⚷278.1
414k278.1 Most Cited Cases
(Formerly 414k278)
Under provision of cumulative zoning ordinance that permitted uses in the C-2 highway commercial zone where all uses, except dwellings, that were permitted in the local commercial zone C-1, which authorized all uses permitted in residential zone R-3, i. e., multiple dwellings and mobile homes subdivisions, with a dwelling being defined as a residence on a permanent foundation and a mobile home being defined as a moveable or portable residence designed without a permanent foundation, use of lot in mobile home subdivision for a mobile home without a permanent foundation was an authorized use of land within the C-2 **zoning**.

[2] Zoning and Planning ⚷360
414k360 Most Cited Cases
A local **zoning** board's decision which is the product of an erroneous interpretation or application of the **zoning** ordinance is arbitrary and capricious in a legal sense.

[3] Zoning and Planning ⚷363
414k363 Most Cited Cases
At least some of the principles of the doctrine of res judicata are **applicable** to decisions of a **zoning** board.

[4] Administrative Law and Procedure ⚷501
15Ak501 Most Cited Cases

[4] Judgment ⚷660
228k660 Most Cited Cases
Maryland law rejects any distinction between determination of questions of fact and errors of law in the application of the doctrine of res judicata to judgments of courts of competent jurisdiction; however, such an inflexible rule is not **applicable** to errors of law by administrative bodies.

[5] Zoning and Planning ⚷363
414k363 Most Cited Cases
An unreversed **final decision** by **zoning** board, passed in the exercise of its discretion on issues of fact or on mixed issues of law and fact, is fully binding on the parties to the cause and their privies as to all issues determined thereby; it is only when there has been a substantial change of condition or it is shown that the decision was a product of fraud, surprise, mistake or inadvertence, that such an administrative body may reverse its prior decision

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Court of Appeals of Maryland.
Larry POWELL et al.
v.
CALVERT COUNTY, Maryland et al.
No. 45 Sept. Term, 2001.

Jan. 10, 2002.
Reconsideration Denied March 6, 2002.

Landowner who operated excavating business in rural district zone sought special exception to permit outdoor storage of construction materials. After the trial court affirmed the county board of appeals' grant of special exception, county amended zoning ordinance to prohibit outdoor storage of materials in connection with a commercial or industrial use in rural district zone. Thereafter, the Court of Special Appeals vacated and remanded. Board amended earlier opinion and approved special exception. Homeowners in nearby subdivision petitioned for judicial review. The Circuit Court, Calvert County, Robert H. Mason, J., remanded. Homeowners appealed. The Court of Special Appeals, 137 Md.App. 425, 768 A.2d 750, affirmed in part and reversed in part. Homeowners filed petition for writ of certiorari. The Court of Appeals, Cathell, J., held that landowner never obtained a final valid exception prior to change in the zoning law, and, thus, never obtained a vested right to store his materials on the property.

Reversed and remanded.

West Headnotes

[1] Zoning and Planning ⚷546
414k546 Most Cited Cases
In instances where there is ongoing litigation, there is no different "rule of **vested** rights" for special exceptions to a **zoning** ordinance, for until all necessary **approvals,** including all **final** court **approvals,** are obtained, nothing can **vest** or even begin to **vest;** even after **final** court **approval** is reached, additional actions must sometimes be taken in order for rights to **vest.**

[2] Zoning and Planning ⚷546
414k546 Most Cited Cases
Landowner never obtained a **final** valid exception prior to change in the **zoning** law prohibiting outdoor storage of materials in connection with a commercial or industrial use in rural district **zone** and, thus, never obtained a **vested** right to store his materials on the **property**, given that landowner's right to the special exception was, at all times, in litigation, even if the special exception initially granted, but subsequently vacated, was never declared "unlawful or invalid"; vacation of the special exception effectively nullified decision of county board of appeals to grant it and, therefore, no form of special exception was in effect at time of the change in law.

[3] Zoning and Planning ⚷546
414k546 Most Cited Cases
Special exception approval to subsequent change in a zoning ordinance, whose validity is being litigated, is not finally valid until all litigation concerning the special exception is final; persons proceeding under such approval prior to finality are not "vesting" rights, but are commencing at "their own risk" so that they will be required to undo what they have done if they ultimately fail in the litigation process.
****96*401** Douglas C. Meister(Robert H. Rosenbaum of Meyers, Rodbell & Rosenbaum, P.A., on brief), Riverdale, for petitioners.

John C. Richowsky, Friendship, for respondents.

Argued before BELL, C.J., ELDRIDGE, RAKER, WILNER, ****97** CATHELL, HARRELL, [FN*] and BATTAGLIA, JJ.

FN* Judge Harrell participated in the oral

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677 A.2d 102

110 Md.App. 300, 677 A.2d 102

(Cite as: 110 Md.App. 300, 677 A.2d 102)

Court of Special Appeals of Maryland.
The TOWN OF SYKESVILLE, et al.
v.
WEST SHORE COMMUNICATIONS, INC., et al.
No. 1452, Sept. Term, 1995.

June 3, 1996.

Town, county, and neighbors attempted to stop construction of communications tower. The Circuit Court of Carroll County affirmed the county board of zoning appeals' determination that right to construction had vested. Protestors appealed. The Court of Special Appeals, Moylan, J., held that: (1) tower construction had visibly and significantly commenced prior to enactment of new zoning ordinance; (2) commencement of construction had been in good faith; (3) construction had commenced pursuant to valid building permit; and (4) right to construction had vested and was not affected by new ordinance.

Affirmed.

West Headnotes

[1] Zoning and Planning ⚷376
414k376 Most Cited Cases
For a right to proceed with construction under existing zoning to vest, three conditions must be satisfied; there must be the actual physical commencement of some significant and visible construction; commencement must be undertaken in good faith, to wit, with the intention to continue with construction and to carry it through to completion; and commencement of construction must be pursuant to a validly issued building permit.

[2] Zoning and Planning ⚷376
414k376 Most Cited Cases
For construction to be significant enough to trigger vesting of rights to proceed under existing ordinance, on inspection of property by reasonable member of public the work must be recognizable as the commencement of construction of a building for a use permitted under the then-current zoning law, and construction must not be token.

[3] Zoning and Planning ⚷376
414k376 Most Cited Cases
Construction of communications tower was sufficient to trigger vesting of rights to proceed with construction under existing zoning where construction by date new ordinance was adopted was extensive and was readily apparent and visible to any interested neighbors or other observers; site had been graded, excavation for base had been dug, two layers of rebar steel had been installed, one on ground and one suspended from wooden frame rising above the ground, and construction was visible from closest road.

[4] Zoning and Planning ⚷376
414k376 Most Cited Cases
In determining whether right to proceed with construction under existing zoning has vested, it is not enough that substantial and visible construction shall have physically commenced, it is also required that there shall have been "good faith" commencement of construction; "good faith" need be nothing more than absence of proof of bad faith, and party challenging construction must prove bad faith.

[5] Zoning and Planning ⚷376
414k376 Most Cited Cases
"Good faith" commencement of construction, to vest rights to proceed under existing zoning, has two elements; the physical fact of the construction that has actually begun and the mental element involving the purpose or motive of such construction.

[6] Zoning and Planning ⚷376
414k376 Most Cited Cases

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H

Court of Special Appeals of Maryland.
PRINCE GEORGE'S COUNTY, Maryland, et al.
v.
The EQUITABLE TRUST COMPANY, INC.
No. 193.

Dec. 6, 1979.

Owner of 12-acre tract, which had been within "Local Commercial, Existing" zone and which had been subdivided into 0.8-acre and 11.2-acre parcels, filed administrative appeal in regard to district council's adoption of sectional map amendment downzoning such property into a "Single Family, Detached Residential" zone. The Circuit Court, Prince George's County, Albert T. Blackwell, Jr., J., ruled that downzoning of the 12 acres was invalid, and appeal was taken. The Court of Special Appeals, Liss, J., held that: (1) where, with respect to the 0.8-acre parcel, **owner** had obtained lawful building permit and had completed substantial construction, **owner** had **vested** rights which could not be taken away by amendment of **zoning** regulations; (2) where, in regard to 0.8-acre parcel, **owner** performed preliminary grading and excavation, obtained building permit, poured footings and partially erected commercial structure prior to the purported downzoning, such parcel had been "developed and utilized" within meaning of county **zoning** ordinance providing that "**property** that is developed and utilized for the **zoning** applicable thereto * * * shall not be downzoned"; but (3) fact that there had been substantial construction on 0.8-acre parcel did not mean that the remaining 11.2-acre parcel had been "developed and utilized."

Judgment affirmed in part, and reversed in part.

West Headnotes

[1] Zoning and Planning ⚷376
414k376 Most Cited Cases
"**Vested** rights" doctrine rests on theory that when a **property owner** obtains lawful building permit, commences to **build** in good faith and completes substantial construction on the **property**, his right to complete and use that structure cannot be affected by any subsequent change of the applicable building or **zoning** regulations.

[2] Zoning and Planning ⚷376
414k376 Most Cited Cases
Where **owner** of 0.8-acre parcel of land had obtained lawful building permit and completed substantial construction, **owner** had in regard to such parcel, **vested** rights which could not be taken away by amendment of **zoning** regulations.

[3] Zoning and Planning ⚷33
414k33 Most Cited Cases
There is no constitutional right to a particular **zoning** classification.

[4] Municipal Corporations ⚷120
268k120 Most Cited Cases

[4] Statutes ⚷174
361k174 Most Cited Cases
Ordinances and statutes are construed under same basic canons.

[5] Statutes ⚷181(1)
361k181(1) Most Cited Cases

[5] Statutes ⚷188
361k188 Most Cited Cases
Cardinal principle, in construing statutes, is that court is to carry out actual intentions of the legislative body; such intention is first to be found in a statute's language which is to be given its natural and ordinary signification.

[6] Statutes ⚷190
361k190 Most Cited Cases

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H
Baltimore County v. Penn
Md.App.,1986.

Court of Special Appeals of Maryland.
BALTIMORE COUNTY, Maryland
v.
Charles A. PENN et al.
No. 585, Sept. Term, 1985.

Jan. 17, 1986.

County appealed decision of county board of appeals authorizing accidental disability retirement for police officers. The Circuit Court, Baltimore County, James S. Sfekas, J., affirmed board of appeals' decision, and county appealed. The Court of Special Appeals, Adkins, J., held that: (1) county board of appeals and trial court had jurisdiction; (2) county statute governing accidental disability established a presumption of compensability; and (3) there was evidence before county board of appeals that permitted finding that job-related hypertension had occurred in both police officers prior to lodging of charges against them and that filing of charges merely exacerbated preexisting condition and thus, officers were entitled to accidental disability benefits.

Affirmed.
West Headnotes
|1| Counties 104 ⚷69.2

104 Counties
104III Officers and Agents
104k68 Compensation
104k69.2 k. Pensions. Most Cited Cases
(Formerly 104k69(3))
Decision of county board of trustees denying police officers accidental disability benefits was an " adjudicatory order"; therefore, county board of appeals and trial court had jurisdiction over appeal from decision of board of trustees. Code 1957, Art. 25A, § 5(U); Code, State Government, § 10-201 et seq.

|2| Administrative Law and Procedure 15A⚷513

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(D) Hearings and Adjudications
15Ak513 k. Administrative Review. Most Cited Cases
An adjudicatory order that is reviewable by county board of appeals is one that decides what Administrative Procedure Act [Code, State Government, § 10-201(c)(1)] defines as a contested case, i.e., an agency proceeding that involves a right, duty, statutory entitlement, or privilege of a person.

|3| Counties 104 ⚷69.2

104 Counties
104III Officers and Agents
104k68 Compensation
104k69.2 k. Pensions. Most Cited Cases
(Formerly 104k69(3))
County failed to preserve for review on appeal of decision awarding police officers accidental disability benefits argument that language of county code governing accidental disability presumption, because it treated police officers differently from fire fighters, provided a presumption of compensability, for the former where argument was not raised either before county board of appeals or before circuit court.

|4| Counties 104 ⚷69.2

104 Counties
104III Officers and Agents
104k68 Compensation
104k69.2 k. Pensions. Most Cited Cases
(Formerly 104k69(3))
County code provision governing accidental

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C

Court of Special Appeals of Maryland.
STERLING HOMES CORPORATION,
v.
ANNE ARUNDEL COUNTY, Maryland.
No. 1620, Sept. Term, 1996.

June 27, 1997.

Developer appealed county's denial of permit to construct marina bathhouse, parking lot, and commercial marina. The Circuit Court, Anne Arundel County, Robert H. Heller, Jr., J., affirmed decision. Developer appealed. The Court of Special Appeals, Davis, J., held that comprehensive rezoning had occurred before developer was able to obtain vested right in its proposed use of site.

Affirmed.

West Headnotes

|1| Administrative Law and Procedure ⚷763
15Ak763 Most Cited Cases

|1| Administrative Law and Procedure ⚷791
15Ak791 Most Cited Cases
Decisions of administrative agency will be affirmed on appeal if they are supported by substantial evidence and are not arbitrary, capricious, or unreasonable.

|2| Zoning and Planning ⚷231
414k231 Most Cited Cases
Zoning authority must properly construe controlling law.

|3| Administrative Law and Procedure ⚷781
15Ak781 Most Cited Cases

|3| Administrative Law and Procedure ⚷791
15Ak791 Most Cited Cases

|3| Administrative Law and Procedure ⚷796
15Ak796 Most Cited Cases
Judicial review of decision of administrative agency is confined to whether agency recognized and applied correct principles of law governing case, whether agency's factual findings are supported by substantial evidence, and whether agency applied law to facts reasonably.

|4| Administrative Law and Procedure ⚷790
15Ak790 Most Cited Cases
In considering whether agency applied law to facts reasonably, court accords great deference to agency and asks merely whether reasoning mind could reasonably have reached conclusion reached by agency.

|5| Administrative Law and Procedure ⚷760
15Ak760 Most Cited Cases
Court should not substitute its own judgment for expertise of agency from which appeal is taken.

|6| Administrative Law and Procedure ⚷753
15Ak753 Most Cited Cases
Court may not uphold agency's decision unless it is sustainable on agency's findings and for reasons stated by agency.

|7| Zoning and Planning ⚷465
414k465 Most Cited Cases
Doctrine of **vested** rights is predicated on legal theory that **owner** who obtains lawful permit, commences to **build** in good faith, and completes substantial construction on **property**, wins right to complete construction unaffected by subsequent change in **zoning** regulations.

|8| Zoning and Planning ⚷465
414k465 Most Cited Cases
Permit that allowed developer to construct initial grading of **property**, and to construct revetments and bulkheading along shoreline, was not sufficient to **vest property** rights in developer for

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Prince George's County v. Blumberg
Md.App., 1979.

Court of Special Appeals of Maryland.
PRINCE GEORGE'S COUNTY, Maryland et al.
v.
Herschel BLUMBERG et al.
No. 152.

Nov. 7, 1979.

Action was brought alleging wrongful revocation and failure to reissue building permit and water and sanitary permits. The Circuit Court for Prince George's county, Perry G. Bowen, Jr., J., directed county and sanitary commission to reissue permits, awarded judgment for damages against county, dismissed action for damages against commission on ground of sovereign immunity, and sustained demurrer filed by former county executives, and county and commission appealed and plaintiff cross-appealed. The Court of Special Appeals, Wilner, J., held that: (1) suit was not barred by failure to exhaust administrative remedies, where remedy would have been fruitless; (2) the "void ab initio" theory had no relevance where there was no defect in the underlying building project; (3) county could not hide behind actions of the sanitary commission which the county deliberately set in motion; (4) where it appeared that county executive orchestrated revocation of permits, had no authority to do so, did so for improper political reasons, and did so deliberately, knowing so well the consequences of his actions, county was liable; (5) claim for damages, first asserted in amended bill, was not barred by limitations or laches; (6) evidence did not warrant damages for increased cost of capital, and calculation of damages for delay in receipt of anticipated profits was arbitrary and speculative; (7) sanitary commission's withdrawal of permits pursuant to a political directive of county executive could properly be determined to be unwarranted and unlawful; and (8) the Commission was answerable in damages for its wrongful acts.

Affirmed in part, reversed in part, and remanded in part.

West Headnotes

[1] Administrative Law and Procedure 15A⚷229

15A Administrative Law and Procedure
15AIII Judicial Remedies Prior to or Pending Administrative Proceedings
15Ak229 k. Exhaustion of Administrative Remedies. Most Cited Cases

A litigant must exhaust his available administrative remedies before applying for judicial relief, but there are some exceptions to such rule, including absence of an adequate administrative remedy.

[2] Counties 104 ⚷211.1

104 Counties
104XII Actions
104k211 Conditions Precedent
104k211.1 k. In General. Most Cited Cases
(Formerly 104k211)

Action against county for unlawful revocation of building permit and refusal to reissue it was not precluded for failure to exhaust statutorily prescribed administrative remedy of presenting grievance to county board of administrative appeals, where resort to board of appeals would have been entirely fruitless in that it appeared that there was no final decision by anyone within the section of the county code governing appeal procedure, but rather a patently political decision by the county executive. Code 1957, art. 25A, § 5(U).

[3] Estoppel 156 ⚷62.4

156 Estoppel
156III Equitable Estoppel
156III(A) Nature and Essentials in General
156k62 Estoppel Against Public, Government, or Public Officers

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Westlaw.

661 A.2d 182

105 Md.App. 701, 661 A.2d 182

(Cite as: 105 Md.App. 701, 661 A.2d 182)

Court of Special Appeals of Maryland.
RELAY IMPROVEMENT ASSOCIATION, et al.
v.
SYCAMORE REALTY CO., INC.
No. 1801, Sept. Term, 1994.

July 5, 1995.

Neighborhood association, community group, and neighboring residents sought review of decision of county board of appeals (CBA), **approving** development plan, despite contrary new **zoning** classifications, on **zoning** estoppel grounds. The Circuit Court, Baltimore County, J. William Hinkel, J., affirmed. Appeal was taken. The Court of Special Appeals, Davis, J., held that: (1) **zoning** estoppel was legal defense that could be adjudicated during administrative proceedings before county review group (CRG) and CBA; (2) **zoning** estoppel could not be found unless local government acted in arbitrary and unreasonable manner, with deliberate intent to delay construction, and conduct at issue was proximate cause of landowner's inability to **vest** rights in prior **zoning** occurs; (3) **zoning** estoppel did not preclude application of rezoning at issue, absent specific finding that county deliberately intended to delay development until new **zoning** was enacted; (4) evidence did not support finding that, absent county's delay in release of public reservation, **owner** would have been able to **vest** rights in prior **zoning**; and (5) **owner's** failure to seek release of **property** from public reservation precluded **zoning** estoppel defense.

Reversed and remanded with instructions.

West Headnotes

[1] Administrative Law and Procedure ⚷763
15Ak763 Most Cited Cases
On appeal, Court of Special Appeals must determine whether agency's decision is in accordance with law or whether it is arbitrary, illegal, and capricious.

[2] Administrative Law and Procedure ⚷791
15Ak791 Most Cited Cases

[2] Administrative Law and Procedure ⚷793
15Ak793 Most Cited Cases
Reviewing court may not overturn agency's factual findings or its application of law to facts if agency's decision is supported by substantial evidence; if decision is supported only by scintilla of evidence such that reasonable person could come to more than one conclusion, then issue is fairly debatable and reviewing court may not substitute its judgment for that of agency.

[3] Administrative Law and Procedure ⚷796
15Ak796 Most Cited Cases
When reviewing issues of law, standard of review of agency decision is expansive, and Court of Special Appeals may reach its own conclusions without deference to agency's opinion.

[4] Administrative Law and Procedure ⚷486
15Ak486 Most Cited Cases
If agency's factual findings are inadequate, necessary facts may not be supplied by parties, and neither Court of Special Appeals nor circuit court will scour record in search of evidence to support agency's conclusion.

[5] Zoning and Planning ⚷376
414k376 Most Cited Cases
Landowner whose property is rezoned has no vested right in prior zoning classification unless landowner, relying on valid permit, makes substantial beginning in actual construction.

[6] Zoning and Planning ⚷376
414k376 Most Cited Cases

[6] Zoning and Planning ⚷437

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H

Court of Appeals of Maryland.
SYCAMORE REALTY CO., INC.
v.
PEOPLE'S COUNSEL OF BALTIMORE COUNTY, Relay Improvement Association, Louisa Vanderbeek, Herbert Plitt and John Heinrichs.
No. 130, Sept. Term, 1995.

Nov. 21, 1996.

County People's counsel petitioned for review of ruling of county board of appeals that county was estopped from enforcing new zoning with respect to parcel of land on which developer sought to build townhomes. The Circuit Court, Baltimore County, J. William Hinkel, J., affirmed board's decision. People's counsel appealed. The Court of Special Appeals, 105 Md.App. 701, 661 A.2d 182, reversed. Developer and People's counsel requested writ of certiorari. The Court of Appeals, Chasanow, J., held that developer had no vested rights in land and thus was not protected against subsequent change in zoning ordinance.

Judgment of Court of Special Appeals affirmed.

West Headnotes

[1] Zoning and Planning ⚷376
414k376 Most Cited Cases
Although downzoning is generally permissible, under **vested** rights theory, when **property owner** obtains lawful building permit, commences to **build** in good
faith, and completes substantial construction on **property**, his right to complete and use that structure cannot be affected by any subsequent change of applicable building or **zoning** regulations.

[2] Zoning and Planning ⚷376
414k376 Most Cited Cases
In order to obtain **vested** right in existing **zoning** use which will be constitutionally protected against subsequent change in **zoning** ordinance prohibiting or limiting that change, **owner** must obtain permit or occupancy certificate where required by applicable ordinance and must proceed under that permit or certificate to exercise it on land involved so that neighborhood may be advised that land is being devoted to that use.

[3] Zoning and Planning ⚷376
414k376 Most Cited Cases
Land developer had no vested rights in property sought to be developed, and thus developer was not protected against subsequent change in zoning ordinance, where developer had not obtained permit and had not proceeded to construction prior to downzoning.
****1331 *58** Thomas M. Wood, IV (Jeffrey T. Bubier, Neuberger, Quinn, Gielen, Rubin & Gibber, on brief, Baltimore; Edward C. Covahey, Jr., Anthony J. DiPaula, Covahey and Boozer, P.A., on brief) Baltimore, for Petitioner.

Peter Max Zimmerman, People's Counsel for Baltimore County; (Carole S. DeMilio, Deputy People's Counsel, J. Carroll Holzer, Holzer and Lee, all on brief) Towson, for Respondent.

Argued before MURPHY, [FN*] C.J. and ELDRIDGE, RODOWSKY, CHASANOW, KARWACKI, BELL, and RAKER, JJ.

FN* Murphy, C.J., now retired, participated in the hearing and conference of this case while an active member of this Court, after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the adoption of the opinion.

CHASANOW, Judge.

In this case, we are called upon to decide whether

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PETITIONER'S EXHIBITS

4

20070245 "A"
supplemental

B74 for 74 W.C.

Case 07-245-X PETITIONERS EXHIBITS 3/20/08

✓ 1. Site Plan 2701 Rolling Road 7/5/01.

✓ 2. Site Plan Osprey Food Market - 5/30/02

✓ 3. Site Plan - Osprey Food Market for the Board of Appeals - 10/22/07

✓ 4. Copy of Baltimore County Tax Map.

✓ 5. Aerial Photos 87-C2, 87-3 of the site

✓ 6. Baltimore County Zoning Map of the area

✓ 7. Signed Contract to construct the parking spaces.

✓ 8. ~~Four~~ Eight photos taken in the vicinity of the car wash taken before the corrective measures. Labeled A thru H.

✓ 9. Four photos - same as Exhibit NO. 8

✓ 10. Case No. 02-016X

✓ 11. Site Plan before the Zoning Commissioner (Pet. NO. 3)

✓ 12. Permit for sign.

✓ 13. Permit for sign

186766.4mN
416484.7mE

186766.4mN
4219712mE

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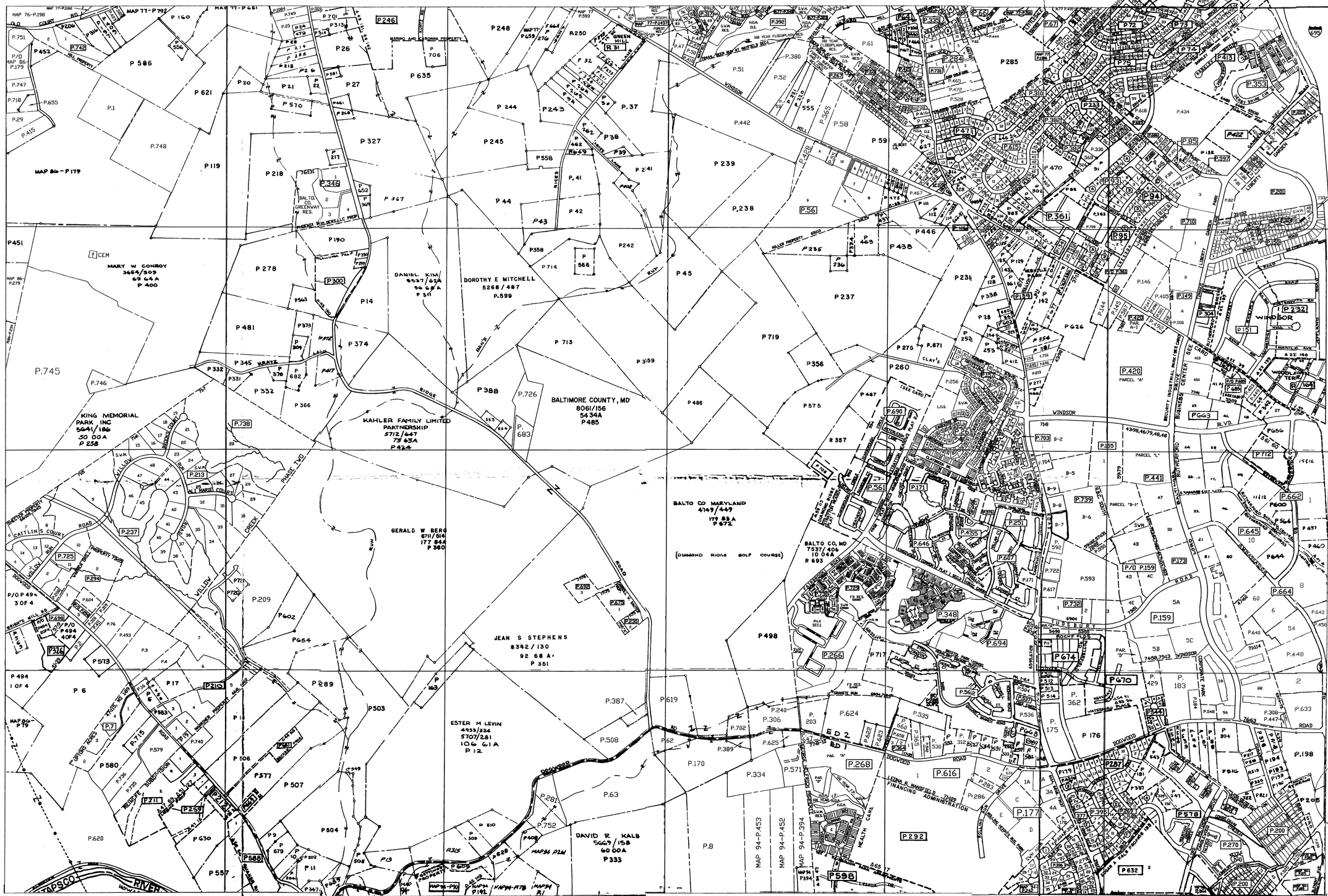
183108.7mN
416485.0mE

183108.8mN
4219713mE


MAP 86 - P179
MARY W CONROY
3654/309
69 64 A
P 400
KING MEMORIAL
PARK INC
5641/186
30 00A
P 258
KAHLER FAMILY LIMITED
PARTNERSHIP
5712/447
75 63A
P 424
DOROTHY E MITCHELL
5268/487
P.599
DANIEL KIM
8537/624
56 68A
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54 34A
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6711/514
177 84A
P 380
BALTO CO MARYLAND
4149/449
179 83 A
P 672
(DIAMOND RIDGE GOLF COURSE)
BALTO CO, MD
7537/406
10 04A
R 693
JEAN S STEPHENS
8342/130
92 68 A
P 351
ESTER M LEVIN
4933/224
5707/281
106 61A
P 12
DAVID R KALB
5669/158
60 00A
P 333
WINDSOR
WOODLAWN TERR
SECURITY INDUSTRIAL PARK (M.E.DIST)
BUSINESS SERVICE CENTER
SEE CARD
ROTHERFORD
WINDSOR
CORPORATE PARK
LIBERTY
GREEN HILL
WILLOW
CAITLIN'S COURT
ROCKFIELDS
FINANCING ADMINISTRATION
HEALTH CARE
PHASE TWO
RIDGE
RICKS
BALL'S
KRATZ
MAP 94-P.453
MAP 94-P.452
MAP 94-P.394
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P 455
P 607
P 171
P 561
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P 331
P 345
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P 726
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P 575
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WINDSOR BLVD
COLLING
STUDSBURY ROAD

ZONING MAP EXHIBIT

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

300 0 150 300 600 1200

GRAPHIC SCALE
1 inch = 300 ft.

Colbert Matz Rosenfelt, Inc.

*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

DATE	REVISIONS:	BY

SCALE: 1"= 300'
DATE: 03/20/08
JOB NO.: 2001-192
DESIGNED:
DRAWN: AKC
CHECKED: KJC
FILE: 2001192 ZONING EXHIBIT.dwg
DRAWING NUMBER: ZON-1
SHEET 1 OF 1

GENERAL NOTES

1. Owner:
   WOODLAND SERVICES LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
2. Applicant:
   WOODLAND SERVICES, LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
3. Site Data:
   Lot B-7
   Plat Ref. - 72/22,
   "Resubdivision of Lots B-3 & B-4, RBC South"
   Tax Map 87, Grid 17, P. 739
   Deed Reference -16457/693
   Tax Account #02-2300007603
   Site Area - 75,698 sf (1.744 acre+/-)
   Council District 4
4. Zoning - Zoned ML-IM Zoning Map No. 87C2
5. Existing Use - Fuel Service Station w/convenience store & carry-out restaurant
   Proposed Use - Fuel Service Station w/convenience store, carry-out restaurant and Rollover Carwash
6. All existing information shown hereon is a compilation of field run topography, Baltimore County GIS, public record information, and surveys and plans by others.
7. Stormwater Management is provided in the existing onsite SWM facility for RBC South.
8. Off-Street Parking Calculations - Required Parking -
   Convenience store - 3,750 sf @ 5 sp./1,000 sf = 19 sp.
   Carry-out restaurant - 1,000 sf @ 5 sp./1,000 sf = 5 sp.
   1 sp./employee on largest shift = 6 sp.
   Car wash drying spaces = 2 sp.
   Car wash additional spaces = 2 sp.
   Air/Vacuum = 3 sp.
   ATM - 1 sp

   Total Required = 37 spaces
   Total Provided = 40 spaces, incl. 2 handicap
9. Site Area Calculations -
   Convenience store - 3,750 x 4 = 15,000 sf
   Carryout restaurant - 1,000 x 6 = 6,000 sf
   Service station - 1,500 x 12 = 18,800 sf

   Total Required - 39,000 sf
   Total Provided - 75,698 sf
10. Proposed Building Area -
    Convenience store and restaurant - 4,750 sf
    Car wash - 1,056 sf
    Total - 5,806 sf
    Floor Area Ratio: 5,806/75,698 = 0.08
    Maximum F.A.R. permitted - 2.0
11. A rest room facility, water and compressed air shall be provided for customers.
12. All paving shall be durable and dust-free bituminous.
13. Stacking required for car wash - 9 spaces
    Stacking provided - 13 spaces
14. This site is not within a 100-year floodplain or the Chespeake Bay Critical Area. The site is not within a Historic District and contains no historic buildings.
15. Street Setbacks

	Required	Proposed
Building	35 ft.	142 ft.
Fuel Pumps	25 ft.	64 ft
Canopy	15 ft.	50 ft.
Car Wash	50 ft	128 ft
Side Setback	30 ft	30 ft
Rear Setback	30 ft	33 ft

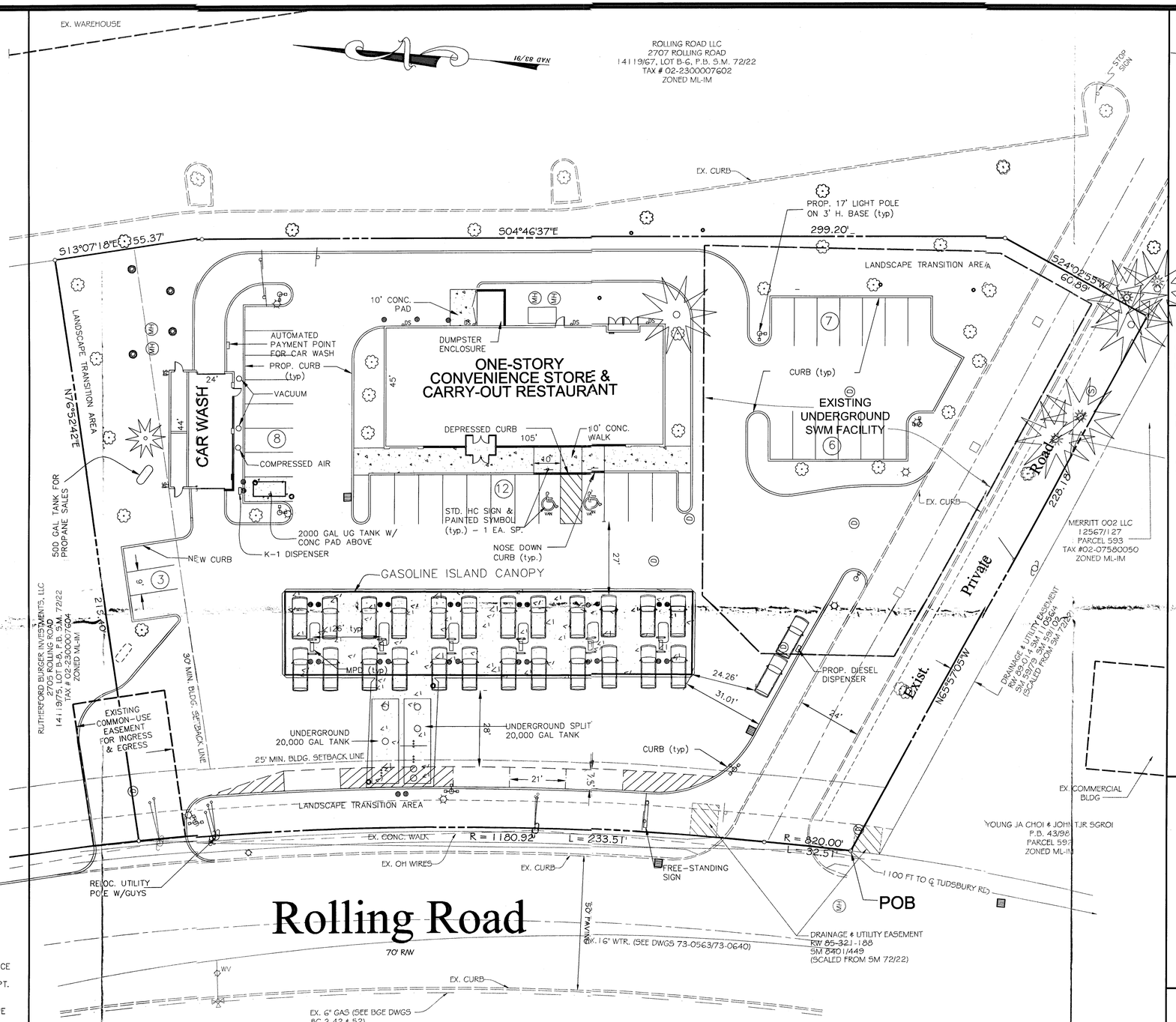
16. All signage will comply with BCZR SEction 450.
17. Rated capacity of Car Wash: 12 cars per hour
18. Previous Commercial Permits from current available Baltimore County records and company files:
    B528707 Stormwater Management
    B594554 Sign
    B560474 Above ground propane tank
    B594585 Awning
    B487914 Commercial Building
    B493612 Grading

ZONING HISTORY

CASE NO 02-016-X: SPECIAL EXCEPTION GRANTED FOR FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND A CARRYOUT RESTAURAINT, GREATER THAN 1500 SQ. FT. GRANTED SEPT. 21, 2001.

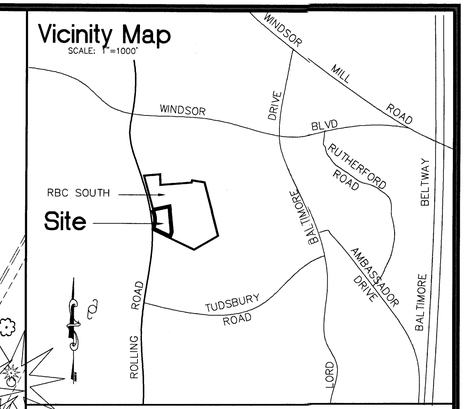
CASE NO 06-583-SPIH: SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAIN APPROVED IN CASE NO. 02-016-X IS VOID DENIED IN REGARD TO THE SPECIAL EXCEPTION FOR THE FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND CARRY OUT RESTAURANT JULY 26, 2006. SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID GRANTED IN REGARD TO THE SPECIAL EXCEPTION FOR THE CAR WASH JULY 26, 2006.

CASE NO 07-245-X: SPECIAL EXCEPTION TO APPROVE A ROLLOVER CAR WASH AS A USE IN COMBINATION WITH A FUEL SERVICE STATION, CONVENIENCE STORE AND CARRY-OUT RESTAURANT PREVIOUSLY APPROVED IN CASE NO 02-216-X, IN ACCORDANCE WITH PETITIONER'S EXHIBIT 3 GRANTED APRIL 24, 2007



Vicinity Map

SCALE: 1"=1000'



Benchmark/Datum

COORDINATES AND NORTH SHOWN HEREON REFER TO THE NAD 83/91 DATUM ELEVATIONS SHOWN HEREON REFER TO THE NAVD 88 DATUM BOTH OF WHICH ARE BASED ON THE FOLLOWING BALTIMORE COUNTY TRAVERSE STATIONS:

STATION	NORTHING	EASTING	ELEVATION
#469	602482.65	1380631.99	436.91

CAPPED PIPE AT NORTHWEST CORNER OF ROLLING ROAD AND DOGWOOD ROAD, ADJACENT TO STONE MEMORIAL.

#470	603097.06	1380552.11	458.01

CAPPED PIPE AT NORTHEASTCORNER OF ROLLING ROAD AND SAWMILL BRANCH ROAD, 22'+/- NE OF SD INLET.

CBA-3

EXHIBIT FOR

BOARD OF APPEALS

PDM #II-154

SITE PLAN TO ACCOMPANY ZONING PETITION

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80

GRAPHIC SCALE
1 inch = 20 ft.

DRC History

ORIGINAL CRG PLAN APPROVED 12/15/88

DRC #08126N
ON 8/19/96, DRC GRANTED 1ST REFINEMENT TO CRG PLAN TO DIVIDE PROPERTY INTO PARCELS.

DRC #07069A
ON 7/23/99, DRC GRANTED 2ND REFINEMENT TO CRG PLAN TO DIVIDE PARCELS INTO LOTS.

DRC #08169A
ON 9/23/99, DRC GRANTED 3RD REFINEMENT TO CRG PLAN TO ADD SITE LAYOUTS FOR LOTS 1 & 2.

Colbert Matz Rosenfelt, Inc.
*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY

SCALE:	1" = 20'
DATE	OCT 22, 2007
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE:	2001192ZON2006.dwg
DRAWING NUMBER:	APP-1
SHEET	1 OF 1

GENERAL NOTES

1. Owner:
   RUTHERFORD TIGER PROPERTIES, LLC.
   9640 Deereco Road
   Timonium, Md. 21093
2. Developer:
   WOODLAND SERVICES, LLC
   8555 Martin Luther King, Jr. Highway
   Lanham, MD 20706
3. Site Data:
   Lot B-7
   Plat Ref. - 72/22,
   "Resubdivision of Lots B-3 & B-4, RBC South"
   Tax Map 87, Grid 17, P. 739
   Deed Reference - 14119/71
   Tax Account #02-2300007603
   Site Area - 75,698 sf (1.744 acre+/-)
   Council District 3
4. Zoning - Zoned ML-IM Zoning Map No. NW - 3G
5. Use
   Existing Use - Vacant
   Proposed Use - Service Station, Convenience Store and Rollover Carwash
6. All existing information shown hereon is a compilation of field run topography, Baltimore County GIS, public record information, and surveys and plans by others.
7. Stormwater Management is provided in the existing onsite SWM facility for RBC South.
8. This property is part of an integral planned development and an approved industrial park greater than 50 acres, per CRG Plan II-154 (RBC South). In the Zoning Order, dated September 21, 2001 by Lawrence E. Schmidt, Zoning Commissioner for Baltimore County, Special Exception was approved in Case No. 02-016-X, conditional upon the thirty day appeal period, to permit a fuel service station in combination with a convenience store and carryout restaurant, greater than 1,500 sq. ft., pursuant to Section 405.4.E.1 and 405.4E.10 of the Baltimore County Zoning Regulations.

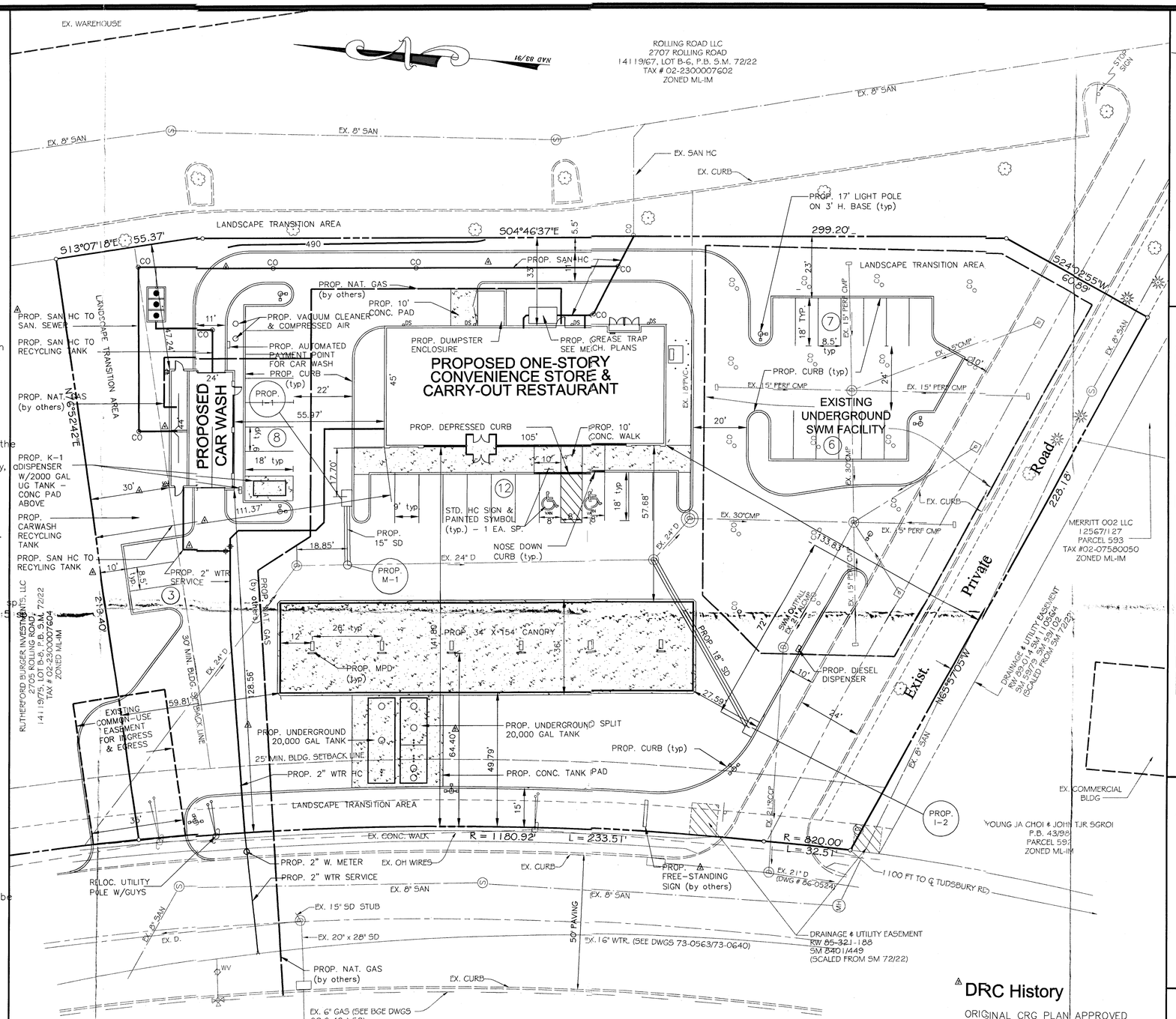
   Note that no appeal was filed and Zoning Order stands as issued.
9. Off-Street Parking Calculations - Required Parking -
   Convenience store - 3,750 sf @ 5 sp./1,000 sf = 19 sp.
   Carry-out restaurant - 1,000 sf @ 5 sp./1,000 sf = 5 sp.
   1 sp./employee on largest shift = 4 sp.
   Car wash drying spaces = 2 sp.
   Car wash additional spaces = 2 sp.
   Vacuum/air compressor spaces = 2 sp.

   Total Required = 34 spaces
   Total Provided = 36 spaces, incl. 2 handicap
10. Site Area Calculations -
    Convenience store - 3,750 x 4 = 15,000 sf
    Carryout restaurant - 1,000 x 6 = 6,000 sf
    Service station - 1,500 x 12 = 18,800 sf

    Total Required - 39,000 sf
    Total Provided - 75,698 sf
11. Proposed Building Area -
    Convenience store and restaurant - 4,750 sf
    Car wash - 1,056 sf
    Total - 5,806 sf
    Floor Area Ratio -
    5,806/75,698 = 0.08
    Maximum F.A.R. permitted - 2.0
12. A rest room facility, water and compressed air shall be provided for customers.
13. All paving shall be durable and dust-free bituminous.
14. Stacking required for car wash - 9 spaces
    Stacking provided - 11 spaces
15. This site is not within a 100-year floodplain.
16. No previous commercial permits for this site.
17. Street Setbacks

	Required	Proposed
Building	35 ft.	141.8 ft.
Fuel Pumps	25 ft.	64.8
Canopy	15 ft.	52.8 ft.

18. This plan shall be used for layout and construction of site improvements and utilities only. For site grading, sediment control, landscaping and off-site improvements, see appropriate plans. See Drawing SIT-2 for additional construction notes.
19. See Mechanical/Electrical Plans for all utilities within 5 feet of building. See Drawing SIT-2 for storm drain profiles, construction details and additional notes.
20. Proposed sign will comply with BCZR SEction 450. A separate permit will be acquired for the sign.



Carwash Plumbing

CONTRACTOR SHALL COORDINATE ALL PLUMBING WITH CARWASH PLANS PRIOR TO INSTALLATION.

Sanitary Sewer

CONTRACTOR SHALL CONFIRM LOCATION AND DEPTH OF EXIST SANITARY CONNECTION PRIOR TO CONSTRUCTION.

DRC History

ORIGINAL CRG PLAN APPROVED 12/15/88

DRC #08126N
ON 8/19/96, DRC GRANTED 1ST REFINEMENT TO CRG PLAN TO DIVIDE PROPERTY INTO PARCELS.

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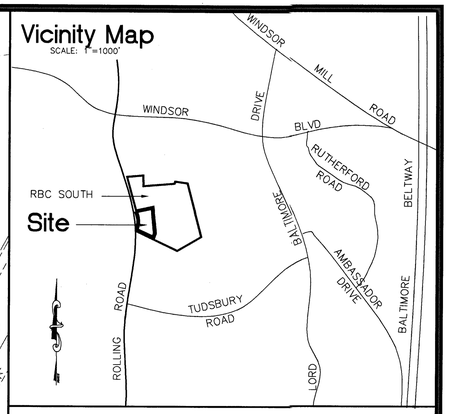
Vicinity Map

SCALE: 1"=1000'



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CAPPED PIPE AT NORTHWEST CORNER OF ROLLING ROAD AND DOGWOOD ROAD, ADJACENT TO STONE MEMORIAL.

#470	603097.06	1380552.11	458.01

CAPPED PIPE AT NORTHEASTCORNER OF ROLLING ROAD AND SAWMILL BRANCH ROAD, 22'+/- NE OF SD INLET.

Key

- PROPERTY LINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- PROPOSED CURB
- PROPOSED CONCRETE
- GASOLINE SPACES "S" - SERVICE "W" - WAITING
- PROPOSED LIGHT POLES

CBA-2
PDM #II-154

Site Plan to Accompany Application for Building Permit

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80
GRAPHIC SCALE
1 inch = 20 ft.

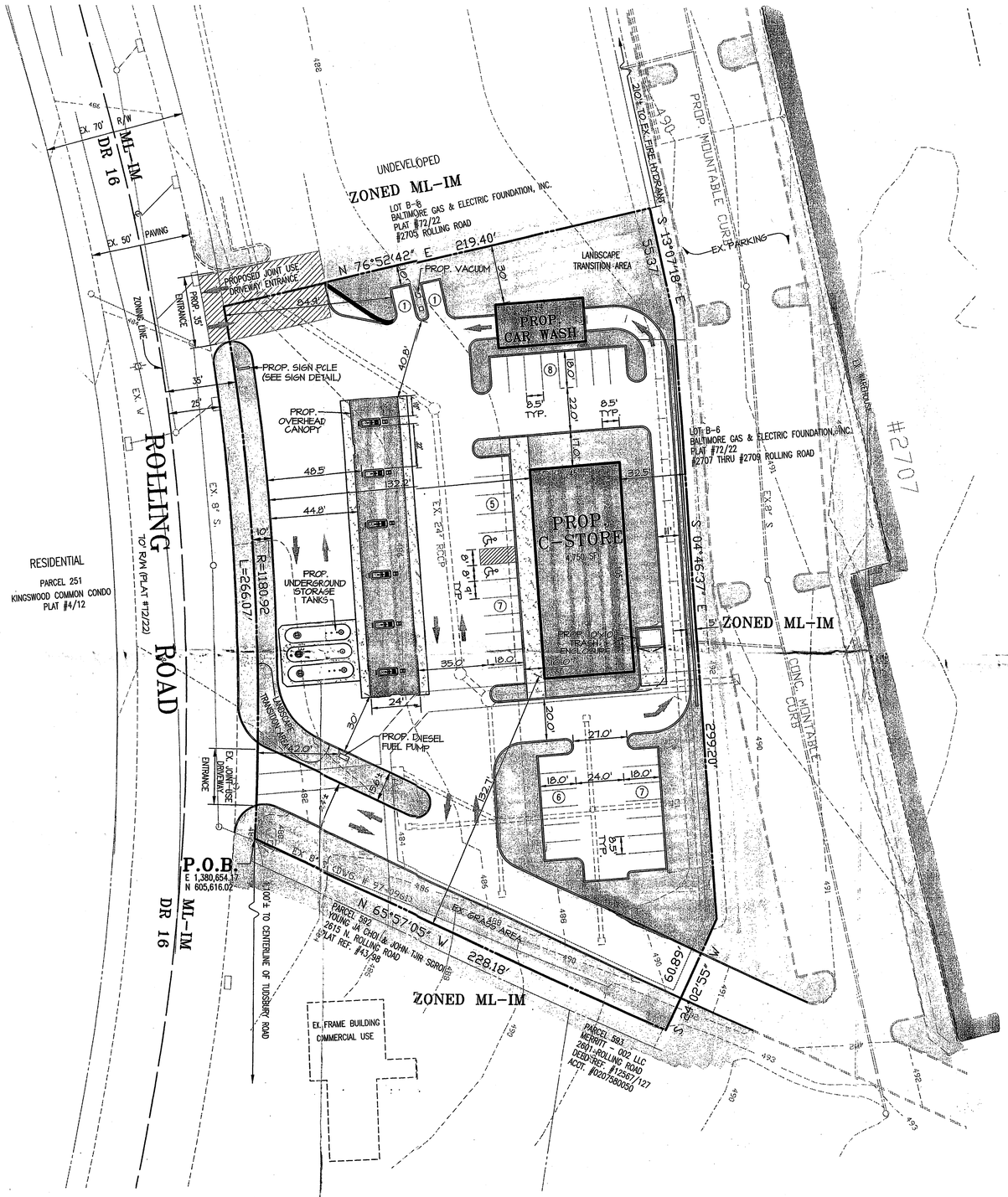
THIS PLAN IS SEALED AND CERTIFIED AS BEING IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLAN.

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY
1	5/30/02	ISSUE FOR BIDS	TNW
2	5/31/02	ISSUE FOR BLDG PERMIT	TNW
3	6/13/02	ADD DRC INFO	TNW
4	7/16/02	ADD NOTES, REVISE SAN/WTR	TNW
5	8/12/02	RELOCATE TANKS	KJC

SCALE:	1" = 20'
DATE	5/30/02
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW
CHECKED:	KJC
FILE:	2001192 SIT.dwg
DRAWING NUMBER:	SIT-1
SHEET	1 OF 2

TNW 9/19/02



NOTES:

1. OWNER:
   PARCEL #134, LOT B-4;
   PLAT #72/22 (RESUBDIVISION), LOT B-1;
   ROLLING ROAD LLC
   HILL MANAGEMENT SERVICES INC.
   8640 DEERCO ROAD
   TIMONIUM, MD 21093
   DEED REFERENCE: 13413/60, PLAT #71/8
   TAX ACCT. #2300004227
2. APPLICANT/CONTRACT PURCHASER:
   EASTERN PETROLEUM CORPORATION
   1415 LINCOLN DRIVE
   ANNAPOLIS, MD 21401
3. SITE DATA:
   SITE AREA: 75,468 SF = 1.744 AC.±
   BALTIMORE COUNTY ADC MAP #33; A-6
   ELECTION DISTRICT: 02
   COUNCILMANIC DISTRICT: 02
   TAX MAP 87, GRID 17, PARCELS: #134, LOT B-3 & B-4
   ZONING MAP: NW, 3-G
4. EXISTING ZONING: ML-IM (MANUFACTURING, LIGHT - INDUSTRIAL, MAJOR)
5. EXISTING USE: VACANT
6. PROPOSED USE: FUEL SERVICE STATION WITH CONVENIENCE STORE AND ROLL OVER CAR WASH. THIS PROPERTY IS PART OF A INTEGRAL PLANNED DEVELOPMENT AND AN APPROVED INDUSTRIAL PARK GREATER THAN 50 ACRES. PER CRG PLAN II 154 (AKA RBC SOUTH)
7. PROPOSED BUILDING AREA:
   C-STORE: 4,750 SF.
   1 STORY COMMERCIAL BUILDING
   MAXIMUM BUILDING HEIGHT NOT TO EXCEED 25'
   CAR WASH: 968 SF
8. F.A.R.:

	ALLOWED	PROPOSED
FLOOR AREA RATIO	2.0	0.08

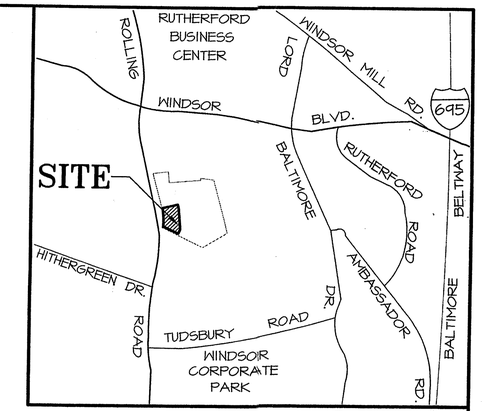
   ((4,750 SF + 968)/75,968 SF.)
9. REQUIRED SITE AREA:
   FUEL SERVICE STATION (12 FUELING POSITIONS x 1,500 SF) = 18,000 SF
   FOOD STORE (4 x 4,750) = 19,000 SF.
   TOTAL AREA REQUIRED = 37,000 SF
   TOTAL AREA PROVIDED = 75,921 SF. = 1.74 AC.±
10. SETBACKS TO PROPERTY LIMITS:

	BUILDING		CANOPY		FUEL PUMPS	
	REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED
FRONT	35'	132.2'±	15'	44.8'±	25'	42'±
SIDE	30'	30' (CAR WASH BLDG.)				
REAR	30'	32.5'±				

11. PARKING CALCULATIONS:
    A. PARKING REQUIRED:
       CONVENIENCE FOOD STORE
       (4,750 SQ. FT. @ 5/1000) = 24
       1/EMPLOYEE ON LARGEST SHIFT = 4
       CAR WASH DRYING SPACES = 2
       CAR WASH ADDITIONAL SPACES REQUIRED = 2
       VACUUM SPACES REQUIRED = 2
       TOTAL PARKING REQUIRED = 34
    B. PARKING PROVIDED:
       INCLUDING 2 HANDICAP = 35
12. POINT OF BEGINNING IS ON WEST SIDE OF ROLLING ROAD 1,100'± NORTH OF CENTERLINE OF TUDSBURY ROAD AT ITS INTERSECTION WITH ROLLING ROAD.
13. THE PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
14. THE SITE IS NOT IN A 100 YEAR FLOODPLAIN.
15. THE SITE IS NOT WITHIN A MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF BASIC SERVICES MAPS CURRENTLY EXISTS PER SECTION 4A02 (BCZR).
16. THERE ARE NO NON-TIDAL WETLANDS ON THIS SITE.
17. THERE ARE NO FOREST BUFFERS ON THIS SITE.
18. THERE ARE NO KNOWN REGULATED PLANT OR WILDLIFE COMMUNITIES ASSOCIATED WITH THIS SITE.
19. THERE ARE NO KNOWN HISTORICAL STRUCTURE OR ARCHEOLOGICAL AREAS ASSOCIATED WITH THIS SITE.
20. THERE ARE NO KNOWN EXISTING WELLS OR SEPTIC FIELDS WITHIN 100' OF THIS PROPERTY
21. SCREENING AND LANDSCAPE REQUIREMENTS SHALL COMPLY WITH BALTIMORE COUNTY REQUIREMENTS AS OUTLINED IN THE BALTIMORE COUNTY LANDSCAPE MANUAL.
22. BUILDING CONSTRUCTION SHALL COMPLY WITH BUILDING AND FIRE CODE REQUIREMENTS.
23. ALL LIGHTING SHALL CONFORM TO IES STANDARDS (ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA)
24. SIGNAGE ON THIS SITE SHALL CONFORM WITH THE SIGNAGE REQUIREMENTS OF THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
25. THIS SITE SHALL BE SERVICED BY PUBLIC WATER AND SEWER.
26. A REST ROOM FACILITY, WATER AND COMPRESSED AIR SHALL BE PROVIDED FOR CUSTOMERS
27. ALL PAVING SHALL BE BITUMINOUS DUST-FREE SURFACE.
28. PREVIOUS ZONING CASE: NONE
29. STACKING (FOR ROLL OVER CAR WASH):
    REQUIRED STACKING: 9 SPACES (@ 20' IN LENGTH)
    PROPOSED: 11 SPACES
    CAR WASH RATED CAPACITY: 45-50 CARS/HOUR
30. STACKING FOR FUEL PUMPS SHALL COMPLY WITH SECTION 405, BCZR.
31. A WAVER OF STORM WATER MANAGEMENT QUALITY REQUIREMENTS WILL BE REQUESTED.
32. SPECIAL EXCEPTION
    * TO PERMIT A FUEL SERVICE STATION IN COMBINATION WITH CONVENIENCE STORE GREATER THAN 1,500 SF PURSUANT TO SECTION 405.4.E.1. BCZR.

* + Carry Out Restaurants
9/10/01

1000 sq. feet for Carry Out Restaurant
9/10/01



VICINITY MAP

SCALE: 1"=1,000'

CBA-1

No 1

DRC #07069A
PDM #II-154

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

STATE OF MARYLAND — DONALD L. MITCHELL — No. 1698 — PROFESSIONAL ENGINEER
7/8/01

PLAN TO ACCOMPANY SPECIAL EXCEPTION APPLICATION

2701 ROLLING ROAD

ROLLING ROAD COMMERCE CENTER LOT B-7
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	
7/3/01	RELOCATE CAR WASH AND PARKING	

JOB NO.:	12077
SCALE:	1": 30'
DATE:	07/05/01
DRAWN BY:	SL
DESIGN BY:	WM/SL
REVIEW BY:	WM
SHEET:	1 OF 1

P:\12077\PLOT\12077-SPCL-EX.dwg JUL 5, 2001

Jones Construction, Inc.
11606 Eastern Avenue
Baltimore, MD 21220
MHIC#45089

PROPOSAL

Date
3/1/2007

Name / Address
Woodland Service, Inc. 2318 Halls Grove Road Gambrills, MD 21054

Job Location:
OSPREY - 2701 ROLLING ROAD

Description	Total
REMOVE CONCRETE CURB AND GUTTER PAN AND REINSTALL CURB AND GUTTER PAN ACCORDING TO SPEC DRAWINGS OF COLBERT MATZ ROSENFELT, INC.	
REGRADE BACKFILL, SEED AND STRAW.	
REMOVE THREE OF VACUM UNITS. NOTE: PRICE DOES NOT INCLUDE REINSTALLATION.	
RELOCATE PROPANE TANK.	
RELOCATE AIR PUMP.	
COST FOR MATERIALS AND LABOR:	12,800.00
Total	12,800.00

Signature Sigfred Chandly

Phone #	Fax #
410-335-4808	410-335-5022

CBA
PET. NO. 7

C1

Pg 9

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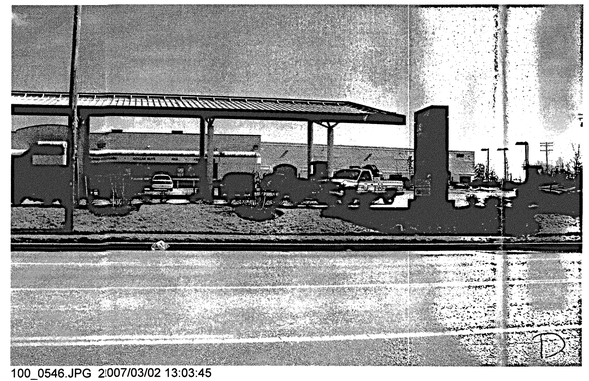

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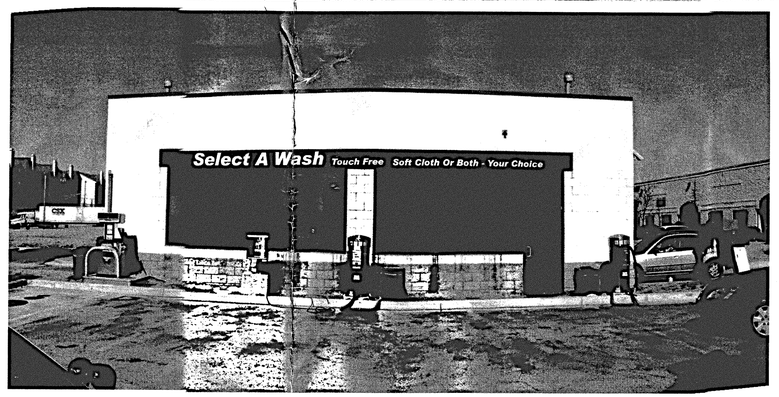

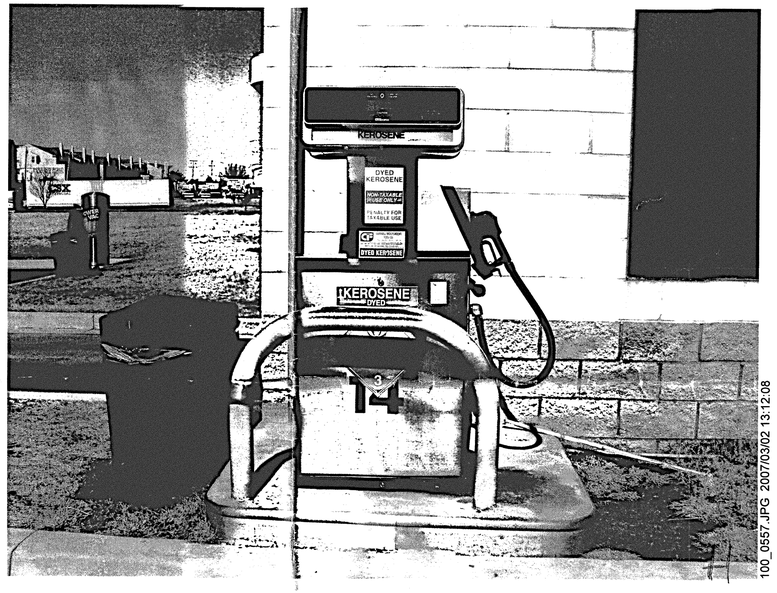

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CB-A8

PETITIONER'S EXHIBIT NO. 4

ZONING EXHIBIT

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80

GRAPHIC SCALE
1 inch = 20 ft.

Colbert Matz Rosenfelt, Inc.
*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY

SCALE:	1" = 20'
DATE	Mar. 2, 2007
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE: 2001192ZON2006.dwg	
DRAWING NUMBER:	EXHIB-1
SHEET	1 OF 1

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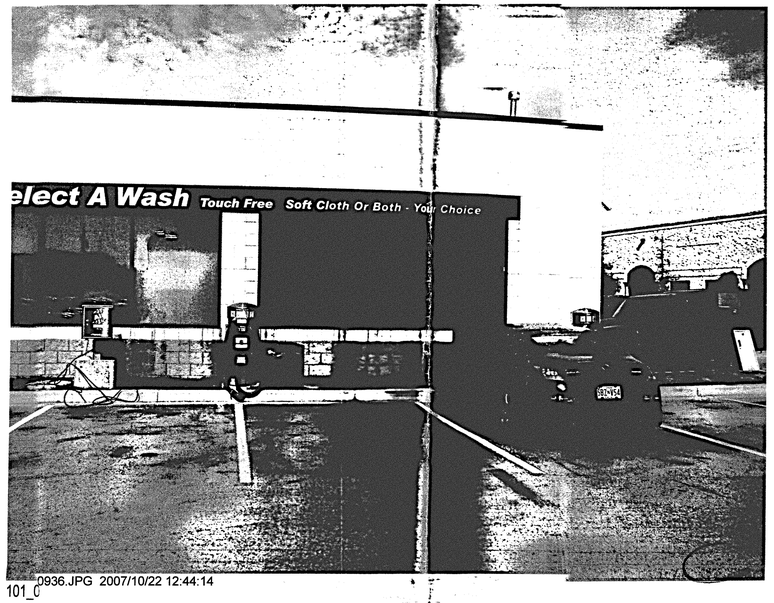

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PET.
CBA-89

BOARD OF APPEALS
PHOTO EXHIBITS

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80

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NO.	DATE	REVISIONS:	BY

SCALE:	1" = 20'
DATE	OCT 22, 2007
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE:	2001192ZON2006.dwg
DRAWING NUMBER:	PHOTO
SHEET	OF

IN RE: PETITION FOR SPECIAL EXCEPTION E/S Rolling Road, 1100' N of the c/l Tudsbury Road (2701 Rolling Road) 2nd Election District 2nd Council District Rolling Road, LLC Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 02-016-X

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owners of the subject property, Rolling Road, LLC, and the Contract Lessee, Eastern Petroleum Corporation, through their attorney, Stuart D. Kaplow, Esquire. The Petition, as filed, requests a special exception for a fuel service station use in combination with a convenience store, greater than 1500 sq.ft., pursuant to Section 405.4.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.); however, as will be discussed hereinafter, the Petition was amended in open hearing to also request relief, pursuant to Section 405.4.E.10 of the B.C.Z.R. to allow a carryout restaurant as a use in combination with the fuel service station use. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Teresa Rosier on behalf of Rolling Road, LLC, Owners; Kent McNew, President, John Hollender, and Diane Taylor, representatives of Eastern Petroleum Corporation, Lessees; William P. Monk with Morris & Ritchie Associates, the consultants who prepared the site plan for this property; and Stuart D. Kaplow, Esquire, attorney for the Petitioners. Also appearing in support of the request were Sajid Lhaudhry and Riaz Ahmad, potential proprietors of the proposed business, and, Michael Brown, a lighting expert. There were no Protestants or other interested persons present.

ORDER RECEIVED FOR FILING
Date 9/27/01
By

PETITIONER'S
EXHIBIT NO. 1

CBA
PET
NO. 10

GENERAL NOTES

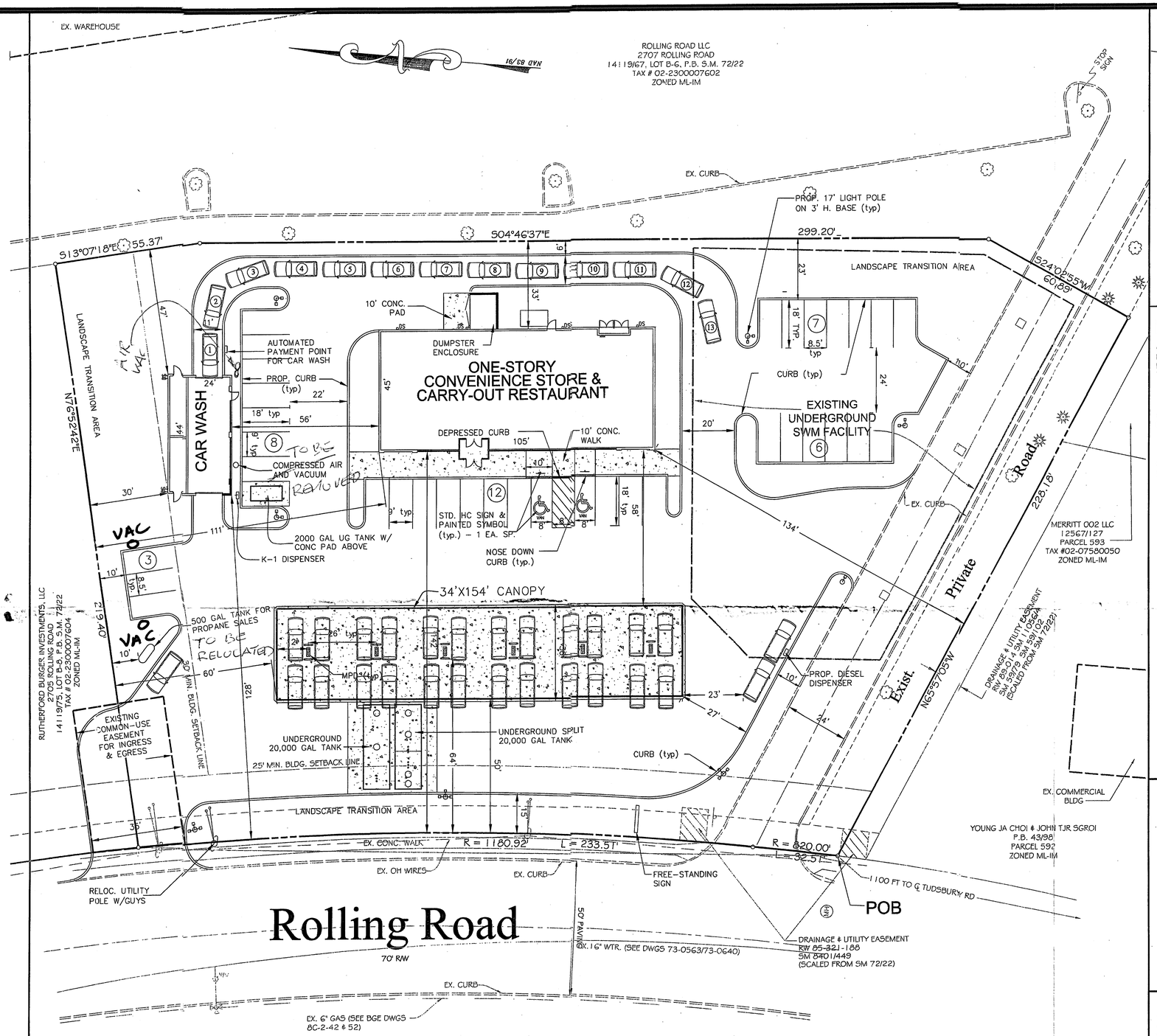
1. Owner:
   WOODLAND SERVICES LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
2. Applicant:
   WOODLAND SERVICES, LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
3. Site Data:
   Lot B-7
   Plat Ref. - 72/22,
   "Resubdivision of Lots B-3 & B-4, RBC South"
   Tax Map 87, Grid 17, P. 739
   Deed Reference -16457/693
   Tax Account #02-2300007603
   Site Area - 75,698 sf (1.744 acre+/-)
   Council District 4
4. Zoning - Zoned ML-IM Zoning Map No. 87C2
5. Existing Use - Fuel Service Station w/convenience store & carry-out restaurant
   Proposed Use - Fuel Service Station w/convenience store, carry-out restaurant and Rollover Carwash
6. All existing information shown hereon is a compilation of field run topography, Baltimore County GIS, public record information, and surveys and plans by others.
7. Stormwater Management is provided in the existing onsite SWM facility for RBC South.
8. Off-Street Parking Calculations - Required Parking -
   Convenience store - 3,750 sf @ 5 sp./1,000 sf = 19 sp.
   Carry-out restaurant - 1,000 sf @ 5 sp./1,000 sf = 5 sp.
   1 sp./employee on largest shift = 6 sp.
   Car wash drying spaces = 2 sp.
   Car wash additional spaces = 2 sp.
   Air/Vacuum = 1 sp.
   ATM - 1 sp

   Total Required = 36 spaces
   Total Provided = 36 spaces, incl. 2 handicap
9. Site Area Calculations -
   Convenience store - 3,750 x 4 = 15,000 sf
   Carryout restaurant - 1,000 x 6 = 6,000 sf
   Service station - 1,500 x 12 = 18.800 sf

   Total Required - 39,000 sf
   Total Provided - 75,698 sf
10. Proposed Building Area -
    Convenience store and restaurant - 4,750 sf
    Car wash - 1,056 sf
    Total - 5,806 sf
    Floor Area Ratio: 5,806/75,698 = 0.08
    Maximum F.A.R. permitted - 2.0
11. A rest room facility, water and compressed air shall be provided for customers.
12. All paving shall be durable and dust-free bituminous.
13. Stacking required for car wash - 9 spaces
    Stacking provided - 13 spaces
14. This site is not within a 100-year floodplain or the Chespeake Bay Critical Area. The site is not within a Historic District and contains no historic buildings.
15. Street Setbacks

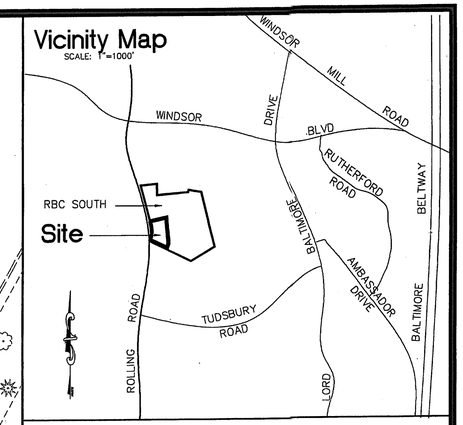
	Required	Proposed
Building	35 ft.	142 ft.
Fuel Pumps	25 ft.	64 ft.
Canopy	15 ft.	50 ft.
Car Wash	50 ft	128 ft
Side Setback	30 ft	30 ft
Rear Setback	30 ft	33 ft

16. All signage will comply with BCZR SEction 450.
17. Rated capacity of Car Wash: 12 cars per hour
18. Previous Commercial Permits from current available Baltimore County records and company files:
    B528707 Stormwater Management
    B594554 Sign
    B560474 Above ground propane tank
    B594585 Awning
    B487914 Commercial Building
    B493612 Grading



Vicinity Map

SCALE: 1"=1000'



Benchmark/Datum

COORDINATES AND NORTH SHOWN HEREON REFER TO THE NAD 83/91 DATUM ELEVATIONS SHOWN HEREON REFER TO THE NAVD 88 DATUM BOTH OF WHICH ARE BASED ON THE FOLLOWING BALTIMORE COUNTY TRAVERSE STATIONS:

STATION	NORTHING	EASTING	ELEVATION
#469	602482.65	1380631.99	436.91

CAPPED PIPE AT NORTHWEST CORNER OF ROLLING ROAD AND DOGWOOD ROAD, ADJACENT TO STONE MEMORIAL.

#470	603097.06	1380552.11	458.01

CAPPED PIPE AT NORTHEASTCORNER OF ROLLING ROAD AND SAWMILL BRANCH ROAD, 22'+/- NE OF SD INLET.

CBA-11

PDM #II-154

Site Plan to Accompany Zoning Petition

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80
GRAPHIC SCALE
1 inch = 20 ft.

ZONING HISTORY

CASE NO 02-016-X: SPECIAL EXCEPTION GRANTED FOR FUEL SERVICE STATION IN COMBINIATION WITH A CONVENIENCE STORE AND A CARRYOUT RESTAURANT, GREATER THAN 1500 SQ. FT. GRANTED SEPT. 21, 2001.

CASE NO 06-583-SPH: SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID DENIED IN REGARD TO THE SPECIAL EXCEPTION FOR THE FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND CARRY OUT RESTAURANT JULY 26, 2006. SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID GRANTED IN REGARD TO THE SPECIAL EXCEPTION FOR THE CAR WASH JULY 26, 2006.

DRC History

ORIGINAL CRG PLAN APPROVED 12/15/88

DRC #08126N
ON 8/19/96, DRC GRANTED 1ST REFINEMENT TO CRG PLAN TO DIVIDE PROPERTY INTO PARCELS.

DRC #07069A
ON 7/23/99, DRC GRANTED 2ND REFINEMENT TO CRG PLAN TO DIVIDE PARCELS INTO LOTS.

DRC #08169A
ON 9/23/99, DRC GRANTED 3RD REFINEMENT TO CRG PLAN TO ADD SITE LAYOUTS FOR LOTS 1 & 2.

Colbert Matz Rosenfelt, Inc.
Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

PETITIONER'S EXHIBIT NO. 3

SCALE:	1" = 20'
DATE	OCT 16, 2006
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE:	2001192ZON2006.dwg
DRAWING NUMBER:	ZON-1
SHEET	1 OF 1

NO.	DATE	REVISIONS:	BY

BUILDING PERMIT PROCESSING
CASH SLIP RECEIPT

No. A 559869

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 100
TOWSON, MARYLAND 21204

PAID RECEIPT

BUSINESS	ACTUAL	TIME	
3/06/2007	3/02/2007	15:03:13	

MSA USER WSLIGH KRCH KAM
RECEIPT # 559180 3/02/2007 BP-B
Dept 2 209 BUILDING PERMIT APPLICATI
DOCUMENT # A559869
Dept Tot $30.00
1.00 CK $30.00 CA
Baltimore County, Maryland

OFFICE OF FINANCE USE ONLY

APPLICANT Osprey

ADDRESS 2701 N Rolling Rd ZIP CODE 21244

CHECK ITEM	ITEMS	PAY CODE	G/L ACCOUNT NUMBER	FEE
	ABANDONED WATER METER APPLICATION	200	231-2874	
	APPEAL PROCESS FEE	204	001-006-6150	
X	BUILDING PERMIT APPLICATION	209	001-006-2510	30 —
	CHANGE OF OCCUPANCY	210	001-006-2520	
	COUNTY FINANCING APPLICATION	211	231-006-7120	
	ELECTRICAL ADMINISTRATIVE BOARD EXAM FEE	212	001-006-6090	
	ELECTRICAL ADMINISTRATIVE BOARD LICENSE	213	001-006-2210	
	ELECTRICAL PERMIT	214	001-006-2600	
	FIRE HYDRANT METER	217	231-006-6180	
	FIRE INSPECTION	246	001-006-6019	
	GAS PERMIT APPLICATION	220	001-006-2420	
	MASTER'S FEE	249	001-006-6135	
	PERCOLATION TEST	224	001-006-6750	
	PHOENIX WATER CHARGE	248	030-006-6133	
	PLUMBING BOARD LICENSE	225	001-006-2220	
	PLUMBING PERMIT APPLICATION	226	001-006-6220	
	SEPTIC TANK PERMIT	228	001-006-2430	
	SEWER PROPERTY CONNECTION APPLICATION	229	231-006-6051	
	SEWER SERVICE CHARGE, PRORATED	230	030-006-6012	
	SEWER SYSTEM CHARGE	231	231-006-6141	
	STORM DRAIN CONNECTION	233	001-006-2440	
	SUB-SOIL DRAIN INSTALLATION	234	001-006-6220	
	WASTEWATER DISCHARGE PERMIT	240	030-006-2630	
	WATER DISTRIBUTION	241	030-006-6043	
	WATER METER APPLICATION	242	231-006-6060	
	WATER METER FEE	243	231-2874	
	WATER SURCHARGE	244	231-006-6151	
	WATER SYSTEM CHARGE	245	231-006-6151	

CHECK/MONEY ORDER PAYABLE TO BALTIMORE COUNTY, MARYLAND TOTAL 30 —

DESCRIPTION: (3) S/F Signs Cash

PREPARER'S NAME [signature] DATE 3/2/07

THIS IS NOT A PERMIT OR LICENSE AND DOES NOT AUTHORIZE CONSTRUCTION OF ANY KI
PLUMBING, OR ELECTRICAL PERMIT FEE IS REFUNDABLE.

CBA PET. No 12

PETITIONER'S EXHIBIT NO. 11

WHITE-AGENCY YELLOW-APPLICANT PINK-FINANCE

REV 1/97

BUILDING PERMIT PROCESSING
CASH SLIP RECEIPT

No. A 557373

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 100
TOWSON, MARYLAND 21204

FINAL RECEIPT

BUSINESS	ACTUAL	TIME	
12/21/2006	12/20/2006	11:12:08	

REG USER MAIL JEVA JEE
>>RECEIPT # 496869 12/19/2006 BE
Dept 2 209 BUILDING PERMIT APPLICA
DOCUMENT # A557373

Recpt Tot $10.00
$.00 CK $10.00 CA
$10.00- CH

Baltimore County, Maryland
OFFICE OF FINANCE USE ONLY

APPLICANT Rifat Ata

ADDRESS 2701 Rolling Rd. ZIP CODE 21244

CHECK ITEM	ITEMS	PAY CODE	G/L ACCOUNT NUMBER	FEE
	ABANDONED WATER METER APPLICATION	200	231-2874	
	APPEAL PROCESS FEE	204	001-006-6150	
✓	BUILDING PERMIT APPLICATION	209	001-006-2510	10
	CHANGE OF OCCUPANCY	210	001-006-2520	
	COUNTY FINANCING APPLICATION	211	231-006-7120	
	ELECTRICAL ADMINISTRATIVE BOARD EXAM FEE	212	001-006-6090	
	ELECTRICAL ADMINISTRATIVE BOARD LICENSE	213	001-006-2210	
	ELECTRICAL PERMIT	214	001-006-2600	
	FIRE HYDRANT METER	217	231-006-6180	
	FIRE INSPECTION	246	001-006-6019	
	GAS PERMIT APPLICATION	220	001-006-2420	
	MASTER'S FEE	249	001-006-6135	
	PERCOLATION TEST	224	001-006-6750	
	PHOENIX WATER CHARGE	248	030-006-6133	
	PLUMBING BOARD LICENSE	225	001-006-2220	
	PLUMBING PERMIT APPLICATION	226	001-006-6220	
	SEPTIC TANK PERMIT	228	001-006-2430	
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	SEWER SYSTEM CHARGE	231	231-006-6141	
	STORM DRAIN CONNECTION	233	001-006-2440	
	SUB-SOIL DRAIN INSTALLATION	234	001-006-6220	
	WASTEWATER DISCHARGE PERMIT	240	030-006-2630	
	WATER DISTRIBUTION	241	030-006-6043	
	WATER METER APPLICATION	242	231-006-6060	
	WATER METER FEE	243	231-2874	
	WATER SURCHARGE	244	231-006-6151	
	WATER SYSTEM CHARGE	245	231-006-6151	

CHECK/MONEY ORDER PAYABLE TO BALTIMORE COUNTY, MARYLAND TOTAL 10

DESCRIPTION: Cash B652334

PREPARER'S NAME Hylwood DATE 12-20-06

THIS IS NOT A PERMIT OR LICENSE AND DOES NOT AUTHORIZE CONSTRUCTION OF ANY KIND. NO BUILDING, F ING, OR ELECTRICAL PERMIT FEE IS REFUNDABLE.

WHITE-AGENCY YELLOW-APPLICANT PINK-FINANCE

REV 1/97

PETITIONER'S EXHIBIT NO. 13

CBA PET. No 13

Section 253
Manufacturing, Light (M.L.) Zone Use Regulations
[Bill No. 100-1970[57]]

253.1. Uses permitted as of right. The uses listed in this section, only, shall be permitted as of right in M.L. Zones, subject to any conditions hereinafter prescribed.

A. The following industrial uses:[58]

1. Airplane assembly.
2. Automobile assembly.
3. Boatyards (including marinas or marine railways).
4. Bottling establishments, soft-drink.
5. Brewery, Class 5B, if within the urban rural demarcation line **[Bill No. 185-1995]**
6. Candy manufacture, packaging or treatment.
7. Carpet or rug cleaning.
8. Cellophane-products manufacture or processing-restricted production (see Section 253.3).
9. Cleaning or dyeing.
10. Concrete products manufacture, including manufacture of concrete blocks or cinder blocks.
11. Cork products manufacture or processing-restricted production (see Section 253.3).
12. Cosmetics manufacture, compounding, packaging or treatment.
13. Drug manufacture, compounding, packaging or treatment.
14. Electrical appliance assembly.
15. Enameling, japanning or lacquering.
16. Excavations, controlled, except those involving the use of explosives.
17. Fiber products manufacture or processing, including the manufacture or processing of articles made of felt or yarn, or of textiles, canvas or other cloth-restricted production (see Section 253.3).
18. Food products manufacture, compounding, packaging or treatment, including but not limited to wholesale bakeries; canning plants or packing

---

57 **Editor's Note: This bill also repealed former Subsections 253.1 through 253.5, derived from part of BCZR 1955, as amended by County Commissioners' Resolution of November 21, 1956, and County Council Bill Nos. 64-1960; 56-1061; 64-1963; 40-1967; 61-1967; and 85-1967.**

58 **Editor's Note: All provisions of this subsection are originally from Bill No. 100-1970, except as otherwise noted.**

MEMORANDUM EXHIBIT NO. 4

PETITIONER'S /
DEVELOPER'S
EXHIBITS

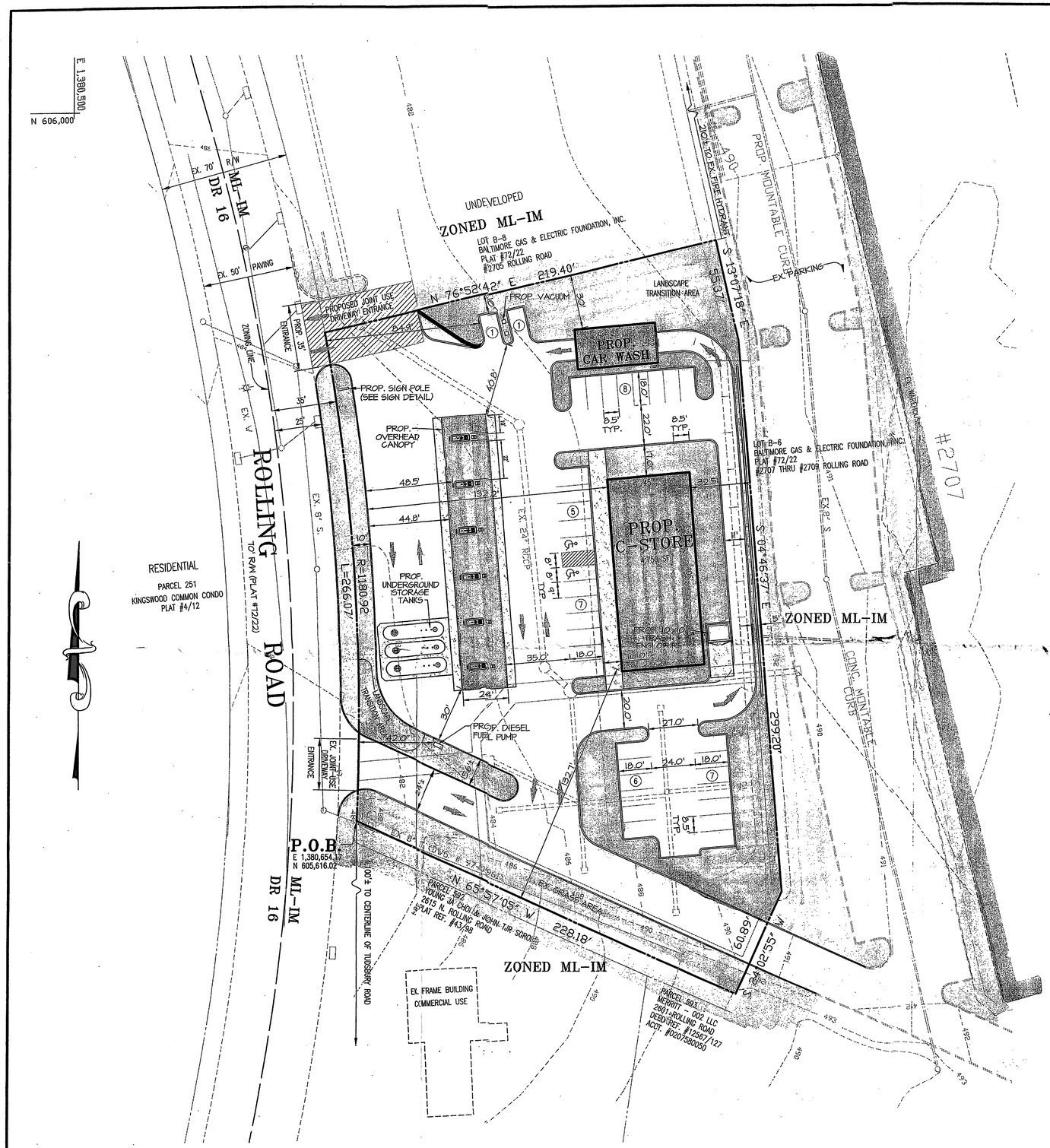
5

20070245 "A"
supplemental

Case No.: 07-245 X OSPREY FOOD MARKET

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	02-016-X	LEONARD WASILEWSKI, CODE OFFICIAL CASE 06-9534
No. 2	SITE PLAN FROM 02-016-X	
No. 3	SITE PLAN - 07-245-X	
No. 4	Collectively Photo's A (Panaramic View)	
No. 5	ZONING MAP	
No. 6	Lot 7 - Subdivision PLAT (Subject Property)	
No. 7	TAX MAP	
No. 8	Aerial Photograph	
No. 9	SIGNED CONTRACT FOR SITE REVISIONS testified TO BY COLBERT	
No. 10	PERMIT APPLICATIONS	
No. 11	SIGN PERMITS - for Remaining Signs	
No. 12		



NOTES:

1. OWNER:
   PARCEL #739, LOT B-4:
   PLAT #72/22 (RESUBDIVISION), LOT B-7:
   ROLLING ROAD LLC
   HILL MANAGEMENT SERVICES INC.
   9640 DEERCO ROAD
   TIMONIUM, MD 21093
   DEED REFERENCE: 13413/60, PLAT #71/8
   TAX ACCT. #2300004227
2. APPLICANT/CONTRACT PURCHASER:
   EASTERN PETROLEUM CORPORATION
   1915 LINCOLN DRIVE
   ANNAPOLIS, MD 21401
3. SITE DATA:
   SITE AREA: 75,968 SF = 1.744 AC.±
   BALTIMORE COUNTY ADC MAP #33; A-6
   ELECTION DISTRICT: 02
   COUNCILMANIC DISTRICT: 02
   TAX MAP 87, GRID 17, PARCELS: #739, LOT B-3 & B-4
   ZONING MAP: NW, 3-G
4. EXISTING ZONING: ML-IM (MANUFACTURING, LIGHT - INDUSTRIAL, MAJOR)
5. EXISTING USE: VACANT
6. PROPOSED USE: FUEL SERVICE STATION WITH CONVENIENCE STORE AND ROLL OVER CAR WASH. THIS PROPERTY IS PART OF A INTEGRAL PLANNED DEVELOPMENT AND AN APPROVED INDUSTRIAL PARK GREATER THAN 50 ACRES. PER CRG PLAN II 154 (AKA RBC SOUTH)
7. PROPOSED BUILDING AREA:
   C-STORE: 4,750 SF.
   1 STORY COMMERCIAL BUILDING
   MAXIMUM BUILDING HEIGHT NOT TO EXCEED 25'
   CAR WASH: 968 SF
8. F.A.R.:

	ALLOWED	PROPOSED
FLOOR AREA RATIO	2.0	0.078

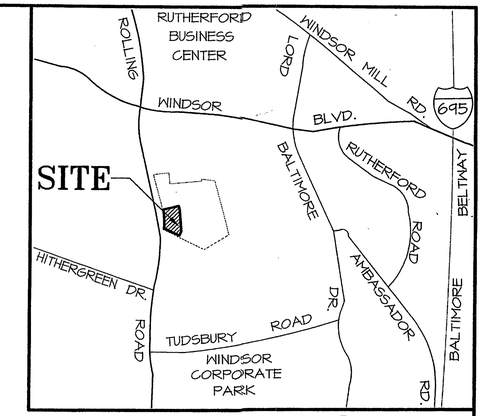
   ((4,750 SF + 968)/75,968 SF.)
9. REQUIRED SITE AREA:
   FUEL SERVICE STATION (12 FUELING POSITIONS x 1,500 SF) = 18,000 SF
   FOOD STORE (4 x 4,750) = 19,000 SF.
   TOTAL AREA REQUIRED = 37,000 SF
   TOTAL AREA PROVIDED = 75,921 SF. = 1.74 AC.±
10. SETBACKS TO PROPERTY LIMITS:

	BUILDING		CANOPY		FUEL PUMPS	
	REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED
FRONT	35'	132.2'±	15'	44.8'±	25'	42'±
SIDE	30'	30' (CAR WASH BLDG.)				
REAR	30'	32.5'±				

11. PARKING CALCULATIONS:
    A. PARKING REQUIRED:
    CONVENIENCE FOOD STORE
    (4,750 SQ. FT. @ 5/1000) = 24
    1/EMPLOYEE ON LARGEST SHIFT = 4
    CAR WASH DRYING SPACES = 2
    CAR WASH ADDITIONAL SPACES REQUIRED = 2
    VACUUM SPACES REQUIRED = 2
    TOTAL PARKING REQUIRED = 34
    B. PARKING PROVIDED:
    INCLUDING 2 HANDICAP = 35
12. POINT OF BEGINNING IS ON WEST SIDE OF ROLLING ROAD 1,100'± NORTH OF CENTERLINE OF TUDSBURY ROAD AT ITS INTERSECTION WITH ROLLING ROAD.
13. THE PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA (CBCA).
14. THE SITE IS NOT IN A 100 YEAR FLOODPLAIN.
15. THE SITE IS NOT WITHIN A MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF BASIC SERVICES MAPS CURRENTLY EXISTS PER SECTION 4A02 (BCZR).
16. THERE ARE NO NON-TIDAL WETLANDS ON THIS SITE.
17. THERE ARE NO FOREST BUFFERS ON THIS SITE.
18. THERE ARE NO KNOWN REGULATED PLANT OR WILDLIFE COMMUNITIES ASSOCIATED WITH THIS SITE.
19. THERE ARE NO KNOWN HISTORICAL STRUCTURE OR ARCHEOLOGICAL AREAS ASSOCIATED WITH THIS SITE.
20. THERE ARE NO KNOWN EXISTING WELLS OR SEPTIC FIELDS WITHIN 100' OF THIS PROPERTY
21. SCREENING AND LANDSCAPE REQUIREMENTS SHALL COMPLY WITH BALTIMORE COUNTY REQUIREMENTS AS OUTLINED IN THE BALTIMORE COUNTY LANDSCAPE MANUAL.
22. BUILDING CONSTRUCTION SHALL COMPLY WITH BUILDING AND FIRE CODE REQUIREMENTS.
23. ALL LIGHTING SHALL CONFORM TO IES STANDARDS (ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA)
24. SIGNAGE ON THIS SITE SHALL CONFORM WITH THE SIGNAGE REQUIREMENTS OF THE BALTIMORE COUNTY ZONING REGULATIONS SECTION 450.
25. THIS SITE SHALL BE SERVICED BY PUBLIC WATER AND SEWER.
26. A REST ROOM FACILITY, WATER AND COMPRESSED AIR SHALL BE PROVIDED FOR CUSTOMERS
27. ALL PAVING SHALL BE BITUMINOUS DUST-FREE SURFACE.
28. PREVIOUS ZONING CASE: NONE
29. STACKING (FOR ROLL OVER CAR WASH):
    REQUIRED STACKING: 9 SPACES (@ 20' IN LENGTH)
    PROPOSED: 11 SPACES
    CAR WASH RATED CAPACITY: 45-50 CAR'S/HOUR
30. STACKING FOR FUEL PUMPS SHALL COMPLY WITH SECTION 405, BCZR.
31. A WAVER OF STORM WATER MANAGEMENT (QUALITY REQUIREMENTS WILL BE REQUESTED.
32. SPECIAL EXCEPTION
    * TO PERMIT A FUEL SERVICE STATION IN COMBINATION WITH CONVENIENCE STORE GREATER THAN 1500 SF PURSUANT TO SECTION 405.4.E.I. BCZR.

* + Carry Out Restaurant
9/10/01

1000 Sq. feet for Carry Out Restaurant
9/10/01



VICINITY MAP

SCALE: 1"=1,000'

PETITIONER'S EXHIBIT NO. 2

Exhibit 2 - Case No 07-245X

(Exhibit No 1 - 02-016X)

DRC #07069A
PDM #II-154

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
110 WEST ROAD SUITE 245
TOWSON, MARYLAND 21204
(410) 821-1690
FAX (410) 821-1748

STATE OF MARYLAND — DONALD MITCHELL — REG. No. 16301 — PROFESSIONAL ENGINEER
7/8/01

PLAN TO ACCOMPANY SPECIAL EXCEPTION APPLICATION

2701 ROLLING ROAD

ROLLING ROAD COMMERCE CENTER LOT B-7
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS		
7/3/01	RELOCATE CAR WASH AND PARKING	JOB NO.:	12077
		SCALE:	1": 30'
		DATE:	07/05/01
		DRAWN BY:	SL
		DESIGN BY:	WM/SL
		REVIEW BY:	WM
		SHEET:	1 OF 1

P:\12077\PLOT\12077-SPCL-EX.dwg JUL 5, 2001

Plan Sheet:: *087C2*

Note:
The zoning depi[illegible]cted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. *In addition,* County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

Zoning — Streams — Vegetation
Buildings — Roads — Rail Lines

Baltimore County
Office of Planning and Zoning
Official Zoning Map

087A1	087B1	087C1	088A1	088B1
087A2	087B2	087C2	088A2	088B2
087A3	087B3	087C3	088A3	088B3

Scale

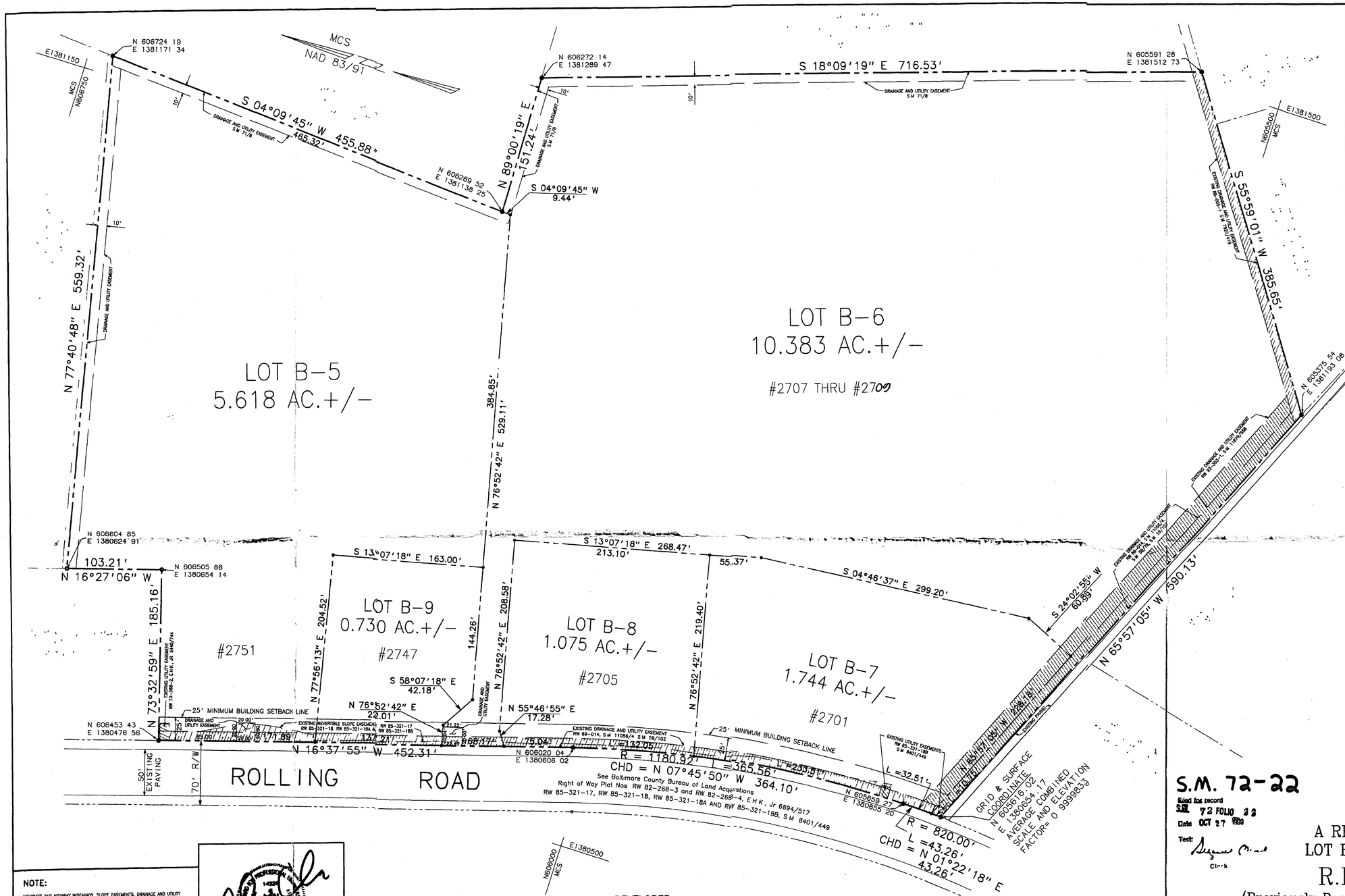
1" = 200'

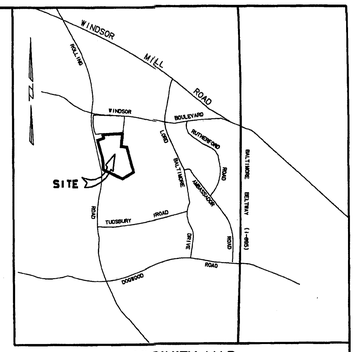
0 100 200 400 Feet

1

PETITIONER'S
EXHIBIT NO. 5

Data Sources:
Planametric Data - Baltimore County
OIT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004





VICINITY MAP
SCALE: 1"=2000'

GENERAL NOTES

THIS PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF THE BALTIMORE COUNTY CODE, SECTION 26-216

THE INFORMATION SHOWN HEREON MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT

ADDITIONAL INFORMATION CONCERNING THIS PLAT MAY BE OBTAINED FROM THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT AND THE DEPARTMENT OF PUBLIC WORKS

THE PLAN FOR THE PROPERTY SHOWN ON THIS PLAT WAS APPROVED ON JULY 23, 1999, DRC #070699A

THE RECORDING OF THIS PLAT DOES NOT GUARANTEE THE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY

THE RECORDING OF THIS PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT

THE OWNER/DEVELOPER WILL COMPLY WITH THE BEST MANAGEMENT PRACTICES ADOPTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

EXCEPT AS OTHERWISE INDICATED, ALL BUILDING RESTRICTION LINES SHOWN HEREON HAVE BEEN PLACED AS THE RESULT OF AN INTERPRETATION ONLY OF CURRENTLY APPLICABLE REGULATIONS AND POLICIES OF THE BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT EXCEPTIONS TO THESE RESTRICTIONS MAY APPLY

THIS SITE IS LOCATED IN THE PATAPSCO SEWERSHED

THE APPROVAL OF THIS PLAT IS BASED UPON A REASONABLE EXPECTATION THAT THE WATER AND SEWER SERVICE WHICH IS PLANNED FOR THE DEVELOPMENT WILL BE AVAILABLE WHEN NEEDED HOWEVER, BUILDING PERMITS MAY NOT BE ISSUED UNTIL THE PLANNED WATER AND SEWER FACILITIES ARE COMPLETED AND DETERMINED TO BE ADEQUATE TO SERVE THE PROPOSED DEVELOPMENT

STORMWATER MANAGEMENT FOR ALL LOTS IN THIS SUBDIVISION WILL BE ACCOMPLISHED THROUGH THE USE OF THE EXISTING REGIONAL STORMWATER MANAGEMENT POND NO GRADING PERMITS OR BUILDING PERMITS WILL BE ISSUED FOR THIS SUBDIVISION UNTIL APPROVAL OF THE STORMWATER MANAGEMENT PLAN WATER QUALITY WILL BE PROVIDED INDIVIDUALLY ON EACH LOT OR IN JOINT FACILITIES TO LOTS B-5 THROUGH B-9

THE LOTS CREATED BY THIS SUBDIVISION PLAT ARE SUBJECT TO A FEE OR ASSESSMENT TO COVER OR DEFRAY ALL OR PART OF THE DEVELOPER'S COST OF INSTALLATION OF WATER AND SEWER FACILITIES, PURSUANT TO THE BALTIMORE COUNTY CODE SECTION 26-246 THIS FEE OR ASSESSMENT, WHICH RUNS WITH THE LAND, IS A CONTRACTUAL OBLIGATION BETWEEN THE DEVELOPER AND EACH OWNER OF THIS PROPERTY AND IS NOT IN ANY WAY A FEE OR ASSESSMENT OF BALTIMORE COUNTY

DEED REFERENCE S.M. 13413 Folio 80
TAX ACCOUNT Nos 23-00-004227 & 23-00-004228

EXISTING ZONING - ML-IM

EACH LOT MUST HAVE ITS OWN METERED SERVICE

TOTAL AREA OF LOTS = 19.550 Ac

TOTAL AREA OF PLAT = 19.550 Ac

THE PURPOSE OF THE PLAT IS TO RESUBDIVIDE LOT B-3 AND LOT B-4 SHOWN ON THE PLAT ENTITLED "RESUBDIVISION OF A PORTION OF R.B.C. SOUTH, DATED DECEMBER 19, 1997, RECORDED AMONG THE PLAT RECORDS OF BALTIMORE COUNTY, MARYLAND IN PLAT BOOK S.M. 71/8 AND CREATE NEW LOT B-5, LOT B-6, LOT B-7, LOT B-8 AND LOT B-9

S.M. 72-22
Filed for record
S.M. 72 FOLIO 22
Date OCT 27 1999
Test:
Clerk

A RESUBDIVISION OF LOT B-3 AND LOT B-4
R.B.C. SOUTH

(Previously Recorded as "Resubdivision of a Portion of R.B.C. SOUTH" in Plat Book S.M. 71/8)

2nd Election District
Scale 1" = 50'

Baltimore County, Maryland
September 15, 1999

NOTE:

HIGHWAYS AND HIGHWAY WIDENINGS SLOPE EASEMENTS, DRAINAGE AND UTILITY EASEMENTS ACCESS EASEMENTS FOREST BUFFER AREAS IN FEE OR EASEMENT GREENWAY AREAS IN FEE OR EASEMENT, AND STORM WATER MANAGEMENT AREAS, NO MATTER HOW ENTITLED, SHOWN HEREON ARE RESERVED UNTO THE OWNER AND, EXCEPT FOR THOSE INDICATED AS PRIVATE ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY MARYLAND THE OWNER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY MARYLAND AT NO COST UNTIL SUCH TIME AS SAID CONVEYANCE IS ACCEPTED BY BALTIMORE COUNTY THE OWNER AUTHORIZES BALTIMORE COUNTY ITS AGENTS AND ASSIGNS, THE RIGHT TO ENTER UPON THE PROPERTY FOR THE PURPOSE OF INSTALLING CONSTRUCTING MAINTAINING AND REPAIRING ROADS UTILITY LINES AND FACILITIES, AND STORM WATER MANAGEMENT PONDS AND FACILITIES

I HEREBY CERTIFY THAT I HAVE REVIEWED WITH DUE DILIGENCE THE 2ND REFINEMENT TO THE CRG PLAN INC HISTORICAL APPROVED ON AUGUST 1999, AND HAVE PREPARED WITH DUE DILIGENCE THIS RECORD PLAT PURSUANT TO THAT APPROVED CRG PLAN

OWNER

BALTIMORE GAS AND ELECTRIC
FOUNDATION, INC P.O. BOX 1475
BALTIMORE MD 21203

DEVELOPER

ROLLING ROAD LLC
C/O HILL MANAGEMENT
9640 DEERECO ROAD
TIMONIUM MD 21093
(410) 561-1300

NOTE:

GRID COORDINATE AND BEARINGS SHOWN ON THIS PLAT ARE REFERRED TO THE NAD 83/91 MARYLAND COORDINATE SYSTEM AND PROJECTED BY BALTIMORE COUNTY PRIMARY GPS NETWORK MONUMENTS

ILFORD – North 614350 08 USft East 1383117 92 USft Elev = 460 240 USft
AUTER – North 604354 27 USft East 1375166 68 USft Elev = 462 269 USft
SA

COORDINATES SHOWN HEREON ARE SURFACE
COORDINATES UNLESS OTHERWISE DESIGNATED

NOTE:

THE STREETS AND/OR ROADS AS SHOWN HEREON AND THE MENTION THEREOF IN DEEDS ARE FOR THE PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS

OWNERS CERTIFICATE:

THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT HEREBY CERTIFIES THAT TO THE BEST OF IT S KNOWLEDGE THE REQUIREMENT OF SUBSECTION (C) OF SECTION 3-108 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND HAS BEEN COMPLIED WITH INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND THE SETTING OF THE MARKERS

BALTIMORE GAS AND ELECTRIC FOUNDATION INC 10/4/99 DATE

SURVEYORS CERTIFICATE:

THE UNDERSIGNED, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DOES HEREBY CERTIFY THAT HE IS THE SURVEYOR AT HAS PREPARED THIS PLAT AND THAT THE LAND SHOWN ON THIS PLA, IN BEEN LAID OUT, AND THE PLAT THEREOF HAS BEEN PREPARED REAL COMPLIANCE WITH SUBSECTION (C) OF SECTION 3-108 OF THPARTICULARLY PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND RSETTING OF INSOFAR AS SAME CONCERNS THE MAKING OF THE PLAT AND S THE MARKERS

Walter Francis Eisner 9/29/99
REG NO 10889 DATE

APPROVED BY BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
DIRECTOR OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT 10.18.99 DATE

APPROVED BY THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT PURSUANT TO SECTION 26-215(C), BALTIMORE COUNTY CODE
DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT 10-19-99 DATE

PWA COMPLETED N/A TEC
FINAL PLAT CHECKED RWB 10/5/99
ENGINEERING
RESPONSE NOS
RECREATION & PARKS
DEVELOPMENT MANAGEMENT 10/6/99 10/19/99

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, I PETITIONER'S
CONSULTING ENGINEERS, LAND PLANNERS & LAND SURVEYORS
1020 CROMWELL BRIDGE ROAD
TOWSON, MARYLAND 21286
(410) 825-8120

EXHIBIT NO. 6

COMPUTED BY WFE	CHECKED BY WFE & MT	DESIGN AND DRAWING BASED ON MARYLAND COORDINATE SYSTEM HORIZONTAL – NAD83/91 VERTICAL – NADV 88
DRAWN BY WFE	WO NO 109126	

MSA S511236-10597
72-22
PN109126 LEVEL6

1"=52'

186766.4mN
416484.7mE

186766.4mN
4219712mE

552

549

546

543

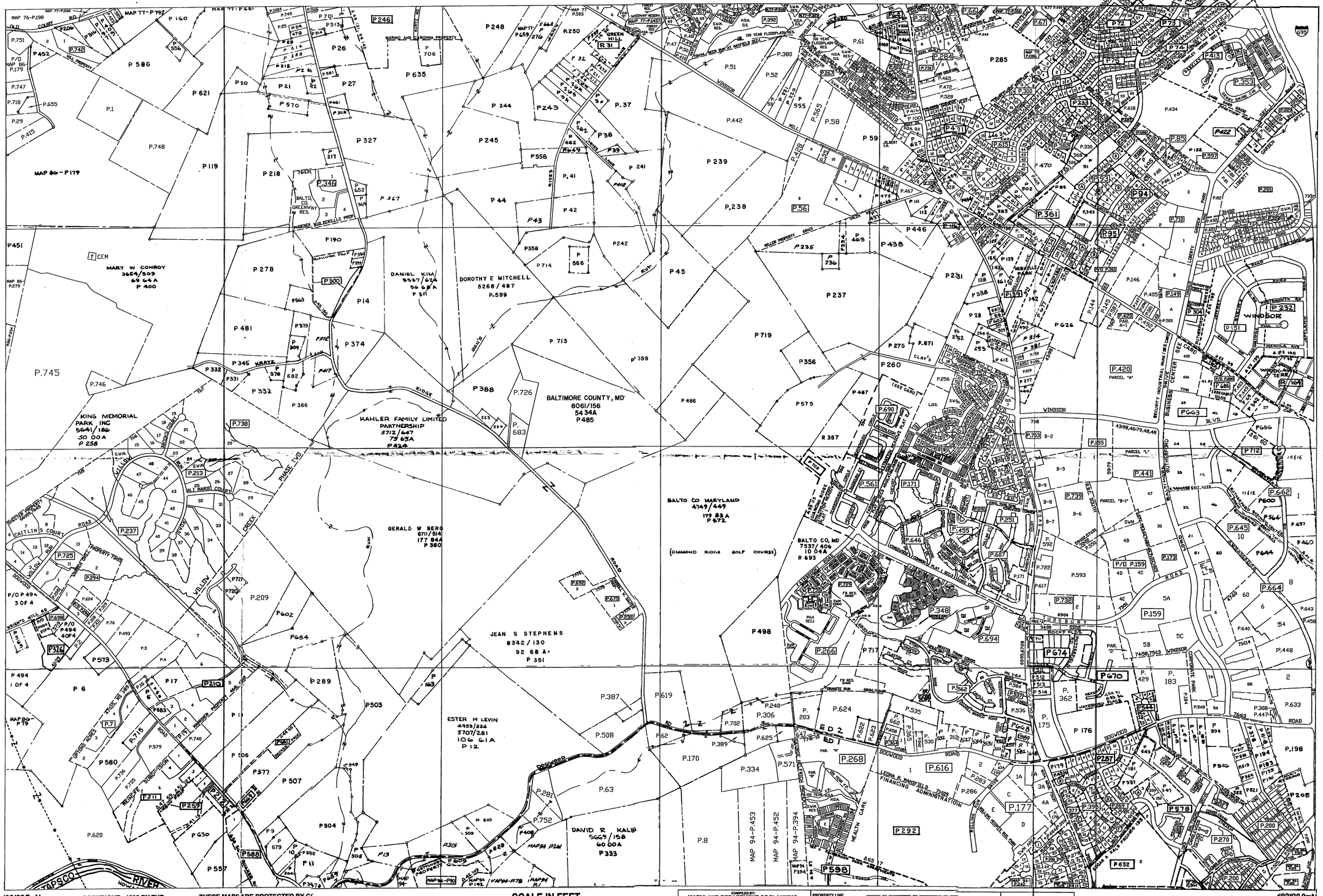
540

854-540

183108.7mN
416485.0mE

183108.8mN
4219713mE

854 857 860 863 869 872



183108.7mN
416485.0mE

183108.8mN
4219713mE

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SCALE IN FEET

600 0 600 1200 1800

COMPILED BY:
MARYLAND DEPARTMENT OF PLANNING
PROPERTY MAPPING SECTION

The information shown on this map has been compiled from deed descriptions and plats and is not an actual survey. It should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning, Property Mapping Section, Room 1101, 301 W. Preston St., Baltimore, MD 21201-2305.

PROPERTY LINE
SUBDIVISION BOUNDARY
TOWN BOUNDARY
PRIVATE ROAD
STREAM LINE
CONTINUING OWNERSHIP - Z Z Z
PARCEL NUMBERING - P.### (ASSIGNED TO IDENTIFY OWNERSHIP. MUST BE PRECEDED BY A MAP NUMBER.)

SCALE 1"=600' (RF 1:7200)

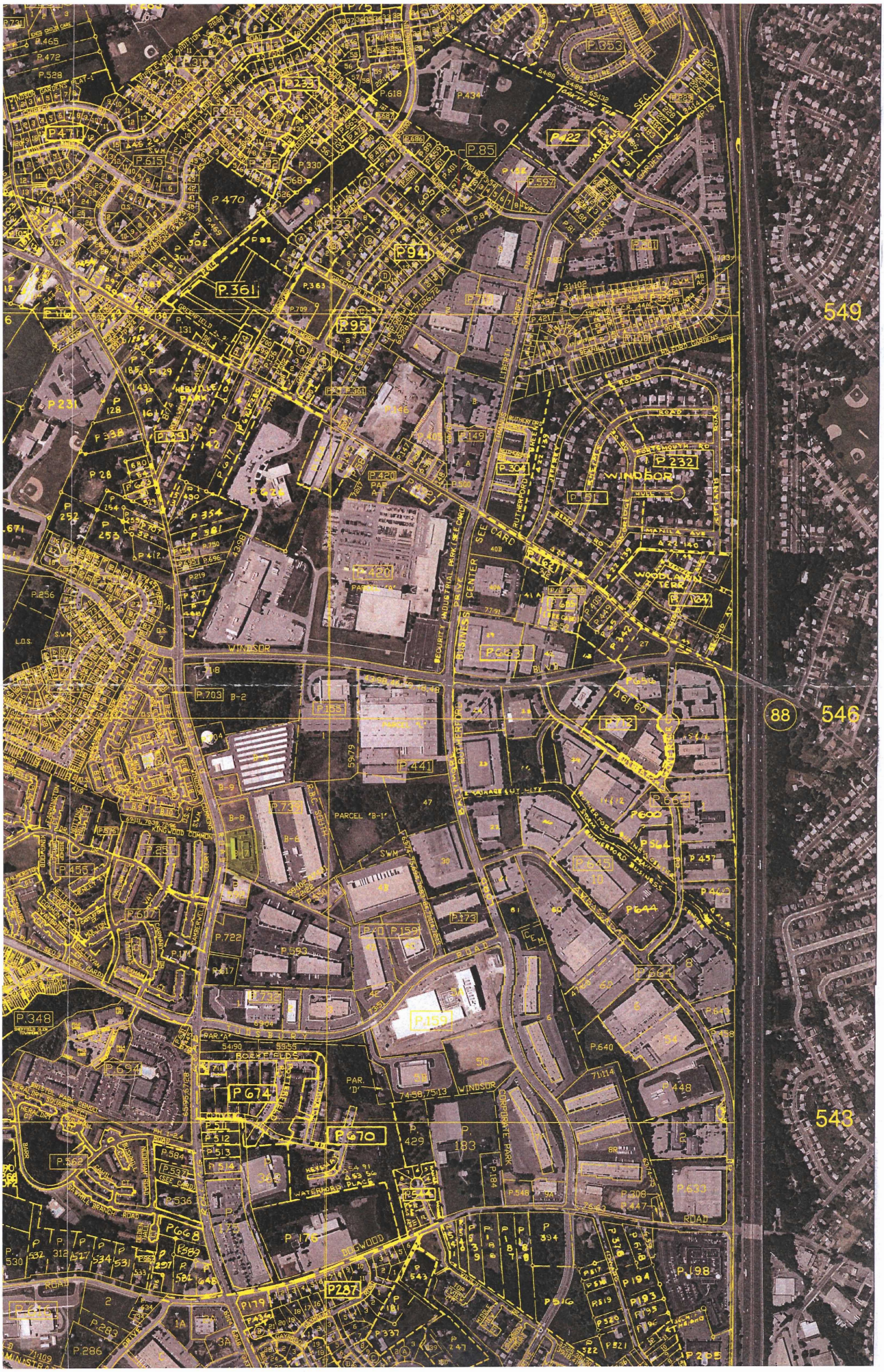
REVISED TO:	DATE	BY	LIBER	LAST P. NO.	QUARTER-QUADRANGLE	DATE OF PHOTO	SHA GRID
	JAN. '05	ML					

MDP Maryland Department of Planning

BALTIMORE COUNTY, MARYLAND

MAP NO. 87

PETITIONER'S EXHIBIT NO. 7


549
546
543
88
WINDSOR
BUSINESS CENTER
SEE CARD
BALTIMORE RUTHERFORD
PARCEL "B-1"
PARCEL "L"
PAR. "D"
TUDSBURY
ROCKFIELDS
WATERFORD PLACE
CORPORATE PARK
KINGWOOD COMMON
WOODLAWN TERR
P.353
P.434
P.422
P.85
P.597
P.201
P.361
P.94
P.95
P.420
P.441
P.739
P.703
P.155
P.159
P.674
P.670
P.287
P.232
P.162
P.342
P.712
P.662
P.600
P.564
P.645
P.644
P.664
P.448
P.633
P.183
P.429
P.176
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P.732
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P.528
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P.615
P.470
P.302
P.301
P.613
P.363
P.709
P.710
P.482
P.421
P.82
P.81
P.80
P.86
P.88
P.89
P.401
P.686
P.475
P.310
P.382
P.332
P.330
P.233
P.618
P.228
P.227
P.483
P.484
P.224
P.243
P.223
P.224
P.34
P.36
P.39
P.58
P.420
P.500
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P.149
P.147
P.148
P.146
P.149
P.304
P.162
P.342
P.449
P.403
P.685
P.650
P.712
P.662
P.600
P.564
P.645
P.644
P.664
P.448
P.633
P.308
P.447
P.548
P.184
P.543
P.539
P.536
P.537
P.584
P.582
P.648
P.589
P.668
P.694
P.674
P.670
P.429
P.183
P.176
P.179
P.287
P.337
P.247
P.516
P.519
P.520
P.521
P.522
P.198
P.194
P.193
P.195
P.376
P.618
P.394
P.283
P.286

Jones Construction, Inc.
11606 Eastern Avenue
Baltimore, MD 21220
MHIC#45089

PROPOSAL

Date
3/1/2007

Name / Address
Woodland Service, Inc. 2318 Halls Grove Road Gambrills, MD 21054

Job Location:
OSPREY - 2701 ROLLING ROAD

Description	Total
REMOVE CONCRETE CURB AND GUTTER PAN AND REINSTALL CURB AND GUTTER PAN ACCORDING TO SPEC DRAWINGS OF COLBERT MATZ ROSENFELT, INC.	
REGRADE BACKFILL, SEED AND STRAW.	
REMOVE THREE OF VACUM UNITS. NOTE: PRICE DOES NOT INCLUDE REINSTALLATION.	
RELOCATE PROPANE TANK.	
RELOCATE AIR PUMP.	
COST FOR MATERIALS AND LABOR:	12,800.00
Total	12,800.00

Signature Sajid Chaudhry

Phone #	Fax #
410-335-4808	410-335-5022

PETITIONER'S

EXHIBIT NO. 9

PROTESTANT'S
EXHIBITS

TRANSCRIPTS

6

20070245 "A"
supplemental

CASE 07-245 X PROTESTANTS EXHIBITS 3/26/08

✓ 1. Petition For Special Exception 07-245-X

✓ 2. Zoning - Hearing Checklist.

✓ 3. Case 06-583 SPH - DZC.

✓ 4. Declaration of Easements, Covenants and Restrictions.

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 2701 Rolling Road

which is presently zoned ML IM

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

See attached

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Michael P. Tanczyn, Esquire

Name - Type or Print

Michael P Tanczyn

Signature

Michael P. Tanczyn, PA

Company

606 Baltimore Avenue Ste. 106

Address Telephone No.

Towson, MD 21204 410 296-8823

City State Zip Code

Legal Owner(s):

Woodland Services, LLC

Name - Type or Print

Sajid Choudhry

Signature

Name - Type or Print

By: Sajid Choudhry
~~Managing Member~~

Signature

2318 Halls Grove Road 3013246 8680

Address Telephone No.

Gambrills, MD 21054-1953

City State Zip Code

Representative to be Contacted:

Kenneth Colbert

Name

2835 Smith Avenue 410 653 3838

Address Telephone No.

Baltimore, MD 21209

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By LTM Date 11/30/06

DROP OFF

Case No. 07-245-X

REV 09/15/98

CBA
Pfo. No 1

Post Exh 1

Petit EXH 2

ZONING HEARING CHECKLIST

Revised 01/29/01

This checklist is provided to you, **for you information only, and is not to be considered legal advice**.

First, and most importantly: You must understand that the relief you have requested is a quasi-judicial decision and you are responsible for meeting the burden of law required by the Baltimore County Zoning Regulations (BCZR). A judicial hearing is an adversary process and, therefore, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence, and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the petition will be granted.

Second: You must understand that if a hearing is required, you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. But, if you are incorporated, it is considered **a requirement, that you be represented by an attorney**.

Third: It is strongly recommended that you read and understand the requirements of the BCZR.

Fourth: No employee of the Department of Permits and Development Management (PDM) may provide legal advice to anyone. The representatives and opinions of any employee are not to be construed as definitive in any case. Only the decision of the Zoning Commissioner rendered after the statutory required public hearing is considered dispositive in matters relating to the interpretation of the BCZR.

Even though there may not be opposition in a given case, your request may be denied.

For further information or to make an appointment, please contact:

Zoning Review
Department of Permits & Development Management
111 W. Chesapeake Avenue, Room 111
Towson, MD 21204
Telephone: 410-887-3391

NON-RESIDENTIAL PROPERTIES

VARIANCES
SPECIAL HEARINGS
SPECIAL EXCEPTIONS

CBA Pkg. No 2

post BOM3

IN RE: PETITION FOR SPECIAL HEARING E/S Rolling Road, 1,100 feet NW of Tudsbury Road 2nd Election District 4th Councilmanic District **(2701 Rolling Road)** Woodland Services, LLC *Legal Owner* Windsor Rolling Road Property, LLC *Petitioner*	* * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 06-583-SPH

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 2701 Rolling Road. The owner of the subject property is Windsor Rolling Road Property LLC. The Petition was filed by Woodland Services, LLC, owner of a nearby property, for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to confirm whether the Order and site plan approved in Zoning Case 02-016-X is void.

The property was posted with Notice of Hearing on June 24, 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 June 22, 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.

CBA
pfa No 3

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "**Declaration**") is made as of the 13th day of MAY, 2002, among **ROLLING ROAD LLC**, a Maryland limited liability company **ROLLING ROAD MINIS LLC**, a Maryland limited liability company, **RUTHERFORD TIGER PROPERTIES LLC**, a Maryland limited liability company, **RUTHERFORD BURGER INVESTMENTS LLC**, a Maryland limited liability company, and **RUTHERFORD WINDSOR LLC**, a Maryland limited liability company (collectively, the "**Declarant**").

RECITALS

The Declarant are the owners of certain parcels of land located in Baltimore County containing approximately 19.5 acres into five (5) parcels of land designated as Lot B-5, Lot B-6, Lot B-7, Lot B-8, and Lot B-9 (each a "**Lot**", and collectively, the "**Property**"), as shown on the Subdivision Plat dated September 15, 1999, entitled "A Resubdivision of Lot B-3 and Lot B-4, R.B.C. South," and recorded among the Land Records of Baltimore County on October 27, 1999, in Plat Book S.M. 72, at page 22; a copy of which is attached hereto as **Exhibit A** (the "**Plat**"). Declarant wishes to create certain easements, covenants and restrictions in order to provide for the orderly, integrated and efficient development and operation of the Property.

DECLARATIONS

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, hypothecated, conveyed, leased, used, occupied and improved subject to the easements, covenants and restrictions hereinafter set forth:

1. **Definitions**. As used in the provisions of this Declaration, the following terms shall have the meanings ascribed to them in this Section 1:

"**Center Roadway Easement Area**" means the area identified as such on **Exhibit B** attached hereto.

"**Construction Notice**" has the meaning given it in Section 3.2 below.

"**Default Rate**" means a rate of interest equal to the lesser of (a) four percent in excess of the prime rate as announced from time to time in the "Money Rates" section of the Wall Street Journal, or, if none, then four percent in excess of the prime rate as announced from time to time by the then largest commercial bank in the United States of America (as determined by total assets held) and (b) the maximum rate permitted by law.

"**Easement(s)**" means any one or more of the easements set forth in this Declaration.

"**Maintenance**" means the maintenance, repair, and replacement of the subject matter.

"**Occupant**" means any Person entitled to the use and occupancy of any portion of a Parcel under any lease, sublease, license, concession, or other similar agreement, or the Owner of such Parcel if the Owner occupies the Parcel.

CBA
PROT EXH 4

Case No.: 07-245 X OSPREY FOOD MARKET

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	02-016-X	LEONARD WASILEWSKI, CODE OFFICIAL CASE 06-9534
No. 2	SITE PLAN FROM 02-016-X	
No. 3	SITE PLAN - 07-245-X	
No. 4	Collectively Photo's A (Panaramic View)	
No. 5	ZONING MAP	
No. 6	Lot 7 - Subdivision PLAT (Subject Property)	
No. 7	TAX MAP	
No. 8	Aerial Photograph	
No. 9	SIGNED CONTRACT FOR SITE REVISIONS TESTIFIED TO BY COLBERT	
No. 10	PERMIT APPLICATIONS	
No. 11	SIGN PERMITS - for Remaining Signs	
No. 12		

PROT EXH 1

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 6, 2006

To: Zoning File

From: Leonard Wasilewski
Code Inspector

Subject: 2701 S. Rolling Rd.
21244
Reference: Code Enforcement Case: 06-9534

To Whom It May Concern:

The property located at the above listed address was inspected as the result of a complaint to Code Enforcement and the following deficiencies were noted.

1) Additional parking spaces may be required due to extra accessory uses and deficient parking space widths not shown on the newest site plan dated 10/16/06.
   a) (4) car vacuums
   b) (1) air only dispenser
   c) (1) ATM
   d) (1) kerosene pump
   e) (6) employees maximum per shift verified be Manager.
   f) (3) parking spaces in front of car wash have deficient widths.

Required 8.5ft. widths x 3 = 25.5ft. Actual site measures 23.5ft total for three spaces curb to curb.

2) Signs erected without permits.
   a) (2) directional
   b) (1) canopy
   c) (5) wall signs on car wash

3) Propane tank in the landscape transitional area.

Protestant's EXH 1

6 on Target Shift

4 VACs on Site

1 ATM

1 Kerasene Pump

Per Site Visit

by Lenny W.

Case Entry/Update
Format . . . . : CASREC

Mode . . . : CHANGE
File . . . . : PDLV0001

Dt Rec: 11062006 Intake: GF Act: Case #: 06-9534
Insp: WASILEWSKI Insp Grp: ENF Insp Area: 2 Tax Acct: 2300007603
Address: 2701 ROLLING RD Apt #: Zip: 21244
Owner: WOODLAND SERVICES LLC, 2318 HALLS GROVE RD, GAMBRILLS MD 21054-1953

Problem Descript.: SETBACK PROBLEMS

Complainant Name (Last): JABLON (First): ARNOLD
Complainant Addr:
Complainant City: State: Zip:
Complainant Phone (H): (W):
Date of Reinspection: 11302006 Date Closed: Delete Code (P):

Case Entry/Update
Format . . . . : CASREC

Mode . . . . : CHANGE
File . . . . : PDLV0001

Notes: 11/14/06 INSPECTED PROPERTY NOTICED INCONSISTANCIES PERSUANT TO LETTER FROM A JABLON. NEED TO GET SITE PLAN FROM 02-016X. 4 VACS 1 AIR PUMP 1 KERSENE PUMP 1 ATM,NUMEROUS SIGNS ERECTED W/O PERMITS, DID NOT COUNT EMPLOYEES.*****
****11/15/06 MET WITH SITE MGR. TOLD HIM ABOUT DEFICIENCIES INCLUDING NO SPECIAL EXCEPTION FOR A CAR WASH IN CONJUNCTION WITH A SERVICE STATION.HE ALSO VARIFIED THAT THERE ARE 6 EMPLOYEES MAX PER SHIFT. NOTE: PER JT THE ZONING ORDER # 06-583-SPH GIVES NOTICE OF CORRECTION. LW/LW*****
****11/24/06 MET WITH MIKE TANCZYN ESQ WHO SAID THAT HE HAS ALREADY DROPPED OFF PACKAGE FOR S/E TO ZONING. EXPLAINED SIGNS MISSING PERMITS. AND PARKING DEFICIENCIES. HE SAID HE WILL SEND ME A LETTER FOR THE FILE AND GIVE ME AN ITEM NUMBER AS SOON AS HE GETS ONE FROM ZONING. I WILL HOLD OFF ON CITATION UNTIL I GET THE LETTER AND GET DIRECTION. P/U 12/05/06. LW/LW****

Case Entry/Update Mode . . . . . : CHANGE
Format . . . . . : CASREC File . . . . . : PDLV0001

Notes: 11/14/06 INSPECTED PROPERTY NOTICED INCONSISTANCIES PERSUANT TO LETTER FROM A JABLON. NEED TO GET SITE PLAN FROM 02-016X. 4 VACS 1 AIR PUMP 1 KERSENE PUMP 1 ATM,NUMEROUS SIGNS ERECTED W/O PERMITS, DID NOT COUNT EMPLOYEES.*****
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****12/06/06 ISSUED CORRECTION NOTICE TO OWNER, R/A AND FAXED COPY TO M. TANCZIN ESQ. FOR CAR WASH W/O S/E, DEFICIENT PARKING SPACES, PARKING SPACE WIDTHS LESS THAN 8'6" AND SIGNS ERECTED W/O PERMITS.P/U 12/29/06. LW/LW****

F3=Exit F5=Refresh F6=Select format
F9=Insert F10=Entry F11=Change

'timore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Off. ilding
111 West Chesapeake Avenue
Towson, MD 21204

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:
06-9534	2300007603	ML-IM

Name(s): Woodland Services / R/A Ishtikhar Ahmad
2318 Halls Grove Rd. / 4816 Worthington Reading Way

Address: Gambrills Md. 21054-1953 / Millersville, Md 21108

Violation Location: 2701 S. Rolling Rd 21244

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCZR 253; 102.1; 405; 405.4E; 405.4.A.3d.; 1(1/5); 450.4

1. Cease the operation of a car wash in conjunction with a service garage without a Special Exception. (02-011-X site plan)
2. Non Compliance with an approved site plan. Parking - Accessory uses requiring additional parking spaces not shown: (3) additional carvacs total (4) (1) additional air pump (1) ATM additional employees per shift. 35 spaces shown 40 required per site visit.
3. Variances may be required for parking spaces and for deficient parking space widths. Note: 3 spaces found to be less than 8'6" in width.
4. Remove propane tank installed within the landscape transition area. 5. 8 signs erected without permits (remove or apply for permits)

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

On or Before:	Date Issued:
12/29/06	12/6/06

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: A Bilewski

Copy Faxed to Michael Tomczyn 410 296 8827

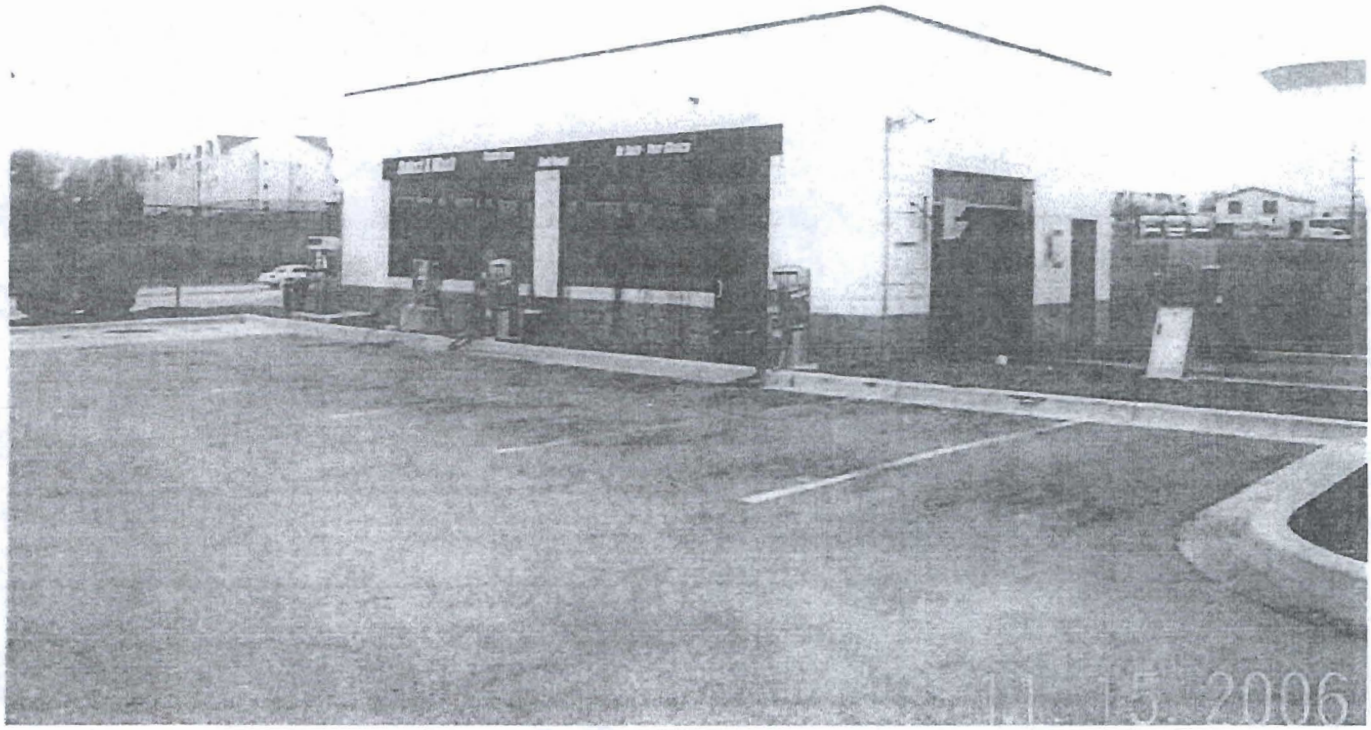
INSPECTOR: [signature]

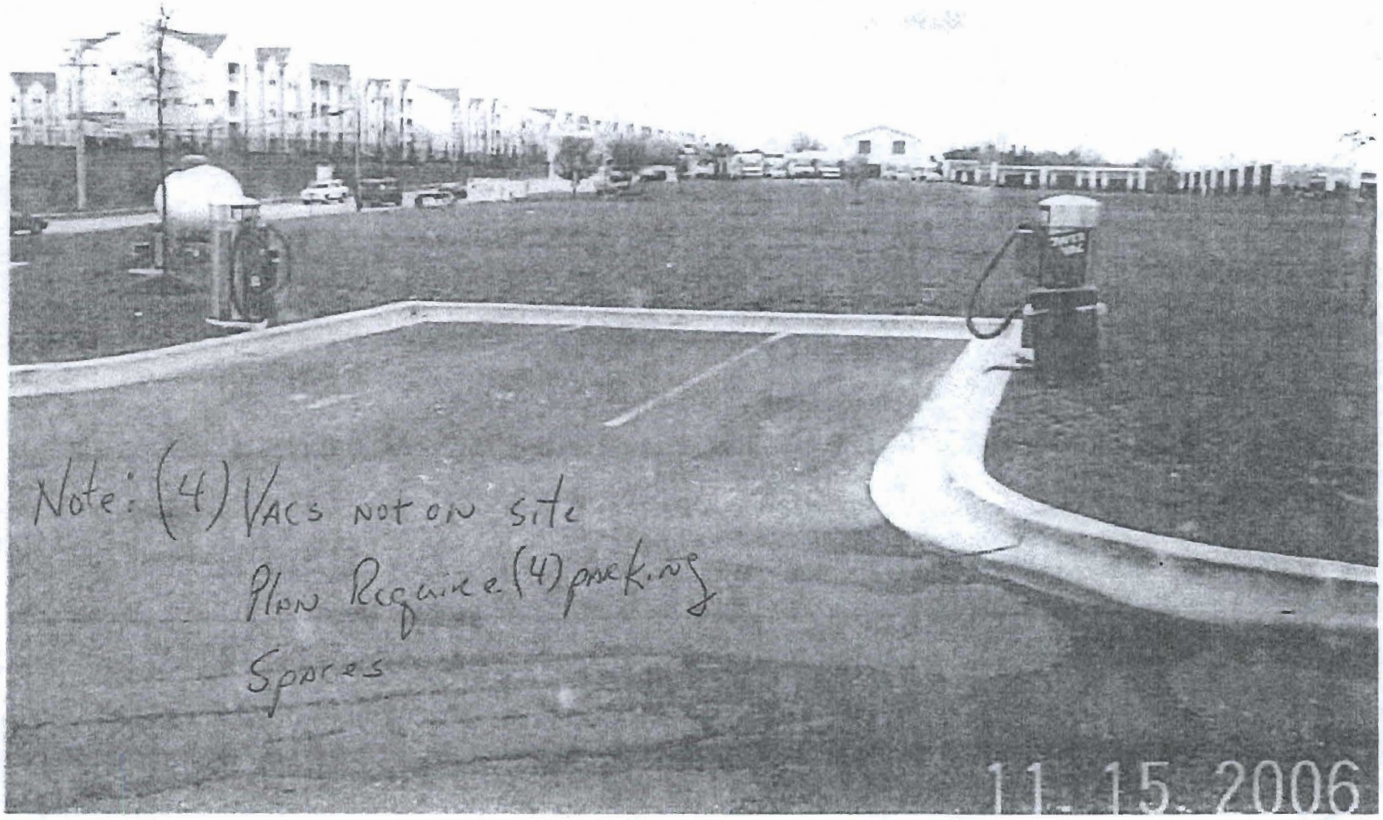
BCC 32-3-102, 602 **STOP WORK NOTICE**

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:

On or Before:	Date Issued:

INSPECTOR: _____


11. 15. 2006


Note: (4) VACS NOT ON SITE
PLAN Require (4) parking
Spaces
11. 15. 2006

IN THE MATTER OF:	* BEFORE THE
WOODLAND SERVICES, LLC -	* COUNTY BOARD OF APPEALS
Legal Owner/Petitioner	* OF
2791 Rolling Road	* BALTIMORE COUNTY
2nd Election District	* Case No. 07-245-X
4th Councilmanic District	* March 20, 2008

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at Hearing Room #2, Second Floor, Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204, at 9 a.m., March 20, 2008.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	*	BEFORE THE
WOODLAND SERVICES, LLC-	*	COUNTY BOARD OF APPEALS
Legal Owner: WINDSOR ROLLING	*	OF
ROAD PROPERTY LLC - Petitioner	*	BALTIMORE COUNTY
2701 Rolling Road	*	Case No. 06-583-SPH
	*	October 23, 2007
and	*	
IN THE MATTER OF 2701	*	
ROLLING ROAD	*	Case No. 07-245-X

* * * * *

The above-entitled matters came on for hearing before the county Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9 a.m., October 23, 2007.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

LAW OFFICES
MICHAEL P. TANCZYN, P.A.
Suite 106 • 606 Baltimore Avenue
Towson, Maryland 21204
Phone: (410) 296-8823 • (410) 296-8824 • Fax: (410) 296-8827

November 6, 2006

VIA HAND-DELIVERY
W. Carl Richards
Zoning Administrator
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Petition for Special Exception
2701 Rolling Road

Dear Carl:

Enclosed herewith please find a drop off Petition for Special Exception for 2701 Rolling Road. We also enclose the following:

1. 12 copies of the plat, folded;
2. 3 copies of a sealed description;
3. 200 scale zoning map with the property outlined thereon;
4. Our check for costs.

Please schedule this for hearing as soon as possible.

Very truly yours,

Michael P. Tanczyn, Esquire

MPT/cbl
Encl.
cc: client

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

8 December 2006

Timothy M. Kotroco, Esq.
Director, Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: In Re: Woodland Services LLC
Case No. 07-245-X

Dear Mr. Kotroco:

Please enter my appearance in this matter on behalf of Windsor Rolling Road Property, LLC.

Prior to scheduling this matter, please grant me the courtesy of letting me know what dates are available in order to avoid the possibility of a request for continuance. My client intends to take part and to present testimony and evidence in opposition to this request. I would also appreciate copies of all correspondence and ZAC comments when made.

Thank you for your cooperation.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

28 December 2006

Timothy M. Kotroco, Esq.
Director, PDM
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Woodland Services, LLC
Case No. 07-245 X

Dear Mr. Kotroco:

I am in receipt of a copy of a letter Michael Tanczyn, Esq. wrote to you dated 26 December 2006, in which he voices concerns to my request for a postponement in the above captioned matter.

While Mr. Tanczyn is correct in his accusation that my client is a competitor to his client, he fails to mention that his client objected to and has appealed a special exception for same and similar uses that was granted by the Zoning Commissioner of Baltimore County to my client. Yes, the bottom line is that these matters are interrelated and they do involve competitors.

However, what Mr. Tanczyn also fails to mention is that the code enforcement complaint filed by my client involves not just the continued operation of the car wash, which was found to be in violation of the original order, but also continued violations of various other zoning requirements that were confirmed by the code inspector after his site visit.

I requested the postponement because Jack Dillon, an expert land planner, will be out of the country for the entire month of February. Mr. Dillon, who is familiar with the instant site and is also intimately familiar with the entire surrounding neighborhood, will be an important witness. Certainly, my request for postponement was made well in advance to the necessary posting as required by law. And equally as important is that the code enforcement complaint is not conditioned on the petition for special exception filed by Mr. Tanczyn's client. As far as I know, no request for variances have been filed, the need for which was confirmed by the code inspector. The car wash is still in violation of Deputy Zoning Commissioner Murphy's order. These continued violations should not be permitted to occur even with the pending special exception for a car wash. Mr. Tanczyn's client should be held to the same standards as his client has imposed on mine. If my client cannot proceed to open its business because of the actions

taken by Mr. Tanczyn's client, then Mr. Tanczyn's client should not be permitted to operate his until all of the outstanding zoning issues are resolved.

The request for postponement, I suggest, is warranted. Thank you for your consideration.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

VENABLE LLP

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517

Telephone 410-494-6200
Facsimile 410-821-0147

www.venable.com

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

8 December 2006

Timothy M. Kotroco, Esq.
Director, Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: In Re: Woodland Services LLC
Case No. 07-245-X

Dear Mr. Kotroco:

Please enter my appearance in this matter on behalf of Windsor Rolling Road Property, LLC.

Prior to scheduling this matter, please grant me the courtesy of letting me know what dates are available in order to avoid the possibility of a request for continuance. My client intends to take part and to present testimony and evidence in opposition to this request. I would also appreciate copies of all correspondence and ZAC comments when made.

Thank you for your cooperation.

Sincerely,

Arnold Jablon
AEJ/aj

c: Michael Tanczyn, Esq.

Case No.: 07-245 X OSPREY FOOD MARKET

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	02-016-X	LEONARD WASILEWSKI, CODE OFFICIAL CASE 06-9534
No. 2	SITE PLAN FROM 02-016-X	
No. 3	SITE PLAN - 07-245-X	
No. 4	Collectively Photo's A (Panaramic VIEW)	
No. 5	ZONING MAP	
No. 6	Lot 7 - Subdivision PLAT (Subject Property)	
No. 7	TAX MAP	
No. 8	Aerial Photograph	
No. 9	SIGNED CONTRACT FOR SITE REVISIONS TESTIFIED TO BY COLBERT	
No. 10	PERMIT APPLICATIONS	
No. 11	SIGN PERMITS - for Remaining Signs	
No. 12		

MERCIAL
G

GRO

2/15/88

IDE PROPERTY

IDE PARCELS

D SITE

PDM #II-154

Site Plan to Accompany Zoning Petition

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80

GRAPHIC SCALE
1 inch = 20 ft.

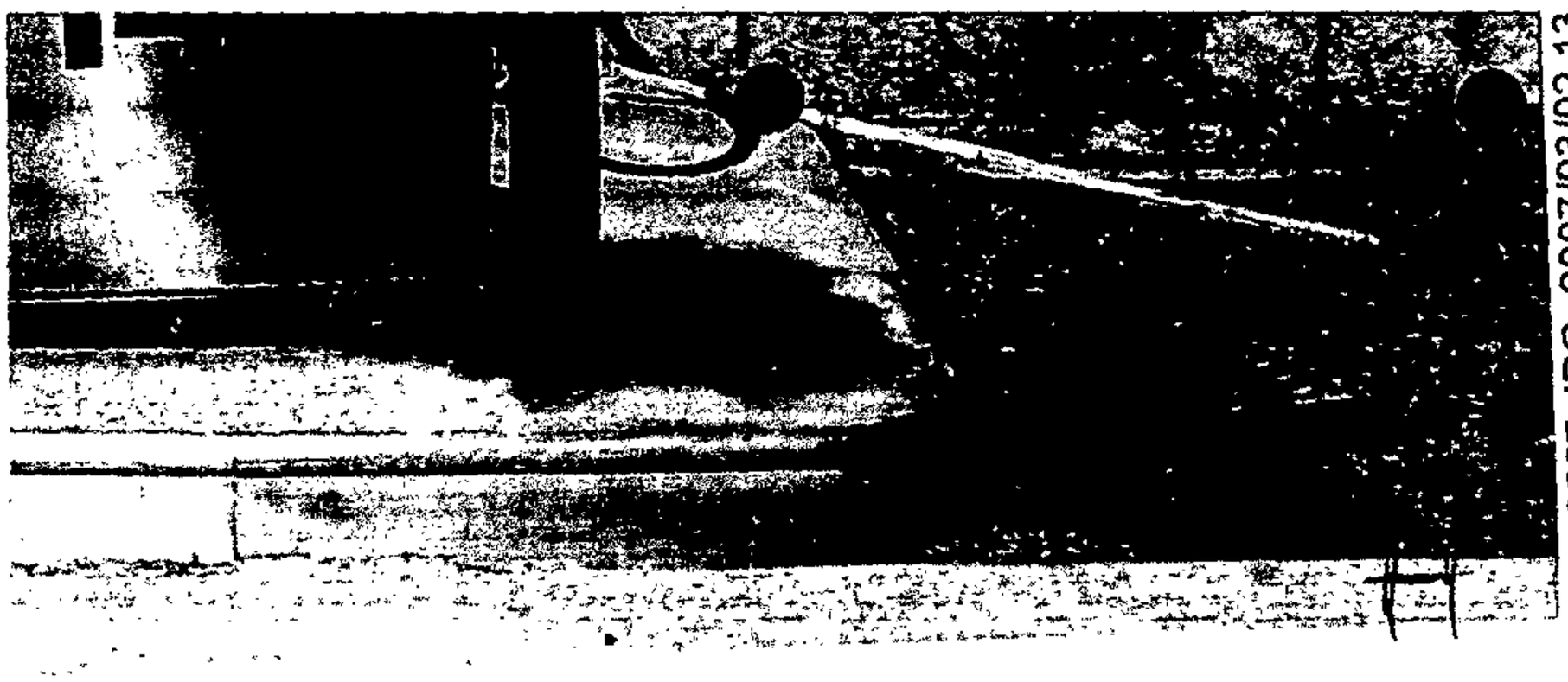
Colbert Matz Rosenfelt, Inc.

*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

PETITIONER'S
EXHIBIT NO. 3

SCALE:	1" = 20'
DATE	OCT 16, 2006
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE: 2001192ZON2006.dwg	
DRAWING NUMBER:	ZON-1
SHEET 1 OF 1	

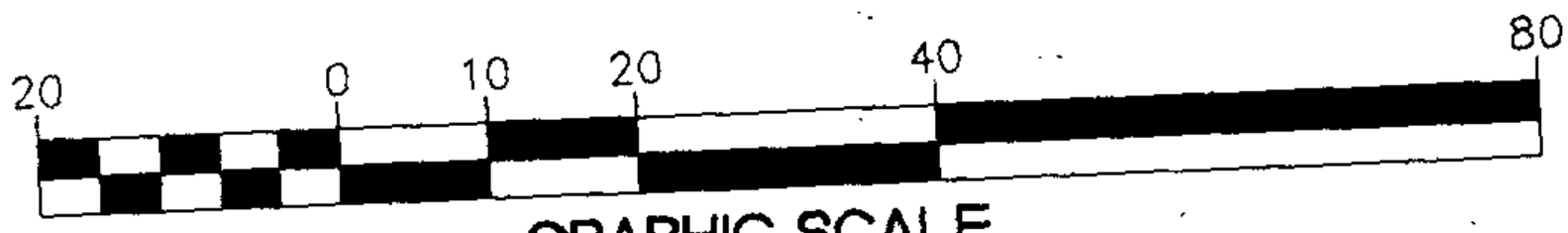
NO.	DATE	REVISIONS:	BY



ZONING EXHIBIT

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND



GRAPHIC SCALE
1 inch = 20 ft.

Colbert Matz Rosenfelt, Inc.

*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

NO.	DATE	REVISIONS:	BY

SCALE:	1" = 20'
DATE	Mar. 2, 2007
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE: 2001192ZON2006.dwg	
DRAWING NUMBER:	EXHIB-1
SHEET 1 OF 1	

2' S 4

PETITIONER'S

EXHIBIT NO. 8

BALTIMORE COUNTY
DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
111 WEST CHESAPEAKE AVENUE
TOWSON, MD 21204
410-887-3391

B652334
B 10 — P. 145
CS# A557373

SIGN USE PERMIT

Permit Fees are Non-Refundable; Make Check Payable to "Baltimore County, Maryland"

PROPERTY ADDRESS 2701. Rolling Rd. windsor mill MD. 21244.

BUSINESS NAME OSPREY FOOD MART. ZONING _____

OWNER'S NAME SATEA Choudhry / TFTIKHAR AHMED. PHONE NO. 443-429-3507. HISTORIC DISTRICT: [ ] Yes [X] No

MAILING ADDRESS 2701 Rolling Rd. windsor mill. MD. 21244.

APPLICANT/OWNER'S AGENT RIFFAT ATA PHONE NO. 443-429-3507.

SIGN COMPANY NAME _____ PHONE NO. _____

TYPE OF SIGN: TAX ACCOUNT NO. ____/____/____

[ ] Temporary - Including Real Estate/Construction/Event Temporary Sign(s) in the Last Year: [ ] Yes [ ] No

[X] Permanent [ ] Changeable Copy [ ] Wall [ ] Face Change Only [ ] Non-Illuminated

[ ] Freestanding [ ] Pylon [ ] Monument [ ] Illuminated (separate electrical permit required)

Size: _____ feet X _____ feet = _____ square feet Height: _____ feet (freestanding signs)

Property Line/Street Right-of-Way Setbacks: front _____, sides _____ and _____, and rear _____.
NOTE: A construction plan, drawn to scale and clearly showing that all requirements have been met, must be attached; a site plan also must be attached for freestanding signs.

PROHIBITIONS - including roof signs (Sections 450.5.B.7 and 450.6.A, Baltimore County Zoning Regulations):

1. Signs cannot impair motorist's clear view of traffic or government signs. All signs are subject to Section 102.5, BCZR.
2. Signs cannot imitate or resemble government signs, except for private traffic control and notice signs.
3. Signs cannot be placed in or project into or above street right of way or government property.
4. Sign or framework cannot obstruct window or opening for light and air or access to building, fire hydrant, or stand pipe.
5. Vehicle cannot be parked for the purpose of displaying an attached sign.
6. Except for flags exempted, flags, pennants, ribbons, streamers, tethered balloons, laser projections, and similar objects are prohibited.
7. Portable signs are prohibited, except for A-frame and sandwich board signs issued a use permit in B.M. - C.T. zones.
8. There can be no display or simulation of moving parts or message, except for an outdoor advertising sign with tri-vision, a changeable copy sign, or a thermometer, barometer, weather vane, barber pole, or clock.

Work Description (including number of signs, special conditions, materials, locations, and size):
336 inches long and 14 inches wide. It is the only sign on the side of the building.
NO ADVERTISING SIGNAGE ON BLDG.

PLEASE PRINT OR TYPE LEGIBLY

OWNER/AGENT CERTIFICATION

I hereby certify, under penalty of law, that the proposed sign will be located so as not to violate any codes and that the information supplied is true, complete, and correct.

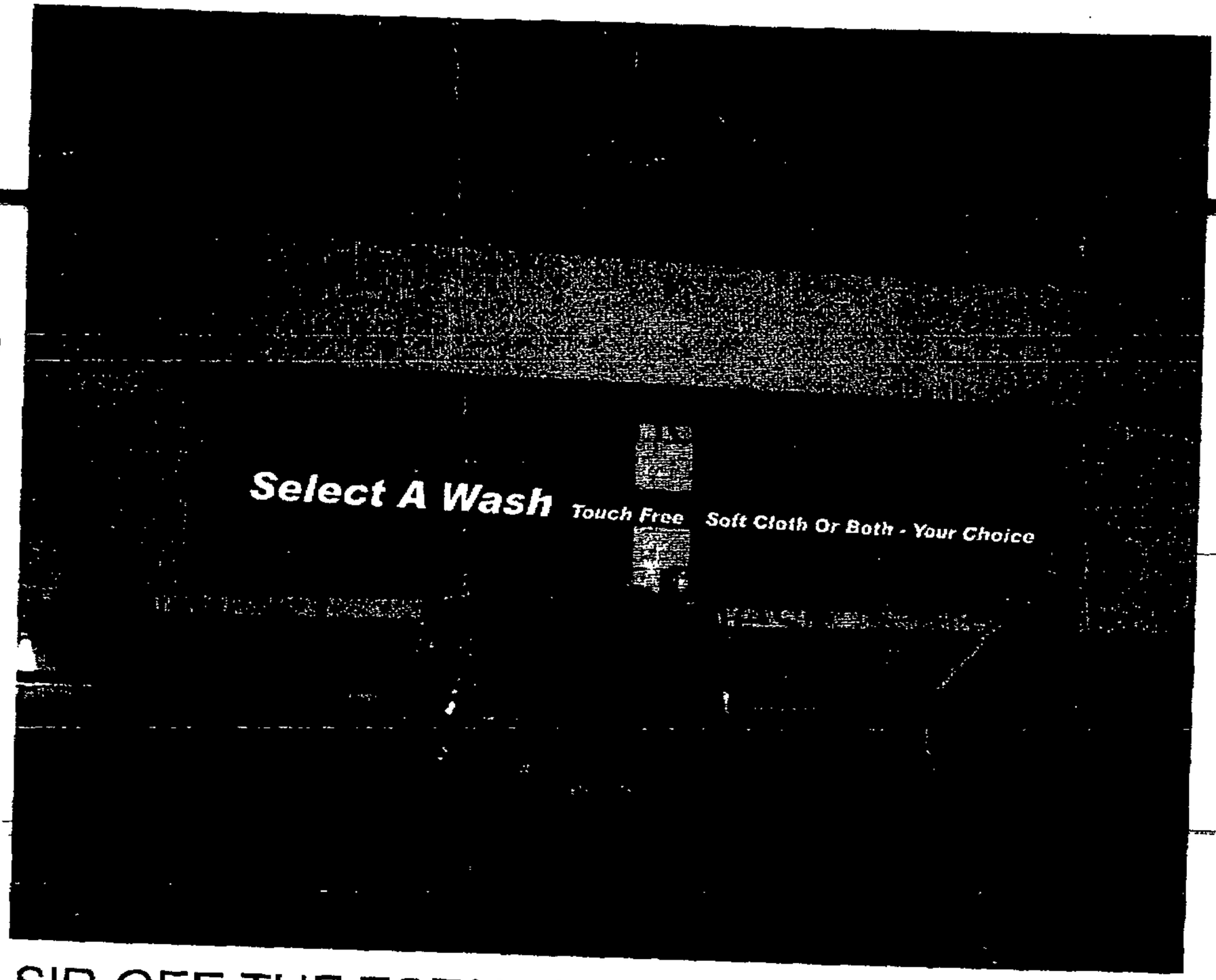
Signature _____ Date 12-20-06 Print/Type Name RIFFAT ATA

Copies: *White - Office; Yellow - Applicant (keep this copy for your permanent records)*

Authority under Section 500.4, BCZR **PDM APPROVAL** (SIGN ONLY)

Signature _____ Initials JCM Date 12-20-06

REV 8/98



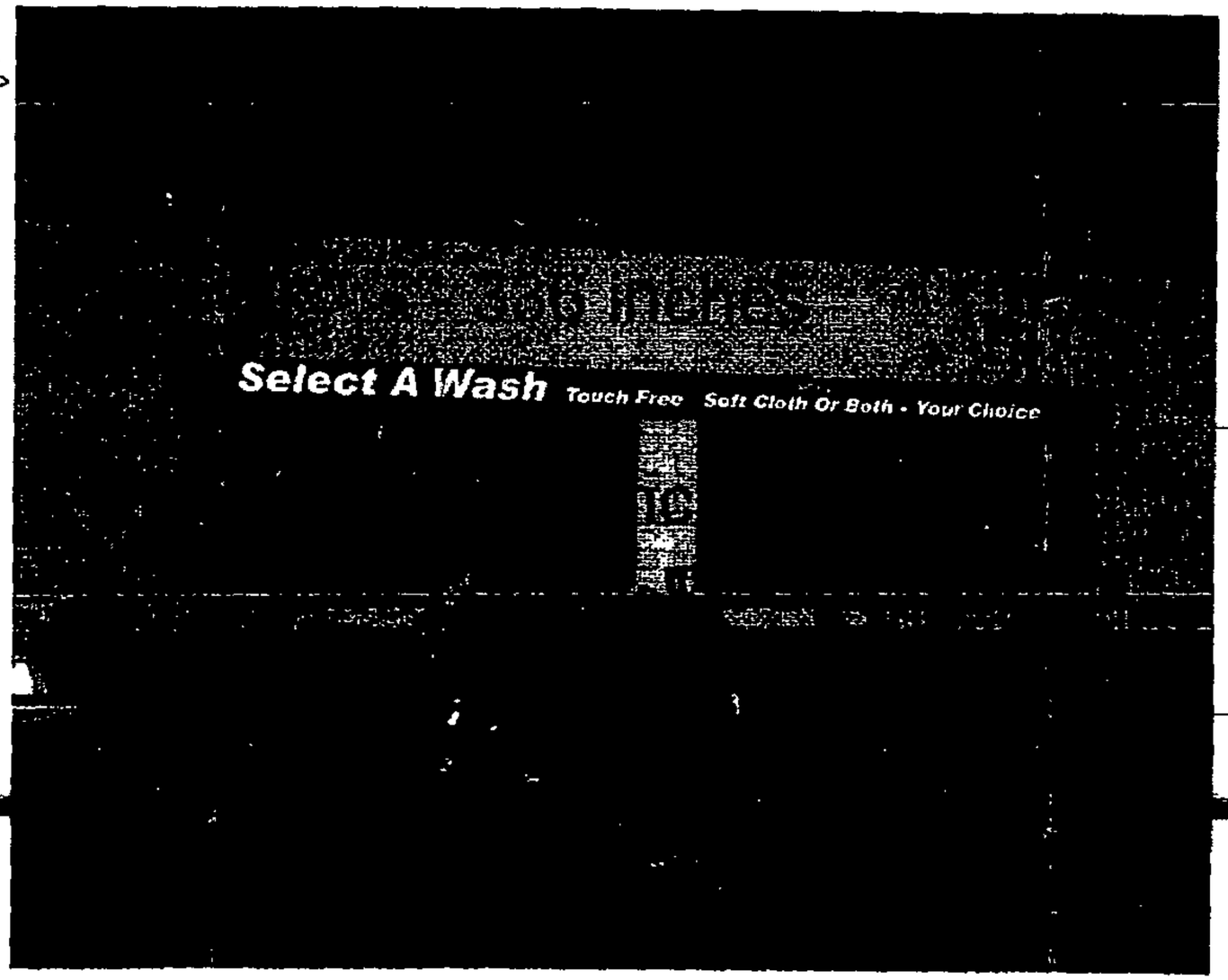
115 inches

SIR GEE THE TOTAL COST OF WHITE LETTERS AS PER ABOVE MENTIONED HEIGHT AND WIDTH IS $385 WITH INSTALLATION +TAX

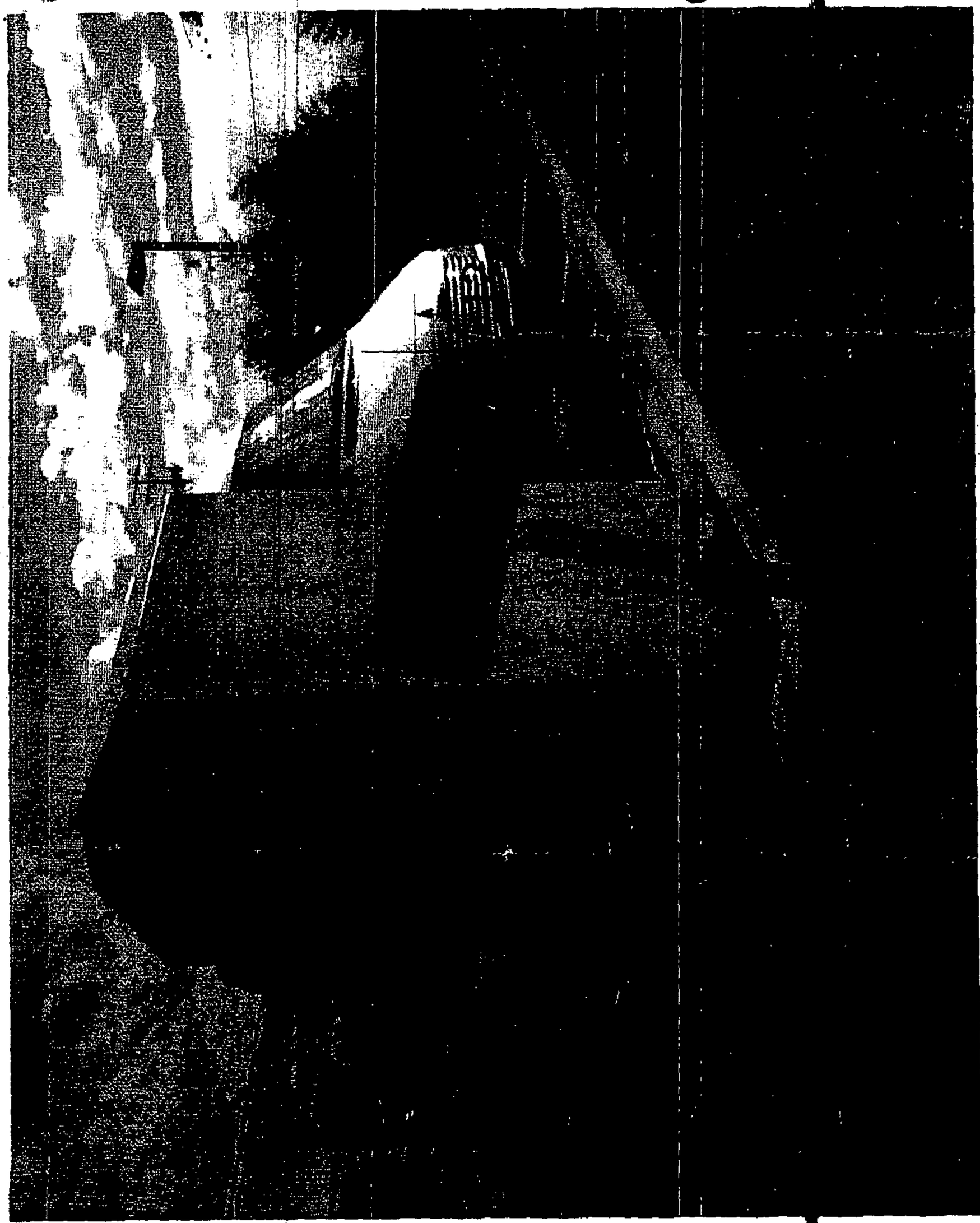
Select A Wash LETTER HEIGHT 12 INCHES

Touch Free Soft Cloth Or Both - Your Choice LETTER HEIGHT 6 INCHES

*
WHITE LETTERS
ON BURGUNDY
BACKGROUND



115 inches



GENERAL NOTES

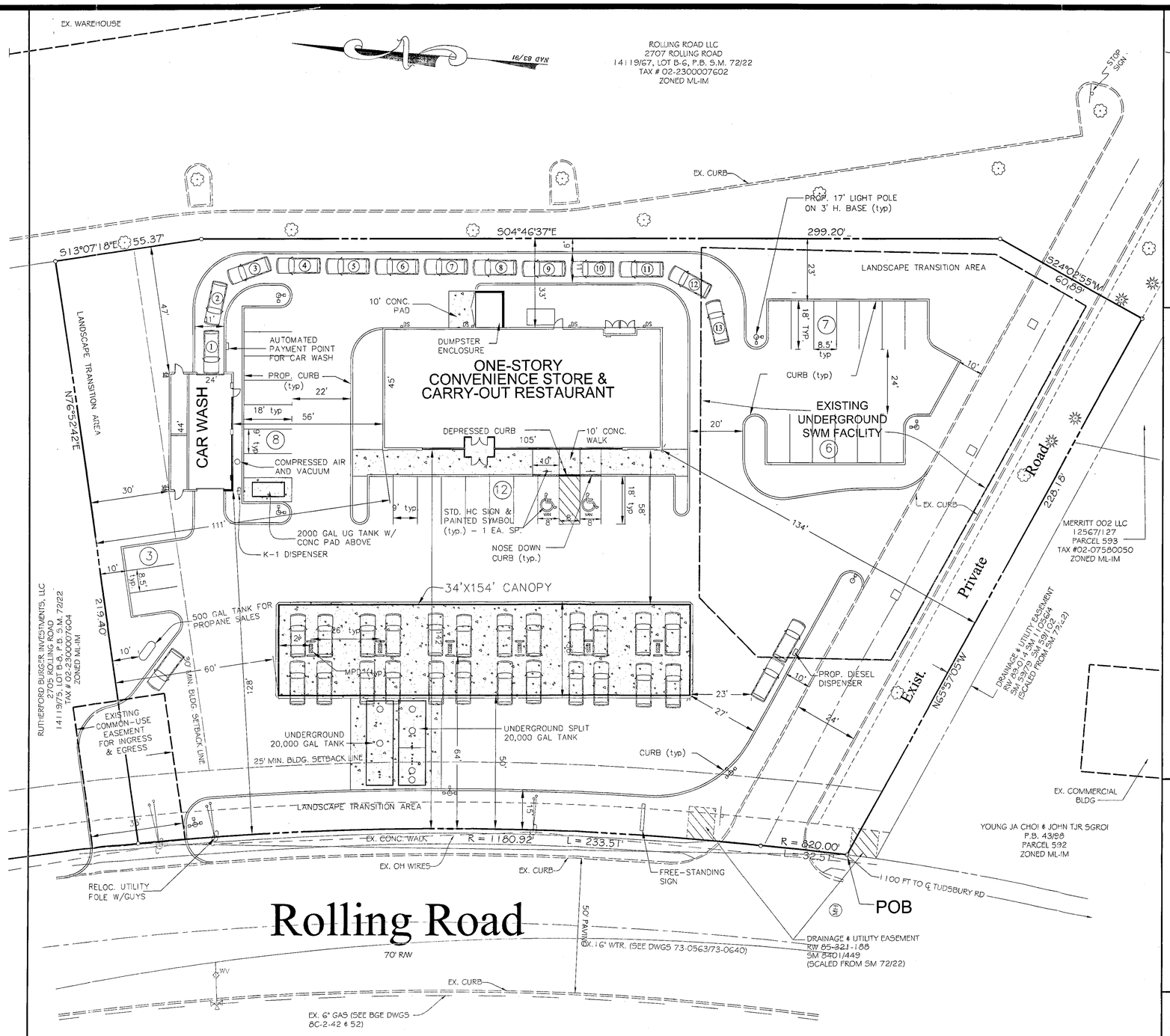
1. Owner:
   WOODLAND SERVICES LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
2. Applicant:
   WOODLAND SERVICES, LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
3. Site Data:
   Lot B-7
   Plat Ref. - 72/22,
   "Resubdivision of Lots B-3 & B-4, RBC South"
   Tax Map 87, Grid 17, P. 739
   Deed Reference -16457/693
   Tax Account #02-2300007603
   Site Area - 75,698 sf (1.744 acre+/-)
   Council District 4
4. Zoning - Zoned ML-IM Zoning Map No. 87C2
5. Existing Use - Fuel Service Station w/convenience store & carry-out restaurant
   Proposed Use - Fuel Service Station w/convenience store, carry-out restaurant and Rollover Carwash
6. All existing information shown hereon is a compilation of field run topography, Baltimore County GIS, public record information, and surveys and plans by others.
7. Stormwater Management is provided in the existing onsite SWM facility for RBC South.
8. Off-Street Parking Calculations - Required Parking -
   Convenience store - 3,750 sf @ 5 sp./1,000 sf = 19 sp.
   Carry-out restaurant - 1,000 sf @ 5 sp./1,000 sf = 5 sp.
   1 sp./employee on largest shift = 6 sp.
   Car wash drying spaces = 2 sp.
   Car wash additional spaces = 2 sp.
   Air/Vacuum = 1 sp.
   ATM - 1 sp

   Total Required = 36 spaces
   Total Provided = 36 spaces, incl. 2 handicap
9. Site Area Calculations -
   Convenience store - 3,750 x 4 = 15,000 sf
   Carryout restaurant - 1,000 x 6 = 6,000 sf
   Service station - 1,500 x 12 = 18,800 sf

   Total Required - 39,000 sf
   Total Provided - 75,698 sf
10. Proposed Building Area -
    Convenience store and restaurant -- 4,750 sf
    Car wash - 1,056 sf
    Total - 5,806 sf
    Floor Area Ratio: 5,806/75,698 = 0.08
    Maximum F.A.R. permitted - 2.0
11. A rest room facility, water and compressed air shall be provided for customers.
12. All paving shall be durable and dust-free bituminous.
13. Stacking required for car wash - 9 spaces
    Stacking provided - 13 spaces
14. This site is not within a 100-year floodplain or the Chespeake Bay Critical Area. The site is not within a Historic District and contains no historic buildings.
15. Street Setbacks

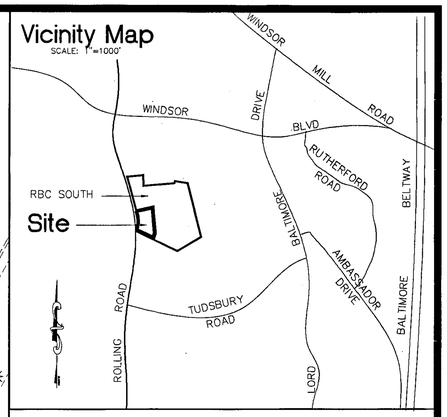
	Required	Proposed
Building	35 ft.	142 ft.
Fuel Pumps	25 ft.	64 ft
Canopy	15 ft.	50 ft.
Car Wash	50 ft	128 ft
Side Setback	30 ft	30 ft
Rear Setback	30 ft	33 ft

16. All signage will comply with BCZR SEction 450.
17. Rated capacity of Car Wash: 12 cars per hour
18. Previous Commercial Permits from current available Baltimore County records and company files:
    B528707 Stormwater Management
    B594554 Sign
    B560474 Above ground propane tank
    B594585 Awning
    B487914 Commercial Building
    B493612 Grading



Vicinity Map

SCALE: 1"=1000'



Benchmark/Datum

COORDINATES AND NORTH SHOWN HEREON REFER TO THE NAD 83/91 DATUM ELEVATIONS SHOWN HEREON REFER TO THE NAVD 88 DATUM BOTH OF WHICH ARE BASED ON THE FOLLOWING BALTIMORE COUNTY TRAVERSE STATIONS:

STATION	NORTHING	EASTING	ELEVATION
#469	602482.65	1380631.99	436.91

CAPPED PIPE AT NORTHWEST CORNER OF ROLLING ROAD AND DOGWOOD ROAD, ADJACENT TO STONE MEMORIAL.

#470	603097.06	1380552.11	458.01

CAPPED PIPE AT NORTHEASTCORNER OF ROLLING ROAD AND SAWMILL BRANCH ROAD, 22'+/- NE OF SD INLET.

PDM #II-154

Site Plan to Accompany Zoning Petition

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80
GRAPHIC SCALE
1 inch = 20 ft.

ZONING HISTORY

CASE NO 02-016-X: SPECIAL EXCEPTION GRANTED FOR FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND A CARRYOUT RESTAURANT, GREATER THAN 1500 SQ. FT. GRANTED SEPT. 21, 2001.

CASE NO 06-583-SPH: SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID DENIED IN REGARD TO THE SPECIAL EXCEPTION FOR THE FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND CARRY OUT RESTAURANT JULY 26, 2006. SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID GRANTED IN REGARD TO THE SPECIAL EXCEPTION FOR THE CAR WASH JULY 26, 2006.

DRC History

ORIGINAL CRG PLAN APPROVED 12/15/88

DRC #08126N
ON 8/19/96, DRC GRANTED 1ST REFINEMENT TO CRG PLAN TO DIVIDE PROPERTY INTO PARCELS.

DRC #07069A
ON 7/23/99, DRC GRANTED 2ND REFINEMENT TO CRG PLAN TO DIVIDE PARCELS INTO LOTS.

DRC #08169A
ON 9/23/99, DRC GRANTED 3RD REFINEMENT TO CRG PLAN TO ADD SITE LAYOUTS FOR LOTS 1 & 2.

STATE OF MARYLAND
KARL J. JOHNSON
No. 19851
PROFESSIONAL ENGINEER

Colbert Matz Rosenfelt, Inc.
*Engineers * Surveyors * Planners*
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

SCALE:	1" = 20'
DATE	OCT 16, 2006
JOB NO.:	2001192
DESIGNED:	KJC/TNW
DRAWN:	TNW/KJC
CHECKED:	KJC
FILE:	2001192ZON2006.dwg
DRAWING NUMBER:	ZON-1

NO.	DATE	REVISIONS:	BY

SHEET 1 OF 1

Pet #1

245

GENERAL NOTES

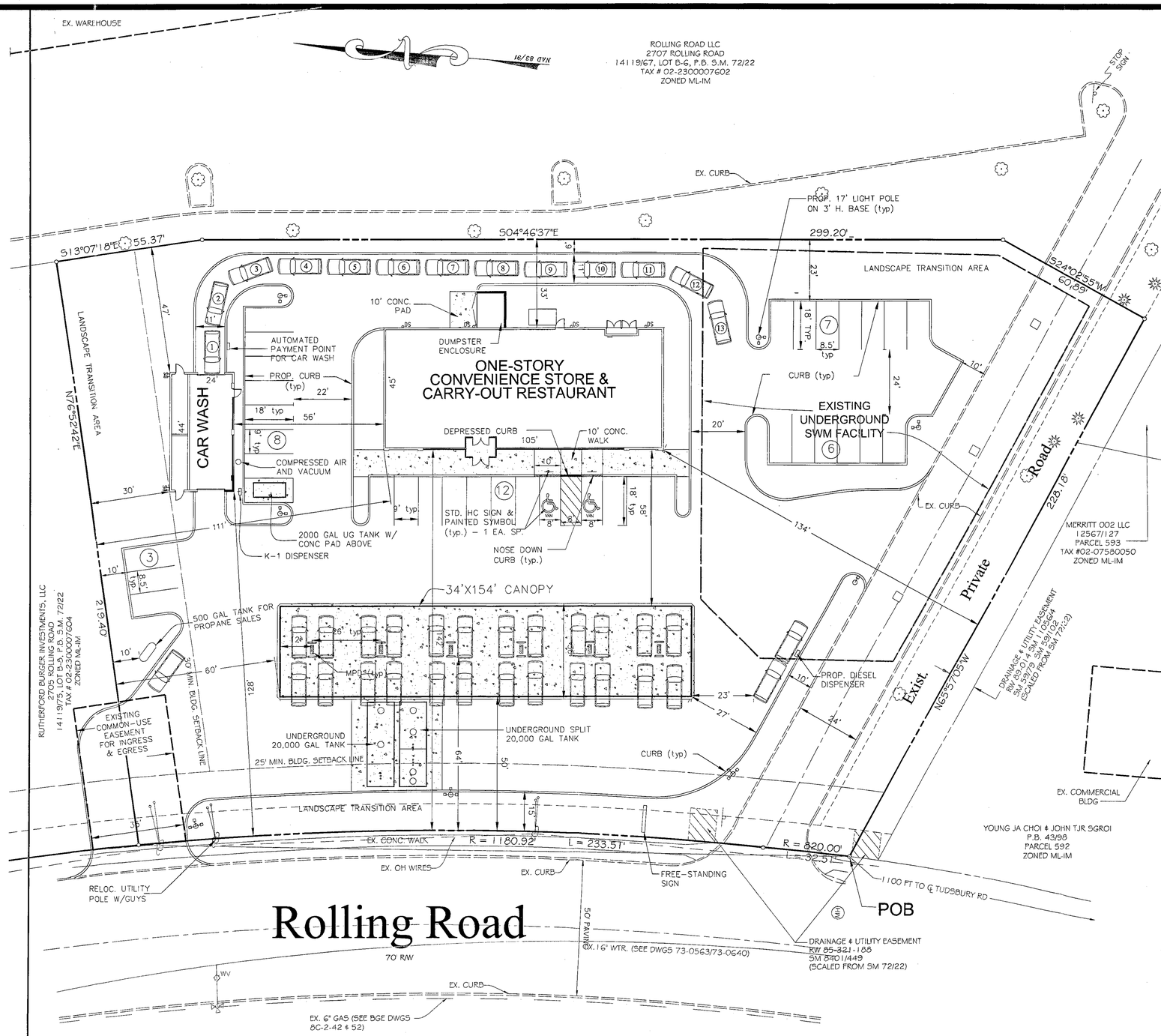
1. Owner:
   WOODLAND SERVICES LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
2. Applicant:
   WOODLAND SERVICES, LLC
   2318 Halls Grove Road
   Gambrills, MD 21054-1953
3. Site Data:
   Lot B-7
   Plat Ref. - 72/22,
   "Resubdivision of Lots B-3 & B-4, RBC South"
   Tax Map 87, Grid 17, P. 739
   Deed Reference -16457/693.
   Tax Account #02-2300007603
   Site Area - 75,698 sf (1.744 acre+/-)
   Council District 4
4. Zoning - Zoned ML-IM Zoning Map No. 87C2
5. Existing Use - Fuel Service Station w/convenience store & carry-out restaurant
   Proposed Use - Fuel Service Station w/convenience store, carry-out restaurant and Rollover Carwash
6. All existing information shown hereon is a compilation of field run topography, Baltimore County GIS, public record information, and surveys and plans by others.
7. Stormwater Management is provided in the existing onsite SWM facility for RBC South.
8. Off-Street Parking Calculations - Required Parking -
   Convenience store - 3,750 sf @ 5 sp./1,000 sf = 19 sp.
   Carry-out restaurant - 1,000 sf @ 5 sp./1,000 sf = 5 sp.
   1 sp./employee on largest shift = 6 sp.
   Car wash drying spaces = 2 sp.
   Car wash additional spaces = 2 sp.
   Air/Vacuum = 1 sp.
   ATM - 1 sp

   Total Required = 36 spaces
   Total Provided = 36 spaces, incl. 2 handicap
9. Site Area Calculations -
   Convenience store - 3,750 x 4 = 15,000 sf
   Carryout restaurant - 1,000 x 6 = 6,000 sf
   Service station - 1,500 x 12 = 18.800 sf

   Total Required - 39,000 sf
   Total Provided - 75,698 sf
10. Proposed Building Area -
    Convenience store and restaurant - 4,750 sf
    Car wash - 1,056 sf
    Total - 5,806 sf
    Floor Area Ratio: 5,806/75,698 = 0.08
    Maximum F.A.R. permitted - 2.0
11. A rest room facility, water and compressed air shall be provided for customers.
12. All paving shall be durable and dust-free bituminous.
13. Stacking required for car wash - 9 spaces
    Stacking provided - 13 spaces
14. This site is not within a 100-year floodplain or the Chespeake Bay Critical Area. The site is not within a Historic District and contains no historic buildings.
15. Street Setbacks

	Required	Proposed
Building	35 ft.	142 ft.
Fuel Pumps	25 ft.	64 ft
Canopy	15 ft.	50 ft.
Car Wash	50 ft	128 ft
Side Setback	30 ft	30 ft
Rear Setback	30 ft	33 ft

16. All signage will comply with BCZR SEction 450.
17. Rated capacity of Car Wash: 12 cars per hour
18. Previous Commercial Permits from current available Baltimore County records and company files:
    B528707 Stormwater Management
    B594554 Sign
    B560474 Above ground propane tank
    B594585 Awning
    B487914 Commercial Building
    B493612 Grading



Vicinity Map

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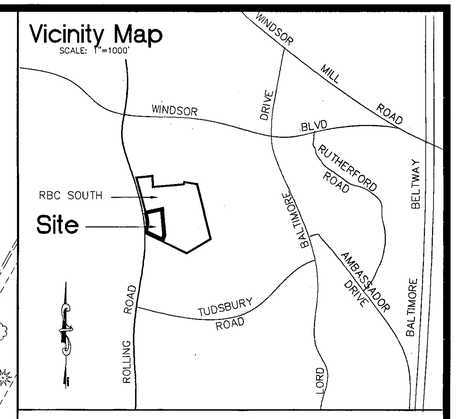

Benchmark/Datum

COORDINATES AND NORTH SHOWN HEREON REFER TO THE NAD 83/91 DATUM ELEVATIONS SHOWN HEREON REFER TO THE NAVD 88 DATUM BOTH OF WHICH ARE BASED ON THE FOLLOWING BALTIMORE COUNTY TRAVERSE STATIONS:

STATION	NORTHING	EASTING	ELEVATION
#469	602482.65	1380631.99	436.91

CAPPED PIPE AT NORTHWEST CORNER OF ROLLING ROAD AND DOGWOOD ROAD, ADJACENT TO STONE MEMORIAL.

#470	603097.06	1380552.11	458.01

CAPPED PIPE AT NORTHEASTCORNER OF ROLLING ROAD AND SAWMILL BRANCH ROAD, 22'+/- NE OF SD INLET.

PDM #II-154

Site Plan to Accompany Zoning Petition

OSPREY FOOD MARKET

#2701 ROLLING ROAD
ELECTION DISTRICT 2 BALTIMORE COUNTY
MARYLAND

20 0 10 20 40 80
GRAPHIC SCALE
1 inch = 20 ft.

ZONING HISTORY

CASE NO 02-016-X: SPECIAL EXCEPTION GRANTED FOR FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND A CARRYOUT RESTAURANT, GREATER THAN 1500 SQ. FT. GRANTED SEPT. 21, 2001.

CASE NO 06-583-SPH: SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID DENIED IN REGARD TO THE SPECIAL EXCEPTION FOR THE FUEL SERVICE STATION IN COMBINATION WITH A CONVENIENCE STORE AND CARRY OUT RESTAURANT JULY 26, 2006. SPECIAL HEARING TO CONFIRM WHETHER THE ORDER AND SITE PLAN APPROVED IN CASE NO. 02-016-X IS VOID GRANTED IN REGARD TO THE SPECIAL EXCEPTION FOR THE CAR WASH JULY 26, 2006.

DRC History

ORIGINAL CRG PLAN APPROVED 12/15/88

DRC #08126N
ON 8/19/96, DRC GRANTED 1ST REFINEMENT TO CRG PLAN TO DIVIDE PROPERTY INTO PARCELS.

DRC #07069A
ON 7/23/99, DRC GRANTED 2ND REFINEMENT TO CRG PLAN TO DIVIDE PARCELS INTO LOTS.

DRC #08169A
ON 9/23/99, DRC GRANTED 3RD REFINEMENT TO CRG PLAN TO ADD SITE LAYOUTS FOR LOTS 1 & 2.

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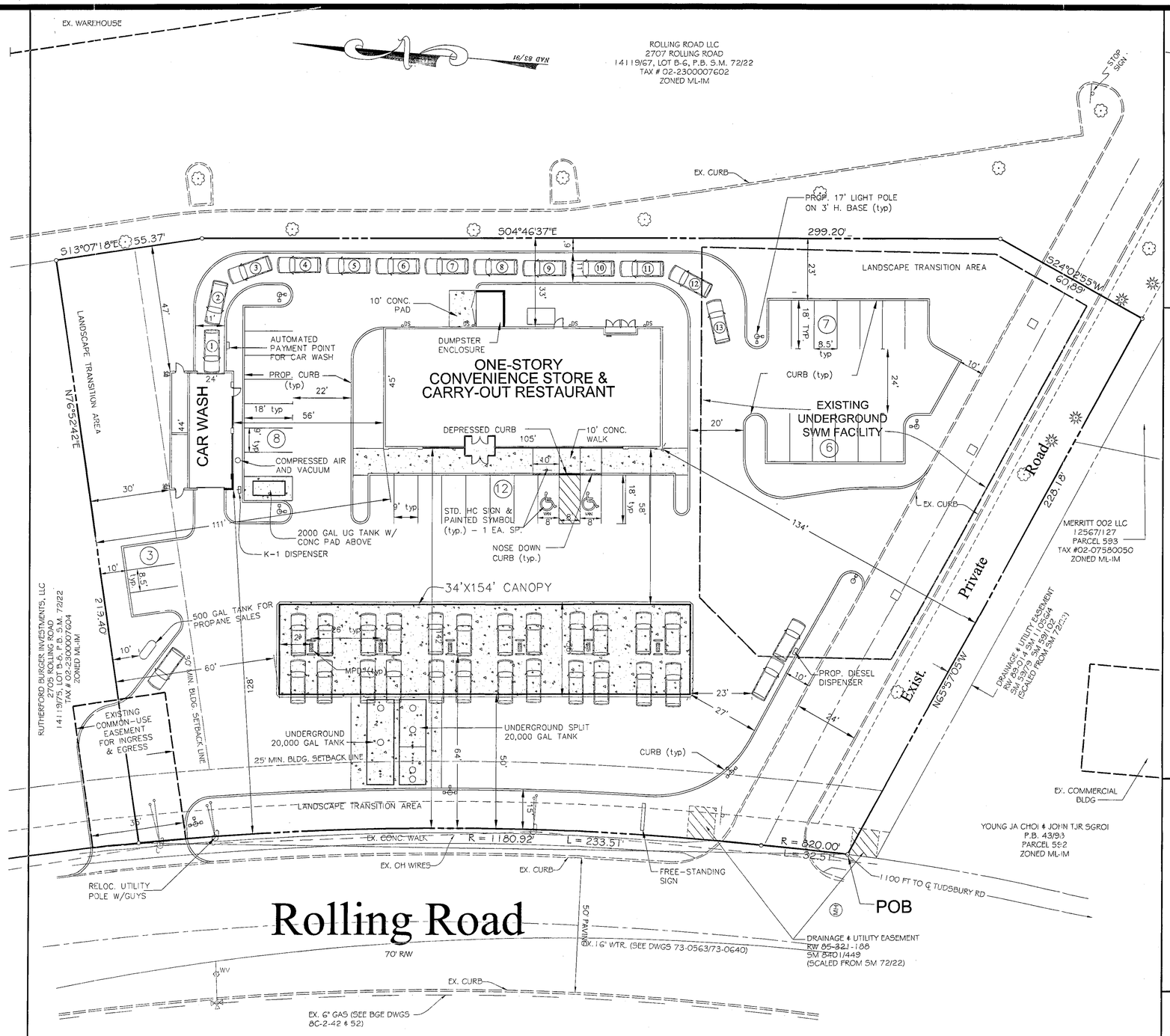

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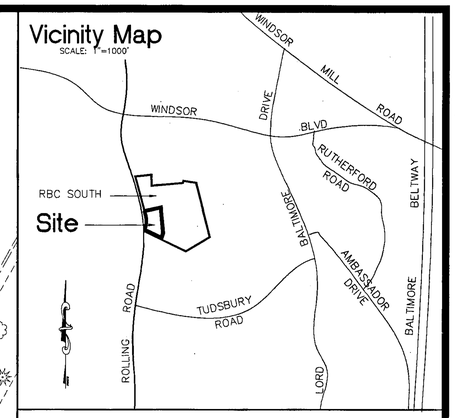

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STATE OF MARYLAND
KAREN JOHNSON-CHERRY
REGISTERED PROFESSIONAL ENGINEER

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Pet #1 245