IN RE: PETITION FOR SPECIAL HEARING

E side of Gwynn Oak Avenue, 160 feet +/N of the c/l of Dogwood Road

1st Election District

4th Councilmanic District

(1903 Gwynn Oak Avenue)

Estate of Charles W. Warren;
Darlene Warren, Personal Representative
Petitioner

BEFORE THE

DEPUTY ZONING

COMMISSIONER

FOR BALTIMORE COUNTY

Case No. 08-104-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

*

*

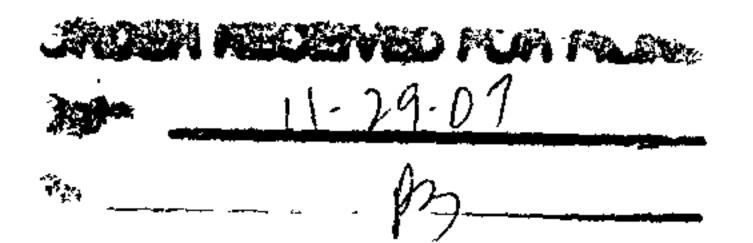
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This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Darlene Warren on behalf of the Estate of Charles W. Warren, the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the B.C.Z.R. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1, and the colored and highlighted site plan which was marked and accepted into evidence as Petitioner's Exhibit 1A.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner Darlene Warren, Personal Representative for the Estate of Charles W. Warren, Ms. Warren's attorney, C. William Clark, Esquire, and Thomas Church with Development Engineering Consultants, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped parcel containing approximately 49,898 square feet or 1.146 acres, more or less, and zoned R.O.



The property is located on the east side of Gwynn Oak Avenue, between Mount Alto Avenue to the north and Dogwood Road to the south in the Woodlawn area of Baltimore County. It is served by public water and public sewer. In viewing the property as it fronts Gwynn Oak Avenue, it is improved with an existing $2\frac{1}{2}$ -story framed dwelling situated at an angle on the right side of the property. Access to the property from Gwynn Oak Avenue is by way of an existing concrete driveway that runs along the property line on the right side to the back of the property. The property is also improved with an existing 60 foot by 30 foot metal building situated to the rear of the property at the end of the driveway.

By way of background, the property was purchased in 1978 by Mr. Charles Warren, Petitioner's husband. He, his wife, and family resided in the dwelling while Mr. Warren operated his business from the site known as "Maryland Diving Service." The nature of the business was to repair bridges, pipelines, watercraft, and other underwater facilities. Mr. Warren stored equipment related to his business in the metal building, including welding tools, supplies, pumps, hand tools, and drills. He also stored and maintained several vehicles related to the business at the site.

In that vein, the property was the subject of a prior zoning hearing in Case No. 01-427-SPH, wherein Mr. Warren requested special hearing relief for approval, as a non-conforming use, of a construction equipment storage yard and/or the outside storage of machinery, equipment and building materials for the business operating on the site. Because the case involved a non-conforming use, Mr. Warren testified as to the historical nature and use of the property, and also presented an affidavit from his elderly mother and several photographs and other documentation in support of the request to continue the non-conforming use. This evidence revealed that the subject property has been in the Warren family since approximately 1915, and that Mr. Warren's grandfather used the property to operate a contracting business there

11.29.01

for many years, until Mr. Warren acquired it in 1978. During all that time, the property was used to run his grandfather's and Mr. Warren's contracting businesses and as a contractor's equipment storage yard. As such, in an Order dated in June 2001, then Zoning Commissioner Lawrence E. Schmidt granted the special hearing request for a non-conforming use of the property. This Order was marked and accepted into evidence as Petitioner's Exhibit 2. The original site plan which accompanied the special hearing petition for a non-conforming use was marked and accepted into evidence as Petitioner's Exhibit 3.

Moving forward, Mr. Warren continued to operate his business at the site until his passing on November 11, 2005. Since that time, Petitioner, Ms. Warren, has continued to utilize the site for her own contracting business, and as a contractor's equipment storage yard. At this juncture, Petitioner desires to reduce the area of the construction equipment storage yard, and also desires to subdivide the existing lot to allow for the construction of a single-family dwelling on left side of the property as it fronts Gwynn Oak Avenue. Presently, Petitioner's consultant, Mr. Church, is proceeding through the County's Development Review Committee (DRC) for a requested minor subdivision.

In support of this request, Petitioner's attorney, Mr. Clark, indicated that Section 205.4 of the B.C.Z.R. indicates that while in general, the use or development of any property in an R.O. zone may not be changed from that exiting, the use or development may change in accordance with a plan approved by the County Review Group pursuant to Article 32, Title 4 of the Baltimore County Code (B.C.C.). As indicated above, Mr. Church is currently pursuing the minor subdivision on behalf of Petitioner. In addition, photographs which were marked and accepted into evidence as Petitioner's Exhibits 5A through 5G are indicative of the present appearance of the property. They show that the existing dwelling is situated on the right side of the parcel and that the property has the appearance of a "double lot" because there is an open

11-29-07

space on the left side of the property leading to the very rear portion of the yard near where the metal storage building is located. Additional photographs showing the property, as well as other adjacent properties and their mixed residential and commercial uses, were marked and accepted into evidence as Petitioner's Exhibits 6A through 6D.

Mr. Church's proffered testimony indicated that in the event the proposed minor subdivision is granted, the new lot identified on the site plan as Lot 2 will be approximately 12,326 square feet and will meet all the requirements of the adjacent D.R.5.5 zone, including minimum area and front, side, and rear setback requirements. The proposed dwelling to be built on Lot 2 will consist of a two story single-family dwelling with an attached side-approach two-car garage. Access to the property will be from a driveway from Gwynn Oak Avenue up the left side of the property with a parking pad and access to the garage. The home will be similar in size, design, and features as the existing homes nearby, and as much as practical, would be in keeping with the current aesthetics of the neighborhood. It should also be noted that there were no adverse comments received from any of the representative County and State agencies comprising the Zoning Advisory Committee (ZAC).

Based on the testimony and evidence presented, I find that Petitioner's proposed minor subdivision plan to create an additional lot on the subject property in this R.O. zone is a change that is permitted by Section 204.5 of the B.C.Z.R. Therefore, I am persuaded to grant the special hearing relief to approve an amendment to Case No. 01-427-SPH in order to reduce the construction equipment storage yard, and to allow the proposed minor subdivision plan to proceed through the DRC in accordance with Article 32, Title 4 of the B.C.C. Moreover, in my judgment, Petitioner's planned uses of the property to continue to utilize the storage building to the rear of the property in connection with her contracting business, and her proposal to subdivide the property for one additional lot which will be in compliance with all minimum area

11.29.01

and front, side, and rear setback requirements are appropriate, and will not be detrimental to the health, safety, or general welfare of the surrounding locale.

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

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 29th day of November, 2007, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the B.C.Z.R. is herby GRANTED subject to the following:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

PHOMAS H. BOSZWICK

Deputy Zoning Commissioner

for Baltimore County

THB:pz

MAN MOUNT IN 19.07

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JAMES T. SMITH, JR. County Executive

THOMAS H. BOSTWICK Deputy Zoning Commissioner

November 29, 2007

C. William Clark, Esquire Nolan, Plumhoff & Williams, Chtd. 502 Washington Avenue, #700 Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING

E side of Gwynn Oak Avenue, 160 feet +/- N of the c/l of Dogwood Road 1st Election District - 4th Councilmanic District (1903 Gwynn Oak Avenue)
Estate of Charles W. Warren; Darlene Warren, Personal Representative - Petitioner Case No. 08-104-SPH

Dear Mr. Clark:

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

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

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:dlw Enclosure

c: Darlene Warren, 1903 Gwynn Oak Avenue, Baltimore, MD 21207 Thomas Church, Development Engineering Consultants, Inc., 6603 York Road, Baltimore, MD 21212 People's Counsel; File



REV 9/15/98

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

5± Date 8-23-07

for the property located at	1903	Gwynn	Oak	Avenue				
which is presently zoned R.O.								

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

Case No. 01-427 SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the BCZR; and such other and further relief as the Zoning Commissioner deems appropriate.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): The Estate of Charles W. Warren Bv : Darlene Warren, Pers. Rep. Name - Type or Print Name - Type or Print Signature Signature Address Telephone No. Name - Type or Print City State Zip Code Signature Attorney For Petitioner: 1903 Gywnn Oak Avenue 410-821-6617 Address Telephone No. C. William Clark Baltimore MD 21207 Name - Type or Brin City State Zip Code Representative to be Contacted: Signature Nolan, Plumhoff & Williams, Chtd. Development Engineering Consultants, Inc. Company Name 6603 York Road 502 Washington Ave. #700 410-823-7800 410-377-2600 Address Telephone No. Address Telephone No. Towson MD 21204 Baltimore MD 21212 City State Zip Code Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING UNAVAILABLE FOR HEARING __ MA Case No. 08-104-5PH

Reviewed By

DEVELOPMENT ENGINEERING CONSULTANTS, INC.

Site Engineers & Surveyors

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

ZONING DESCRIPTION FOR 1903 GWYNN OAK AVENUE 1ST ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the east side of Gwynn Oak Avenue, 60 feet wide more or less, said point being 160 feet more or less north of the centerline of Dogwood Road, variable width. Thence the following courses and distances: 1) North 19 degrees 26 minutes 08 seconds East, 111.18 feet, 2) South 70 degrees 33 minutes 52 seconds East 120.00 feet, 3) North 19 degrees 26 minutes 08 seconds East 105.43 feet, 4) South 73 degrees 09 minutes 13 seconds East 102.23 feet, 5) South 24 degrees 09 minutes 13 seconds West 133.00 feet, 6) South 75 degrees 14 minutes 13 seconds West 228.83 feet, 7) thence along a curve to the right with a radius of 205.01 feet, an arc length of 44.15 feet, and a chord of North 09 degrees 32 minutes 25 seconds West 44.06 feet, 8) thence along a second curve to the right with a radius of 160.00 feet, an arc length of 1.50 feet and a chord of North 03 degrees 06 minutes 10 seconds West 1.50 feet to the place of beginning.

Containing 29,867 square feet or 0.686 acres of land, more or less.

Also being known as #1903 Gwynn Oak Avenue in the 1st Election District of Baltimore County, Maryland

A COUNTY OF MANAGEMENT OF MANA

Our Contract No.: 01-106

August 17, 2007

NOTICE OF ZOHING HEARING

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

Case: #08-104-8PH

1903 Gwynn Oak Ave. at the distance of 160 feet +/north of the centerline of Dogwood Rd.

1st Election District - 4th Councilmanic District
Legal Owner(s): Estate of Charles Warren, by Darlene Warren, Personal Representative

Spacial Nearing: to approve an amendment to Case No.
01-427-SPH to reduce the area of the construction equipment storage yard, and to defermine that the proposed development of one residerities for will meet the requirements of Section 204.5 of the BCZR.

Hearing: Monday, October 22, 2007 at 9:00 a.m. In Rosm 407, County Courte: Building, 401 90:169 Averials, Towson 21204.

Wilcham J. Wiseman, III.

Zoning Commissioner for Britishine County
NOTES: (1) Hearings are Handlcapped Accessible; for special accommodational properties 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.

150/011 Oct. 4

150959

_ 20DJ

THIS IS TO CERFIFY, that the annexed advertisement was published successive weeks, the first publication appearing in the following weekly newspaper published in Baltimore County, Md., once in each of 000

₩ The Jeffersonian

Arbutus Times

Catonsville Times

Owings Mills Times Towson Times

NE Booster/Reporter

North County News

Wulling

LEGAL ADVERTISING

Total: (x/1/1/x) Rept Catg £ 100 Sub Rev 4) -0,-Ç. Source Rev OF THE OFFICE OF BUDGET AND FINANCE Lux MARY Orgn gns NEOUS RECEIPT Des 14. 15. Cm Orgn BALTIMORE COUNTY Kis Ins Ago DISTRIBUTION Fund : From: For: Rec

PINK : AGENCY

WHITE - CASHIER

CERTIFICATE OF POSTING

RE: Case No.: 08-104-SPH CHARCES WARREN BY DARLENE WARREN Date of Hearing/Closing: 10-22-07

Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204

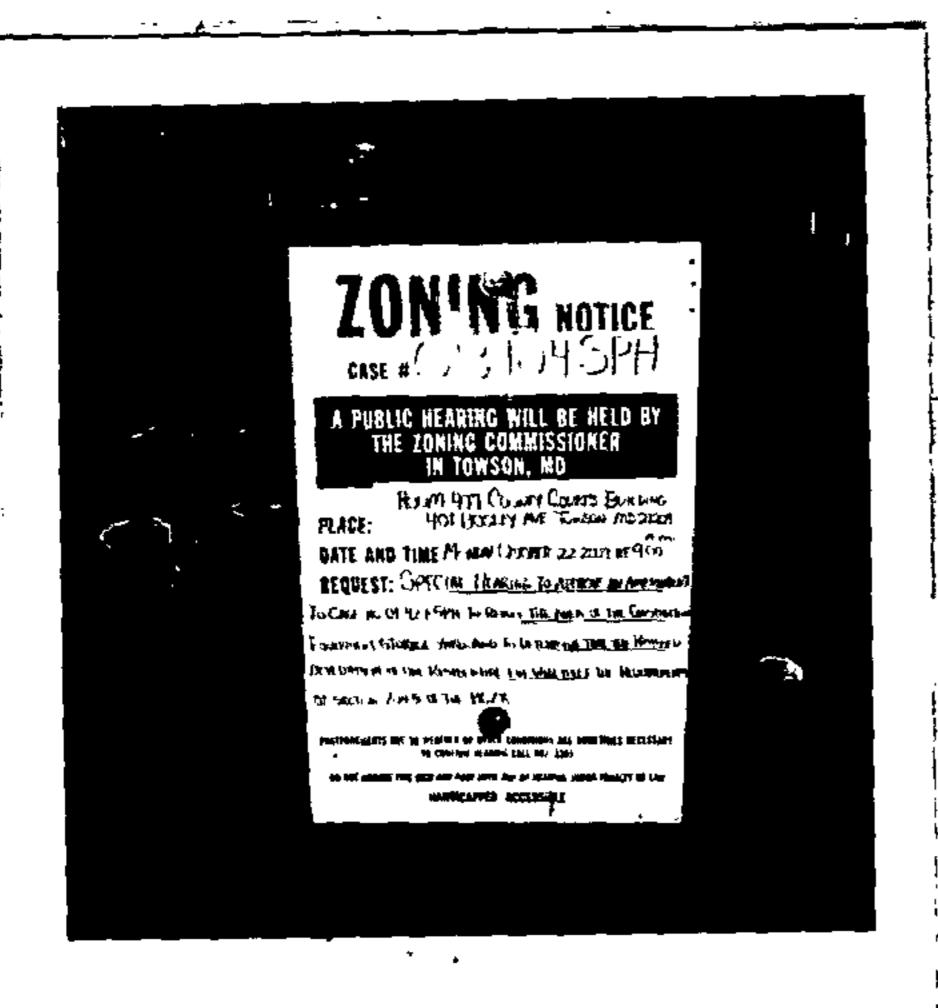
Baltimore County Department of

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: OAK AVENUE. 10-6-07 The sign(s) were posted on (Month, Day, Year)

Sincerely,



Powert Black	10-12-0
(Signature of Sign Poster)	10-12-0 (Date)
SSG Robert Black	
(Print Name)	
1508 Leslie Road	·
(Address)	
Dundalk, Maryland 21:	222
(City, State, Zip Cod	le)
(410) 282-7940	• •
(Telephone Number	r)



JAMES T. SMITH, JR. County Executive

September 17, 2007
TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-104-SPH

1903 Gwynn Oak Avenue

E/side of Gwynn Oak Ave. at the distance of 160 feet +/- north of the centerline of Dogwood Rd. 1st Election District – 4th Councilmanic District

Legal Owners: Estate of Charles Warren, by Darlene Warren, Personal Representative

<u>Special Hearing</u> to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the BCZR.

Hearing: Monday, October 22, 2007 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timóthy Kotroco

Director

TK:klm

C: C. William Clark, Nolan, Plumhoff & Williams, 502 Washington Avenue, #700, Towson 21204 Darlene Warren, 1903 Gwynn Oak Avenue, Baltimore 21207 Development Engineering Consultants, 6603 York Road, Baltimore 21212

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, OCTOBER 6, 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

Thursday, October 4, 2007 Issue - Jeffersonian

Please forward billing to:

C. William Clark Nolan, Plumhoff & Williams 502 Washington Avenue, Ste. 700

Towson, MD 21204

410-823-7800

NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-104-SPH

1903 Gwynn Oak Avenue

E/side of Gwynn Oak Ave. at the distance of 160 feet +/- north of the centerline of Dogwood Rd. 1st Election District – 4th Councilmanic District

Legal Owners: Estate of Charles Warren, by Darlene Warren, Personal Representative

<u>Special Hearing</u> to approve an amendment to Case No. 01-427-SPH to reduce the area of the construction equipment storage yard, and to determine that the proposed development of one residential lot will meet the requirements of Section 204.5 of the BCZR.

Hearing: Monday, October 22, 2007 at 9:00 a.m. in Room 407, County Courts Building,

4/11 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.



JAMES T. SMITH, JR. County Executive

October 18, 2007

TIMOTHY M. KOTROCO, Director

Department of Permits and

Development Management

C. William Clark Nolan, Plumhoff & Williams, Chtd. 502 Washington Ave #700 Towson, Maryland 21204

Dear Mr. Clark:

RE: Case Number 08-104-SPH 1903 Gwynn Oak Avenue

The above referenced petition was accepted for processing ONLY by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 23, 2007. This letter is not an approval, but only a NOTIFICATION.

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

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

Very truly yours,

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR:rjc Enclosures

c: Peoples Council

Darlene Warren 1903 Gwynn Oak Avenue Baltimore Md. 21207

Development Engineering Consultants, 6603 York Road Baltimore, MD 21212

RE: PETITION FOR SPECIAL HEARING

1903 Gwynn Oak Avenue; E/S Gwynn Oak

Avenue, 160' N c/line of Dogwood Road

1st Election & 4th Councilmanic Districts

Legal Owner(s): Estate of Charles W. Warren*

by Darlene Warren, PR

Petitioner(s)

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

08-104-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 13th day of September, 2007, a copy of the foregoing Entry of Appearance was mailed to, Development Engineering Consultants, Inc, 6603 York Road, Baltimore, MD 21212 and C. William Clark, Esquire, Nolan, Plumhoff & Williams, Chtd., 502 Washington Avenue, Suite 700, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

SEP 1 3 2007

Per-

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

DATE: September 4, 2007

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For September 3, 2007

Item Nos. 08-087, 089, 091, 092, 093, 094, 095, 096, 097, 098, 100, 101, and 104

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-08302007.doc



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

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

Maryland Department of Transportation

Date: SEPT. 2, 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. 8 - 104-5PH

1903 GWYNN OAKAVENUE

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. 8-104-6744.

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,

4 Steven D. Foster, Chief Engineering Access Permits

Division

SDF/MB

Street Address: 707 North Calvert Street · Baltimore, Maryland 21202 · Phone: 410.545.0300 · www.marylandroads.com



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.

Item Number or Case Number: _ 〇チー/〇代-SPH		
Petitioner: The Estate of Charles W. Warren, by Darlene Warren,	Pers.	Rep.
Address or Location: 1903 Gwynn Oak Avenue, Baltimore, MD 21207		
_, _ , , _ , _ , _ , _ , _ , _		
Name: C. William Clark		
PLEASE FORWARD ADVERTISING BILL TO: Name: C. William Clark Address: Nolan, Plumhoff & Williams, Chtd. 502 Washington Avenue, Suite 700		
Name: C. William Clark Address: Nolan, Plumhoff & Williams, Chtd.		

From:

Curtis Murray

To:

Wiley, Debra

Date:

10/22/07 9:10:24 AM

Subject:

8-104 SPH

Debbie,

The Office of Planning has no comments on the above referenced special hearing regarding a non-conforming use. Should you have any questions please contact Dave Green at (410) 887-3480.

Curtis J. Murray
Development Planner
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
410-887-3480
Fax: 410-887-5862

cjmurray@co.ba.md.us



From:

Patricia Zook

To:

Murray, Curtis

Date:

10/18/2007 11:32 AM

Subject:

Hearings Next Week - Need Planning Comments for TOM

CC:

Bostwick, Thomas

Hello Curtis -

Files just came over from PDM and two are missing comments from Planning:

- 08-104-SPH located at 1903 Gwynn Oak Avenue hearing is Monday, October 22
- 08-102-SPH located at 2211 St. Luke's Lane hearing is Wednesday, October 24

Thanks for your help.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
410-887-3868
pzook@baltimorecountymd.gov

PLEASE PRINT CLEARLY

CASE NAME For OF Charles Warra CASE NUMBER 104 CPH DATE 10 holon

PETITIONER'S SIGN-IN SHEET

Packonal amplunhafter E- MAIL 21207 28eh STATE, ZIP SMI 202 02 Ball Son 102 WASHINGOR ADDRESS 3 6 wyw C. William CLARK
Darley Warren

IN RE: PETITION FOR SPECIAL HEARING
S/E curb Gwynn Oak Avenue, 166'
NE centerline of Dogwood Road
2nd Election District
2nd Councilmanic District
(1903 Gwynn Oak Avenue)

Charles Warren Petitioner BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 01-427-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Zoning Commissioner as a Petition for Special Hearing for the property located at 1903 Gwynn Oak Avenue in Woodlawn. The Petition was filed by Charles Warren, the property owner. Special Hearing relief is requested to approve, as a non-conforming use, a construction equipment storage yard and/or a contractor's equipment storage yard and/or the outside storage of machinery, equipment and building materials for the business operating on the subject site. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Special Hearing, marked as Petitioner's Exhibit No. 1.

Appearing at the requisite public hearing held for this case was Charles Warren, Property Owner/Petitioner and Darlene Warren his wife. Also present was Thomas Church of Development Engineering Consultants, Inc., the preparers of the site plan. The Petitioner was represented by C. William Clark, Esquire. There were no protestants or other interested persons present.

Testimony and evidence presented was that the subject property is an irregularly shaped parcel with frontage on Gwynn Oak Avenue, near its intersection with Dogwood Road in Woodlawn. The subject property is approximately 1.07 acres in area, zoned RO. It is served by

PETITIONER'S

EXHIBIT NO.

7

public water and public sewer. The property is improved with an existing 2 ½ story frame dwelling which faces Gwynn Oak Avenue. An existing bituminous driveway provides vehicular access to the interior of the site from Gwynn Oak Avenue. The driveway extends beyond the house into the rear yard of the property. The rear yard contains a 60 ft. x 30 ft. existing metal building, a small 20 ft. x 10 ft. shed and 2 small metal storage containers.

Mr. Warren testified that he has owned the property since 1978. He, his wife and family reside in the single family, 2 ½ story dwelling located on the property. He indicated that he also operates from the site a business known as "Maryland Diving Service". The nature of the business is to repair bridges, pipelines, water craft and other underwater facilities. Within the 60 ft. x 30 ft. building in the rear of the site, he stores equipment incidental to this company. Specifically, the building contains certain welding tools and supplies, pumps, hand tools, drills, etc. He also maintains 2 or 3 trucks at the site, 2 pick-ups and a stake body truck. Additionally, he owns several trailers on which equipment is transported.

Mr. Warren indicated that, typically he leaves the site in the morning with his crew to travel to an off-site job. By nature of the business, all work is performed off-site in that the business specializes in underwater repairs and construction.

Mr. Warren further testified that his grandfather originally acquired the site in 1915. His grandfather was identified as Wilson C. Warren, and apparently operated a contractor's business from the site for many years. Apparently, the elder Mr. Warren operated his business from the site for nearly sixty years until his grandson (the Petitioner) acquired the site in 1978. At that time, the Petitioner's business was immediately relocated to the property. The Petitioner offered a number of documents attesting to the history of the use on the property. These included a number of copies of old plans, contracts, photographs, etc. Mr. Warren testified that he

remembers visiting the site as a young boy in the mid-1950's. He testified that his grandfather continuously and uninterruptedly used the property for his contracting business from the time of his earliest memory until he purchased the property in 1978.

Testimony was also proffered by Petitioner's counsel on behalf of Elva Elzie, Mr. Warren's mother, an affidavit signed by her was also produced by the Petitioner. She is now elderly and was the elder Mr. Warren's daughter-in-law, having married the Petitioner's father. Her testimony was that the property was used continuously as a contractor's equipment storage yard by the senior Mr. Warren from the time of her first familiarity with the property in 1944 until her son purchased the lot in 1978. Apparently, she began dating her future husband at that time and could testify about the use of the property beginning in that year.

An adverse Zoning Advisory Committee (ZAC) Comment was submitted by the Office of Planning. The comment generally indicates that the use of the site by Mr. Warren is incompatible with the surrounding residential land use and the goals and objectives of the Woodlawn Community Plan. This position is somewhat arguable in that the subject lot, although zoned RO, does abut property zoned ML. Adjacent properties are used for commercial purposes, including a service garage and tavern. Admittedly, there are residences nearby. However, this is not the case of a commercial use intruding into a purely residential area. Moreover, the Office of Planning's position, although relevant from a land planning standpoint, does not bear on the issues specifically presented. The Petitioner is requesting relief for the site as a non-conforming use. A non-conforming use, by definition, is a use which is inherently incompatible with the existing zoning of the property. Non-conforming uses are defined in Section 101 of the Baltimore County Zoning Regulations and regulated in Section 104. Essentially, a non-conforming designation is utilized to grandfather an otherwise existing use. There is no doubt

that the use is inconsistent with the RO zoning classification; however, the question presented is whether the use is non-conforming. If so, it may remain irrespective of its impact and compatibility with the neighborhood.

A series of photographs were also submitted at the hearing. They showed that the property is attractive and well maintained. From the street, the property appears to be used only for residential purposes in that the large single family dwelling is immediately adjacent to Gwynn Oak Avenue. One must traverse a driveway upgrade and into the rear yard before the commercially used improvements are visible. Moreover, the rear of the property appears to be well maintained and neat. Additionally, a letter in support of the application was received from a neighbor (Petitioner's Exhibit No. 5). That letter indicates, in part, "the manner in which they (Maryland Diving Service) have continually been maintaining and upgrading the appearance of their property is admirable for a business and greatly appreciated by the adjacent site owner."

Based on the testimony and evidence offered, I am persuaded to grant the Petition for Special Hearing. In this case, I find that the Petitioner has presented testimony persuasive to a finding that the storage of contractor's and construction equipment has been ongoing and continuous on this site since approximately 1915. The evidence is persuasive that there have been no gaps in this use, in that Mr. Warren began his operation immediately upon acquisition of the property from his grandfather. Moreover, although the nature of the business is slightly changed, the nature of the equipment stored on the property and use thereof has remained consistent.

Pursuant to the advertisement, posting of the property and public hearing held on the petition and for the reasons given above, the special hearing request should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of June, 2001, that the Petitioner's Request for Special Hearing to approve, as a non-conforming use, a construction equipment storage yard and/or a contractor's equipment storage yard and/or the outside storage of machinery, equipment and building materials for the business operating at 1903 Gwynn Oak Avenue, be and is hereby GRANTED.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.

LAWRENCE E. SCHMIDT ZONING COMMISSIONER

FOR BALTIMORE COUNTY

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- c. The following buffers, which shall not be encroached upon by aboveground stormwater management, parking or dumpster areas but which may be broken by the entrance way, shall be provided:
 - (1) Property lines which abut any property which is predominantly residentially zoned, residentially used or which abut any residential street must have a twenty-foot landscape buffer; and
 - (2) Property lines which abut any nonresidentially zoned property must have a ten-foot landscape buffer.
- Plan. The use or development of any property in an R-O Zone may not be changed from that existing on the effective date of the classification's application to that property, except in accordance with a plan approved by the County Review Group as provided in Article 32, Title 4 of the Baltimore County Code, unless the change in use is confined to a change in the number of dwelling units in accordance with the provisions of Section 402. [Bill Nos. 56-1982;8 186-1994; 137-2004]
- Conversion of dwellings to office buildings. Any one- or two-family dwelling or apartment building which is under application for either a change in zoning classification to R-O or for a conversion from a residential use to an office use shall require a special exception if the dwelling has been enlarged in floor area by 10% or more within a period of five years prior to the date of application for change or conversion. [Bill Nos. 161-1985; 151-1988; 186-1994]

Section 205 OR-1 (Office Building – Residential) Zone [Bill No. 167-1980⁹]

- 205.1 Declaration of findings. [Bill No. 186-1994]
 - A. It is found that the name of the O-1 (Office Building) zoning classification is misleading the public because the name implies that only office buildings are permitted when, in fact, the zone does permit residential and other uses permitted in the D.R.5.5 Zone.
 - B. It is further found that the O-1 zoning classification is sufficiently similar to the O-2 classification that there is no longer a need for two separate zones.

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Editor's Note: This bill also repealed former Sections 203.5.A.B and 203.5.A.C in their entirety. Similar provisions detailing the content of development plans are now contained in Title 16 of the Baltimore County Code, 1988 Edition, as revised.

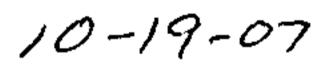
Editor's Note: This bill originally added the O-1 Zone as Section 204. It was subsequently changed to OR-1 and Section 205 by Bill No. 186-1994.





EXHIBIT NO. 64-







10-19-07

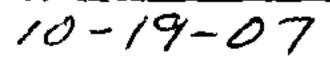




10-19-07









10-19-07

Development

alterations of a divisional property line or lines between two or more lots in common ownership or by agreement of the owners, provided that the alteration does not result in an increase or decrease in the number of lots and there is no increase in total residential density available to the lots considered as a whole;

- (ix) Subdivision of land that was recorded before January 26, 1990 into three or fewer lots; and
- (x) Except as provided in paragraph (2) of this subsection, subdivision of land into three or fewer lots for residential single-family dwellings provided that the lots are not served by a panhandle driveway.
- (2) If a lot is served by a panhandle driveway, the subdivision of land into three or fewer lots for residential single-family dwellings is only exempt from:
 - (i) The concept plan requirements under §§ 32-4-211 through 32-4-217 of this title; and
 - (ii) The county review requirements under §§ 32-4-226 and 32-4-227 of this title.
- (3) All development exempted under this subsection shall comply with Subtitles 3, 4, and 5 of this title and all applicable Baltimore County Zoning Regulations.
- (b) Exemption from community input meetings and Hearing Officer's hearing. The following development is exempt from the community input meeting and the Hearing Officer's hearing under Subtitle 2 of this title:
 - (1) Lot line adjustments, including the combination of lots or parcels;
- (2) Amendments to an approved Development Plan or plat that do not materially alter the proposed development;
- (3) The subdivision of land that is in an approved state agricultural land preservation district or county agricultural easement for the purpose of the conveyance of the lots to the owner or the children of the owner under Title 2, Subtitle 5 of the Agriculture Article of the Annotated Code of Maryland and Article 24 of the Code;
 - (4) The subdivision of a farm tract into two lots;
 - (5) The subdivision of land into three or fewer lots for residential single-family dwel
 - (6) The construction of accessory structures;
- (7) The subdivision of land or buildings in a planned office or industrial park Development Plan has been approved in accordance with this title; and
 - (8) A minor development that does not exceed a total of three lots.

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- (n) Cul-de-sac. "Cul-de-sac" means a local street that has only one outlet and an appropriate terminal for the safe and convenient reversal of traffic movement.
- (o) Delinquent account. "Delinquent account" means fees or costs certified by the Director of Budget and Finance as due and owing to the county by a person for any development.
 - (p) Development. "Development" means:
 - (1) The improvement of property for any purpose involving building;
 - (2) The subdivision of property;
 - (3) The combination of any two or more lots, tracts, or parcels of property for any purpose;
 - (4) Subjecting property to the provisions of the Maryland Condominium Act; or
 - (5) The preparation of land for any of the purposes listed in this subsection.
 - (q) Development Plan. "Development Plan" means a written and graphic representation of a proposed velopment prepared in compliance with Subtitle 2 of this title.
 - (r) Enhancement. "Enhancement" means the improvement or development of resource values liting in a net increase of resource over existing conditions.
 - (s) Environmental agreement. "Environmental agreement" means an agreement concerning an cant's obligations required by the county, including:
 - (1) Chesapeake Bay Critical Area Management;
 - (2) Forest buffer protection;
 - (3) Forest conservation;
 - (4) Grading or sediment control;
 - (5) Stormwater management; and
 - (6) Wetland mitigation.
 - (t) Final action. "Final action" on a Development Plan means:
 - (1) The approval of a Development Plan as submitted;
 - (2) The approval of a Development Plan with conditions; or

PETITIONER'S

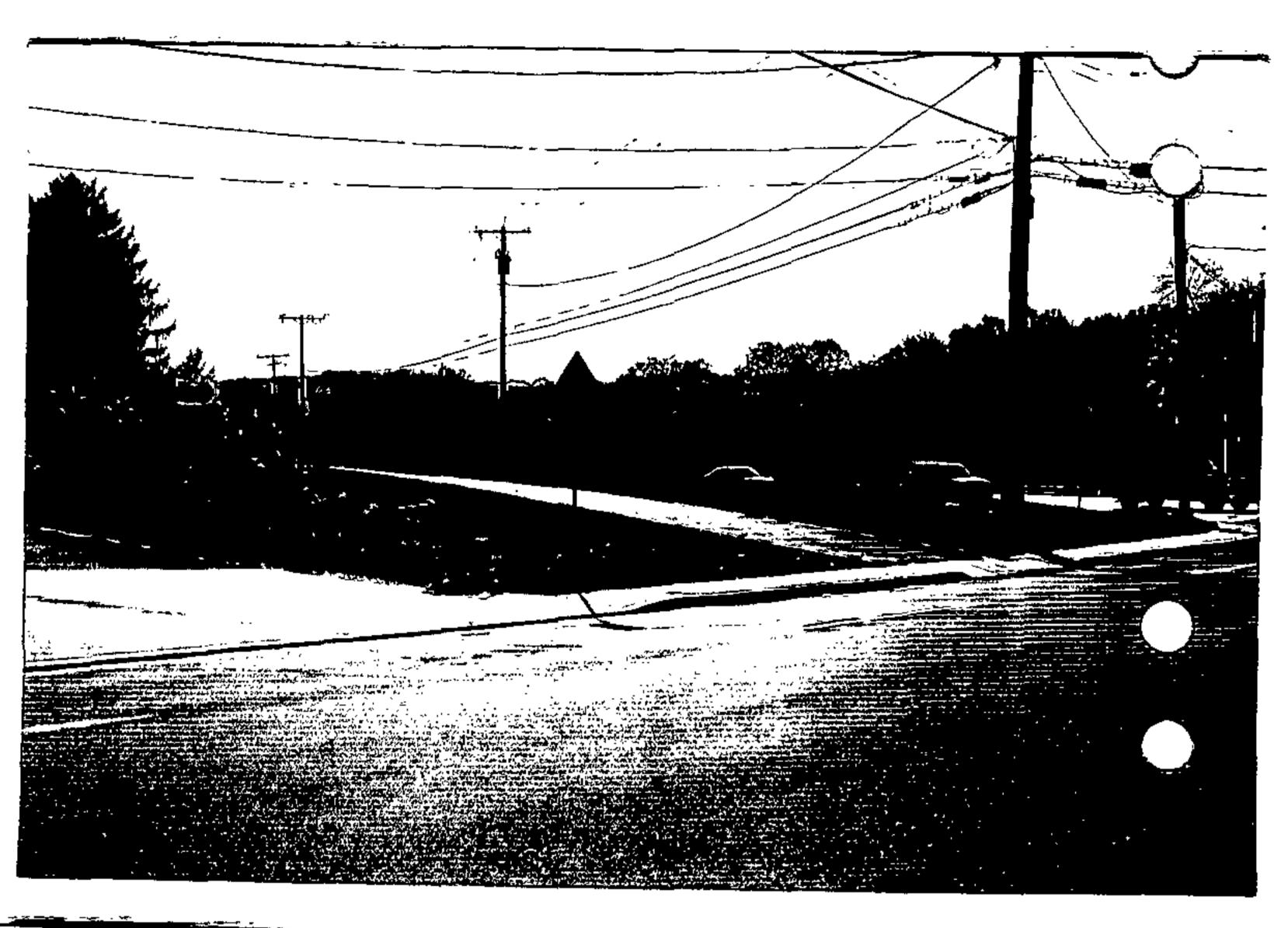
EXHIBIT NO.

- (2) Which is under common ownership or control.
- (kk) Plat. "Plat" means the graphic representation of a development prepared in accordance with the approved Development Plan for the purpose of recording in the land records of the county.
 - (11) Prime and productive soils.
- (1) "Prime and productive soils" means soil types defined as having agricultural capability by the U.S.D.A. Soil Survey of Baltimore County.
 - (2) "Prime and productive soils" include class I, II, or III or woodland class 1 or 2 soils.
- (mm) Private improvements. "Private improvements" means improvements required by the county as a condition of development that are not intended to be dedicated to the county.
- (nn) Public improvement. "Public improvements" means improvements required by the county as a condition of development that are intended to be dedicated to the county in fee simple or by other interest in title.
- (00) Public works agreement. "Public works agreement" means an agreement between the county and the applicant for the construction of public improvements or private improvements required by the county.

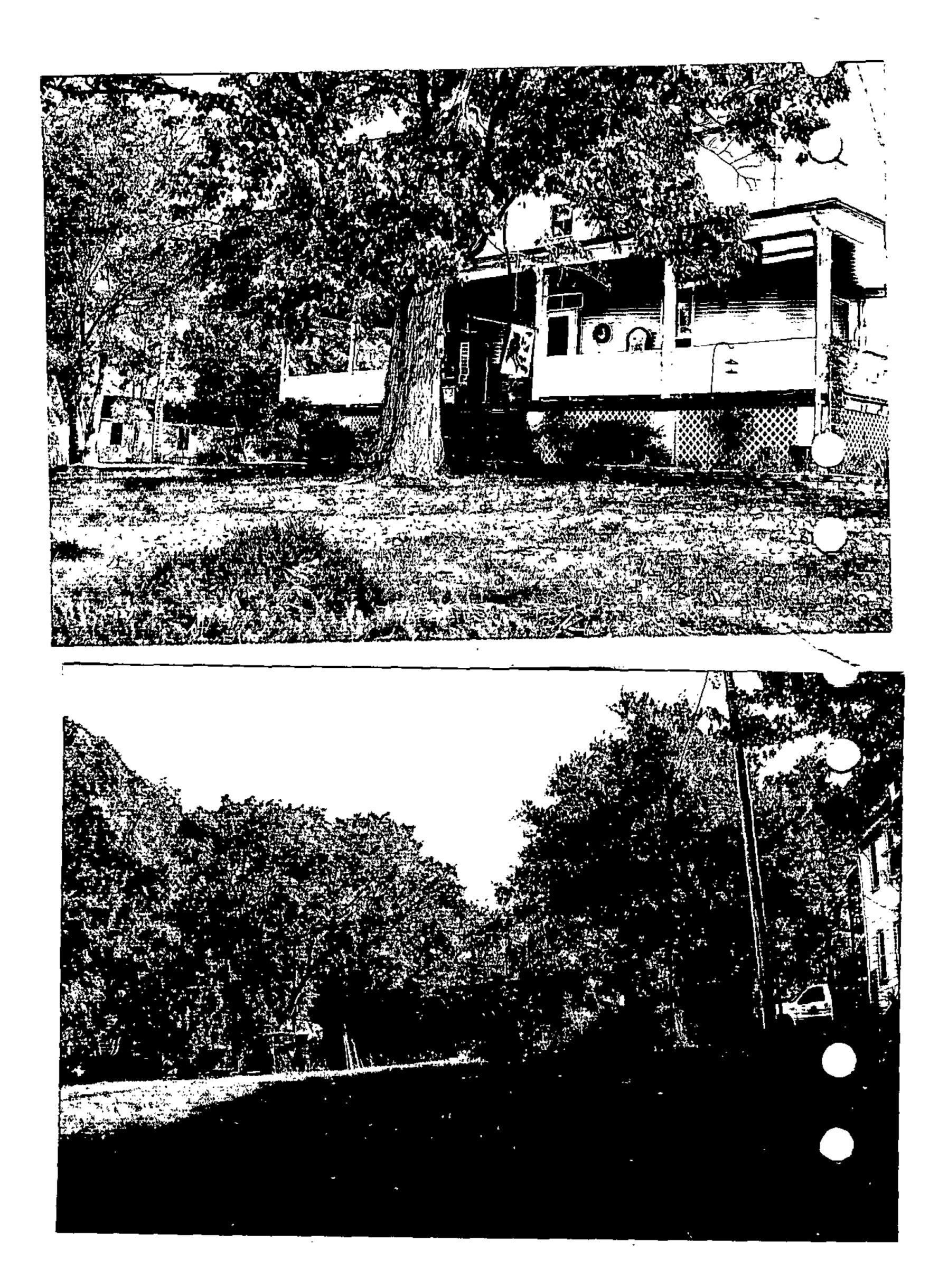
(pp) Quarry.

- (1) "Quarry" means any open pit mine from which rock, stone, or minerals are extracted.
- (2) "Quarry" does not include a sand or gravel extraction operation.
- (qq) Reclamation plan. "Reclamation plan" means the written and graphic presentation of the proposed use of a quarry prepared in compliance with Subtitle 5 of this title.
 - (11) Reclamation property.
- (1) "Reclamation property" means the site of a legally operating quarry and all contiguous or adjacent property in common ownership.
- (2) "Reclamation property" includes property that may be separated by public streets and containing a minimum of 300 acres.
- (ss) Residential development. "Residential development" means the development of land for any purpose or use allowed as of right or by special exception in residential zones in accordance with the Baltimore County Zoning Regulations.

PETITIONE	R'S
EXHIBIT NO.	9













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