IN RE: PETITION FOR SPECIAL HEARING *

E/S Brady Avenue, 310' S c/line

Cross Street

(1963 Brady Avenue)

13th Election District

1st Council District

Shirley G. Lewis Petitioner

BEFORE THE

ZONING COMMISSIONER

· OF

* BALTIMORE COUNTY

* Case No. 07-387-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owner of the subject property, Shirley G. Lewis, through her attorney, John E. Raine, III, Esquire. In accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), the Petitioner requests a determination as to the classification of the proposed use of the subject property and confirmation under Section 253.1.B.3 of the B.C.Z.R. that off-road construction equipment is allowed in an M.L. zone by right; that auxiliary sales and repairs of construction machinery are allowed pursuant to B.C.Z.R. Section 253.1.C.17 in an I.M. district; and, to allow a durable and dustless parking surface consisting of a recycled aggregate base course as an alternative paving material for storing "off-road" construction equipment in an M.L.-I.M. zone. In addition, the Petitioner requests Use Permit authorization to store, repair and sell construction machinery under Section 500.4 of the B.C.Z.R. The subject property as well as the enumerated types of construction equipment the owner will sell, repair and store on the property and requested relief are more particularly described on the two-page amended site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit(s) 2A and 2B.

By S-WEDFORFILL

Appearing at the hearing in support of the request were Charles Lewis, the property owner's son, doing business as Southern Equipment Sales, Thomas A. Church, P.E., with Development Engineering Consultants, Inc., the professional engineer who prepared the site plan, and John E. Raine, III, Esquire, attorney for the Petitioner. Also present was Richard M. Hillis, P.E., a senior geo-technical engineer with Hillis-Carnes, who provided confirmation that the durable and dustless surface was appropriate and is compliant with the requirements of Section 409.8.D of the B.C.Z.R. The request generated significant public interest and several of the residents from the surrounding locale appeared, including Alvin and Shirley Bussey, Jacob Odensos, Ken and Pat Lowman, Richard Fitzgerald, and the adjacent neighbor, Vicki Starin. Most of the Protestants voiced an overwhelming concern whether the proposed use should be allowed to resume on the property. The Petitioner has owned the property since 1977 and since that time, the property and uses thereon have been the subject of ongoing complaints. One only need to review the case files established for this site by the Code Enforcement Division of the Department of Permits and Development Management and a recent Consent Order entered in the Circuit Court for Baltimore County in Case No. 03-C-04-001970 to understand the concerns of adjacent neighbors and their desire to underscore and safeguard against these type of past abuses. Also appearing as interested persons were Michael Glick, Patrick Dougal and Michael Lynch, revitalization specialist, with the County's Office of Community Conservation.

As is often the case with cases presenting difficult legal issues, the facts are relatively simple and largely not in dispute. As noted above, Charles Lewis' parents purchased the property in April

¹ Durable and Dustless Surface as defined in Section 101 of the B.C.Z.R. means: "A surface adequately covered in accordance with good practice with bituminous surface treatment, concrete, bituminous concrete or equivalent paving material approved by the Zoning Commissioner, and maintained in good condition at all times. The words 'equivalent paving material' as used herein mean any alternative paving material that, in the judgment of the Zoning Commissioner, will, in the case of a particular property or use, allow for equal or better results in preventing dust, erosion or other undesirable conditions."

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1977. The property is an irregular shaped tract located on the east side of Brady Avenue which dead ends at the site in Halethorpe. It is surrounded by the County's maintenance facility to the north, a cemetery to the east, the Majestic Distilling Company to the south, and D.R.2 zoned land on the west side of Brady Avenue. As shown on the site plan, the property is known as Lots 59 (2.5 acres) and 60 (4 acres) on the Plat of Oak Park, recorded in Plat Book 3, Folio 145, containing a combined area of 6.5 acres, zoned primarily M.L.-I.M. with a small sliver of D.R.5.5 land bisecting through the northwest corner of the site. Charles Lewis described a long history of commercial uses beginning in 1967 or earlier when a construction equipment repair and storage facility functioned at the site until purchased by John Murphy, who owned and operated Bay City Construction Company. Bay City, in 1971 through 1977, stored large metal undercarriage equipment such as cranes and excavators that operated on metal paneled treads. When Lewis' father bought the property in 1977, there were only six houses in the area. The property was improved with two industrial buildings located on the southern portion of Lot 60. The smaller of the two buildings, approximately 1,200 square feet in area, served as the office and retail sales facility (25' x 60'), while the larger 4,000+ square foot building was used as a repair shop (67' x 60'). His father did his due diligence when purchasing the property receiving confirmation from then Zoning Supervisor James E. Dyer (Petitioner's Exhibit 1) stating that the selling, repairing and maintaining new and used heavy equipment was permitted as of right within the M.L. zoning classification. In 1977 and into the early 1980's, the business averaged 50 to 60 sales (yearly) of heavy construction earth moving machines and by 1985, they were selling in excess of 200 machines annually and working two shifts in the shop sandblasting, painting and cannibalizing old machines for parts to repair other equipment. Adjacent neighbors began complaining as the operation began resembling a junkyard with the storage of garbage trucks and disabled vehicles on the site unrelated to the permitted construction equipment storage yard and

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machinery sale/repair uses. As evidenced by the photographs collectively submitted as Petitioner's 9A through 9G, the property has been cleaned up. All scrap metal was cut up and hauled away by 2005. A Consent Order (Circuit Court Case No. 03-C-04-1970) was entered into on March 28, 2006 and states in pertinent part:

"Ordered ... neither the owner nor any agents, assigns, contractors, or employees will operate or allow the operation of a Class II trucking facility, as defined in the Baltimore County Zoning Regulations, or open junk yard ... as defined in the B.C.Z.R. at 1963 Brady Avenue

Ordered that the property will be subject to inspection pursuant to applicable laws and regulations by authorized County officials for compliance with this Order; and it is further

Ordered that any alleged violation of this Order will be subject to further proceedings, including contempt, pursuant to the Maryland Rules of Procedure and upon finding by the Court of a violation of the terms of this Order, the violating party will be punished by sanctions ... "

Governmental regulations of land use is largely a local function. In Baltimore County, zoning requirements are set out in the B.C.Z.R. The Baltimore County Council adopts zoning maps in Baltimore County every four years, pursuant to the Comphrensive Zoning process, and under those maps, every property in Baltimore County is assigned one of the nearly 40 zoning classifications listed in the B.C.Z.R. These classifications range from R.C. (Resource Conservation) zones to the M.H. (Manufacturing-Heavy) zones. Each zone contains its own specific regulations governing use of a property so zoned. For example, the restrictive R.C. zones promote agricultural and low-density residential use. There are no commercial, retail and/or industrial uses allowed in the R.C. zone. At the other end of the spectrum, the M.H. zone encourages manufacturing and heavy industrial use. As noted above, the subject property is zoned M.L.-I.M., which means "Manufacturing Light". The I.M. "District" designation applicable to the underlying zone promotes *greater* industrial use of prime industrial land. The Petitioner filed the instant petition and provided an appropriate plan for the use

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of the property as a construction equipment yard in an effort to legitimize the operation and significant testimony and evidence was received at the hearing from both sides regarding the use of the property. The use is permitted by right in the M.L. zone pursuant to Section 253.1.B.3 (construction equipment, storage yards), and Section 253.1.C.17 provides for (machinery sales or repair establishments). Collectively, a combination of these uses is permitted, pursuant to Section 253.1.E of the B.C.Z.R. In any event, the Petitioner proposes certain renovations and redevelopment of the site, as more particularly shown on the site plan.

On behalf of the Petitioner, Mr. Church offered testimony and evidence regarding the proposed renovations. The storage of construction equipment or machinery, pending delivery to other locations, will require transport to and from the site by flat bed trailer. As noted by dark gray shading on Exhibit 2A, a heavy-duty bituminous paved driveway 24' wide x 200' long will leave Brady Avenue and traverse the site to a large heavy duty paved parking field (115' x 215') to be used by rubber tired vehicle and flat bed trailer storage. Running from this lot, in a southerly direction, and leading to the office, utility shop, and 18 parking spaces for retail and office employees will be a 40' wide x 180' long light duty bituminous paved drive isle. A pervious durable and dustless aggregate base course pavement, that can be covered with millings (ground up bituminous concrete from existing roadways)² and capable of being regraded from time to time, will surround the paved areas and buildings as designated by orange highlighting on the exhibit.

Additionally, Mr. Church offered photographic evidence of similar construction equipment storage yard uses in the M.L. zone, namely, McClung-Logan (Petitioner's Exhibit 7A), Midlantic

² Baltimore County uses bituminous concrete millings on many projects. It was used as a parking surface and access road for the Southwest Area Park Boat Ramp as well as the surface for the service road at the Baltimore County Resource Recovery Facility. See also Case Nos. 02-230-SPH and 06-437-X approving bituminous aggregate base courses as a durable and dustless parking surface.

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Machinery (Petitioner's Exhibit 7B) and Security Equipment (Petitioner's Exhibit 7C) as well as a written memorandum from Vincent G. Kicas, Chief of the Division of Construction Contracts Administration, (Petitioner's Exhibit 5) supporting Mr. Church's opinions that running heavy tracked vehicles over bituminous concrete or portland cement concrete paving surfaces is impractical and would quickly result in the degradation of these surfaces, creating greater dust potentials than the use of compacted bituminous concrete millings.

Testimony was received from Richard Hillis, a geo-technical engineer with 35 years of experience in pavement design. His written comments, dated February 12, 2007, were offered as Petitioner's Exhibit 4, and have been incorporated into the record of this case. The essentials of a site visit and random samples analyzed form the basis of his opinion that it is impractical to provide a conventional, flexible or even rigid pavement surface for the types of "off the road" track and rubber-tired construction equipment loads from an economical and durability standpoint. The use of an aggregate base also provides for flexibility in re-grading and maintaining the pavement surfaces as they erode or rut due to traffic and exposure to the elements. In his professional opinion, the aggregate base meets the Baltimore County requirement of durable and dustless surface and is the most appropriate for the intended purpose. The samples collected have fewer *fines* than typically allowed ranging from 6 percent to 9 percent and therefore, he wouldn't expect a lot of dust from this site. He stated that water keeps the particles consolidated and locked into place and suggested that if there are periods of 20 days or more of dry weather, he would recommend watering the aggregate surface to mitigate against dust potentials.

Based upon the cumulative testimony and evidence presented, I am persuaded to grant the special hearing relief. In my judgment, the Petitioner has satisfied the requirements for such relief and find the approval of an aggregate base course in this instance is an appropriate alternative to

Date Served FOR FILE

paving material for storing "off road" track construction equipment and machinery. Thus, relief will also be approved for a Use Permit to store, repair and sell construction equipment of the type listed and identified on Petitioner's Exhibit 2B in those areas specified. In that this portion of the site is well over 100 feet from any residentially used home, it is clear that there will be no detrimental impacts on adjacent properties. Obviously, relief will be conditioned so as to require the Petitioner's compliance with the recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) and the preparation of a landscape plan for approval.

As pointed out above, the issues raised by the attending residents revolved around a past history of a lack of respect for the community by the Petitioner. The Zoning Commissioner is empowered to impose restrictions upon the grant of any relief. Pursuant to Section 502.2 of the B.C.Z.R., conditions and restrictions may be imposed for the protection of the surrounding and neighboring properties. A number of restrictions are appropriate here, particularly given the concerns expressed by Ms. Starin and Messrs. Bussey and Fitzgerald. These individuals testified that the operation of a construction equipment storage yard has had a detrimental affect on their homes and that the noise and overall appearance associated with the use has adversely impacted property values. First, the durable and dustless surface will be required to keep the (fine) particles stabilized during dry weather periods to prevent dust. In the event the area dries due to no rainfall for a period of 20 days, the site shall be watered with a water truck. Secondly, additional evergreen landscaping shall supplement existing landscaping at the northwest corner of the site and along the western boundary between the two existing homes located in the M.L.-I.M. zone after consultation and review by the Office of Community Conservation and by Avery Harden, Baltimore County's Landscape Architect. Third, there shall be no use of high-intensity or intrusive lighting (other than low-intensity security types) on the western portion of Lot 59. Fourth, between the hours of 1:00

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AM and 5:00 AM, absent and emergency, there shall be no activity allowed including no coming or going of lowboy trucks or other vehicles in excess of 50,000 lbs. gross vehicle weight. Fifth, appropriate sanitation facilities shall be made available on the premises for all employees. Sixth, development and use of the subject property shall comply with all environmental regulations as set forth in Zoning Advisory Committee (ZAC) comments submitted by Department of Environmental Protection and Resource Management (DEPRM), dated April 12, 2007, a copy of which is attached hereto and made a part hereof. Lastly, other than general maintenance of construction equipment, there shall be no sandblasting, painting or cannibalization of disabled vehicles and no dumping or waste disposal permitted on any portion of the Petitioner's property.

Pursuant to the adverstisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be granted, subject to the terms and conditions set forth below.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County, this day of May, 2007, that the Petition for Special Hearing to determine the classification of the proposed use of the subject property and confirmation under Section 253.1.B.3 of the B.C.Z.R. that off-road construction equipment is allowed in an M.L. zone by right and that auxiliary sales and repairs of construction machinery are allowed pursuant to B.C.Z.R. Section 253.1.C.17 in an I.M. district; and to allow a durable and dustless parking surface consisting of a recycled aggregate base course as an alternative paving material for storing "off-road" construction equipment in an M.L.-I.M. zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED that request for Use Permit authorization to store, repair and sell construction machinery under Section 500.4 of the B.C.Z.R., in accordance with Petitioner's Exhibit(s) 2A and 2B, be and is hereby GRANTED, subject to the following restrictions:

- 1. The durable and dustless surface will be required to keep dust stabilized during dry weather periods. In the event the area dries due to the absence of rainfall for a period of 20 days, the site shall be watered with a water truck.
- 2. Additional evergreen landscaping shall supplement existing landscaping at the northwest corner of the site and along the western boundary between the two existing homes located in the M.L.-I.M. zone following consultation and review of the plan by the Office of Community Conservation and by Avery Harden, the Baltimore County Landscape Architect.
- 3. There shall be no use of high-intensity or intrusive lighting (other than low-intensity security types) on the western portion of Lot 59.
- 4. Between the hours of 1:00 AM and 5:00 AM, absent and emergency, there shall be no activity allowed including no coming or going of lowboy trucks or other vehicles in excess of 50,000 lbs. gross vehicle weight.
- Appropriate sanitation facilities shall be made available on the premises for all employees.
- 6. Development and use of the subject property shall comply with all environmental regulations as set forth in the Zoning Advisory Committee (ZAC) comments submitted by Department of Environmental Protection and Resource Management (DEPRM), dated April 12, 2007, a copy of which is attached hereto and made a part hereof.
- 7. Other than general maintenance of construction equipment, there shall be no sandblasting, painting or cannibalization of disabled vehicles and no dumping or waste disposal permitted on any portion of the Petitioner's property.
- 8. If any use other than approved by this Order or as shown on Petitioner's Exhibits 2A and 2B is proposed, specifically on any of the parking and storage areas of the subject property, Petitioner shall be required to seek approval by filing a Petition for Special Hearing to amend the Plan/Plat approved as Petitioner's Exhibits 2A and 2B.
- 9. When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

Baltimore County Code.

WJW:dlw

WINDIAM J. WISHMAN, III Zoning Commissioner for

Baltimore County



JAMES T. SMITH, JR. County Executive

May 10, 2007

WILLIAM J. WISEMAN III

Zoning Commissioner

John E. Raine, III, Esquire Barnes & Raine, P.A. 405 W. Pennsylvania Avenue Towson, MD 21204

RE:

PETITION FOR SPECIAL HEARING

E/S Brady Avenue, 310' S c/line Cross Street (1963 Brady Avenue)
13th Election District - 1st Council District Shirley G. Lewis - Petitioner

Case No. 07-387-SPH

Dear Mr. Raine:

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

WJW:dlw

WILLIAM WISHMAN, III
Zoning Commissioner
for Baltimore County

Shirley G. Lewis and Charles Lewis, 8590 Horseshoe Road, Ellicott City, Md. 21043
 Thomas A. Church, P.E., Development Engineering Consultants, Inc. 6603 York Road, Baltimore, Md. 21212
 Richard M. Hillis, P.E., Hillis-Carnes Engineering Associates, Inc., 10975 Guilford Avenue, Suite A, P.O. Box 241, Annapolis Junction, Md. 20701

Alvin and Shirley Bussey, 1930 Brady Avenue, Halethorpe, Md. 21227

Jacob Odensos, 1956 Brady Avenue, Halethorpe, Md. 21227

Ken and Pat Lowman, 3721 7th Avenue, Edgewater, Md. 21037

Vicki Starin, 1961 Brady Avenue, Oak Park, Md. 21227

Richard Fitzgerald, 1934 Brady Avenue, Halethorpe, Md. 21227

Michael Glick, 500 East Pratt Street, #250, Baltimore, Md. 21202 Patrick Dougal, 12314 Benson Branch Road, Ellicott City, Md. 21042

Michael Lynch, Office of Community Conservation

People's Counsel; Code Enforcement Division, DPDM; DEPRM; Case File

County Courts Building | 401 Bosley Avenue, Suite 405 | Towson, Maryland 21204 | Phone 410-887-3868 | Fax 410-887-3468 www.baltimorecountymd.gov



Pétition for Spécial Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1963 Brady Avenue

which is presently zoned ML-IM & DR-5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

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 Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

í	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:	<u>Legal Owner(s):</u>
·	Shirley G. Lewis
Name - Type or Print	Name - Type or Print Lurley L. Lewis
Signature	Signature // N/A
Address Telephone	No. Name - Type or Print N/A
City State Zip Co	Signature 8590 Horseshoe Road 443 250-6130
Attorney For Petitioner: John E. Raine, III	Address Ellicott City, MD 21043-6641
Name Type or Print Sm. E. Pame m	City State Zip Code Representative to be Contacted:
Signature Barnes & Raine, P.A.	Thomas A. Church, P.E. #6479 Development Engineering Consultants,
Company 405 W. Pennsylvania Ave. 410 321-	Tolomona No
Address Telephone N Towson, MD 21204	Baltimore, MD 21212
City State Zip Co	**:- ^
	OFFICE USE ONLY
•	ESTIMATED LENGTH OF HEARING
Case No. 07-387-504	UNAVAILABLE FOR HEARING
ONDER RECEIVED FOR FILIN	Reviewed By LTM Date 31107
220 9115198 Date 5-11-07	
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DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

PETITION FOR SPECIAL HEARING:

We are requesting the following:

- 1. Zoning Commissioner's confirmation under Section 253.1.B.3 that off road construction equipment is allowed in an ML zone by right.
- 2. Zoning Commissioner's confirmation under Section 253.1.C.17 that construction machinery sales and repairs are allowed by right in an IM zone as a supplementary use.
- 3. A decision by the Zoning Commissioner to approve an aggregate base course which is durable and dustless as an alternative paving material for storing "off road" construction equipment in an ML-IM zone.
- 4. That the Zoning Commissioner would accept an application for and issue a Use—Permit to store; repair and sell construction machinery under Section 409.6 of the Baltimore County Zoning Regulations.

500.4 - allows, when no building permit is required, the ZC to use in a use permit

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

6603 York Road Baltimore, Maryland 21212 (410) 377-2600 (410) 377-2625 Fax

ZONING DESCRIPTION FOR 1963 BRADY AVENUE

BEGINNING FOR THE SAME at a point on the east side of Brady Avenue, which is 40 feet wide more or less, said point being 310 feet more or less south of the centerline of the nearest improved intersecting street Cross Street, which is 30 feet wide more or less.

Thence the following courses and distances: 1) North 76 degrees 49 minutes 45 seconds East 30.00 feet, 2) North 81 degrees 58 minutes 15 minutes East 115.00 feet, 3) North 21 degrees 21 minutes 45 seconds West 40.00 feet, 4) North 76 degrees 49 minutes 45 seconds East 120.00 feet, 5) North 81 degrees 58 minutes 15 seconds East 150.00 feet, 6) South 23 degrees 01 minutes 47 seconds East 661.00 feet, 7) South 87 degrees 25 minutes 48 seconds West 300.00 feet, 8) South 87 degrees 25 minutes 48 seconds West 283.25 feet, 9) North 01 degrees 15 minutes 55 seconds East 337.42 feet, 10) South 81 degrees 58 minutes 36 seconds West 40.00 feet, 11) North 08 degrees 01 minutes 24 seconds West 155.00 feet to the place of beginning.

Being part of Lot 59 and all of Lot 60 in the Subdivision of "Oak Park" as recorded in Baltimore County Plat Book W.P.C. 3, Folio 145, containing a total of 274,745 square feet, or 6.31 acres, more or less.

Also know as 1963 Brady Avenue, located in the 13th Election District, Baltimore County, Maryland.

Our Contract No. 04-104

387

February 28, 2007

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: # 07-387-SPH

1963 Brady Avenue
Eside of Brady Avenue, 310 feet south of centerline of Cross Street

13th Election District - 1st Councilmanic District
Legal Owner(s): Shirley G. Lewis

Spacial Nearing: under Section 253.1.8.3 that off road construction equipment is allowed in an ML zone by right and under Section 253.1.C.17 that construction machinery sales and repairs are allowed by right in an IM zone as a supplementary use and to approve an aggregate base course which is durable and dustless as an alternative paying material for storing "off road" construction, equipment in an ML-IM zone and that the Zoning Commissioner would accept an application for and issue a Use Permit to store, repair and sell construction machinery under Section 409.6 of the Baltimore County Zoning

7 at 9:00 a.m. in Room 401 Bosiey Avenue, Regulations.
Hearing: Thursday, May 3, 2007
407, County Courts Bullding, 4
Towson 21204. 2007

WILLIAM J. WISEMAN, III)

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

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

OF PUBLIC

KTIFY, that the annexed advertisement was published successive weeks, the first publication appearing ekly newspaper published in Baltimore County, Md., in the following we once in each of

Jeffersonian The X

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LEGAL ADVERTISING

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CERTIFICATE OF POSTING

RE: Case No.: 07-382-5P Petitioner/Developer: SHIRLEX G. LEWIS Date of Hearing/Closing: MAY 3,2007 **Baltimore County Department of** Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204 ATTN: Kristen Matthews {(410) 887-3394} Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: AVE. 963 4-18-07 The sign(s) were posted on (Month, Day, Year) Sincerely, (Signature of Sign Scates) ZONING NOTICE SSG Robe & Black CASE # 07:387SPH (Print Name) A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER 1508 Leslie Road IN TOWSON, MD Room 400 County Countre Building (Address) PLACE: 401 BOOLEY AVEING TOLSON MO 21204 DATE AND TIME: THURSDAY MAY 3, 2007 AT 9:00 A.M. REQUEST: SPECIAL HEARING UNDER SECTION 253.183 BO Dundalk, Maryland 21222 OFF ROOD CONSTRUCTION EQUIPMENT IS ALLOWED IN AN ANY ZONE BY PROJECT AND LINEAR SECTION 253 IC 17 THAT CONSTRUCTION MECHANY SALES AND TO APPROVE AN ACCREGATE THE CHARGE WHICH IS DURING AN ACCREGATE THE CHARGE WHICH IS DURING AN ACCREGATE THE CHARGE WHICH IS DURING AN ACCREGATE (City, State, Zip Code) TO BUT SET THE SET THE STATE OF THE PARTY OF THE STATE OF THE CONSTRUCTION OF THE PARTY OF THE P AN AUTHERED FOR SU SCHOOL A USE THEREIT TO STREE HET HAR BAR SELL (410) 282-7940 Continuen mente om to mertite im orm i Continuenteun butte met imple in comile mannt ent bei den (Telephone Number)

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DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT



March 16, 2007

JAMES T. SMITH, JR. County Executive

NOTICE OF ZONING HEARING

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

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CASE NUMBER: 07-387-SPH

1963 Brady Avenue

E/side of Brady Avenue, 310 feet south of centerline of Cross Street

13th Election District – 1st Councilmanic District

Legal Owner: Shirley G. Lewis

Special Hearing under Section 253.1.B.3 that off road construction equipment is allowed in an ML zone by right and under Section 253.1.C.17 that construction machinery sales and repairs are allowed by right in an IM zone as a supplementary use and to approve an aggregate base course which is durable and dustless as an alternative paving material for storing "off road" construction equipment in an ML-IM zone and that the Zoning Commissioner would accept an application for and issue a Use Permit to store, repair and sell construction machinery under Section 409.6 of the Baltimore County Zoning Regulations.

Hearing: Thursday, May 3, 2007 at 9:00 a.m. in Room 407, County Courts Building,

401/Bosley Avenue, Towson 21204

Timothy Kotroco Director

TK:klm

C: John E. Raine, III, Barnes & Raine, P.A., 405 W. Pennsylvania Avenue, Towson 21204 Shirley G. Lewis, 8590 Horseshoe Road, Ellicott City 21043-6641 Thomas Church, 6603 York Road, Baltimore 21212

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, APRIL 18, 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, April 17, 2007 Issue - Jeffersonian

Please forward billing to:

Tom Church
Development Engineering Consultants
6603 York Road
Baltimore, MD 21212

410-377-2600

NOTICE OF ZONING HEARING

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Hearing: Thursday, May 3, 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.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Adver	ising:
Item Number or Case N	umber: 07-387-504
Petitioner: Charles	V. Lewis
	1963 Brady Avenue
PLEASE FORWARD AI Name:	DVERTISING BILL TO: Mr. Thomas A. Church
Address:	Development Engineering Consultants, Inc.
-	6603 York Road
	, Baltimore, MD 21212
Telephone Number:	410 377-2600

Revised 2/20/98 - SCJ



JAMES T. SMITH, JR. County Executive

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

April 26, 2007

John E. Raine, III Barnes & Raine, P.A. 405 W. Pennsylvania Avenue Towson, MD 21204

Dear Mr. Raine:

RE: Case Number: 07-387-SPH, 1963 Brady Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on March 1, 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, U. Call Rillall

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

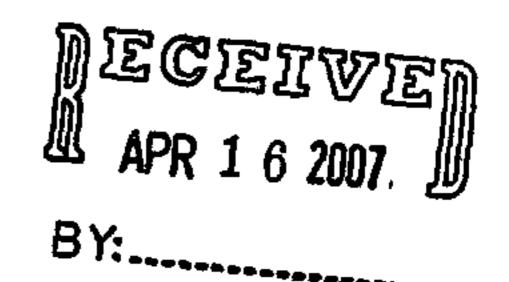
Shirley G. Lewis 8590 Horseshoe Road Ellicott City 21043-6641

Thomas A. Church, P.E. Development Engineering Consultants, Inc. 6603 York Road Baltimore 21212

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence





TO:

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination JWL

DATE:

April 12, 2007

SUBJECT:

Zoning Item

07-387-SPH

Address

1963 Brady Avenue

(Lewis Property)

Zoning Advisory Committee Meeting of March 5, 2007

____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Development of this property must comply with the Forest
 Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer:

J. Russo

Date: March 4, 2007

THE CHIVED FOR FILING

Bus 5/3

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: March 26, 2007

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT:

1963 Brady Avenue

INFORMATION:

Item Number:

7-387

Petitioner:

Shirley G. Lewis

Zoning:

ML-IM & DR 5.5

Requested Action:

Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan and recommends the following: The proposed use will be similar in character to that of a trucking facility. The Office of Planning recommends that the Zoning Commissioner require the applicant to comply with the paving standards, requirements and engineering certification that are applicable to a trucking facility as specified in Section 409.8.D of the Baltimore County Zoning Regulations.

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

Reviewed by:

Division Chief:

AFK/LL: CM

MAR 3~0 2007

ZOWIG COMISSING



Martin O'Malley, Governor Anthony Brown, Lt. Governor

John D. Porcari, Secretary Designate Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: MARCH 12, 2007

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

RE: Baltimore County

Item No. 7-387-5PH 1963 BRADY AMENUE LEWIS PROPERTY

SPECIAL HEARING

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-3 57 59-41.

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,

Steven D. Foster, Chief

Engineering Access Permits

Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: March 6, 2007

Department of Permits & Development

Management

OH

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For March 12, 2007

Item Nos. 07-374, 377, 378, 379, 380, 381,

382, 383, 384, 385, 386, 387) and 388

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-03062007.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

P

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 March 9, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 5,2007

Item Number: 374 through 388

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



Visit the County's Website at www.baltimorecountymd.gov

RE: PETITION FOR SPECIAL HEARING
1963 Brady Avenue; E/S Brady Avenue,
310' S c/line Cross Street
13th Election & 1st Councilmanic Districts
Legal Owner(s): Shirley Lewis
Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

* FOR

BALTIMORE COUNTY

* 07-387-SPH

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 2007, a copy of the foregoing Entry of Appearance was mailed to, Thomas A. Church, P.E., Development Engineering Consultants, 6603 York Road, Baltimore, MD 21212 and John Raine, III, Esquire, Barnes & Raine, P.A., 405 E. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

終30 9 2007

Perananana

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

DATE:

March 21, 2007

TO:

W. Carl Richards, Jr.

Zoning Review Supervisor

FROM:

Rick Wisnom, Hearing Officer

Division of Code Inspections & Enforcement

SUBJECT:

Item No.: 387

Legal Owner/Petitioner: Shirley G. Lewis

Contract Purchaser:

Property Address: 1963 Brady Avenue

Location Description: East side Brady Avenue, 310 feet south centerline Cross Street

VIOLATION INFORMATION:

Case No.: 06-3579

Defendants: Shirley G. Lewis

Please be advised that the aforementioned petition is the subject of an active violation case.

When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

Ken Loaman 1953 Brady Avenue Baltimore, MD 21227

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Other: data entry forms

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/

c: Jeff Radcliffe

Case Entry/Upda	ate	MOGE	CHANGE	
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Dt Rec: 509201	06 Intake: LMH	Act:	Case #: 06-3579	
Insp: RADCLIFF	Insp Grp: ENF	Insp Area: 13	Tax Acct: <u>1302001382</u>	
Address: 1963	BRADY AVE	Apt	#: Zip: <u>21227</u>	
Owner: SHIRLEY	G LEWIS, 8590 HORSESH	OE RD, ELLICOT	CITY MD 21043-6641	
	·	·	·	
Problem Descrip	ot.: TALL GRASS			<u>:</u>
12/13/	06 REOPEN CLASS 2 TRUC	KING SEE CASE (2-0212	
				<u>-</u>
MAP 42C9				
Complainant Na	ne (Last): <u>LOAMAN</u>	(First): <u> </u>	CEN	
Complainant Add	dr: <u>1953</u> <u> </u>	BRADY AVE		
Complainant Cit	ty: BALTIMORE	State: MD Zi	p: <u>21227</u>	
Complainant Pho	one (H): <u>4102420525</u> ((W):		
Date of Reinspe	ection: <u>3072007</u> Date	: Closed:	Delete Code (P): _	
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File . . . : PDLV0001

Notes: ***5/10/06, SPOKE TO OWNER WHO SAID PROP IS INDUSTRIAL, SPOKE TO COMPL WHO SAID PROP IS RESIDENTIAL, HOWEVER, OWNER WILL CUT WITH BULLDOZER, MINER BROKEN, WILL BE OUT OF TOWN UNTIL 5/23/06, JG/CP*** ***5/24/06, OWNER THERE WEED/WACKER, 75% DONE, WILL RETURN AT LATER DATE, P/U 6/7/06, UPDATE NOT NECESSARY, JG/CP*** ***6/8/06, PROP HAS BEEN CUT (WEED WACKER), P/U 6/22/06 TO MONITOR, UPDATE NOT NECESSARY, JG/CP*** ***6/23/06, GRASS CUT, P/U 7/23/06 TO MONITOR, JG/CG*** ***7/24/06, GRASS HAS BEEN CUT, OWNER WILL CUT EVERY 2-3 WKS, UPDATE NOT NECESSARY, CLOSE, JG/CP*** **12/13/06 REOPEN - RUNNING A CLASS 2 TRUCKING FACILITY, SEE CASE 02-0212. ***12/28/06, A SITE PLAN HAS BEEN SUBMITTED TO THE ZONING OFFICE, WAITING FOR REVIEW & APPROVAL, P/U 1/4/07, COMPL UPDATED, JRA/CP*** ***1/9/07, SITE PLAN NOT ACCEPTED, PROP HAS 6 COMM VEHS, WAITING ON AN APPT TO MEET W/AMY GROSSI FOR FURTHER ACTION, P/U 1/12/07, COMPL UPDATED, JRA/CP*** ***1/16/07 ON 1/12/07 ISSUED A NOTICE TO CEASE CESY & MUST SUBMIT A SITE PLAN. SPOKE WITH AMY GROSSI & SHE

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Case Entry/Update
Format . . . : CASREC

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File . . . : PDLV0001

Notes 2: THE JUDGES ORDER DIDNT COVER A SITE PLAN JRA/LMH***

1/12/07 PER MY CONVERSATION WITH TIM KOTROCO.WE ARE TO ISSUE A CORRECTION NOTICE
TO THE LEWIS'S FOR 1) CEASE OPERATION OF CESY W/O A USE PERMIT 2) MUST HAVE AN

APPROVED SITE PLAN. REFERENCE CASE# 02-0212 P/U 1/30/07 JRA/LMH***

***1/22/07, ISSUED NOTICE FOR BCZR 500.4, MUST MAKE APPLICATION FOR A USE PERMIT
JRA/CP***

***1/31/07 RECEIVED A LETTER FROM JOHN LEWIS (ZONING) STATING ISSUES THAT NEED TO
BE TAKEN CARE OF ON SITE PLAN.I WAS INFORMED YESTERDAY AFTERNOON THAT A MEETING
HAD TAKEN PLACE BETWEEN TIM KOTROCO, JIM THOMPSON & TOM CHURCH AND THEY WERE
GIVEN A 2 WEEK EXTENSION FOR THEIR SITE PLAN/USE PERMIT P/U 2/13/07 JRA/LMH***

***2/13/07, ON SITE INSPECTION FOUND 5 PIECES OF HEAVY EQUIP & 1 SHIPPING
CONTAINER, REAR GARAGE DOOR TO BE OPENED, JHT SAID THEY SUBMITTED THEIR SITE
PLAN BUT JOHN LEWIS IS OUT TODAY, P/U 2/15/07 TO RECHECK W/J.L. BY END OF WEEK,
COMPL UPDATED, JRA/CP***

2/20/07 ON DOCKET FOR 3/21/07 PER J RADCLIFFE /JF

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Notes 3: ***2/16/07, RECEIVED LETTE	ER FROM JOHN LEWIS/ZONING STATING HE HAD
	TO NOT MAKING THE CHANGES HE FELT NECESSARY
	SENT PLAN TO THE ZONING COMMISSIONER'S OFFICE
	NO USE PERMIT & CESY, HEARING 3/21/07, P/U
3/7/07 TO INSPECT BEFORE HEARING, CO	
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BARNES AND RAINE, P. A.

ATTORNEYS AT LAW
405 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

(410) 321-0818

CLAY M. BARNES JOHN E. RAINEIII

May 4, 2007

VIA HAND DELIVERY

William J. Wiseman, Zoning Commissioner Baltimore County Zoning Commission County Courts Building, 4th Floor 401 Bosley Ave.

Towson, Maryland 21204

RE: Case N

Case No.: 03-C-04-001970

1963 Brady Avenue Our File No.: Z-4762

Dear Commissioner Wiseman:

As a follow up to the hearing yesterday we have reviewed with our client the subject of conditions which hopefully will improve relations with our client's neighbors.

We respectfully suggest that the limitations as follows are appropriate.

- a) We would consent to a limitation that no activity would take place on the property, absent an emergency, between the hours of 2:00 a.m. and 5:00 a.m.
- b) To prevent dust conditions we would agree to apply water treatment to the property in the event there is an occurrence of twenty continuous days without precipitation and the air temperature is above freezing.
- c) Storage of construction equipment on the property would be limited, not to exceed a combination of:
 - 1. 125 machines (small) up to 5,000 bs. gvw each; and
 - 2. 75 machines (medium) between 50,001 and 100,000 lbs. gvw each; and
 - 3. 40 machines (large) between 100,001 and 175,000 lbs. gvw each; and
 - 4. 10 machines (extra large) at \$175,001+ lbs. gvw each; and
 - 5. Storage of related attachments for any of the above machines placed on the property in an orderly fashion.

(At maximum capacity there would still remain at least 25% open space)

May 4, 2007
Page 2 of 2
William J. Wiseman, Zoning Commissioner

Please note that the above conditions are submitted without prejudice in the event these proceedings continue beyond your determination and order in this case.

Thank you for your patience in what obviously is a difficult situation and we appreciate your careful consideration of all the issues presented.

Very truly yours,

John E. Raine, III

JER:jr Enclosure

cc: Charles V. Lewis, Jr.

Thomas A. Church, P.E.

Development Engineering Consultants, Inc.

\\Front\my documents\\ZONING\Lewis\Letters\\Wiseman.ltr2,doc

BARNES AND RAINE, P. A.

ATTORNEYS AT LAW

405 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

(410) 321-0818

CLAY M. BARNES JOHN E. RAINE III

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May 4, 2007

VIA HAND DELIVERY

William J. Wiseman, Zoning Commissioner Baltimore County Zoning Commission County Courts Building, 4th Floor 401 Bosley Ave. Towson, Maryland 21204

RE: Case No.: 03-C-04-001970

1963 Brady Avenue Our File No.: Z-4762

Dear Commissioner Wiseman:

As requested at yesterdays hearing, enclosed please find a copy of the Consent Order previously entered in the Circuit Court for Baltimore County.

We anticipate providing you with proposed limitations that the property owners are willing to abide by very soon.

Very truly yours,

John E. Raine, III

JER:jr

Enclosure

cc: Charles V. Lewis, Jr.

Thomas A. Church, P.E.

Development Engineering Consultants, Inc.

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§ 500

## BALTIMORE COUNTY ZONING REGULATIONS



such rules, including whatever site plan or other supporting material may be necessary, the petition may be filed with the Zoning Commissioner by the legal owner of the property or by his legally authorized representative. [Bill No. 85-1964; 40-1967]

- B. A date for a public hearing before the Zoning Commissioner on the petition for the proposed zone or district classification or reclassification may then be scheduled, and such hearing shall be held not less than 30 nor more than 90 days after the date set on the Zoning Commissioner's acknowledgment of such filing. [Bill Nos. 85-1964; 40-1967]
- In the event that the Zoning Commissioner shall refuse to grant a reclassification and upon appeal to the County Board of Appeals, the said Board shall order such reclassification, the Zoning Commissioner shall then forthwith submit said reclassification to the County Commissioners of Baltimore County, and upon their written approval thereof the said reclassification shall become effective and binding and shall constitute an amendment to the boundaries of the zoning districts.
- In cases in which no building permit is required, any person desiring to use any land for any purpose other than that for which said land is being used at the time of adoption of this Order and Resolution⁹ shall make application to the Zoning Commissioner for a use permit, upon such form as the Zoning Commissioner may prescribe. If such use is permissible the Zoning Commissioner may issue a use permit, conditioned by other provisions contained in the regulations which shall indicate that it authorizes the particular use applied for. [Resolution, November 21, 1956]
- In cases of petitions for special exceptions under Section 502 of these regulations, the Zoning Commissioner shall receive such petitions in such form as he may prescribe. He shall hold a public hearing thereon after giving public notice of such hearing as above provided with respect to petitions for reclassification. After such a hearing he shall pass his order granting or refusing such special exception. 10

Editor's Note: Bill No. 85-1964 contained a section to effect a repeal of provisions cited as "section 500.2a and b." At the time of that bill's consideration and enactment, however, no provisions so designated appeared in the law. It is assumed that it was the bill's intent to repeal former Section 500.2 of BCZR 1955.

Editor's Note: Under Section 1107 of the Baltimore County Charter, the County Council and County Executive have succeeded "to all powers heretofore vested in the county commissioners by the constitution and laws of this state." However, under the provisions of Section 604 of the Charter, those persons aggrieved by a decision of the Board of Appeals may now appeal such decision to the Circuit Court of Baltimore County. See Appendix E of this volume.

Editor's Note: This section has been superseded by Section 2-356 of the Baltimore County Code, 1988 Edition, as revised, which vests original jurisdiction for reclassifications with the Board of Appeals (Bill No. 85-1978, effective 12-8-1978, and Bill No. 46-1979, effective 3-28-1979). See also Section 602(e) of the Baltimore County Charter, as well as Section 26-132 of the Baltimore County Code, as found in Appendix D of this volume.

⁹ Editor's Note: The date of adoption and effective date of BCZR 1955 was March 30, 1955.

¹⁰ Editor's Note: See also Section 26-127 of the Baltimore County Code, as found in Appendix D of this volume.

## IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF SHIRLEY G. LEWIS and CHARLES LEWIS, her son 1963 Brady Avenue Baltimore, Maryland 21227-4109,

Respondents *

PETITION FOR CITATION OF CONSTRUCTIVE CIVIL CONTEMPT

CASE NO. 03-C-04-001970

Baltimore County, Maryland, Petitioner

**CONSENT ORDER** 

The foregoing action having come before the Court on Baltimore County's Petition for Constructive Civil Contempt, the parties through their respective counsel, as applicable, having consented to the passage of this Order as will appear from their signatures below.

IT IS, this 27th day of March, 2006, by the Circuit Court for Baltimore County.

ORDERED as of 11:59 p.m., March 27, 2006, neither the owner nor any agents, assigns, contractors, or employees will operate or allow the operation of a Class II trucking facility, as defined in the Baltimore County Zoning Regulations, (hereinafter "BCZR"), or open junkyard conditions, also as defined in the BCZR, at 1963 Brady Avenue, except as subsequently permitted by BCZR upon prior application and approval pursuant to BCZR; and it is further,

ORDERED that the property will be subject to inspection pursuant to applicable laws and regulations by authorized County officials for compliance with this order; and it is further.

Komec.

C.W. Clark. E. Rainer III. Egg.

-1-

MILED APR 3006

ORDERED that any alleged violation of this Order will be subject to further proceedings, including contempt, pursuant to the Maryland Rules of Procedure and upon finding by the Court of a violation of the terms of this Order, the violating party will be punishable by sanctions within the Court's discretion, including civil fines, incarceration or a combination of both.

2/ 2 Date

CONSENTED TO:

Amy L Hicks Grossi

Assistant County Attorney

Courthouse, 2nd Floor

Towson, Maryland 21204

410-887-4420

Attorney for Petitioner

John E. Raine, III

**JUDGE** 

BARNES and RAINE, P.A.

405 W. Pennsylvania Ave

Towson, Maryland 21204

410-321-0818

Attorney for Respondents

From:

Michael Lynch

To:

wwiseman@baltimorecountymd.gov

Date:

05/07/07 2:17:17 PM

Subject:

Circuit Court documents for 1963 Brady Ave.

### Commissioner Wiseman;

Attached are the circuit court documents you had asked me to send you last Thursday during the Zoning Commission hearing regarding the Lewis property on 1963 Brady Avenue in Halethorpe, case # 7-387-SPH. I am sending you copies of 4 documents:

- 1. A Petition For Citation from the Circuit Court to the Lewis property owners dated 2/14/06,
- 2. An Affidavit written by Jeffrey Radcliffe on 2/14/06, Code Enforcement Officer who was involved in the case,
- 3. A Consent Order dated 3/27/06 signed by the assistant County Attorney Amy Hicks Grossi and Mr. Raine,
- 4. A Civil Citation Order dated 9/15/06 from the Department of Permits and Development Management regarding further violations at the Lewis Property.

What I understand from the office of Law and the County Clerk's office is that there was to be a follow-up hearing scheduled for 9/28/06 to determine if the property had come into compliance since the citation was ordered on 9/15. The 9/28/06 was canceled for some reason, and as far as I can tell there has been nothing scheduled since then. The issue seems to have been dropped by all parties involved.

I hope you find this information helpful. Please let me know if there is anything else I can do to be of assistance in this matter. Several of the community residents asked to be informed if you do plan to conduct a site visit of the property. If you let me know I'd be more than happy to pass that information along to them. Thank you for your time and attention with this.

Sincerely,

Michael Lynch

Michael D. Lynch, MSW
Bilingual Neighborhood Revitalization Specialist
Baltimore County Office of Community Conservation
6401 York Rd, 2nd Floor
Baltimore, MD 21212
410-887-2909/ mlynch@baltimorecountymd.gov

## IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF SHIRLEY G. LEWIS and CHARLES LEWIS, her son 1963 Brady Avenue Baltimore, Maryland 21227-4109,

2/14/06

Respondents. *

PETITION FOR CITATION OF CONSTRUCTIVE CIVIL CONTEMPT

CASE NO. 03-C-04-001970

Baltimore County, Maryland, Petitioner

## PETITION FOR CITATION FOR CONSTRUCTIVE CIVIL CONTEMPT

Baltimore County, Maryland, Plaintiff, by John Beverungen, Acting County Attorney, and Amy L. Hicks Grossi, Assistant County Attorney, petitions this Honorable Court, to enter an Order citing Respondents, Shirley G. Lewis and Charles Lewis, her son, and each of them, for constructive civil contempt, and for reasons, says:

- 1. On November 29, 2004, this Court entered an Order in this action (the "Order") affirming the Order entered the 28th day of January, 2004, by the County Board of Appeals of Baltimore County by which it affirmed the Final Order of the Code Enforcement Hearing Officer dated September 26, 2003. The Final Order of the Code Enforcement Hearing Officer, as aforesaid, found that Respondents have, in violation of the zoning regulations committed various and sundry violations of the Baltimore County Zoning Regulations on Respondents' property located at 1963 Brady Avenue, in the Thirteenth Election District, Baltimore, Maryland 21227 (the "Property"), to wit:
  - 1. operating a rubble landfill on the Property;

- 2. grading and amassing fill material, comprising approximately 166,860 cubic feet in volume, and containing, *inter alia*, asphalt, wood, rock, and dirt, on the Property;
- 3. accumulating a mass of asphalt that they have processed in a crushing machine;
- 4. recycling bituminous concrete on the Property;
- 5. operating a junkyard, by amassing and collecting abandoned, damaged, and disabled motor vehicles and auto-related parts on the Property; and
- operating a Class II trucking facility, without benefit of a special exception, by collecting and storing abandoned trash trucks, sea containers, buses, truck trailers and other truck vehicles, and have parked car carriers and other truck tractors and truck trailers overnight or longer on the Property.

Pursuant to the terms of the Order, Respondents were to have abated and corrected said violations forthwith.

- 2. On August, 3, 2005, the parties appeared before the Honorable Robert E. Cadigan for a hearing on Baltimore County's Petition for Citation for Constructive Civil Contempt, which Petition was continued by the Court's Order of Continuance dated August 4, 2005, for a period of eight (8) weeks, during which time Respondent Charles Lewis was to achieve complete compliance with the Court's Order of November 29, 2004.
- 3. An inspection of the Property on February 9, 2006, has disclosed that Respondents have failed to comply completely with the terms of the Order. See Affidavit of Jeffrey Radcliffe, attached hereto and incorporated herewith as Petitioner's Exhibit A. Accordingly, Respondents, Shirley G. Lewis and Charles Lewis, by failing to comply fully with the Final Order of the Code Enforcement Hearing Officer entered on September 26, 2003, have not complied fully and are not

now complying fully with the Orders entered by this Court on November 29, 2004 and August 4, 2005.

- 4. Plaintiff therefore seeks to cause the abatement of the violations by Respondents, as aforesaid, by petitioning this Court:
  - 1. to find Respondents, and each of them, in contempt of this Court;
  - 2. to incarcerate Respondents, and each of them until such time as the Order of November 29, 2004, shall have been complied with in full;
  - 3. to impose daily fines pending the compliance of Respondents, and each of them, with this Court's Order of November 29, 2004;
  - 4. to place Respondents, and each of them, on unsupervised probation for a period of twenty-four (24) months; and/or
  - 5. to apply and use such other means as this Court deems effective to cause Respondents, and each of them, to comply with the Order of November 29, 2004.

## WHEREFORE, Plaintiff seeks the following relief:

- That this Court find that Respondents Shirley G. Lewis and Charles Lewis, each has violated and is in violation of the Order entered by this Court on November 29, 2004, and therefore, that each has been and is in contempt of this Court;
- 2. That this Court order the incarceration of Respondent Charles Lewis until such time as he shall have complied fully with the Order entered by this Court on November 29, 2004;

3. That this Court enter an Order imposing a fine upon Respondents Shirley G. Lewis and Charles Lewis, and each of them, for each day that each Respondent shall be found to have been and be in violation of the aforesaid Order;

4. That this Court impose upon Respondents, and each of them, a period of unsupervised probation totaling twenty-four (24) months from the date this Court enters an Order to such effect:

- 5. That this Court enter an Order pursuant to Md. Rule 15-206 (c)(2) in the form attached hereto; and
- 6. For such further relief as justice requires.

John Beverungen
Acting County Attorney

Amy L. Hicks Grossi
Assistant County Attorney
400 Washington Avenue, Room 219
Towson, Maryland 21204
410-887-4420

Attorneys for Baltimore County, Maryland

## CERTIFICATE OF SERVICE

I HERBBY CERTIFY, this Aday of February, 2006, that a copy of the foregoing Petition for Citation for Constructive Civil Contempt, and proposed Show Cause Order, were mailed, first class, postage prepaid, to:

JOHN E. RAINE III
BARNES AND RAINE, P.A.
405 West Pennsylvania Avenue
Towson, Maryland 21204

Attorney for Respondents

Amy L. Hicks Grossi

**Assistant County Attorney** 

## IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF SHIRLEY G. LEWIS and CHARLES LEWIS, her son 1963 Brady Avenue Baltimore, Maryland 21227-4109,

2/14/05

Respondents

PETITION FOR CITATION OF CONSTRUCTIVE CIVIL CONTEMPT

CASE NO. 03-C-04-001970

Baltimore County, Maryland, Petitioner

## AFFIDAVIT OF JEFFREY RADCLIFFE

- 1. My name is Jeffrey Radcliffe. I am over the age of twenty-one (21), have personal knowledge of the facts set forth herein, and am competent to give testimony thereon in a court of competent jurisdiction.
- 2. I am a Code Enforcement Officer in the Baltimore County Department of Permits and Development Management. My duties include the inspection of real property in Baltimore County and the enforcement of the Codes applicable to those properties.
- 3. On November 24, 2004, the Honorable Robert E. Cadigan entered an Order (the "Order") affirming the Order entered the 28th day of January, 2004, by the County Board of Appeals of Baltimore County by which it affirmed the Final Order of the Code Enforcement Hearing Officer dated September 26, 2003, requiring Respondents Shirley G. Lewis and Charles Lewis, to abate and correct violations of Sections 101, 102.1, 253, 408, 410A, and 500.9 of the Baltimore County Zoning Regulations, that were found to have existed on Respondents' property located at 1963 Brady Avenue, in the Thirteenth Election District, Baltimore, Maryland 21227 (the "Property").

- 4. On August, 3, 2005, the parties appeared before the Honorable Robert B. Cadigan for a hearing on Baltimore County's Petition for Citation for Constructive Civil Contempt, which Petition was continued by the Court's Order of Continuance dated August 4, 2005, for a period of eight (8) weeks, during which time Respondent Charles Lewis was to achieve complete compliance with the Court's Order of November 29, 2004.
- 5. I have been making regular inspections of the subject property to ascertain and monitor for progress and compliance with the Court's order.
- 6. On November 4, 2005, I visited the site, inspected the Property and took photographs of the conditions then existing. At 5:55 am a gray Dodge pick-up truck entered the property. I spoke to the two gentlemen inside the pick-up truck. Neither was known to me prior to that meeting, and they were not the property owners. I observed that the two gentlemen in the pick-up truck received a call and left at 6:32 am in a tractor-trailer painted with the business logo for "Decker's Recycling" that had been parked on the property. Follow-up investigation verified that the pick-up truck was owned by Decker's Recycling. I observed that Respondents continued to store the following on the Property:
  - trucks for Decker Recycling
  - 2 roll-off dumpsters
  - 2 trailers
- 7. I made further inspections on November 10, November 23 and November 30, 2005. I took photographs of the conditions existing during each inspection. The gray Dodge pick-up truck seen on November 4, 2005 was also there on November 30, 2005. I also observed that Respondents continued to store the following on the Property on those dates:
  - dumpsters

- " trailers
- unlicensed vehicles
- Decker Recycling tractors
- a roll-off trailer full of used lighting fixtures that could not have been removed from the building on the property and which I therefore believe were brought onto the property
- a pile of old tires
- 11. On December 16, 2005, I visited the site, inspected the Property and took photographs of the conditions then existing. I observed a black Decker Recycling tractor-trailer with its lights on warming up in the yard. At 5:25am I observed the tractor-trailer leaving the property. I observed that Respondents continued to store the following on the Property:
  - 1 Decker Recycling roll-off tractor-trailer with dumpster
  - 3 dumpsters
  - 2 enclosed trailers
  - 1 flat-bed trailer
  - ² 2 unlicensed vehicles
  - 1 pile of tires and rubber
- 12. On December 20, 2005, I visited the site and inspected the Property, and took photographs of the conditions then existing. I observed that Respondents continued to store the following on the Property:
  - 1 black Decker Recycling tractor-trailer

- 1 Decker recycling roll-off tractor with dumpster
- 2 trailer
- 1 flat-bed trailer
- 3 dumpsters
- 1 unlicensed vehicle
- 13. On December 29, 2005, I visited the site, inspected the Property and took photographs of the conditions then existing. I observed that Respondents were at that time storing the following on the Property:
  - 1 Decker Recycling tractor and trailer
  - Decker Recycling roll-off tractor with full dumpster containing yard waste, bike, trash and other miscellaneous debris
  - 5 dumpsters
  - 2 trailers
  - 1 flat-bed trailer
  - 1 unlicensed vehicle
  - = 1 pile of tires and rubber
- 14. On January 6, 2006, I visited the site, inspected the Property and took photographs of the conditions then existing. I observed the gray Dodge pick-up truck I had seen on at least two other occasions entering the property at 5:48 am. At 6:02am a Decker recycling roll-off truck with

dumpster left the property. I also observed that Respondents continued to store the following on the Property:

- 2 trailers
- 1 flat-bed trailer
- 4 roll-off dumpsters, one full of trash and debris
- = 1 pile of tires and rubber
- 1 unlicensed vehicle
- 15. On January 13, 2006, I visited the site and inspected the Property, and took photographs of the conditions then existing. I could see the lights of a truck in the rear of the property. A Decker recycling roll-off truck with dumpster left the property at 5:45am. I also observed that Respondents were storing the following on the Property:
  - the gray Dodge pick-up truck that had been present on several previous inspections that is not registered to the property owners
  - 2 trailers
  - 1 flat-bed trailer
  - 1 roll-off dumpster
  - 1 unlicensed vehicle
  - junkyard conditions, including debris, scrap metal, tires and rubber
- 16. Regular inspections continued on January 20, January 27, February 3, and February 9. I took photographs of the conditions existing during those inspections. The gray Dodge pick-up was

present for three of these four inspections. Decker Recycling vehicles were parked on the property for three of the four inspections. In addition to the above observations, I also observed that Respondents were storing the following on the Property:

- = 2 trailers
- one flat-bed trailer
- one empty dumpster
- one dumpster filled with debris
- one unlicensed vehicle
- open dump and junkyard conditions, including tires, rubber, metal and other trash and debris

As a result of my observations, I can state without equivocation that the condition of the Property continues to violate both the Final Order of the Code Enforcement Hearing Officer dated September 26, 2003, and the Order entered by this Court on November 24, 2004, and that Respondents, Shirley G. Lewis and Charles Lewis, have not complied and are not now complying with the provisions of Baltimore County Zoning Regulations, §§ 101, 102.1, 253, 408, 410A, and 500.9, as these apply to Respondents' property located at 1963 Brady Avenue, Baltimore, Maryland 21227.

I SOLEMNLY SWEAR OR AFFIRM, this _// day of February, 2006, under the penalties

of perjury that the foregoing is true and accurate.

SEPPREY RADCLIFFE

Code Enforcement Office
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

## IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF SHIRLEY G. LEWIS and CHARLES LEWIS, her son 1963 Brady Avenue Baltimore, Maryland 21227-4109, 3/27/06

Respondents

PETITION FOR CITATION OF CONSTRUCTIVE CIVIL CONTEMPT

CASE NO. 03-C-04-001970

Baltimore County, Maryland, Petitioner

## CONSENT ORDER

The foregoing action having come before the Court on Baltimore County's Petition for Constructive Civil Contempt, the parties through their respective counsel, as applicable, having consented to the passage of this Order as will appear from their signatures below.

IT IS, this 27th day of March, 2006, by the Circuit Court for Baltimore County.

ORDERED as of 11:59 p.m., March 27, 2006, neither the owner nor any agents, assigns, contractors, or employees will operate or allow the operation of a Class II trucking facility, as defined in the Baltimore County Zoning Regulations, (hereinafter "BCZR"), or open junkyard conditions, also as defined in the BCZR, at 1963 Brady Avenue, except as subsequently permitted by BCZR upon prior application and approval pursuant to BCZR; and it is further.

ORDERED that the property will be subject to inspection pursuant to applicable laws and regulations by authorized County officials for compliance with this order; and it is further.

Konce. Cw. Clark Eg. John E. Rainer III. Eg.

-1-

WLED. APR 3 4008

ORDERED that any alleged violation of this Order will be subject to further proceedings, including contempt, pursuant to the Maryland Rules of Procedure and upon finding by the Court of a violation of the terms of this Order, the violating party will be punishable by sanctions within the Court's discretion, including civil fines, incarceration or a combination of both.

3/28/06

CONSENTED TO:

Amy L Hicks Grossi

Assistant County Attorney Courthouse, 2nd Floor

Towson, Maryland 21204

410-887-4420

Attorney for Petitioner

Ohn B. Raine, III

JUDGE

BARNES and RAINE, P.A.

405 W. Pennsylvania Ave

Towson, Maryland 21204

410-321-0818

Attorney for Respondents

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

9/15/06

In the Matter of

Shirley Lewis 8590 Horseshoe Road Ellicott City, MD 21043

Respondent

Civil Citation No.02-0212

1963 Brady Avenue

## FINDINGS OF FACT AND CONCLUSION OF LAW FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on September 13, 2006, for a hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 500.4 for failure to submit site plan; (BCZR) section 1B01.1D for failure to cease open dump and junkyard conditions; Baltimore County Code (BCC) section 13-7-112, 115, 310, 312; for failure to cease open dump conditions on property zoned ML/IM known as 1963 Brady Avenue, 21227.

On August 28, 2006, pursuant to §3-6-205, Baltimore County Code, Jeffrey Radcliffe, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondent.

The citation proposed a civil penalty of \$10,000.00 (ten thousand dollars). A code enforcement hearing date was scheduled for September 13, 2006.

Ms. Shirley Lewis, Respondent appeared for the hearing represented by John E. Raine III, Esquire

Jeffrey Radcliffe, Code Enforcement Officer presented the case for Code Enforcement.

Testimony and evidence presented by Mr. Radcliffe show accumulations of lumber, broken palettes, scrap lumber and plywood among other building materials, brick rubbie, discarded tire, rim and several areas that brush, tree limbs and logs have been pushed into piles at the perimeters of the property. An exercise bike appears to be the lone item that could be considered junk. County Exhibit #1 A through M clearly shows the conditions existing on the property on August 10, 2006. County Exhibit #2 A through I shows the items listed above as continuing to exist on the premises on August 29, 2006. County Exhibit #3 A through ! shows unchanged conditions as of September 12, 2006. The Respondent was issued correction notices on July 25, 2006 shown in County Exhibit #4. The property has experienced a major change as the property has been cleared of most violations cited in previous years. Mr. Raines is hinging his defense upon the perception of his client that Mr. Radcliffe gave the premises a clean bill of health declaring as of March 28, 2006 that there were no violations on the property. Case file computer records support this. Mr. Radcliffe explained that a site plan would not be reviewed unless the site was declared violation free. Mr. Radcliffe gave the site the O-K so that site plan review could proceed. However, it was his understanding that the Lewis brothers would continue to clear the remaining debris and/or material in short order since there was such a minor amount left to do. The subject material and debris were not moved thereafter.

The photographs entered as exhibits clearly show a presence of open dump conditions and therefore in violation of cited Baltimore County Code section 13-7-312 (2) wherein a person may not accumulate or allow the accumulation of lumber, boxes, barrels, cans, leaves, brush, tree limbs, bricks, stones etc., or similar materials on any premises, improved or vacant or on any open lot or alley if the accumulation is conducive to a rat harborage. Section 1801.1D of Baltimore County Zoning Regulations requires that junkyards and open dumps in any zone shall be completely eliminated by 1964. Baltimore County Code section 13-4-104 (a) (1) defines an open dump as any land publicly or privately owned on which there is an accumulation, either temporary or permanent, of any kind of solid waste. The debris on this property more closely resembles rubble in that it consists of some building demolition debris, tree stumps and other land clearing debris......etc, as found in BCC 13-4-101 (t) (1).

I find the Lewis's have allowed the creation and continuation of open dump conditions consisting of rubble upon this property known as 1963 Brady Avenue. A Special Exception is required to operate a rubble landfill in an ML zone. There is reason to suspect that some of the tree debris has been deposited on the property of another, or as the Lewis brothers claim, from the cemetery property adjacent to 1963 Brady Ave. The property lines were not clearly defined nor was it clearly established that all debris shown in the photographs is on the subject property, however it is clear that a substantial amount is located upon the premises and must be removed. The respondent was not charged with depositing material on the property of another. The aggrieved party would be responsible to bring an action seeking remedy.

County exhibit #3B is a photograph showing two large excavators that could be utilized to clear the remaining debris from the property in less time than it took to hear this case. It boggles the mind of this Hearing Officer as to why seemingly astute business persons would choose to stubbornly contest removing the offensive materials, brush, tree limbs and other assorted debris. The property has undergone an impressive transition, however the owners appear to have chosen to clear additional trees and brush adding to the debris onsite.

The property does not appear to be used for any specific purpose at this time. Baltimore County Zoning Regulation 500.4 does not appear to require a site plan. It states that the Zoning Commissioner may issue a use permit if such requested use is permissible. Baltimore County Zoning Regulation section 500.9 gives the Zoning Commissioner the power to require a site plan.

The evidence supports a finding of violation for open dump conditions from the date of the correction notice up to and including the date of the hearing. There was no evidence or testimony presented by the Respondents that any of the materials have been removed prior to the hearing.

Lewis #02-0212 Page 4

IT IS ORDERED by the Code Enforcement Hearing Officer this 15th day of September 2006, that a civil penalty be imposed in the amount of \$10,000.00 (ten thousand dollars).

IT IS FURTHER ORDERED that the amount of \$10,000.00 (ten thousand dollars) shall be reduced to \$500.00 (five hundred dollars) on condition the Respondents remove remaining existing offensive materials considered contributing to open dump conditions on or before September 25, 2006.

If the Respondents fail to correct the violations, then the civil penalty imposed shall be \$10,000.00 (ten thousand dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violation has been corrected. If the open dump conditions remain after September 25, 2006, Baltimore County shall enter the property at anytime thereafter for the purpose of removing the offending materials at the expense of the owner. The applicable civil penalty shall be due on or before November 6, 2006.

Signed:

Raymond S. Wisnom, Jr.

Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-8-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appealant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jef

## PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

## ETITIONER'S SIGN-IN SHEET

E- MAIL			Millise HCEA, Con										
CITY, STATE, ZIP	12 May 21212		Lethor 110 21093										
ADDRESS	405 W Ferman And	Propacleren 1963 Brady Am	206 Molesether Avediots						NE, P.A.	/ENUE	204		
NAME	JOHN CHUELL	5	127 th # 1100 115						AND RA	SYLVANIA AV	(410) 321-0818	JOHN E. RAINE, III	I

## PLEASE PRINT CLEARLY

CASE NAME	CASE NUMBER	DATE

## CITIZEN'S SIGN-IN S

	E- MAIL		malicka corridorle.	482 58					
SIGN-IN SHEET	CITY, STATE, ZIP	HOUTING MY 21217	Edgester, ma 2127 Chillet Md. 21227	FLLICOTT CITYMD 21042					
CITIZEN'S S	ADDRESS	1930 Brad PUE	3721 14nau 1 1961 Made Wei	BENSON BRA					
	NAME	1000	Star Sa	KIRICK DOUGHT- KICHARD FIFERAM					

## PLEASE PRINT CLEARLY

CASE NAME CASE NUMBER DATE

# COUNTY REPRESENTATIVE'S SIGN-IN SHEET

E- MAIL	2 MLynd 2 Baltimore county											
CITY, STATE, ZIP	2											
ADDRESS	6401 york Rd											
		-	 1	$\neg \uparrow$	 		-	 	 	 	 	

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition, v14 Updated 09-10-2005
THE REGULATIONS

ARTICLE 1, GENERAL PROVISIONS
Section 101, Definitions [BCZR 1955]

DUPLICATING SERVICE BUSINESS -- A business establishment containing no more than 3,000 square feet of net floor area where the principal use is the provision of quick-copy duplicating and printing of reports, resumes, correspondence, office forms and other similar services to businesses and individuals. For the purpose of this definition, the term "net floor area" includes selling and working space and accessory storage areas, but it does not include areas intended and utilized for permanent uses such as sanitary facilities, stairwells, heating equipment, fire corridors and enclosed parking. The term "duplicating service business" does not include any printing operation which uses a press larger than 17 inches by 24 inches (maximum sheet size). [Bill No. 117-1983]

DURABLE AND DUSTLESS SURFACE -- A surface adequately covered in accordance with good practice with bituminous surface treatment, concrete, bituminous concrete or equivalent paving material approved by the Zoning Commissioner, and maintained in good condition at all times. The words "equivalent paving material" as used herein mean any alternative paving material that, in the judgment of the Zoning Commissioner, will, in the case of a particular property or use, allow for equal or better results in preventing dust, erosion or other undesirable conditions. [Bill No. 26-1988]

DWELLING -- A building or portion thereof which provides living facilities for one or more families. EN

DWELLING, ALTERNATIVE SITE DESIGN -- A dwelling sited on a zero lot line or zipper lot, patio house or neo-traditional dwelling as prescribed in the Comprehensive Manual of Development Policies. [Bill No. 2-1992]

DWELLING, SINGLE-FAMILY DETACHED -- A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. [Bill No. 2-1992]

DWELLING, TWO-FAMILY -- A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. [Bill No. 2-1992]^{EN}

ENCLOSED MALL -- A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29-1982]

ENVIRONMENTAL IMPACT STATEMENT -- A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;

Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;

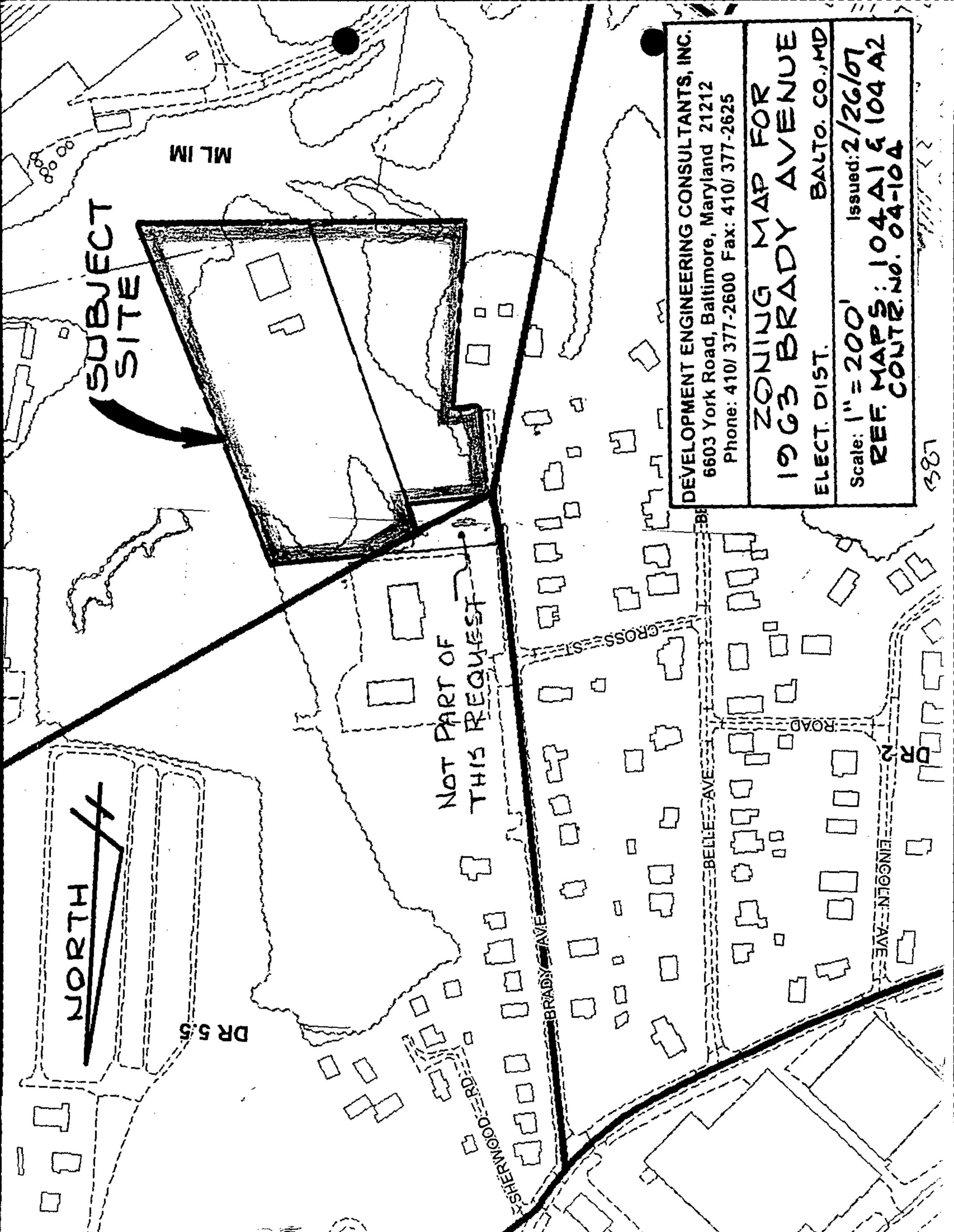
Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action-including its relationship to short-term use of the environment versus the environment's long-term proder PETITIONER'S

Any irreversible or irretrievable commitment of resources that might EXHIBIT NO.

3



Case No.: 07-387-SPH

1963 BRADY AVE

## Exhibit Sheet

## Petitioner/Developer

## Protestant

<del>, , , , , , , , , , , , , , , , , , , </del>	~~~~~~~ <del>~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~</del>	<del>,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</del>
No. 1	James E. Dyer letterof	
	James E. Dyer Letters 2/17/77 regarding subject Property	
,	ColorizeD SITE PLAN  5/12 PLAN	
2B	SITE PLAN	
No. 3	Definition - Durable and Dustlass Surface 1320R Sut. 1011	
	732CR Sest. 10/1	·
No. 4	2/12/07 from Mr.	
	Hillis-Comes FIRM	
No. 5		
	VINCENT KICAS DIV. OF CONSTRUCTION	
No. 6	Specifications for	
\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	B. tulnomus Concett	<del>-                                    </del>
No. 7	A-Mckum Logan B-Mid Lantie Machiner C-52 aunty Equinit	
	C-Security Equant	
No. 8	MR. HILLIS RESUME	
:		
No. 9	Collectively - Photographs  9A thru 96 - Existing  Collectively - Photographs  Existing  Constitues	
	9A Thru 9G - CONDITIONS	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
No. 10		
No. 11		
NI - 10	<u></u>	
No. 12		

HILLIS-CARNES

February 12, 2007

Development Engineering Consultants, Inc. 6603 York Road Baltimore, Maryland 21212

- Attention: Mr. Tom Church, P.E.

Re:

Pavement Evaluation

**Brady Avenue** 

Construction Equipment Parking Lot

Baltimore County, Maryland HCEA Project No. 07076A 10975 Guilford Road, Suite A
P.O. Box 241
Annapolis Junction, MD 20701
Balto. 410-880-4788
DC Metro 301-470-4239
Fax 410-880-4098
www.hcea.com

## Gentlemen:

Pursuant to your request, a representative from Hillis-Carnes Engineering Associates, Inc. (HCEA) visited the above referenced site on February 2, 2007. The purpose of the site visit was to visually examine the existing conditions of the subject parking area and collect random bulk samples of the recycled bituminous concrete material presently in-place.

The subject parking lot is being used as a storage yard for "off the road" track and rubber-tired construction equipment and in our professional opinion, it is impractical to provide conventional flexible or even rigid pavement surfaces for these types of wheel and track loads from an economical and durability standpoint. Aggregate base course surfaces have typically been provided for these types of uses including contractor storage, rental, and auction type venues. The use of aggregate base also provides for flexibility in re-grading and maintaining the pavement surface as they erode or rut due to traffic and exposure to the elements.

As stated previously, random representative samples of the aggregate base presently in place were collected in the field and returned to our laboratory for gradation analyses. The results of the gradations have been attached with this letter. As can be seen from these results, our sampling and testing indicates that the materials in their present state generally meet MD SHA Crusher Run Aggregate (CR-6) gradation requirements. MD SHA CR-6 allows a maximum of 15 percent fines (i.e. percent silt and clay passing the #200 sieve). The samples collected have fewer fines than typically allowed; with values in the range of 6-10 percent. In our professional opinion, this surface, as it exists and with the confirmation of sampling and gradation testing, meets the Baltimore County requirement of a durable and dustless surface and one most appropriate for the intended purpose.

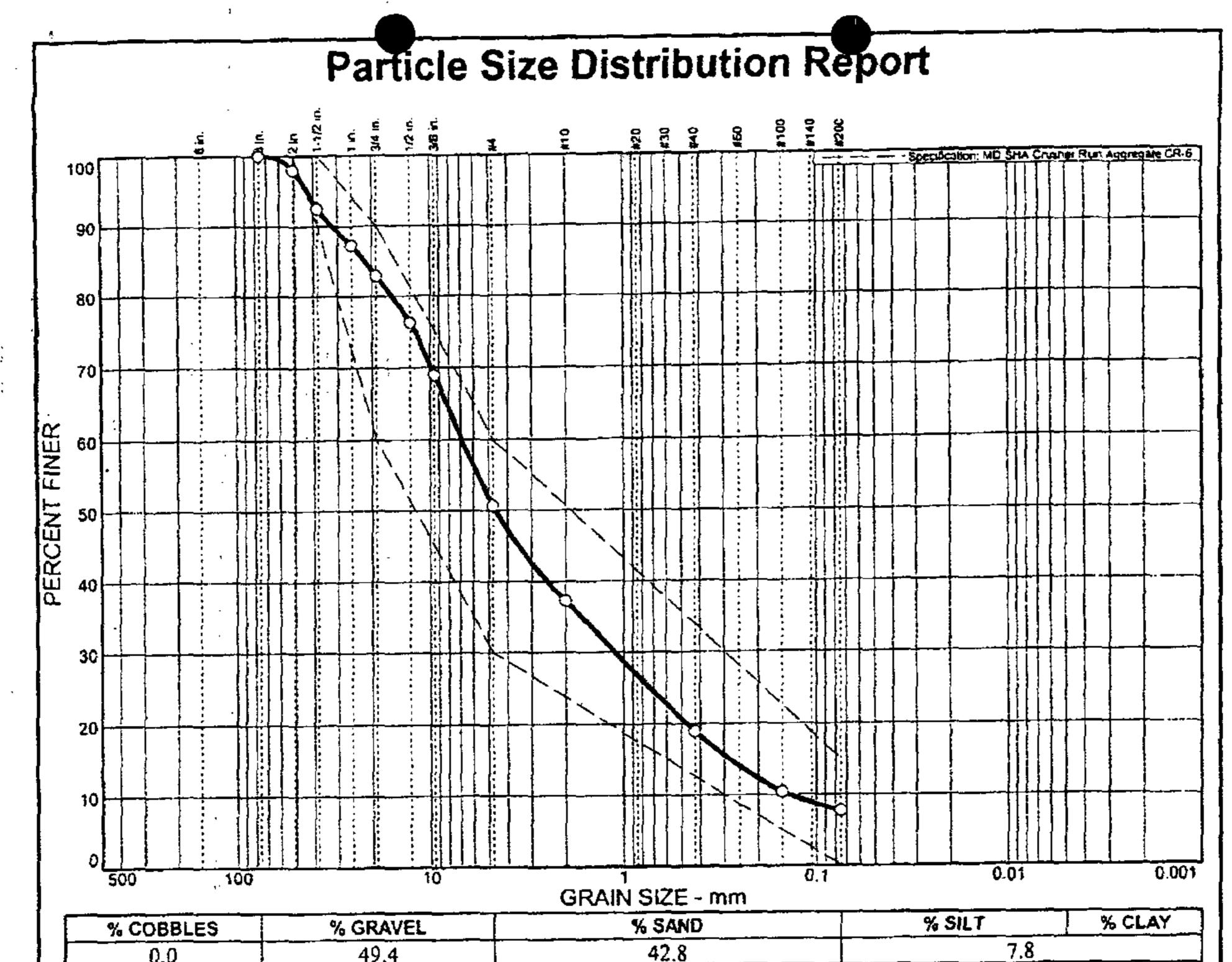
Should you have any questions regarding this letter or need any additional information, please do not hesitate to contact our office.

Sincerely,

Hillis-Cames Engineering Associates, Inc.

Dahad V Value DE

Richard M. Hillis, P.E.



42.8

SIEVE	PERCENT	SPEC.*	PASS?
ŞIZE	FINER	PERCENT	(X=NO)
3 in. 2 in. 2 in. I - 1/2 in. 3/4 in. 1/2 in. 3/8 in. #4	100.0 97.9 92.4 87.1 82.8 76.1 68.9 50.6	100 - 100 : 90 - 100 : 60 - 90	<b>X</b>
#10 #40 #100 #200	37.2 18.9 10.4 7.8	0 - 15	

49.4

Soil Description  Recycled Concrete & Asphalt Millings								
Atterberg Limits	PI=							
Coefficients $D_{60}$ = 6.91 $D_{15}$ = 0.284 $C_{c}$ = 1.31	D ₅₀ = 4.62 D ₁₀ = 0.139							
Classification USCS= AASHTO=								
Remarks								
*								
	Atterberg Limits  LL=  Coefficients  D60= 6.91  D15= 0.284  Cc= 1.31  Classification  AASH1							

MD SHA Crusher Run Aggregate CR-6

Sample No.: 1

Location: S-1

0.0

Source of Sample:

Date: 02/09/2007

Elev./Depth:

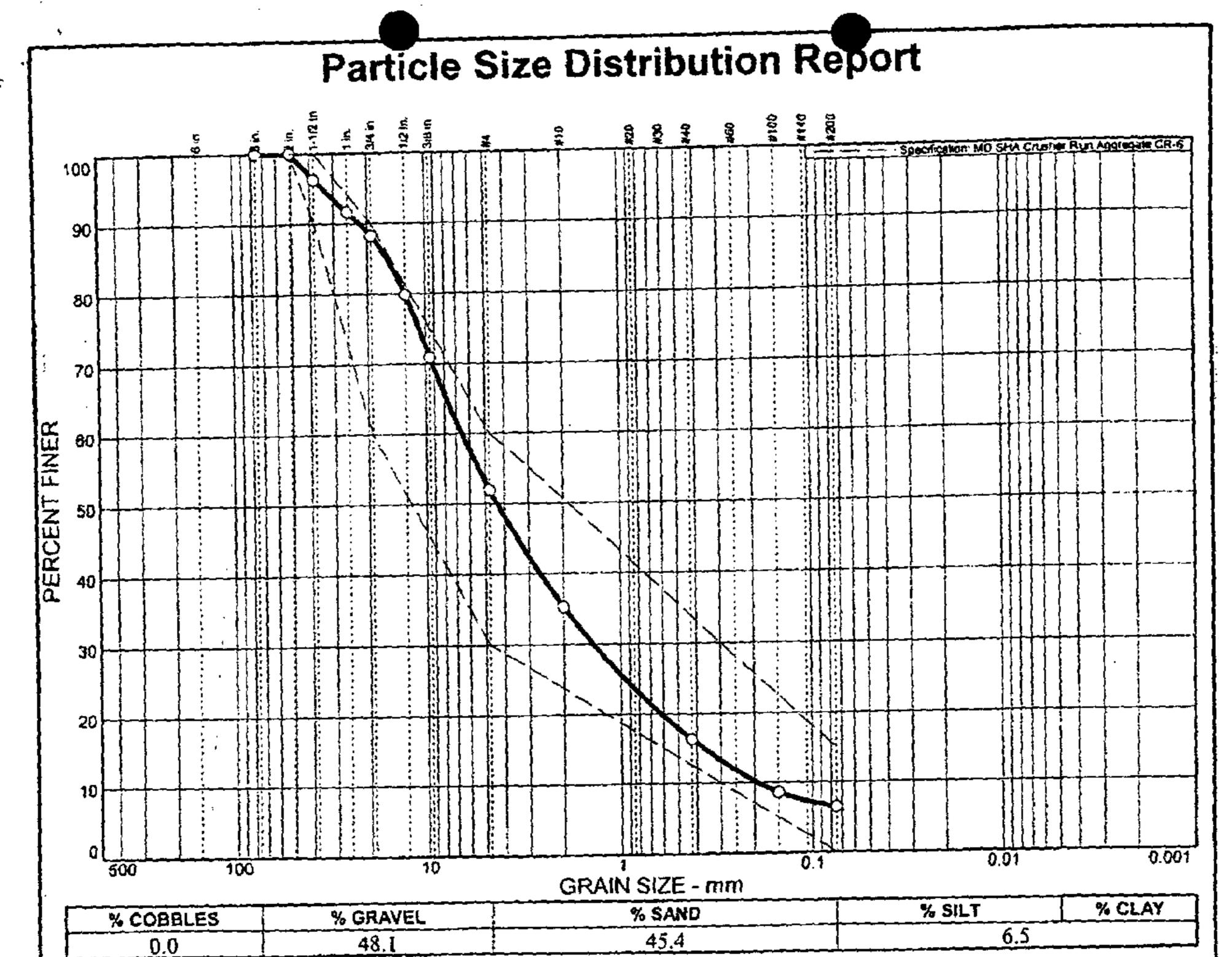
HILLIS-CARNES

Client:

Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A



SIEVE	PERCENT	SPEC.*	PASS?
SIZE	FINER	PERCENT	(X=NO)
3 in. 2 in. 1-1/2 in. 1/2 in. 3/4 in. 1/2 in. 3/8 in. #40 #100 #200	100.0 100.0 96.3 91.6 88.2 79.8 70.9 51.9 35.3 16.3 8.6 6.5	100 - 100 90 - 100 60 - 90 30 - 60	
			*

Recycled Concr	Soil Description  Recycled Concrete & Asphalt Millings									
PL≔	Atterberg Limits	Pł≈								
D ₈₅ = 15.8 D ₃₀ = 1.40 C _u = 33.79	Coefficients D60= 6.56 D15= 0.369 Cc= 1.54	D ₅₀ = 4.37 D ₁₀ = 0.194								
USCS=	Classification									

Sample No.: 2

Location: S-2

Source of Sample:

Date: 02/09/2007

Elev/Depth:

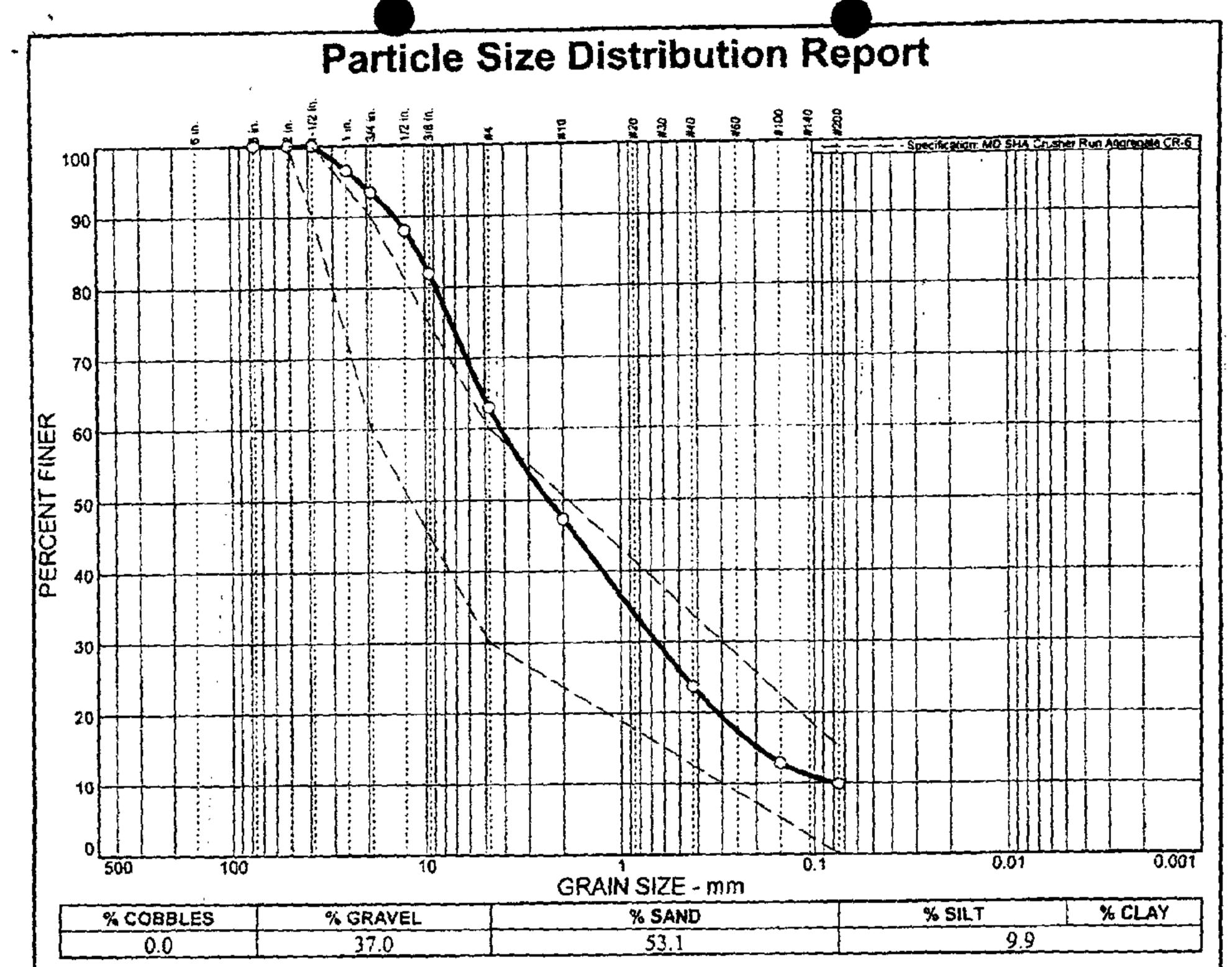
HILLIS-CARNES

Client:

Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A



SIEVE	PERCENT	SPEC.*	PASS?
SIZE	FINER	PERCENT	(X=NO)
3 in. 2 in. 1 - 1/2 in. 1 in.	100.0 100.0 100.0 96.5	100 - 100 90 - 100	v
3/4 in. 1/2 in. 3/8 in. #4 #10	93.4 88.0 81.9 63.0 47.3	60 - 90 30 - 60	X X
#40 #100 #200	23.7 12.8 9.9	0 - 15	
4			

Soil Description									
Recycled Concrete & Asphalt Millings									
	Attanbara 1 imite	<b>B</b>							
PL≈	Atterberg Limits	e Pi=							
	Coefficients								
Das= 10.9		D ₅₀ ≈ 2.38							
$D_{85}=10.9$ $D_{30}=0.659$ $C_{0}=53.82$	$D_{60} = 4.17$ $D_{15} = 0.200$ $C_{c} = 1.35$	$D_{50} = 2.38$ $D_{10} = 0.0775$							
C _U ≈ 53.82	$C_{\mathbf{C}} = 1.35$								
HCCC-	Classification	T/3-							
USCS=	AASH	10-2							
	Remarks								
	•								

Sample No.: 3 Location: S-3 Source of Sample:

Date: 02/09/2007

Elev./Depth:

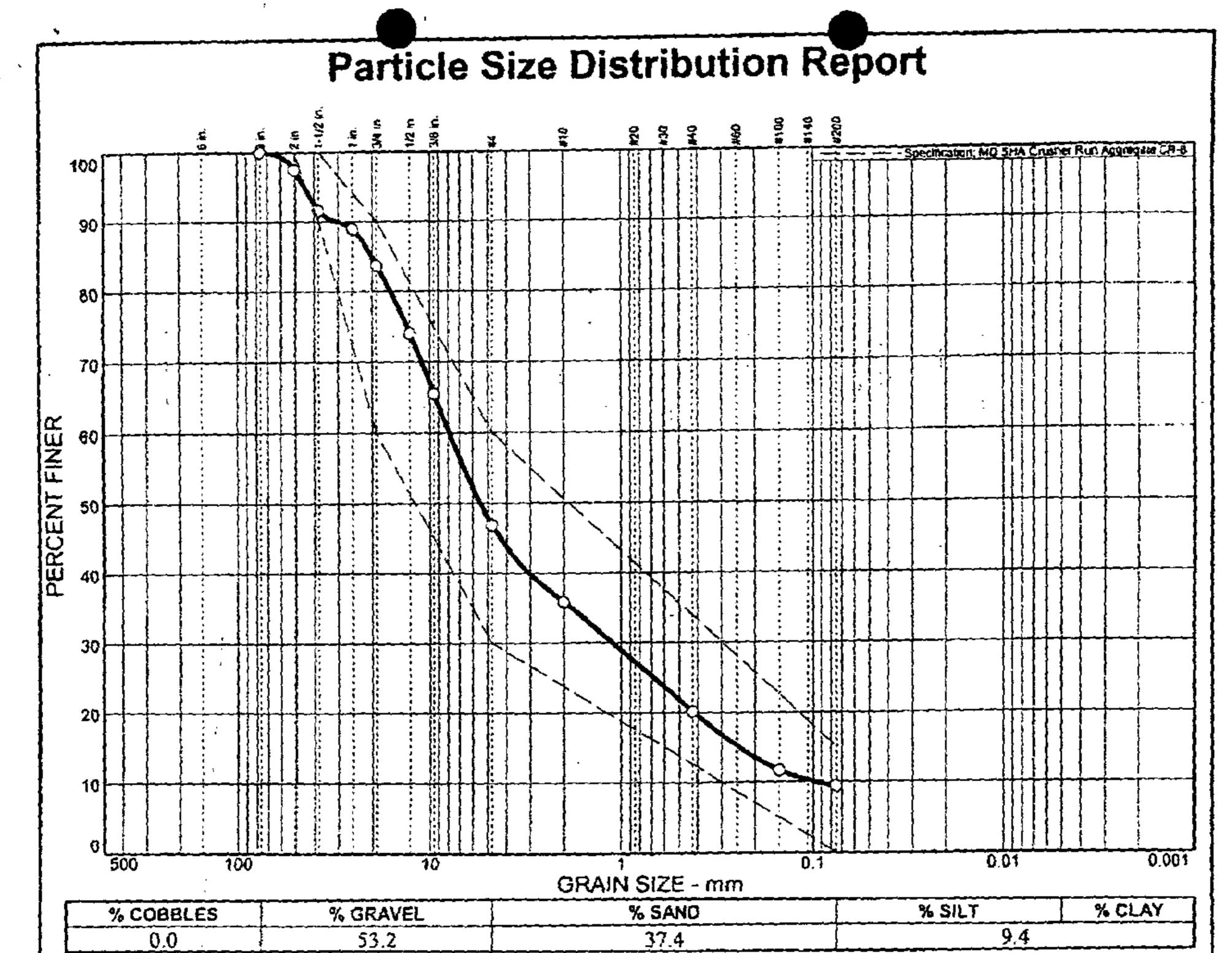
HILLIS-CARNES

Client:

Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A



SIEVE	PERCENT	SPEC.*	PASS?
SIZE	FINER	PERCENT	(X=NO)
3 in. 2 in. 2 in. 1 in. 3/4 in. 1/2 in. 3/8 in. #40 #100 #200	100.0 97.5 91.6 88.9 83.7 74.1 65.5 46.8 35.8 20.1 11.6 9.4	100 - 100 90 - 100 60 - 90 30 - 60	X

Soil Description  Recycled Concrete & Asphalt Millings			
PL=	Atterberg Limits	Pí≈	
$D_{85}^{=} 20.2$ $D_{30}^{=} 1.11$ $C_{0}^{=} 82.07$	Coefficients $D_{60} = 7.95$ $D_{15} = 0.246$ $C_{c} = 1.61$	D ₅₀ = 5.49 D ₁₀ = 0.0968	
uscs=	Classification AASHT	O=	
	Remarks		
	•		

Sample No.: 4

Location: S-4

Source of Sample:

Date: 02/09/2007

Elev./Depth:

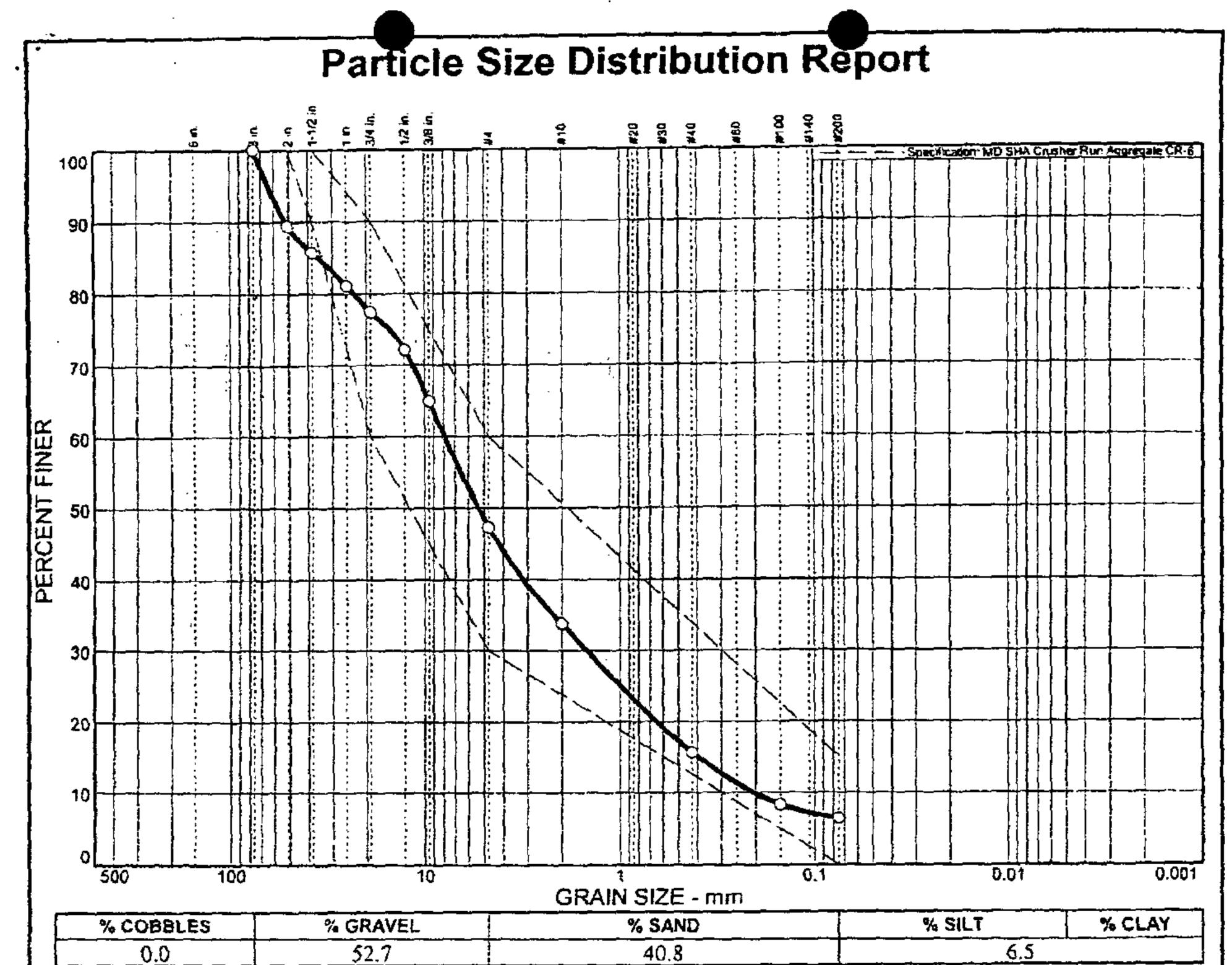
HILLIS-CARNES

Client:

Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A



SIEVE	PERCENT	SPEC.*	PASS?
SIZE	FINER	PERCENT	(X=NO)
3 in. 2 in. 1 - 1/2 in. 3/4 in. 1/2 in. 3/8 in. #40 #100 #200 #200	100.0 89.4 85.7 81.1 77.5 72.2 65.0 47.3 33.7 15.6 8.4 6.5	100 - 100 90 - 100 60 - 90 30 - 60	X

· ·	Atterberg Limits	
PL≕	LL=	Pt=
D ₈₅ = 35.6 D ₃₀ = 1.50 C _u = 38.53	Coefficients D ₆₀ = 7.94 D ₁₅ = 0.398 C _c = 1.38	D ₅₀ = 5.37 D ₁₀ = 0.206
USCS=	Classification AASHT	O=
	Remarks	

Sample No.: 5

Source of Sample:

Elev./Depth:

Location: S-5

HILLIS-CARNES

Client:

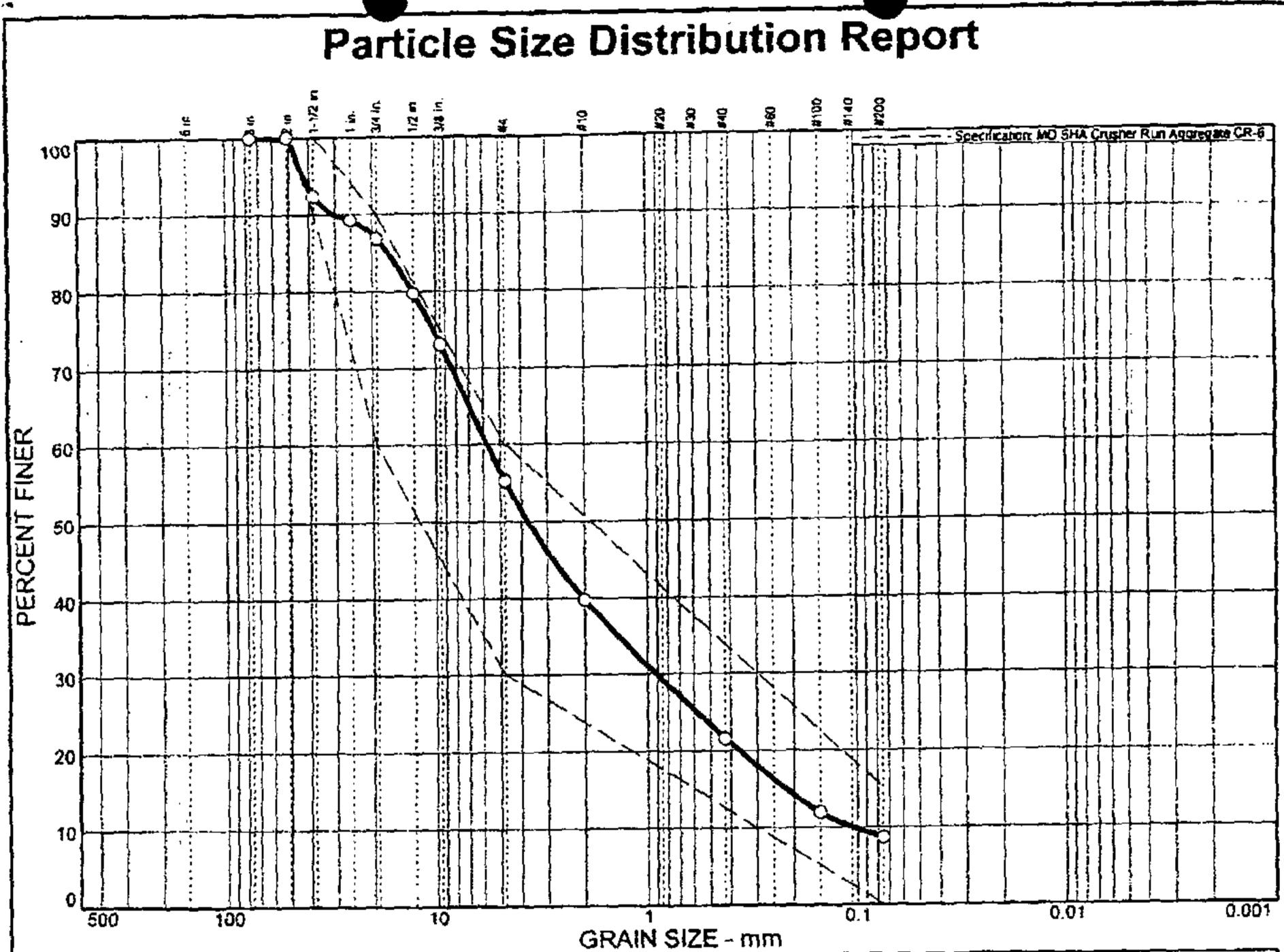
Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A

Figure

Date: 02/09/2007



% COBBLES	% GRAVEL	% SAND	% SILT	% CLAY
0.0	44.8	46.6	8.6	

SIEVE	PERCENT	SPEC.*	PASS?
SIZE	FINER	PERCENT	(X¤NO)
3 in. 2 in. 1 - 1/2 in. 1 in. 3/4 in. 1/2 in. 3/8 in. #4	100.0 100.0 92.4 89.2 86.8 79.7 73.1 55.2	100 - 100 90 - 100 60 - 90 30 - 60	
#10 #40 #100 #200	39.8 21.6 11.9 8.6	0 - 15	•

Soil Description				
Recycled Concrete & Asphalt Millings				
	Atterberg Limit			
PL=	LL=	Pl=		
	Coefficients			
$D_{85} = 16.8$		$D_{50} = 3.73$ $D_{10} = 0.106$		
$D_{85}$ = 16.8 $D_{30}$ = 0.919 $C_{u}$ = 54.55	$D_{60} = 5.77$ $D_{15} = 0.222$ $C_{c} = 1.38$	$D_{10} = 0.106$		
$C_{u} = 34.33$	C _C - 1.38			
Classification				
USCS=	AASH	TO=		
Remarks				
	<del></del>			
į.				
, 				

Sample No.: 6

Location: S-6

Source of Sample:

Date: 02/09/2007

Elev./Depth:

HILLIS-CARNES

Client:

Project: Brady Avenue

ENGINEERING ASSOCIATES, INC.

Project No: 07076A

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotrocco, Director

DATE: February 27, 2007

Department of Permits & Development Management

FROM:

Vincent G. Kicas, Chief

Division of Construction Contracts Administration

SUBJECT:

The Lewis Property - 1963 Brady Avenue

Mr. Tom Church with Development Engineering Consultants, Inc. approached this office with questions regarding a durable and dustless surface for the Lewis Property. This site will be used as a storage lot for off road track and rubber tire construction equipment and machinery.

Mr. Church supplied us with test data from Hillis-Carnes Engineering Associates, Inc. The test samples were obtained from various locations on the property. The tests results indicate the gradation of the material in place is very close to a CR-6 especially on the finest screens.

We agree with Hillis Carnes of the impracticality of running tracked vehicles over Bituminous Concrete or Portland Cement Concrete paving surface. Typically storage yards for these types of vehicles are paved with aggregate base courses such as CR-6.

From our stand point we think a reasonable compromise for the definition of dustless and durable surface would be for the developer to cap the area in question with 4" of bituminous concrete Millings. These millings can be purchased from most area Hot Mix Asphalt plants. This material is easily repaired from the degradation caused by the track equipment and will cause a minimum of dust.

Baltimore County uses bituminous concrete millings on many projects. It was used as a parking surface and access road for the Southwest Area Park Boat Ramp as well as the surface for the service road at the Baltimore County Resource Recovery Facility.

If you should have any other questions or concerns, please feel free to contact John Koneyak or myself at 410-887-3531

VGK:JAK:mkm

c: Tom Church Bob Berner

PETITIONER'S

exhibit no. 5

4108874505



JAMES T. SMITH, JR., County Executive EDWARD C. ADAMS, JR, Director
Department of Public Works

## FAX TRANSMITTAL COVER SHEET

TO:	Mr. Tom Church	
COMPANY:	Development Engineering	<b></b>
FAX NUMBER:	410-377-2625	<del></del>
FROM:	John Koneyak	<del></del>
TELEPHONE NUMBER:	410-887-8729	<del></del>
FAX NUMBER:	410-887-4505	
TOTAL NUMBER OF PAR	GES (Including Cover Sheet):2	<del></del>
COMMENTS: Spec	s. for Bituminous Concrete Millings	
•		
•	₹ }	
	PETITIONI	ER'S
	EXHIBIT NO.	6

### BITUMINOUS CONCRETE MILLINGS

4108874505

#### DESCRIPTION

The work to be performed under this special provision shall consist of furnishing and placement of bituminous concrete millings on the proposed access road. The bituminous concrete millings are to be installed in two lifts of 3 inches.

#### MATERIAL

The bituminous concrete millings shall be recycled asphalt paving with the following graduation:

SIEVE SIZĘ		% PASSING
2 [#]		100
3/4"	•	50-80

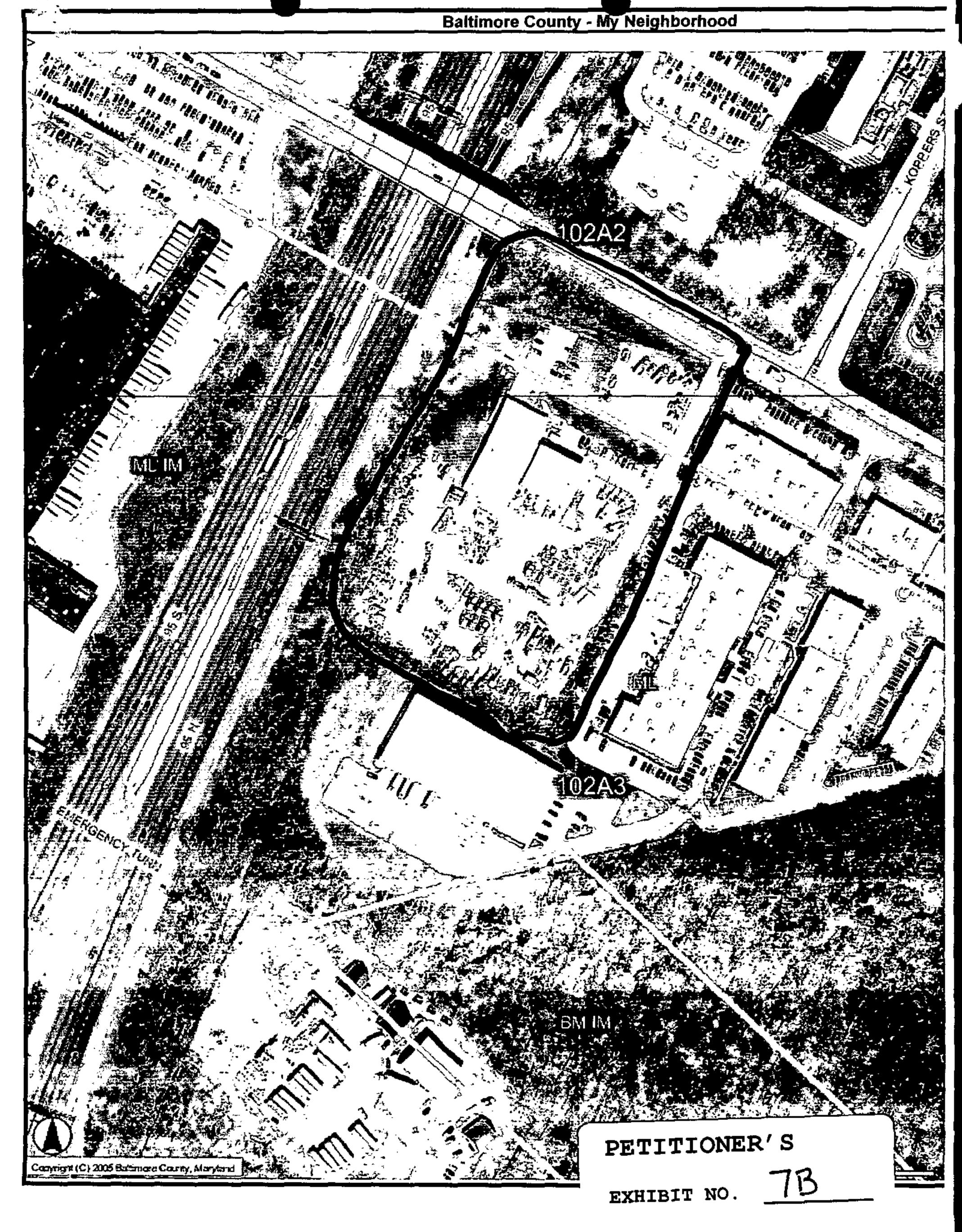
The Contractor is to provide tickets to the Engineer in the field verifying the above referenced sieve size and percent passing. The recycled material shall be milled a minimum of 2 times.

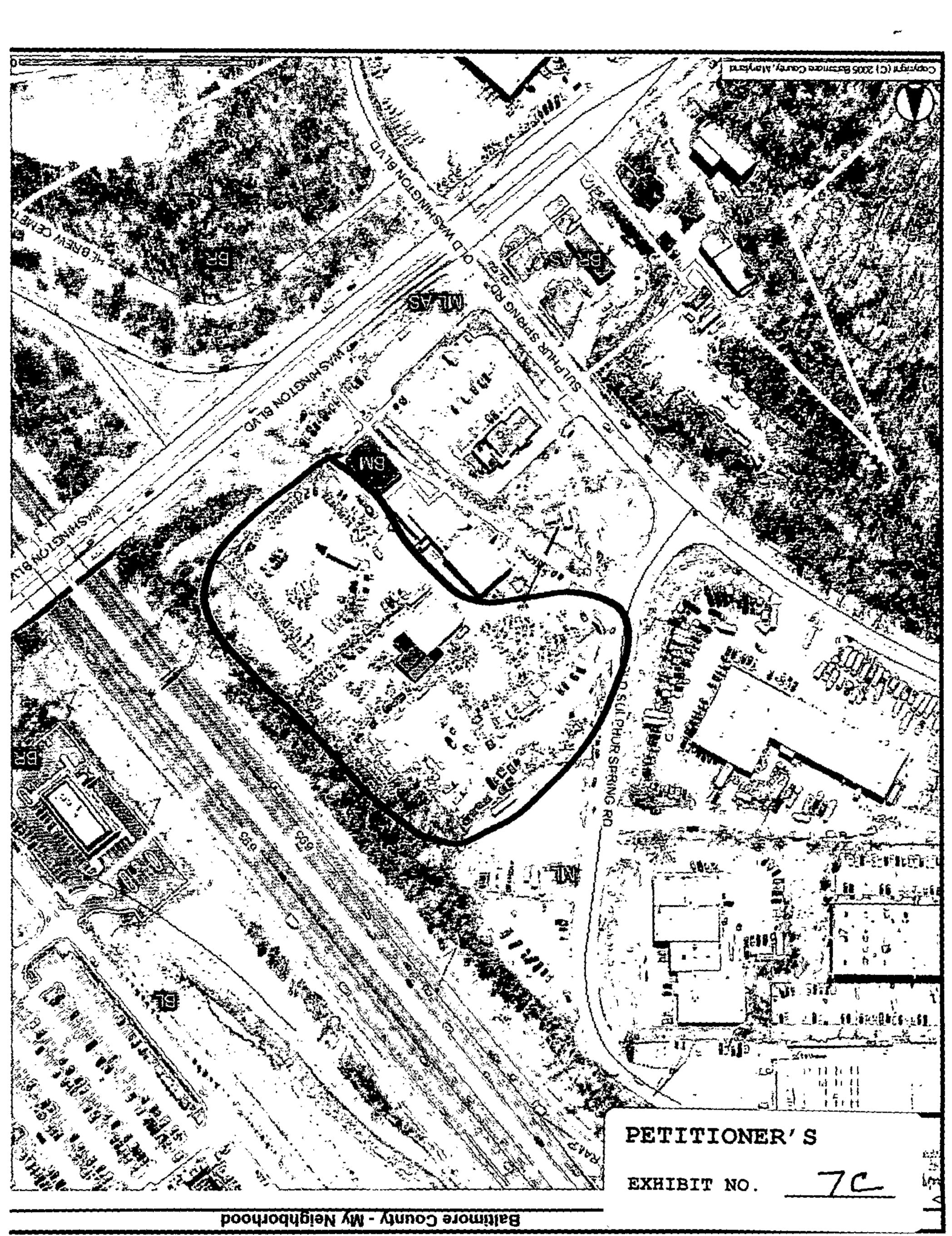
## MEASUREMENT AND BASIS OF PAYMENT

This item of work will be paid for on the contract unit price bid for bituminous concrete millings - ton. The price and payment shall be full compensation for furnishing, placement, compaction, equipment and incidentals necessary to complete this work.

			,	
	••			DECENVIED
	· • •	٠.,		FEB 1 3 2007
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# RICHARD M. HILLIS, P.E., M.W.D.

President / Senior Geotechnical Engineer

, 

#### **D** EDUCATION

B.S. Civil Engineering, Johns Hopkins University, 1973
 M.B.A. Management Science, Loyola College, 1982
 M.S. Geotechnical Engineering, University of Maryland, 1987

# ☐ PROFESSIONAL CERTIFICATIONS/REGISTRATIONS

Maryland Registered P.E. #11211
P.E. NJ # 33131
P.E. VA # 18042
P.E. DC # 88447566
N.C.E.E. #7566
Master Well Driller, MD #MWD343

### D PROFESSIONAL AFFILIATIONS

American Association of State Dam Safety Officials
American Society of Civil Engineers (ASCE)
Maryland Chairman ASCE Geotechnical Group, Treasurer

## D PUBLICATIONS/SEMINARS

"Case Against Peer Review", Presented at ASCE National
Conference Nashville, Tennessee, 1985
"Characteristics from Insitu Tests in Flyash Structural
Fills", with Ramesh Gupta, presented at 1989 ASCE
Congress in Chicago, June 1989
"Cement Bentonite Cutoff Wall Remediation of Small
Earthen Dam" with Harold Van Aller, P.E. The
Association of State Dam Safety Officials Convention,
Baltimore, MD, 1992.

### PETITIONER'S

EXHIBIT NO.

8

# HILLIS-CARNES

### SPECIAL PROJECT EXPERIENCE

Savage Towne Center, Howard County, MD
Senior Geotechnical Engineer for the subsurface exploration
and geotechnical investigation for this proposed mixed-use
development consisting of residential, retail, office and hotel
buildings planned on an existing parking lot.

Maryland State Highway BCS 97-09 Open-End Geotechnical Principle Engineer/Program Manager for this 3 year open – end geotechnical contract. He served as the initial point of contact and assumed the overall management authority over the HCEA team. Mr. Hillis assigned projects to the project managers based on project location, project type, and according to MSHA requests. He served as the first of two designated MSHA-HCEA liaisons.

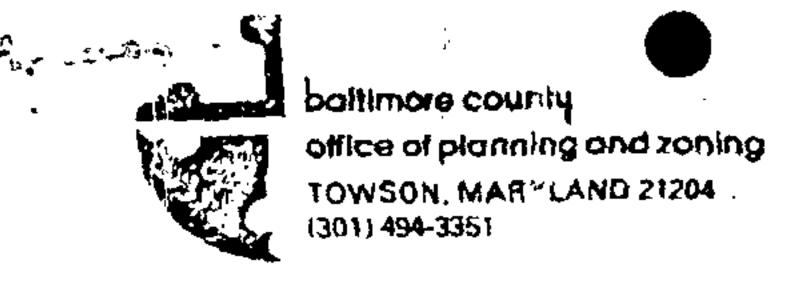
M & T Bank Stadium, Baltimore, MD Acting Project Executive for this fast-track project for the Maryland Stadium Authority involving a team of 24 engineers and technicians for the testing and inspection program.

San Martin Center @ Johns Hopkins University, Baltimore, MD Geotechnical engineer of record for the 5 story Carnegie building, 7 story parking garage and site retention system. The foundations consisted of a mix between drilled shaft and shallow spread footings.

Minnegan Stadium at Towson State University, Towson, MD Geotechnical engineer of record for the new field house and new grandstand at the existing stadium. Existing uncontrolled deep fill layer, shallow rock and shallow ground water posed particular design construction problems. Recommendations were made for the foundation support of the new structures, site grading, drainage, and temporary earth support.

Chemistry Building, NMR Facility and Parking Garage at Johns Hopkins University, Baltimore, MD Geotechnical engineer of record for the three new structures. All were designed to be founded on shallow spread footings. There were also unknown deep fill areas that required some drilled shaft and Helicor piles.

Ft. Lauderdale Compost Reactor, Fort Lauderdale, Florida Conducted geotechnical investigation and analyses including cone penetrometer soundings, finite element and detailed settlement analyses for a large reinforced concrete structure in area of soft limerock and peat. Developed program and supervised installation of stone columns to stiffen subsoils and reduce magnitudes of differential settlement of reinforced concrete mat foundation.



S. ERIC DINENNA ZONING COMMISSIONER

February 17, 1977

Charles E. Wehland, Esquire 3677 Park Avenue Ellicott City, Maryland 21043

RE: Property Known as Lots 59 and 60 on Plat of Oak Park, Recorded in Plat Book 3, Folio 145

Dear Mr. Wehland:

Reference is made to your letter of January 31, 1977, in which you request information as to whether or not the above referenced property can be utilized for selling, repairing, and maintaining new and used heavy construction equipment.

Based on the information contained in your letter, as well as previous correspondence between myself and Richard D. Payne, Esquire dated February 27, 1967, and September 29, 1967, as well as the proper present zoning classification and the uses permitted thereon, it is my opinion that the use would fall within the M. L. zoning classification.

Enclosed, please find a copy of the uses permitted as a matter of right in the M. L. Zone. If you have any further questions concerning thi matter, please feel free to contact this office.

Very truly yours,

JAMES E. DYER Zoning Supervisor

JED/scw

Enclosure cc: Mr. S. Eric DiNenna, Zoning Commissioner

Mr. George J. Martinak, Deputy Zoning Commissioner

PETITIONER'S

EXHIBIT NO.

1

Section 253—USE REGULATIONS [B.C.Z.R., 1955; Bills No. 85, 1967; No. 100, 1970.]

253. 1¹—Uses Permitted as of Right. The uses listed in this subsection, only, shall be permitted as of right in M.L. zones, subject to any conditions hereinofter prescribed. [B.C.Z.R., 1955, Section 253, Bills No. 85, 1967, Section 253; No. 100, 1970.]

## A. The following industrial uses:

- !. Airplane assembly
- 2. Automobile assembly
- 3. Boat yards (including marines or marine railways)
- 4. Bottling establishments, soft-drink
- 5. Condy manufacture, packaging, or treatment
- 6. Carpet or rug cleaning
- 7. Cellophane-products manufacture or processing—restricted production (See Subsection 253.3).
- 8. Cleaning or dyeing
- 9. Concrete-products manufacture, including manufacture of concrete blocks or cinder blocks
- 10. Cark-products manufacture or processing—restricted production (See Subsection 253.3).
- 11. Cosmetics manufacture, compounding, packaging, or treatment
- 12. Drug manufacture, compounding, packaging, or treatment
- 13. Electrical-appliance assembly
- 14. Enameling, japanning, or lacquering
- 15. Excavations, controlled, except those involving the use of explosives
- 16. 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 Subsection 253.3.)
- 17. Food-products manufacture, compounding, packaging, or treatment, including but not limited to: wholesale bakeries; canning plants or packing houses for canning, packing, or processing of vegetables; creameries or milk-pasteurization or -distributing stations; or cold-storage plants
- 18. Fur-products, manufacture or processing—restricted production (See Subsection 253.3.)
- 1. Under Bill Mo. 100, 1970, former Subsections 253 I through 253.5 were repealed. That material was part of B.C.Z.R., 1955, as amended by County Commissioners' Resolution of November 21, 1956 and County Council Bills No. 64, 1960; No. 56, 1961; No. 64, 1963; No. 40, 1967; No. 61, 1967; and No. 85, 1967.
- 2. All provisions of this paragraph from Bill No. 100, 1970. The external and internal periods following the parenthetical references to Subsection 253.3 in Items 7, 10, 16, 18, 19, 22, 24, 26, 30, 34, 35, 38, 45, 48, 51, and 52 are as they appear in that bill.

- 19. Glass-products manufacture or processing—restricted production (See Subsection 253.3.)
- 20. Grain processing, provided equipment is installed for effective precipitation and recovery of dust
- 21. Greenhousing, wholesale
- 22. Horn-products manufacture or processing—restricted production (See Subsection 253.3.)
- 23. lee manufacture.
- 24. Ink blending etc.—restricted production (See Subsection 253.3.)
- 25. Instrument manufacture, of precision instruments, including manufacture of watches or clacks
- 26. Jewelry manufacture or processing, or manufacture or processing of other articles made of precious or semi-precious metals or stones—restricted production (See Subsection 253.3.)
- 27. Laboratories
- 28. Leather-products manufacture or processing—restricted production (See Subsection 253.3)
- 29. Lumber yards.
- 30. Metal-products manufacture or processing, limited to the restricted production (See Subsection 253.3.) of articles made of sheet metal, light metal mesh, pipe, wire, rods, strips, or other shapes or similar component parts
- 31. Metal-stamp manufacturing
- 32. Musical-instruments manufacture
- 33. Offices or Office Buildings
- 34. Paint blending etc. —restricted production (See Subsection 253.3.)
- 35. Paper- and paperboard-products manufacture or processing-restricted production (See Subsection 253.3.)
- 36. Perfume manufacture, compounding, packaging, or treatment
- 37. Phonograph assembly
- 38. Plastic-products manufacture or processing—restricted production (See Subsection 253.3.)
- 39. Plating, including galvanizing
- 40. Paultry killing
- 41. Printing, lithographing, or publishing plants
- 42. Radio assembly, or assembly of other electronic instruments or devices
- 43. Research institutes
- 44. Rubber-stamp manufacture, and manufacture of other small molded rubber products
- 45. Shell-products manufacture or processing—restricted production. (See Subsection 253.3.)
- 46. Stone or monument works
- 47. Tire retreading or recapping
- 48. Tobacco-products manufacture or processing—restricted production (See Subsection 253.3.)
- 49. Toy manufacture, or manufacture of novelties
- 50. Trailer assembly, including the assembly of truck trailers or mobile homes

- 51. Wax-products manufacture or processing--restricted production (See Subsection 253.3.)
- 52. Wood-products manufacture or processing --- restricted production (See Subsection 253.3.)

53. Wrought-iron products manufacture

- 54. Other manufacture of articles of merchardise made from materials permitted to be used and made by processes permitted to be employed in the production activities more specifically listed above.
- B. The following transportation, storage, or quasi-public uses or utilities:

1. Bus terminals

. 2. Building-materials storage or sales yards, general

3. Construction-equipment storage yards

4. Above-ground electrical-power, telephone, or telegraph lines, except above-ground electrical-power lines having a capacity of 35 kilovolts or more; pale-mounted transformers or transformer banks

5. Cables and conduits not described under item "4", above; gas, water, or sewer mains; or storm-drain systems—all underground

6. Feed or grain sales or storage

7. Fluid starage and sale, above ground, al flammable liquids or gases

8. Freight storage

9. Fuel storage and sale, of solid or gaseous fuels

10. Heliports, Type I

11. Heliports, Type !!

. 12. Helistops

13. Railroads

14. Steam-power plants

- 15. Starage, warehousing, or wholesale distribution of any product whose sale (retail or wholesale) or final processing or production is permitted as of right as a principal use in M. L. zones; public warehousing
- 16. Utility service centers

17. Utility storage yards

- 18. Valunteer-fire-company facilities
- C.4 The following auxiliary retail or service uses or semi-industrial uses, provided that any such use is located in a planned industrial park at least 25 acres in net area or in an I.M. district, in neither case with any direct access to an arterial street other than a Class I Commercial Motorway:
  - 1. Automobile-rental agencies
  - 2. Bakeries, retail

3. Barbershops

4. Banks, savings and loan associations, or other, similar chartered financial institutions occepting deposits

5. Beauty shops

- All provisions of this paragraph from Bill No. 100, 1970.
- 4. All provisions of this paragraph from Bill No. 100, 1970.

6. Business or trade schools

7. Carpentry or cabinet-making shops

- 8. Drug stores, but the gross floor area devoted to any such store shall not exceed 1500 square feet
- 9. Electrical-contractors' shops

10. Electroplating shops

11. Food stores, but the gross floor area of any such store shall not exceed 2500 squaru feet

12. Heating- or oir-conditioning-contractors' shops

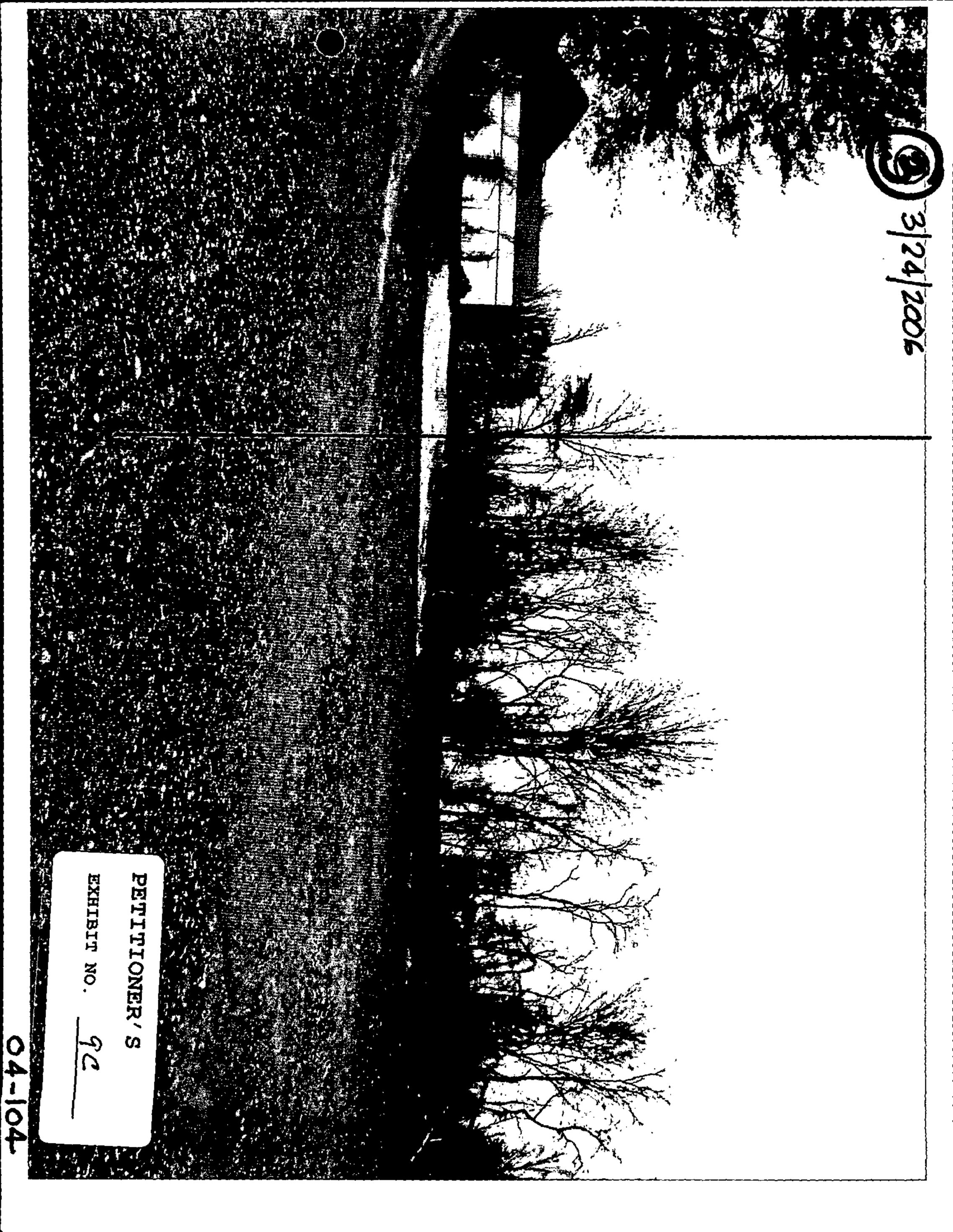
- 13. Laundry, dry-cleaning, or clothing-repair or -alteration establishments or stations, including self-service laundry or dry-cleaning facilities
- 14. Liquor or pockage stores
- 15. Machinery-sales or -repair establishments
- 16. Parking lots or garages
- 17. Pointing shops
  - 18. Plumbing-contractors' shops
  - 19. Restaurants, except drive-in restaurants
  - 20. Sheet-metal shops
  - 21. Shoe-repair shops
  - 22. Stationery or office-supply stores
  - 23. Tayerns
  - 24. Truck-rental and truck-trailer-rental agencies.
- D. The following temporary use: Carnivals, temporary, provided that no such use shall be established for more than 90 days in any one-year period. [Bill No. 100, 1970.]
- E. Combinations of the uses listed above. [Bill No. 100, 1970.]
- F. 5 Accessory uses or structures, including but not limited to:
  - 1. Incidental sales (wholesale or retail)
  - 2. Living quarters for watchmen or caretakers and their families, and accessory uses or buildings subsidiary there a
  - 3. Trailers for temporary use, as permitted under Section 415
  - 4. Industrial medical clinics
  - 5. Employees' recreation facilities
  - 6. Excavations, uncontrolled
  - 7. Parking spaces (see Section 409)
  - 8. Signs (see Section 413),
- 253.2—Uses Permitted by Special Exception. The uses listed in this subsection are permitted by special exception only (see Section 502). [B.C.Z.R., 1955, Subsection 253.5; Bill No. 100, 1970.]
  - A. The following industrial, quasi-industrial, transportation, storage, or quasi-public uses or utilities:
- 5. All provisions of this parmyraph from Bill No. 100, 1970.
- 6. All provisions of this paragraph from Bill No. 100, 1970.





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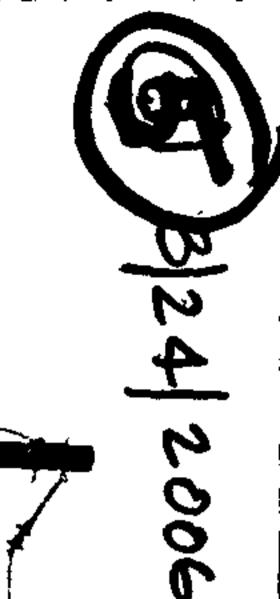






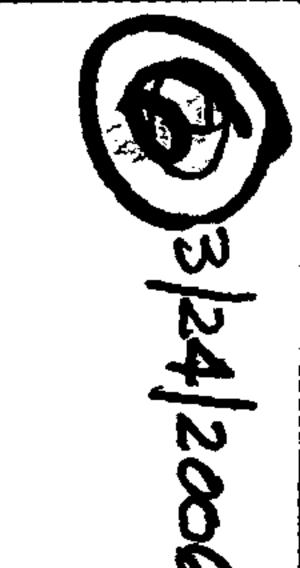
PETITIONER'S
EXHIBIT NO. 9

04-104



PETITIONER'S
EXHIBIT NO. 95

04-104





PETITIONER

EXHIBIT

NO.

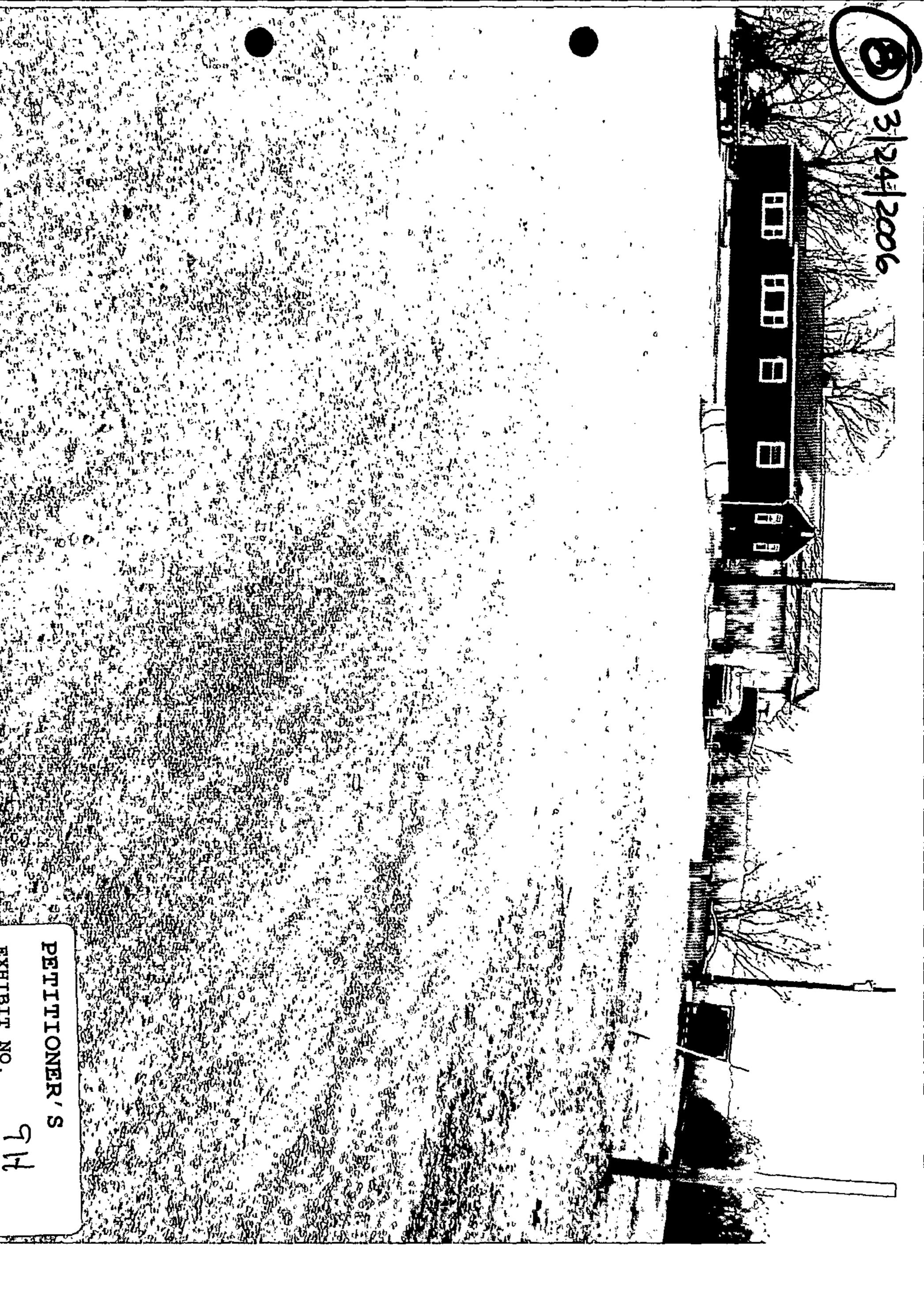
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PETITIONER Ø 11

EXHIBIT

NO.

04-10



PETITION NER' Ø

