RE:	PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 516 Reisterstown Road; SW corner Main St and Stocksdale Ave, E of Owings Avenue 4th Election & 3rd Councilmanic Districts Legal Owner(s): S & J Management, Inc Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 08-163-SPHXA

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2007, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
OCT 15 2007
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE 1-16-08

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ALDON JAMSON /	210 ALLEGHENY AVE	TOWSON 21204	
Ken Schmick /	325 Gamballs Rd	Gamballs, Md 21054	
DAVID MARTIN /	222 BOSLEY AVE. S. B1	TOWSON, MD 21204	dmartin@martinandphillips.com
Bruce Rice /	P.O. Box 448	Riderwood MD. 21139	bruce.s.rice@wamu.com
GREG HARVEY /	200 W. BALTIMORE PIKE WAWA PA	WAWA PA 19063	GREGORY.T.HARVEY@WAWA.COM
BARBARA REYNOLDS /	336 LAUREL Hill COURT	REISTERSTOWN, MD 21136	HSILVERFX@AOL.COM
DAVE STOWE JR /	21 STOCKDALE AVE	REISTERSTOWN MD 21136	DSTOWEJR@COMCAST.NET
ELLEN & MIKE TEBO /	500 OWINGS AVE	REISTERSTOWN MD 21136	CHOWSHIBA@COMCAST.NET
Stuart Pollack /	526 Main Street	Reisterstown MD	Stuart Pollack @ Earthlink .net

PLEASE PRINT CLEARLY

CASE NAME WaWa
CASE NUMBER 08-163-SPHXA
DATE 12-10-07

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
EA / Ken Schmidt /	325 Gamballs Rd	Gamballs, Md, 21054	KSCHMIDT@RAFFCONCEPTS.com
SUP GREG HARVEY /	260 W. BALTIMORE PIKE	WAWA PA 19063	GREGORY. T. HARVEY@WAWA.C
EA / DAVID L. MARTIN /	222 ~~BOSLEY~~ AVE.	TOWSON, MD 21204	dmartin@martinandphillips.com
W BARBARA V. REYNOLDS	306 LAUREN Hill COURT	REISTERSTOWN, 21136	ASILVERFX@AOL.COM
SUP DAVE STONE JR.	21 Stocksdale Ave		
" "	15 Dean Ave		DSTONEJR@LongandFoster.com
" "	17 Dean Ave	Reisterstown MD 21136	
" "	20 Woodley Ave		
SUP ELLEN / Michael TEBO /	500 OWINGS AVE	REISTERSTOWN, MD 21136	CHOWSHIBA@COMCAST.NET
BRUCE RICE - WaWa /	P.O. BOX 446	Ryderwood, MD. 21139	BRUCE.S.RICE@WAWA.COM

PLEASE PRINT CLEARLY

CASE NAME WaWa
CASE NUMBER 08-163-SPHxA
DATE 12-10-07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
~~Susan Schultz~~ ↗	806 Carnation Court		
George Harman	5429 Weywood Dr.	Reisterstown MD 21136	harmangeorge@hotmail.com
Mary Molinaro	215 Chartley Drive	Reisterstown, MD 21136	mmolinaro@softwarebasics.com
Victor Olson	510 Owings AVE	Reisterstown MD 21136	VWOlson@Hotmail.com
Susan Schultz	504 Owings Ave	Reisterstown MD 21136	
Charles Bottom	917 Hanwell Rd	Reisterstown Md 21136	mainstreetcitgo@verizon.net
Vicrum Cahill	558 MAIN ST	Reis MD 21136	C2cahill60@Yahoo.com
Robert Begleiter	117 OLD Reisterstown Rd	Reist MD 21136	
Mary Whitecraft	536 Main St	Reisterstown 21136	whitcraft@aol.com
~~Michael Whitecraft~~	~~536 Main St~~	~~Reisterstown 21136~~	~~Whitcraft@Comcast.net~~
Diana Cavey	11904 Reisterstown Rd	Reisterstown MD 21136	Dianacavey@aol.com
Ken Higgs	534 Main St	Reisterstown MD 21136	
GREG DENNING	39 STOCKSDALE AVE	REISTERSTOWN, MD 21136	GSDENN1@AOL.COM
ISABELLE DENNING	39 STOCKSDALE AVE	REISTERSTOWN, MD 21136	GSDENN1@AOL.COM
Jane Hertz	739 Chartley Dr.	Reisterstown MD 21136	

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 08-163-SPHXA
DATE 1-16-08

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
George Harman	5429 Wexwood Dr.	Reisterstown 21136	harmangeorge@hotmail.com
Mary Molinaro	215 Charthey Dr.	Reisterstown 21136	mmolinaro@softwarebasicsinc.com
Susan Schultz	504 Owings Ave	Reisterstown 21136	puggyfranky@comcast.net
Vic Chilbe	558 MAIN St	Reisterstown 21136	c2chilbe@yahoo
R. Bess Leiter	11700 D Reisterstown Rd	Reisterstown MD 21136	
Ken Higgs	534 Main St.	Reisterstown MD 21136	
Diana Cavey	11904 Reisterstown Rd.	Reisterstown MD 21136	DianaCavey@gmail.com
Isabelle Drenning	39 Stocksdale Ave	Reisterstown MD 21136	cjsdrenn1@aol.com
James MAYS	30 STOCKSDALE AVE	REISTERSTOWN MD 21136	JAM643@Comcast.net
Victor Olson	510 Owings Ave.		

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

October 22, 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: 08-163-SPHXA
516 Reisterstown Road
S/west corner of Main St., (Rte. 140) and Stocksdale Ave, east of Owings Avenue
4th Election District – 3rd Councilmanic District
Legal Owners: S & J Management, Inc.

Special Hearing to confirm that the payment for fuel service combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone; to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B, BCZR, to confirm that a private road is permitted to bisect the 50-foot RTA buffer to connect adjoining developments, pursuant to Section 1B01.1b.1.e(3), BCZR, or in alternative, to approve a variance to Section 1B01.1B.1.e(3). Special Exception to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR. Variance, in the alternative, to permit a private road to bisect the 50-foot RTA buffer.

Hearing: Monday, December 10, 2007 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, Venable, 210 Allegheny Avenue, Towson 21204
S & J Management, 520 Reisterstown Road, Reisterstown 21136

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SAT. NOVEMBER 24, 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, November 20, 2007 Issue - Jeffersonian

Please forward billing to:
Amy Mattee
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204
410-494-6298

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: 08-163-SPHXA
516 Reisterstown Road
S/west corner of Main St., (Rte. 140) and Stocksdale Ave, east of Owings Avenue
4th Election District – 3rd Councilmanic District
Legal Owners: S & J Management, Inc.

Special Hearing to confirm that the payment for fuel service combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone; to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B, BCZR, to confirm that a private road is permitted to bisect the 50-foot RTA buffer to connect adjoining developments, pursuant to Section 1B01.1b.1.e(3), BCZR, or in alternative, to approve a variance to Section 1B01.1B.1.e(3). Special Exception to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR. Variance, in the alternative, to permit a private road to bisect the 50-foot RTA buffer.

Hearing: Monday, December 10, 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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 27, 2007 Issue - Jeffersonian

Please forward billing to:
Charles Fistek
7601 Chesapeake Drive
Baltimore, MD 21219

410-477-2262

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: 08-166-A
2820 Willow Avenue
W/side of Willow Avenue, s/west of Dory Lane and Willow Avenue
15th Election District – 7th Councilmanic District
Legal Owner: Charles Fistek

Variance to permit a proposed single family dwelling to be erected on a lot with a width of 50 feet in lieu of the required 55 feet and to have a side street setback of 10 feet in lieu of the required 25 feet.

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

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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

Zoning Office
Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Zoning Office:

Please be advised that we, the undersigned, have authorized Arnold Jablon, Esq., Venable, LLP, 210 Allegheny Ave., Towson, Maryland 21204, to be our attorney-in-fact and attorney-at-law and on our behalf file the attached petitions for zoning relief. We hereby understand that the relief requested is for property we own and we hereby and herewith acknowledge our express permission for said petitions to be filed on our behalf. The petition(s) filed are for property located at 516 Reisterstown Road, Reisterstown 21136, property we own.

S & J Management, Inc. (owner)

By: _____ 10/1/07 (Date)
Stuart Pollack, President

520 Reisterstown Road, Reisterstown, Maryland 21136
address

08-163-SPHXA

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

For Newspaper Advertising:

Item Number or Case Number: 08-163-SPHXA

Petitioner: S+J MANAGEMENT INC

Address or Location: 516 REISTERSTOWN RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MS. AMY MATTEE

Address: VENABLE LLP
210 ALLEGHENY AVE.
TOWSON, MD 21204

Telephone Number: 410-494-6298

Revised 7/11/05 - SCJ

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: #08-163-SPHXA
516 Reisterstown Road
S/west corner of Main St., (Rte. 140) and Stocksdale Ave., east of Owings Avenue
4th Election District - 3rd Councilmanic District
Legal Owner(s): S & J Management, Inc.

Special Hearing: to confirm that the payment for fuel service combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone; to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B, BCZR, to confirm that a private road is permitted to bisect the 50-foot RTA buffer to connect adjoining developments, pursuant to Section 1B01.1b.1.e(3), BCZR, or in alternative, to approve a variance to Section 1B01.1B.1.e(3). **Special Exception:** to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR. **Variance:** In the alternative, to permit a private road to bisect the 50-[illegible]ot RTA buffer.

[illegible]ring: Monday, December 10, 2007 at 9:00 a.m. In [illegible] 407, County Courts Building, 401 Bosley Ave-[illegible]owson 21204.

[illegible] J. WISEMAN, III
[illegible]mmissioner for Baltimore County
[illegible]1) Hearings are Handicapped Accessible; for [illegible]mmodations Please Contact the Zoning Com-[illegible]ffice at (410) 887-3868.
[illegible]nation concerning the File and/or Hearing, [illegible]g Review Office at (410) 887-3391.

Issued [illegible]. 20 155859

CERTIFICATE OF PUBLICATION

11/22, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 ~~successive~~ weeks, the first publication appearing on 11/20, 2007.

- ☑ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

P. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 08-163-SPHXA

Petitioner/Developer: S V J MANAGEMENT, INC

Date of Hearing/Closing: 12-10-07

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:

516 REISTERSTOWN RD

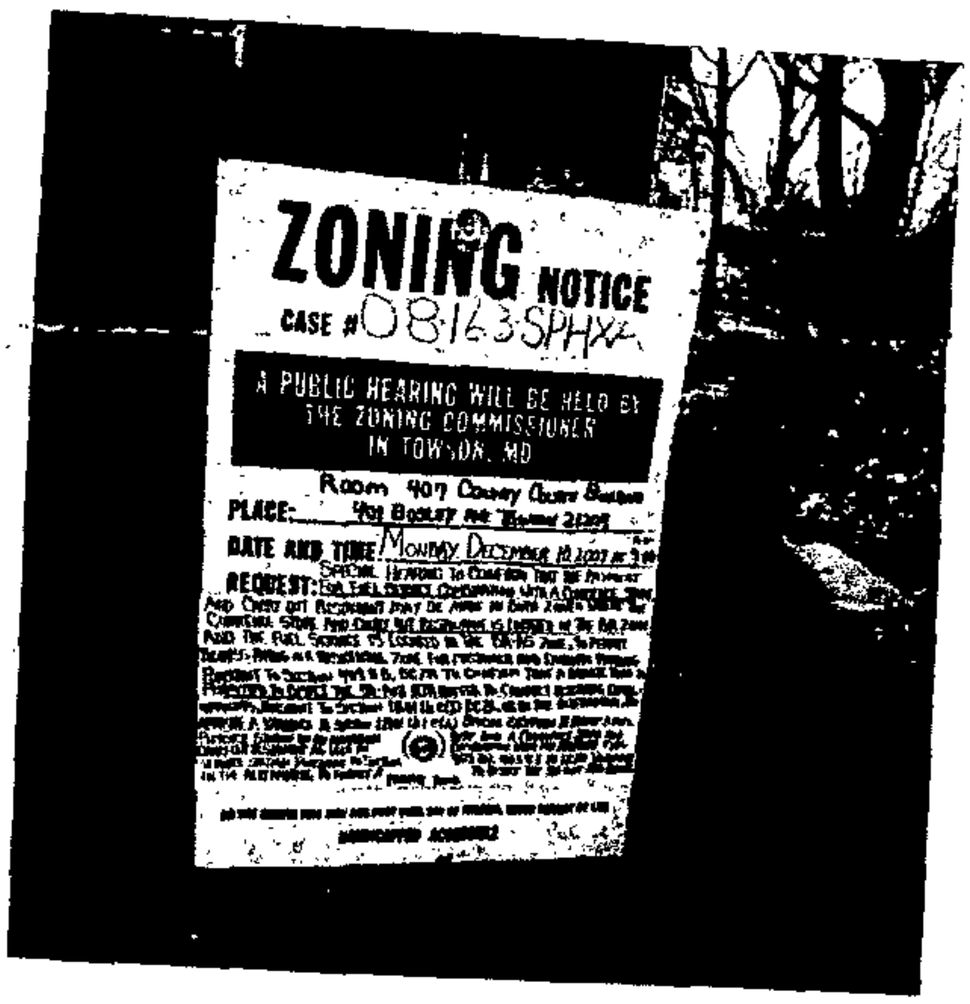
The sign(s) were posted on 11-24-07
(Month, Day, Year)

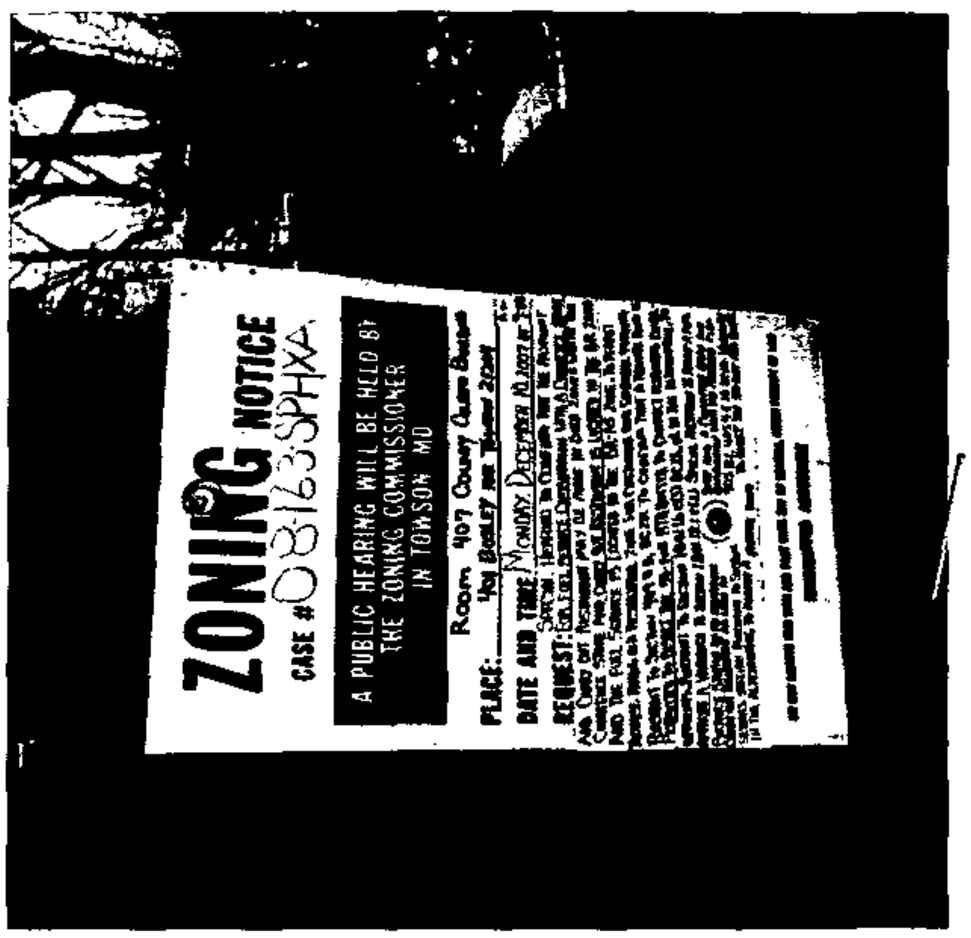
Sincerely,

Robert Black 11-26-07
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)





Dan Palich
226 Northway Rd.
Reisterstown, MD 21136
(410) 833-3197

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Case Number 8-163-SPHXA

Dear Sir or Madam:

I am writing to support Wawa's development of the property on 516 Reisterstown Road. I am quite familiar with that area. I have lived within easy walking distance of the property since 1972 and I go through that area daily. I see no reason why Wawa should not develop that property. I have no personal stake in this matter. I am simply a nearby resident stating his opinion.

I have heard the arguments against Wawa. As I said, I have no personal stake. But I am bothered when I see you presented with arguments that are not wholly accurate. Perhaps I can shed some additional light on the issues.

Wawa does not fit the historic design of the area--There is absolutely nothing historic about this area. There is indeed an area called historic Reisterstown. The historic area, however, is several blocks north. Rather than being historic, the Wawa property is surrounded by a shopping center, a gas station, a Jiffy Lube, and a used car lot. I'm reasonably sure they did not have used car lots, gas stations and Jiffy Lubes in historic times.

The area is a potential Renaissance Area--This claim is a stretch. Find out how much actual work has been done on this matter and you will find little substance. Any effort to make this a Renaissance Area is in its infancy. No, I take that back because "infancy" is an exaggeration. "Embryonic" would be a better description of the efforts to make it a Renaissance Area.

The area cannot handle the Wawa traffic--An exaggeration. If you stand on the property and look around, you will see four other gas stations and two other convenience stores. If Wawa builds a gas station and a convenience store on the property, all that will happen is some residents will shift their shopping habits by a few hundred feet. Instead of going to the 7-11 convenience store, they might go to Wawa. Instead of going to the Citgo across the street for gas, they might go to Wawa. Residents of Owings Mills and Carroll County are not going to drive to Reisterstown so they can visit Wawa. Instead, Reisterstown residents will buy their milk at Wawa instead of 7-11 or the Farm Store a few hundred feet away. They will buy their gas at Wawa instead of Citgo, Texaco, Crown or BP a few hundred feet away.

Wawa's overhead lighting will disturb the nearby community--Visit the site and you will find this to be an exaggeration. I expect that Wawa will have overhead lights. But so does the Chartley Shopping Center located across the street. So does the Landmark Shopping Center located across the street. So does the Citgo located across the street. So does the Jiffy Lube and mortgage company located next door. So does the Crown gas station located two doors down the street.

Wawa will detract from the appearance of the area--If you walk down the street today, you will pass a transmission repair shop, a Crown gas station, a used car lot, and then a Jiffy Lube. Wawa would be built between the used car lot and the Jiffy Lube. I think I would rather look at a Wawa than a used car lot. If anything, Wawa will upgrade the overall appearance of the area. It's just not a pretty area today. It's not historic. It's not pretty.

In closing, I want to reiterate that I'm simply a nearby resident who thinks you should have the whole picture. Regardless of whether Wawa builds or does not build, the impact on the community is negligible.

Sincerely,

Dan Palich

Dan Palich

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

in the alternative, to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc (2) or to section 307, BCZR, whichever is determined to apply, see Petition for Special Hearing

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

to be determined at hearing

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

S & J Management, Inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road

Address Telephone No.

Reisterstown, Md 21136

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Md 21204

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Case No. 08-163-SPHXA

Office Use Only

Estimated Length of Hearing

Unavailable For Hearing

REV 8/20/07

3.14.08

PB

Reviewed by D.T. Date 10/4/07

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

S & J Management, inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road

Address Telephone No.

Reisterstown, Maryland 21136

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave., 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Case No. 08-163-SPHXA

REV 07/27/2007

3.14.08 PB

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 10/4/07

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

(This box to be completed by planner)

(1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone;

(2) to permit business parking in a residential zone for customer and employee parking pursuant to section 409.8.B, BCZR;

(3) to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or, in alternative, to approve a variance to section 1B01.1B.1.e(3). (see variance petition)

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave. 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Legal Owner(s):

S & J Management, Inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Main Street

Address Telephone No.

Reisterstown, Maryland 21136

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave., 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-163-SPHXA

REV 9/15/98

Reviewed By D.T. Date 10/4/07

3.14.08

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

SEPTEMBER 20, 2007

ZONING DESCRIPTION
HEARING AREA #1& #2

516 REISTERSTOWN ROAD

BEGINNING FOR THE DESCRIPTION OF A 1.27 ACRE TRACT IDENTIFIED AS PART OF PARCELS 252, 253, 254, 255, AND 982 TAX MAP 48, AT A POINT AT THE CENTERLINE INTERSECTIONS OF REISTERSTOWN ROAD AND STOCKSDALE AVENUE THENCE S15° 34' 16" E 60.42' FEET MORE OR LESS TO A POINT OF BEGINNING #1 AT THE NORTHERN MOST CORNER OF THE SUBJECT PROPERTY THENCE THE FOLLOWING COURSES:

1) S44° 32'02"E, 183.33' , THENCE
2) S47° 49'07"W, 293.22"' THENCE
3) N39° 44'21"W, 81.05', THENCE
4) N47° 24'53"W, 46.49', THENCE
5) N44° 56'43"E, 44.41', THENCE
6) N46° 08'02"E 64.67', THENCE
7) N50° 00'55"E, 9.63', THENCE
8) N45° 37'33"W, 193.4'
9) N85° 58'18"E, 222.9', THENCE
10) BACK TO THE POINT OF BEGINNING

CONTAINING 55,321.2 SQUARE FEET OR 1.27 ACRES OF LAND MORE OR LESS.

THE ABOVE BEARINGS ARE BASED ON THE MARYLAND STATE COORDINATE SYSTEM (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.8595
FAX: 410.321.1175

08-163-SPHXA

STATE OF MARYLAND · DAVID LLOYD BAILEY · No. 776 · REGISTERED LANDSCAPE ARCHITECT

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 5, 2007

Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

RE: Case Number: 08-163-SPHXA, 516 Reisterstown Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 4, 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:amf

Enclosures
c: People's Counsel
S & J Management, Inc. 520 Reisterstown Road Reisterstown 21136

TB 12/12
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
NOV 20 2007
BY:_____

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: November 6, 2007

SUBJECT: Zoning Item # 08-163-SPHXA
Address 516 Reisterstown Road
(S&J Management Inc. Prop)

Zoning Advisory Committee Meeting of October 15, 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:

____ 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).

__X__ 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:
Any required afforestation may be addressed by offsite planting, offsite retention, or payment of a fee in lieu of planting.

Reviewer: Glenn Shaffer Date: 11/9/07

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2008\ZAC 08-163-SPHXA.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 15, 2007

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

DAK

SUBJECT: Zoning Advisory Committee Meeting
For October 22, 2007
Item No. 08-163

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

The ultimate right-of-way width for Stocksdale and Owings Avenues is 50-feet. The right-of-way widening must be shown on the plan along with a cut-back at the intersection. Setbacks should be shown based on the widenings and variance request revised accordingly.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 08-163-10152007.doc

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

State Highway Administration

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

Maryland Department of Transportation

October 22, 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. 8-163-SPHXA
MD 140 (Reisterstown Road)
s/w corner at Stockdale Avenue
S & J Management Property
Special Hearing
Special Exception

Dear Ms. Matthews:

Thank you for the opportunity to review the ZAC Agenda Case Number 8-163-SPHXA for the above captioned, which was received on October 16, 2007. We understand that his application illustrates a proposal to develop a fuel service in combination with a convenience store, carryout restaurant and surface parking for 44 vehicles.

We have completed a review of the referenced plan and as well as a field inspection. The results of the review reveal that a permit is required for improvements along the subject property fronting MD 140 (Reisterstown Road). We recommend that as a condition of Special Hearing and Special Exception Item No. 8-163-SPHXAapproval the owner/builder is required to obtain a State Highway Administration (SHA) Access Permit. Coordination with Mr. Michael Bailey, of this office is necessary to insure the proposed improvements are consistent with SHA guidelines. Please include our comments in staff report to the Zoning Hearing Officer.

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

Very truly yours,

for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB
Cc: Mr. David Malkowski, District Engineer, SHA
Mr. David L. Martin, Consultant Engineer, Martine & Phillips Design Associates, Inc.
Mr. Joseph Merrey, Department of Permits & Development Management, Baltimore County
Mr. Stuart Pollack, Applicant, S & J Management, Inc.

115 12/10
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 19, 2007

RECEIVED
NOV 29 2007
BY:

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 8-~~199~~ 163 - Special Exception**

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

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

Reviewed By: Curtis Murray

Division Chief: Lyn Lanham

CM/LL

W:\DEVREV\ZAC\8-163.doc

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

October 11, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 15, 2007

Item Number: Item Number 156,160, 162, 163, 164, 165, 166,167,168, 169,170

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
410-887-4880 (C)443-829-2946
MS-1102F

cc: File

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

CURRICULA VITAE

DAVID L. MARTIN, L.A.

Martin & Phillips Design Associates, Inc., Principal
Director of Land Planning / Landscape Architecture
Professional Registration: Landscape Architect
Maryland - No. 776
Pennsylvania - No. 573-E

Education:
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

Professional Affiliations:
American Society of Landscape Architects, Member
Urban Land Institute, Member

Professional practice includes 36 years of land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has been practicing in the Greater Baltimore Metropolitan region since 1987 and has been qualified as an expert in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County, Howard County, Harford County, Cecil County, Bel Air, Aberdeen, Havre de Grace, Perryville, Port Deposit and Federal District Court of Baltimore.

Prior to his relocation to Maryland, Mr. Martin practiced landscape architecture and land planning in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

As President of Martin & Phillips Design Associates, Inc. Mr. Martin supervises community planning, site development, subdivision development plans, and master planning efforts, He also offers zoning, testimony and interpretation on land planning issues before zoning commissioners, boards of appeals, planning commissions, and elected bodies. Mr. Martin facilitates community input meetings, and presents Development Plans in Baltimore County and oversees the preparation of special exception and variance plan requests. He also directs the design of parks, amenity features, lighting plans and landscape plans associated with residential, commercial and institutional projects.

Significant projects include Developments of Regional Impact (DRI) in the State of Florida including; Palm Coast, Florida - 10,000 acre master plan, Beverly Hills, Florida - 6,500 acre master plan, and Doral Park, Florida - 2000 acre master plan. Significant local projects include: Hollywoods, Monmouth Meadows, Greenbriar, Bainbridge Development, Forge Landing, Owings Mills Commerce Center, The Avenue at Whitemarsh, New England Motor Freight Trucking Facility, Cedar Land Farms P.U.D., Westwicke, Beaverbrook, Biddison Property, Bridle Ridge, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Powell Property, and Baker Property.

Mr. Martin has prepared numerous comprehensive-zoning petitions in Baltimore County during the 1992, 1996, 2000, 2004 and 2008 CZMP processes and has a thorough understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He also served on an ad-hoc committee that authored the Service Employment (SE) Zone of Baltimore County and the Public Affairs Committee for NAIOP. He has extensive experience dealing with all of the Baltimore Regional Area County's developmen[illegible]

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.
FAX: 410.321.1175

PETITIONER'S EXHIBIT 1

NG PROPOSED: 51 SPACES (48 STD, 3 HC)
DR ZONE: 16 SPACES
BRAS ZONE: 35 SPACES

)RDING TO SECTION 409.8b2 OF THE BCZR, THE PARKING FACILITIES COMPLY
THE FOLLOWING CONDITIONS:

ıplies because the land used adjoins the business involved.

ıplies because only passenger vehicles, excluding buses, will use the parking facility.

ıplies because no loading, service or any use other than parking shall be permitted.

ıplies because lighting will be regulated as to location, direction, hours of illumination, e and intensity, as required.

mplies because this plan shows the parking arrangement and vehicular access.

plies because method and area of operation, provision for maintenance and permitted 's of use shall be specified and regulated as required.

mplies because any conditions not listed above which, in the judgment of the Zoning mmissioner, are necessary to ensure that the parking facility will not be detrimental adjacent properties.

GE: ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 450 OF THE B.C.Z.R.

RPRISE SIGN	FREE STANDING
X. HEIGHT	25'
X. SIGN FACE AREA:	75 S.F. ON REISTERSTOWN RD PER FACE
TE:	GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE
MOUNTED SIGN:	2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
ICE STATION CANOPY:	25 S.F. PER CANOPY - MAX. NO. PER SITE = 6
REA REQUIRED:	C-STORE 4 x AREA OR 4 x 3189 S.F. +/-= 12,756 S.F. +/- 12,756 S.F (0.29 AC.+/-) IS LESS THAN SITE AREA OF 55,321 S.F (1.27 AC.+/-)
SERVICE AREA:	1,500 S.F. x 16 PUMPS = 24,000 S.F. OR 0.55 AC.+/- EXISTING BR-AS AREA: 0.96 AC.+/- 41,817.6 S.F.+/- COMPLIES WITH SECTION 405 OF BCZR
CKS:	MAIN STRUCTURE 35' FROM R/W FUEL PUMP 25' FROM R/W CANOPY 15' FROM R/W LANDSCAPE AREA 10' FROM R/W, 6' SIDE & REAR YARDS(NON-RESIDENTIAL), MINIMUM OF 15' WHEN SERVICE STATIONS ARE LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY.

IATER, AND RESTROOMS WILL BE AVAILABLE FOR CUSTOMERS.

EAR & SIDES OF THE BUILDING SHALL BE FINISHED WITH MATERIALS THAT XTURE & COLOR RESEMBLE THE FRONT OF THE BUILDING. 405.4C.1.b. B.C.Z.R.

PLAN TO ACCOMPANY
SPECIAL EXCEPTION
D A SPECIAL HEARING

REISTERSTOWN ROAD

OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

PETITIONER'S
EXHIBIT NO. 7A

ER 19, 2007

08-163-SPHXA

P.N. 07-1027

Complies because the land used adjoins the business involved.
Complies because only passenger vehicles, excluding buses, will use the parking f
Complies because no loading, service or any use other than parking shall be perm
Complies because lighting will be regulated as to location, direction, hours of illu
glare and intensity, as required.
Complies because this plan shows the parking arrangement and vehicular access.
Complies because method and area of operation, provision for maintenance and p
hours of use shall be Specified and regulated as required.
Complies because any conditions not listed above which, in the judgment of the z
Commissioner, are necessary to ensure that the parking facility will not be detri
to adjacent properties.

SNAGE: ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 450 OF THE B.C.
NTERPRISE SIGN — FREE STANDING
MAX. HEIGHT — 25'
MAX. SIGN FACE AREA: — 75 S.F. ON REISTERSTOWN RD PER FACE
NOTE: — GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE

ALL MOUNTED SIGN: — 2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
ERVICE STATION CANOPY: — 25 S.F. PER CANOPY - MAX. NO. PER SITE = 6
E AREA REQUIRED: — C-STORE 4 x AREA OR 4 x 3189 S.F. +/-= 12,756 S.F
12,756 S.F (0.29 AC.+/-) IS LESS THAN SITE AREA OF 55,321 S.F (1.27 AC.+/-)

JEL SERVICE AREA: — 1,500 S.F. x 16 PUMPS = 24,000 S.F. OR 0.55 AC.+
EXISTING BR-AS AREA: 0.96 AC.+/- 41,817.6 S.F.+/-

TBACKS: — COMPLIES WITH SECTION 405 OF BCZR
MAIN STRUCTURE 35' FROM R/W
FUEL PUMP 25' FROM R/W
CANOPY 15' FROM R/W
LANDSCAPE AREA 10' FROM R/W, 6' SIDE & REAR YARDS(NON-RESIDENTIAL), MINIMUM OF 15' WHEN SERVICE STATIONS ARE LOCATED WITHIN 50 FEET (ANY RESIDENTIALLY ZONED PROPERTY.

R, WATER, AND RESTROOMS WILL BE AVAILABLE FOR CUSTOMERS.
HE REAR & SIDES OF THE BUILDING SHALL BE FINISHED WITH MATERIALS THAT N TEXTURE & COLOR RESEMBLE THE FRONT OF THE BUILDING. 405.4C.1.b. B.C.Z.R.
OURS OF OPERATION: — 24 HOURS A DAY, 7 DAYS A WEEK

A PLAN TO ACCOMPANY
A SPECIAL EXCEPTION
ND A SPECIAL HEARING

5 REISTERSTOWN ROAD

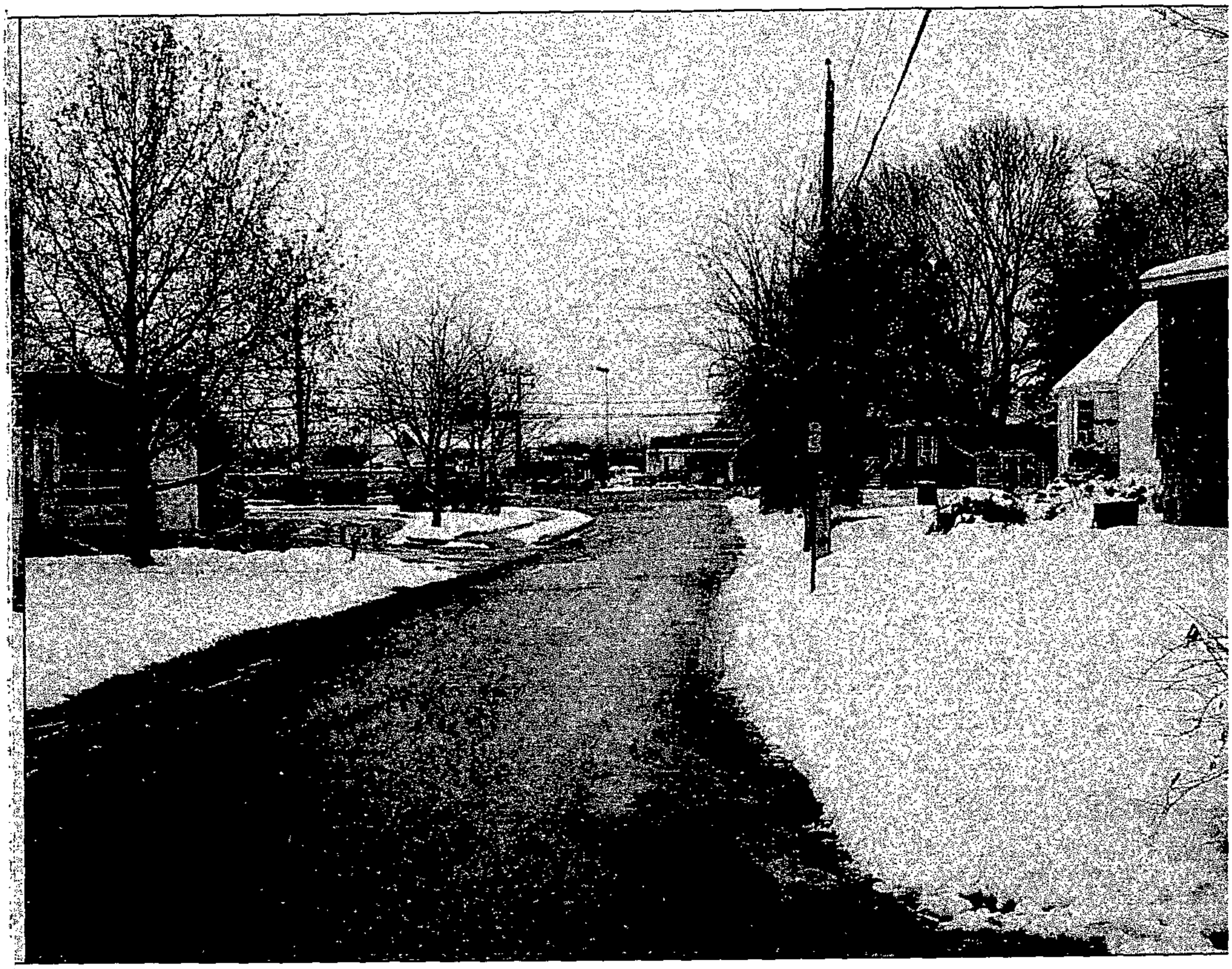
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

REVISED: 12
SEPTEMBER 19,

P.N. 07-102

PETITIONER'S EXHIBIT 3

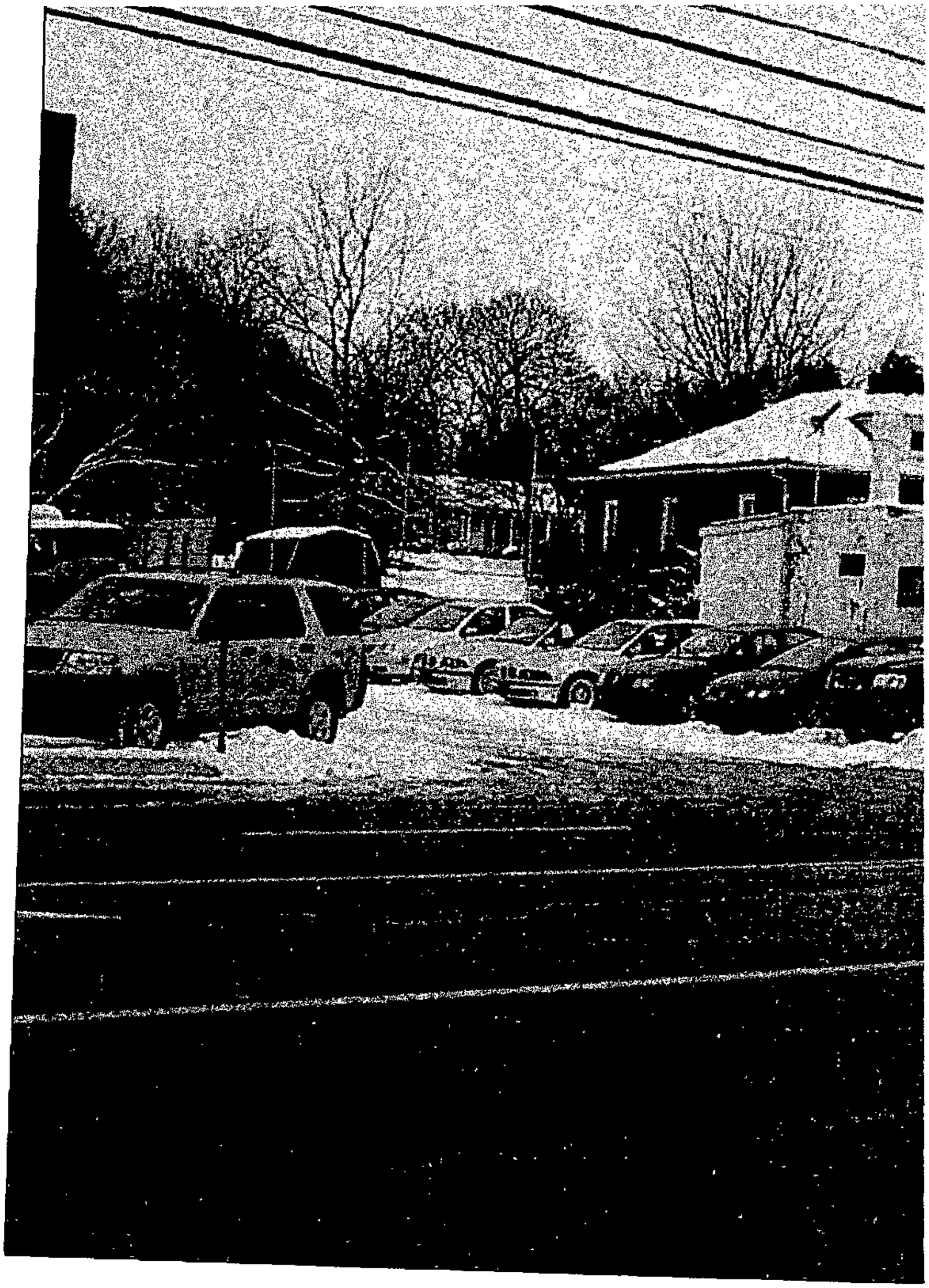
G



K

PETITIONER'S EXHIBIT 4a

P



PETITIONER'S EXHIBIT 48
M - P

EXISTING
NEIGHBORHOOD
CONTEXT PLAN

516 REISTERSTOWN ROA

OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

PETITIONER'S EXHIBIT 5

P.N. 07-1

BR A5 (0.96 AC. +/-)

. PARKING REQUIRED: 46 SPACES
1 P.S. PER EMPLOYEE: 15 SPACES
1 P.S. PER AIR/VACUUM: 1 SPACE
1 P.S. PER ATM: 1 SPACE
5 P.S. PER 1000 S.F.: 29 SPACES
PARKING PROPOSED; 51 SPACES (48 STD, 3 HC)

. SIGNAGE:
ENTERPRISE SIGN (WAWA)-FREE STANDING
MAX. HEIGHT 25'
MAX. SIGN FACE AREA: 75 S.F. ON REISTERSTOWN RD PER FACE

WALL MOUNTED SIGN: 2x LENGTH OF BUILDING - 90' X 2 = 180
NOTE: GASOLINE PRICE & GRADE SUBJECT TO "
NOT COUNTED IN SIGN AREA FACE ABO\
CANOPY OF FUEL SERVICE 25 S.F. PER
MAX. NUMBER OF CANOPY SIGNS ON PR

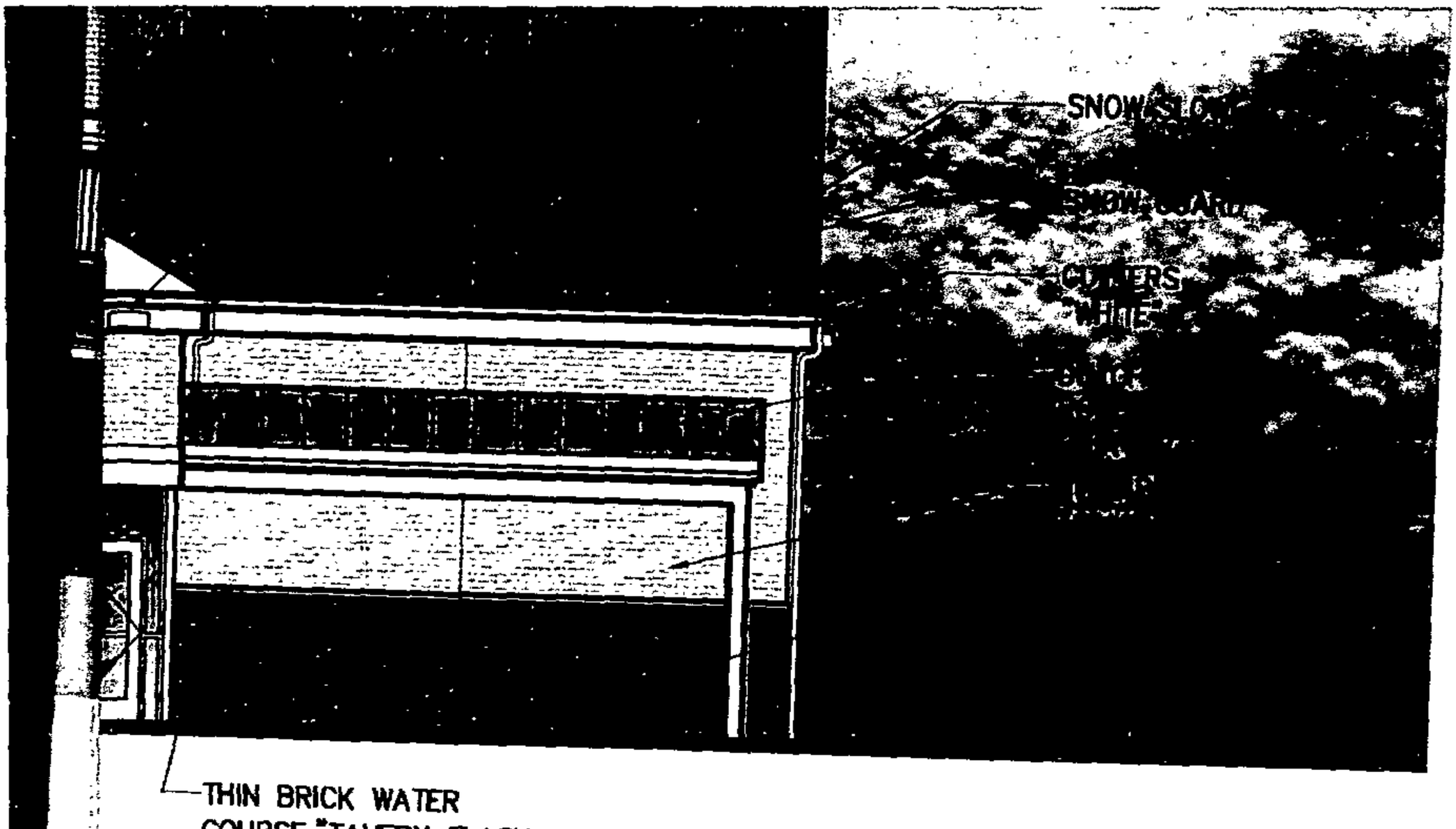
SERVICE STATION CANOPY: 25 S.F. PER CANOPY - MAX. NO. PER SITE

ILLUSTRATIVE SITE NEIGHBORHOOD CONTEXT PLAN

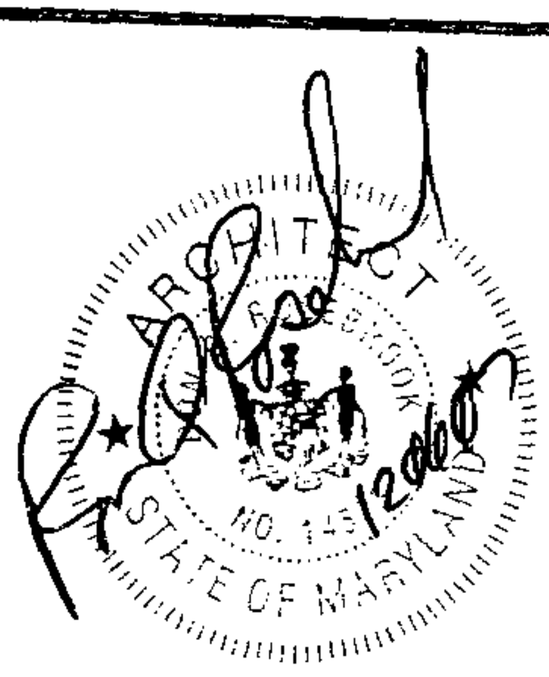
516 REISTERSTOWN RO

OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

PETITIONER'S EXHIBIT 6



THIN BRICK WATER COURSE."TAVERN FLASH 300(RED)"



BSW International
One West Third Street, Suite 800
Tulsa, Oklahoma 74103
www.bswintl.com

PETITIONER'S EXHIBIT 7

ıtistical Area Summary

t: All Projects

	Avg	Max	Min	Avg/Min	Max/Min
)PY	32.08	48.4	9.8	3.27	4.94
<ING	3.46	14.5	0.7	4.94	20.71

	Pole Ht.	Lamping / Lamp Manufacturer		I.E.S. CRITERIA
		1	100W MH - VENTURE	FULL CUT-OFF
		1	100W MH - VENTURE	FULL CUT-OFF
		1	250W MH -OSRAM/SYL.	FULL CUT-OFF
		1	250W MH -OSRAM/SYL.	FULL CUT-OFF
	18'-0"	1	400W MH -OSRAM/SYL.	FULL CUT-OFF
	18'-0"	1	400W MH -OSRAM/SYL.	FULL CUT-OFF

iety of North America. Variations in lamp output, ballast output,
l results are maintained values, utilizing accepted Light Loss

PETITIONER'S EXHIBIT 8 A

Site Lighting

Wawa, Inc.

DRAWING NAME:

project no.

date:
12.06.2007

scale:
1"=30'

sheet no.
L1

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 9, 2008

Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 08-163-SPHXA, 516 Reisterstown Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 7, 2008 by Robert Begleiter. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
See Attached List

Professional Resume of
Kenneth W. Schmid
11022 Pfeffers Road
Kingville, MD 21087

EXPERIENCE

January 1993 – Present

Traffic Concepts, Inc.
325 Gambrills Road, Suite E
Gambrills, MD 21054

Owner, Vice-President

Provides traffic engineering consultant services to the public and private sectors including:

Expert testimony before the County Zoning Officer and Board of Appeals for Special Exception and Rezoning cases. Development of Feasibility Analysis including access alternatives and the assessment of the impact of pertinent Adequate Public Facilities legislation of local governments on potential development sites. Development of Traffic Impact Studies including critical lane, highway capacity, and signal warrant analysis; recommendations of road improvements necessary to meet various Adequate Public Facility criteria and leading negotiations with government agencies to secure waivers for Adequate Public Facilities legislation. Design and preparation of traffic signal, maintenance of traffic, pavement marking, and road improvement concept plans. Preparation of technical and price proposals.

December 1989 – January 1993

Ronald W. Johnson Associates, Inc.
2661 Riva Road, Suite 420
Annapolis, MD 21401

Chief – Traffic Engineering Division

PETITIONER'S EXHIBIT 9

Started and developed the traffic engineering division at this consulting firm. Duties included: Directing the activities of the Traffic Engineering Division. Providing expert testimony at over 30 Special Exception, Rezoning, and Appeal cases. Development of more than 130 feasibility and Traffic Impact Studies. Design and preparation of traffic signal designs, maintenance of traffic, and road improvement concept plans.

December 1986 – November 1989

Anne Arundel County
Department of Public Works
Traffic Engineering Division
Annapolis, MD 21401

Traffic Engineer III and IV

Supervised the daily operations of the Development and Operation Section of the Traffic Engineering Division. This included full responsibility for reviewing and recommending approval or denial of Rezoning and Special Exception cases, subdivisions, and building permit applications. Supervised the activity of three engineers, seven traffic analysts. Duties included traffic control design and implementation throughout the County, for example traffic control design for the Baltimore & Annapolis Hiker/Biker trail.

July 1984 – December 1986

Maryland State Highway Administration
District #5 Office
Annapolis, MD 21401

Traffic Engineer III

Duties included traffic signal design, construction inspection, and conducting various traffic engineering studies in order to make recommendations to the District Traffic Engineers.

May 1981 – July 1984

Maryland State Highway Administration
Office of Traffic and Safety
Hanover, MD 21076

Traffic Engineer I and II

Duties included developing signal design and signalization plans, reviewing signal design plans submitted by consultants, and developing equipment and construction design specifications. The development of traffic signal and traffic signal system timing often required the consideration of pedestrians and bicycle routes throughout the major highway system.

EDUCATION

Baltimore Polytechnic Institute, 1976 graduate

Essex Community College, 1976 – 1978

University of Maryland, 1981 graduate
Bachelor of Science – Civil Engineering

Various Continuing Education courses in the traffic engineering and highway design field.

PUBLICATIONS

Developed the Signal Design Manual currently in use by the Maryland State Highway Administration Office of Traffic and Safety

AFFILIATIONS

Institute of Transportation Engineers, 1985 – Present

National Federation of Independent Businesses, 1993 – Present

Accepted as an expert in the traffic engineering field in the following jurisdictions:

Baltimore City
City of Annapolis
City of Elkton
City of Frederick
City of Salisbury
Town of Bel Air
Town of Bowie
Town of Easton
Anne Arundel County
Baltimore County
Calvert County
Caroline County
Carroll County
Cecil County
Charles County
Frederick County
Harford County
Howard County
Kent County
Prince George's County
Queen Anne's County
St. Mary's
Talbot County

REFERENCES:

Mr. Harry Blumenthal
Blumenthal & Delavan, P.A.
170 Jennifer Road, Suite 240
P.O. Box 868
Annapolis, MD 21401-6484
(410) 573-2900

Alan Hyatt
Hyatt, Peters & Weber
1919 West Street
Annapolis, MD 21401
(410) 266-0626

Mr. Gary Westholm
Powell and Westholm, Inc.
2661 Riva Road, Suite 300
Annapolis, MD 21401
(410) 974-6850

Lawrence Elliott
MSHA – District 5
138 Defense Highway
Annapolis, MD 21401
(410) 841-5450

Reisterstown • Owings Mills • Glyndon
Chamber of Commerce
100 Owings Court, Suite 9 Reisterstown, MD 21136
410-356-2888 Fax: 410-356-5112
E-mail: romg@romgchamber.org Web address: romgchamber.org

Fax Transmittal

To: Tom Botwick — **Fax Number:** 410.887.3468

Company: Balto. Co. Deputy Zoning Commissioner — **Telephone Number:** 410.887.3391

From: Brian Ditto/Executive Director — **Number of Pages:** 3

Re: 12-6-07 Case No. 8-163-SPHXA — **Date:** 12-7-07

Attached please find letter from our organization w/opinions surrounding case # referenced above.

Please feel free to call or contact us should you need clarification. Thank you.

-Brian Ditto
brian@romgchamber.org

PETITIONER'S
EXHIBIT NO. 11

REISTERSTOWN • OWINGS MILLS • GLYNDON CHAMBER OF COMMERCE

100 Owings Court, Suite 9 • Reisterstown, MD 21136
410-356-2888 • Fax: 410-356-5112
E-mail: romg@romgchamber.org • Web address: romgchamber.org

Carolyn B. Eichler, President
Brookfield Motor Company Inc.
Brian A. Ditto, Executive Director
Oberai Harmon, President-Elect
Long & Foster Real Estate, Inc. - Reisterstown Office
Kirsten Sauter, 1st Vice President
Expressway Office Solutions
Rachel L. Heidrd, 2nd Vice President
Farmers & Merchants Bank
Neil M. Levy, Secretary
Levy, Mann, Caplan, Hermann & Pokorbak, LLP
James Carroll, Treasurer/Past President
James Carroll CPA LLC
James E. Miele, Asst. Treasurer
Waddell & Reed Financial Svcs. Inc

Jerry Beneash
International House of Pancakes
Scott Brooke
Toyota/Lexus Financial Services
Kevin Dudny
Owings Mills Mall
Russ Dijak
Solnet Network Services
Kathleen Dorsey
Atlantic Mortgage
Joan Dreiling
Hannah More School
Anne Evans
T. Rowe Price Associates, Inc.
Mike Farber
Pepsiket
Joyce Geipe
Easy Movers
Joseph Kounoff
BHAT
Sharon Krukenberg
Atrium Village
Lyle Montanye
Clatter-Montanye, Inc.
Patty S. Palmer
Regal Bank & Trust
Alice Reid
Compassionate Tax Service
Carey Nallipote
Auto Collision Specialist, Inc.
Ruth Sliviak
ICS Insurance Inc.
Christy L. Tasker
Susquehanna Bank
Jennifer Terrell
Northwest Hospital Center/ LifeBridge Health
Nancy Volpitta
ImageLine On Hold

December 6, 2007

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 W. Chesapeake Ave.
Towson, MD 21204

Re: Case No. 8-163-SPHXA

To Whom It May Concern:

On Nov. 28 the Reisterstown-Owings Mills-Glyndon Chamber of Commerce, at its regular board of directors meeting, took up the matter of review on the proposed WAWA convenience store and gas station @ 516 Main Street (Reisterstown Road) and Stocksdale Avenue in Reisterstown. With input from the Chamber's Legislative/Economic Development/Zoning and Executive committees, both of whom had followed the issue over a period of months and had opportunity to gather feedback from both project supporters and opponents, it was voted that the following points be conveyed:

1. The proposed site is currently underutilized and does not present a proper image as a "gateway" to Reisterstown's Main Street.
2. Redevelopment of the site may encourage further business expansion in the immediate area.
3. Redevelopment of the site may encourage other businesses in the area to begin rehabilitation of their properties.
4. Competition is good for both the residential and business communities.

While the Chamber certainly supports economic development and improvement of this area, we have the following concerns and recommendations regarding this project:

1. WAWA should agree to modify the architectural features and signage of the facility to provide greater compatibility with Historic Main Street and the newly refurbished Chartley Park shopping center.
2. There should be a reduction in the project scale, making it smaller to fit in more with the surrounding community.

3. An in-depth traffic control study should be completed, with consideration for some sort of warning devices for the safety of the community (with respect to ingress and egress from the site). With regard to the traffic study, if any recommendations are identified, they should be resolved in order to avoid any negative impact on Reisterstown Road.

Thank you for your consideration of these opinions. Should you have questions/comments, please feel free to contact us. Best wishes for the holidays and for a productive and prosperous 2008.

Sincerely,

Brian A. Ditto

Brian A. Ditto
Executive Director

Carolyn B Eichler

Carolyn B. Eichler
President

Paul Davolos

Paul Davolos
Chair, Legislative/Economic Development/Zoning Committee

PETITIONER'S EXHIBIT 12

PETITIONER'S EXHIBIT 13

PETITIONER'S EXHIBIT 14

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PETITIONER'S

EXHIBIT NO. 16

Jablon, Arnold E.

From: Jablon, Arnold E.
Sent: Wednesday, January 09, 2008 4:26 PM
To: 'ghharman@aol.com'
Subject: RE: Wa Wa

Let me know. Thanks.

From: ghharman@aol.com [mailto:ghharman@aol.com]
Sent: Wednesday, January 09, 2008 4:21 PM
To: Jablon, Arnold E.
Subject: Re: Wa Wa

Arnold,
I think we are getting close. I will try to review in more detail tonight when I get home and also talk to some of the interested parties. I'm still leaning toward a formal opposition statement, but with the understanding that if the project is granted the requested relief that the conditions we agree upon would be acceptable.
George

-----Original Message-----
From: Jablon, Arnold E. <AEJablon@Venable.com>
To: Ghharman@aol.com
Cc: Rice, Bruce S. <bruce.s.rice@wawa.com>; gregory.t.harvey@wawa.com
Sent: Mon, 7 Jan 2008 12:37 pm
Subject: RE: Wa Wa

George, in the order in which you listed them, I have the following information:

1. The lighting as proposed is less than industry standard, both under the canopy and on the lot itself. It comports with all Code requirements and, in the experience and expertise of WaWa's experts, does exactly what you want. Minimal lighting at the property line with no direct glare from under the capopies. Anything else would be a safety issue.

2. WaWa would consider 14', but then this would require additional poles on site.

3. WaWa is convinced that it is in compliance with what you want.

4. WaWa agrees--no outdoor speakers for any reason other than emergency.

5. Can not agree. Some products come late that are needed for morning sales (e.g., newspapers, bakery). Can agree to no truck idling. and no beeping

6. This would be within David Martin's expertise, and he says that there is no issue here. He will provide me with more information to answer your question.

7. WaWa says this may be possible, and will check. ALLOW

8. WaWa does not exceed the required HVAC noise levels. WaWa agrees to testing, not at WAWA'S expense.

9. WaWa is ok with this, but wants to make clear that if somebody jumps the fence, WaWa can't be responsible.

10. WaWa agrees with a 2-tone brick from ground to cornice.

11. WaWa agrees to a standing seam metal roof, which accommodates the historic look and is of better quality, lasts longer, and looks better in the long run than shingles.

From: Ghharman@aol.com [mailto:Ghharman@aol.com]
Sent: Friday, December 21, 2007 9:01 PM
To: Jablon, Arnold E.
Cc: ASilverFx@aol.com; bruce.s.rice@wawa.com; MaryMolinaro@comcast.net; harmangeorge@hotmail.com
Subject: Re: Wa Wa

Arnold,
Like you, I've got some pending time in the dentist chair. No surgery, just an expensive crown.

I generally concur with what you are saying, but the community deserves to have some things in writing to guarantee that WAWA will go the extra mile for the benefit of the community.

We would be looking for a list of conditions that can be presented to the Zoning Commissioner.
As a start:
1 - Lighting in the neighboring residential community will be restricted to some minimal level over existing conditions. While the modeling suggests minimal impact, there must be a measure after the site is constructed and the light levels in the residential property must be limited. If the light levels are found to be above the agreed upon threshold, WAWA will agree to reduce the lighting accordingly, especially after 9 or 10 PM.

2 - As a means of achieving the lighting levels, I would like for WAWA to explore the lighting standards I mentioned at the new TSC store in Westminister that are about 14 feet high, versus the 18 feet planned, totally vertical, and well shielded for perimeter lighting.

3 - Lighting under the canopy over the pumps must be equally shielded and directed vertically, not angled as would be with a pitched roof. If a flat roof is not possible, the lighting fixtures must be vertical to minimize the reflection of light from the angled roof. Each fixture will need to be shielded on at least the sides facing the residential properties.

4 - There will need to be a condition that states that there will be no outdoor speakers for any reason other than emergency purposes.

5 - Nighttime deliveries must be addressed in the conditions. While it may be difficult to schedule deliveries, it should be possible to have all deliveries during the day or certainly prior to 10 PM.

6 - Given the new Stormwater Act of 2007 and a requirement for 100% pre-construction infiltration, and the large stream restoration effort underway in the receiving waterway, the community will need to see more than what is currently required in the code. We would want the intent of the new law to be met even if the new code and infiltration requirements are not implemented in time for the permit issuance.

7 - We will want a clear statement that there will be no trash removal after 10 PM and before 7 AM.

8 - We will want all noise sources to be evaluated prior to permits being issued and appropriate

mitigation of noise achieved through modifications of equipment (e.g., H...AC), or noise barriers installed that will result in achievement of state noise regulations.

9 - We assume that there will be no road or pedestrian access to Owings Avenue.

10 - Brick facade on all sides.

11 - A softer appearance of the canopy will also need to be discussed. While a metal roof might be in keeping with some of the historic houses, other materials such as standard roofing shingles could be better for the aesthetics.

As stated previously, we are still greatly concerned with traffic safety and that issue remains of a general concern that will probably need to be addressed by the state and county roads units and the Commissioner.

I hope that the above can serve as a beginning of the conditions that need to be prepared and submitted to the commissioner.

George

In a message dated 12/20/2007 1:03:47 P.M. Eastern Standard Time, AEJablon@Venable.com writes:

George, I apologize for not responding sooner, I just had major dental surgery.

I thought we had addressed most of these issues at the hearing. The lighting will be mooted. The candlestick output at the property line at Owings Ave is at 0, as shown on the lighting plan. Wa Wa has agreed to do the building facade (the entire building) in brick, as shown on the rendering we introduced. This we believe is in harmony with the historic area in Reisterstown. I don't think you can produce a more tasteful buiding than what WaWa is proposing for this site. As for the stormwater issues, Wa Wa will be required to meet all state and county code requirements, before any building permits can be issued. The project will have to undergo a development permit review of SWM and will have to comply with the 2000 Md and County regulations including provisions for a suitable outfall. No building can occur until these regualtions are satisfied and there is compliance with them. I think, after much discussion with Wa Wa, that it has the same concerns you have--it wants to be a good neighbor (they want your business) and will do all that it can to minimize the effects of its operation on the immedaite area. The lighting plan as introduced we believe does what you propose. It reduces glare and limits the impact on the surrounding homes tremendously.

There is no car wash proposed and certainly Wa Wa has no intent of requesting one. There is no outdoor speaker system. Compaction takes place inside. As for trash collection and deliveries, Wa Wa cannot agree to time restictions due to many other considerations, but will do what it can to limit them. I don't think I have ever heard anyone complain about noise emanating from a Wa Wa, either while I was with the County or as an attorney doing these types of case. Wa Wa is a clean and very quiet operation. Wa Wa has other sites adjacent to residential development, similar to here, and there have been no complaints about noise or lighting issues.

I hope you don't mind but I am copying Bruce Rice of Wa Wa, so he is aware of your concerns and issues.

File

Chartley Homeowners Association, Inc.

P. O. Box 408, Reisterstown, MD 21136-0408

RECEIVED
DEC 10 2007
BY:----------

December 3, 2007

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 8-163-SPHXA

Dear Sir or Madam,

We are writing to express our concern about and opposition to the purchase and development of the property on 516 Reisterstown Road. The case is described as Southwest corner of Main Street(Rt. 140) and Stocksdale Avenue, east of Owings Avenue by Wawa. We have several reasons to believe that the development will be a detriment to the community and will not fit within the Historic design of the area.

- A bill has been introduced by the County Council for the Reisterstown Road Corridor from Franklin Boulevard to Route 30 to be designated as a Renaissance Area. Our Chartley community organization directly borders historic Reisterstown and the designated Renaissance Area. The Chartley Homeowners Association strongly believes that a 24-7 Wawa store and gas station will not contribute to the goals of the Renaissance status and does not suit the historic nature of our town.

- Reisterstown Road narrows at the location of the proposed Wawa store from 4 lanes of traffic to 2 lanes of traffic. The significant increase in traffic generated by a sixteen-pump gas station/ 24 hour convenience store will create a bottleneck and probable hazard entering and leaving the complex.

- The residential area adjacent to or across the street at the rear of the property will be directly impacted by the bright lighting which will obviously occur with a 24-hour operation of this magnitude. None of the other commercial properties near residential housing in the area are open 24-hours with the overhead lighting planned for this 16 pump gasoline facility. As primarily a residential community, we feel that it is not necessary for this 24-hour business. While Wawa representatives claim they have studied the area, we feel that they do not understand our community.

- Burglaries of convenience stores are an increasing problem in our area. The Wawa operation will be an even more tempting target. With the potential for robbers to utilize our community or the residential areas bordering the Wawa as an escape route, residents are placed at increased risk.

PROTESTANT'S
EXHIBIT NO. 1

CHARTLEY HOMEOWNERS ASSOCIATION, INC.
P.O. Box 408
Reisterstown, MD 21136

The undersigned hereby acknowledge and attest that on 11/13/07 the Board of the Chartley Homeowners Association, Inc. (CHA), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That the Board empowers and instructs Mary Molinaro (President), Jack Livermore (Vice President), and George Vintz (Zoning Committee Chairperson), respectively, to individually or jointly represent CHA at any hearings before the Zoning Commissioner of Baltimore County and any body of appropriate jurisdiction for any subsequent appeals. Any one or all to appear at those hearings for CHA and make known the position of CHA in this matter, to wit, that:

CHA opposes the proposed special exemption that would allow the property to be used for a Wawa Store and Gas Station which was outlined to CHA at a meeting on 8/6/07 by Bruce Rice, a Wawa representative, and suggested in drawings represented to the assembled members of ROG and nearby property owners. Furthermore the above named representative was authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 9th day of December, 2007.

ATTEST:
Chartley Homeowners Association, Inc.

Sue Donnelly
Sue Donnelly, Secretary

Mary Molinaro
Mary Molinaro, President

RESOLVED, that at this November Executive Board meeting of CHA for 2007 to 2008, that the responsibility for the official presentation of positions for actions on all zoning and development matters is hereby assigned only to the President, Vice President, and Committee Chair(s) as elected, or duly appointed. The President and Vice President may authorize in writing with two signatures, the delegation of this authority to other members of the organization.

WITNESS OUR HANDS AND SEALS THIS 9th day of December, 2007.

ATTEST: Chartley Homeowners Association, Inc.

Sue Donnelly
Sue Donnelly, Secretary

Mary Molinaro
Mary Molinaro, President

- Deliveries to and trash service for these operations typically occur at night. Adjoining homes will not only be bathed in 24 hour bright light, they will also have their sleep disturbed by jarring truck noise.

The Chartley Homeowners Association has discussed and evaluated this proposed purchase and development for several months. The overwhelming opinion has been in opposition. The Wawa organization itself is not under attack. Many in the neighborhood have enjoyed the Wawa experience. We simply feel that the location they have chosen is not appropriate. They would do much better with a location that is in a less congested area and closer to an interstate that allows traffic flow through the night and does not impact near-by homes or the historic character of the town they wish to serve.

We ask you to make a decision that is in the best interest of the community.

Sincerely,

Mary Molinaro

Mary Molinaro
President

cc:
T. Bryan McIntire, Councilman 3rd District
Kevin Kamenetz, Councilman 2nd District
Kenneth N. Oliver, Councilman 4th District
James T. Smith, Jr., County Executive
George Harmon, President, Reisterstown Owings Mills Glyndon Coordinating Council
Carolyn Eichler, President of Reisterstown Chamber of Commerce
Brian Ditto, Executive Director, Reisterstown Chamber of Commerce
Mark Hemler, President, Country Club Estates Community Association
Barbara Reynolds, Glyndon Trace
Glenn Barnes, Long & Foster Realtors

Concerns Regarding Case # 8-163-SPH/X4- Wawa in Reisterstown

RECEIVED
DEC 10 2007
BY:.....

December 4, 2007

To Whom It May Concern,

Our family lives at 510 Owings Ave and we need to express our concerns regarding the proposed Wawa, which will be directly in front of our home. If we have our choice, we do not wish to have the Wawa, or any business, built in front of our home. However, if the Wawa is built, we have several major concerns and requests for this site that need to be considered. I have listed our requests below and have then given explanations following the numbered requests:

1. Prevention of use of Owings Ave by traffic from the Wawa or by the employees. (This is the road that runs along the back of the proposed site.) We have been informed that Wawa plans to use this road to divert traffic from the Reisterstown Rd intersection, which is not a realistic solution.
2. A Fence is needed that wraps around the entire building property. The proposed plan shows a fence solely along Owings Ave, but it also needs to continue along the side of the property that meets the Whitcraft Transmission property.
3. Eliminate the proposed bisect entrance on Stocksdale Ave. If this cannot be eliminated, then move it closer to Reisterstown Rd.
4. Place a stop light at the intersection of Stocksdale and Reisterstown Rd.
5. Reduce the lighting during the night by dimming the overhead lights after say 10:00 PM, turning off some lights at this time, etc…

Our main concern with this proposed plan is point #1, the potential use of Owings Ave for traffic from this business. Owings Ave. is a very narrow, single lane road with an even smaller, insufficient exit road connecting to it. The area to the side and back of the Wawa simply cannot handle the volume of traffic that will result as people turn into our neighborhood in an attempt to avoid the traffic situation on Reisterstown Rd. We are quite concerned about the safety of our 2 small children if large trucks and a large volume of traffic begin using this road. There is no buffer, such as a sidewalk, along this road. Our front yard is directly on this road and poses a safety threat to our young children. (*We have included 2 pictures showing the size of Owings Ave.)

Also, there is not a sufficient exit from Owings Ave for this traffic. The small "road" that serves as an exit is called Church St and actually runs through a busy business parking lot. The exit is unclear and a large back up of cars trying to turn onto Reisterstown Rd from this parking lot is an unrealistic and potentially dangerous solution. With this in mind, we are hoping some measures can be put in place to discourage or prevent traffic from using this road. Perhaps a "No Outlet" sign could be put in place for this purpose.

Our 2nd point, the request for a fence around all possible sides of the Wawa, is based on our concern that having open access from the Wawa will allow people to cut through to our neighborhood at all hours of the night. We are greatly concerned about the security of our home and the element of people who may take notice of the homes along

PROTESTANT'S
EXHIBIT NO. 2

Owings Ave if there is access from the Wawa to our street. We have already had a vehicle broken into once and are very concerned that the situation may become worse with a 24 hour Wawa. The proposed plan does have a fence along the back of the site, but not along the side and corner that is closest to our home and meets the Whitcraft Transmission property. This opening will still allow people to walk right into our neighborhood. Hence, we are requesting the fence be continuous around all sides that could allow access to the neighborhood.

While our main concern is that there be no use of Owings Ave for this Wawa, point #3 addresses our concern about the proposed bisect on Stocksdale Rd. If this entrance is put in place, it will create a major traffic problem at an already dangerous intersection. Attempting to turn out of Stocksdale Rd. onto Reisterstown Rd is already difficult, especially with cars also attempting to turn out of the shopping center across the street. Increasing the traffic in this road will cause a major back up into the neighborhood and could cause many more accidents at this intersection. And as we stated before, we want to avoid having people drive down Owings Ave to find a way to avoid the traffic problem on Stocksdale Rd. If this Wawa is built, the safest, most rational possibility is for the traffic to enter and exit solely from Reisterstown Rd. Realistically we are talking about narrow roads and a neighborhood with limited outlets. Eliminating the entrance on Stocksdale Rd is the best solution, but if it is not possible, then moving the entrance closer to Reisterstown Rd will hopefully discourage traffic from turning into the neighborhood. This is also where point #4 is very important. Hopefully a traffic light at this intersection will help prevent a traffic build up in a very small area

Lastly, the request regarding lighting in point #5 is an attempt to minimize the impact of having a well lighted 24 hour business right in our front yards. Hopefully these measures will prevent disruption of our sleep and lessen the intrusion of a large business placed in a very quiet, peaceful neighborhood.

We greatly appreciate consideration of our concerns and hope you realize that our strong requests are very reasonable.

Sincerely,

Christina Olson

Victor Olson

Christina and Victor Olson

TB 12/10
9AM

Case #: 8-163-SPHXA

Kathleen Gambrill
1021 Cockey's Mill Rd.
Reisterstown, Md. 21136

December 6, 2007

Dear Zoning Commissioner,

I am writing to object to the special exception being considered for the proposed WaWa store for the 500 block of Main St. in Reisterstown.

I think the property in question is a poor site for a number of reasons. There are already 4 gas stations in a very small area. My guess is they are all within less that ¼ mile. This also includes 2 convenience stores. All 6 of these businesses have been in this area for over 40 years. A WaWa store would surely put them out of business or severely curtail their business.

The proposed store would also affect a community on the side and behind the site. Bright lights, noise and increased traffic will be disruptive to this now quiet community. The same can be said for this stretch of Main St. This is too big of a project to be thrust upon Main St. It is out of character for this small town.

I feel that another business that is more in keeping with the other businesses in the area is more appropriate for this location.

Thank You,
Kathleen Gambrill
Kathleen Gambrill

PROTESTANT'S

EXHIBIT NO. 3

December 4, 2007

RECEIVED
DEC 10 2007
BY:

Planning and Zoning Commission
111 West Chesapeake Avenue
Mail Stop 1105
Towson, MD 21204

Re: Case # 08163SPHXA

Dear Mr. Commissioner,

I am writing this letter to express my concerns and opinions regarding case # 08163SPHXA. For the record, I am opposed to the entire concept of placing a WAWA convenience store and gas station at the corner of Main St. and Stocksdale Ave. As a resident in the immediate community, I feel that this commercial establishment does not blend at all with our quiet area nor does it fit in with the character of Historic Reisterstown. Owings Avenue, which the proposed WAWA would back up to, is a very small single lane road with residential housing.

More importantly, is the issue of the requested zoning change for several lots from residential to commercial use. This change should be very carefully considered by your honor, as this could well set a precedent for future development. At some point there has to be a line drawn between commercial and residential areas. If these zoning changes were granted, I fear that additional landowners would follow suit and my neighborhood would constantly feel the pressure of commercial development. Part of the attraction to the Stocksdale Avenue neighborhood is its quiet nature and I worry that this commercial enterprise will adversely affect my property value.

I am also extremely concerned about the increase in traffic congestion. The proposed WAWA is at a point on Reisterstown Road where four lanes narrow down to two. The speed limit drops ten miles an hour yet most motorists fail to obey this speed limit. Currently, making a left turn out of Stocksdale Avenue is difficult at best. With the proposed WAWA, it will be even more difficult and certainly dangerous. At some point in the near future, the installation of a traffic light will become absolutely necessary; something that I feel will degrade the area even more.

Please give these concerns very careful consideration when reviewing this case. The residents of Owings Avenue and Stocksdale Avenue deserve the quality of life that they envisioned when they moved here.

Sincerely,

Isabelle Drenning
39 Stocksdale Avenue
Reisterstown, MD 21136

PROTESTANT'S
EXHIBIT NO. 4

TB
2/12
+ 1/16

Barbara E. Karpel

240 Chartley Drive
Reisterstown, MD 21136
bkarpel@bcpl.net
Home: 410-833-1168
Work: 410-727-0280

RECEIVED
JAN 11 2008
BY:.....

January 9, 2008

Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Dear Zoning Hearing Officer:

In reference to Case Number 8-163-SPHXA, regarding the building of a Wawa store, including multiple gasoline pumps, on Main Street in Reisterstown, Maryland in the vicinity of the Chartley Drive (also known as Chartley Boulevard), I would like to go on record as opposing the granting of an exception for this purpose. The immediate vicinity of this location already includes a 7-Eleven and a Royal Farm store, as well as at least three working gas stations, so I believe the addition of a Wawa store, however nice, with gas pumps would not supply any new services to the area and would definitely increase the traffic congestion. And, in addition to an increase of congestion, would probably be an increase in confusion for drivers, by adding another commercial source of cars pulling into and out of the flow of traffic.

Therefore, as a resident of Reisterstown and of Chartley specifically, who frequently drives through this intersection of Chartley Drive and Reisterstown Road (also known as Main Street in this area), I ask that you please consider the historic nature of the town and deny this zoning exception, in order to help us preserve for a little longer what remains of its historic charm and the quality of life such an environment provides.

Thank you very much for your consideration of my opinion in this matter.

Sincerely,

Barbara E. Karpel

Barbara E. Karpel

PROTESTANT'S

EXHIBIT NO. 5

TB
12/10
+ 1/16

Elaine Latham
308 Glyndon Drive
Reisterstown MD 21136
410-833-5277

RECEIVED
JAN 11 2008
BY:.....

Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204
January 9, 2008

Re: Case Number 8-163-SPHXA

To Whom It May Concern:

One thing we do not need is another Commercial business such as WAWA in the proposed location. I have seen many changes since I have been living here (15 years) and this is one more that is not needed. We do not need more gas pumps and convenience stores that are open 24 hours a day. It is not fair to the people that have bought homes In this area to have to deal with lights and noise 24 hours a day. Also the value of their homes will decrease but their taxes will go up. The area is not a good choice because of the amount of traffic that will be generated and the designated Renaissance area will be destroyed. This has always been a special part of our city.

The businesses that are trying to survive will be destroyed as people will have no place to park, and they will be gone forever changing the landscape. There are more people living here today because this was always a special place, and the traffic situation is bad enough without adding to it. There is enough crime that we need to live with daily without inviting an open door to anyone looking for a place to "score some money". With the Economy being threatened, and will only will be getting worse the crime will increase.

If this is all about money and selling a piece of property and not thinking about the Community as a whole than I am truly disappointed that the people do not have a say about their town. We live here, we maintain our properties, and we pay our taxes. Please listen to the people; we need a change from the greed of businesses destroying our way of life. Another Gas station we do not need. Let's leave things as they are. Please do not let this proposal ruin what little we have left.

Sincerely,

Elaine Latham

PROTESTANT'S

EXHIBIT NO. 6

January 11, 2008

William Wiseman, III
Chairman, Zoning Commission
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
JAN 15 2008
BY:

In Re: Case No. 8-163-SPHXA

Mr. Wiseman:

We are residents of Reisterstown and live in the Chartley community. We are writing to express our opposition to the proposed Wawa service station and carry-out restaurant that is planned for the corner of Stocksdale Avenue and Main Street for the following reasons:

1) We believe the traffic congestion it will create will become hazardous to motorists using Main Street. The five lane highway immediately becomes a two lane residential street just at the corner of Stocksdale and Main.
2) There is a scheduled school bus stop on the corner of Stocksdale and Main Street. In addition, there are young children that walk to school along Main Street and will have to pass the entrance to the proposed large service station.
3) Reisterstown has been designated an historic district and the proposed site for the Wawa is too close to that district and having a large gas station on that site does not conform to the normal person's idea of a historic structure.
4) We believe that traffic on Chartley Drive will increase as motorists try to avoid Main Street's congestion at the Wawa. We live on Chartley Drive and have asked the County in the past for traffic-calming devices, but to no avail. We believe this increase in traffic will only make vehicular traffic and the concomitant speeding worse.

Lastly, there must be another place outside of town along 795 or Route 140 or Route 30 that would better suit a 16 pump gas station and carry-out restaurant. Building something that large and cumbersome on a residential

PROTESTANT'S
EXHIBIT NO. 7

main street does not make any sense. In fact, just south of Main Street and outside of the historic district at the Reisterstown Shopping Center sits an abandoned gas station which would be a perfect spot. Half the shopping center is empty so there is ample room for this project.

Thank you for your time and attention, Mr. Wiseman.

Sincerely, Robert and Jane Hienz

Dr & Mrs. Robert Heinz

Rec'd
1-16-08

Case Number 8-163-SPHXA
Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

RE
WAWA store and gas station purposed for Reisterstown Road.
Since there are currently 4 other stations at or near this location ,another is not needed.
Also a station as purposed would affect traffic in a detrimental way as road narrows from 4 lanes to two at this point. Therefore traffic entering and leaving would be a hazard.
This station would also be very close to residential area and cause undue stresses with the all night bright lighting and noise caused by late night deliveries.
Also of the 4 other stations 1 has been closed for longer than 6 months ,so it would seem another gas station in this area is not only not wanted but is unneeded.

Eileen C. Ruffner

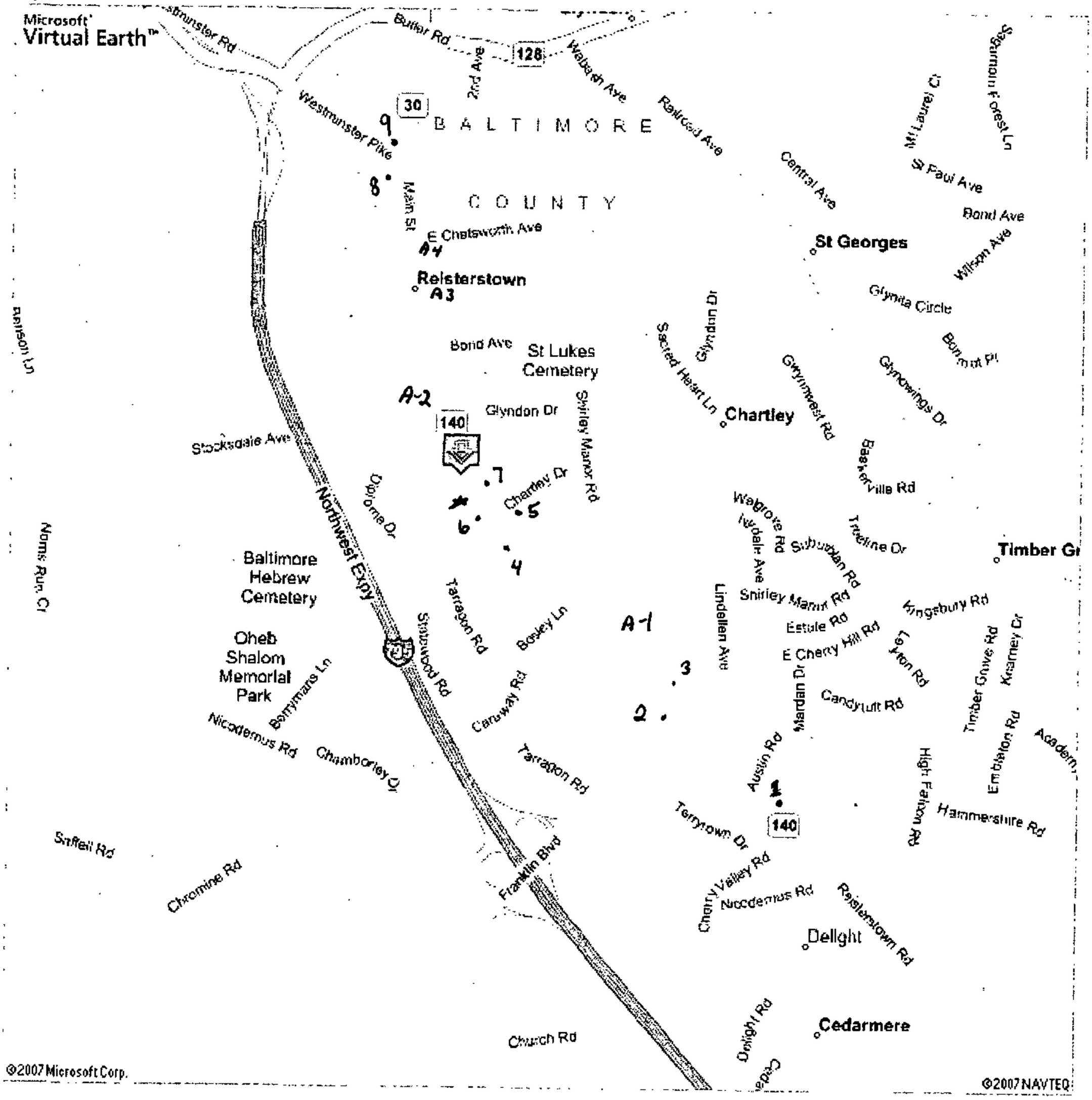
Eileen C. Ruffner
403 Highmeadow Road
Reisterstown Md,21136

PROTESTANT'S

EXHIBIT NO. 8

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925



1. Sunoco
2. Exxon
3. Shell
4. Texaco
5. BP
6. Hess
7. CiTgo
8. Shell
9. Enroy

★ - proposed site

Abandoned

A1 Exxon

A2 ?

A3 Amoco

A4 ?

PROTESTANT'S

EXHIBIT NO. 9

TB 1/16

January 11, 2008

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 8-163-SPHXA

I am opposed to the purchase and development of the property on 516 Reisterstown Road by Wawa. The case is described as Southwest corner of Main Street (Rt. 140) and Stocksdale Avenue, east of Owings Avenue. The development would be a detriment to the community and will not fit within the Historic design of the area.

- Chartley community directly borders historic Reisterstown and the designated Renaissance Area. A 24-7 Wawa store and gas station will not contribute to the goals of the Renaissance status and does not suit the historic nature of our town.

- Reisterstown Road narrows from 4 lanes of traffic to 2 lanes at the location of the proposed Wawa store. The significant increase in traffic generated by a sixteen-pump gas station/ 24 hour convenience store will create a bottleneck and a hazard entering and leaving the complex.

- The residential area adjacent to the property will be directly impacted by bright lighting which will occur with a 24-hour operation of this magnitude.

- Burglaries of convenience stores are a problem. The Wawa operation will be a tempting target. If robbers utilize our community and residential areas bordering the Wawa as an escape route, residents are placed at risk.

- Deliveries and trash service for these operations typically occur at night. Adjoining homes will not only be bathed in 24 hour bright light, they will also have their sleep disturbed by jarring truck noise.

The location they have chosen is not appropriate. They would do better in a less congested area and closer to an interstate that allows traffic flow through the night and does not impact near-by homes or the historic character of the town they wish to serve.

I ask you to make a decision that is in the best interest of the community.

Sincerely,

Karen E. Good
231 Bentley Hill Drive
Reisterstown, MD 21136

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925

PROTESTANT'S

EXHIBIT NO. 10

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925

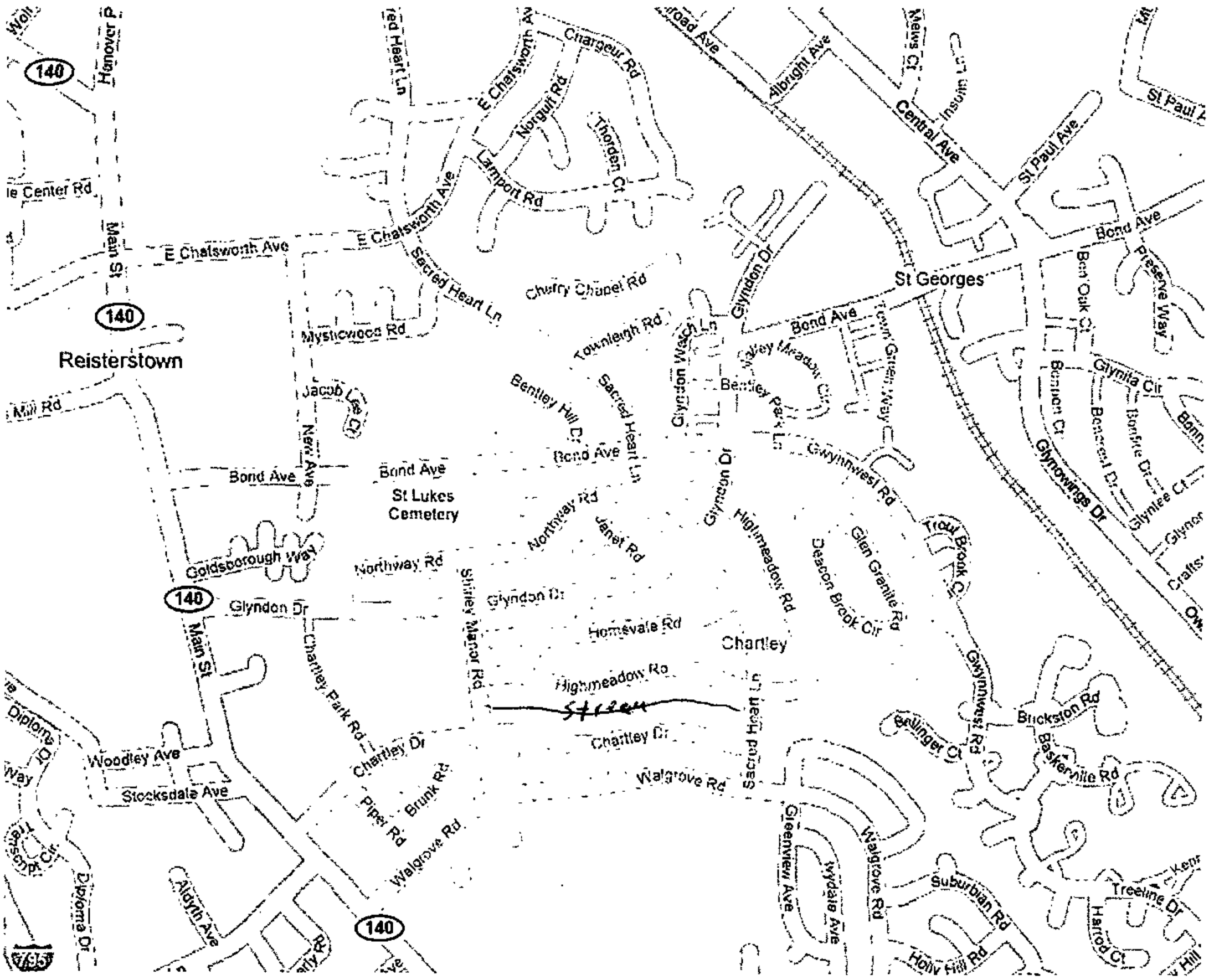
PROTESTANT'S

EXHIBIT NO. 11

Chartley Homeowners Association, Inc.

P. O. Box 408, Reisterstown, MD 21136-0408

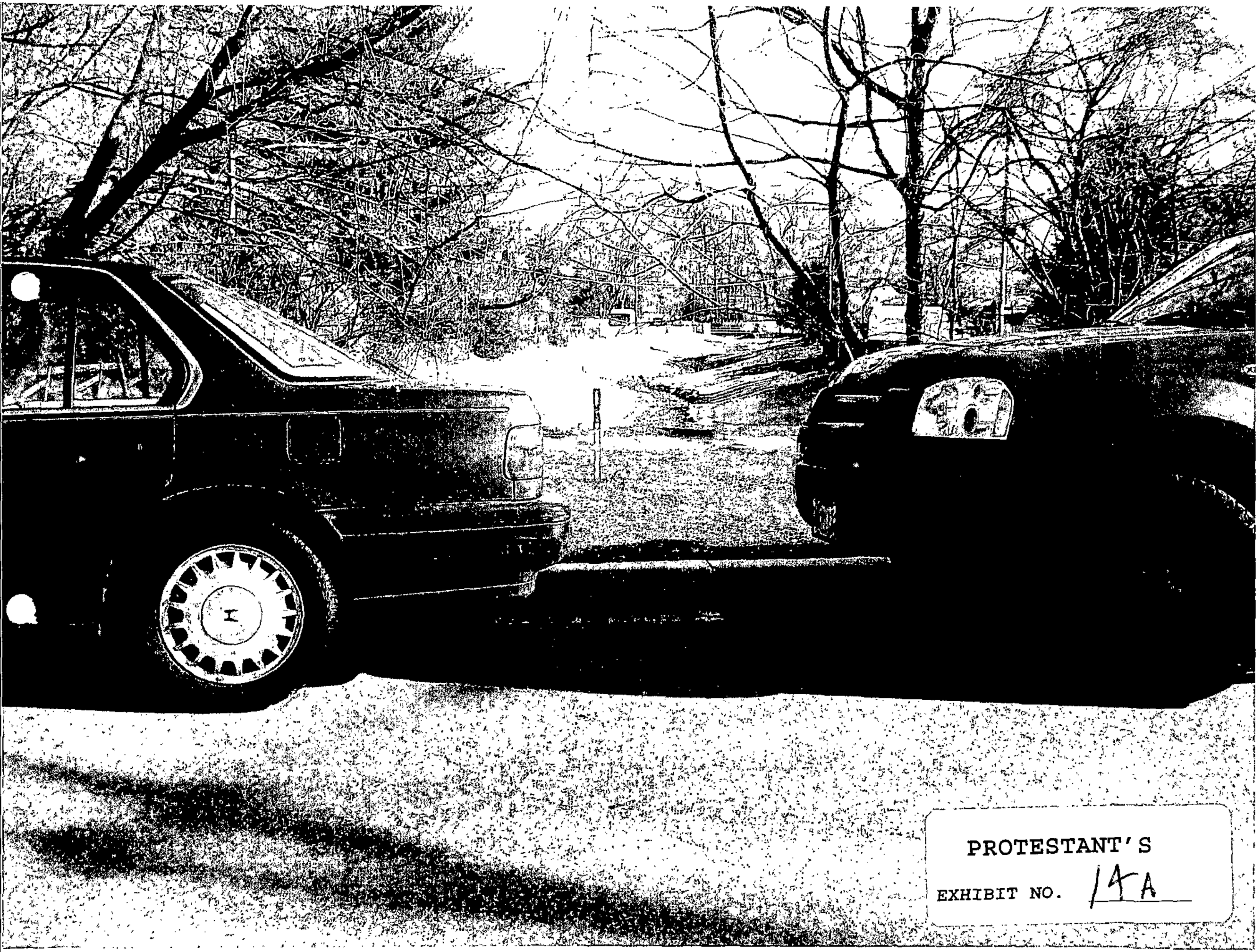
http://www.marylandtowns.com/cha/charthome.htm



Bringing Our Community Together Through Information and Knowledge

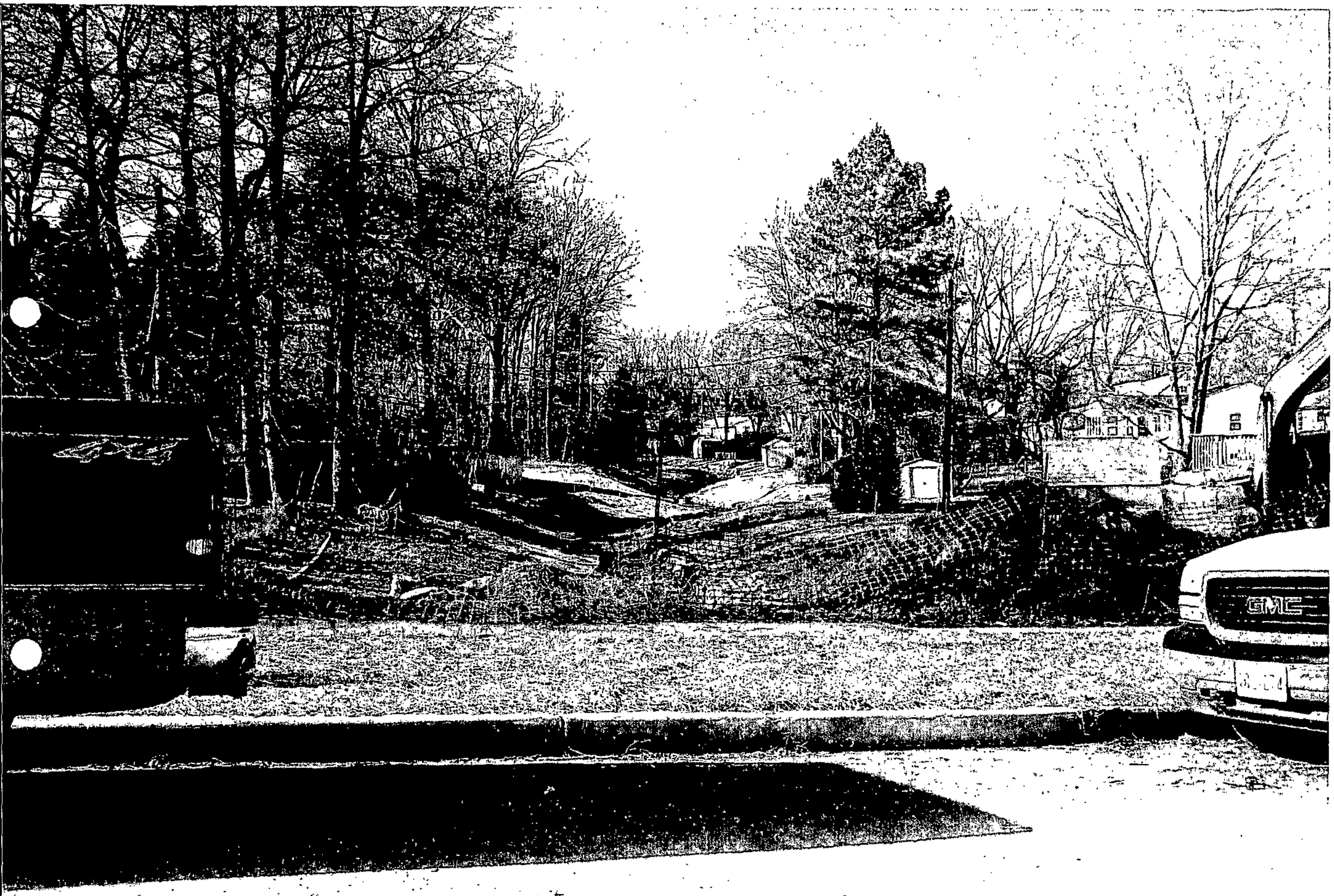
PROTESTANT'S

EXHIBIT NO. 13



PROTESTANT'S

EXHIBIT NO. 14A



PROTESTANT'S

EXHIBIT NO. 14B

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

March 14, 2008

ARNOLD JABLON, ESQUIRE
VENABLE LLP
210 ALLEGHENY AVENUE
TOWSON, MD 21204

Re: Petitions for Special Exception, Special Hearing and Variance
Case No. 08-163-SPHXA
Property: 516 Reisterstown Road

Dear Mr. Jablon:

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

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

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz
Enclosure

c: S & J Management, Inc., 520 Reisterstown Road, Reisterstown MD 21136
Please See Attached List

S & J MANAGEMENT, INC.
520 REISTERSTOWN ROAD
REISTERSTOWN MD 21136

GREG HARVEY
260 WEST BALTIMORE PIKE
WAWA PA 19063

BRUCE RICE
PO BOX 448
RIDERWOOD MD 21139

DAVID L. MARTIN
MARTIN & PHILLIPS DESIGN
ASSOCIATES, INC.
222 BOSLEY AVENUE
TOWSON MD 21204

KEN SCHMID
TRAFFIC CONCEPTS, INC.
325 GAMBRILLS ROAD
GAMBRILLS MD 21054

BARBARA V. REYNOLDS
306 LAUREN HILL COURT
REISTERSTOWN MD 21136

DAVE STONE, JR.
21 STOCKSDALE AVENUE
REISTERSTOWN MD 21136

ELLEN AND MICHAEL TEBO
500 OWINGS AVENUE
REISTERSTOWN, MD 21136

GEORGE HARMON
5429 WEYWOOD DRIVE
REISTERSTOWN MD 21136

MARY MOLINARO
CHARTLEY HOMEOWNERS ASSN
PO BOX 408
REISTERSTOWN MD 21136-0408

STUART POLLACK
526 MAIN STREET
REISTERSTOWN MD 21136

SUSAN SCHULTZ
504 OWINGS AVNUE
REISTERSTOWN MD 21136

VIC CHIBB
557 MAIN STREET
REISTERSTOWN MD 21136

ROBERT BEGLEITER
11700 D REISTERSTOWN RD
REISTERSTOWN MD 21136

KEN HIGGS
534 MAIN STREET
REISTERSTOWN MD 21136

DIANA CAVEY
11904 REISTERSTOWN RD
REISTERSTOWN MD 21136

ISABELLE & GREG DRENNING
39 STOCKSDALE AVE
REISTERSTOWN MD 21136

JAMES MAYS
30 STOCKSDALE AVE
REISTERSTOWN MD 21136

VICTOR OLSON
510 OWINGS AVENUE
REISTERSTOWN MD 21136

CHARLES BRITTAIN
217 HOMEDALE RD
REISTERSTOWN MD 21136

MARY WHITCRAFT
536 MAIN STREET
REISTERSTOWN MD 21136

JANE HEINZ
239 CHARTLEY DRIVE
REISTERSTOWN MD 21136

KATHLEEN GAMBRILL
1021 COCKEYS MILL ROAD
REISTERSTOWN MD 21136

BARBARA KARPEL
240 CHARTLEY DRIVE
REISTERSTOWN MD 21136

ELAINE LATHAM
308 GLYNDON DRIVE
REISTERSTOWN MD 21136

EILEEN C. RUFFNER
403 HIGHMEADOW ROAD
REISTERSTOWN MD 21136

KAREN GOOD
231 BENTLEY HILL DRIVE
REISTERSTOWN MD 21136

BRIAN DITTO
REISTERSTOWN OWINGS MILLS
CHAMBER OF COMMERCE
100 OWINGS COURT, #9
REISTERSTOWN MD 21136

IN RE: PETITIONS FOR SPECIAL EXCEPTION SPECIAL HEARING & VARIANCE	*	BEFORE THE
SW corner of Main Street and Stocksdale Avenue, E of Owings Avenue	*	DEPUTY ZONING
4th Election District	*	COMMISSIONER
3rd Councilmanic District		
(516 Reisterstown Road)	*	FOR BALTIMORE COUNTY
S & J Management, Inc. *Legal Owner*	*	Case No. 08-163-SPHXA
	*	

* *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Exception, Special Hearing and Variance filed by the legal owners of the subject property, S & J Management, Inc.

The Petition for Special Exception is to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.2.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The Petition for Special Hearing is (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone; (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.; and (3) to confirm that a private road is permitted to bisect the 50 foot Residential Transition Area (RTA) buffer to connect to adjoining developments pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R.

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The Variance request is in the alternative to the third request for special hearing relief, and requests relief to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or pursuant to Section 307.1 of the B.C.Z.R., whichever is determined to apply. The subject property and requests for relief are more fully described on the redlined site plan which was marked and accepted into evidence as Petitioners' Exhibit 3.

This matter was originally scheduled for a public hearing on December 10, 2007 at 9:00 AM in Room 407 of the County Courts Building located at 401 Bosley Avenue, Towson, MD 21204. Following testimony and evidence taken on that date, the hearing was continued until January 16, 2008 at 9:00 AM, again in Room 407 of the County Courts Building.

Appearing at the requisite public hearings in support of the special exception, special hearing, and variance petitions was Arnold Jablon, Esquire on behalf of Petitioners S & J Management, Inc. and Wawa Markets. Also appearing in support of the petitions were Greg Harvey and Bruce Rice with Wawa Markets, David L. Martin with Martin & Phillips Design Associates, Inc., the consultant who prepared the site plan, and Ken Schmid with Traffic Concepts, Inc. Appearing as interested citizens in support of Petitioners' requests for relief were Barbara V. Reynolds of 306 Lauren Hill Court, Dave Stone, Jr. of 21 Stocksdale Avenue, and Ellen and Michael Tebo of 500 Owings Avenue in Reisterstown, MD. The case garnered significant interest from the Reisterstown community and a number of Protestants attended the hearings as well. These individuals are listed on the "Citizen's Sign-In Sheet" that was circulated on both hearing dates, and which is contained within the case file. In addition, George Harmon of 5429 Weywood Drive appeared on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council and Mary Molinaro of 215 Chartley Drive appeared on behalf of the Chartley Homeowners Association, Inc. Although the individual Protestants appeared and

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participated in the hearings to varying degrees, Mr. Harmon and Ms. Molinaro appeared on both hearing dates and acted as the informal "spokespersons" on behalf of the community, and presented the majority of the Protestants' contentions and arguments, as well as cross-examination of Petitioners' witnesses.

Testimony and evidence offered at the hearings revealed that the subject property is an irregular-shaped parcel containing approximately 81,457 square feet or 1.87 acres, more or less, and zoned B.R.-A.S. (0.96 acre), B.R. (0.31 acre), and D.R.3.5 (0.60) acre). The property is located on the west side of Reisterstown Road, where that road becomes known as Main Street, and is bordered by Stocksdale Avenue to the north and Owings Avenue to the west in the Reisterstown area of Baltimore County. The property is comprised of six parcels, and is improved with several dwellings and a trailer. Visually, the property appears to be a mishmash of commercial and residential uses, including rental apartments and a used car lot, though with no apparent consistency.

Petitioner Wawa Markets desires to "clean up" the property, both in terms of its visual appearance and its odd array of uses, and proposes a special exception use to erect a fuel service station on the site consisting of 16 fuel pumps, with a related convenience store and carry out restaurant. In addition, because Wawa is less in favor of the appearance and functionality of a "kiosk," it is requesting a waiver of the need for a kiosk. This is because the location of the proposed fuel services will be in the B.R.-A.S. zone. However, the location of where payment for these services will be made, other than directly at the pumps in the B.R.-A.S. zone, will be in convenience store and carry out restaurant building, which will be located in the B.R. zone. As such, Petitioners are requesting special hearing approval to allow payment for fuel to take place

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in both the B.R.-A.S. zone (at the pump) and the B.R. zone (in the convenience store/carry out restaurant building).

In addition, although the fuel service pumps and the convenience store/carry out restaurant building and parking are proposed to be located in the B.R.-A.S. and B.R. zones, respectively, due to the fact that a portion of the parking for customers and employees will be located in the D.R.3.5 zoned area of the property, Petitioners are seeking special hearing approval of business parking in the residential zone. Finally, as is mandated by the RTA conditions, Section 1B01.1.B.1.e of the B.C.Z.R. requires a fifty-foot buffer and seventy-five-foot setback for parking lots or structures. As shown on the redlined site plan, Petitioners propose to comply with the RTA buffer and setback requirements; however, in order to allow for efficient ingress and egress on the site and from one side of the site to the other, Petitioners propose an internal private road on the site that will wrap around the rear of the proposed convenience store/carry out restaurant building. Most of this private road will be located in the B.R. zoned area of the property, but a portion of the road will be located in the D.R.3.5 zoned area and will be within the 50 foot RTA buffer. Hence, Petitioners request special hearing approval of the private road to bisect the RTA buffer or, in the alternative, variance from the amount of RTA required pursuant to Section 1B01.1.B.1.c or Section 307.1 of the B.C.Z.R. to permit the private road.

In support of the various requests for relief, Petitioners called as a witness David L. Martin, Petitioners' site plan and architectural consultant. A copy of Mr. Martin's resume was marked and accepted into evidence as Petitioners' Exhibit 1. As indicated in his resume, Mr. Martin is a graduate of Penn State University with a Bachelor of Science degree in Landscape Architecture. His professional experience includes 36 years of practice in areas such as land

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planning, landscape architecture, land use, and zoning. He has testified as an expert in the areas of land use and zoning before the Zoning Commissioner, the Board of Appeals, and the Planning Board. He was offered and accepted as an expert in the areas of land use, landscape architecture, and interpretation of the Baltimore County Zoning Regulations.

Mr. Martin initially described the properties and the area surrounding the subject property. Located on the opposite side of Reisterstown Road is the Chartley Shopping Center, as well as a Citgo fuel service station; to the south is a Hess fuel service station and Whitcraft Transmissions; to the north on the opposite side of Stocksdale Avenue is a Jiffy Lube service station; and to the west, located on the opposite side of Owings Avenue, are residential dwellings. Properties similar to the subject property in the County generally have areas of significant commercial use along business and commercially zoned main roads such as Reisterstown Road, but often back up to residentially zoned and used areas, as is the case here. Photographs of the subject property and this commercial corridor of Reisterstown Road, and the residential area to the rear of the subject property, were marked and accepted into evidence as *Petitioners' Exhibits 4A through 4P.* As indicated earlier, Mr. Martin pointed out that the majority of the property (1.27 acres) is zoned B.R.-A.S. or B.R. Virtually all the frontage on Reisterstown Road in this area is zoned for business and commercial uses, as shown on the aerial photograph with an overlay of the zoning map, which was marked and accepted into evidence as Petitioners' Exhibit 5.

Mr. Martin then described the proposed landscaping to accompany the development of the site. The proposed schematic landscape plan was marked and accepted into evidence as Petitioners' Exhibit 2B. This plan shows landscaping around the entire property. In particular, the plan depicts a 10 foot landscape area along Reisterstown Road, a 10 foot landscape area

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along Stocksdale Avenue, and a six foot landscape area abutting the Hess fuel service station, all containing shrubs and seasonal plantings. Along the rear of the property adjacent to the residential dwellings on Owings Avenue, there is a 50 foot RTA buffer. Within the buffer are planned shrubs, as well as evergreen and deciduous trees. A six foot high board-on-board wooden fence is also proposed along the entire rear property line. Obviously, the intent of the fencing and landscaping is to provide as much screening as possible between the commercial area and the residential areas. Petitioners also plan additional trees on the parking islands. To further illustrate Petitioners' intentions with regard to the property, Mr. Martin submitted a second aerial photograph of the subject property and surrounding areas. This photograph was overlaid with the redlined site plan as well as Petitioners' schematic landscape plan, and was marked and accepted into evidence as Petitioners' Exhibit 6. It provides a visual perspective of the proposed structural and landscaping improvements to the property, in relation to the existing structures in the immediate vicinity.

As shown on the site plan, Petitioners propose four fuel service islands to be situated on the east side of the property that fronts Reisterstown Road. Each island will contain two fuel service pumps, with access to the pumps from each side. The convenience store and restaurant will consist of a single 1½-story building with a pitched roof. The building will face Reisterstown Road and be approximately 5,589 square feet in size, of which 3,189 square feet will be for the convenience store and 2,400 square feet for the carry out restaurant. Proposed exterior elevations, which were marked and accepted into evidence as Petitioners' Exhibit 7, show the visual appearance of the Wawa Market. The building will have a thin brick veneer exterior with a metal Dutch seam roof. The roof will be slate grey in color, and the brick veneer will have a two-tone maroon (lower) and white (upper) color scheme. There will also be an

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enclosed dumpster area to the rear of the property. The exterior elevations also depict the proposed canopy above the fuel service islands, which will match the roof line and color of the building roof.

Mr. Martin then specifically discussed the requests for relief and began with the special exception to use the property as a fuel service station, as well as a convenience store and carry out restaurant. Section 405.2.B of the B.C.Z.R. allows fuel service stations on individual sites by special exception, subject to Section 405.3 concerning the presence of abandoned fuel service stations, and the site development and appearance standards in Section 405.4 of the B.C.Z.R. Sections 405.4.E.1 and 405.4.E.10 of the B.C.Z.R. allow a convenience store with a sales area larger than 1,500 square feet and a carry out restaurant, respectively, as uses in combination with fuel service stations by special exception. According to Mr. Martin, the proposed development meets the site development standards of Section 405.4.A of the B.C.Z.R., including site dimensions, setbacks, and access, internal circulation and vehicle reservoir capacity. It also meets the appearance standards of Section 405.4.C of the B.C.Z.R., and Mr. Martin pointed to the exterior elevations which show the visual appearance of the proposed fuel service islands and pumps, the canopy, and the convenience store and carry out restaurant.

Other than the convenience store and carry out restaurant, the fuel service station does not anticipate any additional ancillary uses, under Section 405.4.D of the B.C.Z.R., except for an ATM machine inside the convenience store, water and air, and some auto supplies located in the convenience store sales area. As to lighting, under Section 405.4.C.1.d, if a fuel service station is located within 50 feet of residentially zoned property, lighting standards on site may not exceed a height of 18 feet and shall be directed away from any residentially zoned properties. Marked and accepted into evidence as Petitioners' Exhibit 8A is Petitioners' proposed lighting

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plan. The plan shows the location of lighting standards and the degree of illumination on the site and the surrounding areas. In particular, it shows virtually no lighting into the residential areas on Owings Avenue, in compliance with the lighting standards as to coverage and intensity. Also marked and accepted into evidence as Petitioners' Exhibit 8B is a schematic of the various lighting types to be employed on the site.

In support of the requested use, Mr. Martin addressed the special exception criteria contained in Section 502.1 of the B.C.Z.R. and opined that there would be no detrimental impact to the listed criteria. In pertinent part, the proposed use would not be detrimental to the health, safety, or general welfare of the locality, and as to traffic, the expected use would draw from motorists traveling on Reisterstown Road, irrespective of the presence of the fuel service station, hence there would be no impact. As compared with other stations nearby, most of which were built purely as automotive service stations typically with shortages of parking, stacking spaces, and vehicle circulation, the instant proposal will meet the current requirements for this type of use. In addition, it will not be a destination location, so there will be very little impact in terms of additional traffic; as to a potential hazard from fire, panic or other danger, this new development will comply with all fire codes and will have access at three locations. Moreover, the proposed development will comply with all zoning regulations as to site area so there will be no overcrowding of land or undue concentration of population. As shown on Petitioners' lighting plan, the lighting will be sufficient to illuminate the site, without encroaching into the residential areas so there will be no interference with adequate light and air. Finally, the redlined site plan and landscaping plan shows that the use of the split zoned property will be consistent with the spirit and intent of the zoning regulations.

ORDER RECEIVED FOR FILING
Date 3.14.08
By JB

In sum, Mr. Martin indicated that there is a diversity of uses and appearances in the area of the subject property where Reisterstown Road transitions to Main Street, and the proposed development of the property pulls together a number of architectural elements from the area and complements the existing structures. In addition, the proposed development will be an upgrade from the existing commercial structures, such as the Jiffy Lube, Hess and Citgo fuel service stations, and Whitcraft Transmissions, and will also upgrade the existing structures on the subject property. Moreover, Mr. Martin opined that, under *Schultz v. Pritts*, 291 Md. 1 (1981), the proposed use of the property at the subject location would not have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the particular zoning district.

The next request for relief concerns the special hearing or, in the alternative, the variances to allow the proposed private road to bisect the 50 foot RTA buffer located to the rear of the property. The goal of Petitioners is to obtain permission for the internal private road; however, Petitioners have proposed three methods of achieving this goal. The first is by way of special hearing. Petitioners seek an interpretation by the undersigned that the zoning regulations allow the proposed private road pursuant to the exceptions to the RTA contained in Section 1B01.1.B.1.e(3) of the B.C.Z.R. Specifically, Mr. Martin quoted from this section, which states as follows:

> e. Conditions in residential transition areas.
>
> (3) The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, storm water management ponds or accessory structures, *but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments*. (emphasis added).

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In reviewing this subsection, Mr. Martin opined that the zoning regulations allow for the RTA buffer to be bisected by a road as a matter of right. This private drive aisle is necessary in order to give limited access to the site from one side of the proposed development to the other.

The second and third methods of achieving the private drive aisle are by way of variances from the zoning regulations. In particular, Section 1B01.1.B.1.c(2) of the B.C.Z.R. allows for variances of the RTA requirements and states as follows:

> c. Variance of RTA.
>
> (2) The RTA for a tract may be modified as directed by findings pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

Section 32, Title 4, Subtitle 4 of the Baltimore County Code (B.C.C.) entitled "General Design Standards and Requirements" are intended to provide criteria for the preparation and review of proposed development. Section 32-4-402 entitled "Compatibility" sets forth in subsection (d) the compatibility objectives that development of property shall be designed to achieve. In analogizing the instant matter to the Development regulations contained in Title 4, Mr. Martin discussed the proposed development of the subject property in relation to the compatibility objectives and offered his opinion that Petitioners' plans are in compliance with the applicable objectives. Hence, a variance of the RTA buffer requirement is warranted in this case and the proposed private road should be permitted to bisect the 50 foot RTA buffer.

In addition, Section 307.1 of the B.C.Z.R. provides the Zoning Commissioner with the authority to generally grant variances from height and area regulations, from off-street parking regulations, and from sign regulations in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where

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strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. It also states that relief shall be granted if in strict harmony with the spirit and intent of the regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare.

In the instant matter, Petitioners are seeking variance relief from the RTA in order to allow the internal private road to bisect a portion of the RTA buffer. In support of the variance request under Section 307.1 of the B.C.Z.R., Mr. Martin pointed to several unique characteristics of the property. First, the property is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. Second, the property is bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and residential uses. Third, the geometry of the site reflects an irregular shape. Fourth, the residential nature of Owings Avenue and, in particular, the use of Owings Avenue as part of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is obviously an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, Petitioners believe it is necessary -- and beneficial -- to come up with a plan for the use of this area of the property that abuts the residential area.

In terms of practical difficulty and unreasonable hardship, Mr. Martin indicated that literal enforcement of the zoning regulations, and thereby not allowing the internal private road, would essentially force a connection to the public street (Owings Avenue) in order to gain the access necessary for the site, while also technically complying with the regulations. In addition, granting the variance would not harm the public interest. In fact, Mr. Martin indicated that allowing the internal private drive aisle would benefit the abutting residential neighborhood by

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enabling traffic to be contained completely on site. On the other hand, forcing Petitioners to gain access directly from Owings Avenue would be a real detriment to the local neighborhood.

Petitioners' final request for relief is the special hearing request pursuant to Section 409.8.B of the B.C.Z.R. to permit business parking in a residential zone for customer and employee parking. This subsection requires that a use permit be issued following a special hearing and a finding that the request meets the objectives of Section 409.8.B.2 of the B.C.Z.R. In addition, the request for parking must meet the special exception criteria delineated in Section 502.1 of the B.C.Z.R. On these factors, and based on the prior testimony above, Mr. Martin indicated that the proposed development will meet or exceed the objectives of Section 409.8.B and will meet the criteria of Section 502.1.

Petitioners' final expert witness was Ken Schmid with Traffic Concepts, Inc. Mr. Schmid is a civil engineer focusing on traffic engineering and was retained by Petitioner to review and investigate the potential traffic impacts of the proposed development on the surrounding community. A copy of his resume was marked and accepted into evidence as Petitioners' Exhibit 9. As his resume indicates, Mr. Schmid has testified numerous times as an expert in the areas of transportation planning and engineering and land use in Baltimore County and was offered and accepted as an expert in this case. In sum, Mr. Schmid opined that the proposed Wawa Market will not be detrimental to the health, safety, and general welfare of the locality and in particular, will have minimal impacts on traffic.

In support of this conclusion, Mr. Schmid discussed a number of factors. Initially, Mr. Schmid indicated the new Wawa Market would be a traffic "interceptor" for "passerby" type use, as it would be located along a high volume, arterial type of road system. It would not be a traffic "generator." In addition, Mr. Schmid indicated he made field visits during the peak morning and

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evening times, lunchtime, and afternoons. He also looked at nearby traffic lights, accident data, traffic counts, and transportation services data. He noted the nearest intersection is Chartley Drive and Reisterstown Road and its most recent rating from Baltimore County was that it is operating at an "A" rating as of December 2006. The intersection of Stocksdale Avenue and Main Street is operating at an "A" in the morning and a "B" in the afternoon and at peak times. Mr. Schmid acknowledged there will be additional traffic into and out of the subject property, however, it will be drawing primarily the existing traffic that would already be traveling on the road regardless of the presence of the Wawa market. Moreover, there will be no greater impact at this location than another location in the zoning district. As such, Mr. Schmid believes that based on existing conditions coupled with the proposed development, the roads and intersections are adequate and would be minimally impacted, and that any traffic issues are manageable.

Petitioners' final witness was Dave Stone. Mr. Stone resides at 21 Stocksdale near the subject property. Mr. Stone is in favor of the proposed Wawa Market as he believes it will be a significant upgrade to the existing structures and will be an asset to the area. He also does not believe the Wawa will diminish property values. In addition a letter of support was submitted by another adjacent neighbor, Ellen and Michael Tebo of 500 Owings Avenue, directly behind the subject property. This letter dated December 4, 2007 was marked and accepted into evidence as Petitioners' Exhibit 10. Mr. and Mrs. Tebo believe the Wawa will bring a stable business to the area, and will result in a newer, cleaner site that will fit in with the revitalization of Reisterstown. Their main concerns are that a fence be erected along the entire rear of the property and that it be properly screened, that no deliveries or trash pick up occur from Owings Avenue, and no late evening or early morning trash pick up. Finally, a letter of support was sent by the Reisterstown · Owings Mills · Glyndon Chamber of Commerce. This letter dated December 6, 2007 was

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By

marked and accepted into evidence as Petitioners' Exhibit 11. In its support of the project, the letter states that the proposed site is currently underutilized and does not present a proper image to the "gateway" to Reisterstown's Main Street, that redevelopment of the site may encourage further business expansion in the area and may encourage other existing businesses to rehabilitate their properties, and that competition is good for both residential and business communities.

Following Petitioners' presentation, Protestants presented their opposition to the proposed development of the subject property. The first witness to testify was Robert Begleiter. Mr. Begleiter owns the One Stop Convenience & Deli located at 11700 Reisterstown Road approximately two miles south of the subject property. His store is a convenience store, deli and liquor store; he does not sell gasoline. He believes the proposed Wawa Market and fuel service station will not only affect his business and others, but will also create business from outside the local area. In short, he believes the Wawa will pull traffic from a number of different areas such as Interstate 795 and will thereby increase traffic on Reisterstown Road.

Other opposition witnesses included nearby neighbors Susan Schultz, Isabelle Drenning, and Victor Olson, as well as Mary Molinaro on behalf of the Chartley Homeowners Association, Inc. In addition, letters of opposition were also submitted which included the following: letter dated December 3, 2007 from Ms. Molinaro as President of the Chartley Homeowners Association, Inc. marked and accepted into evidence as Protestants' Exhibit 1, letter dated December 4, 2007 and two photographs from Christina and Victor Olson of 510 Owings Avenue and marked and accepted into evidence as Protestants' Exhibit 2, letter dated December 6, 2007 from Kathleen Gambrill of 1021 Cockey's Mill Road marked and accepted into evidence as Protestants' Exhibit 3, letter dated December 4, 2007 from Isabelle Drenning of 39 Stocksdale

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Avenue marked and accepted into evidence as Protestants' Exhibit 4, letter dated January 9, 2008 from Barbara Karpel of 240 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 5, letter dated January 9, 2008 from Elaine Latham of 308 Glyndon Drive marked and accepted into evidence as Protestants' Exhibit 6, letter dated January 11, 2008 from Robert and Jane Hienz of 239 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 7, and letter received January 16, 2008 from Eileen Ruffner of 403 Highmeadow Road marked and accepted into evidence as Protestants' Exhibit 8. The testimony of these witnesses and the letters expressed similar concerns over the proposed development of the subject site, including increased traffic and congestion, the adverse effects on the adjacent residential neighborhood, the number of gas stations already in existence nearby, and issues with noise and constant lighting associated with the site since the Wawa is planned to be open 24 hours.

George Harmon on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council (ROG) presented the balance of Protestants' case opposing the proposed development. ROG represents communities in the 21117 and 21136 zip codes and geographic areas from the Carroll County line to Owings Mills and the Greenspring Valley. In addition to his civic work, Mr. Harmon has a background and expertise in hazmat spill response and safety issues, as well as noise control, including having previously managed a number of environmental programs for State agencies.

Mr. Harmon addressed a number of issues of concern regarding the potential Wawa Market and fuel service station. This included parking in residential areas by a commercial business bringing issues of excessive noise and high wattage lighting. Mr. Harmon also believes the traffic impact has been understated, especially at Stocksdale Avenue and Reisterstown Road, and disagrees that there would be similar impacts elsewhere due to the uniqueness of this

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intersection, where traffic is channeled from a four lane road (with a center turn lane) into two lanes. Another issue is what Mr. Harmon considers abandonment of gas stations in the vicinity of the subject property. He indicated that in determining whether the instant fuel service station is appropriate, it is necessary to consider under Section 405.3 of the B.C.Z.R. the presence of abandoned fuel service stations within a one-half mile to one mile radius. Marked and accepted into evidence as Protestants' Exhibit 9 is a map of Reisterstown Road near the subject property. This map was also labeled by Mr. Harmon with existing fuel service stations on Reisterstown Road within approximately two to three miles of the subject property. He also marked the map with the locations of what he believes are "abandoned" stations. Mr. Harmon asserts that because there exists abandoned stations within a one-half mile radius of the proposed Wawa market and fuel service station location, there is no need for the Wawa.

In sum, the Protestants believe locating the Wawa Market and fuel service station at the subject site, right at the entrance to the Reisterstown Historic District, is not an appropriate location. They also believe another fuel service station is unnecessary in the vicinity due to the already existing stations nearby. Finally, they believe likely traffic congestion balances against granting the relief requested, in that significant numbers of vehicles will be diverted to the subject location, which will contribute to increased traffic flow problems.

The Zoning Advisory Committee (ZAC) comments were received from the relevant County and State agencies and are made part of the record of this case. The comments received from the Department of Environmental Protection and Resource Management (DEPRM) dated November 6, 2007 indicate that the development proposal must comply with the Forest Conservation Regulations, and that any required afforestation may be addressed by offsite planting, offsite retention, or payment of a fee in lieu of planting. Comments received from the

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Bureau of Development Plans Review dated October 15, 2007 indicate that the ultimate right-of-way width for Stocksdale and Owings Avenues is 50 feet. The right-of-way widening must be shown on the plan along with a cut-back at the intersection. Setbacks should be shown based on the widenings, and the variance request revised accordingly. The comment from the State Highway Administration (SHA) dated October 22, 2007 indicates that their review of Petitioners' plan and a field inspection reveal that a permit is required for improvements along the subject property fronting Reisterstown Road (MD 140), and recommend that Petitioners be required to obtain a SHA Access Permit as a condition of approval of the plan. The Office of Planning's November 19, 2007 Inter-Office Correspondence offered no comments to the plan, and the October 11, 2007 letter from the County Fire Marshal's Office also offered no comments.

In regard to the request for special exception, the first issue that must be addressed is the issue of "abandoned" fuel service stations. Protestants claim that once the owners of the nearby service garages ceased to use the property as a fuel service station, they deserted that use and, so long as the property is not used as a fuel service station, it is deemed an "abandoned fuel service station" -- that is, once abandoned, always abandoned. Petitioners, on the other hand, argue that, to be considered an "abandoned fuel service station," the property must *presently* be used for *no purpose* and, therefore, because the owners of the subject property have effectively converted the fuel service station use into an existing service garage use, it is not an "abandoned fuel service station." (emphasis added).

On this issue, I agree with Petitioners and find that the fuel service station use was *converted* into service garage use -- not abandoned -- and, therefore, the nearby stations, including the Exxon station referenced in Protestants' Exhibit 9, is not an "abandoned fuel

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service station" for purposes of Section 405.3 of the B.C.Z.R. As explained by the Board of Appeals in *In the Matter of the Application of Seven Kids, LLC,* "[B.C.Z.R.] Section 405.3 does not set forth a valid definition of abandoned gas stations." Board Opinion at 10. However, the Board in that case declared "the three long-abandoned stations [in the vicinity of the proposed location] including the one abandoned at the proposed site, would [not] qualify as abandoned stations within the meaning of Section 405.3." Id. at 10-11. Clearly, timing is a major factor in determining whether or not a fuel service station use has been "abandoned."

Additionally, the County Council's reference in Section 405.3 of the B.C.Z.R. to Section 405.7 and its use of present tense language indicates intent that the "presence" of an "abandoned fuel service station" requires an existing structure, formerly used as a fuel service station, which, at the current time, is not used for any purpose. Section 405.7, which identifies and discusses "abandonment" of fuel service stations for the purpose of determining when a special exception for a fuel service station should be terminated and when the station should be removed, implies that, to be considered "abandoned," the property upon which a fuel service station formerly operated must be vacant and not used for any purpose. Furthermore, in determining when a special exception is considered terminated, Section 405.7.C specifically distinguishes between "abandonment" and "conversion" of fuel service stations. Section 405.8 also indicates that the law favors conversion of fuel service stations into alternative uses, as opposed to abandonment of fuel service stations altogether. For the above stated reasons, I find that in this case, the existing service garages referenced by Protestants cannot be considered an "abandoned fuel service station" for purposes of Section 405.3 of the B.C.Z.R.

Having resolved the "abandonment" issue, at this juncture, before any special exception may be granted, it must be determined whether the use for which the special exception is

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By PB

requested will have a negative impact on the criteria set forth in Section 502.1 of the B.C.Z.R.

Moreover, as set forth in *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981) and quoted in *Lucas v. People's Counsel for Baltimore County*, 147 Md.App. 209, 238 (2002):

> [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

This standard requires identification of the adverse effects inherent to the proposed special exception use -- that is, effects that the use would have, regardless of where in the zone the use were employed -- and sufficient evidence to prove that the adverse effects resulting from the proposed use at the proposed location will not exceed the identified inherent effects.

Among other concerns, the most contentious issue in the instant matter appears to relate to the impact of the proposed Wawa on traffic and the decisive factor of whether the Wawa will "tend to create congestion in roads, streets or alleys therein," pursuant to Section 502.1.B of the B.C.Z.R. Petitioners and Protestants each presented evidence and arguments relating to how the proposed Wawa would affect traffic. Protestants testified that the Wawa would pull in additional traffic from other areas, most notably Interstate 795, and would cause additional congestion from the traffic entering and exiting the location, as well as the fact that the subject location on Reisterstown Road channels from five lanes (including a center turn lane) to two lanes.

However, Petitioners' traffic expert, Mr. Schmid, indicated that the Wawa would be a traffic "interceptor" rather than a traffic "generator." In short, the new store would not be a destination location where patrons would make special trips to the Wawa; rather, the Wawa will draw from existing traffic already traveling on Reisterstown Road. According to Mr. Schmid, the traffic generated by the Wawa will be minimal. In addition, Mr. Schmid pointed out that

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each of the nearby intersections is operating at an "A" (Chartley Drive) and "A/B" (Stocksdale Avenue) rating. Based on the testimony and evidence I find that the proposed Wawa Market and fuel service station will not "tend to create congestion in roads, streets or alleys," above and beyond such effects that may be inherent in the use. I also find that Petitioners have met their burden with regard to the additional factors set forth in Section 502.1 of the B.C.Z.R. Hence, I am persuaded to grant Petitioners' special exception request.

In regard to the requests for special hearing, I am persuaded to grant the relief and allow payment for fuel service in combination with the convenience store and carry out restaurant to be made in both zoning areas, where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone. Rather than having an unattractive kiosk in the B.R.-A.S. zone just so payment for fuel can be made, it is more appropriate and in keeping with Petitioners' business practices to allow payment to be made in the convenience store area located in the B.R. zone. As to business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R., as shown on the site plan, Petitioners propose 51 parking spaces for the site. Most of these spaces will be located in the B.R.-A.S. or B.R. zones; however, it appears eight spaces and parts of eight other spaces will encroach in the D.R. zoned portion of the property. These spaces will not be located within the 50 foot RTA buffer or 75 foot setback. Based on the irregular shape of the property and its split zoning, as well as the testimony of Mr. Martin, Petitioner's architectural consultant, as to compliance with the Section 502.1 factors, and Petitioners' landscape plan and lighting plan being in compliance with the design standards set forth in Section 409.8 of the B.C.Z.R., I am persuaded to grant this relief.

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By PB

The last request for relief concerns the request to permit a private road to bisect the 50 foot RTA buffer area at the rear of the property abutting Owings Avenue. Petitioners request this relief by way of either special hearing pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R., variance from the RTA specifically pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or variance generally pursuant to Section 307.1 of the B.C.Z.R. As to the special hearing, Section 1B01.1.B.1.e(3) of the B.C.Z.R. states that the 50 foot RTA buffer may be bisected by roads, paths and trails that are designed to connect to adjoining developments; however, in the instant matter, I find this section is not applicable. Here, we are not considering adjoining developments, hence this section is not implicated. As to the request for variance from the RTA pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., this section allows the "hearing officer" to determine the amount of RTA in certain circumstances, provided also a compatibility finding is made under Section 32-4-402 of the B.C.C; however, again, in my view, this section is not applicable to the instant matter. The undersigned is not sitting as "hearing officer" considering a development plan; rather I am sitting as Deputy Zoning Commissioner considering only the instant zoning case. In addition, there have been no recommendations from specific County agencies as required by Section 1B01.1.B.1.c(1) of the B.C.Z.R. Hence, relief cannot be granted under this section. This leaves the "general" provision regarding variances set forth in Section 307.1 of the B.C.Z.R. In this instance, I am persuaded to grant the requested relief.

In the instant matter, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request. The property has an irregular shape and is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. The property is also bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and

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residential uses. Moreover, the residential nature of Owings Avenue presents a difficult situation. Owings Avenue abuts the property line of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is clearly an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, the desire to keep the residential character of the street in the midst of a commercial use of the subject property presents a significant challenge to Petitioners. These factors make the property unique in a zoning sense. In addition, the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. I agree with Petitioners that literal enforcement of the zoning regulations, and thereby not allowing the private road to bisect the RTA, would essentially force a connection to Owings Avenue in order to gain the access necessary for the site, while also technically complying with the regulations. Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I agree with Petitioners that allowing the internal private drive aisle will benefit the abutting residential neighborhood by enabling traffic to be contained completely on site.

Pursuant to the advertisement, posting of the property, and public hearings on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioners' requests for special exception and special hearing should be granted and the request for variance should be granted.

THEREFORE, IT IS ORDERED, this 14th day of March, 2008, by the Deputy Zoning Commissioner, that Petitioners' request for Special Exception to permit a fuel service

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station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.) be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' request for Special Hearing (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone, and (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R. be and are hereby GRANTED; and (3) the request to confirm that a private road is permitted to bisect the 50 foot RTA buffer to connect to adjoining developments, pursuant to Section 1B01.1B.1.e(3) of the B.C.Z.R., or, in alternative, to approve a variance to Section 1B01.1.B.1.c of the B.C.Z.R. be and are hereby DISMISSED as MOOT; and

IT IS FURTHER ORDERED, that Petitioners' request for Variance to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 307.1 of the B.C.Z.R. be and is hereby GRANTED, subject to the following which are conditions precedent to the relief granted herein:

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

2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

3. The ultimate right-of-way width of Stocksdale and Owings Avenues is 50 feet. The right-of-way widening, if and/or as required by Development Plans Review, must be shown on the plan along with a cutback at the intersection.

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4. Lighting of the site shall be in accordance with the Lighting Plan contained in Petitioner's Exhibit 8A and 8B and shall comport with Code and Zoning Regulation requirements. In addition, there shall be minimal lighting at the rear property line with no direct glare from under canopies.

5. There will be no outdoor speakers other than for emergency purposes.

6. The new building will not exceed the required HVAC noise levels. Wawa shall agree to allow noise sources to be tested, though not at Wawa's expense.

7. There shall be no authorized road or pedestrian access to or from the site at Owings Avenue. There shall also be appropriate screening in the form of fencing and landscaping at the property line along Owings Avenue to reflect the transition between the commercial and residential areas. Moreover, the fence line shall continue around the corner where the subject property adjoins the Whitcraft property for a distance of 20 feet in order to further deflect pedestrian access to and from Owings Avenue.

8. The building shall have a red brick veneer on all sides from ground to cornice.

9. The canopy shall have the same look and appearance as the convenience store and carry out restaurant building, with a standing seam metal roof which will accommodate the historic appearance of the area.

10. Petitioner's Landscape and Lighting Plans shall be subject to approval by the County's Landscape Architect.

11. There shall be no car wash or vacuum facilities on the property.

12. Signage must be placed on the building to indicate: "All delivery vehicles must be turned off. No idling permitted."

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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3.14.08

4/7/08

To: Bd of Town City Zoning

We would like to appeal the following Case

Case # 08-163-SPHXA
516 Reisterstown Rd.
Decision Rendered March 14 2008

Thank You

Bob Byerley

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APR 07 2008

Per KM

Pet Exhibits

1 – Master Resume

2A – Original Site Plan
2B – Landscape Plan

3 – redened site plan

4-A-P – photos of site

5 – Aerial Photograph w/ zones and properties superimposed

6 – Aerial photo w/ site plan superimposed & landscaping

7 – Architectural Elevations Drawings

8 – A+B – Lighting Plan

9 – Kar School Resume

10 – Letter from Tebow's in support

11 – Letters of Common support

12 – photo of Begleiter business

13 – broader photo of Begleiter business

14 – photo of front of store of Begleiter

Protest. Exhibits

1) Chantilly HOA, Inc. letter of opposition

2) Letter of Concern from Victor & Christina Olson

3) Letter of Objection – Kathleen Gambrill

4) Letter of Opposition – Isabelle Dranning

5) Letter of Opposition – Barbara Karpel

6) Letter of Opposition – Elaine Lathan

7) Letter of Opposition – Dr. and Mrs. Robert Iberry

8) Letter of Opposition – Eileen Ruffner

9) Location Map of other gas stations

10) Aerial Photo of area

11) Aerial Photo – further out

13) Coverage Map of Chantilly HOA

14 A+B – Streams

15 - another photograph of Bagelation

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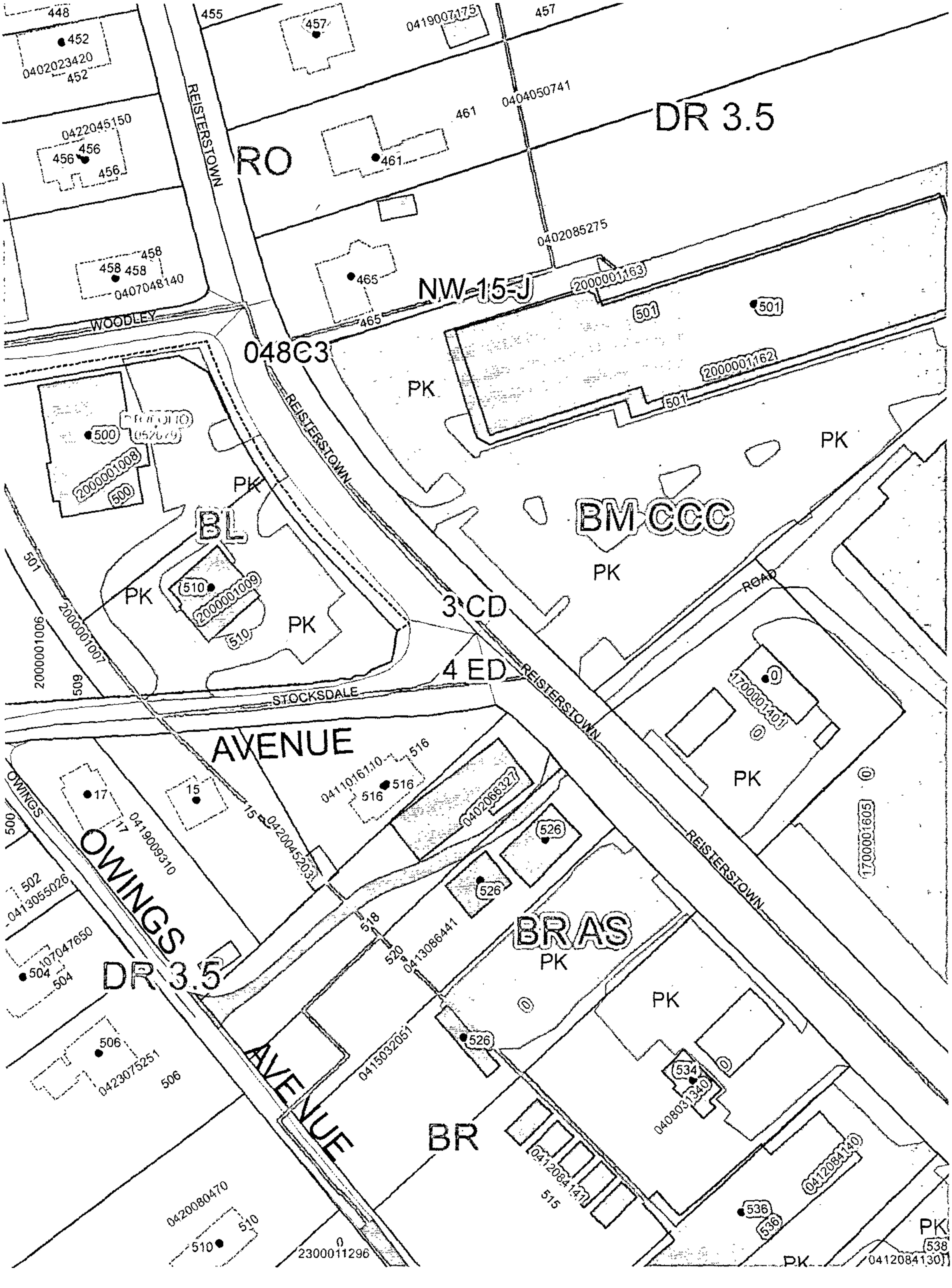
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APPEAL

Petition for Special Hearing, Special Exception & Variance
516 Reisterstown Road
SW corner of Main St. and Stocksdale Avenue, E of Owings Ave
4th Election District – 3rd Councilmanic District
Legal Owners: S & J Management
Case No.: 08-163-SPHXA

Petition for Special Hearing/Variance/Special Exception (October 4, 2007)

Zoning Description of Property

Notice of Zoning Hearing (October 22, 2007)

Certification of Publication (The Jeffersonian – November 20, 2007)

Certificate of Posting (November 24, 2007) by Robert Black

Entry of Appearance by People's Counsel (October 15, 2007)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – Two Sheets

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Curricula Vitae
2. Site Plan
3. Revised Site Plan
4. (A & B) Photographs
5. Existing Neighborhood Context Plan
6. Illustrative Site & Neighborhood Context Plan
7. Proposed Exterior Elevations
8. Site Lighting
9. Professional Resume of Kenneth Schmid
10. Letter in Favor of Proposed Wawa dated December 4, 2007
11. Letter from Chamber of Commerce dated December 6, 2007
12. Photo
13. Photo
14. Photo
15. Photo
16. Consecutive Emails

Protestants' Exhibits:

1. Letter from Chartley Homeowner's Association (12-3-07)
2. Letter from Mr. & Mrs. Olson (12-4-07)
3. Letter from Ms. Gambrill (12-6-07)
4. Letter from Ms. Drenning (12-4-07)
5. Letter from Ms. Karpel (01-09-08)
6. Letter from Ms. Latham (01-09-08)
7. Letter from Mr. & Mrs. Heinz (01-11-08)
8. Letter from Ms. Ruffner (01-16-08)
9. Map
10. Letter from Ms. Good (01-11-08)
11. Map
12. Map
13. Map
14. Photos (A & B)

Miscellaneous (Not Marked as Exhibit) - None

Deputy Zoning Commissioner's Order (GRANTED – March 14, 2008)

Notice of Appeal received on April 7, 2008 from Robert Begleiter

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

date sent May 12, 2008, klm

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property
located at 516 Reisterstown Road
which is presently zoned DR 3.5, BR, BR-AS
Deed Reference: 20281 / 101 Tax Account # 0419009310

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

to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print

Signature

Venable, LLP
Company

210 Allegheny Ave., 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

S & J Management, inc.
Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road
Address Telephone No.

Reisterstown, Maryland 21136
City State Zip Code

Representative to be Contacted:

Arnold Jablon
Name

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 10/4/07

Case No. 08-163-SPHXA

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REV 07/27/2007

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property
located at 516 Reisterstown Road
which is presently zoned DR 3.5, BR, BR-AS
Deed Reference: 20281 / 101 *Tax Account #* 0419009310

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

to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR

Property is to be posted and advertised as prescribed by the zoning regulations.
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I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print

Signature

Venable, LLP
Company

210 Allegheny Ave., 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Legal Owner(s):

S & J Management, inc.
Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road
Address Telephone No.

Reisterstown, Maryland 21136
City State Zip Code

Representative to be Contacted:

Arnold Jablon
Name

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 10/4/07

Case No. 08-163-SPHXA

REV 07/27/2007

[redacted] 3.14.08

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

(This box to be completed by planner)

(1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone;

(2) to permit business parking in a residential zone for customer and employee parking pursuant to section 409.8.B, BCZR;

(3) to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or, in alternative, to approve a variance to section 1B01.1B.1.e(3). (see variance petition)

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave. 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Legal Owner(s):

S & J Management, Inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Main Street

Address Telephone No.

Reisterstown, Maryland 21136

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave., 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 08-163-SPHXA **UNAVAILABLE FOR HEARING** _____

REV 9/15/98 Reviewed By D.T. Date 10/4/07

3.14.08

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

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(3) to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or, in alternative, to approve a variance to section 1B01.1B.1.e(3). (see variance petition)

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Address Telephone No.

Towson, Maryland 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-163-SPHXA

REV 9/15/98 [illegible] Reviewed By D.T. Date 10/4/07

3.14.08

PD

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

in the alternative, to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc (2) or to section 307, BCZR, whichever is determined to apply, see Petition for Special Hearing

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

to be determined at hearing

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print

Signature

Venable, LLP
Company

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Md 21204
City State Zip Code

Legal Owner(s):

S & J Management, Inc.
Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road
Address Telephone No.

Reisterstown, Md 21136
City State Zip Code

Representative to be Contacted:

Arnold Jablon
Name

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Office Use Only

Case No. 08-163-SPHXA

Estimated Length of Hearing

Unavailable For Hearing

Reviewed by D.T. Date 10/4/07

REV 8/20/07

3.14.08

PB

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

in the alternative, to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc (2) or to section 307, BCZR, whichever is determined to apply, see Petition for Special Hearing

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

to be determined at hearing

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon
Name - Type or Print

Signature

Venable, LLP
Company

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Md 21204
City State Zip Code

Legal Owner(s):

S & J Management, Inc.
Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road
Address Telephone No.

Reisterstown, Md 21136
City State Zip Code

Representative to be Contacted:

Arnold Jablon
Name

210 Allegheny Ave 410 494 6298
Address Telephone No.

Towson, Maryland 21204
City State Zip Code

Case No. 08-163-SPHXA

Office Use Only

Estimated Length of Hearing

Unavailable For Hearing

Reviewed by D.T. Date 10/4/07

REV 8/20/07

3-14-08

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

SEPTEMBER 20, 2007

ZONING DESCRIPTION
HEARING AREAS # 3, 4, & 5

516 REISTERSTOWN ROAD

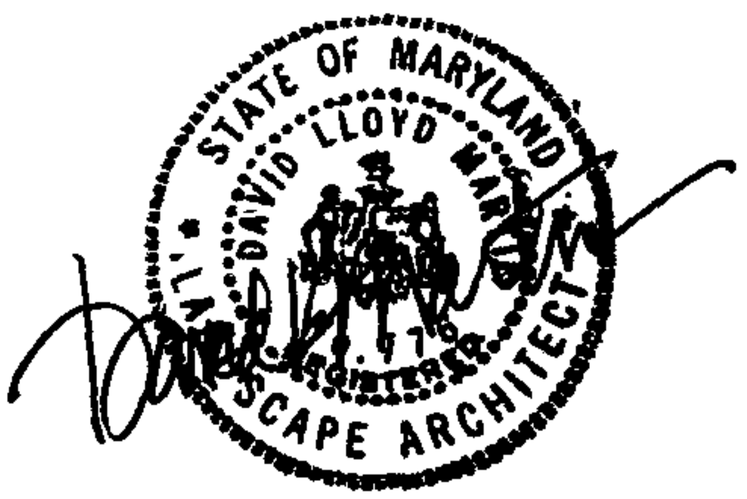
BEGINNING FOR THE DESCRIPTION OF A 0.6 ACRE TRACT IDENTIFIED AS PART OF PARCELS 251,252, 253, 254, AND 255, TAX MAP 48, AT A POINT AT THE CENTERLINE INTERSECTIONS OF REISTERSTOWN ROAD AND STOCKSDALE AVENUE THENCE S15° 34' 16" E 60.42' FEET MORE OR LESS TO THE NORTHERN MOST CORNER OF THE SUBJECT PROPERTY THENCE S85° 58' 18" W 222.9' TO A POINT OF BEGINNING #2 THE FOLLOWING COURSES:

1) S85° 58' 18" W, 119.04' , THENCE
2) S 39° 44'21"E, 313.72' THENCE
3) N47° 24'53"W, 46.49', THENCE
4) N44° 56'43"E, 44.41', THENCE
5) N46° 08'02"E 64.67', THENCE
6) N50° 00'55"E, 9.63', THENCE
7) N45° 37'33"W, 193.4'
8) BACK TO THE POINT OF BEGINNING

CONTAINING 26,136 SQUARE FEET OR 0.6 ACRES OF LAND MORE OR LESS.

THE ABOVE BEARINGS ARE BASED ON THE MARYLAND STATE COORDINATE SYSTEM (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.



TELEPHONE: 410.321.8444, TOLL FREE: 866.395.8595
FAX: 410.321.1175

08-163-SPHA

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 05376

Date: 10/4/07

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				800.00

Total: 800.00

Rec From: ARNOLD JABLON

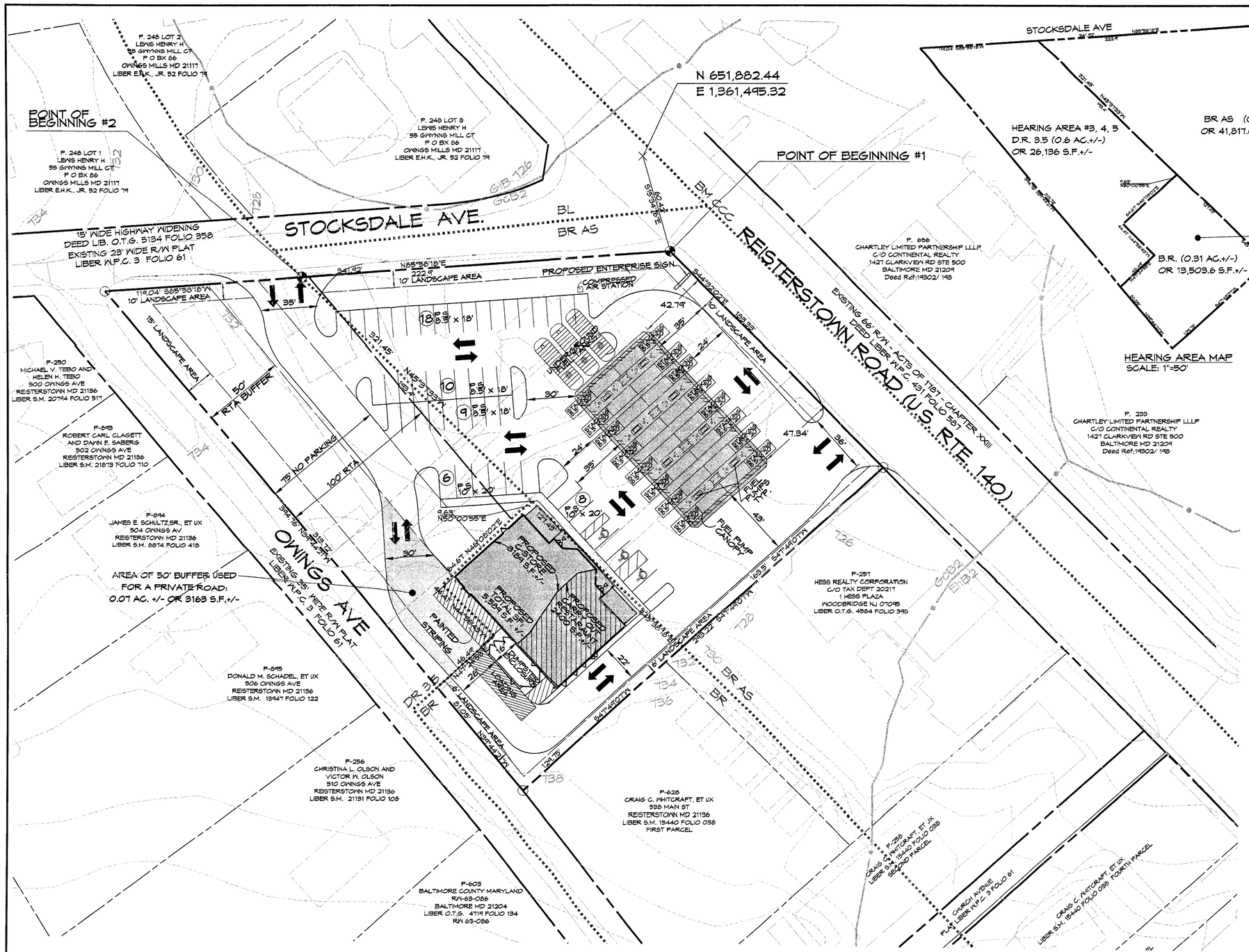
For: ITEM # 163 08-1163-SPHXA
516 REISTERSTOWN RD.

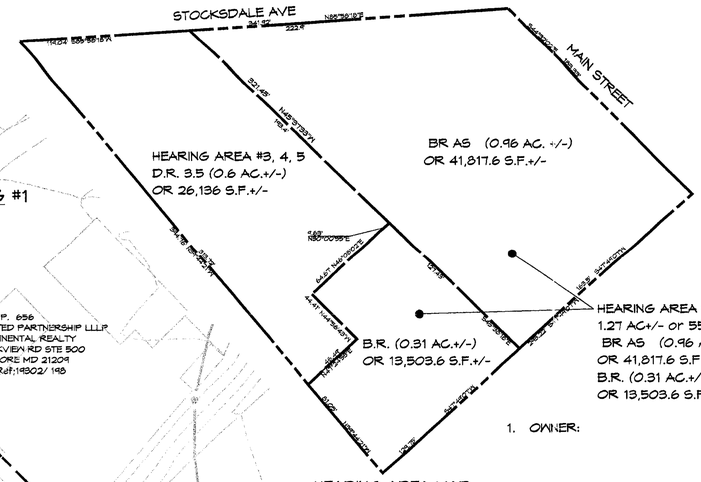
D. THOMPSON

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

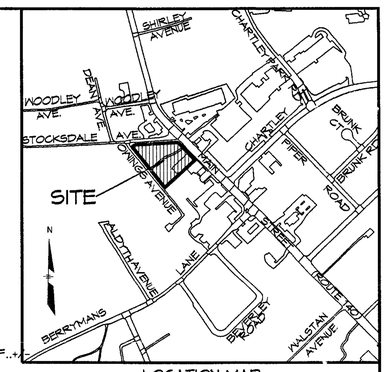
CASHIER'S VALIDATION

PAID RECEIPT
Baltimore County, Maryland





HEARING AREA MAP
SCALE: 1"=50'



LOCATION MAP
SCALE: 1"=500'

1. OWNER: PARCELS 251, 252, 255
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136
PARCELS 253, 254, 982
POLLACK,STUART
3000 BALTIMORE BLVD
FINKSBURG MD 21048
2. ENGINEER: MARTIN & PHILLIPS DESIGN ASSOCIATES, INC.
222 BOSLEY AVENEUE, SUITE B1
TOWSON, MD 21204
410-321-8444
3. TAX MAP: 48
4. PARCEL NUMBER: 251 (0.21 AC.+/-) OR 9,147.6 S.F.+/-
252 (0.22 AC.+/-) OR 9,583.2 S.F.+/-
253 (0.24 AC.+/-) OR 10,454.4 S.F.+/-
254 (0.35 AC.+/-) OR 15,246 S.F. +/-
255 (0.33 AC. +/-) OR 14,374.8 S.F.+/-
982 (0.52 AC. +/-) OR 22,651.2 S.F. +/-
5. TOTAL TRACT AREA: 1.87 AC.+/- OR 81,457.2 S.F.+/-
6. DEED REFERENCE: 20281/ 101
20281/ 106
7869/ 118
20190/ 71
20042/ 382
6872/ 220
7. ELECTION DISTRICT: 4TH DISTRICT
8. COUNCILMATIC DISTRICT: 3RD DISTRICT
9. CENSUS TRACT: 4044.01
10. EXISTING ZONING: D.R. 3.5 (0.6 AC.+/-) OR 26,136 S.F.+/-
B.R. (0.31 AC.+/-) OR 13,503.6 S.F.+/-
BR AS (0.96 AC. +/-) OR 41,817.6 S.F.+/-
11. PARKING REQUIRED: 45 SPACES
1 P.S. PER EMPLOYEE: 15 SPACES
1 P.S. PER AIR/VACUUM: 1 SPACE
1 P.S. PER ATM: 1 SPACE
5 P.S. PER 1000 S.F.: 28 SPACES (5589 S.F. BUILDING)
PARKING PROPOSED; 51 SPACES (48 STD, 3 HC)
DR ZONE: 16 SPACES
BRAS ZONE: 35 SPACES
ACCORDING TO SECTION 409.8B2 OF THE BCZR, THE PARKING FACILITIES COMPLY WITH THE FOLLOWING CONDITIONS:
a. Complies because the land used adjoins the business involved.
b. Complies because only passenger vehicles, excluding buses, will use the parking facility.
c. Complies because no loading, service or any use other than parking shall be permitted.
d. Complies because lighting will be regulated as to location, direction, hours of illumination, glare and intensity, as required.
e. Complies because this plan shows the parking arrangement and vehicular access.
f. Complies because method and area of operation, provision for maintenance and permitted hours of use shall be specified and regulated as required.
g. Complies because any conditions not listed above which, in the judgment of the Zoning Commissioner, are necessary to ensure that the parking facility will not be detrimental to adjacent properties.
12. SIGNAGE: ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 450 OF THE B.C.Z.R.
ENTERPRISE SIGN FREE STANDING
MAX. HEIGHT 25'
MAX. SIGN FACE AREA: 75 S.F. ON REISTERSTOWN RD PER FACE
NOTE: GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE
WALL MOUNTED SIGN: 2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
SERVICE STATION CANOPY: 25 S.F. PER CANOPY - MAX. NO. PER SITE = 6
13. SITE AREA REQUIRED: C-STORE 4 x AREA OR 4 x 3189 S.F. +/-= 12,756 S.F. +/- 12,756 S.F (0.29 AC.+/-) IS LESS THAN SITE AREA OF 55,321 S.F (1.27 AC.+/-)
FUEL SERVICE AREA: 1,500 S.F. x 16 PUMPS = 24,000 S.F. OR 0.55 AC.+/- EXISTING BR-AS AREA: 0.96 AC.+/- 41,817.6 S.F.+/- COMPLIES WITH SECTION 405 OF BCZR
14. SETBACKS: MAIN STRUCTURE 95' FROM R/W
FUEL PUMP 25' FROM R/W
CANOPY 15' FROM R/W
LANDSCAPE AREA 10' FROM R/W, 6' SIDE & REAR YARDS(NON-RESIDENTIAL), MINIMUM OF 15' WHEN SERVICE STATIONS ARE LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY.
15. AIR, WATER, AND RESTROOMS WILL BE AVAILABLE FOR CUSTOMERS.
16. THE REAR & SIDES OF THE BUILDING SHALL BE FINISHED WITH MATERIALS THAT IN TEXTURE & COLOR RESEMBLE THE FRONT OF THE BUILDING. 405.4C.1.b. B.C.Z.R.

REFERENCE:
1. PROPERTY OUTLINE & FIELD SURVEY WAS PREPARED BY GEORGE N. STEPHENS AND ASSOCIATES, 4692 MILLENNIUM DRIVE SUITE 100, BELCAMP, MD 21017 AND IS THE BASIS OF THE PROPERTY LINES SHOWN HEREON: MARTIN AND PHILLIPS DESIGN ASSOCIATES, INC. DOES NOT WARRANT THE ACCURACY OF SAID PLANS.

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)-321-8444/FAX:(410)-321-1175

Zoning Relief Requests: (SEE HEARING AREA MAP ABOVE FOR LOCATIONS)
1. Special Exception to permit a fuel service station on an individual site and a Convenience Store and Carry out Restaurant as uses in combination with the proposed Fuel Service Station pursuant to Sections 405.B.1, 405.4.E.1, and 405.4.E.10 of the BCZR
2. Special Hearing to confirm that the proposed convenience store and carry out restaurant where it is in combination with fuel service may be located in the BR zone as well as in the BR-AS zone and to permit the payment for fuel service in both.
3. Petition for a Special Hearing to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.
4. Special Hearing to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or in the alternative:
5. Variance to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc(2), BCZR, or to section 307, BCZR, whichever section is determined to apply.

N
NAVD 88-MSC 1988
SCALE: 1"=30'
30 15 0 30 60 90

STATE OF MARYLAND
DAVID LLOYD BOWEN
LANDSCAPE ARCHITECT

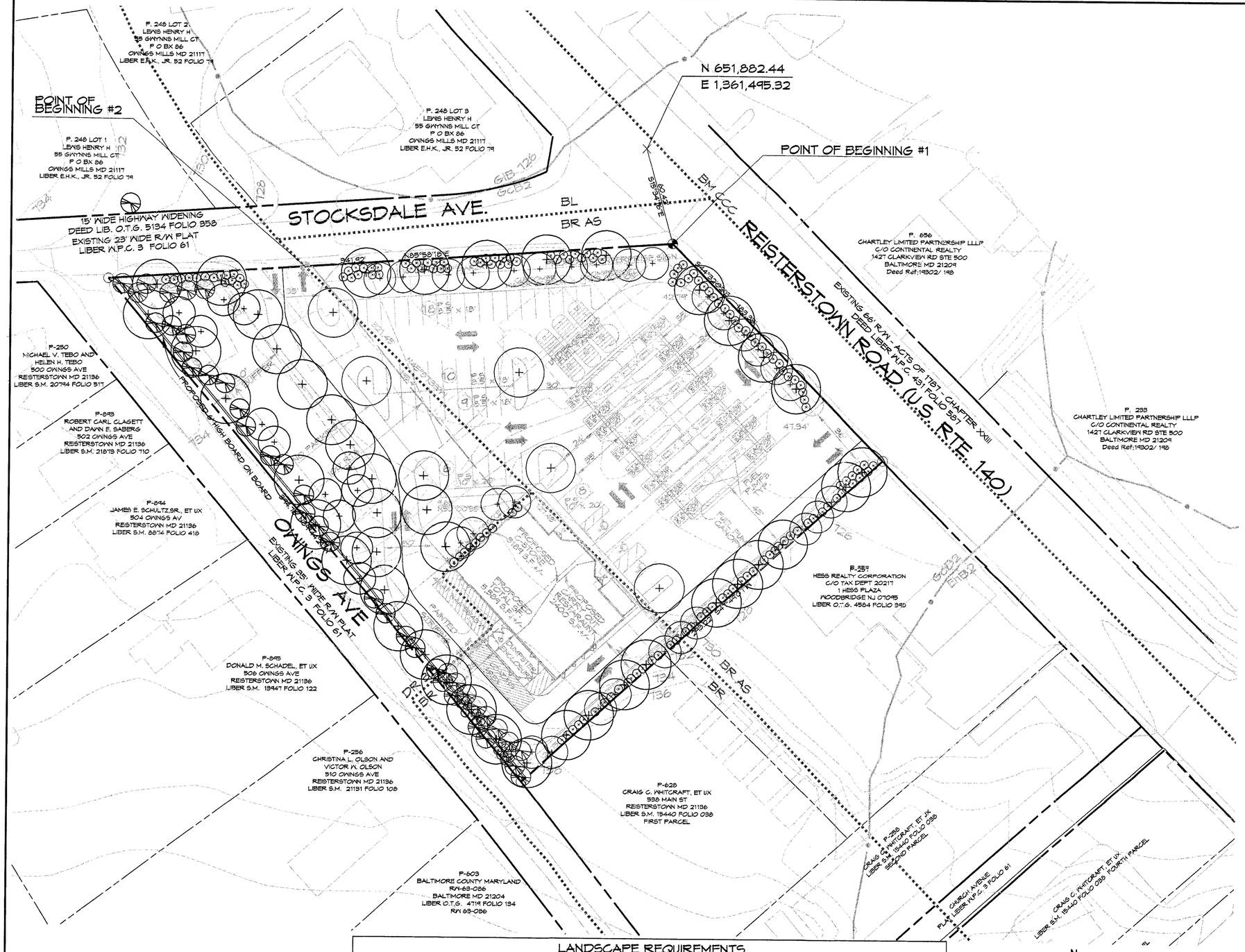
A PLAN TO ACCOMPANY A SPECIAL EXCEPTION AND A SPECIAL HEARING
516 REISTERSTOWN ROAD

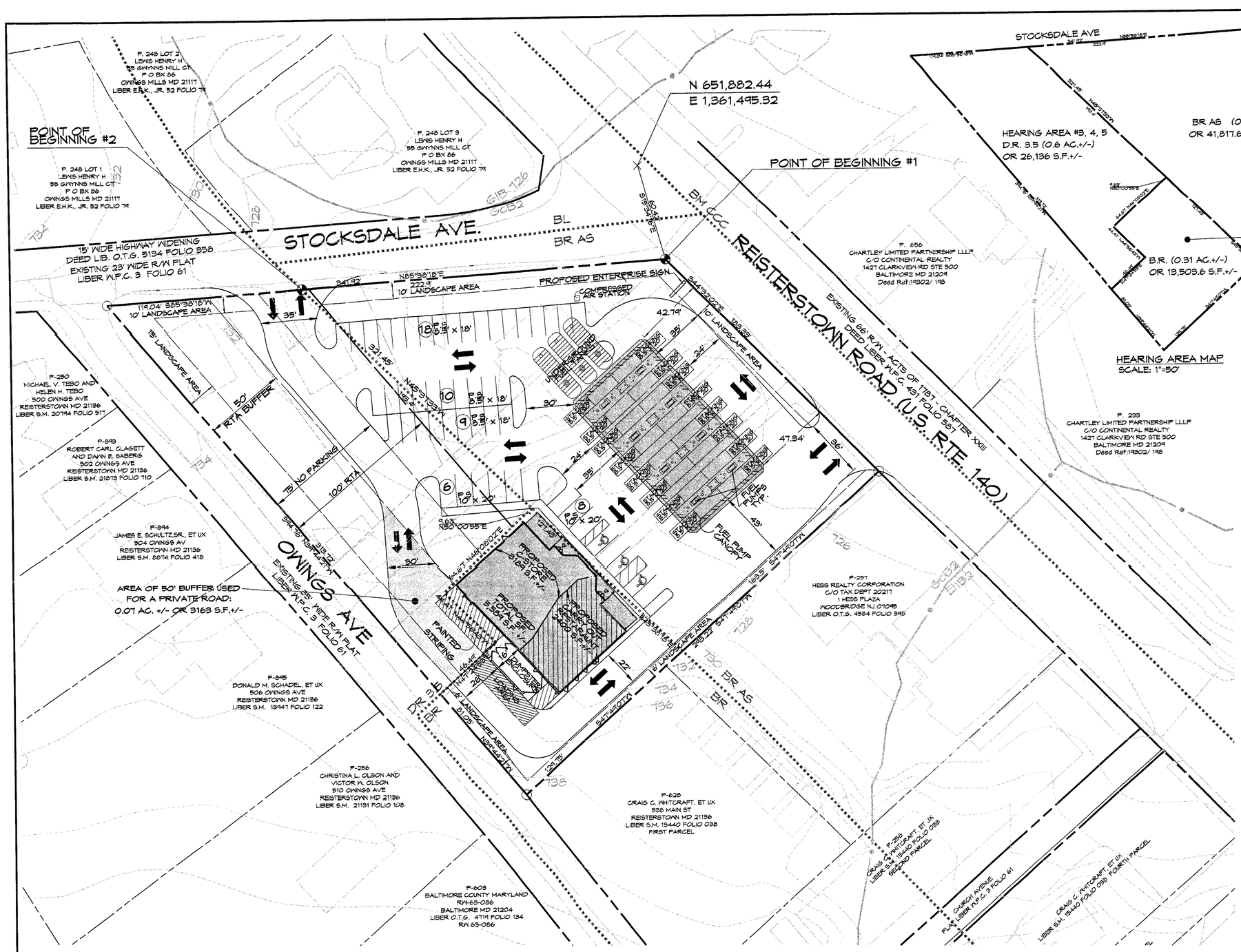
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

SEPTEMBER 19, 2007

FILENAME: 07-1027zoninghearing.s01, Hearing

08-165-SPHXA P.N. 07-1027


N 651,882.44
E 1,361,495.32
POINT OF BEGINNING #2
POINT OF BEGINNING #1
P. 248 LOT 2
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 1
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 3
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
15' WIDE HIGHWAY WIDENING
DEED LIB. O.T.G. 5134 FOLIO 958
EXISTING 23' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
STOCKSDALE AVE.
BL
BR AS
S85°58'18"E
341.92'
S85°58'18"E
60.44'
BM CCC
REISTERSTOWN ROAD (U.S. RTE. 140)
EXISTING 66' R/W - ACTS OF 1787 CHAPTER XXIII
DEED LIBER W.P.C. 431 FOLIO 557
P. 656
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19802/ 198
P. 253
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19802/ 198
P-250
MICHAEL V. TEBO AND
HELEN H. TEBO
500 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 20744 FOLIO 517
P-849
ROBERT CARL CLAGETT
AND DAWN E. SABERG
502 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21878 FOLIO 710
P-844
JAMES E. SCHULTZ,SR., ET UX
504 OWINGS AV
REISTERSTOWN MD 21136
LIBER S.M. 8874 FOLIO 418
P-845
DONALD M. SCHADEL, ET UX
506 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 15447 FOLIO 122
P-256
CHRISTINA L. OLSON AND
VICTOR W. OLSON
510 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21131 FOLIO 108
P-603
BALTIMORE COUNTY MARYLAND
RW-69-086
BALTIMORE MD 21204
LIBER O.T.G. 4719 FOLIO 134
RW 69-086
OWINGS AVE
EXISTING 35' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
PROPOSED 6'HIGH BOARD ON BOARD
PROPOSED 6' HIGH BOARD ON BOARD
PROPOSED CONCRETE SIDEWALK



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520 MAIN STREET
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5. TOTAL TRACT AREA: 1.87 AC.+/- OR 81,457.2 S.F+/-
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8. COUNCILMATIC DISTRICT: 3RD DISTRICT
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B.R. (0.31 AC.+/-) OR 13,503.6 S.F.+/-
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1 P.S. PER AIR/VACUUM: 1 SPACE
1 P.S. PER ATM: 1 SPACE
5 P.S. PER 1000 S.F.: 28 SPACES (5589 S.F. BUILDING)
PARKING PROPOSED; 51 SPACES (48 STD, 3 HC)
DR ZONE: 16 SPACES
BRAS ZONE: 35 SPACES

ACCORDING TO SECTION 409.8D2 OF THE BCZR, THE PARKING FACILITIES COMPLY WITH THE FOLLOWING CONDITIONS:
a. Complies because the land used adjoins the business involved.
b. Complies because only passenger vehicles, excluding buses, will use the parking facility.
c. Complies because no loading, service or any use other than parking shall be permitted.
d. Complies because lighting will be regulated as to location, direction, hours of illumination, glare and intensity, as required.
e. Complies because this plan shows the parking arrangement and vehicular access.
f. Complies because method and area of operation, provision for maintenance and permitted hours of use shall be specified and regulated as required.
g. Complies because any conditions not listed above which, in the judgment of the Zoning Commissioner, are necessary to ensure that the parking facility will not be detrimental to adjacent properties.

12. SIGNAGE: ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 450 OF THE B.C.Z.R.
ENTERPRISE SIGN: FREE STANDING
MAX. HEIGHT: 25'
MAX. SIGN FACE AREA: 75 S.F. ON REISTERSTOWN RD PER FACE
NOTE: GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE
WALL MOUNTED SIGN: 2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
SERVICE STATION CANOPY: 25 S.F. PER CANOPY - MAX. NO. PER SITE = 6
13. SITE: AREA REQUIRED: C-STORE 4 x AREA OR 4 x 3189 S.F. +/-= 12,756 S.F. +/-
12,756 S.F (0.29 AC.+/-) IS LESS THAN SITE AREA OF 55,321 S.F (1.27 AC.+/-)
FUEL SERVICE AREA: 1,500 S.F. X 16 PUMPS = 24,000 S.F. OR 0.55 AC.+/-
EXISTING BR-AS AREA: 0.96 AC.+/- 41,817.6 S.F.+/-
COMPLIES WITH SECTION 405 OF BCZR
14. SETBACKS: MAIN STRUCTURE 35' FROM R/W
FUEL PUMP 25' FROM R/W
CANOPY 15' FROM R/W
LANDSCAPE AREA 10' FROM R/W, 6' SIDE & REAR YARDS(NON-RESIDENTIAL), MINIMUM OF 15' WHEN SERVICE STATIONS ARE LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY.
15. AIR, WATER, AND RESTROOMS WILL BE AVAILABLE FOR CUSTOMERS.
16. THE REAR & SIDES OF THE BUILDING SHALL BE FINISHED WITH MATERIALS THAT IN TEXTURE & COLOR RESEMBLE THE FRONT OF THE BUILDING. 405.4C.1.b. B.C.Z.R.

REFERENCE:
1. PROPERTY OUTLINE & FIELD SURVEY WAS PREPARED BY GEORGE W. STEPHENS AND ASSOCIATES, 4692 MILLENNIUM DRIVE SUITE 100, BELCAMP, MD 21017 AND IS THE BASIS OF THE PROPERTY LINES SHOWN HEREON: MARTIN AND PHILLIPS DESIGN ASSOCIATES, INC. DOES NOT WARRANT THE ACCURACY OF SAID PLANS.

Zoning Relief Requests: (SEE HEARING AREA MAP ABOVE FOR LOCATIONS)
1. Special Exception to permit a fuel service station on an individual site and a Convenience Store and Carry out Restaurant as uses in combination with the proposed Fuel Service Station pursuant to Sections 405.B.1, 405.4.E.1, and 405.4.E.10 of the BCZR
2. Special Hearing to confirm that the proposed convenience store and carry out restaurant where it is in combination with fuel service may be located in the BR zone as well as in the BR-AS zone and to permit the payment for fuel service in both.
3. Petition for a Special Hearing to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.
4. Special Hearing to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or in the alternative:
5. Variance to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc(2), BCZR, or to section 307, BCZR, whichever section is determined to apply.

N
NAVD 88-MSC 1928
SCALE: 1"=30'
30 15 0 30 60 90

MARTIN & PHILLIPS
MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

STATE OF MARYLAND "DAVID LLOYD WILLIAMS" LANDSCAPE ARCHITECT

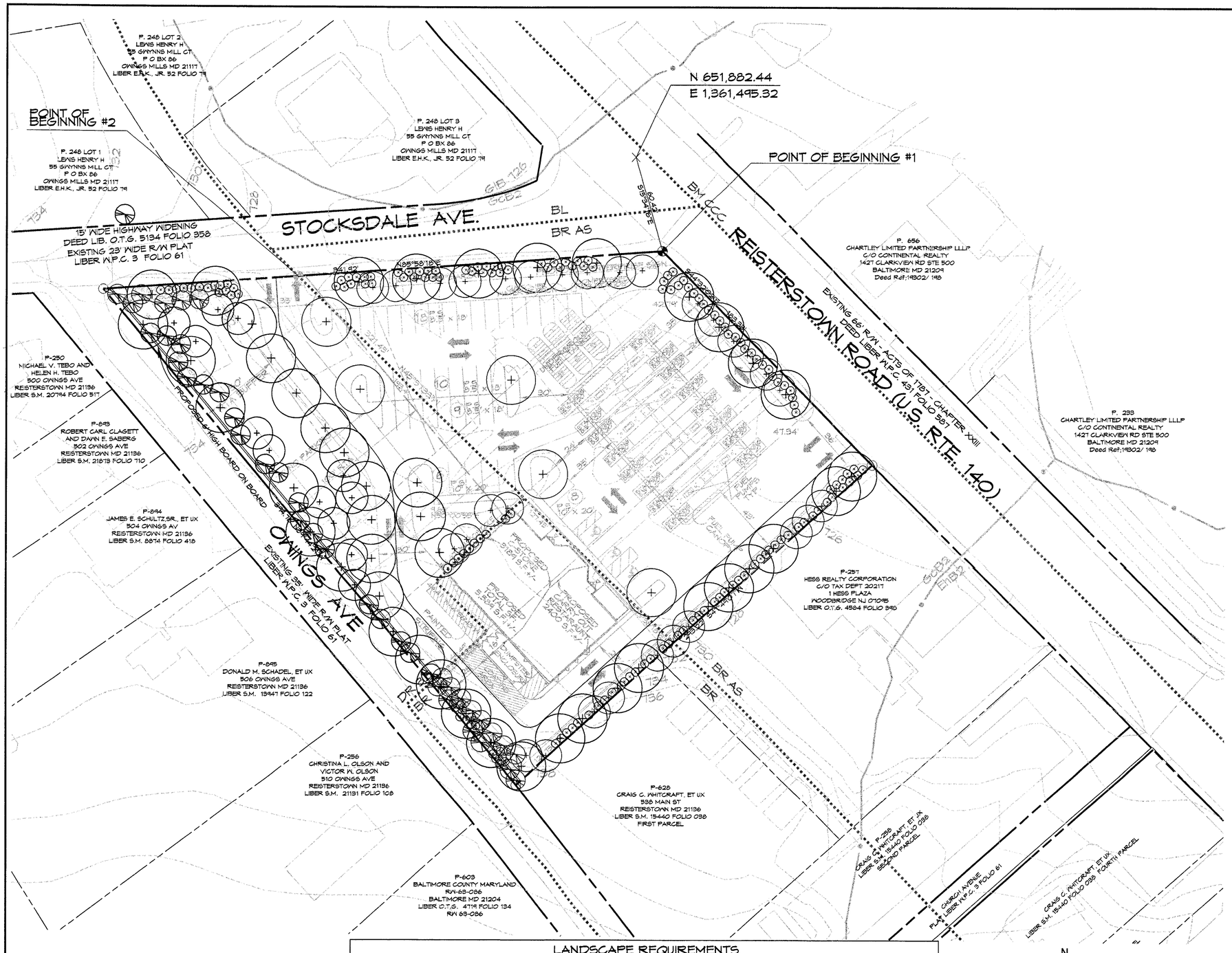
A PLAN TO ACCOMPANY A SPECIAL EXCEPTION AND A SPECIAL HEARING
516 REISTERSTOWN ROAD

OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

SEPTEMBER 19, 2007
P.N. 07-1027

08-163-SPHXA

FILENAME: 07-1027zoninghearing.s01, Hearing


POINT OF BEGINNING #2
N 651,882.44
E 1,361,495.32
POINT OF BEGINNING #1
STOCKSDALE AVE.
15' WIDE HIGHWAY WIDENING
DEED LIB. O.T.G. 5134 FOLIO 358
EXISTING 23' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
REISTERSTOWN ROAD (U.S. RTE. 140)
EXISTING 66' R/W ACTS OF 1787, CHAPTER XXIII
DEED LIBER W.P.C. 457 FOLIO 597
OWINGS AVE.
EXISTING 33' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
PROPOSED 6' HIGH BOARD ON BOARD
P. 248 LOT 2
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 3
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 1
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 659
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P. 233
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P-257
HESS REALTY CORPORATION
C/O TAX DEPT 20217
1 HESS PLAZA
WOODBRIDGE NJ 07095
LIBER O.T.G. 4584 FOLIO 340
P-250
MICHAEL V. TEBO AND
HELEN H. TEBO
300 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 20794 FOLIO 317
P-849
ROBERT CARL CLAGETT
AND DAWN E. SABERS
302 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21879 FOLIO 710
P-694
JAMES E. SCHULTZ,SR., ET UX
304 OWINGS AV
REISTERSTOWN MD 21136
LIBER S.M. 8874 FOLIO 418
P-845
DONALD M. SCHADEL, ET UX
306 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 13947 FOLIO 122
P-256
CHRISTINA L. OLSON AND
VICTOR W. OLSON
310 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21191 FOLIO 108
P-603
BALTIMORE COUNTY MARYLAND
RW-68-086
BALTIMORE MD 21204
LIBER O.T.G. 4718 FOLIO 134
RW 68-086
P-628
CRAIG C. WHITCRAFT, ET UX
338 MAIN ST
REISTERSTOWN MD 21136
LIBER S.M. 19440 FOLIO 038
FIRST PARCEL
P-258
CRAIG C. WHITCRAFT, ET UX
LIBER S.M. 19440 FOLIO 038
SECOND PARCEL
CRAIG C. WHITCRAFT, ET UX
LIBER S.M. 19440 FOLIO 038 FOURTH PARCEL
CHURCH AVENUE
FLAT LIBER W.P.C. 3 FOLIO 61
PROPOSED 5' SIDEWALK
PROPOSED 5' SIDEWALK
PROPOSED 5' SIDEWALK

IN RE: PETITIONS FOR SPECIAL EXCEPTION SPECIAL HEARING & VARIANCE	*	BEFORE THE
SW corner of Main Street and Stocksdale Avenue, E of Owings Avenue	*	DEPUTY ZONING
4th Election District	*	COMMISSIONER
3rd Councilmanic District		
(516 Reisterstown Road)	*	FOR BALTIMORE COUNTY
S & J Management, Inc. *Legal Owner*	*	Case No. 08-163-SPHXA
	*	

* *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Exception, Special Hearing and Variance filed by the legal owners of the subject property, S & J Management, Inc.

The Petition for Special Exception is to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.2.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The Petition for Special Hearing is (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone; (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.; and (3) to confirm that a private road is permitted to bisect the 50 foot Residential Transition Area (RTA) buffer to connect to adjoining developments pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R.

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The Variance request is in the alternative to the third request for special hearing relief, and requests relief to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or pursuant to Section 307.1 of the B.C.Z.R., whichever is determined to apply. The subject property and requests for relief are more fully described on the redlined site plan which was marked and accepted into evidence as Petitioners' Exhibit 3.

This matter was originally scheduled for a public hearing on December 10, 2007 at 9:00 AM in Room 407 of the County Courts Building located at 401 Bosley Avenue, Towson, MD 21204. Following testimony and evidence taken on that date, the hearing was continued until January 16, 2008 at 9:00 AM, again in Room 407 of the County Courts Building.

Appearing at the requisite public hearings in support of the special exception, special hearing, and variance petitions was Arnold Jablon, Esquire on behalf of Petitioners S & J Management, Inc. and Wawa Markets. Also appearing in support of the petitions were Greg Harvey and Bruce Rice with Wawa Markets, David L. Martin with Martin & Phillips Design Associates, Inc., the consultant who prepared the site plan, and Ken Schmid with Traffic Concepts, Inc. Appearing as interested citizens in support of Petitioners' requests for relief were Barbara V. Reynolds of 306 Lauren Hill Court, Dave Stone, Jr. of 21 Stocksdale Avenue, and Ellen and Michael Tebo of 500 Owings Avenue in Reisterstown, MD. The case garnered significant interest from the Reisterstown community and a number of Protestants attended the hearings as well. These individuals are listed on the "Citizen's Sign-In Sheet" that was circulated on both hearing dates, and which is contained within the case file. In addition, George Harmon of 5429 Weywood Drive appeared on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council and Mary Molinaro of 215 Chartley Drive appeared on behalf of the Chartley Homeowners Association, Inc. Although the individual Protestants appeared and

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participated in the hearings to varying degrees, Mr. Harmon and Ms. Molinaro appeared on both hearing dates and acted as the informal "spokespersons" on behalf of the community, and presented the majority of the Protestants' contentions and arguments, as well as cross-examination of Petitioners' witnesses.

Testimony and evidence offered at the hearings revealed that the subject property is an irregular-shaped parcel containing approximately 81,457 square feet or 1.87 acres, more or less, and zoned B.R.-A.S. (0.96 acre), B.R. (0.31 acre), and D.R.3.5 (0.60) acre). The property is located on the west side of Reisterstown Road, where that road becomes known as Main Street, and is bordered by Stocksdale Avenue to the north and Owings Avenue to the west in the Reisterstown area of Baltimore County. The property is comprised of six parcels, and is improved with several dwellings and a trailer. Visually, the property appears to be a mishmash of commercial and residential uses, including rental apartments and a used car lot, though with no apparent consistency.

Petitioner Wawa Markets desires to "clean up" the property, both in terms of its visual appearance and its odd array of uses, and proposes a special exception use to erect a fuel service station on the site consisting of 16 fuel pumps, with a related convenience store and carry out restaurant. In addition, because Wawa is less in favor of the appearance and functionality of a "kiosk," it is requesting a waiver of the need for a kiosk. This is because the location of the proposed fuel services will be in the B.R.-A.S. zone. However, the location of where payment for these services will be made, other than directly at the pumps in the B.R.-A.S. zone, will be in convenience store and carry out restaurant building, which will be located in the B.R. zone. As such, Petitioners are requesting special hearing approval to allow payment for fuel to take place

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in both the B.R.-A.S. zone (at the pump) and the B.R. zone (in the convenience store/carry out restaurant building).

In addition, although the fuel service pumps and the convenience store/carry out restaurant building and parking are proposed to be located in the B.R.-A.S. and B.R. zones, respectively, due to the fact that a portion of the parking for customers and employees will be located in the D.R.3.5 zoned area of the property, Petitioners are seeking special hearing approval of business parking in the residential zone. Finally, as is mandated by the RTA conditions, Section 1B01.1.B.1.e of the B.C.Z.R. requires a fifty-foot buffer and seventy-five-foot setback for parking lots or structures. As shown on the redlined site plan, Petitioners propose to comply with the RTA buffer and setback requirements; however, in order to allow for efficient ingress and egress on the site and from one side of the site to the other, Petitioners propose an internal private road on the site that will wrap around the rear of the proposed convenience store/carry out restaurant building. Most of this private road will be located in the B.R. zoned area of the property, but a portion of the road will be located in the D.R.3.5 zoned area and will be within the 50 foot RTA buffer. Hence, Petitioners request special hearing approval of the private road to bisect the RTA buffer or, in the alternative, variance from the amount of RTA required pursuant to Section 1B01.1.B.1.c or Section 307.1 of the B.C.Z.R. to permit the private road.

In support of the various requests for relief, Petitioners called as a witness David L. Martin, Petitioners' site plan and architectural consultant. A copy of Mr. Martin's resume was marked and accepted into evidence as Petitioners' Exhibit 1. As indicated in his resume, Mr. Martin is a graduate of Penn State University with a Bachelor of Science degree in Landscape Architecture. His professional experience includes 36 years of practice in areas such as land

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planning, landscape architecture, land use, and zoning. He has testified as an expert in the areas of land use and zoning before the Zoning Commissioner, the Board of Appeals, and the Planning Board. He was offered and accepted as an expert in the areas of land use, landscape architecture, and interpretation of the Baltimore County Zoning Regulations.

Mr. Martin initially described the properties and the area surrounding the subject property. Located on the opposite side of Reisterstown Road is the Chartley Shopping Center, as well as a Citgo fuel service station; to the south is a Hess fuel service station and Whitcraft Transmissions; to the north on the opposite side of Stocksdale Avenue is a Jiffy Lube service station; and to the west, located on the opposite side of Owings Avenue, are residential dwellings. Properties similar to the subject property in the County generally have areas of significant commercial use along business and commercially zoned main roads such as Reisterstown Road, but often back up to residentially zoned and used areas, as is the case here. Photographs of the subject property and this commercial corridor of Reisterstown Road, and the residential area to the rear of the subject property, were marked and accepted into evidence as Petitioners' Exhibits 4A through 4P. As indicated earlier, Mr. Martin pointed out that the majority of the property (1.27 acres) is zoned B.R.-A.S. or B.R. Virtually all the frontage on Reisterstown Road in this area is zoned for business and commercial uses, as shown on the aerial photograph with an overlay of the zoning map, which was marked and accepted into evidence as Petitioners' Exhibit 5.

Mr. Martin then described the proposed landscaping to accompany the development of the site. The proposed schematic landscape plan was marked and accepted into evidence as Petitioners' Exhibit 2B. This plan shows landscaping around the entire property. In particular, the plan depicts a 10 foot landscape area along Reisterstown Road, a 10 foot landscape area

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along Stocksdale Avenue, and a six foot landscape area abutting the Hess fuel service station, all containing shrubs and seasonal plantings. Along the rear of the property adjacent to the residential dwellings on Owings Avenue, there is a 50 foot RTA buffer. Within the buffer are planned shrubs, as well as evergreen and deciduous trees. A six foot high board-on-board wooden fence is also proposed along the entire rear property line. Obviously, the intent of the fencing and landscaping is to provide as much screening as possible between the commercial area and the residential areas. Petitioners also plan additional trees on the parking islands. To further illustrate Petitioners' intentions with regard to the property, Mr. Martin submitted a second aerial photograph of the subject property and surrounding areas. This photograph was overlaid with the redlined site plan as well as Petitioners' schematic landscape plan, and was marked and accepted into evidence as Petitioners' Exhibit 6. It provides a visual perspective of the proposed structural and landscaping improvements to the property, in relation to the existing structures in the immediate vicinity.

As shown on the site plan, Petitioners propose four fuel service islands to be situated on the east side of the property that fronts Reisterstown Road. Each island will contain two fuel service pumps, with access to the pumps from each side. The convenience store and restaurant will consist of a single 1½-story building with a pitched roof. The building will face Reisterstown Road and be approximately 5,589 square feet in size, of which 3,189 square feet will be for the convenience store and 2,400 square feet for the carry out restaurant. Proposed exterior elevations, which were marked and accepted into evidence as Petitioners' Exhibit 7, show the visual appearance of the Wawa Market. The building will have a thin brick veneer exterior with a metal Dutch seam roof. The roof will be slate grey in color, and the brick veneer will have a two-tone maroon (lower) and white (upper) color scheme. There will also be an

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enclosed dumpster area to the rear of the property. The exterior elevations also depict the proposed canopy above the fuel service islands, which will match the roof line and color of the building roof.

Mr. Martin then specifically discussed the requests for relief and began with the special exception to use the property as a fuel service station, as well as a convenience store and carry out restaurant. Section 405.2.B of the B.C.Z.R. allows fuel service stations on individual sites by special exception, subject to Section 405.3 concerning the presence of abandoned fuel service stations, and the site development and appearance standards in Section 405.4 of the B.C.Z.R. Sections 405.4.E.1 and 405.4.E.10 of the B.C.Z.R. allow a convenience store with a sales area larger than 1,500 square feet and a carry out restaurant, respectively, as uses in combination with fuel service stations by special exception. According to Mr. Martin, the proposed development meets the site development standards of Section 405.4.A of the B.C.Z.R., including site dimensions, setbacks, and access, internal circulation and vehicle reservoir capacity. It also meets the appearance standards of Section 405.4.C of the B.C.Z.R., and Mr. Martin pointed to the exterior elevations which show the visual appearance of the proposed fuel service islands and pumps, the canopy, and the convenience store and carry out restaurant.

Other than the convenience store and carry out restaurant, the fuel service station does not anticipate any additional ancillary uses, under Section 405.4.D of the B.C.Z.R., except for an ATM machine inside the convenience store, water and air, and some auto supplies located in the convenience store sales area. As to lighting, under Section 405.4.C.1.d, if a fuel service station is located within 50 feet of residentially zoned property, lighting standards on site may not exceed a height of 18 feet and shall be directed away from any residentially zoned properties. Marked and accepted into evidence as Petitioners' Exhibit 8A is Petitioners' proposed lighting

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plan. The plan shows the location of lighting standards and the degree of illumination on the site and the surrounding areas. In particular, it shows virtually no lighting into the residential areas on Owings Avenue, in compliance with the lighting standards as to coverage and intensity. Also marked and accepted into evidence as Petitioners' Exhibit 8B is a schematic of the various lighting types to be employed on the site.

In support of the requested use, Mr. Martin addressed the special exception criteria contained in Section 502.1 of the B.C.Z.R. and opined that there would be no detrimental impact to the listed criteria. In pertinent part, the proposed use would not be detrimental to the health, safety, or general welfare of the locality, and as to traffic, the expected use would draw from motorists traveling on Reisterstown Road, irrespective of the presence of the fuel service station, hence there would be no impact. As compared with other stations nearby, most of which were built purely as automotive service stations typically with shortages of parking, stacking spaces, and vehicle circulation, the instant proposal will meet the current requirements for this type of use. In addition, it will not be a destination location, so there will be very little impact in terms of additional traffic; as to a potential hazard from fire, panic or other danger, this new development will comply with all fire codes and will have access at three locations. Moreover, the proposed development will comply with all zoning regulations as to site area so there will be no overcrowding of land or undue concentration of population. As shown on Petitioners' lighting plan, the lighting will be sufficient to illuminate the site, without encroaching into the residential areas so there will be no interference with adequate light and air. Finally, the redlined site plan and landscaping plan shows that the use of the split zoned property will be consistent with the spirit and intent of the zoning regulations.

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In sum, Mr. Martin indicated that there is a diversity of uses and appearances in the area of the subject property where Reisterstown Road transitions to Main Street, and the proposed development of the property pulls together a number of architectural elements from the area and complements the existing structures. In addition, the proposed development will be an upgrade from the existing commercial structures, such as the Jiffy Lube, Hess and Citgo fuel service stations, and Whitcraft Transmissions, and will also upgrade the existing structures on the subject property. Moreover, Mr. Martin opined that, under *Schultz v. Pritts*, 291 Md. 1 (1981), the proposed use of the property at the subject location would not have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the particular zoning district.

The next request for relief concerns the special hearing or, in the alternative, the variances to allow the proposed private road to bisect the 50 foot RTA buffer located to the rear of the property. The goal of Petitioners is to obtain permission for the internal private road; however, Petitioners have proposed three methods of achieving this goal. The first is by way of special hearing. Petitioners seek an interpretation by the undersigned that the zoning regulations allow the proposed private road pursuant to the exceptions to the RTA contained in Section 1B01.1.B.1.e(3) of the B.C.Z.R. Specifically, Mr. Martin quoted from this section, which states as follows:

> e. Conditions in residential transition areas.
>
> (3) The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, storm water management ponds or accessory structures, *but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments*. (emphasis added).

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In reviewing this subsection, Mr. Martin opined that the zoning regulations allow for the RTA buffer to be bisected by a road as a matter of right. This private drive aisle is necessary in order to give limited access to the site from one side of the proposed development to the other.

The second and third methods of achieving the private drive aisle are by way of variances from the zoning regulations. In particular, Section 1B01.1.B.1.c(2) of the B.C.Z.R. allows for variances of the RTA requirements and states as follows:

> c. Variance of RTA.
>
> (2) The RTA for a tract may be modified as directed by findings pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

Section 32, Title 4, Subtitle 4 of the Baltimore County Code (B.C.C.) entitled "General Design Standards and Requirements" are intended to provide criteria for the preparation and review of proposed development. Section 32-4-402 entitled "Compatibility" sets forth in subsection (d) the compatibility objectives that development of property shall be designed to achieve. In analogizing the instant matter to the Development regulations contained in Title 4, Mr. Martin discussed the proposed development of the subject property in relation to the compatibility objectives and offered his opinion that Petitioners' plans are in compliance with the applicable objectives. Hence, a variance of the RTA buffer requirement is warranted in this case and the proposed private road should be permitted to bisect the 50 foot RTA buffer.

In addition, Section 307.1 of the B.C.Z.R. provides the Zoning Commissioner with the authority to generally grant variances from height and area regulations, from off-street parking regulations, and from sign regulations in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where

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strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. It also states that relief shall be granted if in strict harmony with the spirit and intent of the regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare.

In the instant matter, Petitioners are seeking variance relief from the RTA in order to allow the internal private road to bisect a portion of the RTA buffer. In support of the variance request under Section 307.1 of the B.C.Z.R., Mr. Martin pointed to several unique characteristics of the property. First, the property is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. Second, the property is bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and residential uses. Third, the geometry of the site reflects an irregular shape. Fourth, the residential nature of Owings Avenue and, in particular, the use of Owings Avenue as part of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is obviously an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, Petitioners believe it is necessary -- and beneficial -- to come up with a plan for the use of this area of the property that abuts the residential area.

In terms of practical difficulty and unreasonable hardship, Mr. Martin indicated that literal enforcement of the zoning regulations, and thereby not allowing the internal private road, would essentially force a connection to the public street (Owings Avenue) in order to gain the access necessary for the site, while also technically complying with the regulations. In addition, granting the variance would not harm the public interest. In fact, Mr. Martin indicated that allowing the internal private drive aisle would benefit the abutting residential neighborhood by

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enabling traffic to be contained completely on site. On the other hand, forcing Petitioners to gain access directly from Owings Avenue would be a real detriment to the local neighborhood.

Petitioners' final request for relief is the special hearing request pursuant to Section 409.8.B of the B.C.Z.R. to permit business parking in a residential zone for customer and employee parking. This subsection requires that a use permit be issued following a special hearing and a finding that the request meets the objectives of Section 409.8.B.2 of the B.C.Z.R. In addition, the request for parking must meet the special exception criteria delineated in Section 502.1 of the B.C.Z.R. On these factors, and based on the prior testimony above, Mr. Martin indicated that the proposed development will meet or exceed the objectives of Section 409.8.B and will meet the criteria of Section 502.1.

Petitioners' final expert witness was Ken Schmid with Traffic Concepts, Inc. Mr. Schmid is a civil engineer focusing on traffic engineering and was retained by Petitioner to review and investigate the potential traffic impacts of the proposed development on the surrounding community. A copy of his resume was marked and accepted into evidence as Petitioners' Exhibit 9. As his resume indicates, Mr. Schmid has testified numerous times as an expert in the areas of transportation planning and engineering and land use in Baltimore County and was offered and accepted as an expert in this case. In sum, Mr. Schmid opined that the proposed Wawa Market will not be detrimental to the health, safety, and general welfare of the locality and in particular, will have minimal impacts on traffic.

In support of this conclusion, Mr. Schmid discussed a number of factors. Initially, Mr. Schmid indicated the new Wawa Market would be a traffic "interceptor" for "passerby" type use, as it would be located along a high volume, arterial type of road system. It would not be a traffic "generator." In addition, Mr. Schmid indicated he made field visits during the peak morning and

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evening times, lunchtime, and afternoons. He also looked at nearby traffic lights, accident data, traffic counts, and transportation services data. He noted the nearest intersection is Chartley Drive and Reisterstown Road and its most recent rating from Baltimore County was that it is operating at an "A" rating as of December 2006. The intersection of Stocksdale Avenue and Main Street is operating at an "A" in the morning and a "B" in the afternoon and at peak times. Mr. Schmid acknowledged there will be additional traffic into and out of the subject property, however, it will be drawing primarily the existing traffic that would already be traveling on the road regardless of the presence of the Wawa market. Moreover, there will be no greater impact at this location than another location in the zoning district. As such, Mr. Schmid believes that based on existing conditions coupled with the proposed development, the roads and intersections are adequate and would be minimally impacted, and that any traffic issues are manageable.

Petitioners' final witness was Dave Stone. Mr. Stone resides at 21 Stocksdale near the subject property. Mr. Stone is in favor of the proposed Wawa Market as he believes it will be a significant upgrade to the existing structures and will be an asset to the area. He also does not believe the Wawa will diminish property values. In addition a letter of support was submitted by another adjacent neighbor, Ellen and Michael Tebo of 500 Owings Avenue, directly behind the subject property. This letter dated December 4, 2007 was marked and accepted into evidence as Petitioners' Exhibit 10. Mr. and Mrs. Tebo believe the Wawa will bring a stable business to the area, and will result in a newer, cleaner site that will fit in with the revitalization of Reisterstown. Their main concerns are that a fence be erected along the entire rear of the property and that it be properly screened, that no deliveries or trash pick up occur from Owings Avenue, and no late evening or early morning trash pick up. Finally, a letter of support was sent by the Reisterstown · Owings Mills · Glyndon Chamber of Commerce. This letter dated December 6, 2007 was

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marked and accepted into evidence as Petitioners' Exhibit 11. In its support of the project, the letter states that the proposed site is currently underutilized and does not present a proper image to the "gateway" to Reisterstown's Main Street, that redevelopment of the site may encourage further business expansion in the area and may encourage other existing businesses to rehabilitate their properties, and that competition is good for both residential and business communities.

Following Petitioners' presentation, Protestants presented their opposition to the proposed development of the subject property. The first witness to testify was Robert Begleiter. Mr. Begleiter owns the One Stop Convenience & Deli located at 11700 Reisterstown Road approximately two miles south of the subject property. His store is a convenience store, deli and liquor store; he does not sell gasoline. He believes the proposed Wawa Market and fuel service station will not only affect his business and others, but will also create business from outside the local area. In short, he believes the Wawa will pull traffic from a number of different areas such as Interstate 795 and will thereby increase traffic on Reisterstown Road.

Other opposition witnesses included nearby neighbors Susan Schultz, Isabelle Drenning, and Victor Olson, as well as Mary Molinaro on behalf of the Chartley Homeowners Association, Inc. In addition, letters of opposition were also submitted which included the following: letter dated December 3, 2007 from Ms. Molinaro as President of the Chartley Homeowners Association, Inc. marked and accepted into evidence as Protestants' Exhibit 1, letter dated December 4, 2007 and two photographs from Christina and Victor Olson of 510 Owings Avenue and marked and accepted into evidence as Protestants' Exhibit 2, letter dated December 6, 2007 from Kathleen Gambrill of 1021 Cockey's Mill Road marked and accepted into evidence as Protestants' Exhibit 3, letter dated December 4, 2007 from Isabelle Drenning of 39 Stocksdale

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Avenue marked and accepted into evidence as Protestants' Exhibit 4, letter dated January 9, 2008 from Barbara Karpel of 240 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 5, letter dated January 9, 2008 from Elaine Latham of 308 Glyndon Drive marked and accepted into evidence as Protestants' Exhibit 6, letter dated January 11, 2008 from Robert and Jane Hienz of 239 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 7, and letter received January 16, 2008 from Eileen Ruffner of 403 Highmeadow Road marked and accepted into evidence as Protestants' Exhibit 8. The testimony of these witnesses and the letters expressed similar concerns over the proposed development of the subject site, including increased traffic and congestion, the adverse effects on the adjacent residential neighborhood, the number of gas stations already in existence nearby, and issues with noise and constant lighting associated with the site since the Wawa is planned to be open 24 hours.

George Harmon on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council (ROG) presented the balance of Protestants' case opposing the proposed development. ROG represents communities in the 21117 and 21136 zip codes and geographic areas from the Carroll County line to Owings Mills and the Greenspring Valley. In addition to his civic work, Mr. Harmon has a background and expertise in hazmat spill response and safety issues, as well as noise control, including having previously managed a number of environmental programs for State agencies.

Mr. Harmon addressed a number of issues of concern regarding the potential Wawa Market and fuel service station. This included parking in residential areas by a commercial business bringing issues of excessive noise and high wattage lighting. Mr. Harmon also believes the traffic impact has been understated, especially at Stocksdale Avenue and Reisterstown Road, and disagrees that there would be similar impacts elsewhere due to the uniqueness of this

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intersection, where traffic is channeled from a four lane road (with a center turn lane) into two lanes. Another issue is what Mr. Harmon considers abandonment of gas stations in the vicinity of the subject property. He indicated that in determining whether the instant fuel service station is appropriate, it is necessary to consider under Section 405.3 of the B.C.Z.R. the presence of abandoned fuel service stations within a one-half mile to one mile radius. Marked and accepted into evidence as Protestants' Exhibit 9 is a map of Reisterstown Road near the subject property. This map was also labeled by Mr. Harmon with existing fuel service stations on Reisterstown Road within approximately two to three miles of the subject property. He also marked the map with the locations of what he believes are "abandoned" stations. Mr. Harmon asserts that because there exists abandoned stations within a one-half mile radius of the proposed Wawa market and fuel service station location, there is no need for the Wawa.

In sum, the Protestants believe locating the Wawa Market and fuel service station at the subject site, right at the entrance to the Reisterstown Historic District, is not an appropriate location. They also believe another fuel service station is unnecessary in the vicinity due to the already existing stations nearby. Finally, they believe likely traffic congestion balances against granting the relief requested, in that significant numbers of vehicles will be diverted to the subject location, which will contribute to increased traffic flow problems.

The Zoning Advisory Committee (ZAC) comments were received from the relevant County and State agencies and are made part of the record of this case. The comments received from the Department of Environmental Protection and Resource Management (DEPRM) dated November 6, 2007 indicate that the development proposal must comply with the Forest Conservation Regulations, and that any required afforestation may be addressed by offsite planting, offsite retention, or payment of a fee in lieu of planting. Comments received from the

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Bureau of Development Plans Review dated October 15, 2007 indicate that the ultimate right-of-way width for Stocksdale and Owings Avenues is 50 feet. The right-of-way widening must be shown on the plan along with a cut-back at the intersection. Setbacks should be shown based on the widenings, and the variance request revised accordingly. The comment from the State Highway Administration (SHA) dated October 22, 2007 indicates that their review of Petitioners' plan and a field inspection reveal that a permit is required for improvements along the subject property fronting Reisterstown Road (MD 140), and recommend that Petitioners be required to obtain a SHA Access Permit as a condition of approval of the plan. The Office of Planning's November 19, 2007 Inter-Office Correspondence offered no comments to the plan, and the October 11, 2007 letter from the County Fire Marshal's Office also offered no comments.

In regard to the request for special exception, the first issue that must be addressed is the issue of "abandoned" fuel service stations. Protestants claim that once the owners of the nearby service garages ceased to use the property as a fuel service station, they deserted that use and, so long as the property is not used as a fuel service station, it is deemed an "abandoned fuel service station" -- that is, once abandoned, always abandoned. Petitioners, on the other hand, argue that, to be considered an "abandoned fuel service station," the property must *presently* be used for *no purpose* and, therefore, because the owners of the subject property have effectively converted the fuel service station use into an existing service garage use, it is not an "abandoned fuel service station." (emphasis added).

On this issue, I agree with Petitioners and find that the fuel service station use was *converted* into service garage use -- not abandoned -- and, therefore, the nearby stations, including the Exxon station referenced in Protestants' Exhibit 9, is not an "abandoned fuel

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service station" for purposes of Section 405.3 of the B.C.Z.R. As explained by the Board of Appeals in *In the Matter of the Application of Seven Kids, LLC,* "[B.C.Z.R.] Section 405.3 does not set forth a valid definition of abandoned gas stations." Board Opinion at 10. However, the Board in that case declared "the three long-abandoned stations [in the vicinity of the proposed location] including the one abandoned at the proposed site, would [not] qualify as abandoned stations within the meaning of Section 405.3." Id. at 10-11. Clearly, timing is a major factor in determining whether or not a fuel service station use has been "abandoned."

Additionally, the County Council's reference in Section 405.3 of the B.C.Z.R. to Section 405.7 and its use of present tense language indicates intent that the "presence" of an "abandoned fuel service station" requires an existing structure, formerly used as a fuel service station, which, at the current time, is not used for any purpose. Section 405.7, which identifies and discusses "abandonment" of fuel service stations for the purpose of determining when a special exception for a fuel service station should be terminated and when the station should be removed, implies that, to be considered "abandoned," the property upon which a fuel service station formerly operated must be vacant and not used for any purpose. Furthermore, in determining when a special exception is considered terminated, Section 405.7.C specifically distinguishes between "abandonment" and "conversion" of fuel service stations. Section 405.8 also indicates that the law favors conversion of fuel service stations into alternative uses, as opposed to abandonment of fuel service stations altogether. For the above stated reasons, I find that in this case, the existing service garages referenced by Protestants cannot be considered an "abandoned fuel service station" for purposes of Section 405.3 of the B.C.Z.R.

Having resolved the "abandonment" issue, at this juncture, before any special exception may be granted, it must be determined whether the use for which the special exception is

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requested will have a negative impact on the criteria set forth in Section 502.1 of the B.C.Z.R.

Moreover, as set forth in *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981) and quoted in *Lucas v. People's Counsel for Baltimore County*, 147 Md.App. 209, 238 (2002):

> [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

This standard requires identification of the adverse effects inherent to the proposed special exception use -- that is, effects that the use would have, regardless of where in the zone the use were employed -- and sufficient evidence to prove that the adverse effects resulting from the proposed use at the proposed location will not exceed the identified inherent effects.

Among other concerns, the most contentious issue in the instant matter appears to relate to the impact of the proposed Wawa on traffic and the decisive factor of whether the Wawa will "tend to create congestion in roads, streets or alleys therein," pursuant to Section 502.1.B of the B.C.Z.R. Petitioners and Protestants each presented evidence and arguments relating to how the proposed Wawa would affect traffic. Protestants testified that the Wawa would pull in additional traffic from other areas, most notably Interstate 795, and would cause additional congestion from the traffic entering and exiting the location, as well as the fact that the subject location on Reisterstown Road channels from five lanes (including a center turn lane) to two lanes.

However, Petitioners' traffic expert, Mr. Schmid, indicated that the Wawa would be a traffic "interceptor" rather than a traffic "generator." In short, the new store would not be a destination location where patrons would make special trips to the Wawa; rather, the Wawa will draw from existing traffic already traveling on Reisterstown Road. According to Mr. Schmid, the traffic generated by the Wawa will be minimal. In addition, Mr. Schmid pointed out that

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each of the nearby intersections is operating at an "A" (Chartley Drive) and "A/B" (Stocksdale Avenue) rating. Based on the testimony and evidence I find that the proposed Wawa Market and fuel service station will not "tend to create congestion in roads, streets or alleys," above and beyond such effects that may be inherent in the use. I also find that Petitioners have met their burden with regard to the additional factors set forth in Section 502.1 of the B.C.Z.R. Hence, I am persuaded to grant Petitioners' special exception request.

In regard to the requests for special hearing, I am persuaded to grant the relief and allow payment for fuel service in combination with the convenience store and carry out restaurant to be made in both zoning areas, where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone. Rather than having an unattractive kiosk in the B.R.-A.S. zone just so payment for fuel can be made, it is more appropriate and in keeping with Petitioners' business practices to allow payment to be made in the convenience store area located in the B.R. zone. As to business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R., as shown on the site plan, Petitioners propose 51 parking spaces for the site. Most of these spaces will be located in the B.R.-A.S. or B.R. zones; however, it appears eight spaces and parts of eight other spaces will encroach in the D.R. zoned portion of the property. These spaces will not be located within the 50 foot RTA buffer or 75 foot setback. Based on the irregular shape of the property and its split zoning, as well as the testimony of Mr. Martin, Petitioner's architectural consultant, as to compliance with the Section 502.1 factors, and Petitioners' landscape plan and lighting plan being in compliance with the design standards set forth in Section 409.8 of the B.C.Z.R., I am persuaded to grant this relief.

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The last request for relief concerns the request to permit a private road to bisect the 50 foot RTA buffer area at the rear of the property abutting Owings Avenue. Petitioners request this relief by way of either special hearing pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R., variance from the RTA specifically pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or variance generally pursuant to Section 307.1 of the B.C.Z.R. As to the special hearing, Section 1B01.1.B.1.e(3) of the B.C.Z.R. states that the 50 foot RTA buffer may be bisected by roads, paths and trails that are designed to connect to adjoining developments; however, in the instant matter, I find this section is not applicable. Here, we are not considering adjoining developments, hence this section is not implicated. As to the request for variance from the RTA pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., this section allows the "hearing officer" to determine the amount of RTA in certain circumstances, provided also a compatibility finding is made under Section 32-4-402 of the B.C.C; however, again, in my view, this section is not applicable to the instant matter. The undersigned is not sitting as "hearing officer" considering a development plan; rather I am sitting as Deputy Zoning Commissioner considering only the instant zoning case. In addition, there have been no recommendations from specific County agencies as required by Section 1B01.1.B.1.c(1) of the B.C.Z.R. Hence, relief cannot be granted under this section. This leaves the "general" provision regarding variances set forth in Section 307.1 of the B.C.Z.R. In this instance, I am persuaded to grant the requested relief.

In the instant matter, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request. The property has an irregular shape and is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. The property is also bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and

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residential uses. Moreover, the residential nature of Owings Avenue presents a difficult situation. Owings Avenue abuts the property line of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is clearly an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, the desire to keep the residential character of the street in the midst of a commercial use of the subject property presents a significant challenge to Petitioners. These factors make the property unique in a zoning sense. In addition, the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. I agree with Petitioners that literal enforcement of the zoning regulations, and thereby not allowing the private road to bisect the RTA, would essentially force a connection to Owings Avenue in order to gain the access necessary for the site, while also technically complying with the regulations. Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I agree with Petitioners that allowing the internal private drive aisle will benefit the abutting residential neighborhood by enabling traffic to be contained completely on site.

Pursuant to the advertisement, posting of the property, and public hearings on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioners' requests for special exception and special hearing should be granted and the request for variance should be granted.

THEREFORE, IT IS ORDERED, this 14th day of March, 2008, by the Deputy Zoning Commissioner, that Petitioners' request for Special Exception to permit a fuel service

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Date 3.14.08

By [illegible]

station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.) be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' request for Special Hearing (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone, and (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R. be and are hereby GRANTED; and (3) the request to confirm that a private road is permitted to bisect the 50 foot RTA buffer to connect to adjoining developments, pursuant to Section 1B01.1B.1.e(3) of the B.C.Z.R., or, in alternative, to approve a variance to Section 1B01.1.B.1.c of the B.C.Z.R. be and are hereby DISMISSED as MOOT; and

IT IS FURTHER ORDERED, that Petitioners' request for Variance to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 307.1 of the B.C.Z.R. be and is hereby GRANTED, subject to the following which are conditions precedent to the relief granted herein:

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

2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

3. The ultimate right-of-way width of Stocksdale and Owings Avenues is 50 feet. The right-of-way widening, if and/or as required by Development Plans Review, must be shown on the plan along with a cutback at the intersection.

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4. Lighting of the site shall be in accordance with the Lighting Plan contained in Petitioner's Exhibit 8A and 8B and shall comport with Code and Zoning Regulation requirements. In addition, there shall be minimal lighting at the rear property line with no direct glare from under canopies.

5. There will be no outdoor speakers other than for emergency purposes.

6. The new building will not exceed the required HVAC noise levels. Wawa shall agree to allow noise sources to be tested, though not at Wawa's expense.

7. There shall be no authorized road or pedestrian access to or from the site at Owings Avenue. There shall also be appropriate screening in the form of fencing and landscaping at the property line along Owings Avenue to reflect the transition between the commercial and residential areas. Moreover, the fence line shall continue around the corner where the subject property adjoins the Whitcraft property for a distance of 20 feet in order to further deflect pedestrian access to and from Owings Avenue.

8. The building shall have a red brick veneer on all sides from ground to cornice.

9. The canopy shall have the same look and appearance as the convenience store and carry out restaurant building, with a standing seam metal roof which will accommodate the historic appearance of the area.

10. Petitioner's Landscape and Lighting Plans shall be subject to approval by the County's Landscape Architect.

11. There shall be no car wash or vacuum facilities on the property.

12. Signage must be placed on the building to indicate: "All delivery vehicles must be turned off. No idling permitted."

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

[illegible] 3-14-08

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

*(This petition **must** be filed in person, in the zoning office, in triplicate, with original signatures.)*

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

(This box to be completed by planner)

(1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone;

(2) to permit business parking in a residential zone for customer and employee parking pursuant to section 409.8.B, BCZR;

(3) to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or, in alternative, to approve a variance to section 1B01.1B.1.e(3). (see variance petition)

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave. 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Legal Owner(s):

S & J Management, Inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Main Street

Address Telephone No.

Reisterstown, Maryland 21136

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave., 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 08-163-SPHXA

REV 9/15/98

Reviewed By D.T. Date 10/4/07

3.14.08

Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property

located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave., 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Legal Owner(s):

S & J Management, inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road

Address Telephone No.

Reisterstown, Maryland 21136

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Case No. 08-163-SPHXA

ORDER RECEIVED FOR FILING

3.14.08 PB

By

REV 07/27/2007

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING _____
UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 10/4/07

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 516 Reisterstown Road

which is presently zoned DR 3.5, BR, BR-AS

Deed Reference: 20281 / 101 Tax Account # 0419009310

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

in the alternative, to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc (2) or to section 307, BCZR, whichever is determined to apply, see Petition for Special Hearing

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

to be determined at hearing

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Legal Owner(s):

S & J Management, Inc.

Name - Type or Print

Signature

Name - Type or Print

Signature

520 Reisterstown Road

Address Telephone No.

Reisterstown, Md 21136

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Md 21204

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Case No. 08-163-SPHXA

Office Use Only

Estimated Length of Hearing

Unavailable For Hearing

REV 8/20/07

3.14.08

Reviewed by D.T. Date 10/4/07

PB

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

SEPTEMBER 20, 2007

ZONING DESCRIPTION
HEARING AREA #1& #2

516 REISTERSTOWN ROAD

BEGINNING FOR THE DESCRIPTION OF A 1.27 ACRE TRACT IDENTIFIED AS PART OF PARCELS 252, 253, 254, 255, AND 982 TAX MAP 48, AT A POINT AT THE CENTERLINE INTERSECTIONS OF REISTERSTOWN ROAD AND STOCKSDALE AVENUE THENCE S15° 34' 16" E 60.42' FEET MORE OR LESS TO A POINT OF BEGINNING #1 AT THE NORTHERN MOST CORNER OF THE SUBJECT PROPERTY THENCE THE FOLLOWING COURSES:

1) S44° 32'02"E, 183.33' , THENCE
2) S47° 49'07"W, 293.22"' THENCE
3) N39° 44'21"W, 81.05', THENCE
4) N47° 24'53"W, 46.49', THENCE
5) N44° 56'43"E, 44.41', THENCE
6) N46° 08'02"E 64.67', THENCE
7) N50° 00'55"E, 9.63', THENCE
8) N45° 37'33"W, 193.4'
9) N85° 58'18"E, 222.9', THENCE
10) BACK TO THE POINT OF BEGINNING

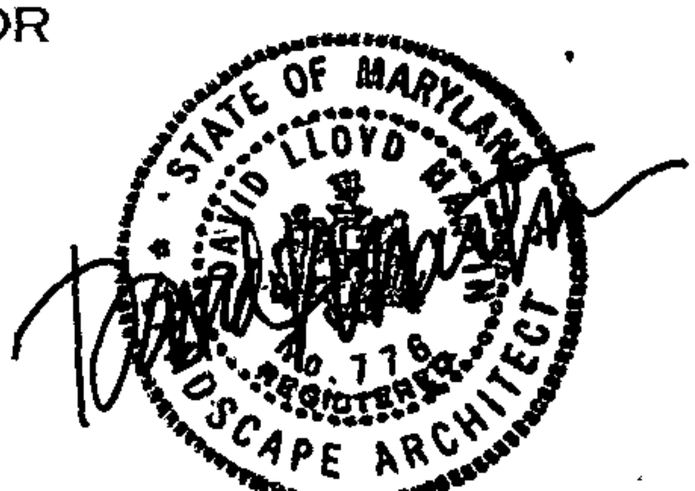
CONTAINING 55,321.2 SQUARE FEET OR 1.27 ACRES OF LAND MORE OR LESS.

THE ABOVE BEARINGS ARE BASED ON THE MARYLAND STATE COORDINATE SYSTEM (NAD83/91).

NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND IS NOT TO BE USED FOR CONTRACTS, CONVEYANCES OR AGREEMENTS.

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.8595
FAX: 410.321.1175

08-163-SPHXA



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: #08-163-SPHXA
516 Reisterstown Road
S/west corner of Main St., (Rte. 140) and Stocksdale Ave., east of Owings Avenue
4th Election District - 3rd Councilmanic District
Legal Owner(s): S & J Management, Inc.

Special Hearing: to confirm that the payment for fuel service combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone; to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B, BCZR, to confirm that a private road is permitted to bisect the 50-foot RTA buffer to connect adjoining developments, pursuant to Section 1B01.1b.1.e(3), BCZR, or in alternative, to approve a variance to Section 1B01.1B.1.e(3). ***Special Exception:*** to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10, BCZR. **Variance:** in the alternative, to permit a private road to bisect the 50-foot RTA buffer.

Hearing: Monday, *December* 10, 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 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.
JT/11/735 Nov. 20 155859

CERTIFICATE OF PUBLICATION

11/22, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 ~~successive~~ weeks, the first publication appearing on 11/20, 2007.

- ☑ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

P. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 08-163-SPHXA

Petitioner/Developer: S & J MANAGEMENT, INC

Date of Hearing/Closing: 12-10-07

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}

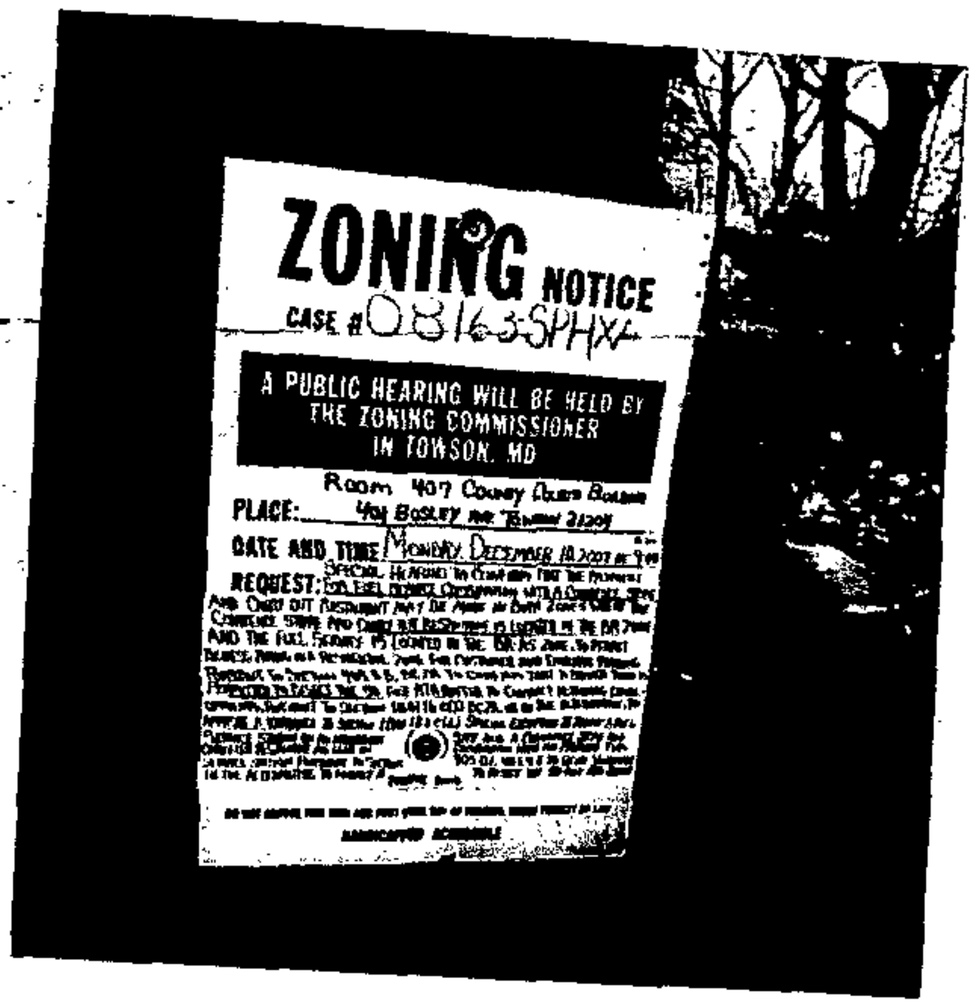
Ladies and Gentlemen:

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:

516 REISTERSTOWN RD

The sign(s) were posted on 11-24-07
(Month, Day, Year)

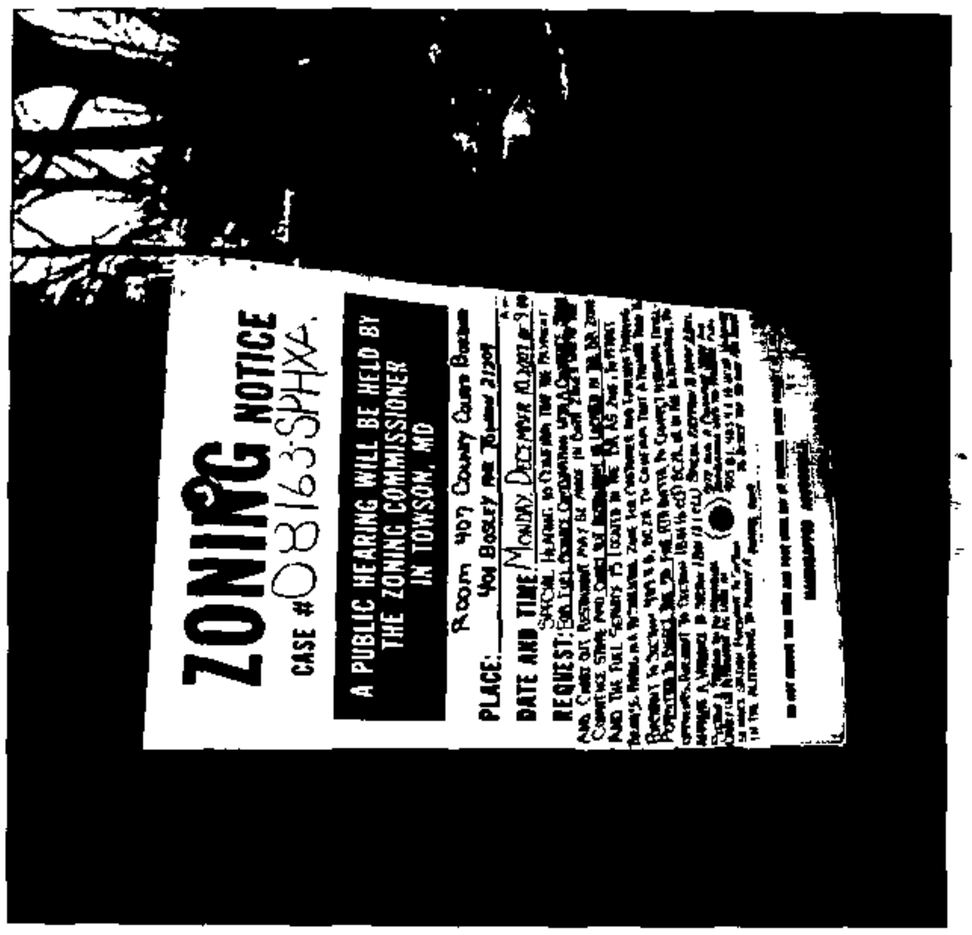
Sincerely,



Robert Black 11-20-07
(Signature of Sign Poster) **(Date)**

SSG Robert Black

(Print Name)



RE:	PETITION FOR SPECIAL HEARING SPECIAL EXCEPTION & VARIANCE 516 Reisterstown Road; SW corner Main St and Stocksdale Ave, E of Owings Avenue 4th Election & 3rd Councilmanic Districts Legal Owner(s): S & J Management, Inc Petitioner(s)	*	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 08-163-SPHXA

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

ENTRY OF APPEARANCE

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

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2007, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED
OCT 15 2007
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE 1-16-08

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
ARNOLD JAMESON /	210 ALLEGHENY AVE	TOWSON 21204	
Ken Schmick /	325 Gamballs Rd	Gamballs, MD 21054	
DAVID MARTIN /	222 BOSLEY AVE. S.B1	TOWSON, MD 21204	dmartin@martinandphillips.com
Bruce Rice /	P.O. Box 448	Riderwood MD. 21139	bruce.s.rice@wawa.com
GREG HARVEY /	260 W. BALTIMORE PIKE WAWA PA	WAWA PA 19063	GREGORY.T.HARVEY@WAWA.com
BARBARA REYNOLDS /	306 LAUREN Hill COURT	REISTERSTOWN, MD 21136	ASILVEREX@AOL.COM
DAVE STONE JR /	21 STOCKDALE Ave	Reisterstown MD 21136	DSTONEJR@Longandfoster.com
ELLEN & MIKE TEBO /	500 OWINGS AVE	REISTERSTOWN MD 21136	CHOWSHIBA@COMCAST.NET
Stuart Pollack /	526 Main Street	Reisterstown MD	Stuart Pollack @ Bartlett - Use

PLEASE PRINT CLEARLY

CASE NAME WaWa
CASE NUMBER 07-163-SPHXA
DATE 12-10-07

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
EA Ken Schmidt	325 Gambrills Rd	Gambrills, Md, 21054	KSCHMIDT@TRAFFICONCEPTS.COM
SUP GREG HARVEY	260 W. BALTIMORE PIKE	WAWA PA 19063	GREGORY.T.HARVEY@WAWA.COM
ATT DAVID L. MARTIN	222 [illegible] AVE.	TOWSON, MD 21204	dmartin@martinandphillips.com
W BARBARA V. REYNOLDS	306 LAUREN HILL COURT	REISTERSTOWN, 21136	ASILVERFX@AOL.COM
SUP DAVE STONE JR.	21 Stocksdale Ave		
" "	15 Dean Ave		DSTONEJR.@LONGANDFOSTER.COM
" "	17 Dean Ave	Reisterstown MD 21136	
" "	20 Woodbey Ave		
SUP EILEEN/Michael TEBO	500 OWINGS AVE	REISTERSTOWN, MD 21136	CHOWSHIBA@COMCAST.NET
BRUCE RICE - WaWa	P.O. BOX 446	Ryderwood, MD. 21139	BRUCE.S.RICE@WAWA.COM

PLEASE PRINT CLEARLY

CASE NAME WaWa
CASE NUMBER 08-163-SPHxA
DATE 12-10-07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
~~Susan Schultz~~ ↗	ROG Coordinator Council		
George Harman	5429 Weywood Dr.	Reisterstown MD 21136	harmangeorge@hotmail.com
Mary Molinaro	215 Chartley Drive	Reisterstown, MD 21136	mmolinaro@softwarebasics inc.com
Victor Olson	510 Owings AVE	Reisterstown MD 21136	VWOlson@Hotmail.com
Susan Schultz	504 Owings Ave	Reisterstown MD 21136	
Charles Botteron	217 Hornvale Rd	Reisterstown Md 21136	mainstreetcitgo@verizon.net
Vicyum Chibb	558 MAIN ST	Reis MD 21136	C2CHibb@Yahoo.com
Robert Begleiter	117 OLD Reisterstown Rd	Reist MD 21136	
Mary Whitcraft	536 Main St	Reisterstown 21136	whitcraft@aol.com
~~Melissa Whitcraft~~	~~536 Owings Ave~~	~~Reisterstown 21136~~	~~Chooshoo@Comcast.NET~~
Diana Cavey	11904 Reisterstown Rd	Reisterstown MD 21136	Dianacavey@aol.com
Ken Higgs	534 Main St	Reisterstown MD 21136	
GREG DENNING	39 STOCKSDALE AVE	REISTERSTOWN, MD 21136	GSDENN1@AOL.COM
ISABELLE DENNING	39 STOCKSDALE AVE	REISTERSTOWN, MD 21136	GSDENN1@AOL.COM
Jane Hintz	739 Chartley Dr.	Reisterstown MD 21136	

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 5, 2007

Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

RE: Case Number: 08-163-SPHXA, 516 Reisterstown Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 4, 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:amf

Enclosures
c: People's Counsel
S & J Management, Inc. 520 Reisterstown Road Reisterstown 21136

TB 12/10
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
NOV 20 2007
BY:_____

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JAL

DATE: November 6, 2007

SUBJECT: Zoning Item # 08-163-SPHXA
Address 516 Reisterstown Road
(S&J Management Inc. Prop)

Zoning Advisory Committee Meeting of October 15, 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:

____ 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).

__X__ 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:
Any required afforestation may be addressed by offsite planting, offsite retention, or payment of a fee in lieu of planting.

Reviewer: Glenn Shaffer Date: 11/9/07

S:\Devcoord\1 ZAC-Zoning Petitions\ZAC 2008\ZAC 08-163-SPHXA.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 15, 2007

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

SUBJECT: Zoning Advisory Committee Meeting
For October 22, 2007
Item No. 08-163

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

The ultimate right-of-way width for Stocksdale and Owings Avenues is 50-feet. The right-of-way widening must be shown on the plan along with a cut-back at the intersection. Setbacks should be shown based on the widenings and variance request revised accordingly.

DAK:CEN:clw
cc: File
ZAC-ITEM NO 08-163-10152007.doc

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

State Highway Administration

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

Maryland Department of Transportation

October 22, 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. 8-163-SPHXA
MD 140 (Reisterstown Road)
s/w corner at Stockdale Avenue
S & J Management Property
Special Hearing
Special Exception

Dear Ms. Matthews:

Thank you for the opportunity to review the ZAC Agenda Case Number 8-163-SPHXA for the above captioned, which was received on October 16, 2007. We understand that his application illustrates a proposal to develop a fuel service in combination with a convenience store, carryout restaurant and surface parking for 44 vehicles.

We have completed a review of the referenced plan and as well as a field inspection. The results of the review reveal that a permit is required for improvements along the subject property fronting MD 140 (Reisterstown Road). We recommend that as a condition of Special Hearing and Special Exception Item No. 8-163-SPHXAapproval the owner/builder is required to obtain a State Highway Administration (SHA) Access Permit. Coordination with Mr. Michael Bailey, of this office is necessary to insure the proposed improvements are consistent with SHA guidelines. Please include our comments in staff report to the Zoning Hearing Officer.

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

Very truly yours,

for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB
Cc: Mr. David Malkowski, District Engineer, SHA
Mr. David L. Martin, Consultant Engineer, Martine & Phillips Design Associates, Inc.
Mr. Joseph Merrey, Department of Permits & Development Management, Baltimore County
Mr. Stuart Pollack, Applicant, S & J Management, Inc.

TB 12/10
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 19, 2007

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

RECEIVED
NOV 29 2007
BY:_____

SUBJECT: Zoning Advisory Petition(s): **Case(s) 8-~~199~~ 163 - Special Exception**

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

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

Reviewed By: Curtis Murray

Division Chief: Lyn Lanham
CM/LL

W:\DEVREV\ZAC\8-163.doc

In Re: Petitions for Special Exception Special Hearing and Variance SW corner of Main Street & Stocksdale Avenue, E of Owings Avenue 4th Election District 3rd Councilmanic District (516 Reisterstown Road) S & J Management, Inc. Legal Owner	*	BEFORE THE BOARD OF APPEALS BALTIMORE COUNTY Case No. 08-163 SPHXA

****

ENTRY OF APPEARANCE

Please enter the appearance of Michael P. Tanczyn, Esquire, as attorney for Robert Begleiter, 11700 Reisterstown Road, Reisterstown, Maryland 21136, Protestant/Appellant. Per the attached two letter, Mr. Begleiter filed this Appeal *pro se*. He intended to file individually and as part of the Chartley Neighborhood Association and the Reisterstown-Owings Mills-Glyndon Coordinating Council. The attached letters from Mr. Begleiter, as well as George Harman, President of the Reisterstown-Owings Mills-Glyndon Coordinating Council state the intent of Mr. Begleiter in filing the *pro se* appeal.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 15th day of July, 2008, a copy of the foregoing was mailed to Arnold Jablon, Esquire. Venable LLP, 210 Allegheny Avenue, Towson, MD 21285-

5517, Attorney for Petitioner and Peter Max Zimmerman, People's Counsel for Baltimore County, People's Counsel for Baltimore County, Room 204, 105 W. Chesapeake Avenue, Towson, MD 21204.

Michael P. Tanczyn

One Stop Convenience and Deli
11700 Reisterstown Rd.
Reisterstown, MD. 21136

County Board of Appeals of Baltimore City
Jefferson Building
Second floor suite 203
103 West Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen C Bianco, Administrator

RE: Case # 08163-SPHxA (WAWA)

Dear Ms. Bianco:

As I stated to you during our phone conversation, I put in the appeal opposing case # 08163-SPHxA as part of the Chartley neighborhood association., and the Reisterstown Owings mills-Glyndon coordination council. I've been attending their meetings and we had many discussions and concerns on how the Wawa in its planned location would negatively impact the area. Reisterstown road turns from four lanes to two lanes with no turn lane and is now and would become a much more dangerous road. People that don't live or do business in the area don't understand, and the neighborhoods do, and were shocked when Mr. Bestwick gave Mr. Jablon everything he asked for.

When we got Mr. Bestwick's report he stated that we could appeal by a certain date. After having discussions with both the Chartley neighborhood Assoc., and Reisterstown Owings mills-Glyndon coordination council I went and appealed for all of us. All we are asking for is our day in court that we were promised, and not by a shortcut by Mr. Jablon to stop the neighborhoods from stating their case at the trial date of August 28, 2008

Sincerely,

Robert Begleiter

Copy Via mail: Arnold Jablon
Mary Molinaro
George Harman
Office of people's counsel
Barbara Reynolds

Received Time Jun.23. 8:38AM

Reisterstown-Owings Mills-Glyndon
Coordinating Council

P.O. Box 117
Reisterstown, MD 21136

June 19, 2008

County Board of Appeals of Baltimore County
Jefferson Building
Second Floor Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kathleen C. Bianco, Administrator

RE: Case # 08-163-SPHXA (Wawa)

Dear Ms. Bianco:

The Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. (ROG) has voted at both Board and General membership meetings to oppose case number 08-163-SPHXA at the Hearing Officer level and any subsequent appeals. Various officers, including myself as President, are authorized to offer written or oral testimony in opposition at any and all legal proceedings regarding this matter. Rule 8 authorization has been prepared and will be presented at the hearings regarding this matter.

ROG argued against the proposed convenience and fuel service station being proposed by S & J Management, Inc. on a number of grounds that were denied at the Hearing Officer level. We believe that some of the arguments have significant merit and intend to join Mr. Robert Begleiter in his appeal of the Hearing Officer decision at the scheduled August 28, 2008 hearing before the Board of Appeals. Mr. Begleiter filed his appeal on behalf of those in the community that share our mutual concerns with the project. The general community remains opposed to the proposed development by Wawa, Inc., the contract purchaser of the property owned by S & J Management, Inc. ROG also intends to appear and oppose the Motion to Dismiss that was filed by Mr. Arnold Jablon on behalf of the petitioners of the zoning relief, with that action to be heard on July 1, 2008 at 10:00 AM.

Please advise me of any additional documentation that might be needed to qualify us to join and participate in the appeal filed by Mr. Begleiter. I may be reached by phone during the day at 410-537-3856.

Sincerely,

George Harman

George Harman, President

copy via email: Arnold Jablon
Barbara Reynolds
Mary Molinaro
Office of People's Counsel

Copy via mail: Robert Begleiter

Received Time Jun.23. 8:38AM

People's Counsel Sign-In Sheet

Case Name: S & J Management, Inc.
Case No.: 8-163-SPHXA
Date: JULY 1, 2008

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

Check to testify	Name	Address	Phone #	Email	Group you represent	Basis of your concerns
	Mary Molinaro	215 Chartley Drive	410-526-5704	mmolinaro@softwarebasics.com		
	ind & Chartley Homeowners Association, Inc.					
	George Harman	5429 Weyward Dr	410-429-6035	gtharman@aol.com	ROG	+ self

IN RE: PETITION FOR SPECIAL HEARING
SPECIAL EXCEPTION
AND VARIANCE
516 Reisterstown Road

4th ED, 3rd CD

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 08-163 sphxa.

* * * * *

SUBPOENA

Please issue a Subpoena to the following named witness to appear before the County Boad of Appeals of Baltimore county at the hearing for the matter captioned above on Thursday, Agust 28th, 2008, at 10:00 a.m. in Hearing Room # 2, located at The Jefferson Bldg, 105 W. Chesapeake Ave, 2nd Fl, Towson, Maryland 21204. and continuing thereafter as necessary for such witness' testimony and as scheduled by the Board of Appeals.

WITNESS: George Harman, President
Reisterstown-Owings Mills-Glyndon Coordinating Council
P O Box 117
Reisterstown, Maryland 21136

ADDRESS: The Jefferson Building
Hearing Room # 2, 2nd Fl
105 West Chesapeake Ave.
Towson, Maryland 21204

RECEIVED
JUN 3 0 2008
BALTIMORE COUNTY
BOARD OF APPEALS

General Purpose: bring all documents, minutes, e-mails, letters books and records in the possession of ROG pertaining to the proposed WaWa convenience store in combination with fuel service station for property known as 516 Reisterstown Road, which is the subject of the instant matter.

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

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

County Board of Appeals

Date: _____

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

May 9, 2008

Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 08-163-SPHXA, 516 Reisterstown Road

Please be advised that an appeal of the above-referenced case was filed in this office on April 7, 2008 by Robert Begleiter. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
See Attached List

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

March 14, 2008

ARNOLD JABLON, ESQUIRE
VENABLE LLP
210 ALLEGHENY AVENUE
TOWSON, MD 21204

Re: Petitions for Special Exception, Special Hearing and Variance
Case No. 08-163-SPHXA
Property: 516 Reisterstown Road

Dear Mr. Jablon:

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

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

Very truly yours,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz
Enclosure

c: S & J Management, Inc., 520 Reisterstown Road, Reisterstown MD 21136
Please See Attached List

S & J MANAGEMENT, INC.
520 REISTERSTOWN ROAD
REISTERSTOWN MD 21136

GREG HARVEY
260 WEST BALTIMORE PIKE
WAWA PA 19063

BRUCE RICE
PO BOX 448
RIDERWOOD MD 21139

DAVID L. MARTIN
MARTIN & PHILLIPS DESIGN
ASSOCIATES, INC.
222 BOSLEY AVENUE
TOWSON MD 21204

KEN SCHMID
TRAFFIC CONCEPTS, INC.
325 GAMBRILLS ROAD
GAMBRILLS MD 21054

BARBARA V. REYNOLDS
306 LAUREN HILL COURT
REISTERSTOWN MD 21136

DAVE STONE, JR.
21 STOCKSDALE AVENUE
REISTERSTOWN MD 21136

ELLEN AND MICHAEL TEBO
500 OWINGS AVENUE
REISTERSTOWN, MD 21136

GEORGE HARMON
5429 WEYWOOD DRIVE
REISTERSTOWN MD 21136

MARY MOLINARO
CHARTLEY HOMEOWNERS ASSN
PO BOX 408
REISTERSTOWN MD 21136-0408

STUART POLLACK
526 MAIN STREET
REISTERSTOWN MD 21136

SUSAN SCHULTZ
504 OWINGS AVNUE
REISTERSTOWN MD 21136

VIC CHIBB
557 MAIN STREET
REISTERSTOWN MD 21136

ROBERT BEGLEITER
11700 D REISTERSTOWN RD
REISTERSTOWN MD 21136

KEN HIGGS
534 MAIN STREET
REISTERSTOWN MD 21136

DIANA CAVEY
11904 REISTERSTOWN RD
REISTERSTOWN MD 21136

ISABELLE & GREG DRENNING
39 STOCKSDALE AVE
REISTERSTOWN MD 21136

JAMES MAYS
30 STOCKSDALE AVE
REISTERSTOWN MD 21136

VICTOR OLSON
510 OWINGS AVENUE
REISTERSTOWN MD 21136

CHARLES BRITTAIN
217 HOMEDALE RD
REISTERSTOWN MD 21136

MARY WHITCRAFT
536 MAIN STREET
REISTERSTOWN MD 21136

JANE HEINZ
239 CHARTLEY DRIVE
REISTERSTOWN MD 21136

KATHLEEN GAMBRILL
1021 COCKEYS MILL ROAD
REISTERSTOWN MD 21136

BARBARA KARPEL
240 CHARTLEY DRIVE
REISTERSTOWN MD 21136

ELAINE LATHAM
308 GLYNDON DRIVE
REISTERSTOWN MD 21136

EILEEN C. RUFFNER
403 HIGHMEADOW ROAD
REISTERSTOWN MD 21136

KAREN GOOD
231 BENTLEY HILL DRIVE
REISTERSTOWN MD 21136

BRIAN DITTO
REISTERSTOWN OWINGS MILLS
CHAMBER OF COMMERCE
100 OWINGS COURT, #9
REISTERSTOWN MD 21136

4/7/08

To: Bd of Town City Zoning

We would like to appeal the following

Case.

Case # 08-163-SPHXA

516 Weistenstown Rd.

Decision Rendered March 14 2008

Thank You

Bud Bugbee

RECEIVED

APR 07 2008

Per KM

File

Chartley Homeowners Association, Inc.

P. O. Box 408, Reisterstown, MD 21136-0408

RECEIVED
DEC 10 2007
BY:----------

December 3, 2007

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 8-163-SPHXA

Dear Sir or Madam,

We are writing to express our concern about and opposition to the purchase and development of the property on 516 Reisterstown Road. The case is described as Southwest corner of Main Street(Rt. 140) and Stocksdale Avenue, east of Owings Avenue by Wawa. We have several reasons to believe that the development will be a detriment to the community and will not fit within the Historic design of the area.

- A bill has been introduced by the County Council for the Reisterstown Road Corridor from Franklin Boulevard to Route 30 to be designated as a Renaissance Area. Our Chartley community organization directly borders historic Reisterstown and the designated Renaissance Area. The Chartley Homeowners Association strongly believes that a 24-7 Wawa store and gas station will not contribute to the goals of the Renaissance status and does not suit the historic nature of our town.

- Reisterstown Road narrows at the location of the proposed Wawa store from 4 lanes of traffic to 2 lanes of traffic. The significant increase in traffic generated by a sixteen-pump gas station/ 24 hour convenience store will create a bottleneck and probable hazard entering and leaving the complex.

- The residential area adjacent to or across the street at the rear of the property will be directly impacted by the bright lighting which will obviously occur with a 24-hour operation of this magnitude. None of the other commercial properties near residential housing in the area are open 24-hours with the overhead lighting planned for this 16 pump gasoline facility. As primarily a residential community, we feel that it is not necessary for this 24-hour business. While Wawa representatives claim they have studied the area, we feel that they do not understand our community.

- Burglaries of convenience stores are an increasing problem in our area. The Wawa operation will be an even more tempting target. With the potential for robbers to utilize our community or the residential areas bordering the Wawa as an escape route, residents are placed at increased risk.

PROTESTANT'S
EXHIBIT NO. 1

CHARTLEY HOMEOWNERS ASSOCIATION, INC.

P.O. Box 408
Reisterstown, MD 21136

The undersigned hereby acknowledge and attest that on 11/13/07 the Board of the Chartley Homeowners Association, Inc. (CHA), a Maryland corporation, in accordance with Section 2-408 of the Maryland Corporations and Associations Code and its Charter and By-Laws, approved the Resolution set forth herein:

RESOLVED: That the Board empowers and instructs Mary Molinaro (President), Jack Livermore (Vice President), and George Vintz (Zoning Committee Chairperson), respectively, to individually or jointly represent CHA at any hearings before the Zoning Commissioner of Baltimore County and any body of appropriate jurisdiction for any subsequent appeals. Any one or all to appear at those hearings for CHA and make known the position of CHA in this matter, to wit, that:

CHA opposes the proposed special exemption that would allow the property to be used for a Wawa Store and Gas Station which was outlined to CHA at a meeting on 8/6/07 by Bruce Rice, a Wawa representative, and suggested in drawings represented to the assembled members of ROG and nearby property owners. Furthermore the above named representative was authorized to explain or amplify as they see fit, this stated position.

AS WITNESS OUR HANDS THIS 9th day of December, 2007.

ATTEST:

Chartley Homeowners Association, Inc.

Sue Donnelly
Sue Donnelly, Secretary

Mary Molinaro
Mary Molinaro, President

RESOLVED, that at this November Executive Board meeting of CHA for 2007 to 2008, that the responsibility for the official presentation of positions for actions on all zoning and development matters is hereby assigned only to the President, Vice President, and Committee Chair(s) as elected, or duly appointed. The President and Vice President may authorize in writing with two signatures, the delegation of this authority to other members of the organization.

WITNESS OUR HANDS AND SEALS THIS 9th day of December, 2007.

ATTEST: Chartley Homeowners Association, Inc.

Sue Donnelly
Sue Donnelly, Secretary

Mary Molinaro
Mary Molinaro, President

- Deliveries to and trash service for these operations typically occur at night. Adjoining homes will not only be bathed in 24 hour bright light, they will also have their sleep disturbed by jarring truck noise.

The Chartley Homeowners Association has discussed and evaluated this proposed purchase and development for several months. The overwhelming opinion has been in opposition. The Wawa organization itself is not under attack. Many in the neighborhood have enjoyed the Wawa experience. We simply feel that the location they have chosen is not appropriate. They would do much better with a location that is in a less congested area and closer to an interstate that allows traffic flow through the night and does not impact near-by homes or the historic character of the town they wish to serve.

We ask you to make a decision that is in the best interest of the community.

Sincerely,

Mary Molinaro

Mary Molinaro
President

cc:
T. Bryan McIntire, Councilman 3rd District
Kevin Kamenetz, Councilman 2nd District
Kenneth N. Oliver, Councilman 4th District
James T. Smith, Jr., County Executive
George Harmon, President, Reisterstown Owings Mills Glyndon Coordinating Council
Carolyn Eichler, President of Reisterstown Chamber of Commerce
Brian Ditto, Executive Director, Reisterstown Chamber of Commerce
Mark Hemler, President, Country Club Estates Community Association
Barbara Reynolds, Glyndon Trace
Glenn Barnes, Long & Foster Realtors

Concerns Regarding Case # 8-163-SPH/A- Wawa in Reisterstown

RECEIVED
DEC 10 2007
BY:----------

December 4, 2007

To Whom It May Concern,

Our family lives at 510 Owings Ave and we need to express our concerns regarding the proposed Wawa, which will be directly in front of our home. If we have our choice, we do not wish to have the Wawa, or any business, built in front of our home. However, if the Wawa is built, we have several major concerns and requests for this site that need to be considered. I have listed our requests below and have then given explanations following the numbered requests:

1. Prevention of use of Owings Ave by traffic from the Wawa or by the employees. (This is the road that runs along the back of the proposed site.) We have been informed that Wawa plans to use this road to divert traffic from the Reisterstown Rd intersection, which is not a realistic solution.
2. A Fence is needed that wraps around the entire building property. The proposed plan shows a fence solely along Owings Ave, but it also needs to continue along the side of the property that meets the Whitcraft Transmission property.
3. Eliminate the proposed bisect entrance on Stocksdale Ave. If this cannot be eliminated, then move it closer to Reisterstown Rd.
4. Place a stop light at the intersection of Stocksdale and Reisterstown Rd.
5. Reduce the lighting during the night by dimming the overhead lights after say 10:00 PM, turning off some lights at this time, etc…

Our main concern with this proposed plan is point #1, the potential use of Owings Ave for traffic from this business. Owings Ave. is a very narrow, single lane road with an even smaller, insufficient exit road connecting to it. The area to the side and back of the Wawa simply cannot handle the volume of traffic that will result as people turn into our neighborhood in an attempt to avoid the traffic situation on Reisterstown Rd. We are quite concerned about the safety of our 2 small children if large trucks and a large volume of traffic begin using this road. There is no buffer, such as a sidewalk, along this road. Our front yard is directly on this road and poses a safety threat to our young children. (*We have included 2 pictures showing the size of Owings Ave.)

Also, there is not a sufficient exit from Owings Ave for this traffic. The small "road" that serves as an exit is called Church St and actually runs through a busy business parking lot. The exit is unclear and a large back up of cars trying to turn onto Reisterstown Rd from this parking lot is an unrealistic and potentially dangerous solution. With this in mind, we are hoping some measures can be put in place to discourage or prevent traffic from using this road. Perhaps a "No Outlet" sign could be put in place for this purpose.

. Our 2nd point, the request for a fence around all possible sides of the Wawa, is based on our concern that having open access from the Wawa will allow people to cut through to our neighborhood at all hours of the night. We are greatly concerned about the security of our home and the element of people who may take notice of the homes along

PROTESTANT'S
EXHIBIT NO. 2

Owings Ave if there is access from the Wawa to our street. We have already had a vehicle broken into once and are very concerned that the situation may become worse with a 24 hour Wawa. The proposed plan does have a fence along the back of the site, but not along the side and corner that is closest to our home and meets the Whitcraft Transmission property. This opening will still allow people to walk right into our neighborhood. Hence, we are requesting the fence be continuous around all sides that could allow access to the neighborhood.

While our main concern is that there be no use of Owings Ave for this Wawa, point #3 addresses our concern about the proposed bisect on Stocksdale Rd. If this entrance is put in place, it will create a major traffic problem at an already dangerous intersection. Attempting to turn out of Stocksdale Rd. onto Reisterstown Rd is already difficult, especially with cars also attempting to turn out of the shopping center across the street. Increasing the traffic in this road will cause a major back up into the neighborhood and could cause many more accidents at this intersection. And as we stated before, we want to avoid having people drive down Owings Ave to find a way to avoid the traffic problem on Stocksdale Rd. If this Wawa is built, the safest, most rational possibility is for the traffic to enter and exit solely from Reisterstown Rd. Realistically we are talking about narrow roads and a neighborhood with limited outlets. Eliminating the entrance on Stocksdale Rd is the best solution, but if it is not possible, then moving the entrance closer to Reisterstown Rd will hopefully discourage traffic from turning into the neighborhood. This is also where point #4 is very important. Hopefully a traffic light at this intersection will help prevent a traffic build up in a very small area

Lastly, the request regarding lighting in point #5 is an attempt to minimize the impact of having a well lighted 24 hour business right in our front yards. Hopefully these measures will prevent disruption of our sleep and lessen the intrusion of a large business placed in a very quiet, peaceful neighborhood.

We greatly appreciate consideration of our concerns and hope you realize that our strong requests are very reasonable.

Sincerely,

Christina Olson

Victor W Olson

Christina and Victor Olson

TB 12/10
9AM

Case #: 8-163-SPHXA

Kathleen Gambrill
1021 Cockey's Mill Rd.
Reisterstown, Md. 21136

December 6, 2007

Dear Zoning Commissioner,

I am writing to object to the special exception being considered for the proposed WaWa store for the 500 block of Main St. in Reisterstown.

I think the property in question is a poor site for a number of reasons. There are already 4 gas stations in a very small area. My guess is they are all within less that ¼ mile. This also includes 2 convenience stores. All 6 of these businesses have been in this area for over 40 years. A WaWa store would surely put them out of business or severely curtail their business.

The proposed store would also affect a community on the side and behind the site. Bright lights, noise and increased traffic will be disruptive to this now quiet community. The same can be said for this stretch of Main St. This is too big of a project to be thrust upon Main St. It is out of character for this small town.

I feel that another business that is more in keeping with the other businesses in the area is more appropriate for this location.

Thank You,
Kathleen Gambrill
Kathleen Gambrill

PROTESTANT'S
EXHIBIT NO. 3

December 4, 2007

RECEIVED
DEC 10 2007
BY:----------

Planning and Zoning Commission
111 West Chesapeake Avenue
Mail Stop 1105
Towson, MD 21204

Re: Case # 08163SPHXA

Dear Mr. Commissioner,

I am writing this letter to express my concerns and opinions regarding case # 08163SPHXA. For the record, I am opposed to the entire concept of placing a WAWA convenience store and gas station at the corner of Main St. and Stocksdale Ave. As a resident in the immediate community, I feel that this commercial establishment does not blend at all with our quiet area nor does it fit in with the character of Historic Reisterstown. Owings Avenue, which the proposed WAWA would back up to, is a very small single lane road with residential housing.

More importantly, is the issue of the requested zoning change for several lots from residential to commercial use. This change should be very carefully considered by your honor, as this could well set a precedent for future development. At some point there has to be a line drawn between commercial and residential areas. If these zoning changes were granted, I fear that additional landowners would follow suit and my neighborhood would constantly feel the pressure of commercial development. Part of the attraction to the Stocksdale Avenue neighborhood is its quiet nature and I worry that this commercial enterprise will adversely affect my property value.

I am also extremely concerned about the increase in traffic congestion. The proposed WAWA is at a point on Reisterstown Road where four lanes narrow down to two. The speed limit drops ten miles an hour yet most motorists fail to obey this speed limit. Currently, making a left turn out of Stocksdale Avenue is difficult at best. With the proposed WAWA, it will be even more difficult and certainly dangerous. At some point in the near future, the installation of a traffic light will become absolutely necessary; something that I feel will degrade the area even more.

Please give these concerns very careful consideration when reviewing this case. The residents of Owings Avenue and Stocksdale Avenue deserve the quality of life that they envisioned when they moved here.

Sincerely,

Isabelle Drenning
39 Stocksdale Avenue
Reisterstown, MD 21136

PROTESTANT'S
EXHIBIT NO. 4

TB
2/10
+1/16

Barbara E. Karpel

240 Chartley Drive
Reisterstown, MD 21136
bkarpel@bcpl.net
Home: 410-833-1168
Work: 410-727-0280

RECEIVED
JAN 11 2008
BY:.....

January 9, 2008

Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Dear Zoning Hearing Officer:

In reference to Case Number 8-163-SPHXA, regarding the building of a Wawa store, including multiple gasoline pumps, on Main Street in Reisterstown, Maryland in the vicinity of the Chartley Drive (also known as Chartley Boulevard), I would like to go on record as opposing the granting of an exception for this purpose. The immediate vicinity of this location already includes a 7-Eleven and a Royal Farm store, as well as at least three working gas stations, so I believe the addition of a Wawa store, however nice, with gas pumps would not supply any new services to the area and would definitely increase the traffic congestion. And, in addition to an increase of congestion, would probably be an increase in confusion for drivers, by adding another commercial source of cars pulling into and out of the flow of traffic.

Therefore, as a resident of Reisterstown and of Chartley specifically, who frequently drives through this intersection of Chartley Drive and Reisterstown Road (also known as Main Street in this area), I ask that you please consider the historic nature of the town and deny this zoning exception, in order to help us preserve for a little longer what remains of its historic charm and the quality of life such an environment provides.

Thank you very much for your consideration of my opinion in this matter.

Sincerely,

Barbara E. Karpel

Barbara E. Karpel

PROTESTANT'S

EXHIBIT NO. 5

TB
12/10
+ 1/16

Elaine Latham
308 Glyndon Drive
Reisterstown MD 21136
410-833-5277

RECEIVED
JAN 11 2008
BY:.....

Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204
January 9, 2008

Re: Case Number 8-163-SPHXA

To Whom It May Concern:

One thing we do not need is another Commercial business such as WAWA in the proposed location. I have seen many changes since I have been living here (15 years) and this is one more that is not needed. We do not need more gas pumps and convenience stores that are open 24 hours a day. It is not fair to the people that have bought homes in this area to have to deal with lights and noise 24 hours a day. Also the value of their homes will decrease but their taxes will go up. The area is not a good choice because of the amount of traffic that will be generated and the designated Renaissance area will be destroyed. This has always been a special part of our city.

The businesses that are trying to survive will be destroyed as people will have no place to park, and they will be gone forever changing the landscape. There are more people living here today because this was always a special place, and the traffic situation is bad enough without adding to it. There is enough crime that we need to live with daily without inviting an open door to anyone looking for a place to "score some money". With the Economy being threatened, and will only will be getting worse the crime will increase.

If this is all about money and selling a piece of property and not thinking about the Community as a whole than I am truly disappointed that the people do not have a say about their town. We live here, we maintain our properties, and we pay our taxes. Please listen to the people; we need a change from the greed of businesses destroying our way of life. Another Gas station we do not need. Let's leave things as they are. Please do not let this proposal ruin what little we have left.

Sincerely,

Elaine Latham

PROTESTANT'S
EXHIBIT NO. 6

January 11, 2008

William Wiseman, III
Chairman, Zoning Commission
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
JAN 15 2008
BY:----------

In Re: Case No. 8-163-SPHXA

Mr. Wiseman:

We are residents of Reisterstown and live in the Chartley community. We are writing to express our opposition to the proposed Wawa service station and carry-out restaurant that is planned for the corner of Stocksdale Avenue and Main Street for the following reasons:

1) We believe the traffic congestion it will create will become hazardous to motorists using Main Street. The five lane highway immediately becomes a two lane residential street just at the corner of Stocksdale and Main.
2) There is a scheduled school bus stop on the corner of Stocksdale and Main Street. In addition, there are young children that walk to school along Main Street and will have to pass the entrance to the proposed large service station.
3) Reisterstown has been designated an historic district and the proposed site for the Wawa is too close to that district and having a large gas station on that site does not conform to the normal person's idea of a historic structure.
4) We believe that traffic on Chartley Drive will increase as motorists try to avoid Main Street's congestion at the Wawa. We live on Chartley Drive and have asked the County in the past for traffic-calming devices, but to no avail. We believe this increase in traffic will only make vehicular traffic and the concomitant speeding worse.

Lastly, there must be another place outside of town along 795 or Route 140 or Route 30 that would better suit a 16 pump gas station and carry-out restaurant. Building something that large and cumbersome on a residential

PROTESTANT'S
EXHIBIT NO. 1

main street does not make any sense. In fact, just south of Main Street and outside of the historic district at the Reisterstown Shopping Center sits an abandoned gas station which would be a perfect spot. Half the shopping center is empty so there is ample room for this project.

Thank you for your time and attention, Mr. Wiseman.

Sincerely, Robert and Jane Hienz

Dr & Mrs. Robert Heinz

Rec'd
1-16-08

Case Number 8-163-SPHXA
Zoning Hearing Officer
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

RE
WAWA store and gas station purposed for Reisterstown Road.
Since there are currently 4 other stations at or near this location ,another is not needed.
Also a station as purposed would affect traffic in a detrimental way as road narrows from 4 lanes to two at this point. Therefore traffic entering and leaving would be a hazard.
This station would also be very close to residential area and cause undue stresses with the all night bright lighting and noise caused by late night deliveries.
Also of the 4 other stations 1 has been closed for longer than 6 months ,so it would seem another gas station in this area is not only not wanted but is unneeded.

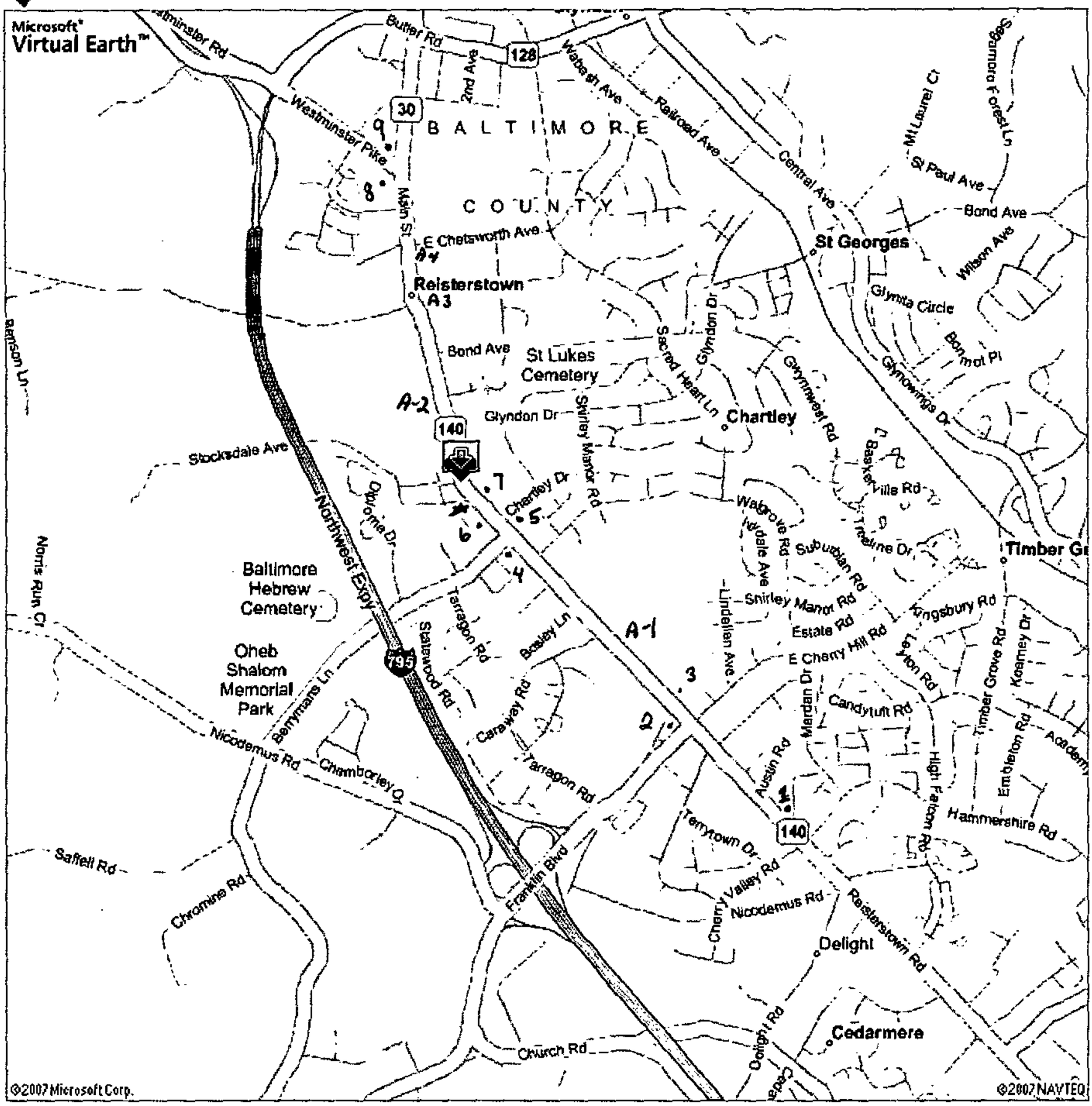
Eileen C. Ruffner

Eileen C. Ruffner
403 Highmeadow Road
Reisterstown Md,21136

PROTESTANT'S
EXHIBIT NO. 8

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925



1. Sunoco
2. Exxon
3. Shell
4. Texaco
5. BP
6. Hess
7. Citgo
8. Shell
9. Enroy

★ - proposed site

Abandoned

A1 Exxon

A2 ?

A3 Amoco

A4 ?

PROTESTANT'S

EXHIBIT NO. 9

TB 1/16

January 11, 2008

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Re: Case Number 8-163-SPHXA

I am opposed to the purchase and development of the property on 516 Reisterstown Road by Wawa. The case is described as Southwest corner of Main Street (Rt. 140) and Stocksdale Avenue, east of Owings Avenue. The development would be a detriment to the community and will not fit within the Historic design of the area.

- Chartley community directly borders historic Reisterstown and the designated Renaissance Area. A 24-7 Wawa store and gas station will not contribute to the goals of the Renaissance status and does not suit the historic nature of our town.

- Reisterstown Road narrows from 4 lanes of traffic to 2 lanes at the location of the proposed Wawa store. The significant increase in traffic generated by a sixteen-pump gas station/ 24 hour convenience store will create a bottleneck and a hazard entering and leaving the complex.

- The residential area adjacent to the property will be directly impacted by bright lighting which will occur with a 24-hour operation of this magnitude.

- Burglaries of convenience stores are a problem. The Wawa operation will be a tempting target. If robbers utilize our community and residential areas bordering the Wawa as an escape route, residents are placed at risk.

- Deliveries and trash service for these operations typically occur at night. Adjoining homes will not only be bathed in 24 hour bright light, they will also have their sleep disturbed by jarring truck noise.

The location they have chosen is not appropriate. They would do better in a less congested area and closer to an interstate that allows traffic flow through the night and does not impact near-by homes or the historic character of the town they wish to serve.

I ask you to make a decision that is in the best interest of the community.

Sincerely,

Karen E. Good
231 Bentley Hill Drive
Reisterstown, MD 21136

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925

PROTESTANT'S

EXHIBIT NO. 10

(11)

Live Search Maps

500 Main St, Reisterstown, MD 21136-1925

12

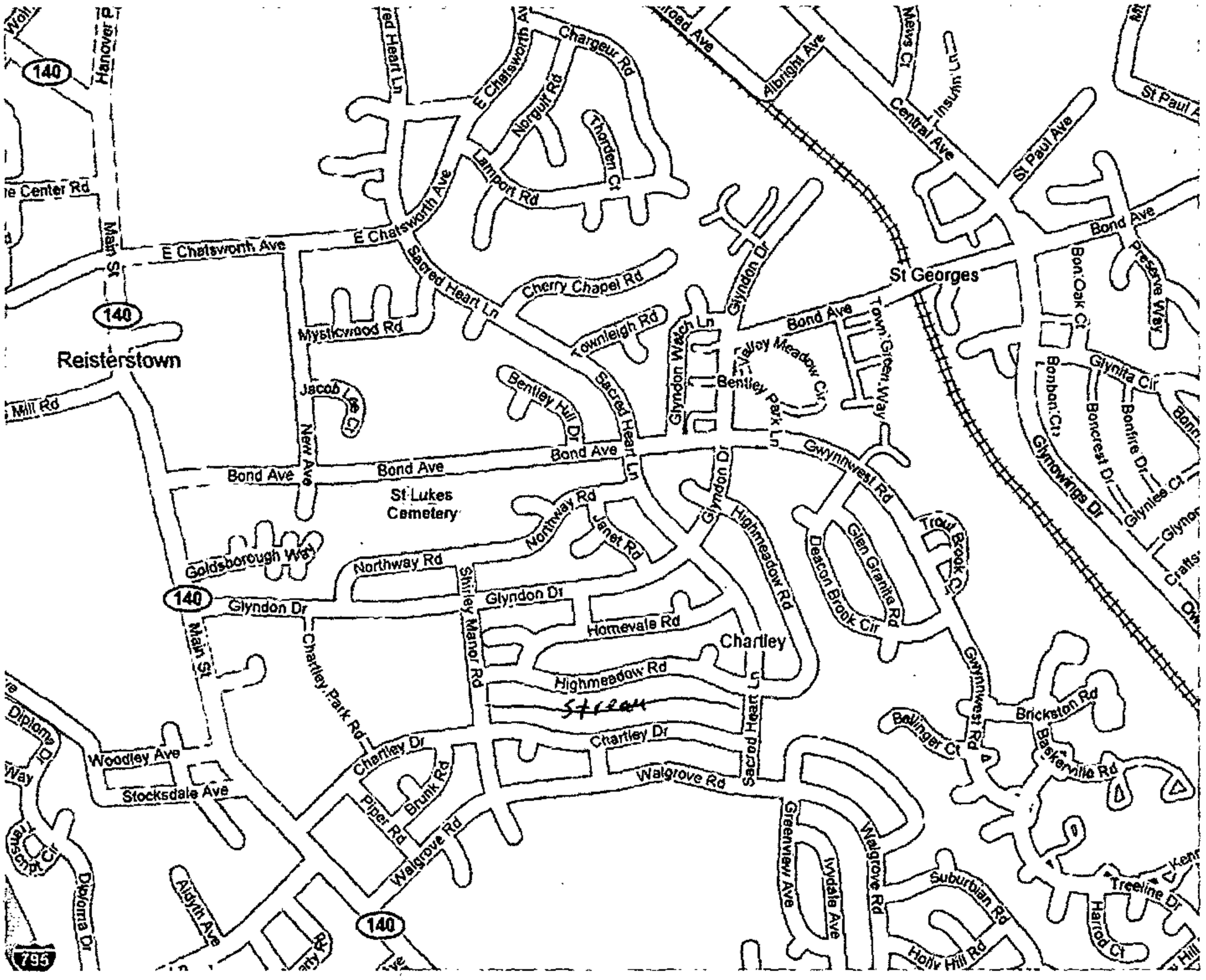
PROTESTANT'S

EXHIBIT NO. 11

Chartley Homeowners Association, Inc.

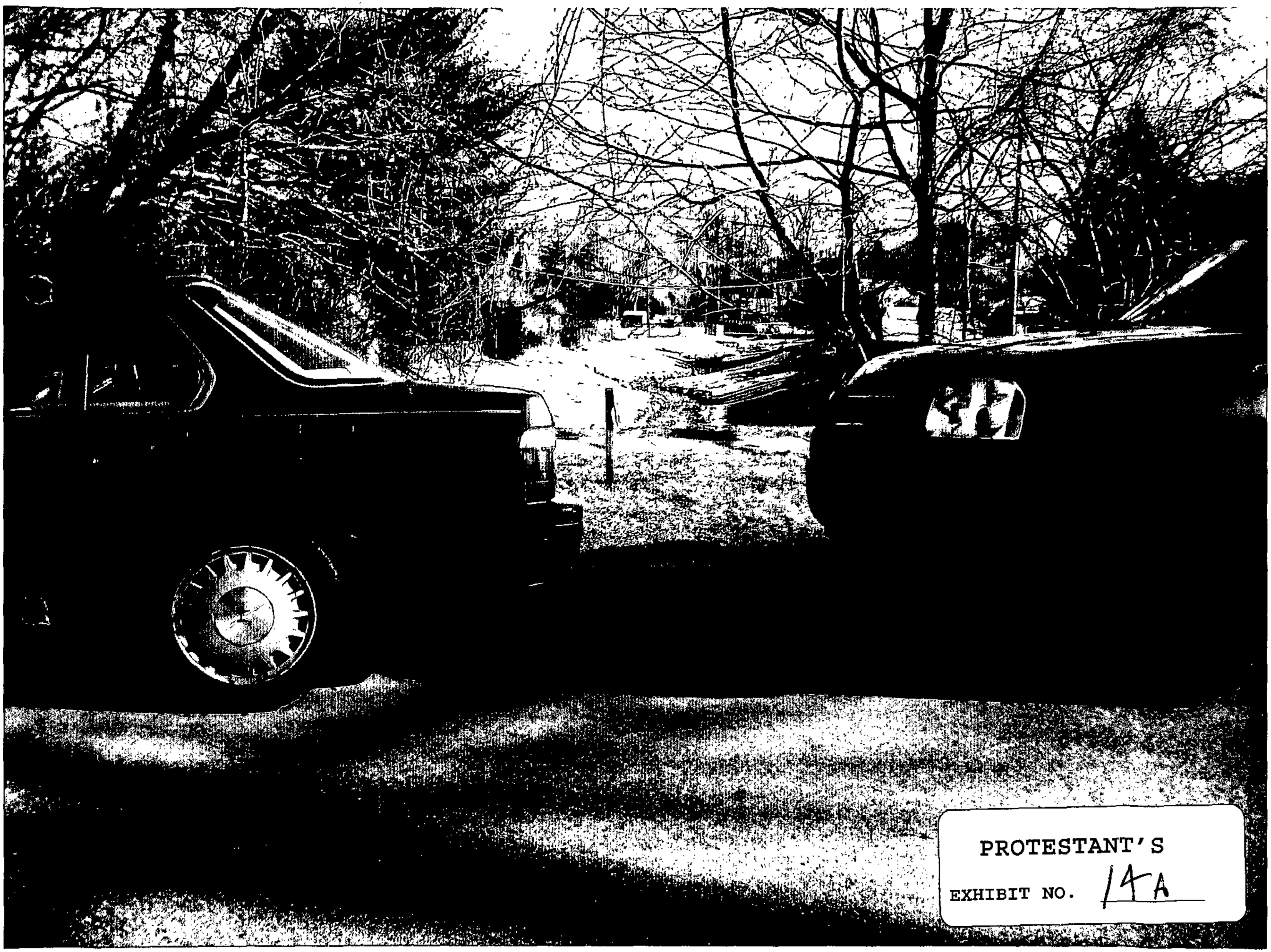
P. O. Box 408, Reisterstown, MD 21136-0408

http://www.marylandtowns.com/cha/charthome.htm

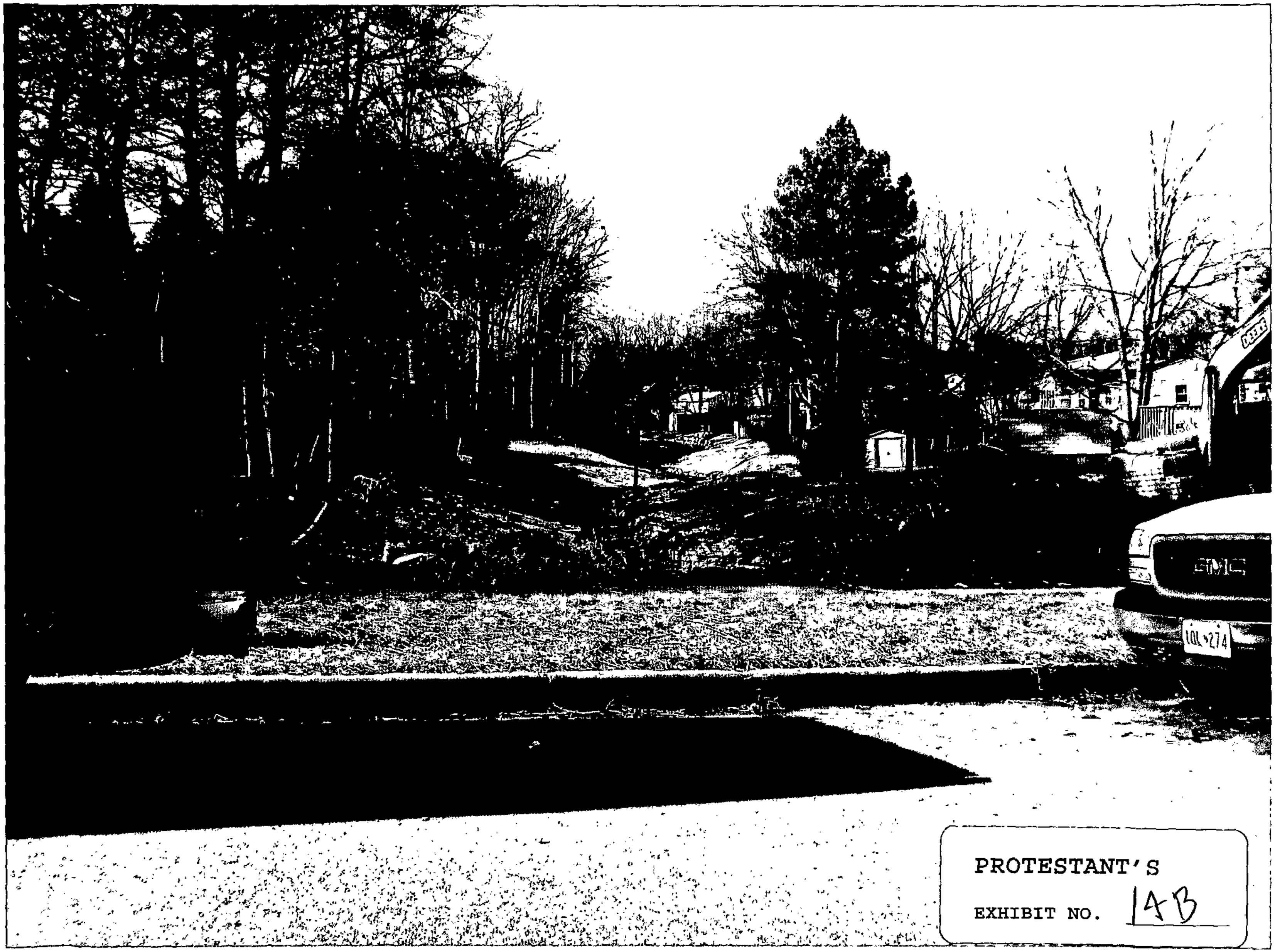


Bringing Our Community Together Through Information and Knowledge

PROTESTANT'S EXHIBIT NO. 13



PROTESTANT'S
EXHIBIT NO. 14A



PROTESTANT'S
EXHIBIT NO. 14B

MARTIN & PHILLIPS

DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1, TOWSON, MARYLAND 21204

CURRICULA VITAE

DAVID L. MARTIN, L.A.

Martin & Phillips Design Associates, Inc., Principal
Director of Land Planning / Landscape Architecture
Professional Registration: Landscape Architect
Maryland - No. 776
Pennsylvania - No. 573-E

Education:
The Pennsylvania State University
Bachelor of Science Landscape Architecture - 1971

Professional Affiliations:
American Society of Landscape Architects, Member
Urban Land Institute, Member

Professional practice includes 36 years of land planning, landscape architecture, comprehensive zoning, PUD master planning, site planning, and expert witness testimony regarding land use and zoning issues. Mr. Martin has been practicing in the Greater Baltimore Metropolitan region since 1987 and has been qualified as an expert in land planning, site planning, and zoning cases in Anne Arundel County, Baltimore County, Howard County, Harford County, Cecil County, Bel Air, Aberdeen, Havre de Grace, Perryville, Port Deposit and Federal District Court of Baltimore.

Prior to his relocation to Maryland, Mr. Martin practiced landscape architecture and land planning in Pennsylvania, Florida, Massachusetts, Alabama, The Commonwealth of the Bahamas and Jamaica.

As President of Martin & Phillips Design Associates, Inc. Mr. Martin supervises community planning, site development, subdivision development plans, and master planning efforts, He also offers zoning, testimony and interpretation on land planning issues before zoning commissioners, boards of appeals, planning commissions, and elected bodies. Mr. Martin facilitates community input meetings, and presents Development Plans in Baltimore County and oversees the preparation of special exception and variance plan requests. He also directs the design of parks, amenity features, lighting plans and landscape plans associated with residential, commercial and institutional projects.

Significant projects include Developments of Regional Impact (DRI) in the State of Florida including; Palm Coast, Florida - 10,000 acre master plan, Beverly Hills, Florida - 6,500 acre master plan, and Doral Park, Florida - 2000 acre master plan. Significant local projects include: Hollywoods, Monmouth Meadows, Greenbriar, Bainbridge Development, Forge Landing, Owings Mills Commerce Center, The Avenue at Whitemarsh, New England Motor Freight Trucking Facility, Cedar Land Farms P.U.D., Westwicke, Beaverbrook, Biddison Property, Bridle Ridge, Green Spring Station, Home Depot of Owings Mills, Bel Air and Timonium, Ashland Market Place, Powell Property, and Baker Property.

Mr. Martin has prepared numerous comprehensive-zoning petitions in Baltimore County during the 1992, 1996, 2000, 2004 and 2008 CZMP processes and has a thorough understanding of the principles of Euclidean zoning and their application throughout the Baltimore Metro region. He also served on an ad-hoc committee that authored the Service Employment (SE) Zone of Baltimore County and the Public Affairs Committee for NAIOP. He has extensive experience dealing with all of the Baltimore Regional Area County's developmen

TELEPHONE: 410.321.8444, TOLL FREE: 866.395.
FAX: 410.321.1175

PETITIONER'S EXHIBIT 1

Professional Resume of
Kenneth W. Schmid
11022 Pfeffers Road
Kingville, MD 21087

EXPERIENCE

January 1993 – Present

Traffic Concepts, Inc.
325 Gambrills Road, Suite E
Gambrills, MD 21054

Owner, Vice-President

Provides traffic engineering consultant services to the public and private sectors including:

Expert testimony before the County Zoning Officer and Board of Appeals for Special Exception and Rezoning cases. Development of Feasibility Analysis including access alternatives and the assessment of the impact of pertinent Adequate Public Facilities legislation of local governments on potential development sites. Development of Traffic Impact Studies including critical lane, highway capacity, and signal warrant analysis; recommendations of road improvements necessary to meet various Adequate Public Facility criteria and leading negotiations with government agencies to secure waivers for Adequate Public Facilities legislation. Design and preparation of traffic signal, maintenance of traffic, pavement marking, and road improvement concept plans. Preparation of technical and price proposals.

December 1989 – January 1993

Ronald W. Johnson Associates, Inc.
2661 Riva Road, Suite 420
Annapolis, MD 21401

Chief – Traffic Engineering Division

PETITIONER'S EXHIBIT 9

Started and developed the traffic engineering division at this consulting firm. Duties included: Directing the activities of the Traffic Engineering Division. Providing expert testimony at over 30 Special Exception, Rezoning, and Appeal cases. Development of more than 130 feasibility and Traffic Impact Studies. Design and preparation of traffic signal designs, maintenance of traffic, and road improvement concept plans.

December 1986 – November 1989

Anne Arundel County
Department of Public Works
Traffic Engineering Division
Annapolis, MD 21401

Traffic Engineer III and IV

Supervised the daily operations of the Development and Operation Section of the Traffic Engineering Division. This included full responsibility for reviewing and recommending approval or denial of Rezoning and Special Exception cases, subdivisions, and building permit applications. Supervised the activity of three engineers, seven traffic analysts. Duties included traffic control design and implementation throughout the County, for example traffic control design for the Baltimore & Annapolis Hiker/Biker trail.

July 1984 – December 1986

Maryland State Highway Administration
District #5 Office
Annapolis, MD 21401

Traffic Engineer III

Duties included traffic signal design, construction inspection, and conducting various traffic engineering studies in order to make recommendations to the District Traffic Engineers.

May 1981 – July 1984

Maryland State Highway Administration
Office of Traffic and Safety
Hanover, MD 21076

Traffic Engineer I and II

Duties included developing signal design and signalization plans, reviewing signal design plans submitted by consultants, and developing equipment and construction design specifications. The development of traffic signal and traffic signal system timing often required the consideration of pedestrians and bicycle routes throughout the major highway system.

EDUCATION

Baltimore Polytechnic Institute, 1976 graduate

Essex Community College, 1976 – 1978

University of Maryland, 1981 graduate
Bachelor of Science – Civil Engineering

Various Continuing Education courses in the traffic engineering and highway design field.

PUBLICATIONS

Developed the Signal Design Manual currently in use by the Maryland State Highway Administration Office of Traffic and Safety

AFFILIATIONS

Institute of Transportation Engineers, 1985 – Present

National Federation of Independent Businesses, 1993 – Present

Accepted as an expert in the traffic engineering field in the following jurisdictions:

Baltimore City
City of Annapolis
City of Elkton
City of Frederick
City of Salisbury
Town of Bel Air
Town of Bowie
Town of Easton
Anne Arundel County
Baltimore County
Calvert County
Caroline County
Carroll County
Cecil County
Charles County
Frederick County
Harford County
Howard County
Kent County
Prince George's County
Queen Anne's County
St. Mary's
Talbot County

REFERENCES:

Mr. Harry Blumenthal
Blumenthal & Delavan, P.A.
170 Jennifer Road, Suite 240
P.O. Box 868
Annapolis, MD 21401-6484
(410) 573-2900

Alan Hyatt
Hyatt, Peters & Weber
1919 West Street
Annapolis, MD 21401
(410) 266-0626

Mr. Gary Westholm
Powell and Westholm, Inc.
2661 Riva Road, Suite 300
Annapolis, MD 21401
(410) 974-6850

Lawrence Elliott
MSHA – District 5
138 Defense Highway
Annapolis, MD 21401
(410) 841-5450

FAX

For: ZONING COMM.

Fax number: 410-887-3048

From: ELLEN TEBO

Fax number: 410-594-2381

Date: DEC. 4, 2007

Regarding: CASE # 8-163-SPHXA

Number of pages: 1

Comments:

COMMENTS FOR CASE #

8-163-SPHXA

(WAWA HEARING ON
MON. DEC. 10)

CASE NUMBER: 8-163-SPHXA

December 4, 2007

To the Baltimore County Zoning Commissioner:

As the residents of 500 Owings Avenue in Reisterstown, we are in favor of the proposed Wawa **with** the following stipulations:

A fence surrounding the **entire** lot so customers are not able to walk down Owings Ave. to enter and exit the Wawa through Owings Ave. If there are not openings on Owings Ave., there is less possibility of trash, debris and loitering on neighboring lawns. Also less chance of loitering in the neighborhood. Also, the landscape surrounding the fence should be a mix of plants/shrubs for each season. When winter hits, there should be enough plants/shrubs to flourish during that season, and different plants/shrubs during the spring/summer season. We are requesting landscaping on both sides of the fence.

No deliveries or trash pickup from Owings Avenue will be acceptable. No late evening/early morning for trash pickup.

No traffic should be using Owings Ave. as a way to get back onto Reisterstown Road. Owings Ave. is an extremely narrow road (cannot even have 2 cars passing each other, road is a one lane street). There is another small road (Church Road) that is next to Whitcraft Transmission. Even most of the neighbors don't know that road exists. There is no way this road should be used as an access road for Wawa traffic. It cuts through Whitcraft Transmission and is not a big enough road to carry any amount of traffic.

Maybe a street lighting plan so neighborhood will be safe. Lighting could tie in with the neighborhood.

The positives about the Wawa are:

- Bringing a stable business to the area
- The gas stations in the area close early
- The corner of Stocksdale and Reisterstown Road will be cleaned and fit into the revitalization of Reisterstown
- A condemned house on the corner of Stocksdale and Owings Ave. will be taken down

Thank you for your time. I hope both sides can come to an agreement. Please keep my name on a list to receive a notice of the final decision on the Wawa project.

Sincerely,
Ellen & Mike Tebo

Ellen and Michael Tebo
500 Owings Ave.
Reisterstown, MD 21136

PETITIONER'S
EXHIBIT NO. 10

CASE NUMBER: 8-163-SPHXA

December 4, 2007

To the Baltimore County Zoning Commissioner:

As the residents of 500 Owings Avenue in Reisterstown, we are in favor of the proposed Wawa **with** the following stipulations:

A fence surrounding the **entire** lot so customers are not able to walk down Owings Ave. to enter and exit the Wawa through Owings Ave. If there are not openings on Owings Ave., there is less possibility of trash, debris and loitering on neighboring lawns. Also less chance of loitering in the neighborhood. Also, the landscape surrounding the fence should be a mix of plants/shrubs for each season. When winter hits, there should be enough plants/shrubs to flourish during that season, and different plants/shrubs during the spring/summer season. We are requesting landscaping on both sides of the fence.

No deliveries or trash pickup from Owings Avenue will be acceptable. No late evening/early morning for trash pickup.

No traffic should be using Owings Ave. as a way to get back onto Reisterstown Road. Owings Ave. is an extremely narrow road (cannot even have 2 cars passing each other, road is a one lane street). There is another small road (Church Road) that is next to Whitcraft Transmission. Even most of the neighbors don't know that road exists. There is no way this road should be used as an access road for Wawa traffic. It cuts through Whitcraft Transmission and is not a big enough road to carry any amount of traffic.

Maybe a street lighting plan so neighborhood will be safe. Lighting could tie in with the neighborhood.

The positives about the Wawa are:

- Bringing a stable business to the area
- The gas stations in the area close early
- The corner of Stocksdale and Reisterstown Road will be cleaned and fit into the revitalization of Reisterstown
- A condemned house on the corner of Stocksdale and Owings Ave. will be taken down

Thank you for your time. I hope both sides can come to an agreement. Please keep my name on a list to receive a notice of the final decision on the Wawa project.

Sincerely,

Ellen & Mike Tebo

Ellen and Michael Tebo
500 Owings Ave.
Reisterstown, MD 21136

PETITIONER'S

EXHIBIT NO. 10

Reisterstown • Owings Mills • Glyndon
Chamber of Commerce
100 Owings Court, Suite 9 Reisterstown, MD 21136
410-356-2888 Fax: 410-356-5112
E-mail: romg@romgchamber.org Web address: romgchamber.org

Fax Transmittal

To: Tom Bostwick
Company: Balto. Co. Deputy Zoning Commissioner
From: Brian Ditto Executive Director
Re: 12-10-07 Case No. 8-163-SPHXA

Fax Number: 410.887.3468
Telephone Number: 410.887.3391
Number of Pages: 3
Date: 12-7-07

Attached please find letter from our organization w/opinions surrounding case # referenced above.
Please feel free to call or contact us should you need clarification. Thank you.

-Brian Ditto
brian@romgchamber.org

PETITIONER'S
EXHIBIT NO. 11

APPEAL

Petition for Special Hearing, Special Exception & Variance
516 Reisterstown Road
SW corner of Main St. and Stocksdale Avenue, E of Owings Ave
4th Election District – 3rd Councilmanic District
Legal Owners: S & J Management
Case No.: 08-163-SPHXA

✓ Petition for Special Hearing/Variance/Special Exception (October 4, 2007)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (October 22, 2007)

✓ Certification of Publication (The Jeffersonian – November 20, 2007)

✓ Certificate of Posting (November 24, 2007) by Robert Black

✓ Entry of Appearance by People's Counsel (October 15, 2007)

✓ Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – Two Sheets

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibit

1. Curricula Vitae
2. Site Plan
3. Revised Site Plan
4. (A & B) Photographs
5. Existing Neighborhood Context Plan
6. Illustrative Site & Neighborhood Context Plan
7. Proposed Exterior Elevations
8. Site Lighting
9. Professional Resume of Kenneth Schmid
10. Letter in Favor of Proposed Wawa dated December 4, 2007
11. Letter from Chamber of Commerce dated December 6, 2007
12. Photo
13. Photo
14. Photo
15. Photo
16. Consecutive Emails

✓ Protestants' Exhibits:

1. Letter from Chartley Homeowner's Association (12-3-07)
2. Letter from Mr. & Mrs. Olson (12-4-07)
3. Letter from Ms. Gambrill (12-6-07)
4. Letter from Ms. Drenning (12-4-07)
5. Letter from Ms. Karpel (01-09-08)
6. Letter from Ms. Latham (01-09-08)
7. Letter from Mr. & Mrs. Heinz (01-11-08)
8. Letter from Ms. Ruffner (01-16-08)
9. Map
10. Letter from Ms. Good (01-11-08)
11. Map
12. Map
13. Map
14. Photos (A & B)

Miscellaneous (Not Marked as Exhibit) - None

✓ Deputy Zoning Commissioner's Order (GRANTED – March 14, 2008)

✓ Notice of Appeal received on April 7, 2008 from Robert Begleiter

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

date sent May 12, 2008, klm

RECE
MAY 1
BALTIMORE
BOARD OF

Requested: May 16, 2008

IGN POSTING REQUEST

CASE NO.: 08-163-SPHXA

REISTERSTOWN ROAD

T APPEALED: 4/07/2008

Plan to accompany Petition – Petitioner's Exhibit No. 3)

TURN BELOW INFORMATION**

CERTIFICATE OF POSTING

16 A9

TO: Baltimore County Board of Appeals
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 08-163-SPHXA

LEGAL OWNER: **S & J MANAGEMENT**

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

516 Reisterstown Road

SW/cor Main Street and Stocksdale Avenue,
E of Owings Avenue

The sign was posted on 5/29/8, 2008.

By: Chen
(Signature of Sign Poster)

Chen, S
(Print Name)

REISTERSTOWN • OWINGS MILLS • GLYNDON CHAMBER OF COMMERCE

100 Owings Court, Suite 9 • Reisterstown, MD 21136
410-356-2888 • Fax: 410-356-5112
E-mail: romg@romgchamber.org • Web address: romgchamber.org

Carolyn B. Ehchler, President
Brookfield Motor Company, Inc.
Brian A. Ditto, Executive Director
Glenn Barnes, President-Elect
Long & Foster Real Estate, Inc. - Reisterstown Office
Kirsten Sauter, 1st Vice President
Expressway Office Solutions
Rachel L. Heird, 2nd Vice President
Farmers & Merchants Bank
Neil M. Levy, Secretary
Levy, Mann, Caplan, Hermann & Polushak, LLP
James Carroll, Treasurer/Past President
James Carroll CPA LLC
James E. Miele, Asst. Treasurer
Waddell & Reed Financial Svcs. Inc

Jerry Bennash
International House of Pancakes
Scott Brooke
Toyota/Lexus Financial Services
Kevin Dudley
Owings Mills Mall
Russ Dilak
Solnet Network Services
Kathleen Dorsey
Atlantic Mortgage
Joan Drabing
Hannah More School
Anne Evans
T. Rowe Price Associates, Inc.
Mike Farber
Paychex
Joyce Geipe
Bay Movers
Joseph Kosloff
BB&T
Sharon Krunkamp
Atrium Village
Lyle Montanye
Oetzer-Montanye, Inc.
Patty S. Palmer
Regal Bank & Trust
Alice Reid
Compassionate Tax Service
Carey Rollipote
Auto Collision Specialist, Inc.
Ruth Sliviak
ICS Insurance Inc.
Christy L. Tasker
Susquehanna Bank
Jennifer Terrell
Northwest Hospital Center/ LifeBridge Health
Nancy Volpitta
ImageLine On Hold

December 6, 2007

Zoning Hearing Office
Baltimore County Office Building, Room 111
111 W. Chesapeake Ave.
Towson, MD 21204

Re: Case No. 8-163-SPHXA

To Whom It May Concern:

On Nov. 28 the Reisterstown-Owings Mills-Glyndon Chamber of Commerce, at its regular board of directors meeting, took up the matter of review on the proposed WAWA convenience store and gas station @ 516 Main Street (Reisterstown Road) and Stocksdale Avenue in Reisterstown. With input from the Chamber's Legislative/Economic Development/Zoning and Executive committees, both of whom had followed the issue over a period of months and had opportunity to gather feedback from both project supporters and opponents, it was voted that the following points be conveyed:

1. The proposed site is currently underutilized and does not present a proper image as a "gateway" to Reisterstown's Main Street.
2. Redevelopment of the site may encourage further business expansion in the immediate area.
3. Redevelopment of the site may encourage other businesses in the area to begin rehabilitation of their properties.
4. Competition is good for both the residential and business communities.

While the Chamber certainly supports economic development and improvement of this area, we have the following concerns and recommendations regarding this project:

1. WAWA should agree to modify the architectural features and signage of the facility to provide greater compatibility with Historic Main Street and the newly refurbished Chartley Park shopping center.
2. There should be a reduction in the project scale, making it smaller to fit in more with the surrounding community.

3. An in-depth traffic control study should be completed, with consideration for some sort of warning devices for the safety of the community (with respect to ingress and egress from the site). With regard to the traffic study, if any recommendations are identified, they should be resolved in order to avoid any negative impact on Reisterstown Road.

Thank you for your consideration of these opinions. Should you have questions/comments, please feel free to contact us. Best wishes for the holidays and for a productive and prosperous 2008.

Sincerely,

Brian A. Ditto

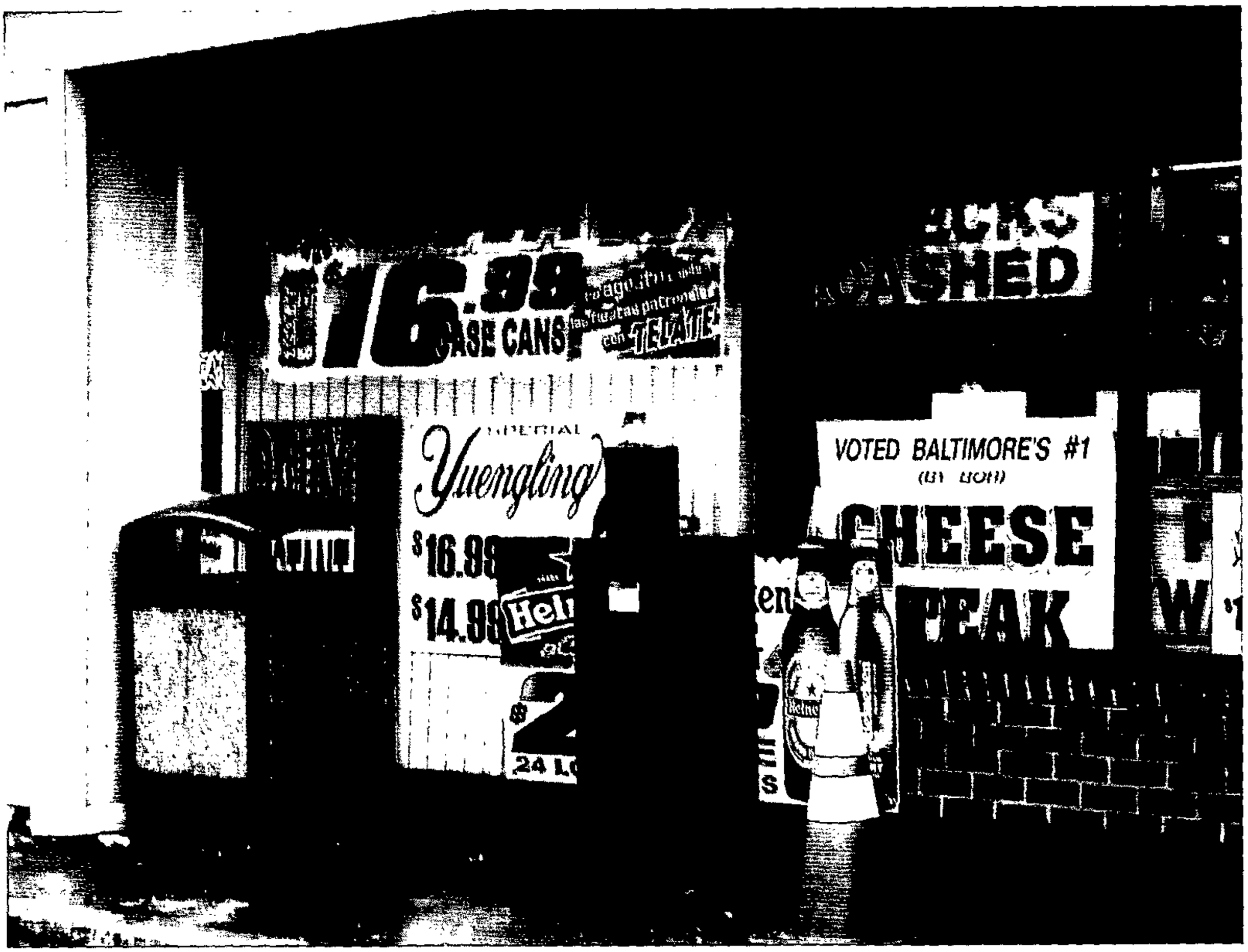
Brian A. Ditto
Executive Director

Carolyn B Eichler

Carolyn B. Eichler
President

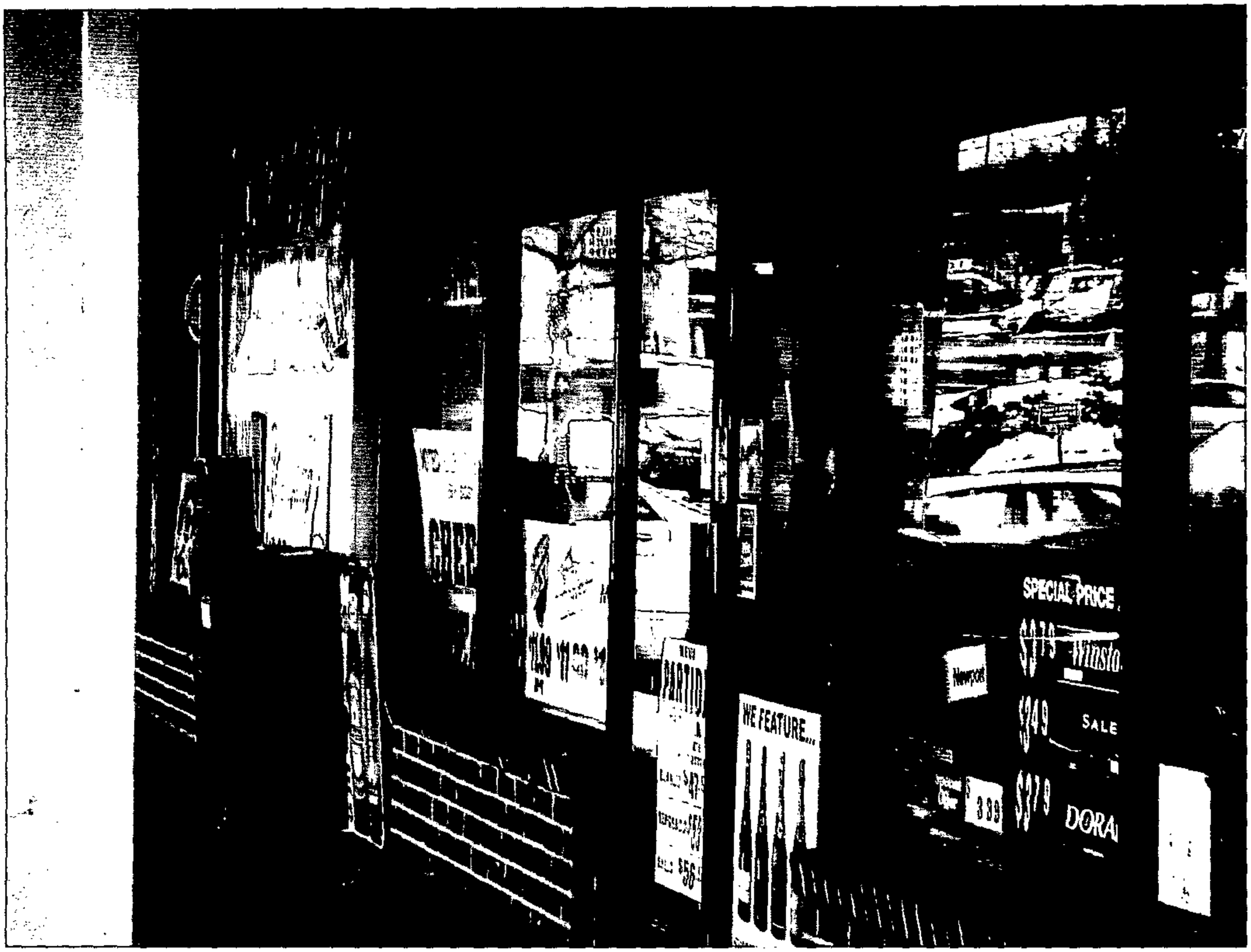
Paul Davolos

Paul Davolos
Chair, Legislative/Economic Development/Zoning Committee



PETITIONER'S EXHIBIT 12

PETITIONER'S EXHIBIT 13



PETITIONER'S EXHIBIT 14

SUPER AGENT
NET CASH UP TO
SOLD HERE
Special Price
$ 3.7
PLUS TAX
CIGAR SHOP
Corona
Extra Light
$24.99
CASE
Modelo
especial Cans
$18.99
CASE CANS

PRT RXH 15

PETITIONER'S
EXHIBIT NO. 16

Jablon, Arnold E.

From: Jablon, Arnold E.
Sent: Wednesday, January 09, 2008 4:26 PM
To: 'ghharman@aol.com'
Subject: RE: Wa Wa

Let me know. Thanks.

From: ghharman@aol.com [mailto:ghharman@aol.com]
Sent: Wednesday, January 09, 2008 4:21 PM
To: Jablon, Arnold E.
Subject: Re: Wa Wa

Arnold,
I think we are getting close. I will try to review in more detail tonight when I get home and also talk to some of the interested parties. I'm still leaning toward a formal opposition statement, but with the understanding that if the project is granted the requested relief that the conditions we agree upon would be acceptable.
George

-----Original Message-----
From: Jablon, Arnold E. <AEJablon@Venable.com>
To: Ghharman@aol.com
Cc: Rice, Bruce S. <bruce.s.rice@wawa.com>; gregory.t.harvey@wawa.com
Sent: Mon, 7 Jan 2008 12:37 pm
Subject: RE: Wa Wa

George, in the order in which you listed them, I have the following information:

1. The lighting as proposed is less than industry standard, both under the canopy and on the lot itself. It comports with all Code requirements and, in the experience and expertise of WaWa's experts, does exactly what you want. Minimal lighting at the property line with no direct glare from under the capopies. Anything else would be a safety issue.

2. WaWa would consider 14', but then this would require additional poles on site.

3. WaWa is convinced that it is in compliance with what you want.

4. WaWa agrees--no outdoor speakers for any reason other than emergency.

5. Can not agree. Some products come late that are needed for morning sales (e.g., newspapers, bakery). Can agree to no truck idling. and no beeping

6. This would be within David Martin's expertise, and he says that there is no issue here. He will provide me with more information to answer your question.

7. WaWa says this may be possible, and will check.

8. WaWa does not exceed the required HVAC noise levels. WaWa agrees to testing, ALLOW not at WAWA'S EXPENSE.

9. WaWa is ok with this, but wants to make clear that if somebody jumps the fence, WaWa can't be responsible.

10. WaWa agrees with a 2-tone brick from ground to cornice.

11. WaWa agrees to a standing seam metal roof, which accommodates the historic look and is of better quality, lasts longer, and looks better in the long run than shingles.

From: Ghharman@aol.com [mailto:Ghharman@aol.com]
Sent: Friday, December 21, 2007 9:01 PM
To: Jablon, Arnold E.
Cc: ASilverFx@aol.com; bruce.s.rice@wawa.com; MaryMolinaro@comcast.net; harmangeorge@hotmail.com
Subject: Re: Wa Wa

Arnold,
Like you, I've got some pending time in the dentist chair. No surgery, just an expensive crown.

I generally concur with what you are saying, but the community deserves to have some things in writing to guarantee that WAWA will go the extra mile for the benefit of the community.

We would be looking for a list of conditions that can be presented to the Zoning Commissioner.
As a start:
1 - Lighting in the neighboring residential community will be restricted to some minimal level over existing conditions. While the modeling suggests minimal impact, there must be a measure after the site is constructed and the light levels in the residential property must be limited. If the light levels are found to be above the agreed upon threshold, WAWA will agree to reduce the lighting accordingly, especially after 9 or 10 PM.

2 - As a means of achieving the lighting levels, I would like for WAWA to explore the lighting standards I mentioned at the new TSC store in Westminister that are about 14 feet high, versus the 18 feet planned, totally vertical, and well shielded for perimeter lighting.

3 - Lighting under the canopy over the pumps must be equally shielded and directed vertically, not angled as would be with a pitched roof. If a flat roof is not possible, the lighting fixtures must be vertical to minimize the reflection of light from the angled roof. Each fixture will need to be shielded on at least the sides facing the residential properties.

4 - There will need to be a condition that states that there will be no outdoor speakers for any reason other than emergency purposes.

5 - Nighttime deliveries must be addressed in the conditions. While it may be difficult to schedule deliveries, it should be possible to have all deliveries during the day or certainly prior to 10 PM.

6 - Given the new Stormwater Act of 2007 and a requirement for 100% pre-construction infiltration, and the large stream restoration effort underway in the receiving waterway, the community will need to see more than what is currently required in the code. We would want the intent of the new law to be met even if the new code and infiltration requirements are not implemented in time for the permit issuance.

7 - We will want a clear statement that there will be no trash removal after 10 PM and before 7 AM.

8 - We will want all noise sources to be evaluated prior to permits being issued and appropriate

mitigation of noise achieved through modifications of equipment (e.g., HVAC), or noise barriers installed that will result in achievement of state noise regulations.

9 - We assume that there will be no road or pedestrian access to Owings Avenue.

10 - Brick facade on all sides.

11 - A softer appearance of the canopy will also need to be discussed. While a metal roof might be in keeping with some of the historic houses, other materials such as standard roofing shingles could be better for the aesthetics.

As stated previously, we are still greatly concerned with traffic safety and that issue remains of a general concern that will probably need to be addressed by the state and county roads units and the Commissioner.

I hope that the above can serve as a beginning of the conditions that need to be prepared and submitted to the commissioner.

George

In a message dated 12/20/2007 1:03:47 P.M. Eastern Standard Time, AEJablon@Venable.com writes:

George, I apologize for not responding sooner, I just had major dental surgery.

I thought we had addressed most of these issues at the hearing. The lighting will be mooted. The candlestick output at the property line at Owings Ave is at 0, as shown on the lighting plan. Wa Wa has agreed to do the building facade (the entire building) in brick, as shown on the rendering we introduced. This we believe is in harmony with the historic area in Reisterstown. I don't think you can produce a more tasteful buiding than what WaWa is proposing for this site. As for the stormwater issues, Wa Wa will be required to meet all state and county code requirements, before any building permits can be issued. The project will have to undergo a development permit review of SWM and will have to comply with the 2000 Md and County regulations including provisions for a suitable outfall. No building can occur until these regualtions are satisfied and there is compliance with them. I think, after much discussion with Wa Wa, that it has the same concerns you have--it wants to be a good neighbor (they want your business) and will do all that it can to minimize the effects of its operation on the immedaite area. The lighting plan as introduced we believe does what you propose. It reduces glare and limits the impact on the surrounding homes tremendously.

There is no car wash proposed and certainly Wa Wa has no intent of requesting one. There is no outdoor speaker system. Compaction takes place inside. As for trash collection and deliveries, Wa Wa cannot agree to time restictions due to many other considerations, but will do what it can to limit them. I don't think I have ever heard anyone complain about noise emanating from a Wa Wa, either while I was with the County or as an attorney doing these types of case. Wa Wa is a clean and very quiet operation. Wa Wa has other sites adjacent to residential development, similar to here, and there have been no complaints about noise or lighting issues.

I hope you don't mind but I am copying Bruce Rice of Wa Wa, so he is aware of your concerns and issues.

County Board of Appeals of Baltimore County

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

August 14, 2008

Arnold Jablon, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: *In the Matter of: S & J Management, Inc.*
Case No. 08-163-SPHXA /Order of Dismissal

Dear Mr. Jablon:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County, pursuant to the agreement reached by the parties in the subject matter.

Very truly yours,

Kathleen Bianco/sc

Kathleen C. Bianco
Administrator

Enclosure

c: Robert Begleiter
Michael P. Tanczyn, Esquire
S & J Management, Inc /
Greg Harvey /Bruce Rice
David Martin /Martin & Phillips Design Associates, Inc.
Ken Schmid /Traffic Concepts, Inc.
Barbara V. Reynolds
Dave Stone, Jr.
George Harmon /Reisterstown, Owings Mills, Glyndon Coordinating Council
Mary Molinaro / Chartley Homeowners Association
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
S & J MANAGEMENT, INC. -PETITIONER	*	COUNTY BOARD OF APPEALS
FOR SPECIAL HEARING, SPECIAL		
EXCEPTION AND VARIANCE ON	*	OF
PROPERTY LOCATED ON THE SW/COR		
OF MAIN STREET AND STOCKSDALE	*	BALTIMORE COUNTY
AVENUE, E OF OWINGS AVENUE		
(516 REISTERSTOWN ROAD)	*	CASE NO. 08-163-SPHXA
4TH ELECTION DISTRICT		
3RD COUNCILMANIC DISTRICT	*	

* * * * * * * * * * *

ORDER OF DISMISSAL

This matter comes before the Board as an appeal filed by Robert Begleiter, Appellant, from a decision of the Deputy Zoning Commissioner dated March 14, 2008, in which Petitioner's requested zoning relief was granted.

WHEREAS, the Board is in receipt of a letter dated July 31, 2008, and attached "Agreement and Declaration of Covenants" entered into between Petitioner, S & J Management, Inc.; the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.; and Appellant, Robert Begleiter, filed August 1, 2008, by Arnold Jablon, Esquire, Counsel for Petitioner, (a copy of which is attached hereto and made a part hereof); and

WHEREAS, said Appellant withdraws his appeal filed in Case No. 08-163-SPHXA pursuant to the terms and conditions of the above-referenced "Agreement and Declaration of Covenants,"

IT IS, THEREFORE, ORDERED this 14th day of August, 2008 by the County Board of Appeals of Baltimore County that the appeal of Robert Begleiter filed in Case No. 08-163-SPHXA be and the same is hereby **DISMISSED.**

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott

Wendell H. Grier

Robert W. Witt

VENABLE® LLP

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

31 July 2008

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

Re: Case No. 08-163SPHXA
Property: 520 Main St
Reisterstown
3rd ED; 4th CD
My Client: S & J Management, Inc
Hearing Date: 8/28/08

Dear Ms. Bianco:

Please be advised that I represent the appellee, S & J Management, Inc., in this matter. An appeal was filed by Robert Begleiter.

I attach hereto a copy of a "Agreement and Declaration of Covenants", entered into and executed by and between my client and Mr. Begleiter and the Reisterstown-Owings Mill-Glyndon Coordination Council. Pursuant to the terms and conditions of the Agreement, Mr. Begleiter has agreed to withdraw his appeal (see p. 1, 6th "Whereas" paragraph; see also p. 3, paragraph 3)

Mr. Begleiter is the sole appellant in this matter, thus the dismissal will serve to confirm the final and binding nature of the Deputy Zoning Commissioner's decision in this matter. Please refer to p. 4, paragraph 7 of the Agreement.

Should you have any questions, please call.

RECEIVED
AUG - 1 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Thank you for your consideration.

Sincerely,

Arnold Jablon

c: Robert Begleiter
George Harman
Michael Tanczyn, Esq.

AGREEMENT AND DECLARATION OF COVENANTS

THIS AGREEMENT AND DECLARATION OF COVENANTS, made this 24 day of July, 2008, by S & J Management, Inc. a Maryland corporation, hereinafter called "Grantor", and accepted by Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. ("ROG"), a Maryland not-for-profit corporation, and Robert Begleiter, hereinafter referred to as "Grantees".

WITNESSETH:

WHEREAS, Grantor is the owner of certain property consisting of approximately 2.4 acres, +/-, located in Baltimore County, Maryland, as more particularly described in Paragraph 1 hereof, hereinafter sometimes referred to as the "subject property," and,

WHEREAS, Grantee ROG is an association composed of citizens who have an interest in the use and development of the subject property; and

WHEREAS, Grantee Begleiter is an owner of a business on Reisterstown Road; and

WHEREAS, the subject properties owned by the Grantor were granted by the Deputy Zoning Commissioner certain zoning relief in Case # 08-163SPHXA for a special exception, variance and special hearing for a fuel service station in combination with a convenience store and carry out restaurant; and

WHEREAS, Grantee Begleiter noted an appeal to the Baltimore County Board of Appeals of the decision in Case # 08-163SPHXA that is pending before the Board; and

WHEREAS, Grantee Begleiter agrees to withdraw and dismiss his appeal in Case # 08-163SPHXA and Grantee ROG agrees not to oppose the Grantor's approval for the fuel service station in combination with a convenience store and carry out restaurant on the subject property provided that Grantor enters into this Agreement and the Grantees do not oppose the development of the subject properties for the aforedescribed uses; and

WHEREAS, Grantees have determined that, subject to the specific covenants and restrictions contained herein, the proposed fuel service station in combination with a convenience store and carry out restaurant will meet the majority of the community's concerns, subject to and in accordance with the covenants and restrictions contained herein; and

WHREAS, Grantor by this Agreement is willing to enter into and execute this Agreement subject to the

dismissal of the appeal and the entry of a final order in Case # 08-163SPHXA granting the said fuel service station in combination with convenience store and carry out restaurant; submit the subject property to development as limited and restricted by the Deputy Zoning Commissioners' Order in Case # 08-163SPHXA and to grant to the Grantees the right to enforce these covenants, including the right to sue for and obtain an injunction, prohibitive or mandatory, without a showing of special damages to prevent the breach of said covenants.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the mutual receipt of which is hereby acknowledged, the Grantor hereby declares that the real property described in and referred to in Paragraph 1 hereof is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants and restrictions hereinafter set forth.

1. The real properties which are and shall be conveyed, transferred, occupied and sold subject to the conditions, covenants and restrictions set forth herein is located in Baltimore County, State of Maryland, and are more particularly described as follows, to wit:

(1) Located at SS Stocksdale Cor Owings Ave
Map 48, Grid 23, Parcel 251
Tax Account #: 04-0419009310

(2) Located at Pt Lt 5 15 Stocksdale Ave, Owings Heights
Map 48, Grid 23, Parcel 252
Tax Account #: 04-0420045203

(3) Located at Pt Lt 5, Owings Heights
Map 48, Grid 23, Parcel 253
Tax Account #: 04-0411016110

(4) Located at WS 518 Reisterstown Rd, 50 SW Stocksdale Rd
Map 48, Grid 23, Parcel 254
Tax Account #: 04-0402066327

(5) Located at 520 Mail St, 150 FT S Stocksdale Rd
Map 48, Grid 23, Parcel 255
Tax Account #: 04-0413086441

(6) Located at 200 N. Church Ave
Owings Ave
Map 48, Grid 23, Parcel 982
Tax Account #: 04-0415032051

All of that piece or parcels of land situate, lying, and being in Baltimore County, Maryland, and being part of the same lands conveyed to S & J Management, Inc. by deeds: (1) Liber 20281, Folio 101, dated 22 June 2004; (2) Liber 20281, Folio 106, dated 22 June 2004; (3) Liber 7869, Folio 118, dated 24 May 1988; (4) Liber 20190, Folio 71, dated 7 June 2004; (5) Liber 20042, Folio 532, dated 12 May 2004; and (6) Liber 6872, Folio 220, dated 19 February 1985; all recorded among the Land Records of Baltimore County.

Grantor agrees and covenants that it will be bound by the following conditions and covenants.

i. Grantor and Grantees agree to support the approval granted in Case # 08-163SPHXA;
ii. Grantee Begleiter agrees to dismiss with prejudice his appeal in Case # 08-163SPHXA to the Baltimore County Board of Appeals;
iii. Grantees agree not to oppose the development of the subject properties for the approved uses;
iv. Grantor and Grantees agree and understand that the site plan approved in Case # 08-163SPHXA is subject to change and modification as may be directed by the County or State, and is not intended to imply or represent a final development plan for subject property;
v. Grantor agrees that the subject property shall be bound by the following conditions and covenants:
    1. After completion of the proposed building; Grantor will retain at its sole expense an acoustical consultant to confirm compliance with State noise control standards, including but not limited to HVAC and trash compactor units, and Grantor agrees to provide Grantee ROG with notice of said test; to permit a representative of ROG to attend, and to provide copies of the test results;
    2. Grantor shall be responsible at its cost and expense to insure that there is compliance with all State noise control standards and take immediate steps to remediate any violations of said standards, to mitigate noise levels that exceed State standards and reduce noise levels necessary to achieve State noise control regulations;
    3. Outdoor lighting shall be designed to blend in with the residential neighborhood and be limited to full cut off/dark sky friendly fixtures that would limit disabling glare onto adjacent properties;
    4. Light standards to the rear of the property adjacent to Owings Ave shall be reduced from the maximum height allowed by the County to 14', at 250 watts, and be dark sky compliant.
    5. Lighting at the canopies shall be cut off/dark sky friendly fixtures.
    6. Grantor further agrees to adhere to the other site development conditions set by the Deputy Zoning Commissioner in Case No. 08-163SPHXA.

3. These covenants, conditions and restrictions shall become effective upon the dismissal of the appeal taken by Grantee Begleiter and with the issuance of an order by the Baltimore County Board of Appeals that the Deputy Zoning Commissioner's order in Case # 08-163SPHXA is final. If the Appeal is not dismissed and if the order in Case # 08-163SPHXA does not become final, this Agreement shall automatically terminate and be of no further force or effect.

4. Subject to the foregoing, and except as hereinafter provided in this Agreement, these covenants, conditions and restrictions are to run with the land and shall be binding upon the Grantor, its successors and assigns and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the Grantor, its successors and assigns, to conform to and observe said restrictions as to the use of the subject property and the

successors and assigns, shall have the right to enforce said covenants, conditions and restrictions, including the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of said covenants, conditions and restrictions, without any showing of special damages.

5. If the Grantor, its successors and assigns, is found by a Court of Law to have breached any of its obligations under this Agreement, the Grantor, its successors and assigns, shall reimburse the Grantees, their successors or assigns, for any reasonable costs or expenses incurred by the Grantees, their successors or assigns, in enforcing the terms of this Agreement, limited to court costs and reasonable attorney's fees.

6. These covenants, conditions and restrictions are to run with the land until such time as the subject property is no longer zoned Commercial, after which time they shall be automatically terminated. These covenants may not be amended in whole or in part except by agreement of the Grantor and Grantees.

7. Grantor agrees to bear the cost of recording this Agreement among the Land Records of Baltimore County, which shall occur after receipt of a final order issued by the Baltimore County Board of Appeals dismissing the appeal and declaring the Deputy Zoning Commissioner's order in Case # 08-163SPHXA final..

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered these presents as their own free act and deed as of the day and year first hereinabove written.

Witness:

S & Management, Inc.

By: _____ 7/21/08
Stuart Pollack, President

Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

_____

By:: _____ 7/21/08
George Harman, President

_____

_____ 7/21/08
Robert Begleiter

State of Maryland
~~Baltimore~~ Carroll County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared, Stuart Pollack, President of S & J Management Inc., a Maryland Corporation, the entity whose name is subscribed to the within instrument and acknowledged that he on behalf of S & J Management, Inc, executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my ~~hand~~ and official seal.

Notary Public

My Commission Expires:

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared, George Harman, president, an officer in the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc., a Maryland not-for-profit corporation, the entity whose name is subscribed to the within instrument and acknowledged that he on behalf of said Corporation, executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: 03-01-2009

D. J. CREMPLEES
NOTARY PUBLIC
BALTIMORE CO. MD
MY COMMISSION EXPIRES
MARCH 1 2009

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared Robert Begleiter whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: 03-01-2009

D. J. CREMPLEES
NOTARY PUBLIC
BALTIMORE CO. MD
MY COMMISSION EXPIRES
MARCH 1 2009

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Arnold Jablon

CASE #: 08-163-SPHXA **IN THE MATTER OF: *S & J MANAGEMENT – Legal Owner***
516 Reisterstown Road 4th Election District; 3rd Councilmanic District

3/14/2008 – D.Z.C.'s Order in which requested zoning relief was GRANTED.

A Motion Only Hearing has been scheduled for the following date and time for the purpose of receiving argument only on Petitioner's Motion to Dismiss

---

5/29/08 – Motion to Dismiss filed by Arnold Jablon, Esquire, on behalf of S & J Management, Inc..
-- Notice of Assignment, Motion Only Hearing, sent to parties this date. Motion Only hearing to receive argument only on Petitioner's Motion to Dismissed assigned for Tuesday, July 1, 2008, at 10:00 a.m. FYI copy to panel; Notice sent to following:

Robert Begleiter
Arnold Jablon, Esquire
S & J Management, Inc /
Greg Harvey /Bruce Rice
David Martin /Martin & Phillips Design Associates, Inc.
Ken Schmid /Traffic Concepts, Inc.
Barbara V. Reynolds
Dave Stone, Jr.
George Harmon /Reisterstown, Owings Mills, Glyndon Coordinating Council
Mary Molinaro / Chartley Homeowners Association
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

6/09/08 – Notice of Assignment /hearing on merits sent to parties this date. Should the Petitioner's Motion to Dismiss be denied by the Board, this matter will go forward on the merits of the case on Thursday, August 28, 2008, at 10:00 a.m.

6/23/08 – Letter from People's Counsel in response to Petitioner's Motion to Dismiss; copy to 7 and 1 via USPS; Copy to 2 in office.

6/27/08 – T/C to George Harman, President, ROG Coordinating Council – will advise him of any further developments regarding motion only hearing; he has also spoken with Mr. Zimmerman who, at this time, will be in attendance at 7/01/08 motion hearing.

7/01/08 – Board (Crizer, Murphy, Stahl) convened for specially assigned Motion only hearing.
Michael P. Tanczyn, Esquire, entered his appearance and appeared on behalf of Appellant; Arnold Jablon, Esquire, appeared on behalf of Petitioner. On the record, the Motion to Dismiss was withdrawn by Mr. Jablon on behalf of Petitioner. Board will convene for hearing in this matter on the merits on the assigned date of Thursday, August 28, 2008, at 10:00 a.m. Disposition of the instant Motion to Dismiss appeal to be referenced in the Board's final opinion and order in this matter. Copy of notice for 8/28/08 hearing sent to Mr. Tanczyn this date via USPS.

8/01/08 – Letter from Arnold Jablon with attached "Agreement and Declaration of Covenants" between his client, S & J Mgmt, and Mr. Begleiter, Appellant. Appellant withdrawing appeal per p 1, 6th "whereas" paragraph; and p. 3, paragraph 3 /per terms and conditions of agreement. Order of Dismissal to be issued; case pulled from 8/28/08.

VENABLE LLP

31 July 2008

Arnold E. Jablon

t 410-494-6298
f 410.821.0147
aejablon@venable.com

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

Re: Case No. 08-163SPHXA
Property: 520 Main St
Reisterstown
3rd ED; 4th CD
My Client: S & J Management, Inc
Hearing Date: 8/28/08

Dear Ms. Bianco:

Please be advised that I represent the appellee, S & J Management, Inc., in this matter. An appeal was filed by Robert Begleiter.

I attach hereto a copy of a "Agreement and Declaration of Covenants", entered into and executed by and between my client and Mr. Begleiter and the Reisterstown-Owings Mill- Glyndon Coordination Council. Pursuant to the terms and conditions of the Agreement, Mr. Begleiter has agreed to withdraw his appeal (see p. 1, 6th "Whereas" paragraph; see also p. 3, paragraph 3)

Mr. Begleiter is the sole appellant in this matter, thus the dismissal will serve to confirm the final and binding nature of the Deputy Zoning Commissioner's decision in this matter. Please refer to p. 4, paragraph 7 of the Agreement.

Should you have any questions, please call.

Thank you for your consideration.

Sincerely,

Arnold Jablon

c: Robert Begleiter
George Harman
Michael Tanczyn, Esq.

AGREEMENT AND DECLARATION OF COVENANTS

THIS AGREEMENT AND DECLARATION OF COVENANTS, made this 21 day of July, 2008, by S & J Management, Inc. a Maryland corporation, hereinafter called "Grantor", and accepted by Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. ("ROG"), a Maryland not-for-profit corporation, and Robert Begleiter, hereinafter referred to as "Grantees".

WITNESSETH:

WHEREAS, Grantor is the owner of certain property consisting of approximately 2.4 acres, +/-, located in Baltimore County, Maryland, as more particularly described in Paragraph 1 hereof, hereinafter sometimes referred to as the "subject property," and,

WHEREAS, Grantee ROG is an association composed of citizens who have an interest in the use and development of the subject property; and

WHEREAS, Grantee Begleiter is an owner of a business on Reisterstown Road; and

WHEREAS, the subject properties owned by the Grantor were granted by the Deputy Zoning Commissioner certain zoning relief in Case # 08-163SPHXA for a special exception, variance and special hearing for a fuel service station in combination with a convenience store and carry out restaurant; and

WHEREAS, Grantee Begleiter noted an appeal to the Baltimore County Board of Appeals of the decision in Case # 08-163SPHXA that is pending before the Board; and

WHEREAS, Grantee Begleiter agrees to withdraw and dismiss his appeal in Case # 08-163SPHXA and Grantee ROG agrees not to oppose the Grantor's approval for the fuel service station in combination with a convenience store and carry out restaurant on the subject property provided that Grantor enters into this Agreement and the Grantees do not oppose the development of the subject properties for the aforedescribed uses; and

WHEREAS, Grantees have determined that, subject to the specific covenants and restrictions contained herein, the proposed fuel service station in combination with a convenience store and carry out restaurant will meet the majority of the community's concerns, subject to and in accordance with the covenants and restrictions contained herein; and

WHREAS, Grantor by this Agreement is willing to enter into and execute this Agreement subject to the

dismissal of the appeal and the entry of a final order in Case # 08-163SPHXA granting the said fuel service station in combination with convenience store and carry out restaurant; submit the subject property to development as limited and restricted by the Deputy Zoning Commissioners' Order in Case # 08-163SPHXA and to grant to the Grantees the right to enforce these covenants, including the right to sue for and obtain an injunction, prohibitive or mandatory, without a showing of special damages to prevent the breach of said covenants.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the mutual receipt of which is hereby acknowledged, the Grantor hereby declares that the real property described in and referred to in Paragraph 1 hereof is and shall be held, transferred, sold, conveyed and occupied subject to the conditions, covenants and restrictions hereinafter set forth.

1. The real properties which are and shall be conveyed, transferred, occupied and sold subject to the conditions, covenants and restrictions set forth herein is located in Baltimore County, State of Maryland, and are more particularly described as follows, to wit:

(1) Located at SS Stocksdale Cor Owings Ave
Map 48, Grid 23, Parcel 251
Tax Account #: 04-0419009310

(2) Located at Pt Lt 5 15 Stocksdale Ave, Owings Heights
Map 48, Grid 23, Parcel 252
Tax Account #: 04-0420045203

(3) Located at Pt Lt 5, Owings Heights
Map 48, Grid 23, Parcel 253
Tax Account #: 04-0411016110

(4) Located at WS 518 Reisterstown Rd, 50 SW Stocksdale Rd
Map 48, Grid 23, Parcel 254
Tax Account #: 04-0402066327

(5) Located at 520 Mail St, 150 FT S Stocksdale Rd
Map 48, Grid 23, Parcel 255
Tax Account #: 04-0413086441

(6) Located at 200 N. Church Ave
Owings Ave
Map 48, Grid 23, Parcel 982
Tax Account #: 04-0415032051

All of that piece or parcels of land situate, lying, and being in Baltimore County, Maryland, and being part of the same lands conveyed to S & J Management, Inc. by deeds: (1) Liber 20281, Folio 101, dated 22 June 2004; (2) Liber 20281, Folio 106, dated 22 June 2004; (3) Liber 7869, Folio 118, dated 24 May 1988; (4) Liber 20190, Folio 71, dated 7 June 2004; (5) Liber 20042, Folio 532, dated 12 May 2004; and (6) Liber 6872, Folio 220, dated 19 February 1985; all recorded among the Land Records of Baltimore County.

Grantor agrees and covenants that it will be bound by the following conditions and covenants.

i. Grantor and Grantees agree to support the approval granted in Case # 08-163SPHXA;
ii. Grantee Begleiter agrees to dismiss with prejudice his appeal in Case # 08-163SPHXA to the Baltimore County Board of Appeals;
iii. Grantees agree not to oppose the development of the subject properties for the approved uses;
iv. Grantor and Grantees agree and understand that the site plan approved in Case # 08-163SPHXA is subject to change and modification as may be directed by the County or State, and is not intended to imply or represent a final development plan for subject property;
v. Grantor agrees that the subject property shall be bound by the following conditions and covenants:
    1. After completion of the proposed building; Grantor will retain at its sole expense an acoustical consultant to confirm compliance with State noise control standards, including but not limited to HVAC and trash compactor units, and Grantor agrees to provide Grantee ROG with notice of said test; to permit a representative of ROG to attend, and to provide copies of the test results;
    2. Grantor shall be responsible at its cost and expense to insure that there is compliance with all State noise control standards and take immediate steps to remediate any violations of said standards, to mitigate noise levels that exceed State standards and reduce noise levels necessary to achieve State noise control regulations;
    3. Outdoor lighting shall be designed to blend in with the residential neighborhood and be limited to full cut off/dark sky friendly fixtures that would limit disabling glare onto adjacent properties;
    4. Light standards to the rear of the property adjacent to Owings Ave shall be reduced from the maximum height allowed by the County to 14', at 250 watts, and be dark sky compliant.
    5. Lighting at the canopies shall be cut off/dark sky friendly fixtures.
    6. Grantor further agrees to adhere to the other site development conditions set by the Deputy Zoning Commissioner in Case No. 08-163SPHXA.

3. These covenants, conditions and restrictions shall become effective upon the dismissal of the appeal taken by Grantee Begleiter and with the issuance of an order by the Baltimore County Board of Appeals that the Deputy Zoning Commissioner's order in Case # 08-163SPHXA is final. If the Appeal is not dismissed and if the order in Case # 08-163SPHXA does not become final, this Agreement shall automatically terminate and be of no further force or effect.

4. Subject to the foregoing, and except as hereinafter provided in this Agreement, these covenants, conditions and restrictions are to run with the land and shall be binding upon the Grantor, its successors and assigns and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the Grantor, its successors and assigns, to conform to and observe said restrictions as to the use of the subject property and the

successors and assigns, shall have the right to enforce said covenants, conditions and restrictions, including the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of said covenants, conditions and restrictions, without any showing of special damages.

5. If the Grantor, its successors and assigns, is found by a Court of Law to have breached any of its obligations under this Agreement, the Grantor, its successors and assigns, shall reimburse the Grantees, their successors or assigns, for any reasonable costs or expenses incurred by the Grantees, their successors or assigns, in enforcing the terms of this Agreement, limited to court costs and reasonable attorney's fees.

6. These covenants, conditions and restrictions are to run with the land until such time as the subject property is no longer zoned Commercial, after which time they shall be automatically terminated. These covenants may not be amended in whole or in part except by agreement of the Grantor and Grantees.

7. Grantor agrees to bear the cost of recording this Agreement among the Land Records of Baltimore County, which shall occur after receipt of a final order issued by the Baltimore County Board of Appeals dismissing the appeal and declaring the Deputy Zoning Commissioner's order in Case # 08-163SPHXA final..

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered these presents as their own free act and deed as of the day and year first hereinabove written.

Witness:

S &Management, Inc.

By: _____ 7/21/08
Stuart Pollack, President

Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc.

By:: George Harman 7/21/08
George Harman, President

George Harman

Robert Begleiter 7/21/08
Robert Begleiter

State of Maryland
~~Baltimore~~ Carroll County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared, Stuart Pollack, President of S & J Management Inc., a Maryland Corporation, the entity whose name is subscribed to the within instrument and acknowledged that he on behalf of S & J Management, Inc, executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my ~~hand~~ and official seal.

Notary Public

My Commission Expires:

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared, George Harman, president, an officer in the Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc., a Maryland not-for-profit corporation, the entity whose name is subscribed to the within instrument and acknowledged that he on behalf of said Corporation, executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: 03-01-2009

B.J. GREMPLER
MY COMMISSION EXPIRES
MARCH 1 2009
BALTIMORE CO. MD
NOTARY PUBLIC

State of Maryland
Baltimore County

I HEREBY CERTIFY that on this 21st day of July, 2008, before me, a Notary Public of the State aforesaid, personally appeared Robert Begleiter whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: 08-01-2009

B.J. GREMPLER
MY COMMISSION EXPIRES
MARCH 1 2009
BALTIMORE CO. MD
NOTARY PUBLIC

This is to certify that the within instrument has been prepared under the supervision of the undersigned Maryland attorney.

Arnold Jablon

County Board of Appeals of Baltimore County

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

Motion to Dismiss
w/d rec
7/01/08

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

May 29, 2008

NOTICE OF ASSIGNMENT - MOTION ONLY HEARING

CASE #: 08-163-SPHXA **IN THE MATTER OF: *S & J MANAGEMENT – Legal Owner***
516 Reisterstown Road 4th Election District; 3rd Councilmanic District

3/14/2008 – D.Z.C.'s Order in which requested zoning relief was GRANTED.

A Motion Only Hearing has been scheduled for the following date and time for the purpose of receiving argument only on Petitioner's Motion to Dismiss; and has been:

ASSIGNED FOR: **TUESDAY, JULY 1, 2008 at 10:00 a.m.**

NOTICE: **Assigned for argument on Motion to Dismiss only. No testimony or evidence as to the merits of this appeal will be received at this Motion Only Hearing.**

Please refer to the Board's Rules of Practice & Procedure, Appendix H, *Baltimore County Zoning Regulation.*

NOTE: No postponements will be granted without sufficient reasons and in compliance with Board's Rules.

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

Kathleen C. Bianco
Administrator

---

c: Appellant : Robert Begleiter

Counsel for Petitioner : Arnold Jablon, Esquire
Petitioner : S & J Management, Inc / Greg Harvey /Bruce Rice

David Martin /Martin & Phillips Design Associates, Inc.
Ken Schmid /Traffic Concepts, Inc.

Barbara V. Reynolds
Dave Stone, Jr.

George Harmon /Reisterstown, Owings Mills, Glyndon Coordinating Council
Mary Molinaro / Chartley Homeowners Association

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

Reisterstown~Owings Mills~ Glyndon
Coordinating Council

P.O. Box 117
Reisterstown, MD 21136

June 19, 2008

County Board of Appeals of Baltimore County
Jefferson Building
Second Floor Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kathleen C. Bianco, Administrator

RE: Case # 08-163-SPHXA (Wawa)

Dear Ms. Bianco:

The Reisterstown-Owings Mills-Glyndon Coordinating Council, Inc. (ROG) has voted at both Board and General membership meetings to oppose case number 08-163-SPHXA at the Hearing Officer level and any subsequent appeals. Various officers, including myself as President, are authorized to offer written or oral testimony in opposition at any and all legal proceedings regarding this matter. Rule 8 authorization has been prepared and will be presented at the hearings regarding this matter.

ROG argued against the proposed convenience and fuel service station being proposed by S & J Management, Inc. on a number of grounds that were denied at the Hearing Officer level. We believe that some of the arguments have significant merit and intend to join Mr. Robert Begleiter in his appeal of the Hearing Officer decision at the scheduled August 28, 2008 hearing before the Board of Appeals. Mr. Begleiter filed his appeal on behalf of those in the community that share our mutual concerns with the project. The general community remains opposed to the proposed development by Wawa, Inc., the contract purchaser of the property owned by S & J Management, Inc. ROG also intends to appear and oppose the Motion to Dismiss that was filed by Mr. Arnold Jablon on behalf of the petitioners of the zoning relief, with that action to be heard on July 1, 2008 at 10:00 AM.

Please advise me of any additional documentation that might be needed to qualify us to join and participate in the appeal filed by Mr. Begleiter. I may be reached by phone during the day at 410-537-3856.

Sincerely,

George Harman

George Harman, President

copy via email: Arnold Jablon
Barbara Reynolds
Mary Molinaro
Office of People's Counsel

Copy via mail: Robert Begleiter

RECEIVED
JUN 23 2008
BALTIMORE COUNTY
BOARD OF APPEALS

One Stop Convenience and Deli
11700 Reisterstown Rd.
Reisterstown, MD. 21136

County Board of Appeals of Baltimore City
Jefferson Building
Second floor suite 203
103 West Chesapeake Avenue
Towson, MD 21204

Attention: Kathleen C Bianco, Administrator

RE: Case # 08163-SPHxA (WAWA)

Dear Ms. Bianco:

As I stated to you during our phone conversation, I put in the appeal opposing **case # 08163-SPHxA as part of the Chartley neighborhood association., and the** Reisterstown Owings mills-Glyndon coordination council. I've been attending their **meetings and we had many discussions and concerns on how the Wawa in its planned** location would negatively impact the area. Reisterstown road turns from four lanes to **two lanes with no turn lane and is now and would become a much more dangerous road.** People that don't live or do business in the area don't understand, and the neighborhoods **do, and were shocked when Mr. Bestwick gave Mr. Jablon everything he asked for.**

When we got Mr. Bestwick's report he stated that we could appeal by a certain **date. After having discussions with both the Chartley neighborhood Assoc., and** Reisterstown Owings mills-Glyndon coordination council I went and appealed for all of **us. All we are asking for is our day in court that we were promised, and not by a shortcut** by Mr. Jablon to stop the neighborhoods from stating their case at the trial date of August **28, 2008**

Sincerely,

Robert Begleiter

Copy Via mail: Arnold Jablon
Mary Molinaro
George Harman
Office of people's counsel
Barbara Reynolds

RECEIVED
JUN 24 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 23, 2008

RECEIVED
JUN 23 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Edward W. Crizer, Jr., Chairman
County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Hand-delivered

Re: PETITION FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE
S&J Management, Inc-Petitioner
516 Reisterstown Road
Case No.: 08-163-SPHXA
Hearing on Motion to Dismiss, scheduled July 1, 2008

Dear Mr. Crizer:

This is in reference to Petitioner's Motion to Dismiss the appeal filed by Robert Begleiter on April 7, 2008. It challenges Mr. Begleiter's standing to appeal, arguing that he is a competitor and, therefore, not an "aggrieved party." Meanwhile, George Harman, President of the Reisterstown-Owings-Mills Coordinating Council has transmitted a letter dated June 19, 2008 expressing opposition to the zoning petition. In view of the situation, we would like to express our interest in this case.

In conjunction with defense of the zoning maps in the public interest under Charter § 524.1(b), and as an officer before the County Board of Appeals, our office is concerned that the law be applied correctly so that all interested parties have an opportunity to be heard. Whether or not Mr. Begleiter's interest is as a competitor or otherwise, the law does provide him an opportunity to appear, to appeal, and to be heard.

He appeared, apparently without objection, before the Deputy Zoning Commissioner. In any event, the relevant statutory appeal procedure does not restrict the right to appeal to "aggrieved parties." Rather, County Code § 32-3-401(a) allows "A person aggrieved or *feeling aggrieved* by a decision of the Zoning Commissioner ..." to appeal to the County Board of Appeals. Italics supplied. The addition of the words "feeling aggrieved" means, in substance, that anyone interested in the case may appeal. This has even been construed to allow appeals by persons who never entered an appearance in person or in writing at the Zoning Commissioner level.

The Court of Appeals has reiterated on numerous occasions that the rules for participation at the zoning board level are more liberal and relaxed than in the judicial system. Anyone expressing an interest in a case may appear and be recognized as a party unless there is a specific statutory prohibition. We enclose a copy of Dorsey v. Bethel AME Church 375 Md. 59 (2003). Judge Eldridge's decision reviews in detail the allowance of interested parties to participate at the CBA at pages 71-75 and differentiates the more strict limitation to "aggrieved parties" at the judicial level.

We note that Petitioner cites the Woodland Services case, 06-583-SPH, which it relies on as precedent for the proposition that competitors lack standing. The short answer is the Board's decision there is in conflict with the Court of Appeals decisions. The Board is bound by the Court of Appeals decisions, but is not bound by the Board decisions in conflict with the Court of Appeals. .

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Arnold Jablon, Esquire, Venable, LLP, Attorney for Petitioner
Robert Begleiter, Appellant
George Harman, President, Reisterstown-Owings Mills-Glyndon Coordinating Council

In fact, the broad scope of the term "accidental personal injury" set forth in *Victory Sparkler Co. v. Francks, supra,* 147 Md. at 382, 128 A. at 640, was in part based upon the statutory mandate that the act be liberally construed in favor of coverage. *See also, e.g., Ametek, Inc. v. O'Connor,* 364 Md. 143, 154, 771 A.2d 1072, 1079 (2001); *Martin v. Beverage Capital Corp.,* 353 Md. 388, 400, 726 A.2d 728, 734 (1999); *Mayor of Baltimore v. Schwing,* 351 Md. 178, 204, 717 A.2d 919, 932 (1998); *Para v. Richards Group of Wash. Ltd. Partnership,* 339 Md. 241, 251, 661 A.2d 737, 742 (1995); *Vest v. Giant Food Stores, Inc.,* 329 Md. 461, 467, 620 A.2d 340, 342 (1993); *Alitalia Linee Aeree Italiane v. Tornillo, supra,* 329 Md. at 48, 617 A.2d at 576; *Inner Harbor Warehouse, Inc. v. Myers,* 321 Md. 363, 378, 582 A.2d 1244, 1251 (1990); *Lovellette v. Baltimore,* 297 Md. 271, 282, 465 A.2d 1141, 1147 (1983); *Howard County Assoc. for Retarded Citizens, Inc. v. Walls,* 288 Md. 526, 530, 418 A.2d 1210, 1213 (1980); *Subsequent Injury Fund v. Thomas,* 275 Md. 628, 635, 342 A.2d 671, 675 (1975); *Bethlehem-Fairfield Shipyard, Inc. v. Rosenthal,* 185 Md. 416, 425, 45 A.2d 79, 83 (1945); *Lisowsky v. White,* 177 Md. 377, 382, 9 A.2d 599, 601 (1939).

In *DeBusk v. Johns Hopkins,* 342 Md. 432, 677 A.2d 73 (1996), this Court explored the goals which the workers' compensation system was intended to achieve. We pointed out that the Act "was designed to provide employees with compensation for loss of earning capacity, regardless of fault, resulting from accidental injury . . . occurring in the course of employment." *DeBusk,* 342 Md. at 437, 677 A.2d at 75. Referring to the balance that the Act strikes between the competing interests of the employee and employer, this Court stated (342 Md. at 438, 677 A.2d at 76):

> "Employees who follow the procedural rules of the Act and can prove they were injured while working can almost certainly recover compensation to prevent undue hardships caused by loss of wages and medical expenses. Employers who purchase workers' compensation insurance and otherwise comply with the law of workers' compensation can likewise count on avoiding a negligence lawsuit."

The haphazard application of the judicially invented "unusual activity" requirement renders it impossible to meet the statutory goals set forth in the *DeBusk* opinion.

Ms. Harris, both as a matter of common sense and as a matter of law, suffered a covered accidental personal injury. This was recognized by the administrative agency charged with the duty of applying the statute. Thus, we reverse the judgments of both courts below and direct that the decision of the Workers' Compensation Commission be affirmed. In addition, we overrule the holdings in *Slacum v. Jolley, supra,* 153 Md. 343, 138 A. 244; *Miskowiak v. Bethlehem Steel Co., supra,* 156 Md. 690, 145 A. 199; *Atlantic Coast Shipping Co. v. Stasiak, supra,* 158 Md. 349, 148 A. 452, and similar holdings.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED AND CASE REMANDED TO THAT COURT WITH DIRECTIONS TO REVERSE THE JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY AND REMAND THE CASE TO THE CIRCUIT COURT WITH DIRECTIONS TO AFFIRM THE DECISION OF THE WORKERS' COMPENSATION COMMISSION. COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS TO BE PAID BY THE RESPONDENT.

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825 A.2d 388

Paul DORSEY, et al.

v.

BETHEL A.M.E. CHURCH.

No. 58, Sept. Term, 2002.

Court of Appeals of Maryland.

June 6, 2003.

Landowner's neighbors, community association, its president, and member of its board of directors sought review of

county board of appeals' decision that hearing officer could enter interlocutory decision and that matter was not ripe for appeal. The Circuit Court, Baltimore County, John O. Hennegan, J., dismissed the action as premature. Plaintiffs appealed. The Court of Special Appeals dismissed appeal for lack of standing. Certiorari was granted. The Court of Appeals, Eldridge, J., held that: (1) neighbors, president, and board member had prima facie standing to seek judicial review of county board of appeals' decision; (2) they were parties before the county board of appeals; and (3) the board's decision was not ripe and, therefore, was not subject to judicial review.

Reversed and remanded.

Raker, J., concurred in part and concurred in judgement.

1. Zoning and Planning ⇐742

Individual petitioners, landowner's neighbors and president and member of community association, were parties in the circuit court on appeal from county board of appeals' decision on development plan for church, were aggrieved by the circuit court's dismissal of their action, did sign a timely notice of appeal, and were properly parties-appellants in the Court of Special Appeals. Code 1957, Art. 25A, § 5.

2. Zoning and Planning ⇐749

If the Court of Special Appeals had correctly held that the individual appellants-petitioners lacked standing to maintain the judicial review action because they were not parties before the county board of appeals on development plan for church, it could have affirmed the dismissal of the judicial review action on this ground; if the Court of Special Appeals' holdings regarding standing and ripeness had been correct, the appellate court could have vacated the trial court's dismissal on the ground of prematurity and directed the trial court to dismiss the petition for lack of standing.

3. Appeal and Error ⇐780(2)

When aggrieved parties in the trial court are entitled to appeal and prosecute a timely, proper appeal to the Court of Special Appeals, their alleged lack of standing to have instituted the action in the trial court furnishes no ground for dismissal of the appeal.

4. Appeal and Error ⇐1036(1)

If a trial court erroneously rules that the plaintiffs in an action have standing, if an appeal is taken from a final trial court judgment, and if lack of standing is properly raised in the appellate court, the appropriate appellate judgment is to reverse or vacate the trial court's judgment.

5. Appeal and Error ⇐1135

If a trial court dismisses an action because the plaintiffs lack standing, if an appeal is timely and properly taken, and if the appellate court agrees that the plaintiffs lack standing, the appropriate appellate judgment is an affirmance of the trial court's judgment.

6. Appeal and Error ⇐780(2)

Lack of standing to initiate an action in a trial court is not a ground for dismissal of a timely and proper appeal.

7. Appeal and Error ⇐174

Under some circumstances, an appellate court may consider a standing issue even though it was not raised in the trial court.

8. Appeal and Error ⇐23

Sometimes an issue described as a "standing" issue may relate to the jurisdiction of the appellate court, such as whether the "case-or-controversy requirement" is met, and such an issue may always be noticed by the appellate court.

9. Zoning and Planning ⇐571, 745.1

Landowner's neighbors, a community association president, and member of association's board of directors had prima facie standing to seek judicial review of county board of appeals' decision on development plan for church, and any dispute concerning their standing should have been raised and litigated in the circuit court, not the Court of Special Appeals; petition for judicial review stated that the individual plaintiffs

were parties before the board of appeals, and it was signed by all nine individual plaintiffs, landowner did not allege lack of standing, and its motion to dismiss was based entirely upon the lack of a final administrative decision.

10. Zoning and Planning ⇐442

Individual petitioners, landowner's neighbors, community association's president, and member of its board of directors were parties before the county board of appeals regarding development plan for church; neither the transcript of the hearing before the board nor the board's opinion indicated that they were speaking solely as representatives of the association, and the board's opinion consistently referred to "protestants" and the "parties" on the protesting side, using the plural rather than the singular.

11. Administrative Law and Procedure ⇐704

In the absence of a statutory provision expressly authorizing judicial review of interlocutory administrative decisions, and in the absence of an interlocutory administrative decision with immediate legal consequences causing irreparable harm, the parties to the controversy must ordinarily await a final administrative decision before resorting to the courts.

12. Zoning and Planning ⇐570, 585

Decision by charter county board of appeals that hearing officer could enter interlocutory decision and that matter was not ripe for appeal prior to ruling on landowner's development plan was not a final administrative decision and, therefore, was not subject to judicial review, and, thus, the circuit court correctly dismissed the judicial review action as premature; the board decision did not leave nothing further for the agency to do. Code 1957, Art. 25A, § 5(U).

13. Zoning and Planning ⇐562

There could be no exhaustion of administrative remedies until there was a charter county board of appeals issued final decision approving or disapproving landowner's development plan; until such time, no party to the administrative proceedings was entitled to maintain a circuit court action for judicial review. Code 1957, Art. 25A, § 5(U).

14. Administrative Law and Procedure ⇐704

A decision by an adjudicatory tribunal which terminates the case in that tribunal, either by remanding the case to some other body or otherwise terminating the case in that tribunal, is a final decision.

15. Administrative Law and Procedure ⇐681.1

A circuit court decision remanding a case to an administrative agency is a final circuit court judgment and appealable to the Court of Special Appeals.

16. Administrative Law and Procedure ⇐704

The administrative decision must be final as a prerequisite for judicial review, and not simply the decision by the highest tribunal in the administrative hierarchy.

Ann M. Lembo, Baltimore, for Petitioners.

James A. Dunbar (Jennifer M. Horn of Venable, Baetjer and Howard, LLP, on brief), Towson, for Respondent.

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

ELDRIDGE, Judge.

In an administrative action for the approval of a development plan, the Board of Appeals of Baltimore County remanded the matter to the Baltimore County Hearing Officer for further proceedings. The petitioners then brought, in the Circuit Court for Baltimore County, an action for judicial review of the Board of Appeals' decision. The Circuit Court dismissed the action on the ground that there was no final administrative decision and that, therefore, the judicial review action was premature. The Court of Special Appeals ultimately dismissed the petitioners' appeal to that court on the ground that they lacked standing. The Court of Special Appeals' decision was erroneous, and we shall reverse it. The

Circuit Court's decision was correct, and we shall direct that it be affirmed.

I.

The respondent, Bethel A.M.E. Church, owns a 255 acre parcel of land on Old Court Road in Baltimore County, and Bethel desires to build a new church building and related facilities on the land. Churches are permitted under the zoning applicable to the land, but the Baltimore County development regulations require that Bethel obtain County approval of its development plan before proceeding to construct the church building and related facilities. Bethel filed for approval of its plan, and a hearing before the designated Baltimore County Hearing Officer began on August 28, 2000, and continued over several days in September 2000. By agreement of the parties, the record remained open until the middle of October 2000 for the submission of memoranda.

On October 30, 2000, the Hearing Officer issued a twenty-five page "interlocutory" opinion and an order ruling in favor of Bethel on all issues except one, which related to the adequacy of the surrounding roads to carry the anticipated traffic volumes to and from the Bethel Church. The Hearing Officer ordered Bethel to submit additional evidence on the traffic issue at a subsequent hearing before the Officer.

The Greater Patapsco Community Association, Inc., by Rosalyn N. Roddy, the Association's President, took an appeal from the Hearing Officer's interlocutory decision to the Baltimore County Board of Appeals. The Association's "Petition In Support Of Appeal," filed with the Board of Appeals, argued, *inter alia*, that the Hearing Officer was not authorized to issue an " 'interlocutory' ruling" and that the Baltimore County Code required that the Hearing Officer issue a "final decision" within fifteen days of the "final hearing" or fifteen days from the time the record became closed. The hearing before the Board of Appeals consisted of oral argument on the law, with Rosalyn Roddy, the Association's President, and Kathleen Skullney, another member of the Association, arguing that the Hearing Officer's decision was unauthorized, and with Bethel's attorney arguing to the contrary. Ms. Skullney also testified as to the nature of the Association, its geographical coverage, and its members. The transcript discloses that other protestants were present, and when the President offered to introduce them, the Board Chairman indicated that it would not be necessary and that, "[i]f there's ... no counsel ... here, no one is represented by counsel, just go around and they can appear."

In January 2001, the Board of Appeals filed an opinion holding that the Hearing Officer's interlocutory decision was unauthorized. The Board filed an order stating "that the matter is not ripe for appeal at this time" and ordering

> "that this matter be and is hereby **REMANDED** to the Hearing Officer for findings in accordance with his interlocutory order. Any party then aggrieved would have the right to appeal, in full, to this Board, on all issues of the subject Development Plan."

Next, a petition was filed in the Circuit Court for Baltimore County for judicial review of the Board of Appeals' decision. The ten named plaintiffs in the petition, as amended, were the Greater Patapsco Community Association, Inc., Rosalyn Roddy who had argued before the Board of Appeals as the Association's President, Kathleen Skullney who had argued and testified before the Board of Appeals, and seven individuals who were residents of the area where the land is located and who stated that they "were parties to the County Board of Appeals of Baltimore County proceeding which is the subject of this petition."

Bethel filed in the Circuit Court a motion to dismiss the petition for judicial review on the ground that the *administrative* decision was not final and, therefore, was not ripe for judicial review. The petitioners responded by arguing that the *Board of Appeals'* decision was final, as the entire case was remanded to the Hearing Officer and there was nothing further for the Board of Appeals to do. Bethel, in reply, contended that, as a pre-condition for judicial review, it is the

administrative decision which must be final and not simply the *Board of Appeals'* decision. Following oral argument, the Circuit Court granted the motion to dismiss on the ground that the action for judicial review "is premature." The plaintiffs then filed a notice of appeal to the Court of Special Appeals. The notice of appeal was in the names of the Association and the individuals, and was signed by the President of the Association and by all of the other eight individuals who had signed the petition for judicial review.

In the Court of Special Appeals, the appellee-respondent Bethel, in addition to its brief defending the Circuit Court's decision, filed a motion to dismiss the appeal on the ground that the Association was the only party to the proceeding before the Board of Appeals and that the nine individuals who had signed the petition for judicial review and the notice of appeal were not parties before the Board of Appeals. According to Bethel, the Association, which was allegedly the only party to the administrative proceedings, was not a party to the judicial review action and the appeal. Bethel maintained that the individuals, because they allegedly had not been parties to the administrative proceedings, lacked standing to bring the judicial review action and to prosecute an appeal to the Court of Special Appeals.

The Court of Special Appeals on March 4, 2002, filed an opinion which it designated as "Reported." In that opinion, the intermediate appellate court held that the Association was a party throughout the proceedings, was a party to the judicial review action and the appeal to the Court of Special Appeals, and therefore had standing to maintain the appeal. Bethel's motion to dismiss was denied as to the Association. The Court of Special Appeals' March 4th opinion, however, held that the individuals lacked standing to bring the judicial review action and maintain the appeal because, according to the appellate court, they had not been parties to the hearing before the Board of Appeals. The Court of Special Appeals granted Bethel's motion to dismiss the individuals' appeal. Finally, the March 4th opinion held that the Association was entitled to judicial review of the Board of Appeals' final

decision remanding the case, that the judgment of the Circuit Court would be reversed, and that the case would be remanded to the Circuit Court for a decision on the merits of the Association's judicial review action.

Bethel filed in the Court of Special Appeals a motion for reconsideration, asserting that the Association was not a party to the judicial review action and was not included in the notice of appeal to the Court of Special Appeals. The Court of Special Appeals, in an "Unreported" opinion filed on May 13, 2002, withdrew its opinion of March 4, 2002, held that the Association was not a party to the judicial review action or the appeal to the Court of Special Appeals, and dismissed the appeal "as to all appellants."

The appellants in the Court of Special Appeals filed in this Court a petition for a writ of certiorari which we granted. *Dorsey v. Bethel A.M.E.*, 370 Md. 268, 805 A.2d 265 (2002). As earlier indicated, we shall hold that the individual petitioners were parties before the Board of Appeals, had standing to bring the judicial review action, had standing to maintain the appeal, and are proper parties in this Court.[1] We shall further hold that the Circuit Court correctly dismissed the action as premature.

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1. The only thing concerning parties which is not clear in this case is whether the Association is a petitioner in this Court. The Association was expressly listed as a party before the Board of Appeals, on the petition for judicial review, and on the notice of appeal. The petition for judicial review and the notice of appeal were both signed by the Association's President. The Association was clearly an appellant before the Court of Special Appeals, and the appellate court in its second opinion erred in holding otherwise. The Association, for the first time in this case, was not expressly listed as a party on the petition for a writ of certiorari. *See*, however, Maryland Rule 8-111(b). The nine individuals are petitioners in this Court and clearly have standing to challenge the decision of the Court of Special Appeals. Consequently, it is unnecessary for us to explore further the status of the Association in this Court. *See, e.g., Maryland Association of HMO's v. Cost Review*, 356 Md. 581, 589, 741 A.2d 483, 487 (1999) (" 'Where there exists a party having standing to bring an action or take an appeal, we shall not ordinarily inquire as to whether another party on the same side also has standing,' " quoting *Board v. Haberlin*, 320 Md. 399, 404, 578 A.2d 215, 217 (1990)). *See also Sugarloaf v. Department of Environment*, 344 Md. 271, 288, 686 A.2d 605, 614 (1996), and cases there cited.

II.

In dismissing the appeal on the ground that the nine individual petitioners lacked standing in the judicial review action because they were allegedly not parties before the Baltimore County Board of Appeals, the Court of Special Appeals committed several errors.

A.

[1] First, it is clear that the individual petitioners were parties in the Circuit Court, were aggrieved by the Circuit Court's dismissal of their action, did sign a timely notice of appeal, and were properly parties-appellants in the Court of Special Appeals. As parties in the Circuit Court aggrieved by a final judgment of the Circuit Court, they were entitled to appeal to the Court of Special Appeals. *See* Maryland Code (1957, 2001 Repl.Vol., 2002 Supp.), Art. 25A, § 5(U), which provides in relevant part as follows:

> "Any party to the proceeding in the circuit court [in an action to review a County Board of Appeals' decision] aggrieved by the decision of the court may appeal from the decision to the Court of Special Appeals in the same manner as provided for in civil cases." [2]

[2] If the Court of Special Appeals' holding as to standing had been correct, namely that the individual appellants-petitioners lacked standing to maintain the judicial review action because they were not parties before the Board of Appeals, the Court of Special Appeals could have affirmed the dismissal of the judicial review action on this ground. *See Wynn v. State*, 351 Md. 307, 321, 718 A.2d 588, 595 (1998) (" 'In a direct appeal, an appellate court will affirm the trial court's decision on a ground adequately supported by the record although the ground was not relied upon by the trial court or the parties,' "

2. With regard to appeals in other civil cases, *see* Maryland Code (1974, 2002 Repl.Vol.), § 12–301 of the Courts and Judicial Proceedings Article. *See also* Code (1984, 1999 Repl.Vol.), § 10–223(b) of the State Government Article.

quoting *State v. Lancaster*, 332 Md. 385, 402 n. 12, 631 A.2d 453, 462 n. 12 (1993)). *See also, e.g., Insurance Commissioner v. Equitable*, 339 Md. 596, 612 n. 8, 664 A.2d 862, 870 n. 8 (1995); *Anne Arundel County v. Hartford Accident Co.*, 329 Md. 677, 691, 621 A.2d 427, 433 (1993); *Jenkins v. Karlton*, 329 Md. 510, 530, 620 A.2d 894, 904 (1993); *Paolino v. McCormick & Co.*, 314 Md. 575, 584, 552 A.2d 868, 872 (1989); *Robeson v. State*, 285 Md. 498, 502, 403 A.2d 1221, 1223 (1979), *cert. denied*, 444 U.S. 1021, 100 S.Ct. 680, 62 L.Ed.2d 654 (1980).

Or, if the Court of Special Appeals' holdings regarding standing and ripeness had been correct, the appellate court could have vacated the trial court's dismissal on the ground of prematurity and directed the trial court to dismiss the petition for lack of standing.

[3–6] When, however, aggrieved parties in the trial court are entitled to appeal and prosecute a timely, proper appeal to the Court of Special Appeals, their alleged lack of standing to have instituted the action in the trial court furnishes no ground for dismissal of the appeal. If a trial court erroneously rules that the plaintiffs in an action have standing, if an appeal is taken from a final trial court judgment, and if lack of standing is properly raised in the appellate court, the appropriate appellate judgment is to reverse or vacate the trial court's judgment. *See, e.g., Ruark v. Intern. Union of Operating Engineers*, 157 Md. 576, 594–595, 146 A. 797, 804 (1929). If a trial court dismisses an action because the plaintiffs lack standing, if an appeal is timely and properly taken, and if the appellate court agrees that the plaintiffs lack standing, the appropriate appellate judgment is an affirmance of the trial court's judgment. *See, e.g., Maryland–Nat'l v. Smith*, 333 Md. 3, 633 A.2d 855 (1993); *Medical Waste v. Maryland Waste*, 327 Md. 596, 622–624, 612 A.2d 241, 254–255 (1992). Nevertheless, lack of standing to initiate an action in a trial court is not a ground for dismissal of a timely and proper appeal.

B.

As the Court of Special Appeals correctly pointed out, the defendant-appellee Bethel failed to raise the issue of standing in the Circuit Court. The appellate court went on, however, to take the position that, "regardless of appellee's failure to raise the issue at the circuit court level, we have the authority to consider the issue of standing . . . ." No authority was cited for this proposition.

[7, 8] Under some circumstances, an appellate court may consider a standing issue even though it was not raised in the trial court. *See Joseph H. Munson Co. v. Secretary of State,* 294 Md. 160, 167–170, 448 A.2d 935, 939–941 (1982), *affirmed sub nom. Secretary of State of Md. v. Joseph H. Munson Co.,* 467 U.S. 947, 104 S.Ct. 2839, 81 L.Ed.2d 786 (1984). Sometimes an issue described as a "standing" issue may relate to the jurisdiction of the appellate court, such as whether the "case-or-controversy requirement" is met, and such an issue may always be noticed by the appellate court. *Secretary of State of Md. v. Joseph H. Munson, supra,* 467 U.S. at 970–971, 104 S.Ct. at 2854, 81 L.Ed.2d at 804–805 (Justice Stevens concurring).

[9] Under the circumstances of the present case, however, the standing issue is not one which should have been raised and decided for the first time in the Court of Special Appeals. There is no jurisdictional standing issue in this case. The original petition for judicial review stated that the individual plaintiffs were parties before the Board of Appeals, and it was signed by one of the individuals. The amended petition was to the same effect, and it was signed by all nine individual plaintiffs. The administrative record was not inconsistent with this allegation. Bethel filed no response or motion in the Circuit Court contradicting these facts and asserting that the plaintiffs lacked standing because they were not parties or were not aggrieved. No standing issue, which under the circumstances would depend on factual findings, was litigated before the Circuit Court. Bethel's motion to dismiss was based entirely upon the lack of a final administrative decision,

and this is the only issue that was litigated and decided by the Circuit Court.

In light of these circumstances, the individual plaintiffs had *prima facie* standing to seek judicial review, and any dispute concerning their standing should have been raised and litigated in the Circuit Court, not the Court of Special Appeals. *See, e.g., Sugarloaf v. Department of Environment,* 344 Md. 271, 292, 686 A.2d 605, 616 (1996) (The "judicial standing issue should be adjudicated by the circuit court 'through a motion or other pleading filed by [an adverse party] to dismiss [petitioner] as a party, [petitioner's] answer thereto, and testimony if need be on the point,' " quoting *Morris v. Howard Res. & Dev. Corp.,* 278 Md. 417, 424–425, 365 A.2d 34, 38 (1976)); *Baxter v. Montgomery County,* 248 Md. 111, 113, 235 A.2d 536, 537 (1967); *Hertelendy v. Montgomery County,* 245 Md. 554, 564–568, 226 A.2d 672, 678–680 (1967); *Town of Somerset v. Montgomery County Board of Appeals,* 245 Md. 52, 63, 225 A.2d 294, 301 (1966); *Brashears v. Lindenbaum,* 189 Md. 619, 628–629, 56 A.2d 844, 849 (1948).

C.

[10] Even if it had been appropriate, under the circumstances of this case, for the Court of Special Appeals to have decided whether the individual petitioners had standing, its decision in this regard was erroneous. The intermediate appellate court held that the nine individuals lacked standing to bring the judicial review action because they were not parties before the Board of Appeals. In finding that they were not parties before the Board of Appeals, the appellate court stated that Ms. Roddy appeared before the Board only "in her capacity as President of the Association" and that Ms. Skullney's appearance "was solely in her capacity as a" member of the Association who was speaking on its behalf. The court went on to state that the remaining seven individuals "were not named in the transcript" of the Board of Appeals' hearing.

The Court of Special Appeals overlooked the liberal standards under Maryland law for party status at an administrative hearing. This Court in *Sugarloaf v. Department of Environment, supra*, 344 Md. at 286–287, 686 A.2d at 613, explained:

> "The requirements for administrative standing under Maryland law are not very strict. Absent a statute or a reasonable regulation specifying criteria for administrative standing, one may become a party to an administrative proceeding rather easily. In holding that a particular individual was properly a party at an administrative hearing, Judge J. Dudley Digges for the Court in *Morris v. Howard Res. & Dev. Corp.*, 278 Md. 417, 423, 365 A.2d 34, 37 (1976), explained as follows:
>
> 'He was present at the hearing before the Board, testified as a witness and made statements or arguments as to why the amendments to the zoning regulations should not be approved. This is far greater participation than that previously determined sufficient to establish one as a party before an administrative agency. *See, e.g., Baxter v. Montgomery County*, 248 Md. 111, 113, 235 A.2d 536 (1967) (per curiam) (submitting name in writing as a protestant); *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289, 293–94 (1967) (testifying before agency); *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672, 680 (1967) (submitting into evidence letter of protest); *DuBay v. Crane*, 240 Md. 180, 184, 213 A.2d 487, 489 (1965) (identifying self on agency record as a party to proceedings); *Brashears v. Lindenbaum*, 189 Md. 619, 628, 56 A.2d 844, 849 (1948) (same). Bearing in mind that the format for proceedings before administrative agencies is intentionally designed to be informal so as to encourage citizen participation, we think that absent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party to the proceedings.' "

And in *Maryland–Nat'l v. Smith, supra*, 333 Md. at 10, 633 A.2d at 859, we stated:

> "*Morris* and other cases of this Court indicate that the threshold for establishing oneself as a party before an administrative agency is indeed low. Although we have said that one's presence at the hearing and testimony in favor of an asserted position is sufficient, *id.*, we have also said that personal appearance and testimony at the hearing are not required. *Hertelendy v. Montgomery Cty.*, 245 Md. 554, 567, 226 A.2d 672 (1967); *Largo Civic Ass'n v. Pr. Geo's Co.*, 21 Md.App. 76, 81, 318 A.2d 834 (1974). In fact, it has been held to be sufficient that the hearing examiner considered the appellant to be a party, *Northampton v. Pr. George's Co.*, 21 Md.App. 625, 633–34, 321 A.2d 204, *rev'd on other grounds*, 273 Md. 93, 327 A.2d 774 (1974), or that the appellant's name was submitted to the Board of Appeals as one who would be aggrieved by an adverse decision. *Wright v. McCubbin*, 260 Md. 11, 14, 271 A.2d 365 (1970). *See also Baxter v. Montgomery County*, 248 Md. 111, 113, 235 A.2d 536 (1967) (submitting name in writing as a protestant is sufficient); *Bryniarski v. Montgomery Co.*, 247 Md. 137, 143, 230 A.2d 289 (1967) (testifying before agency is sufficient); *DuBay v. Crane*, 240 Md. 180, 184, 213 A.2d 487 (1965) (identifying self on agency record as a party is sufficient)."

In the instant case, both Ms. Roddy and Ms. Skullney appeared before the Board of Appeals, spoke before the Board, and Ms. Skullney testified before the Board. It is true that Ms. Roddy identified herself as Chairman of the Association, and Ms. Skullney as a member of the Association's Board of Directors, and both indicated that they could speak for the Association. Nevertheless, neither the transcript of the hearing before the Board nor the Board's opinion indicates that they were speaking solely as representatives of the Association and not also as concerned individuals.

Bethel's attorney at the Board hearing unsuccessfully argued that Ms. Roddy and Ms. Skullney were not properly authorized to represent the Association, but the attorney made no argument or suggestion that the two were not parties individually or that their arguments and testimony should be stricken. Moreover, as previously mentioned, Ms. Roddy at the hearing began to introduce the other individual protestants who were present, but the Board Chairman indicated that it would not be necessary and that "they can appear."

Finally, the Board's opinion consistently referred to "protestants" and the "parties" on the protesting side, using the plural rather than the singular. If, as the Court of Special Appeals found, the Association had been the only protestant, the Board would not have used the plural.

Considering the informal nature of most administrative proceedings and the lenient standards for party status at administrative proceedings, the Court of Special Appeals erred in finding that the nine individuals were not parties before the Board of Appeals.

III.

The statutory basis for judicial review of decisions by charter county boards of appeal is contained in Maryland Code (1957, 2001 Repl.Vol., 2002 Supp.), Art. 25A, § 5(U), which is part of the Express Powers Act for charter counties. That section provides in pertinent part as follows:

> "Any person aggrieved by the decision of the board and a party to the proceeding before it may [seek judicial review in] the circuit court for the county which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing as justice may require."

[11] The above-quoted statutory language is silent on the question of the reviewability of a board of appeals' decision when there is no final administrative decision. Nevertheless, this Court has consistently held that, in the absence of a

statutory provision expressly authorizing judicial review of interlocutory administrative decisions, and in the absence of an interlocutory administrative decision with immediate legal consequences causing irreparable harm, "the parties to the controversy must ordinarily await a *final administrative decision* before resorting to the courts," *State v. State Board of Contract Appeals*, 364 Md. 446, 457, 773 A.2d 504, 510 (2001) (emphasis added). The cases regularly refer to the "administrative" or "agency" decision which must be final, and not simply the decision by a Board or unit at the top of the administrative hierarchy. *See, e.g., Board of License Comm. v. Corridor Wine*, 361 Md. 403, 418, 761 A.2d 916, 924 (2000) ("It is a general principle of Maryland Administrative law that an action for judicial review of an administrative order will lie only if the *administrative order is final*," internal quotation marks omitted); *Montgomery County v. Broadcast Equities*, 360 Md. 438, 452, 758 A.2d 995, 1002 (2000) (Parties cannot resort to the courts "prior to a final *administrative decision*"); *Kim v. Comptroller*, 350 Md. 527, 533–534, 714 A.2d 176, 179 (1998) (Only "the final agency action . . . is subject to judicial review. Ordinarily an agency order *is not final* when it is contemplated that there is *more for the agency to do*"); *Driggs Corp. v. Md. Aviation*, 348 Md. 389, 407, 704 A.2d 433, 442 (1998) ("an action for judicial review of an administrative order will lie only if the *administrative order is final.* * * * The salutary purpose of the finality requirement is to avoid piecemeal actions in the circuit court seeking fragmented advisory opinions with respect to partial . . . agency decisions," internal quotation marks omitted); *Holiday Spas v. Montgomery County*, 315 Md. 390, 395–396, 554 A.2d 1197, 1199–1200 (1989) ("As a general rule, an action for judicial review of an administrative order will lie only if the *administrative order is final.* * * * Generally, to be final, an administrative order must also 'leav[e] nothing further for the *agency to do,*'" quoting *Md. Comm'n on Human Relations v. B.G. & E. Co.*, 296 Md. 46, 56, 459 A.2d 205, 211 (1983)) (emphasis added in all quotations).

[12] The Board of Appeals' decision in this case was not a final *administrative* decision, and it did not "leave nothing further for the agency to do." Accordingly, under the above-cited cases, the decision was not subject to judicial review.

Another principle of administrative law, which is related to and somewhat overlaps the finality principle, is the requirement that administrative remedies must be exhausted before bringing an action in court. *See, e.g., Furnitureland v. Comptroller,* 364 Md. 126, 133, 771 A.2d 1061, 1065 (2001) ("[W]here the Legislature has provided an administrative remedy for a particular matter or matters, there is a presumption that the Legislature intended such remedy to be primary and intended that the administrative remedy must be ... exhausted before resort to the courts"); *Montgomery County v. Broadcast Equities, supra,* 360 Md. at 461, 758 A.2d at 1008 ("[T]he normal rule [is] that primary administrative ... remedies must be exhausted"); *Josephson v. Annapolis,* 353 Md. 667, 674–678, 728 A.2d 690, 693–695 (1998); *Holiday v. Anne Arundel,* 349 Md. 190, 201, 707 A.2d 829, 834–835 (1998); *Zappone v. Liberty Life Insurance,* 349 Md. 45, 60–66, 706 A.2d 1060, 1067–1070 (1998); *Maryland Reclamation v. Harford County,* 342 Md. 476, 492–497, 677 A.2d 567, 575–576 (1996), and cases there cited.

[13] Although the Baltimore County Board of Appeals in the present case may have temporarily disposed of the proceeding before the Board, the plaintiffs-petitioners clearly had not exhausted their administrative remedies. Instead, under the Board of Appeals' order, further proceedings before the Hearing Officer were required and, upon any appeal from the hearing officer's decision, further proceedings before the Board of Appeals. There could be no exhaustion of administrative remedies until there was a Board of Appeals' decision finally approving or disapproving Bethel's development plan. Until such time, no party to the administrative proceedings was entitled to maintain a Circuit Court action for judicial review.

[14–16] Finally, under circumstances like those in the case at bar, when the highest person or unit in an administrative agency remands a case to a hearing officer in the agency, and a party files an action for judicial review challenging the remand, courts elsewhere have held that there is no final agency decision and that the action for judicial review is premature. *See, e.g., Carolina Power and Light Company v. United States Department of Labor,* 43 F.3d 912 (4th Cir. 1995); *Fieldcrest Mills, Inc. v. Occupational Safety and Health Review Commission,* 545 F.2d 1384 (4th Cir.1976).[3]

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3. Courts in some jurisdictions have analogized judicial review of administrative agency decisions to appellate court review of trial court decisions, and have seemed to hold that, if a particular type of trial court decision would be appealable to an appellate court, the same type of decision by the highest unit in an administrative agency would be subject to judicial review. *See, e.g., Meredith v. Federal Mine Safety and Health Review Commission,* 177 F.3d 1042, 1050–1051 (D.C.Cir.1999).

Such analogy would not be appropriate under Maryland law. "Administrative agencies are not courts and do not exercise judicial authority." *Board of License Commissioners v. Corridor,* 361 Md. 403, 414, 761 A.2d 916, 922 (2000), citing *Shell Oil Co. v. Supervisor,* 276 Md. 36, 44–47, 343 A.2d 521, 525–528 (1975). "Moreover, circuit courts exercise [no] appellate ... authority with regard to administrative agencies. Even though some statutes and cases improperly use the word 'appeal' to refer to actions for judicial review of adjudicatory administrative decisions, they are not appeals. Such actions are original actions in the circuit courts." *Corridor,* 361 Md. at 414–415, 761 A.2d at 922.

Under Maryland law, a decision by an adjudicatory tribunal which terminates the case in that tribunal, either by remanding the case to some other body or otherwise terminating the case in that tribunal, is a final decision. *See, e.g., Brewster v. Woodhaven Building,* 360 Md. 602, 610–615, 759 A.2d 738, 742–745 (2000), and cases there cited; *Ferrell v. Benson,* 352 Md. 2, 5–7, 720 A.2d 583, 585–586 (1998); *Montgomery County v. Revere,* 341 Md. 366, 378, 671 A.2d 1, 7 (1996); *Moore v. Pomory,* 329 Md. 428, 431, 620 A.2d 323, 325 (1993). Accordingly, a circuit court decision remanding a case to an administrative agency is a final circuit court judgment and appealable to the Court of Special Appeals. *Eastern Stainless Steel v. Nicholson,* 306 Md. 492, 501–502, 510 A.2d 248, 252–253 (1986); *Brown v. Baer,* 291 Md. 377, 385–386, 435 A.2d 96, 100–101 (1981); *Schultz v. Pritts,* 291 Md. 1, 6, 432 A.2d 1319, 1322–1323 (1981); *Department of Public Safety v. LeVan,* 288 Md. 533, 543–544, 419 A.2d 1052, 1057 (1980).

For the same reason, the Board of Appeals' decision in this case remanding the matter to the Hearing Officer was a final decision of the Board of Appeals. If the General Assembly had expressly provided in Art. 25A, § 5(U), that *any* final decision by a Board of Appeals would be

The Circuit Court correctly dismissed the judicial review action as premature.

JUDGMENT OF THE COURT OF SPECIAL APPEALS REVERSED, AND CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO AFFIRM THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY. THE INDIVIDUAL PETITIONERS SHALL PAY ONE HALF OF THE COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS AND THE RESPONDENT SHALL PAY ONE HALF OF THE COSTS IN THIS COURT AND IN THE COURT OF SPECIAL APPEALS.

Judge RAKER concurs in Part III of the opinion and in the judgment.

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825 A.2d 399

COMPTROLLER OF THE TREASURY

v.

SYL, INC.

Comptroller of the Treasury

v.

Crown Cork & Seal Company (Delaware), Inc.

Nos. 76 & 80, Sept. Term, 2000.

Court of Appeals of Maryland.

June 9, 2003.

Taxpayers, out-of-state subsidiaries of parent corporations that did business in state, appealed Comptroller of the

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subject to judicial review, the result in this case would be different. But, absent such an express provision, it is an established principle of Maryland administrative law that it is the *administrative* decision which must be final as a prerequisite for judicial review, and not simply the decision by the highest tribunal in the administrative hierarchy.

Treasury's assessments of corporate income tax. The Tax Court reversed. Comptroller appealed. The Circuit Court, Baltimore City, Kaplan, J., affirmed. Comptroller appealed. After issuing a writ of certiorari, the Court of Appeals, Eldridge, J., held that: (1) subsidiaries formed to hold intellectual property assets had no economic substance as separate business entities, and thus portion of each subsidiary's income, based on parent corporation's business in state, was subject to state income tax, and (2) Comptroller was not required to promulgate an administrative regulation as a condition precedent to the imposition of corporate income tax.

Judgment of Circuit Court reversed and remanded with instructions.

1. Administrative Law and Procedure ⇐789

In a situation where some factors point to one conclusion, and other factors point to a contrary conclusion, a reviewing court should accord a degree of deference to the balance struck by the administrative agency as trier of facts.

2. Administrative Law and Procedure ⇐796

Where the facts before an administrative agency are undisputed, the legal conclusion based on those facts is treated as an issue of law.

3. Taxation ⇐1005

Out-of-state subsidiaries formed by parent corporations to hold intellectual property assets had no economic substance as separate business entities, and thus portion of each subsidiary's income, based on parent corporation's business in state, was subject to state income tax, where subsidiaries did not have any full-time employees, the ostensible part-time employees of each subsidiary were in reality officers or employees of independent "nexus-service" companies, the wages paid to these "employees" were miniscule, and the so-called offices were little more than mail drops.

In Re: Petitions for Special Exception
Special Hearing and Variance
SW corner of Main Street & Stocksdale Ave, E of Owings Ave

4th Election District
3rd Councilmanic District
(516 Reisterstown Road)

S & J Management, Inc.
Legal Owner

* BEFORE THE

* BOARD OF APPEALS

* BALTIMORE COUNTY

* Case No. 08-163 SPHXA

*

*

* * *

RECEIVED
MAY 2 9 2008
BALTIMORE COUNTY
BOARD OF APPEALS

Motion to Dismiss

Now comes S & J Management, Inc. (hereinafter referred to as " S & J"), the Petitioner and Appellee herein (referred to hereafter as "Petitioner"), by its attorney Arnold Jablon, and moves to dismiss the Appeal in this instant matter filed by Robert Begleiter aka Bob Begleiter, and for cause states as follows:

1. That the Petitioner S & J requested approval of certain uses, primarily for a special exception for a fuel service station in combination with a convenience store and carry out restaurant, pursuant to §§405.2.B1, 405.4.E1 and 405.4.E10 of the BCZR.

3. That the proposed purchaser of the subject property is WaWa Markets, which would develop the site with the proposed uses.

2. That on 14th of March 2008, the Deputy Zoning Commissioner issued his decision in which the proposed uses and the accompanying relief requested were granted. The relief granted were as follows: (1) special exception for fuel service station in combination with convenience store and carry out restaurant; (2) confirmation that payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the BR zone and the fuel service is located in the BR-AS zone; (3) permission

for business parking in a residential zone for customer and employee parking; and (4) a variance to permit a private road to bisect the 50 foot RTA buffer. The Deputy Zoning Commissioner then imposed certain conditions. A copy of this decision is attached hereto and marked as ***Petitioner's exhibit 1***.

3. That on or about 7th April, 2008, Robert Begleiter, the Appellant herein, filed his appeal to the decision rendered by the Deputy Zoning Commissioner and to the relief therein granted. ***See Petitioner's exhibit 2.***

3. That the Notice of Appeal filed in this instant matter failed to comply with Rule 3.a. of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, in that the Notice failed to state the address of the person taking the appeal.

4. That no other appeals were taken.

5. That Mr. Begleiter is not an aggrieved party and lacks standing to take this appeal.

6. That Mr. Begleiter is a self-admitted competitor. ***See attached hereto transcript of Mr. Begleiter's testimony before the Deputy Zoning Commissioner, 1/16/08 Tape 3, Side A-B (referred to herein as "T"), and marked as Petitioner's exhibit 3.***

7. That Mr. Begleiter is the owner of the One Stop Convenience & Deli, located at 11700 Reisterstown Road, approximately 2 miles south of the subject property. His store is a convenience store, deli and liquor store, and does not sell gasoline. He testified that the proposed WaWa will effect his business. ***See exhibit 1, page 14***, where the Deputy Zoning Commissioner summarizes Mr. Begleiter's testimony.

8. That Mr. Begleiter is not a resident of the Reisterstown area but rather resides in Pikesville. ***See T, page 1, line 14.***

9. That Mr. Begleiter testified:

> "Well, it'll affect me somewhat. It'll affect a lot of businesses, it'll put a lot of businesses out. Wawa is considered the Wal-Mart of the convenience store business. Their main purpose is to come in and take over an area, okay…There's no way that anybody can sit here and tell me, I've been in business for 21 years, that this store is not gonna do a massive amount of business…"

See T, page 2, lines 7-17 .

10. That he further testified:

> "I do sell cigarettes. I do sell coffee. I do sell groceries. I do sell milk. I sell everything WaWa sells, with the exception of adding alcohol. Okay? Just to let you know that I'm not just a bar-type operation."

See T, page 6, lines 14-16.

11. That Mr. Begleiter further testified that his convenience store was located approximately 3 to 4 miles from the subject location, subsequently amending his estimate and agreeing that he was located approximately 1/12 to 2 miles away. ***See T, pages 1, lines 24-25; page 2, lines 4 and 5.***

12. That in the Matter of the Application of Woodland Services, LLC, legal owner, Windosr Rolling Road Property, LLC, Petitioner, Case No. 06-583 SPH, the Board of Appeals determined competitors lack standing to take appeals. A copy of the Board's decision is attached hereto, and marked as ***Petitioner's exhibit 4***.

13. That, further, Mr. Begleiter is not one whose personal or property rights are adversely affected by the decision of the Deputy Zoning Commissioner as the proposed WaWa in the proposed location here does not specially affect his interests in a way different from that suffered by the public generally.

14. Mr. Begleiter candidly admitted that he is a competitor and there was no testimony from him that would satisfy the criteria established by the Court of Appeals and Court of Special Appeals for standing to take an appeal in a zoning case.

WHEREFORE, S & J moves to dismiss the appeal taken in this matter by Mr. Begleiter.

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

Certification of Service

I HEREBY CERTIFY that on this 29th day of May, 2008, copies of this Motion to Dismiss were mailed to Bob Begleiter, 11700 D Reisterstown Rd, Reisterstown, Maryland 21136, by first class delivery, postage prepaid.

Arnold Jablon

IN RE: PETITIONS FOR SPECIAL EXCEPTION **SPECIAL HEARING & VARIANCE** SW corner of Main Street and Stocksdale Avenue, E of Owings Avenue 4th Election District 3rd Councilmanic District **(516 Reisterstown Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER FOR BALTIMORE COUNTY
S & J Management, Inc. *Legal Owner*	*	Case No. 08-163-SPHXA

* *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of Petitions for Special Exception, Special Hearing and Variance filed by the legal owners of the subject property, S & J Management, Inc.

The Petition for Special Exception is to permit a fuel service station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.2.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The Petition for Special Hearing is (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone; (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.; and (3) to confirm that a private road is permitted to bisect the 50 foot Residential Transition Area (RTA) buffer to connect to adjoining developments pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R.

PETITIONER'S EXHIBIT 1

The Variance request is in the alternative to the third request for special hearing relief, and requests relief to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or pursuant to Section 307.1 of the B.C.Z.R., whichever is determined to apply. The subject property and requests for relief are more fully described on the redlined site plan which was marked and accepted into evidence as Petitioners' Exhibit 3.

This matter was originally scheduled for a public hearing on December 10, 2007 at 9:00 AM in Room 407 of the County Courts Building located at 401 Bosley Avenue, Towson, MD 21204. Following testimony and evidence taken on that date, the hearing was continued until January 16, 2008 at 9:00 AM, again in Room 407 of the County Courts Building.

Appearing at the requisite public hearings in support of the special exception, special hearing, and variance petitions was Arnold Jablon, Esquire on behalf of Petitioners S & J Management, Inc. and Wawa Markets. Also appearing in support of the petitions were Greg Harvey and Bruce Rice with Wawa Markets, David L. Martin with Martin & Phillips Design Associates, Inc., the consultant who prepared the site plan, and Ken Schmid with Traffic Concepts, Inc. Appearing as interested citizens in support of Petitioners' requests for relief were Barbara V. Reynolds of 306 Lauren Hill Court, Dave Stone, Jr. of 21 Stocksdale Avenue, and Ellen and Michael Tebo of 500 Owings Avenue in Reisterstown, MD. The case garnered significant interest from the Reisterstown community and a number of Protestants attended the hearings as well. These individuals are listed on the "Citizen's Sign-In Sheet" that was circulated on both hearing dates, and which is contained within the case file. In addition, George Harmon of 5429 Weywood Drive appeared on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council and Mary Molinaro of 215 Chartley Drive appeared on behalf of the Chartley Homeowners Association, Inc. Although the individual Protestants appeared and

participated in the hearings to varying degrees, Mr. Harmon and Ms. Molinaro appeared on both hearing dates and acted as the informal "spokespersons" on behalf of the community, and presented the majority of the Protestants' contentions and arguments, as well as cross-examination of Petitioners' witnesses.

Testimony and evidence offered at the hearings revealed that the subject property is an irregular-shaped parcel containing approximately 81,457 square feet or 1.87 acres, more or less, and zoned B.R.-A.S. (0.96 acre), B.R. (0.31 acre), and D.R.3.5 (0.60) acre). The property is located on the west side of Reisterstown Road, where that road becomes known as Main Street, and is bordered by Stocksdale Avenue to the north and Owings Avenue to the west in the Reisterstown area of Baltimore County. The property is comprised of six parcels, and is improved with several dwellings and a trailer. Visually, the property appears to be a mishmash of commercial and residential uses, including rental apartments and a used car lot, though with no apparent consistency.

Petitioner Wawa Markets desires to "clean up" the property, both in terms of its visual appearance and its odd array of uses, and proposes a special exception use to erect a fuel service station on the site consisting of 16 fuel pumps, with a related convenience store and carry out restaurant. In addition, because Wawa is less in favor of the appearance and functionality of a "kiosk," it is requesting a waiver of the need for a kiosk. This is because the location of the proposed fuel services will be in the B.R.-A.S. zone. However, the location of where payment for these services will be made, other than directly at the pumps in the B.R.-A.S. zone, will be in convenience store and carry out restaurant building, which will be located in the B.R. zone. As such, Petitioners are requesting special hearing approval to allow payment for fuel to take place

in both the B.R.-A.S. zone (at the pump) and the B.R. zone (in the convenience store/carry out restaurant building).

In addition, although the fuel service pumps and the convenience store/carry out restaurant building and parking are proposed to be located in the B.R.-A.S. and B.R. zones, respectively, due to the fact that a portion of the parking for customers and employees will be located in the D.R.3.5 zoned area of the property, Petitioners are seeking special hearing approval of business parking in the residential zone. Finally, as is mandated by the RTA conditions, Section 1B01.1.B.1.e of the B.C.Z.R. requires a fifty-foot buffer and seventy-five-foot setback for parking lots or structures. As shown on the redlined site plan, Petitioners propose to comply with the RTA buffer and setback requirements; however, in order to allow for efficient ingress and egress on the site and from one side of the site to the other, Petitioners propose an internal private road on the site that will wrap around the rear of the proposed convenience store/carry out restaurant building. Most of this private road will be located in the B.R. zoned area of the property, but a portion of the road will be located in the D.R.3.5 zoned area and will be within the 50 foot RTA buffer. Hence, Petitioners request special hearing approval of the private road to bisect the RTA buffer or, in the alternative, variance from the amount of RTA required pursuant to Section 1B01.1.B.1.c or Section 307.1 of the B.C.Z.R. to permit the private road.

In support of the various requests for relief, Petitioners called as a witness David L. Martin, Petitioners' site plan and architectural consultant. A copy of Mr. Martin's resume was marked and accepted into evidence as Petitioners' Exhibit 1. As indicated in his resume, Mr. Martin is a graduate of Penn State University with a Bachelor of Science degree in Landscape Architecture. His professional experience includes 36 years of practice in areas such as land

planning, landscape architecture, land use, and zoning. He has testified as an expert in the areas of land use and zoning before the Zoning Commissioner, the Board of Appeals, and the Planning Board. He was offered and accepted as an expert in the areas of land use, landscape architecture, and interpretation of the Baltimore County Zoning Regulations.

Mr. Martin initially described the properties and the area surrounding the subject property. Located on the opposite side of Reisterstown Road is the Chartley Shopping Center, as well as a Citgo fuel service station; to the south is a Hess fuel service station and Whitcraft Transmissions; to the north on the opposite side of Stocksdale Avenue is a Jiffy Lube service station; and to the west, located on the opposite side of Owings Avenue, are residential dwellings. Properties similar to the subject property in the County generally have areas of significant commercial use along business and commercially zoned main roads such as Reisterstown Road, but often back up to residentially zoned and used areas, as is the case here. Photographs of the subject property and this commercial corridor of Reisterstown Road, and the residential area to the rear of the subject property, were marked and accepted into evidence as Petitioners' Exhibits 4A through 4P. As indicated earlier, Mr. Martin pointed out that the majority of the property (1.27 acres) is zoned B.R.-A.S. or B.R. Virtually all the frontage on Reisterstown Road in this area is zoned for business and commercial uses, as shown on the aerial photograph with an overlay of the zoning map, which was marked and accepted into evidence as Petitioners' Exhibit 5.

Mr. Martin then described the proposed landscaping to accompany the development of the site. The proposed schematic landscape plan was marked and accepted into evidence as Petitioners' Exhibit 2B. This plan shows landscaping around the entire property. In particular, the plan depicts a 10 foot landscape area along Reisterstown Road, a 10 foot landscape area

along Stocksdale Avenue, and a six foot landscape area abutting the Hess fuel service station, all containing shrubs and seasonal plantings. Along the rear of the property adjacent to the residential dwellings on Owings Avenue, there is a 50 foot RTA buffer. Within the buffer are planned shrubs, as well as evergreen and deciduous trees. A six foot high board-on-board wooden fence is also proposed along the entire rear property line. Obviously, the intent of the fencing and landscaping is to provide as much screening as possible between the commercial area and the residential areas. Petitioners also plan additional trees on the parking islands. To further illustrate Petitioners' intentions with regard to the property, Mr. Martin submitted a second aerial photograph of the subject property and surrounding areas. This photograph was overlaid with the redlined site plan as well as Petitioners' schematic landscape plan, and was marked and accepted into evidence as Petitioners' Exhibit 6. It provides a visual perspective of the proposed structural and landscaping improvements to the property, in relation to the existing structures in the immediate vicinity.

As shown on the site plan, Petitioners propose four fuel service islands to be situated on the east side of the property that fronts Reisterstown Road. Each island will contain two fuel service pumps, with access to the pumps from each side. The convenience store and restaurant will consist of a single 1½-story building with a pitched roof. The building will face Reisterstown Road and be approximately 5,589 square feet in size, of which 3,189 square feet will be for the convenience store and 2,400 square feet for the carry out restaurant. Proposed exterior elevations, which were marked and accepted into evidence as Petitioners' Exhibit 7, show the visual appearance of the Wawa Market. The building will have a thin brick veneer exterior with a metal Dutch seam roof. The roof will be slate grey in color, and the brick veneer will have a two-tone maroon (lower) and white (upper) color scheme. There will also be an

enclosed dumpster area to the rear of the property. The exterior elevations also depict the proposed canopy above the fuel service islands, which will match the roof line and color of the building roof.

Mr. Martin then specifically discussed the requests for relief and began with the special exception to use the property as a fuel service station, as well as a convenience store and carry out restaurant. Section 405.2.B of the B.C.Z.R. allows fuel service stations on individual sites by special exception, subject to Section 405.3 concerning the presence of abandoned fuel service stations, and the site development and appearance standards in Section 405.4 of the B.C.Z.R. Sections 405.4.E.1 and 405.4.E.10 of the B.C.Z.R. allow a convenience store with a sales area larger than 1,500 square feet and a carry out restaurant, respectively, as uses in combination with fuel service stations by special exception. According to Mr. Martin, the proposed development meets the site development standards of Section 405.4.A of the B.C.Z.R., including site dimensions, setbacks, and access, internal circulation and vehicle reservoir capacity. It also meets the appearance standards of Section 405.4.C of the B.C.Z.R., and Mr. Martin pointed to the exterior elevations which show the visual appearance of the proposed fuel service islands and pumps, the canopy, and the convenience store and carry out restaurant.

Other than the convenience store and carry out restaurant, the fuel service station does not anticipate any additional ancillary uses, under Section 405.4.D of the B.C.Z.R., except for an ATM machine inside the convenience store, water and air, and some auto supplies located in the convenience store sales area. As to lighting, under Section 405.4.C.1.d, if a fuel service station is located within 50 feet of residentially zoned property, lighting standards on site may not exceed a height of 18 feet and shall be directed away from any residentially zoned properties. Marked and accepted into evidence as Petitioners' Exhibit 8A is Petitioners' proposed lighting

plan. The plan shows the location of lighting standards and the degree of illumination on the site and the surrounding areas. In particular, it shows virtually no lighting into the residential areas on Owings Avenue, in compliance with the lighting standards as to coverage and intensity. Also marked and accepted into evidence as Petitioners' Exhibit 8B is a schematic of the various lighting types to be employed on the site.

In support of the requested use, Mr. Martin addressed the special exception criteria contained in Section 502.1 of the B.C.Z.R. and opined that there would be no detrimental impact to the listed criteria. In pertinent part, the proposed use would not be detrimental to the health, safety, or general welfare of the locality, and as to traffic, the expected use would draw from motorists traveling on Reisterstown Road, irrespective of the presence of the fuel service station, hence there would be no impact. As compared with other stations nearby, most of which were built purely as automotive service stations typically with shortages of parking, stacking spaces, and vehicle circulation, the instant proposal will meet the current requirements for this type of use. In addition, it will not be a destination location, so there will be very little impact in terms of additional traffic; as to a potential hazard from fire, panic or other danger, this new development will comply with all fire codes and will have access at three locations. Moreover, the proposed development will comply with all zoning regulations as to site area so there will be no overcrowding of land or undue concentration of population. As shown on Petitioners' lighting plan, the lighting will be sufficient to illuminate the site, without encroaching into the residential areas so there will be no interference with adequate light and air. Finally, the redlined site plan and landscaping plan shows that the use of the split zoned property will be consistent with the spirit and intent of the zoning regulations.

In sum, Mr. Martin indicated that there is a diversity of uses and appearances in the area of the subject property where Reisterstown Road transitions to Main Street, and the proposed development of the property pulls together a number of architectural elements from the area and complements the existing structures. In addition, the proposed development will be an upgrade from the existing commercial structures, such as the Jiffy Lube, Hess and Citgo fuel service stations, and Whitcraft Transmissions, and will also upgrade the existing structures on the subject property. Moreover, Mr. Martin opined that, under *Schultz v. Pritts*, 291 Md. 1 (1981), the proposed use of the property at the subject location would not have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the particular zoning district.

The next request for relief concerns the special hearing or, in the alternative, the variances to allow the proposed private road to bisect the 50 foot RTA buffer located to the rear of the property. The goal of Petitioners is to obtain permission for the internal private road; however, Petitioners have proposed three methods of achieving this goal. The first is by way of special hearing. Petitioners seek an interpretation by the undersigned that the zoning regulations allow the proposed private road pursuant to the exceptions to the RTA contained in Section 1B01.1.B.1.e(3) of the B.C.Z.R. Specifically, Mr. Martin quoted from this section, which states as follows:

> e. Conditions in residential transition areas.
>
> (3) The fifty-foot RTA buffer shall remain an upgraded, uncleared, landscaped buffer unless otherwise directed by the hearing officer, based upon recommendations of the county. It shall not contain cleared drainage areas, storm water management ponds or accessory structures, *but it may be bisected by roads, paths and trails that are designed to connect to adjoining developments*. (emphasis added).

In reviewing this subsection, Mr. Martin opined that the zoning regulations allow for the RTA buffer to be bisected by a road as a matter of right. This private drive aisle is necessary in order to give limited access to the site from one side of the proposed development to the other.

The second and third methods of achieving the private drive aisle are by way of variances from the zoning regulations. In particular, Section 1B01.1.B.1.c(2) of the B.C.Z.R. allows for variances of the RTA requirements and states as follows:

> c. Variance of RTA.
>
> (2) The RTA for a tract may be modified as directed by findings pursuant to § 32-4-402 and the hearing officer's hearing under Article 32, Title 4, Subtitle 2 of the Baltimore County Code. However, the hearing officer may not reduce the amount of RTA unless the officer specifically finds and determines that such a reduction will not adversely impact the residential community or development on the land adjacent to the property to be developed.

Section 32, Title 4, Subtitle 4 of the Baltimore County Code (B.C.C.) entitled "General Design Standards and Requirements" are intended to provide criteria for the preparation and review of proposed development. Section 32-4-402 entitled "Compatibility" sets forth in subsection (d) the compatibility objectives that development of property shall be designed to achieve. In analogizing the instant matter to the Development regulations contained in Title 4, Mr. Martin discussed the proposed development of the subject property in relation to the compatibility objectives and offered his opinion that Petitioners' plans are in compliance with the applicable objectives. Hence, a variance of the RTA buffer requirement is warranted in this case and the proposed private road should be permitted to bisect the 50 foot RTA buffer.

In addition, Section 307.1 of the B.C.Z.R. provides the Zoning Commissioner with the authority to generally grant variances from height and area regulations, from off-street parking regulations, and from sign regulations in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where

strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship. It also states that relief shall be granted if in strict harmony with the spirit and intent of the regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare.

In the instant matter, Petitioners are seeking variance relief from the RTA in order to allow the internal private road to bisect a portion of the RTA buffer. In support of the variance request under Section 307.1 of the B.C.Z.R., Mr. Martin pointed to several unique characteristics of the property. First, the property is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. Second, the property is bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and residential uses. Third, the geometry of the site reflects an irregular shape. Fourth, the residential nature of Owings Avenue and, in particular, the use of Owings Avenue as part of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is obviously an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, Petitioners believe it is necessary -- and beneficial -- to come up with a plan for the use of this area of the property that abuts the residential area.

In terms of practical difficulty and unreasonable hardship, Mr. Martin indicated that literal enforcement of the zoning regulations, and thereby not allowing the internal private road, would essentially force a connection to the public street (Owings Avenue) in order to gain the access necessary for the site, while also technically complying with the regulations. In addition, granting the variance would not harm the public interest. In fact, Mr. Martin indicated that allowing the internal private drive aisle would benefit the abutting residential neighborhood by

enabling traffic to be contained completely on site. On the other hand, forcing Petitioners to gain access directly from Owings Avenue would be a real detriment to the local neighborhood.

Petitioners' final request for relief is the special hearing request pursuant to Section 409.8.B of the B.C.Z.R. to permit business parking in a residential zone for customer and employee parking. This subsection requires that a use permit be issued following a special hearing and a finding that the request meets the objectives of Section 409.8.B.2 of the B.C.Z.R. In addition, the request for parking must meet the special exception criteria delineated in Section 502.1 of the B.C.Z.R. On these factors, and based on the prior testimony above, Mr. Martin indicated that the proposed development will meet or exceed the objectives of Section 409.8.B and will meet the criteria of Section 502.1.

Petitioners' final expert witness was Ken Schmid with Traffic Concepts, Inc. Mr. Schmid is a civil engineer focusing on traffic engineering and was retained by Petitioner to review and investigate the potential traffic impacts of the proposed development on the surrounding community. A copy of his resume was marked and accepted into evidence as Petitioners' Exhibit 9. As his resume indicates, Mr. Schmid has testified numerous times as an expert in the areas of transportation planning and engineering and land use in Baltimore County and was offered and accepted as an expert in this case. In sum, Mr. Schmid opined that the proposed Wawa Market will not be detrimental to the health, safety, and general welfare of the locality and in particular, will have minimal impacts on traffic.

In support of this conclusion, Mr. Schmid discussed a number of factors. Initially, Mr. Schmid indicated the new Wawa Market would be a traffic "interceptor" for "passerby" type use, as it would be located along a high volume, arterial type of road system. It would not be a traffic "generator." In addition, Mr. Schmid indicated he made field visits during the peak morning and

evening times, lunchtime, and afternoons. He also looked at nearby traffic lights, accident data, traffic counts, and transportation services data. He noted the nearest intersection is Chartley Drive and Reisterstown Road and its most recent rating from Baltimore County was that it is operating at an "A" rating as of December 2006. The intersection of Stocksdale Avenue and Main Street is operating at an "A" in the morning and a "B" in the afternoon and at peak times. Mr. Schmid acknowledged there will be additional traffic into and out of the subject property, however, it will be drawing primarily the existing traffic that would already be traveling on the road regardless of the presence of the Wawa market. Moreover, there will be no greater impact at this location than another location in the zoning district. As such, Mr. Schmid believes that based on existing conditions coupled with the proposed development, the roads and intersections are adequate and would be minimally impacted, and that any traffic issues are manageable.

Petitioners' final witness was Dave Stone. Mr. Stone resides at 21 Stocksdale near the subject property. Mr. Stone is in favor of the proposed Wawa Market as he believes it will be a significant upgrade to the existing structures and will be an asset to the area. He also does not believe the Wawa will diminish property values. In addition a letter of support was submitted by another adjacent neighbor, Ellen and Michael Tebo of 500 Owings Avenue, directly behind the subject property. This letter dated December 4, 2007 was marked and accepted into evidence as Petitioners' Exhibit 10. Mr. and Mrs. Tebo believe the Wawa will bring a stable business to the area, and will result in a newer, cleaner site that will fit in with the revitalization of Reisterstown. Their main concerns are that a fence be erected along the entire rear of the property and that it be properly screened, that no deliveries or trash pick up occur from Owings Avenue, and no late evening or early morning trash pick up. Finally, a letter of support was sent by the Reisterstown · Owings Mills · Glyndon Chamber of Commerce. This letter dated December 6, 2007 was

marked and accepted into evidence as Petitioners' Exhibit 11. In its support of the project, the letter states that the proposed site is currently underutilized and does not present a proper image to the "gateway" to Reisterstown's Main Street, that redevelopment of the site may encourage further business expansion in the area and may encourage other existing businesses to rehabilitate their properties, and that competition is good for both residential and business communities.

Following Petitioners' presentation, Protestants presented their opposition to the proposed development of the subject property. The first witness to testify was Robert Begleiter. Mr. Begleiter owns the One Stop Convenience & Deli located at 11700 Reisterstown Road approximately two miles south of the subject property. His store is a convenience store, deli and liquor store; he does not sell gasoline. He believes the proposed Wawa Market and fuel service station will not only affect his business and others, but will also create business from outside the local area. In short, he believes the Wawa will pull traffic from a number of different areas such as Interstate 795 and will thereby increase traffic on Reisterstown Road.

Other opposition witnesses included nearby neighbors Susan Schultz, Isabelle Drenning, and Victor Olson, as well as Mary Molinaro on behalf of the Chartley Homeowners Association, Inc. In addition, letters of opposition were also submitted which included the following: letter dated December 3, 2007 from Ms. Molinaro as President of the Chartley Homeowners Association, Inc. marked and accepted into evidence as Protestants' Exhibit 1, letter dated December 4, 2007 and two photographs from Christina and Victor Olson of 510 Owings Avenue and marked and accepted into evidence as Protestants' Exhibit 2, letter dated December 6, 2007 from Kathleen Gambrill of 1021 Cockey's Mill Road marked and accepted into evidence as Protestants' Exhibit 3, letter dated December 4, 2007 from Isabelle Drenning of 39 Stocksdale

Avenue marked and accepted into evidence as Protestants' Exhibit 4, letter dated January 9, 2008 from Barbara Karpel of 240 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 5, letter dated January 9, 2008 from Elaine Latham of 308 Glyndon Drive marked and accepted into evidence as Protestants' Exhibit 6, letter dated January 11, 2008 from Robert and Jane Hienz of 239 Chartley Drive marked and accepted into evidence as Protestants' Exhibit 7, and letter received January 16, 2008 from Eileen Ruffner of 403 Highmeadow Road marked and accepted into evidence as Protestants' Exhibit 8. The testimony of these witnesses and the letters expressed similar concerns over the proposed development of the subject site, including increased traffic and congestion, the adverse effects on the adjacent residential neighborhood, the number of gas stations already in existence nearby, and issues with noise and constant lighting associated with the site since the Wawa is planned to be open 24 hours.

George Harmon on behalf of the Reisterstown, Owings Mills, Glyndon Coordinating Council (ROG) presented the balance of Protestants' case opposing the proposed development. ROG represents communities in the 21117 and 21136 zip codes and geographic areas from the Carroll County line to Owings Mills and the Greenspring Valley. In addition to his civic work, Mr. Harmon has a background and expertise in hazmat spill response and safety issues, as well as noise control, including having previously managed a number of environmental programs for State agencies.

Mr. Harmon addressed a number of issues of concern regarding the potential Wawa Market and fuel service station. This included parking in residential areas by a commercial business bringing issues of excessive noise and high wattage lighting. Mr. Harmon also believes the traffic impact has been understated, especially at Stocksdale Avenue and Reisterstown Road, and disagrees that there would be similar impacts elsewhere due to the uniqueness of this

intersection, where traffic is channeled from a four lane road (with a center turn lane) into two lanes. Another issue is what Mr. Harmon considers abandonment of gas stations in the vicinity of the subject property. He indicated that in determining whether the instant fuel service station is appropriate, it is necessary to consider under Section 405.3 of the B.C.Z.R. the presence of abandoned fuel service stations within a one-half mile to one mile radius. Marked and accepted into evidence as Protestants' Exhibit 9 is a map of Reisterstown Road near the subject property. This map was also labeled by Mr. Harmon with existing fuel service stations on Reisterstown Road within approximately two to three miles of the subject property. He also marked the map with the locations of what he believes are "abandoned" stations. Mr. Harmon asserts that because there exists abandoned stations within a one-half mile radius of the proposed Wawa market and fuel service station location, there is no need for the Wawa.

In sum, the Protestants believe locating the Wawa Market and fuel service station at the subject site, right at the entrance to the Reisterstown Historic District, is not an appropriate location. They also believe another fuel service station is unnecessary in the vicinity due to the already existing stations nearby. Finally, they believe likely traffic congestion balances against granting the relief requested, in that significant numbers of vehicles will be diverted to the subject location, which will contribute to increased traffic flow problems.

The Zoning Advisory Committee (ZAC) comments were received from the relevant County and State agencies and are made part of the record of this case. The comments received from the Department of Environmental Protection and Resource Management (DEPRM) dated November 6, 2007 indicate that the development proposal must comply with the Forest Conservation Regulations, and that any required afforestation may be addressed by offsite planting, offsite retention, or payment of a fee in lieu of planting. Comments received from the

Bureau of Development Plans Review dated October 15, 2007 indicate that the ultimate right-of-way width for Stocksdale and Owings Avenues is 50 feet. The right-of-way widening must be shown on the plan along with a cut-back at the intersection. Setbacks should be shown based on the widenings, and the variance request revised accordingly. The comment from the State Highway Administration (SHA) dated October 22, 2007 indicates that their review of Petitioners' plan and a field inspection reveal that a permit is required for improvements along the subject property fronting Reisterstown Road (MD 140), and recommend that Petitioners be required to obtain a SHA Access Permit as a condition of approval of the plan. The Office of Planning's November 19, 2007 Inter-Office Correspondence offered no comments to the plan, and the October 11, 2007 letter from the County Fire Marshal's Office also offered no comments.

In regard to the request for special exception, the first issue that must be addressed is the issue of "abandoned" fuel service stations. Protestants claim that once the owners of the nearby service garages ceased to use the property as a fuel service station, they deserted that use and, so long as the property is not used as a fuel service station, it is deemed an "abandoned fuel service station" -- that is, once abandoned, always abandoned. Petitioners, on the other hand, argue that, to be considered an "abandoned fuel service station," the property must *presently* be used for *no purpose* and, therefore, because the owners of the subject property have effectively converted the fuel service station use into an existing service garage use, it is not an "abandoned fuel service station." (emphasis added).

On this issue, I agree with Petitioners and find that the fuel service station use was *converted* into service garage use -- not abandoned -- and, therefore, the nearby stations, including the Exxon station referenced in Protestants' Exhibit 9, is not an "abandoned fuel

service station" for purposes of Section 405.3 of the B.C.Z.R. As explained by the Board of Appeals in *In the Matter of the Application of Seven Kids, LLC,* "[B.C.Z.R.] Section 405.3 does not set forth a valid definition of abandoned gas stations." Board Opinion at 10. However, the Board in that case declared "the three long-abandoned stations [in the vicinity of the proposed location] including the one abandoned at the proposed site, would [not] qualify as abandoned stations within the meaning of Section 405.3." Id. at 10-11. Clearly, timing is a major factor in determining whether or not a fuel service station use has been "abandoned."

Additionally, the County Council's reference in Section 405.3 of the B.C.Z.R. to Section 405.7 and its use of present tense language indicates intent that the "presence" of an "abandoned fuel service station" requires an existing structure, formerly used as a fuel service station, which, at the current time, is not used for any purpose. Section 405.7, which identifies and discusses "abandonment" of fuel service stations for the purpose of determining when a special exception for a fuel service station should be terminated and when the station should be removed, implies that, to be considered "abandoned," the property upon which a fuel service station formerly operated must be vacant and not used for any purpose. Furthermore, in determining when a special exception is considered terminated, Section 405.7.C specifically distinguishes between "abandonment" and "conversion" of fuel service stations. Section 405.8 also indicates that the law favors conversion of fuel service stations into alternative uses, as opposed to abandonment of fuel service stations altogether. For the above stated reasons, I find that in this case, the existing service garages referenced by Protestants cannot be considered an "abandoned fuel service station" for purposes of Section 405.3 of the B.C.Z.R.

Having resolved the "abandonment" issue, at this juncture, before any special exception may be granted, it must be determined whether the use for which the special exception is

requested will have a negative impact on the criteria set forth in Section 502.1 of the B.C.Z.R.

Moreover, as set forth in *Schultz v. Pritts*, 291 Md. 1, 22-23 (1981) and quoted in *Lucas v. People's Counsel for Baltimore County*, 147 Md.App. 209, 238 (2002):

> [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.

This standard requires identification of the adverse effects inherent to the proposed special exception use -- that is, effects that the use would have, regardless of where in the zone the use were employed -- and sufficient evidence to prove that the adverse effects resulting from the proposed use at the proposed location will not exceed the identified inherent effects.

Among other concerns, the most contentious issue in the instant matter appears to relate to the impact of the proposed Wawa on traffic and the decisive factor of whether the Wawa will "tend to create congestion in roads, streets or alleys therein," pursuant to Section 502.1.B of the B.C.Z.R. Petitioners and Protestants each presented evidence and arguments relating to how the proposed Wawa would affect traffic. Protestants testified that the Wawa would pull in additional traffic from other areas, most notably Interstate 795, and would cause additional congestion from the traffic entering and exiting the location, as well as the fact that the subject location on Reisterstown Road channels from five lanes (including a center turn lane) to two lanes.

However, Petitioners' traffic expert, Mr. Schmid, indicated that the Wawa would be a traffic "interceptor" rather than a traffic "generator." In short, the new store would not be a destination location where patrons would make special trips to the Wawa; rather, the Wawa will draw from existing traffic already traveling on Reisterstown Road. According to Mr. Schmid, the traffic generated by the Wawa will be minimal. In addition, Mr. Schmid pointed out that

each of the nearby intersections is operating at an "A" (Chartley Drive) and "A/B" (Stocksdale Avenue) rating. Based on the testimony and evidence I find that the proposed Wawa Market and fuel service station will not "tend to create congestion in roads, streets or alleys," above and beyond such effects that may be inherent in the use. I also find that Petitioners have met their burden with regard to the additional factors set forth in Section 502.1 of the B.C.Z.R. Hence, I am persuaded to grant Petitioners' special exception request.

In regard to the requests for special hearing, I am persuaded to grant the relief and allow payment for fuel service in combination with the convenience store and carry out restaurant to be made in both zoning areas, where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone. Rather than having an unattractive kiosk in the B.R.-A.S. zone just so payment for fuel can be made, it is more appropriate and in keeping with Petitioners' business practices to allow payment to be made in the convenience store area located in the B.R. zone. As to business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R., as shown on the site plan, Petitioners propose 51 parking spaces for the site. Most of these spaces will be located in the B.R.-A.S. or B.R. zones; however, it appears eight spaces and parts of eight other spaces will encroach in the D.R. zoned portion of the property. These spaces will not be located within the 50 foot RTA buffer or 75 foot setback. Based on the irregular shape of the property and its split zoning, as well as the testimony of Mr. Martin, Petitioner's architectural consultant, as to compliance with the Section 502.1 factors, and Petitioners' landscape plan and lighting plan being in compliance with the design standards set forth in Section 409.8 of the B.C.Z.R., I am persuaded to grant this relief.

The last request for relief concerns the request to permit a private road to bisect the 50 foot RTA buffer area at the rear of the property abutting Owings Avenue. Petitioners request this relief by way of either special hearing pursuant to Section 1B01.1.B.1.e(3) of the B.C.Z.R., variance from the RTA specifically pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., or variance generally pursuant to Section 307.1 of the B.C.Z.R. As to the special hearing, Section 1B01.1.B.1.e(3) of the B.C.Z.R. states that the 50 foot RTA buffer may be bisected by roads, paths and trails that are designed to connect to adjoining developments; however, in the instant matter, I find this section is not applicable. Here, we are not considering adjoining developments, hence this section is not implicated. As to the request for variance from the RTA pursuant to Section 1B01.1.B.1.c of the B.C.Z.R., this section allows the "hearing officer" to determine the amount of RTA in certain circumstances, provided also a compatibility finding is made under Section 32-4-402 of the B.C.C; however, again, in my view, this section is not applicable to the instant matter. The undersigned is not sitting as "hearing officer" considering a development plan; rather I am sitting as Deputy Zoning Commissioner considering only the instant zoning case. In addition, there have been no recommendations from specific County agencies as required by Section 1B01.1.B.1.c(1) of the B.C.Z.R. Hence, relief cannot be granted under this section. This leaves the "general" provision regarding variances set forth in Section 307.1 of the B.C.Z.R. In this instance, I am persuaded to grant the requested relief.

In the instant matter, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request. The property has an irregular shape and is split zoned, with three zones (B.R., B.R.-A.S., and D.R.3.5) on less than two acres of property. The property is also bounded by three streets (Reisterstown Road, Stocksdale Avenue, and Owings Avenue), with mixed uses on and around those streets of commercial and

residential uses. Moreover, the residential nature of Owings Avenue presents a difficult situation. Owings Avenue abuts the property line of the subject property. Although the use of the subject property will be commercial and although it is a public street, Owings Avenue is clearly an underdeveloped residential street, with no painted lines, nor curb and gutter. Hence, the desire to keep the residential character of the street in the midst of a commercial use of the subject property presents a significant challenge to Petitioners. These factors make the property unique in a zoning sense. In addition, the imposition of zoning on this property disproportionably impacts the subject property as compared to others in the zoning district.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. I agree with Petitioners that literal enforcement of the zoning regulations, and thereby not allowing the private road to bisect the RTA, would essentially force a connection to Owings Avenue in order to gain the access necessary for the site, while also technically complying with the regulations. Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. I agree with Petitioners that allowing the internal private drive aisle will benefit the abutting residential neighborhood by enabling traffic to be contained completely on site.

Pursuant to the advertisement, posting of the property, and public hearings on these Petitions held, and after considering the testimony and evidence offered by the parties, I find that Petitioners' requests for special exception and special hearing should be granted and the request for variance should be granted.

THEREFORE, IT IS ORDERED, this 14th day of March, 2008, by the Deputy Zoning Commissioner, that Petitioners' request for Special Exception to permit a fuel service

station on an individual site and a convenience store and carry out restaurant as uses in combination with the proposed fuel service station pursuant to Sections 405.B.1, 405.4.E.1 and 405.4.E.10 of the Baltimore County Zoning Regulations (B.C.Z.R.) be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' request for Special Hearing (1) to confirm that the payment for fuel service in combination with a convenience store and carry out restaurant may be made in both zones where the convenience store and carry out restaurant is located in the B.R. zone and the fuel service is located in the B.R.-A.S. zone, and (2) to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R. be and are hereby GRANTED; and (3) the request to confirm that a private road is permitted to bisect the 50 foot RTA buffer to connect to adjoining developments, pursuant to Section 1B01.1B.1.e(3) of the B.C.Z.R., or, in alternative, to approve a variance to Section 1B01.1.B.1.c of the B.C.Z.R. be and are hereby DISMISSED as MOOT; and

IT IS FURTHER ORDERED, that Petitioners' request for Variance to permit a private road to bisect the 50 foot RTA buffer pursuant to Section 307.1 of the B.C.Z.R. be and is hereby GRANTED, subject to the following which are conditions precedent to the relief granted herein:

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

2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).

3. The ultimate right-of-way width of Stocksdale and Owings Avenues is 50 feet. The right-of-way widening, if and/or as required by Development Plans Review, must be shown on the plan along with a cutback at the intersection.

4. Lighting of the site shall be in accordance with the Lighting Plan contained in Petitioner's Exhibit 8A and 8B and shall comport with Code and Zoning Regulation requirements. In addition, there shall be minimal lighting at the rear property line with no direct glare from under canopies.

5. There will be no outdoor speakers other than for emergency purposes.

6. The new building will not exceed the required HVAC noise levels. Wawa shall agree to allow noise sources to be tested, though not at Wawa's expense.

7. There shall be no authorized road or pedestrian access to or from the site at Owings Avenue. There shall also be appropriate screening in the form of fencing and landscaping at the property line along Owings Avenue to reflect the transition between the commercial and residential areas. Moreover, the fence line shall continue around the corner where the subject property adjoins the Whitcraft property for a distance of 20 feet in order to further deflect pedestrian access to and from Owings Avenue.

8. The building shall have a red brick veneer on all sides from ground to cornice.

9. The canopy shall have the same look and appearance as the convenience store and carry out restaurant building, with a standing seam metal roof which will accommodate the historic appearance of the area.

10. Petitioner's Landscape and Lighting Plans shall be subject to approval by the County's Landscape Architect.

11. There shall be no car wash or vacuum facilities on the property.

12. Signage must be placed on the building to indicate: "All delivery vehicles must be turned off. No idling permitted."

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

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

4/7/08

To: BOL Timon City Zoning

We would like to appeal the following case

Case # 08-163-SPHXH

516 Weinstein Rd.

Decision Rendered March 14 2008

Thank you

Bob Bagleski

RECEIVED

APR 07 2008

Per KCM

PETITIONER'S EXHIBIT 2

Case # 08-163-SPHXA
1/16/08
Tape 3/Side A-B

Deputy Zoning Commissioner (DZC):
Alright. Mr. Begleiter will you raise your right hand. Is the testimony, do you swear or affirm that the testimony you are about to give and the responses made to any questions shall be the truth

Begleiter: Yes

DZC: All right sir. You live where?

Begleiter: My business is 11700 Reisterstown Road. And I live at 3503 Northridge Drive

DZC: 3503?

Begleiter: Yes.

DZC: Northridge?

Begleiter: Yes

DZC: Is that also Reisterstown?

Begleiter: No, that's in Pikesville

DZC: Okay.

Begleiter: But I've been in this location for 22 years, so basically its almost like my home.

DZC: Okay. And um, what is the Northridge Drive Zip?

Begleiter: 21208.

DZC: Okay. And what business do you run there?

Begleiter: I've got a convenience store, deli, liquor, I don't have gas, basically its the only thing I'm missing. I've got everything else.

DZC: Okay. And I guess where are you in proximity to where this is proposed?

Begleiter: I'm about, Franklin Boulevard, about five blocks down from Franklin Boulevard, so I'd say I'm about 4 miles away, maybe 3 miles from this location.

DZC: Do you think its about 1 mile Mr. Harmon

PETITIONER'S EXHIBIT 3

Begleiter: Maybe 1 1/2

DZC: Alright, so let's say maybe approximately 2, just for the sake of argument

Begleiter: Okay.

DZC: So you're about a mile and a half to two miles south?

Begleiter: Yes.

DZC: Okay. And what would you like to tell me about, about your view of this?

Begleiter: Well, it'll affect me somewhat. It'll affect a lot of businesses, it'll put a lot of businesses out. Wawa is considered the Wal-Mart of the convenience store business. Their main purpose is to come in and take over an area, okay. And I'll give you an example of something that was said. When I went to the chamber meeting and you had a letter from them and uh, the gentleman from Wawa was there, and he was asked to give us a car count so we can have an idea of traffic, and that was a company secret. We couldn't find out even though it was gonna be 60,000 gallons of gas in the ground, 51 parking spaces. Uh, their basic idea, and according to what he said, was they want to pull traffic from outside the area. There's no way that anybody can sit here and tell me, I've been in business for 21 years, that this store is not gonna do a massive amount of business. They're not gonna open it, their not gonna spend whatever their gonna spend, maybe $2 to $3 million dollars, maybe more, to do an average amount of business. Their going to pull business from everywhere. They're gonna pull traffic off off of 140 on the side roads and from other areas, because there's really no Wawa's in that area. There's nothing like it in that area, so their gonna pull traffic and their gonna make it a very, very congested area. If you've ever been on that road, and I travel it a lot, it goes, because there's a post office up there, right up the road, it goes from 4 lanes to 2 lanes, and if you're not careful, you can get squashed. You gotta drive very carefully in that in that area. So if they put a, if if, Stockdale comes out, it's gonna create a monster. Most people will use the entrance closer to the head, which is closer to Charview Drive to pull out.

DZC: Now is yours a franchise, or is it your, is it a Royal Farm, or something like that?

Begleiter: No. It it's one-stop. I created the monster all by myself.

DZC: I'm sorry?

Begleiter: I created the monster all by myself.

DZC: Okay. All right, anything else?

Begleiter: Uh....basically that's it.

DZC: Uh, Mr. Jablon do you have

Jablon: Yes, if I could.

DZC: If I could say one thing, the green light is not working over here right now.

DZC: I'm sorry, I turned them off when we took a break so, so, there you go.

? Sorry.

DZC: Thanks for the reminder.

Jablon: Mr. Begleiter, where are your um. Given your address of your business, uh, but your business is not on a individual site, is it?

Begleiter: We're on a strip center.

Jablon: You're on a strip center?

Begleiter: Yes, sir.

Jablon: And are there other commercial uses going on within that strip center?

Begleiter: Yes, sir. We take half the center up.

Jablon: Ah, in fact, if I could, um, let me show you a photograph, is that yours? Is that your business?

Begleiter: Yes, sir.

Jablon: Thank you. I'm gonna mark this as Petitioner's Exhibit 11, uh, 12...Exhibit 12.

DZC: Yes.

Jablon: I will show you a photograph which I will mark as 13, and ask you to identify that as yours?

Begleiter: It looks good...did a nice job.

Jablon: Thank you...I'll give you a copy.

Begleiter: Thank you.

DZC: This is just another, broader photograph?

Jablon: Yes.

Begleiter: The whole store versus one window.

Jablon: Yes. Here's another view of the front of Mr. Begleiter's store, and I've got one more.

DZC: Where is this shopping center located? I guess, I well you told, I guess it's further down Reisterstown Road, closer to Frank or even a little south of Franklin.

Begleiter: Do you know anything about Reisterstown Road?

DZC: No, not really.

? (female) Do you know where the Giant Shopping Center, where there's two shopping centers in a road in the middle at a light?

DZC: I know there's…I know where a Bill Bateman's is.

? (female) That's Chartley, come south.

Begleiter: Come south.

? (female) But there were two

DZC: It's been a while, I haven't been there for a while.

? (female) Giant used to be on the right and then they moved to the left shopping center.

Begleiter: I'm right in the middle.

? (female) He's right on the

DZC: Okay.

Jablon: I've got 4 photographs right? 11, 12, 13, 14 and 15?

DZC: 12, 13, 14 and 15

Jablon: That's it. You would agree, Mr. Begleiter, the photographs I gave, accurately show your store?

Begleiter: Right.

Jablon: Right. You sell alcohol, correct?

Begleiter: True.

Jablon: Uh, you cash checks?

Begleiter: True.

Jablon: You have video poker machines.

Begleiter: Uh, yes.

Jablon: Okay. And um, none of which Wawa does, to your knowledge, is that correct?

Begleiter: Uh, yes.

Jablon: You are, your store exists, as you've indicated, in a shopping center amidst other retail uses?

Begleiter: Um hmm.

Jablon: Correct? And you have a huge parking area in front, its off of Reisterstown Road, about a mile and a half away, as you've indicated with Mr. Harmon who said about a mile and a half, is that correct?

Begleiter: Right.

Harmon: Mr. Boswick, for the sake of my lack of experience, I cannot understand any of this line of evidence submission or questioning based on testimony of Mr. Begleiter with Oliver…I think that it seems like its unnecessary.

DZC: I think um, at least in my view and maybe Mr. Jablon will correct me if I am wrong, but it appears that based on his last question, especially, that his busi, he's differentiating Mr. Begleiter testified that he believes that Wawa will take away from his business as well as others and I think that Mr. Jablon was putting forth evidence or questioning based on the fact that he believes that they are going to be different, to a degree. Is that correct, Mr….are you differentiating your proposed Wawa versus Mr. Begleiter's one-stop.

Jablon: Well I think it's yes. It's two pronged. First of all, Mr. Begleiter is the one who testified. He's testified that he's a competitor. He testified that the reason why he's opposed because Wawa's gonna take away business. Therefore, he's raised the issues that I'm cross-examining him on.

DZC: I understand.

Jablon: and definitely the photographs show that the location of his business, which is significantly far enough away from this site. Number 2, his business is aimed at a different clientele than what Wawa aims at, which I think is obvious from the photographs and the signs on his door. Cause certainly Wawa's presentation and Wawa's buildings are not gonna be loaded up with signage on the windows, like Mr. Begleiter's door is, and its fairly obvious also which the photographs show is the difference, the elementary difference between his convenience store and what Wawa does. And I think that's the purpose of the photographs.

DZC: Well, and I'm accepting them as such.

Jablon: Thank you. No further questions.

Begleiter: I do have something to add:

Jablon: Sure.

Begleiter: I do sell cigarettes. I do sell coffee. I do sell groceries. I do sell milk. I sell everything Wawa sells, with the exception of adding alcohol. Okay? Just to let you know that I'm not just a bar-type operation.

Jablon: Oh, I understand. I, you corrected me. I'm not implying that you don't sell those things also, but in addition to what you sell, you have these other things that you advertise on the front of your store, which Wawa does not.

Begleiter: Well, I don't have gas, and I have to have other things to pull people in cause they have gas.

Jablon: I do have some other questions. How far is your store from Franklin Boulevard?

Begleiter: Um…4 blocks.

Jablon: and are you to the south of Franklin Boulevard or to the north of Franklin Boulevard?

Begleiter: Going toward the city.

Jablon: Going to the city is to the south. I'm not sure if Reisterstown Road goes north/south. I think it may go east/west, right? I can never figure it out I'm terrible with directions. Alright so its south of Franklin Boulevard.

Begleiter: Right.

Jablon: But do people get off if you know 795 to come to your business to buy a sandwich?

Begleiter: Uh, yes.

Jablon: They do?

Begleiter: Yes.

Jablon: People actually come off of 795 to come to your business?

Begleiter: Well if they're coming to that area.

Jablon: So, in fact, you would agree that your business is also a traffic interceptor as you understand that term? People are coming to your store because they are coming to Reisterstown Road or coming to the area itself, and therefore they're going to use you because you are there?

Begleiter: Right.

Jablon: Nothing further.

DZC: Do you have, Mr. Begleiter, do you have a clientele, or, so I guess the question is are you mostly an interceptor as we discussed or do you have some destination traffic perhaps, because they know you or because they go there a lot?

Begleiter: We have a combination of both. People that come drive down Reisterstown Road to see us will pull in. We have people that for 20 or 21 years, you're gonna build a clientele.

DZC: Okay. Thank you.

Begleiter: Thank you.

MATTER OF APPLICATION OF	*	BEFORE THE
OODLAND SERVICES, LLC – LEGAL OWNER; WINDSOR ROLLING ROAD PROPERTY, LLC - PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S OF ROLLING ROAD, 1,100' NE OF TUDSBURY ROAD (2701 ROLLING ROAD)	*	COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	CASE NO. 06-583-SPH

* * * * * * * * *

OPINION

This case comes before the Board on an appeal of a decision by the Deputy Zoning Commissioner in which the Petitioners' request for special hearing filed pursuant to § 500.7 of the *Baltimore County Zoning Regulations* (BCZR) was denied in part and granted in part. Petitioners, Windsor Rolling Road Property, LLC (Windsor) and St. John's Property, Inc. (SJP) and the Protestant /Legal Owner, Woodland Services, LLC (Woodland) appealed the Deputy's Zoning Commissioner's (DZC) decision to this Board. A public hearing was held on October 23, 2007. Petitioners, Windsor and St. John's Property, were represented by Arnold Jablon, Esquire, and David Karceski, Esquire, with Venable, LLP. Protestant, Woodland Services, LLC, was represented by their attorney, Michael P. Tanczyn, Esquire. Briefs were submitted by the parties on November 13, 2007, and a public deliberation was held on December 4, 2007.

Background

The instant property was the subject of a Petition for Special Exception before the Zoning Commissioner for Baltimore County in Case No. 02-016-X. The owners of the property, who were the Petitioners at the time, were Rolling Road, LLC, and the contract lessee, Eastern Petroleum Corporation. The Petition for a fuel service station use in combination with a convenience store greater than 1,500 sq. ft. and to allow a carry-out restaurant as a use in

PETITIONER'S EXHIBIT 4

combination, was considered by the Zoning Commissioner. In his decision, the Zoning Commissioner (ZC) noted that, among those present in support of the request, were Sajid Chaudhry and Rias Ahmad. These two gentlemen are the principles in the present owner, Woodland Services, LLC. They were described by the ZC as potential proprietors for the proposed business. The Zoning Commissioner's opinion noted no protestants or other interested parties were present. In a three-page opinion and order, the Zoning Commissioner noted, on page 2, that there were other site improvements, which included a 44-foot by 22-foot carwash facility. In his decision, the Zoning Commissioner noted that the subject property and requested relief were more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit #1. The site plan included the carwash facility. He noted that no zoning variance were requested and found that the carwash contained sufficient area for stacking and parking. The Petition was granted by the ZC by order dated September 21, 2001. The decision of the Zoning Commissioner granted the Petition for Special Exception as amended, seeking approval of a fuel service station use in combination with a convenience store and carryout restaurant greater than 1,500 sq. ft. in area as shown on the site plan. The Petition for Special Exception did not include the request to include a carwash in the special exception. The decision of the ZC also did not include the carwash. No appeal of the September 21, 2001 decision was filed and the Petitioners applied and obtained a building permit from Baltimore County and built the structure, including the carwash as set forth in the site plan.

Subsequently, in 2006, Windsor and SJP filed a Petition for Special Hearing in Case No. 06-583-SPH concerning the property at 2701 North Rolling Road. Windsor and SJP, in their Petition for Special Hearing, requested a determination that the order and site plan approved by

the ZC in Case No. 02-016-X, which approved the Woodlands /Osprey Station at 2701 North Rolling Road should be declared void because it was issued illegally. Windsor and SJP identified several items they contended were illegal with the Osprey station and the zoning relief in Case No. 02-016-X, including an assertion that Woodland never requested or obtained a special exception for the Osprey's carwash use, yet obtained permits and constructed the carwash anyway. In his decision dated July 26, 2006, the DZC ordered that the request for special hearing to confirm whether the order and site plan approved in zoning case 02-016-X was void was denied in regard to the special exception for a fuel service station in combination with a convenience store and carryout restaurant. He also further ordered that the Petitioners' request for special hearing to confirm whether the order and site plan approved in Case No. 02-016-X is void was granted in regard to the special exception for the carwash and ordered that said carwash shall be closed pending further zoning relief. In that decision, the DZC rendered an advisory opinion that the Woodland site (the Osprey station) was in violation of County regulations, including operating without providing the required amount of off-street parking spaces, installing free-standing signage in excess of that permitted by the sign regulations, and installing a propane tank within the site's required landscape transition area. Subsequently, Baltimore County issued correction notices to Woodland, LLC, to correct the violations with regard to parking, signage, and the location of the propane gas tank.

Both Woodland, and Windsor and SJP, appealed the DZC's decision to this Board. Subsequently, Woodland filed a Petition for Special Exception to approve the carwash use at the Osprey Station. The ZC granted that Petition, and Windsor, along with SJP, appealed the decision to this Board in Case No. 07-245-X.

Issues

1. **Whether or not Windsor and SJP are proper parties to participate in the hearing before the Board.**
2. **Whether or not the decision of the ZC in Case No. 02-016-X decided on September 21, 2001 should be considered unappealable because of the fact that it was never appealed within the appropriate time period, and that any appeal is now barred by latches.**
3. **Whether or not any special exception should be granted where there are outstanding violations of County regulations concerning parking, signage, and the location of a propane tank.**
4. **Whether or not the appeal taken in Case No. 02-016-X is moot on the basis that the remedies sought in that case can be achieved in the decision in Case No. 07-245-X.**

Decision

After review of the evidence presented in this matter, as well as the excellent briefs provided by both sides, the Board reaches the following decision.

1. Issue of Standing

The attorney for Windsor LLC candidly admitted that his client was a competitor of the Osprey Station owned by Woodland, LLC. In fact, Windsor is constructing a WaWa store approximately ¼ mile north of the Osprey Station at the corner of Windsor Boulevard and N. Rolling Road. As presented by counsel for Woodland, prior courts have frequently held that the prevention of competition is not a proper element for zoning, and the competitor opposing a zoning request would lack standing on that basis. *Kreatchman v. Ramsburg*, 224 Md. 209, 167 A.2d 345 (1961); see also *Eastern Services Centers, Inc., v. Cloverland Farms Dairy, Inc.*, 130

Md.App. 1, 744 A.2d 63 (2000). Therefore, Petitioner, Windsor, had no standing as a party in Case No. 06-583-SPH. However, the Board does find that SJP is the developer of the Rutherford Business Park adjacent to the Osprey Station. Therefore, the Board finds that SJP does have standing to participate as a party in both cases.

2. Is an appeal of the 2001 decision by ZC in Case No. 02-016-X barred by latches?

The Board finds that there is no need to make a decision on this issue since the Board answers the question with respect to mootness in the affirmative.

3. Are the appeals by Windsor, SJP, and Woodland moot?

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

4. Should any decision granting a special exception consider any possible corrections of potential violations of County regulations?

The Board notes that the ZC in his decision in Case No. 07-245-X indicated that there were contracts executed to correct any of the violations of County regulations at the site of the Osprey Station. The Board will schedule a hearing in Case No. 07-245-X and would expect that, at the time, evidence would be presented to show that any possible violations of County regulations that would be contrary to the site plan would have been corrected at that time. Therefore, that issue with respect to Case No. 06-583-SPH is also dismissed as moot.

As stated above, the Board will schedule a hearing in Case No. 07-245-X and will deal with all issues in the decision in that matter. At that time, all issues in Case No. 07-245-X,

including standing, will be appealable after the issuance of a written decision in that matter.

ORDER

THEREFORE, IT IS THIS 27th day of December, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 06-583-SPH be and is hereby **DISMISSED** as moot.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**

Lawrence S. Wescott, Panel Chair

Lawrence M. Stahl

Robert W. Witt

MATTER OF APPLICATION OF WOODLAND SERVICES, LLC – LEGAL OWNER; WINDSOR ROLLING ROAD PROPERTY, LLC – PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE E/S OF ROLLING ROAD, 1,100' NE OF TUDSBURY ROAD (2701 ROLLING ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
2ND ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	CASE NO. 06-583-SPH

* * * * * * * * *

OPINION

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Pet EXH 4

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4. **Whether or not the appeal taken in Case No. 02-016-X is moot on the basis that the remedies sought in that case can be achieved in the decision in Case No. 07-245-X.**

Decision

After review of the evidence presented in this matter, as well as the excellent briefs provided by both sides, the Board reaches the following decision.

1. Issue of Standing

The attorney for Windsor LLC candidly admitted that his client was a competitor of the Osprey Station owned by Woodland, LLC. In fact, Windsor is constructing a WaWa store approximately ¼ mile north of the Osprey Station at the corner of Windsor Boulevard and N. Rolling Road. As presented by counsel for Woodland, prior courts have frequently held that the prevention of competition is not a proper element for zoning, and the competitor opposing a zoning request would lack standing on that basis. *Kreatchman v. Ramsburg*, 224 Md. 209, 167 A.2d 345 (1961); see also *Eastern Services Centers, Inc., v. Cloverland Farms Dairy, Inc.*, 130

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2. *Is an appeal of the 2001 decision by ZC in Case No. 02-016-X barred by latches?*

The Board finds that there is no need to make a decision on this issue since the Board answers the question with respect to mootness in the affirmative.

3. Are the appeals by Windsor, SJP, and Woodland moot?

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

4. Should any decision granting a special exception consider any possible corrections of potential violations of County regulations?

The Board notes that the ZC in his decision in Case No. 07-245-X indicated that there were contracts executed to correct any of the violations of County regulations at the site of the Osprey Station. The Board will schedule a hearing in Case No. 07-245-X and would expect that, at the time, evidence would be presented to show that any possible violations of County regulations that would be contrary to the site plan would have been corrected at that time. Therefore, that issue with respect to Case No. 06-583-SPH is also dismissed as moot.

As stated above, the Board will schedule a hearing in Case No. 07-245-X and will deal with all issues in the decision in that matter. At that time, all issues in Case No. 07-245-X,

including standing, will be appealable after the issuance of a written decision in that matter.

ORDER

THEREFORE, IT IS THIS 27th day of December, 2007 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 06-583-SPH be and is hereby **DISMISSED** as moot.

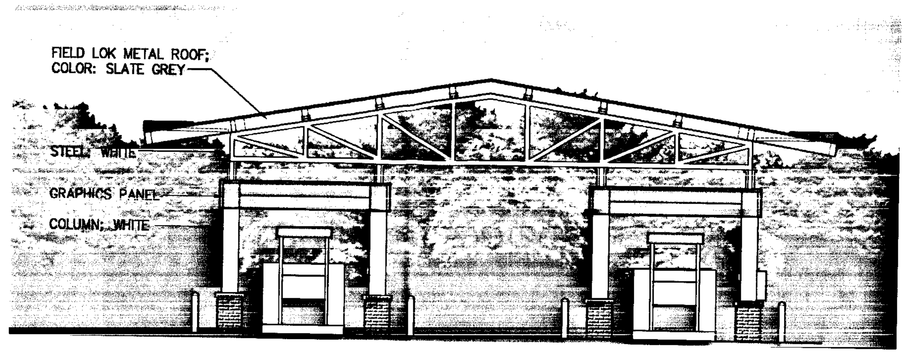
Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**

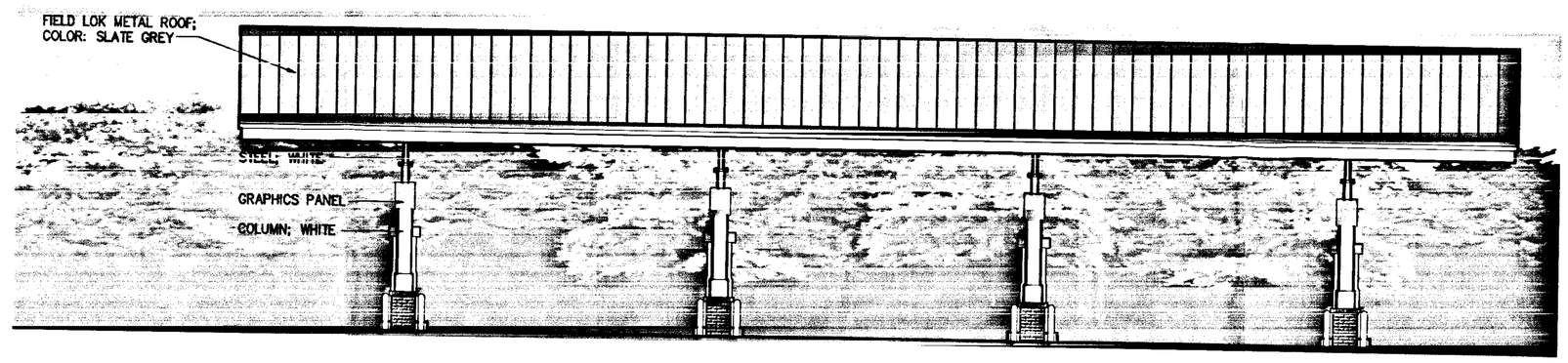
Lawrence S. Wescott, Panel Chair

Lawrence M. Stahl

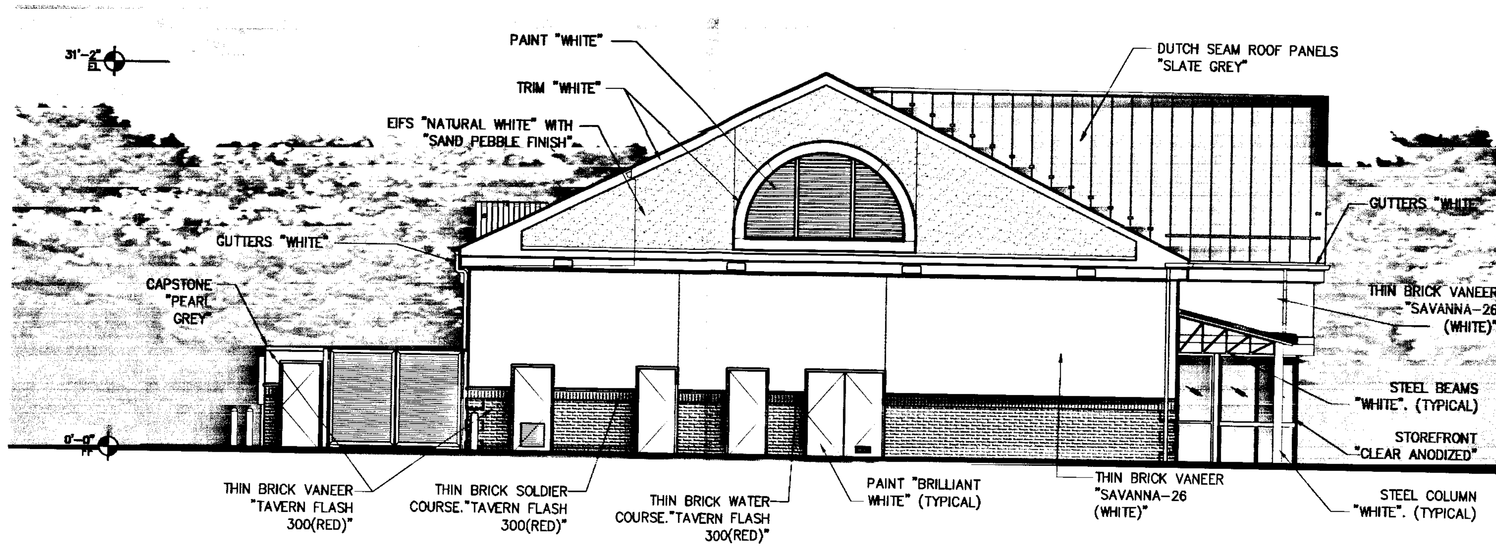
Robert W. Witt



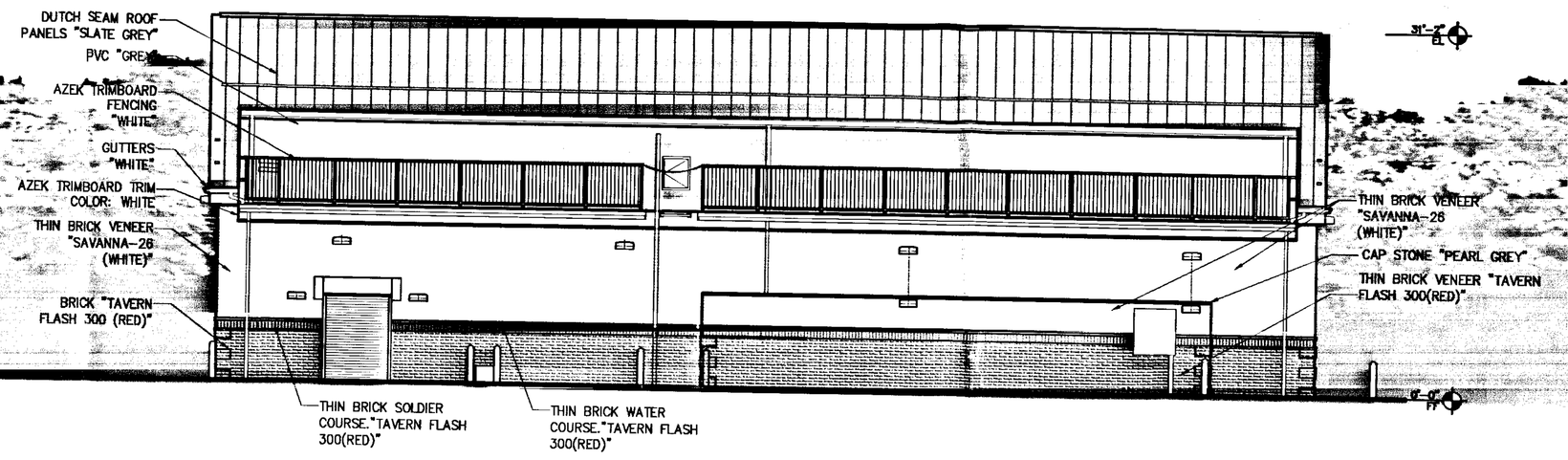
6 FUEL ISLAND ELEVATION
1/8"=1'-0"



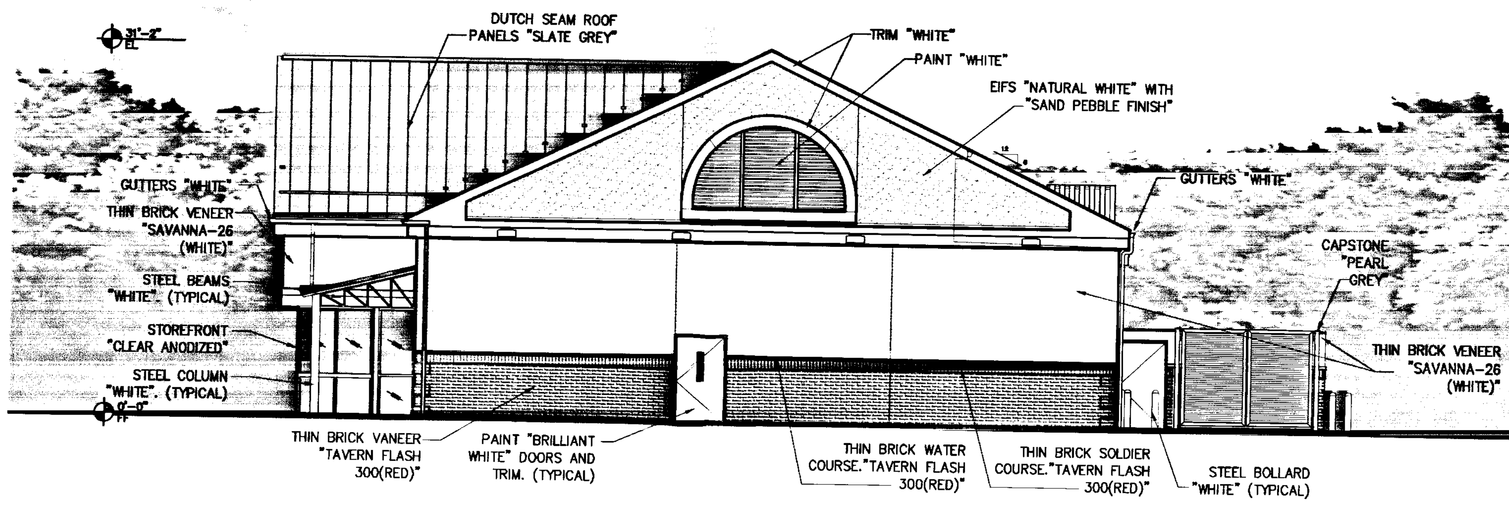
5 FUEL ISLAND ELEVATION
1/8"=1'-0"



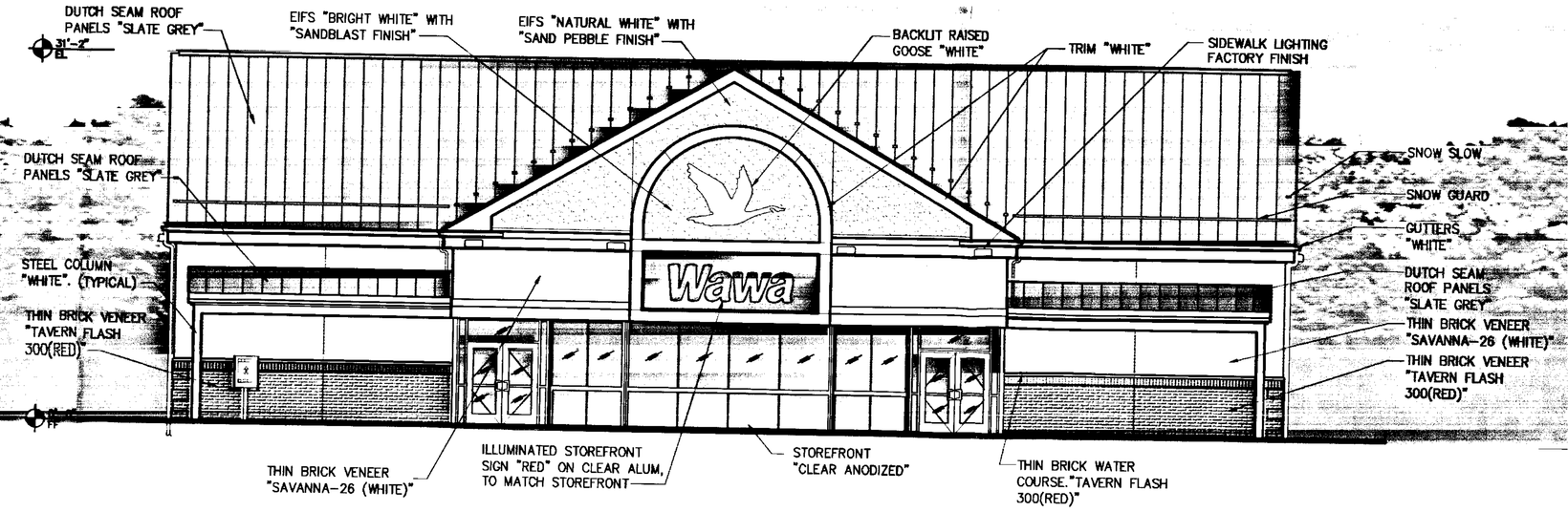
4 RIGHT SIDE ELEVATION
1/8"=1'-0"



3 REAR ELEVATION
1/8" = 1'-0



2 LEFT SIDE ELEVATION
1/8"=1'-0"



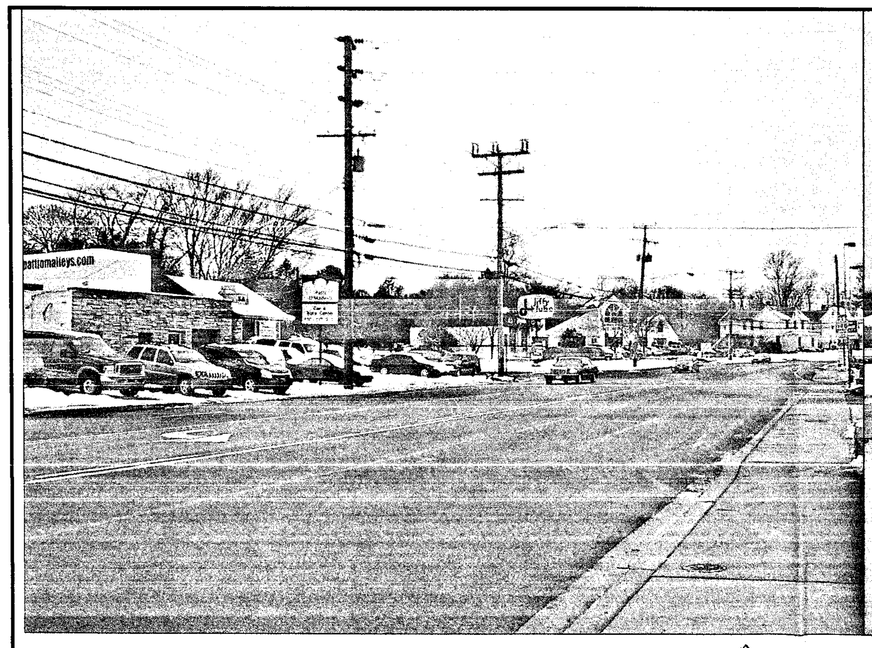
1 FRONT ELEVATION
1/8" = 1'-0

Wawa

Registered Engineer
Robbinsville, NJ
December 6th, 2007

BSW Inte
One West Third
Tulsa, Okla
www.bsw

PETITIONER'S EXHIBIT



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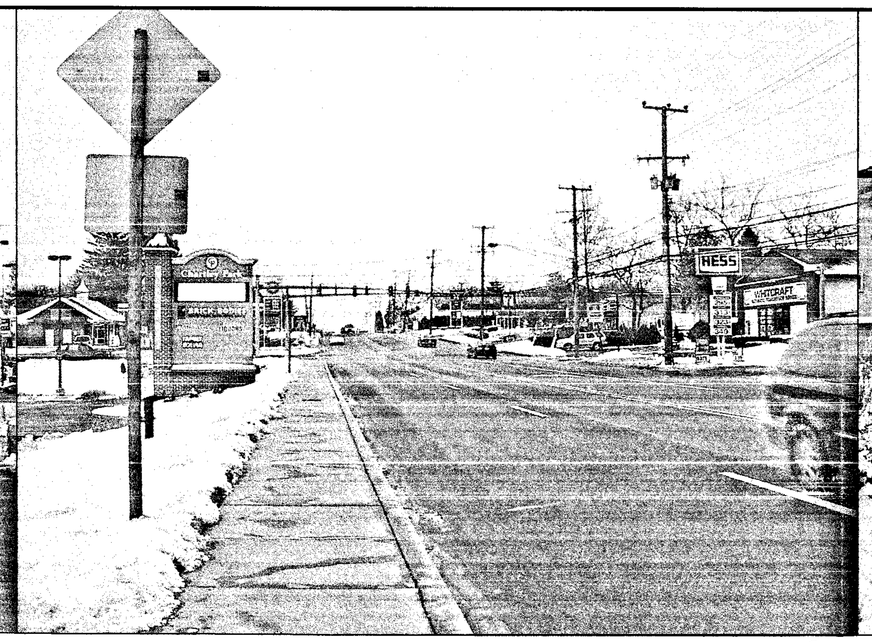

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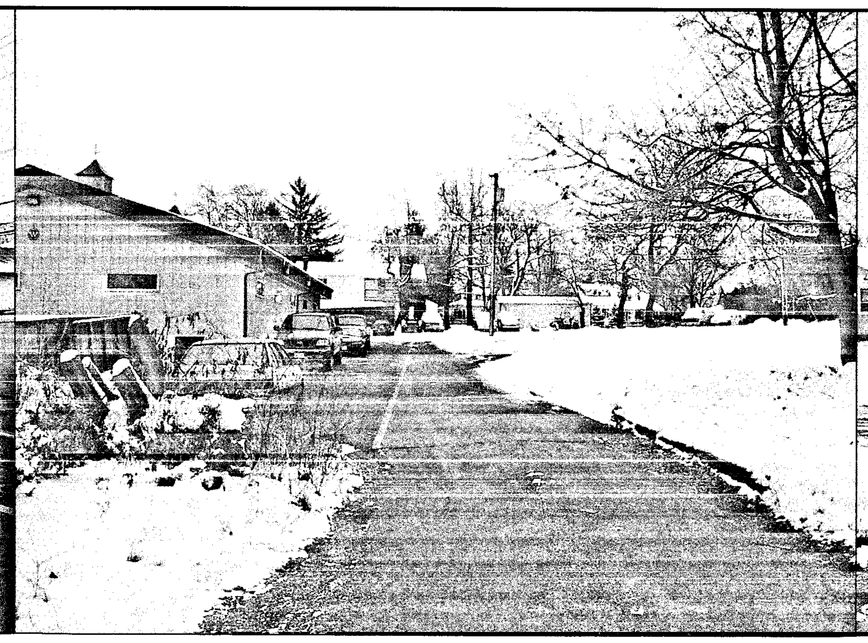

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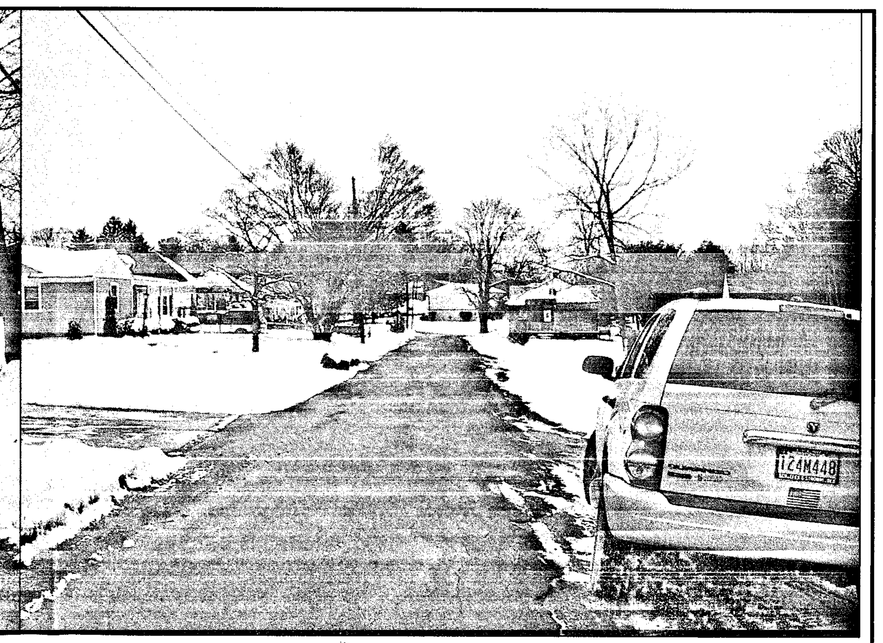

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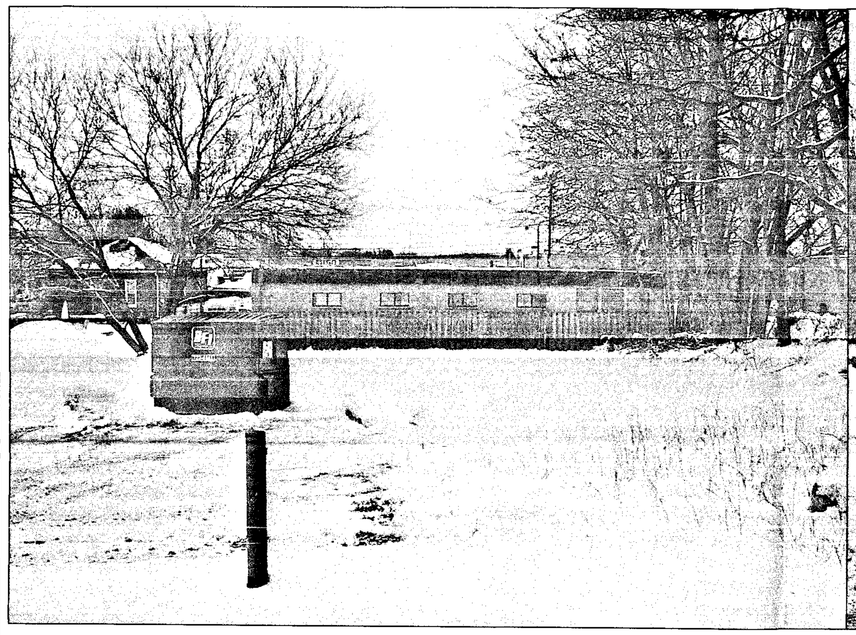

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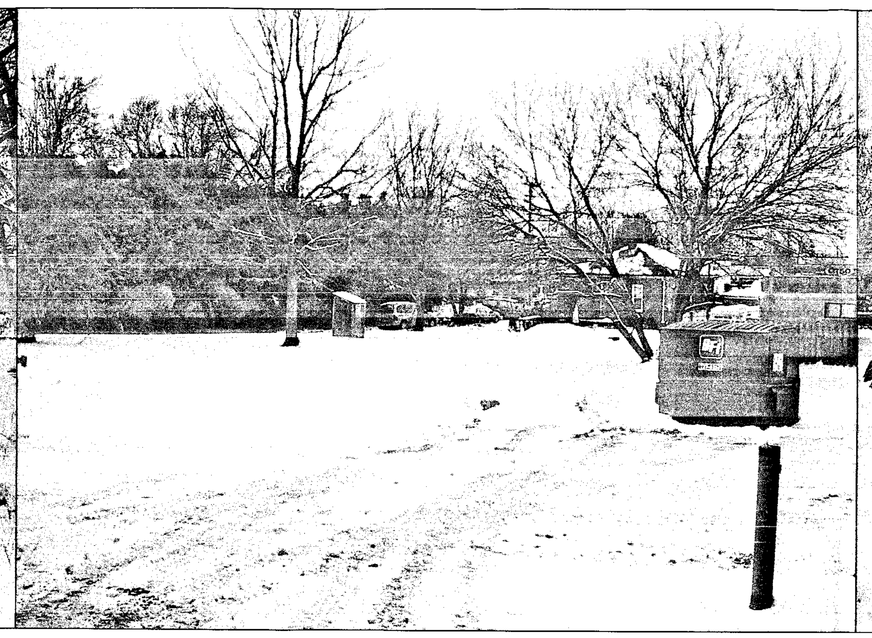

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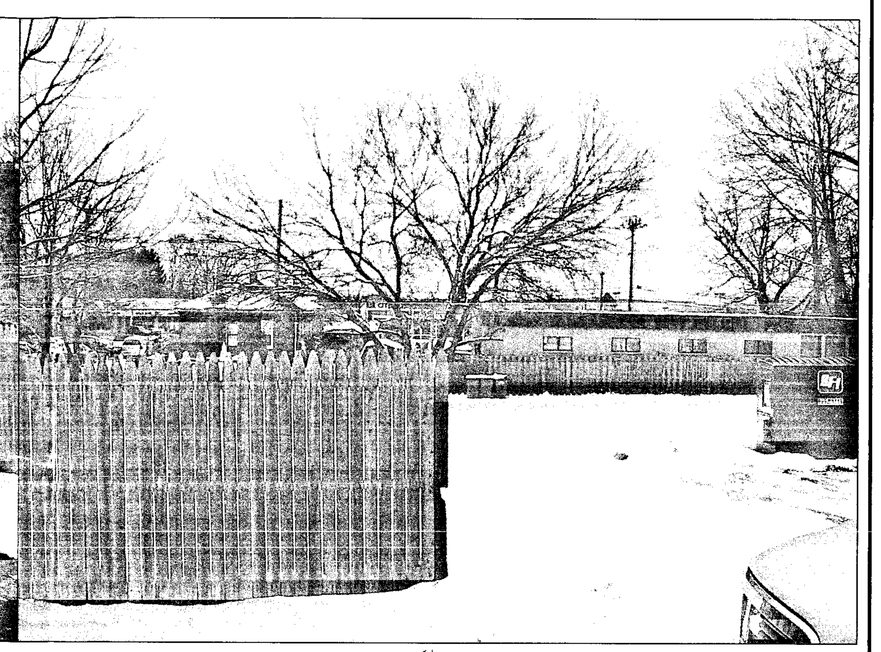

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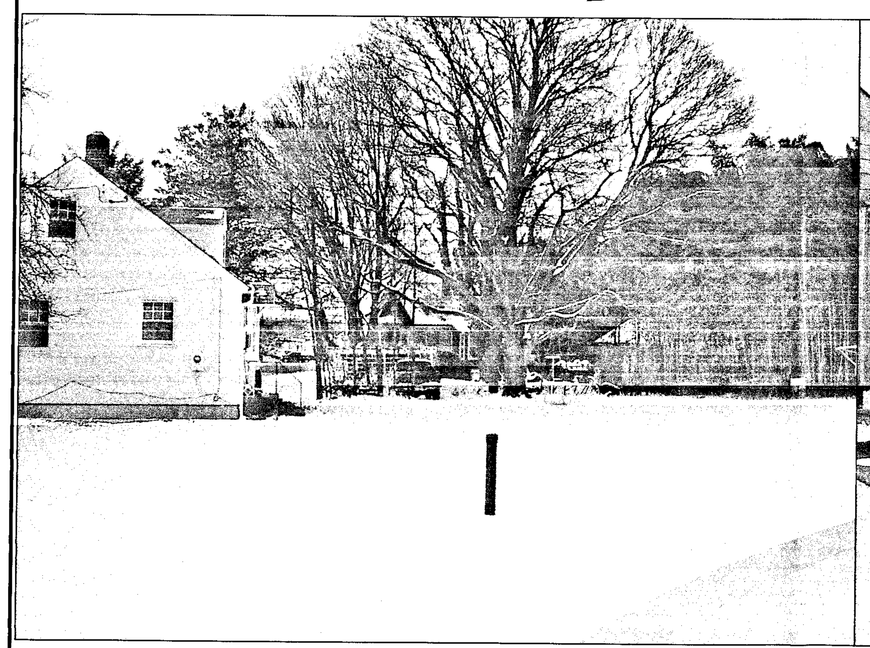

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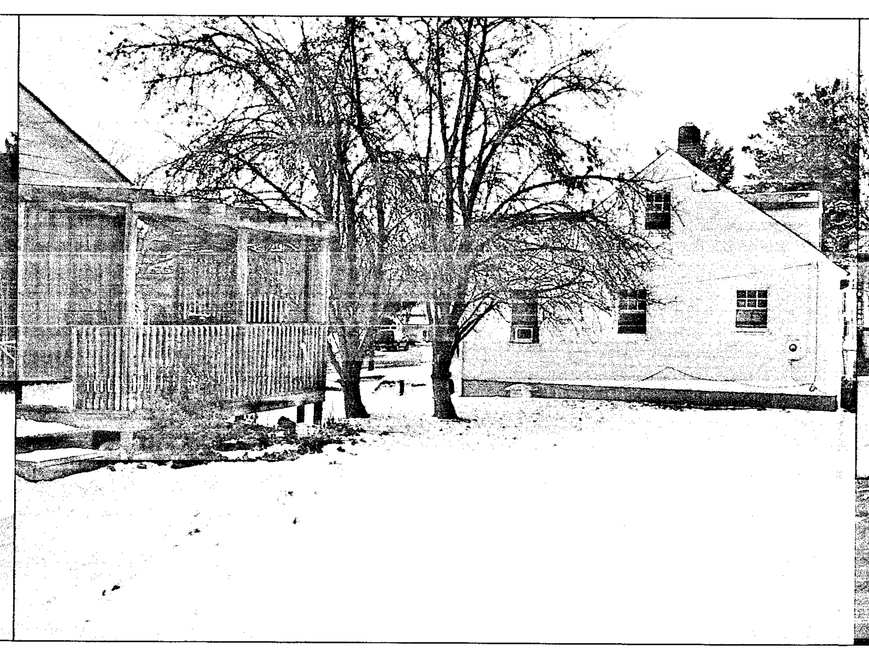

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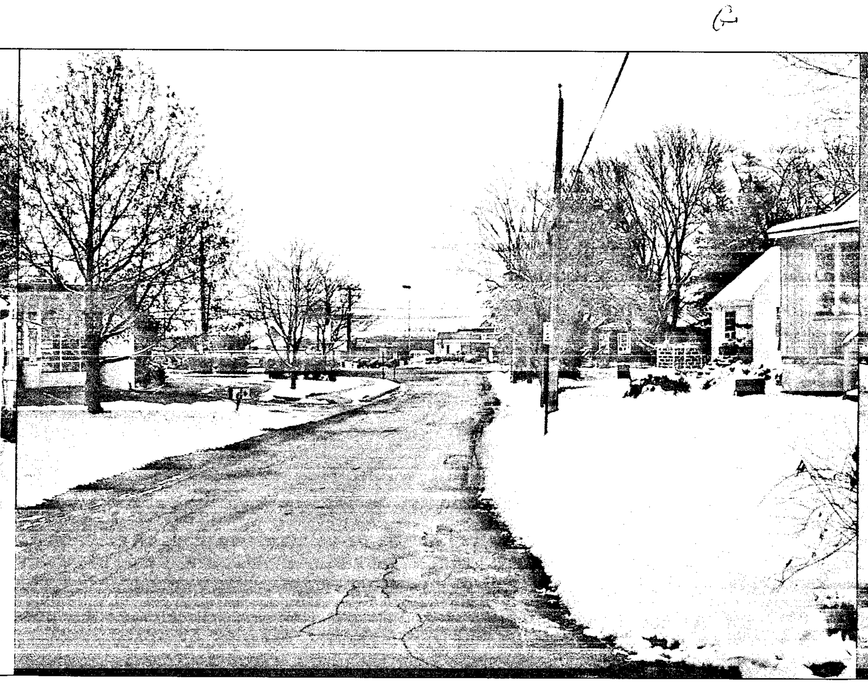

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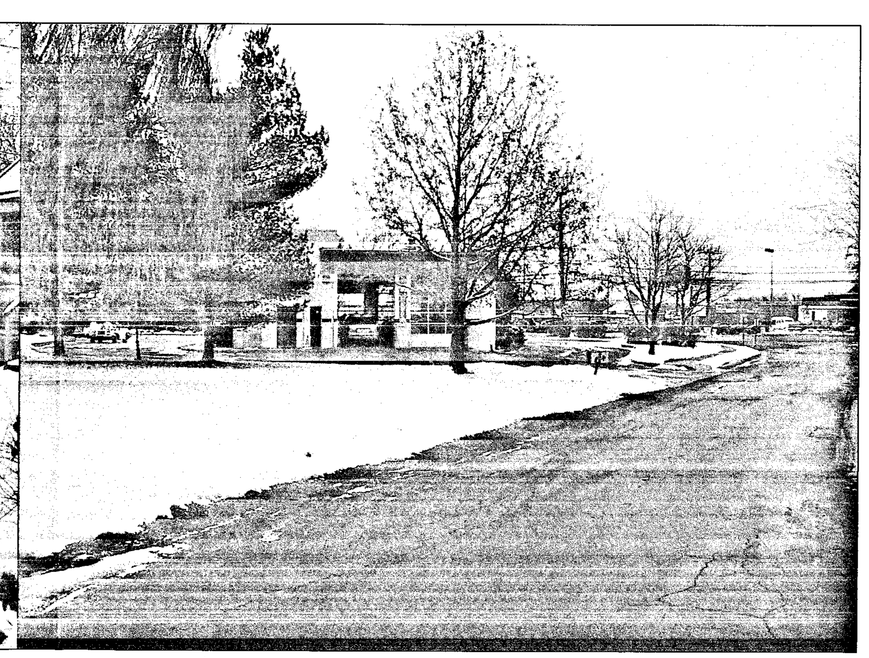


L

PETITIONER'S EXHIBIT 4a

SITE PHOTOS - SHEET 1 OF 2

516 REISTERSTOWN ROAD

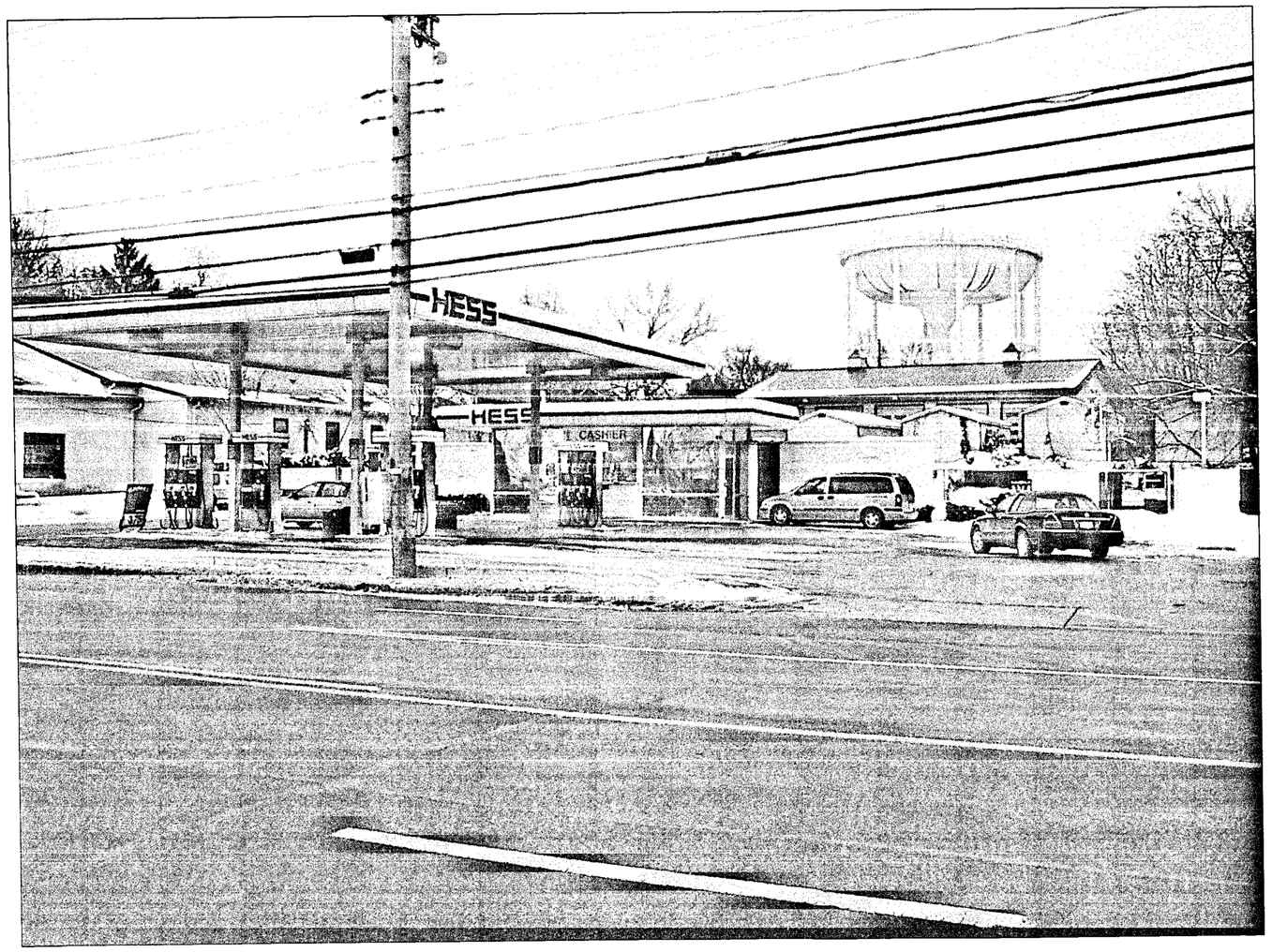
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

FILENAME: 07-1027zoninghearing.s01, Hearing

P.N. 07-1027

M



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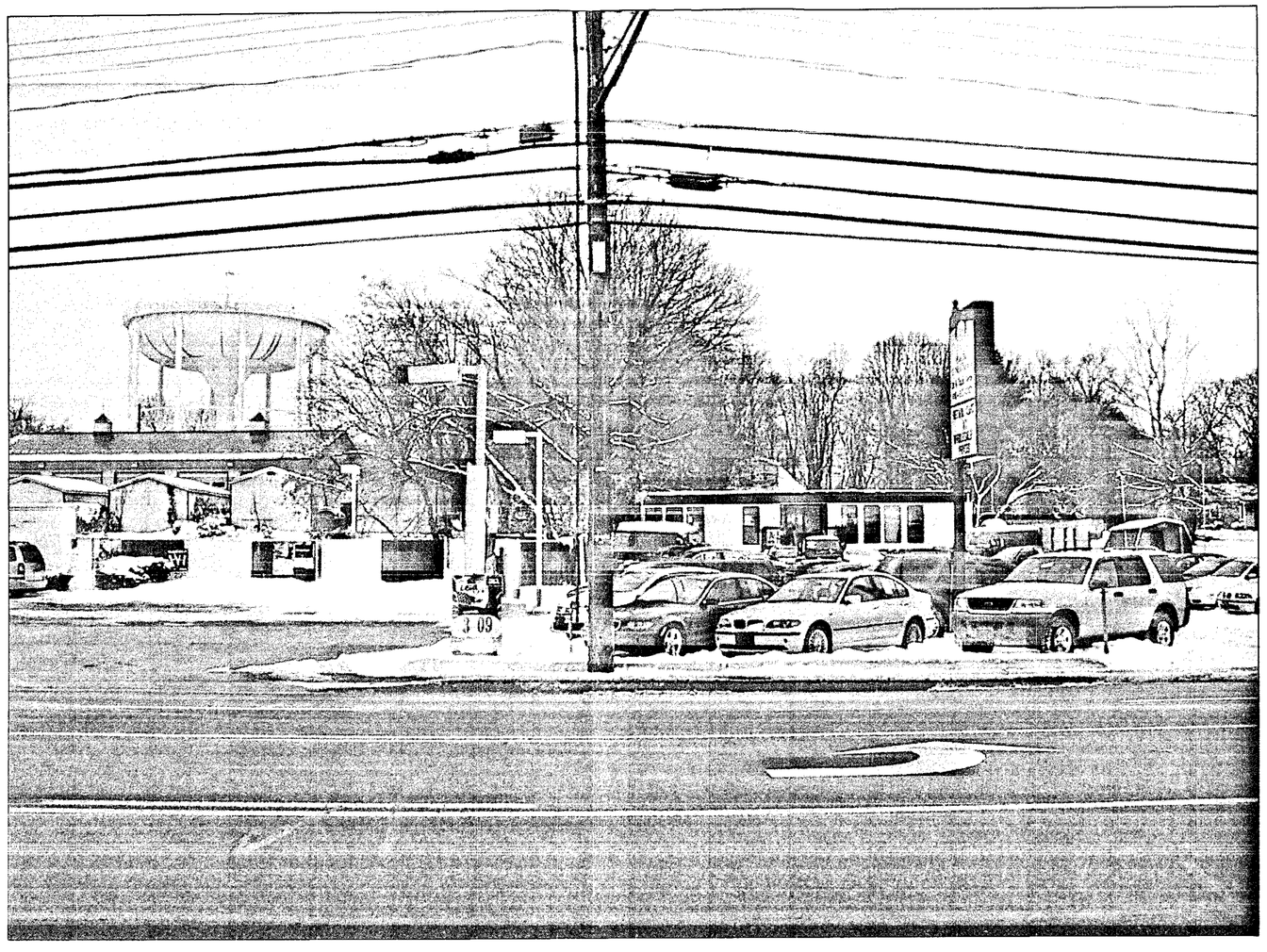

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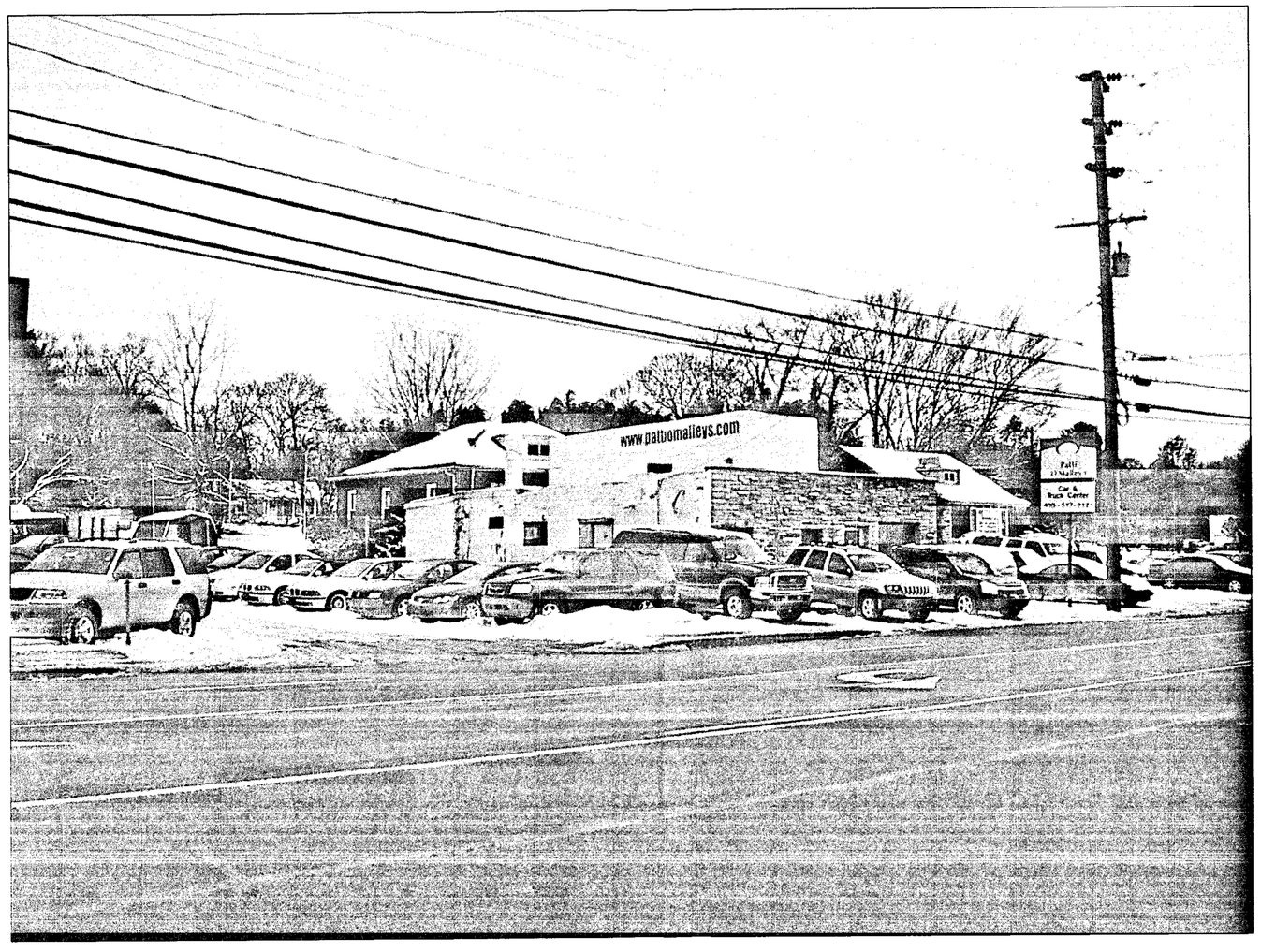


MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)-321-8444/FAX:(410)-321-1175

PETITIONER'S EXHIBIT 4 thru 6
M-P

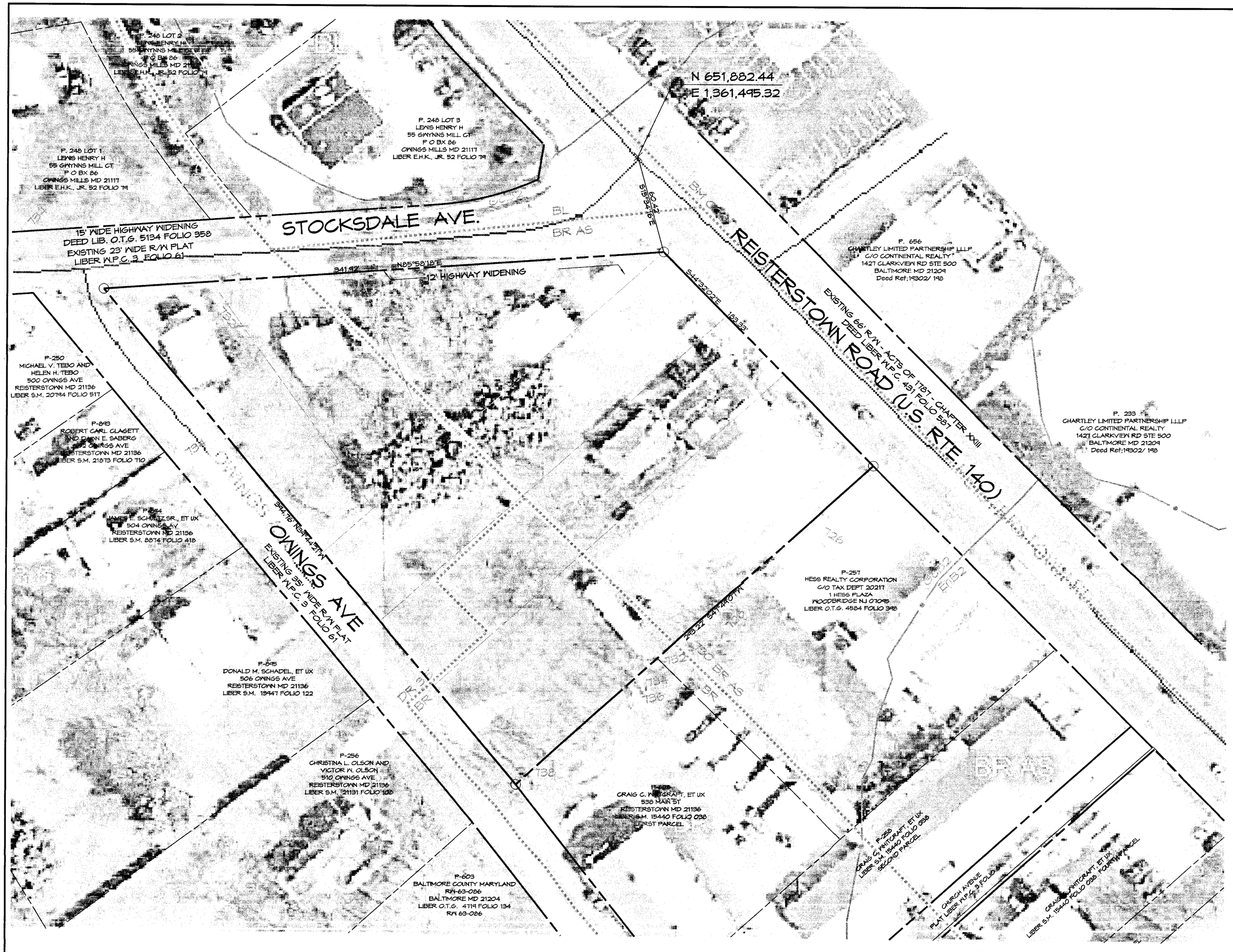
SITE PHOTOS - SHEET 2 OF 2

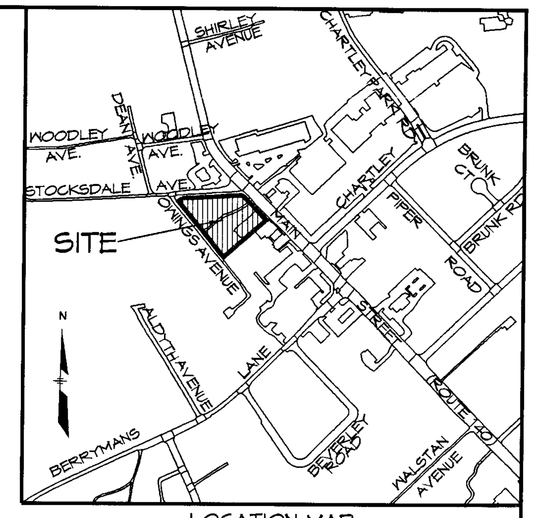
516 REISTERSTOWN ROAD

OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

P.N. 07-1027

FILENAME: 07-1027zoninghearing.s01, Hearing





LOCATION MAP
SCALE: 1"=500'

1. OWNER: PARCELS 251, 252, 255
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136
PARCELS 253, 254, 982
POLLACK STUART
3000 BALTIMORE BLVD
FINKSBURG MD 21048
2. ENGINEER: MARTIN & PHILLIPS DESIGN ASSOCIATES, INC.
222 BOSLEY AVENUE, SUITE B1
TOWSON, MD 21204
410-321-8444
3. TAX MAP: 48
4. PARCEL NUMBER: 251 (0.21 AC.+/-)
252 (0.22 AC.+/-)
253 (0.24 AC.+/-)
254 (0.35 AC.+/-)
255 (0.33 AC. +/-)
982 (0.52 AC. +/-)
5. TOTAL TRACT AREA: 1.87 AC.+/-
6. DEED REFERENCE: 20281/ 101
20281/ 106
7869/ 118
20190/ 71
20043/ 532
6872/ 220
7. ELECTION DISTRICT: 4TH DISTRICT
8. COUNCILMATIC DISTRICT: 3RD DISTRICT
9. CENSUS TRACT: 4044.01
10. EXISTING ZONING: D.R. 3.5 (0.6 AC.+/-)
B.R. (0.31 AC.+/-)
BR AS (0.96 AC. +/-)

REFERENCE:
1. PROPERTY OUTLINE & FIELD SURVEY WAS PREPARED BY GEORGE W. STEPHENS AND ASSOCIATES, 4692 MILLENNIUM DRIVE SUITE 100, BELCAMP, MD 21017 AND IS THE BASIS OF THE PROPERTY LINES SHOWN HEREON. MARTIN AND PHILLIPS DESIGN ASSOCIATES, INC. DOES NOT WARRANT THE ACCURACY OF SAID PLANS.

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)-321-8444/FAX:(410)-321-1175

N
NAVD 88-MSC 1988
SCALE: 1"=30'
30 15 0 30 60 90

EXISTING
NEIGHBORHOOD
CONTEXT PLAN

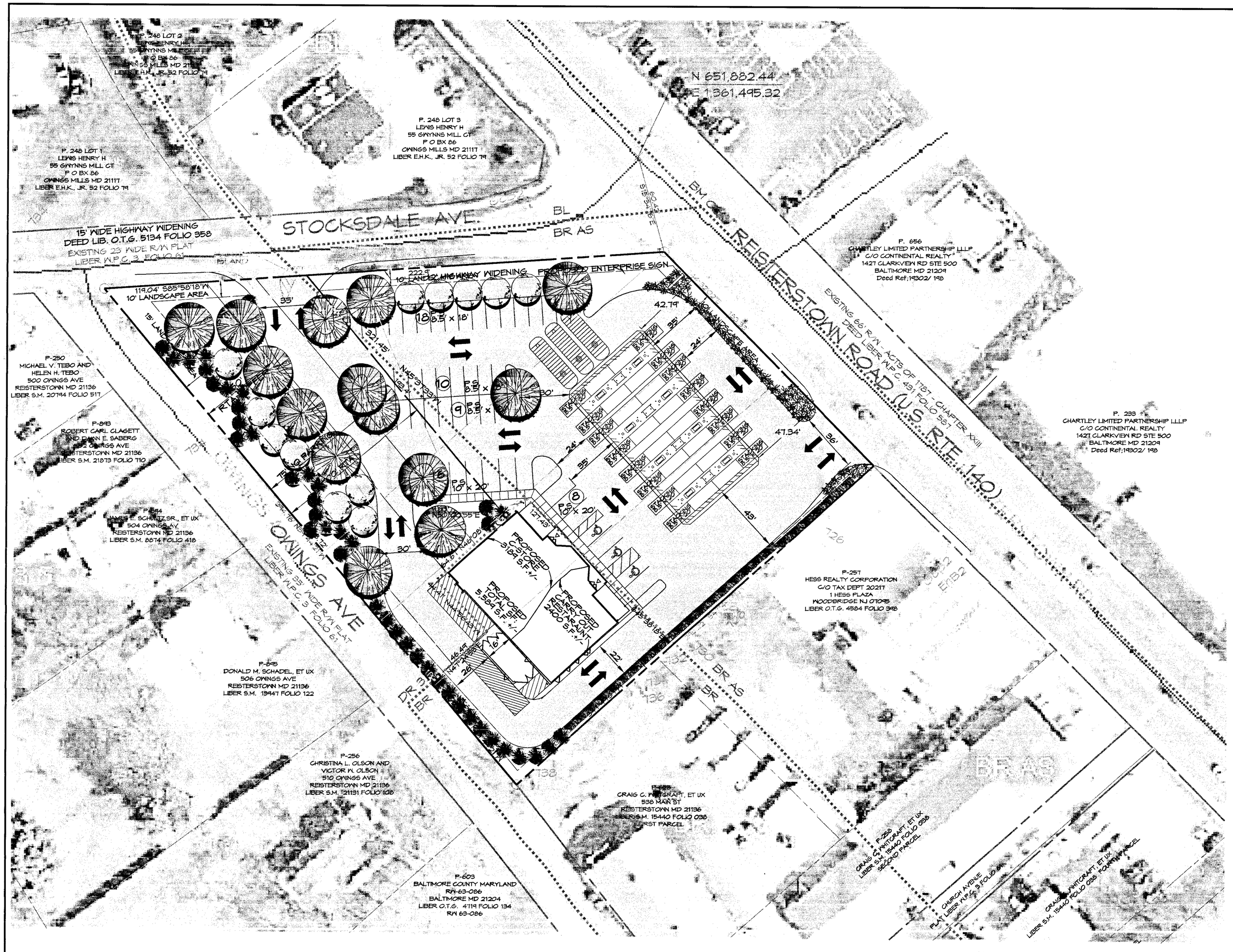
516 REISTERSTOWN ROAD

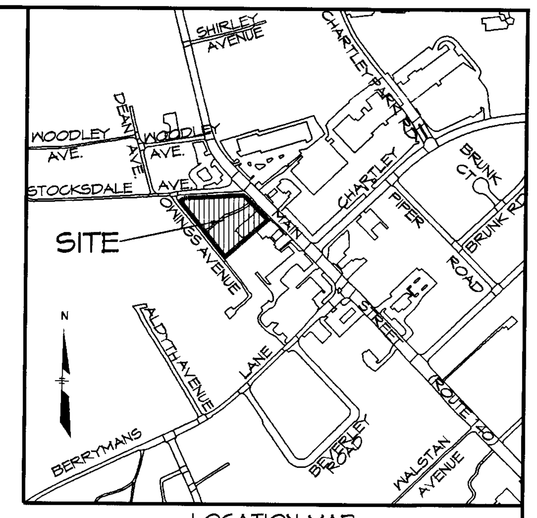
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

FILENAME: 07-1027zoninghearing.s01, Neighborhood

PETITIONER'S EXHIBIT 5

P.N. 07-1027





LOCATION MAP
SCALE: 1"=500'

1.	OWNER:	PARCELS 251, 252, 255 S & J MANAGEMENT INC 520 MAIN STREET REISTERSTOWN MD 21136 PARCELS 253, 254, 982 POLLACK STUART 3000 BALTIMORE BLVD FINKSBURG MD 21048
2.	ENGINEER:	MARTIN & PHILLIPS DESIGN ASSOCIATES, INC. 222 BOSLEY AVENUE, SUITE B1 TOWSON, MD 21204 410-321-8444
3.	TAX MAP:	48
4.	PARCEL NUMBER:	251 (0.21 AC.+/-) 252 (0.22 AC.+/-) 253 (0.24 AC.+/-) 254 (0.35 AC.+/-) 255 (0.33 AC. +/-) 982 (0.52 AC. +/-)
5.	TOTAL TRACT AREA:	1.87 AC.+/-
6.	DEED REFERENCE:	20281/ 101 20281/ 106 7869/ 118 20190/ 71 20043/ 532 6872/ 220
7.	ELECTION DISTRICT:	4TH DISTRICT
8.	COUNCILMATIC DISTRICT:	3RD DISTRICT
9.	CENSUS TRACT:	4044.01
10.	EXISTING ZONING:	D.R. 3.5 (0.6 AC.+/-) B.R. (0.31 AC.+/-) BR AS (0.96 AC. +/-)
11.	PARKING REQUIRED:	46 SPACES
	1 P.S. PER EMPLOYEE:	15 SPACES
	1 P.S. PER AIR/VACUUM:	1 SPACE
	1 P.S. PER ATM:	1 SPACE
	5 P.S. PER 1000 S.F.:	29 SPACES
	PARKING PROPOSED;	51 SPACES (48 STD, 3 HC)
12.	SIGNAGE:	
	ENTERPRISE SIGN	(NAMA)-FREE STANDING
	MAX. HEIGHT	25'
	MAX. SIGN FACE AREA:	75 S.F. ON REISTERSTOWN RD PER FACE
	WALL MOUNTED SIGN:	2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
	NOTE:	GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE ABOVE
		CANOPY OF FUEL SERVICE 25 S.F. PER CANOPY SIGN
		MAX. NUMBER OF CANOPY SIGNS ON PREMISE=6
	SERVICE STATION CANOPY:	25 S.F. PER CANOPY - MAX. NO. PER SITE = 6

REFERENCE:
1. PROPERTY OUTLINE & FIELD SURVEY WAS PREPARED BY GEORGE W. STEPHENS AND ASSOCIATES, 4692 MILLENNIUM DRIVE SUITE 100, BELCAMP, MD 21017 AND IS THE BASIS OF THE PROPERTY LINES SHOWN HEREON. MARTIN AND PHILLIPS DESIGN ASSOCIATES, INC. DOES NOT WARRANT THE ACCURACY OF SAID PLANS.

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)-321-8444/FAX:(410)-321-1175

N
NAVD 88-MSC 1988
SCALE: 1"=30'
30 15 0 30 60 90

ILLUSTRATIVE SITE & NEIGHBORHOOD CONTEXT PLAN

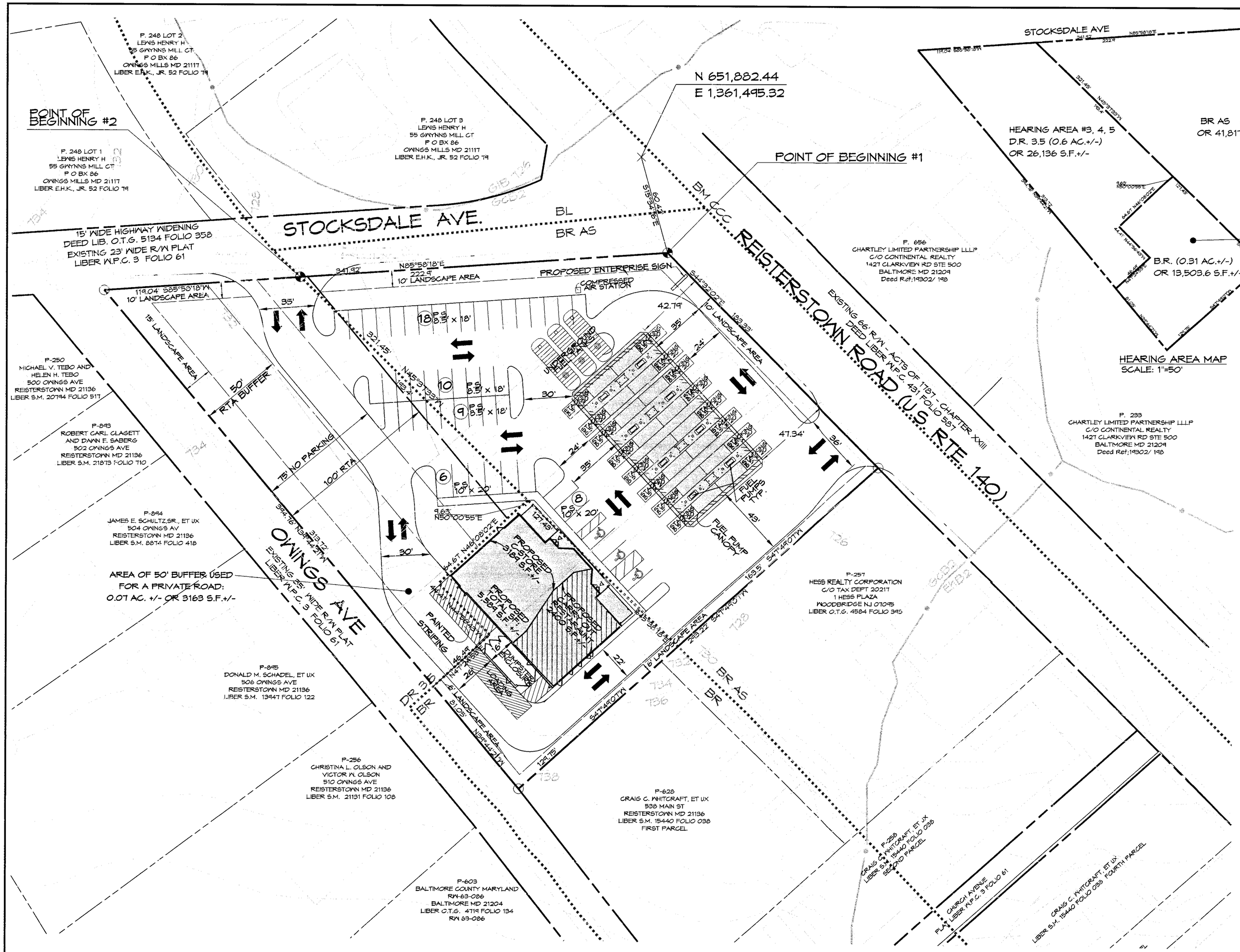
516 REISTERSTOWN ROAD

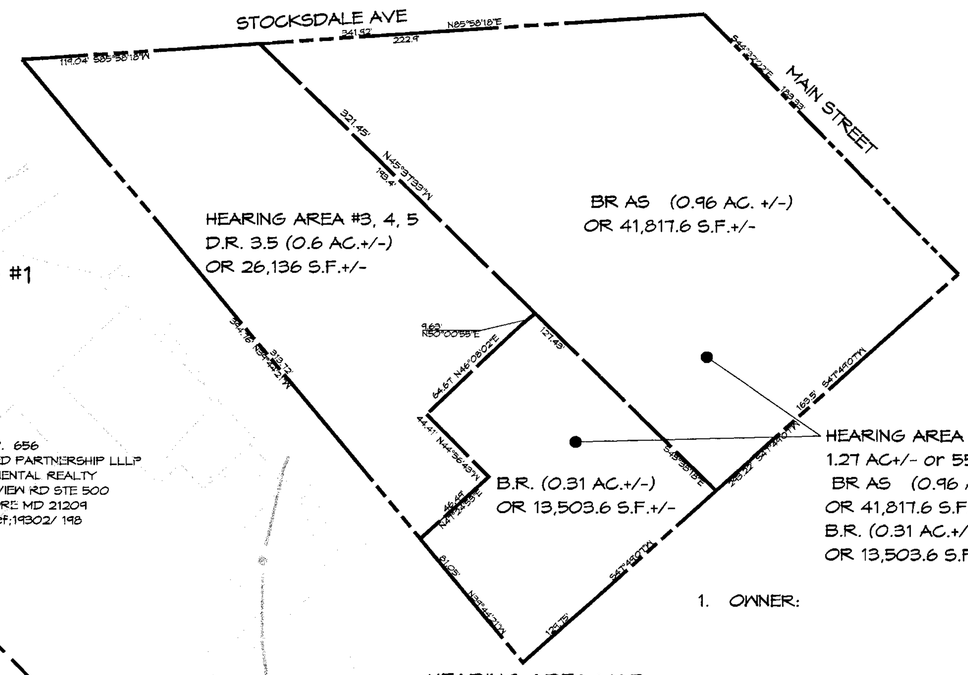
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

FILENAME: 07-1027zoninghearing.s01, Hearing

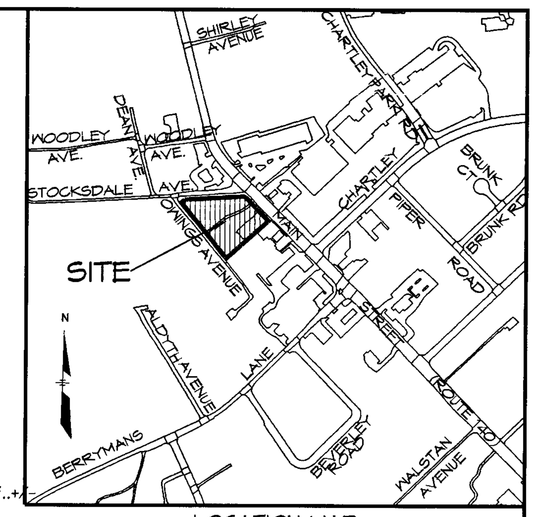
PETITIONER'S EXHIBIT 6

P.N. 07-1027





HEARING AREA MAP
SCALE: 1"=50'



LOCATION MAP
SCALE: 1"=500'

1. OWNER: PARCELS 251, 252, 255
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136
PARCELS 253, 254, 982
POLLACK, STUART
3000 BALTIMORE BLVD
FINKSBURG MD 21048
2. ENGINEER: MARTIN & PHILLIPS DESIGN ASSOCIATES, INC.
222 BOSLEY AVENEUE, SUITE B1
TOWSON, MD 21204
410-321-8444
3. TAX MAP: 48
4. PARCEL NUMBER: 251 (0.21 AC.+/-) OR 9,147.6 S.F.+/-
252 (0.22 AC.+/-) OR 9,583.2 S.F.+/-
253 (0.24 AC.+/-) OR 10,454.4 S.F.+/-
254 (0.35 AC.+/-) OR 15,246 S.F. +/-
255 (0.33 AC. +/-) OR 14,374.8 S.F.+/-
982 (0.52 AC. +/-) OR 22,651.2 S.F. +/-
5. TOTAL TRACT AREA: 1.87 AC.+/- OR 81,457.2 S.F+/-
6. DEED REFERENCE: 20281/ 101
20281/ 106
7864/ 118
20190/ 71
20042/ 532
6872/ 220
7. ELECTION DISTRICT: 4TH DISTRICT
8. COUNCILMATIC DISTRICT: 3RD DISTRICT
9. CENSUS TRACT: 4044.01
10. EXISTING ZONING: D.R. 3.5 (0.6 AC.+/-) OR 26,136 S.F.+/-
B.R. (0.31 AC.+/-) OR 13,503.6 S.F.+/-
BR AS (0.96 AC. +/-) OR 41,817.6 S.F.+/-
11. PARKING REQUIRED: 45 SPACES
1 P.S. PER EMPLOYEE: 15 SPACES
1 P.S. PER AIR/VACUUM: 1 SPACE
1 P.S. PER ATM: 1 SPACE
5 P.S. PER 1000 S.F.: 28 SPACES (5589 S.F. BUILDING)
PARKING PROPOSED; 51 SPACES (48 STD. 3 HC)
DR ZONE: 16 SPACES
BRAS ZONE: 35 SPACES

ACCORDING TO SECTION 409.8b2 OF THE BCZR, THE PARKING FACILITIES COMPLY WITH THE FOLLOWING CONDITIONS:
a. Complies because the land used adjoins the business involved.
b. Complies because only passenger vehicles, excluding buses, will use the parking facility.
c. Complies because no loading, service or any use other than parking shall be permitted.
d. Complies because lighting will be regulated as to location, direction, hours of illumination, glare and intensity, as required.
e. Complies because this plan shows the parking arrangement and vehicular access.
f. Complies because method and area of operation, provision for maintenance and permitted hours of use shall be specified and regulated as required.
g. Complies because any conditions not listed above which, in the judgment of the Zoning Commissioner, are necessary to ensure that the parking facility will not be detrimental to adjacent properties.

12. SIGNAGE: ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 450 OF THE B.C.Z.R.
ENTERPRISE SIGN: FREE STANDING
MAX. HEIGHT: 25'
MAX. SIGN FACE AREA: 75 S.F. ON REISTERSTOWN RD PER FACE
NOTE: GASOLINE PRICE & GRADE SUBJECT TO "COMAR" NOT COUNTED IN SIGN AREA FACE
WALL MOUNTED SIGN: 2x LENGTH OF BUILDING - 90' X 2 = 180 S.F.
SERVICE STATION CANOPY: 25 S.F. PER CANOPY - MAX. NO. PER SITE = 6
13. SITE AREA REQUIRED: C-STORE 4 x AREA OR 4 x 3184 S.F. +/- = 12,756 S.F. +/-
12,756 S.F (0.29 AC.+/-) IS LESS THAN SITE AREA OF 55,321 S.F (1.27 AC.+/-)
FUEL SERVICE AREA: 1,500 S.F. x 16 PUMPS = 24,000 S.F. OR 0.55 AC.+/-
EXISTING BR-AS AREA: 0.96 AC.+/- 41,817.6 S.F.+/-
COMPLIES WITH SECTION 405 OF BCZR
14. SETBACKS: MAIN STRUCTURE 35' FROM R/W
FUEL PUMP 25' FROM R/W
CANOPY 15' FROM R/W
LANDSCAPE AREA 10' FROM R/W, 6' SIDE & REAR YARDS(NON-RESIDENTIAL), MINIMUM OF 15' WHEN SERVICE STATIONS ARE LOCATED WITHIN 50 FEET OF ANY RESIDENTIALLY ZONED PROPERTY.
15. AIR, WATER, AND RESTROOMS WILL BE AVAILABLE FOR CUSTOMERS.
16. THE REAR & SIDES OF THE BUILDING SHALL BE FINISHED WITH MATERIALS THAT IN TEXTURE & COLOR RESEMBLE THE FRONT OF THE BUILDING. 405.4C.1.b. B.C.Z.R.
17. HOURS OF OPERATION: 24 HOURS A DAY, 7 DAYS A WEEK

REFERENCE:
1. PROPERTY OUTLINE & FIELD SURVEY WAS PREPARED BY GEORGE N. STEPHENS AND ASSOCIATES, 4642 MILLENNIUM DRIVE SUITE 100, BELCAMP, MD 21017 AND IS THE BASIS OF THE PROPERTY LINES SHOWN HEREON. MARTIN AND PHILLIPS DESIGN ASSOCIATES, INC. DOES NOT WARRANT THE ACCURACY OF SAID PLANS.

MARTIN & PHILLIPS
DESIGN ASSOCIATES, INC.
LAND PLANNING, CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE, DEVELOPMENT CONSULTING, ZONING
222 BOSLEY AVENUE, SUITE B1
TOWSON, MARYLAND 21204
TELE:(410)321-8444/FAX:(410)321-1175

Zoning Relief Requests: (SEE HEARING AREA MAP ABOVE FOR LOCATIONS)
1. Special Exception to permit a fuel service station on an individual site and a Convenience Store and Carry out Restaurant as uses in combination with the proposed Fuel Service Station pursuant to Sections 405.B.1, 405.4.E.1, and 405.4.E.10 of the BCZR
2. Special Hearing to confirm that the proposed convenience store and carry out restaurant where it is in combination with fuel service may be located in the BR zone as well as in the BR-AS zone and to permit the payment for fuel service in both.
3. Petition for a Special Hearing to permit business parking in a residential zone for customer and employee parking pursuant to Section 409.8.B of the B.C.Z.R.
4. Special Hearing to confirm that a private road is permitted to bisect the 50' RTA buffer to connect to adjoining developments, pursuant to section 1B01.1B.1.e (3), BCZR, or in the alternative:
5. Variance to permit a private road to bisect the 50' RTA buffer pursuant to section 1B01.1.Bc(2), BCZR, or to section 307, BCZR, whichever section is determined to apply.

N
NAVD 88-MSC 1988
SCALE: 1"=30'
30 15 0 30 60 90

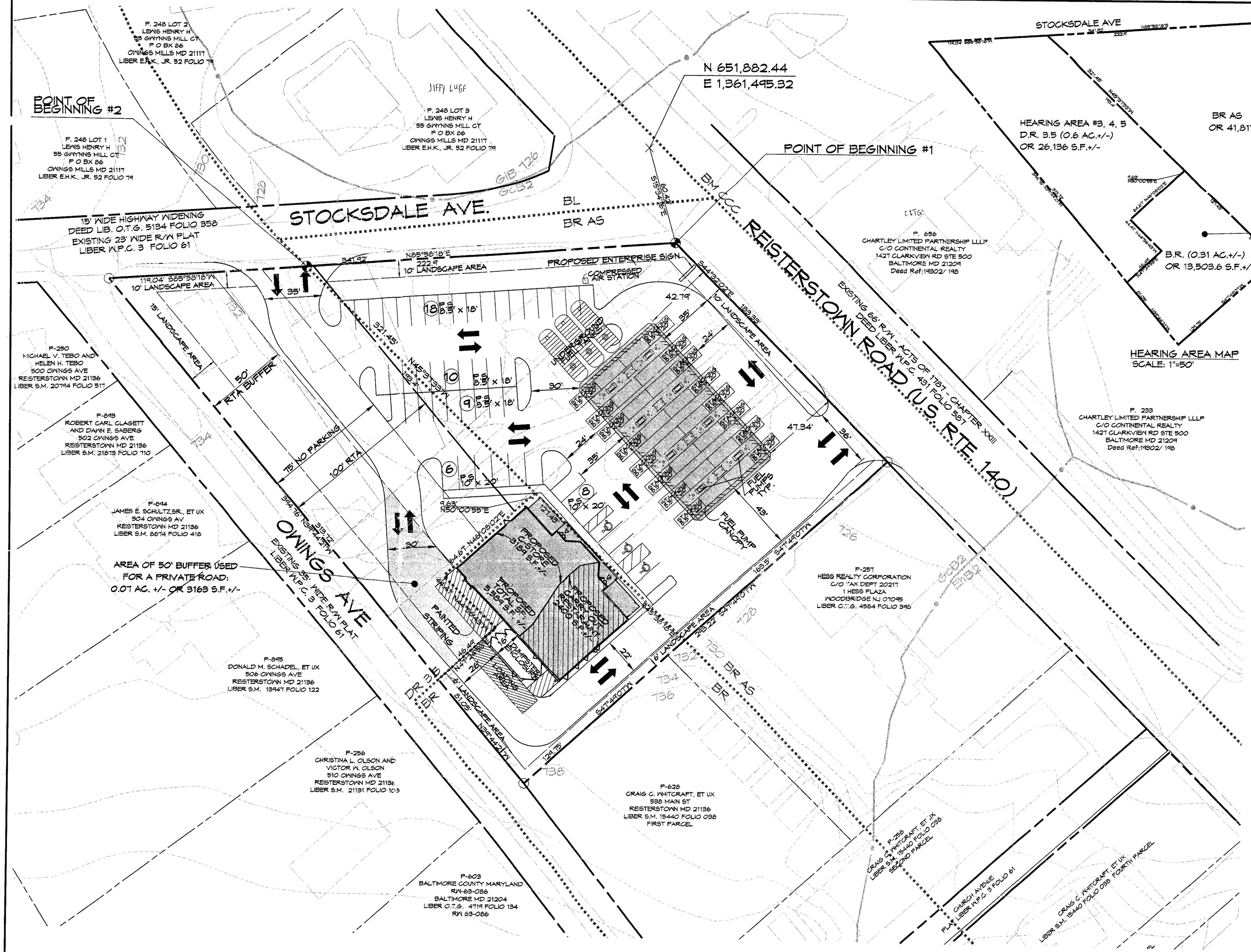
A PLAN TO ACCOMPANY A SPECIAL EXCEPTION AND A SPECIAL HEARING
516 REISTERSTOWN ROAD

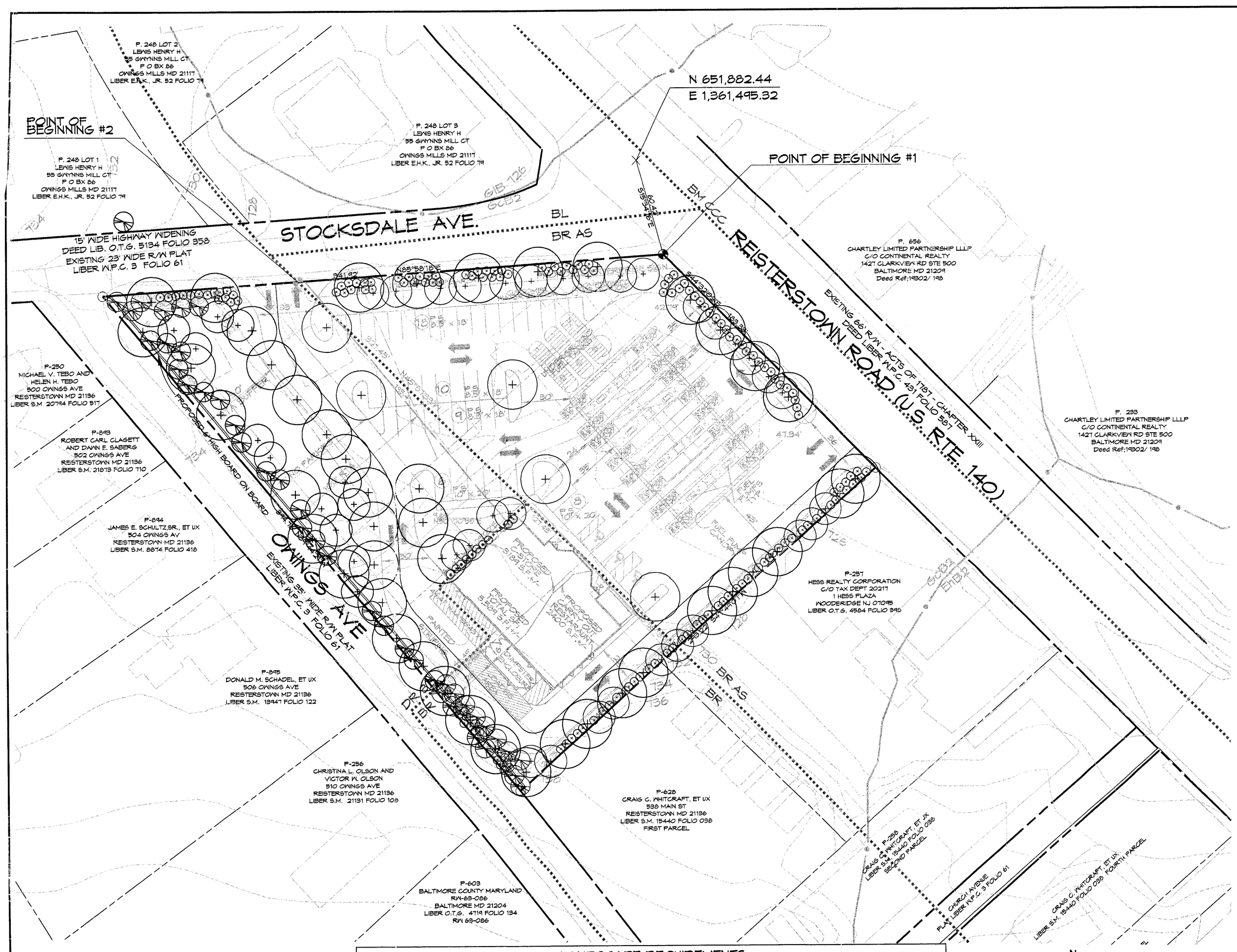
OWNER:
S & J MANAGEMENT INC
520 MAIN STREET
REISTERSTOWN MD 21136

REVISED: 12-6-07
SEPTEMBER 19, 2007
P.N. 07-1027

FILENAME: 07-1027zoninghearing.s01, Hearing

PETITIONER'S EXHIBIT 2


POINT OF BEGINNING #2
P. 248 LOT 1
LEWIS HENRY H
55 GYMNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 2
LEWIS HENRY H
55 GYMNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 3
LEWIS HENRY H
55 GYMNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
JIFFY LUBE
STOCKSDALE AVE.
BL
BR AS
15' WIDE HIGHWAY WIDENING
DEED LIB. O.T.G. 5134 FOLIO 358
EXISTING 23' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
N 651,882.44
E 1,361,495.32
POINT OF BEGINNING #1
EM & CC
REISTERSTOWN ROAD (US RTE 140)
EXISTING 66' R/W - ACTS OF 1787 - CHAPTER XXIII
DEED LIBER W.P.C. 431 FOLIO 567
PROPOSED ENTERPRISE SIGN
COMPRESSED AIR STATION
10' LANDSCAPE AREA
15' LANDSCAPE AREA
50' RTA BUFFER
75' NO PARKING
100' RTA
UNDERGROUND STORAGE TANKS
FUEL PUMPS TYP.
FUEL PUMP CANOPY
PROPOSED BUILDING 5,184 S.F.+/-
PROPOSED CANOPY 3,200 S.F.+/-
PROPOSED 5,584 S.F.+/- BUILDING
PAINTED STRIPING
ONE WAY
6' LANDSCAPE AREA
6' LANDSCAPE AREA 75.22'
OWINGS AVE
EXISTING 25' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
AREA OF 50' BUFFER USED
FOR A PRIVATE ROAD:
0.07 AC. +/- OR 3163 S.F.+/-
P. 656
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P. 239
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P-250
MICHAEL V. TEBO AND
HELEN H. TEBO
500 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 20794 FOLIO 517
P-843
ROBERT CARL CLAGETT
AND DAWN E. SABERS
502 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21873 FOLIO 110
P-844
JAMES E. SCHULTZ,SR., ET UX
504 OWINGS AV
REISTERSTOWN MD 21136
LIBER S.M. 8874 FOLIO 418
P-845
DONALD M. SCHADEL, ET UX
506 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 19947 FOLIO 122
P-256
CHRISTINA L. OLSON AND
VICTOR M. OLSON
510 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21131 FOLIO 103
P-257
HESS REALTY CORPORATION
C/O "AX DEPT 20217
1 HESS PLAZA
WOODBRIDGE NJ 07095
LIBER O.T.G. 4584 FOLIO 346
P-628
CRAIG C. WHITCRAFT, ET UX
598 MAIN ST
REISTERSTOWN MD 21136
LIBER S.M. 15440 FOLIO 038
FIRST PARCEL
P-603
BALTIMORE COUNTY MARYLAND
RM-69-086
BALTIMORE MD 21204
LIBER O.T.G. 4718 FOLIO 134
RM 69-086
P-258
CRAIG C. WHITCRAFT, ET UX
LIBER S.M. 15440 FOLIO 038
SECOND PARCEL
CRAIG C. WHITCRAFT, ET UX
LIBER S.M. 15440 FOLIO 038 FOURTH PARCEL
CHURCH AVENUE
PLAT LIBER W.P.C. 3 FOLIO 61
BR AS
BR
D.R. 3.5
18 P.S. 8.5' x 18'
10 P.S. 8.5' x 18'
9 P.S. 8.5' x 18'
6 P.S. 10' x 20'
8 P.S. 10' x 20'
N85°58'18"W 119.04'
N85°58'18"W 222.9'
S41°32'01"E 183.33'
S41°32'01"E 75.22'
S41°42'01"W 162.9'
S41°42'01"W 125.79'
N85°58'18"W 321.45'
N85°00'55"E 9.63'
N85°00'55"E 64.67'
N85°00'55"E 64.67'
N85°00'55"E 64.67


POINT OF BEGINNING #2
N 651,882.44
E 1,361,495.32
POINT OF BEGINNING #1
P. 248 LOT 1
LEWIS HENRY H
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P O BX 86
OWINGS MILLS MD 21117
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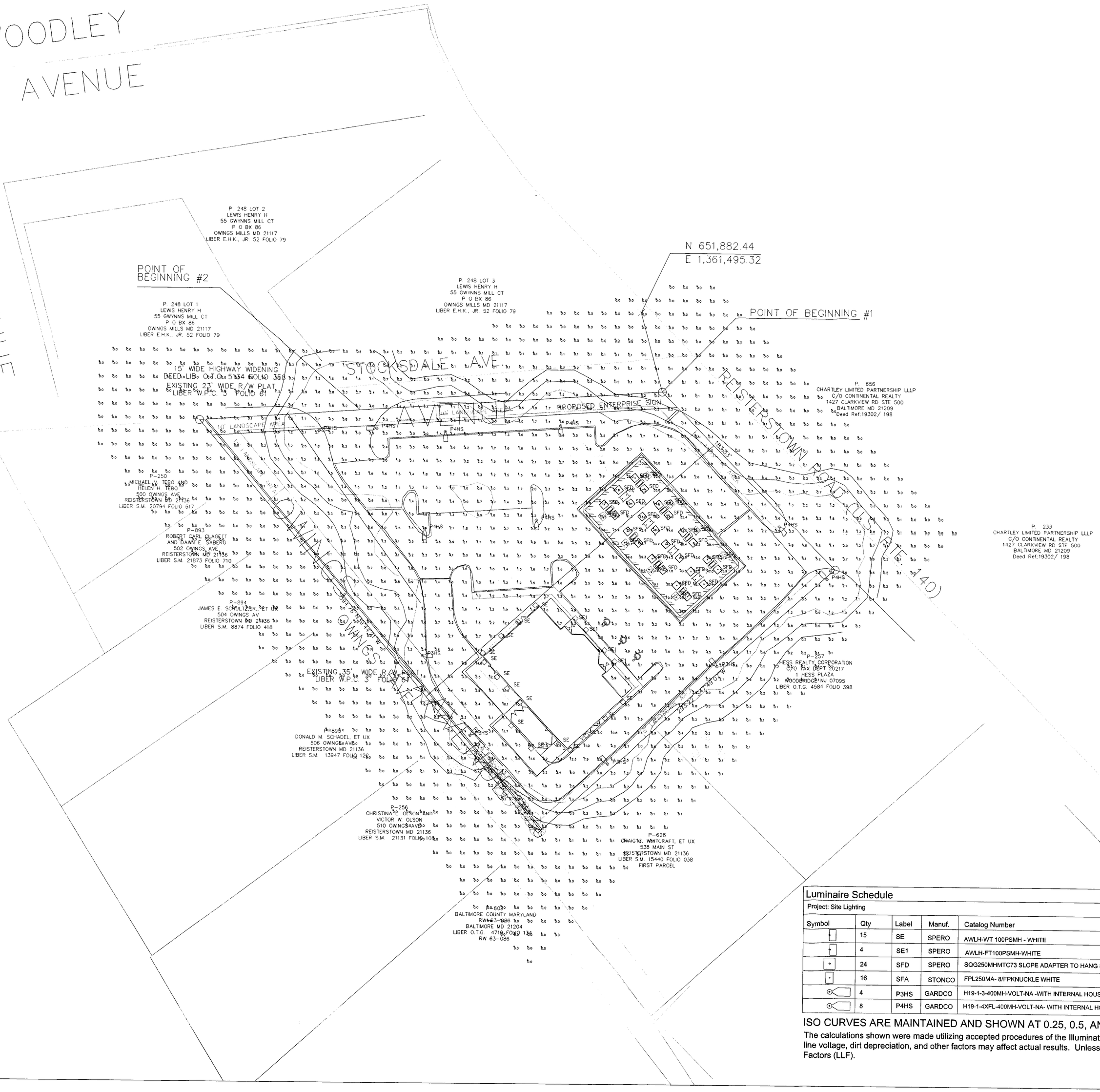
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
P. 248 LOT 3
LEWIS HENRY H
55 GWYNNS MILL CT
P O BX 86
OWINGS MILLS MD 21117
LIBER E.H.K., JR. 52 FOLIO 79
STOCKSDALE AVE.
15' WIDE HIGHWAY WIDENING
DEED LIB. O.T.G. 5134 FOLIO 358
EXISTING 23' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
REISTERSTOWN ROAD (U.S. RTE. 140)
EXISTING 66' R/W - ACTS OF 1787, CHAPTER XXIII
DEED LIBER W.P.C. 431 FOLIO 587
OWINGS AVE
EXISTING 35' WIDE R/W PLAT
LIBER W.P.C. 3 FOLIO 61
PROPOSED 6' HIGH BOARD ON BOARD
PROPOSED 5' HIGH BOARD ON BOARD
PROPOSED 6' HIGH CHAIN LINK
PROPOSED 4' HIGH CHAIN LINK
PROPOSED 3' HIGH CHAIN LINK
PROPOSED 2' HIGH CHAIN LINK
PROPOSED 4' HIGH MASONRY RETAINING WALL
PROPOSED 3' HIGH MASONRY RETAINING WALL
PROPOSED 2' HIGH MASONRY RETAINING WALL
PROPOSED 1' HIGH MASONRY RETAINING WALL
PROPOSED 6' HIGH MASONRY RETAINING WALL
PROPOSED 5' HIGH MASONRY RETAINING WALL
PROPOSED 4' HIGH MASONRY RETAINING WALL
PROPOSED 3' HIGH MASONRY RETAINING WALL
PROPOSED 2' HIGH MASONRY RETAINING WALL
PROPOSED 1' HIGH MASONRY RETAINING WALL
PROPOSED 6' HIGH MASONRY RETAINING WALL
PROPOSED 5' HIGH MASONRY RETAINING WALL
PROPOSED 4' HIGH MASONRY RETAINING WALL
PROPOSED 3' HIGH MASONRY RETAINING WALL
PROPOSED 2' HIGH MASONRY RETAINING WALL
PROPOSED 1' HIGH MASONRY RETAINING WALL
P. 656
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P. 233
CHARTLEY LIMITED PARTNERSHIP LLLP
C/O CONTINENTAL REALTY
1427 CLARKVIEW RD STE 500
BALTIMORE MD 21209
Deed Ref:19302/ 198
P-250
MICHAEL V. TEBO AND
HELEN H. TEBO
500 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 20794 FOLIO 517
P-249
ROBERT CARL CLAGETT
AND DAWN E. SABERG
502 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21073 FOLIO 710
P-844
JAMES E. SCHULTZ, SR., ET UX
504 OWINGS AV
REISTERSTOWN MD 21136
LIBER S.M. 8874 FOLIO 418
P-845
DONALD M. SCHADEL, ET UX
506 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 18947 FOLIO 122
P-256
CHRISTINA L. OLSON AND
VICTOR W. OLSON
510 OWINGS AVE
REISTERSTOWN MD 21136
LIBER S.M. 21131 FOLIO 108
P-603
BALTIMORE COUNTY MARYLAND
RW-63-086
BALTIMORE MD 21204
LIBER O.T.G. 4719 FOLIO 194
RW 63-086
P-257
HESS REALTY CORPORATION
C/O TAX DEPT 20217
1 HESS PLAZA
WOODBRIDGE NJ 07095
LIBER O.T.G. 4584 FOLIO 345
P-628
CRAIG C. WHITCRAFT, ET UX
535 MAIN ST
REISTERSTOWN MD 21136
LIBER S.M. 19440 FOLIO 038
FIRST PARCEL
P-258
WHITCRAFT, ET UX
LIBER S.M. 19440 FOLIO 038
SECOND PARCEL
CHURCH AVENUE
PLAT LIBER W.P.C. 3 FOLIO 61
CRAIG C WHITCRAFT, ET UX
LIBER S.M. 19440 FOLIO 038 FOURTH PARCEL
SITE
BUILDING
PARKING
TRASH ENCLOSURE
DUMPSTER ENCLOSURE
FUEL TANKS
FUEL PUMPS
CANOPY
PAINTED STRIPING
PROPOSED 5' SIDEWALK
PROPOSED 4' SIDEWALK
PROPOSED 6' SIDEWALK
PROPOSED 8' SIDEWALK
PROPOSED 10' SIDEWALK
PROPOSED 12' SIDEWALK
PROPOSED 15' SIDEWALK
PROPOSED 18' SIDEWALK
PROPOSED 20' SIDEWALK
PROPOSED 24' SIDEWALK
PROPOSED 30' SIDEWALK
PROPOSED 36' SIDEWALK
PROPOSED 42' SIDEWALK
PROPOSED 48' SIDEWALK
PROPOSED 54' SIDEWALK
PROPOSED 60' SIDEWALK
PROPOSED 66' SIDEWALK
PROPOSED 72' SIDEWALK
PROPOSED 78' SIDEWALK
PROPOSED 84' SIDEWALK
PROPOSED 90' SIDEWALK
PROPOSED 96' SIDEWALK
PROPOSED



Statistical Area Summary

Project: All Projects

Label	Avg	Max	Min	Avg/Min	Max/Min
CANOPY	32.08	48.4	9.8	3.27	4.94
PARKING	3.46	14.5	0.7	4.94	20.71

Luminaire Schedule

Project: Site Lighting

Symbol	Qty	Label	Manuf.	Catalog Number	Pole Ht.	Lamping / Lamp Manufacturer		I.E.S. CRITERIA
	15	SE	SPERO	AWLH-WT 100PSMH - WHITE		1	100W MH - VENTURE	FULL CUT-OFF
	4	SE1	SPERO	AWLH-FT100PSMH-WHITE		1	100W MH - VENTURE	FULL CUT-OFF
	24	SFD	SPERO	SQG250MHMTC73 SLOPE ADAPTER TO HANG STRAIGHT		1	250W MH -OSRAM/SYL.	FULL CUT-OFF
	16	SFA	STONCO	FPL250MA- 8/FPKNUCKLE WHITE		1	250W MH -OSRAM/SYL.	FULL CUT-OFF
	4	P3HS	GARDCO	H19-1-3-400MH-VOLT-NA -WITH INTERNAL HOUSE SIDE SHIELD	18'-0"	1	400W MH -OSRAM/SYL.	FULL CUT-OFF
	8	P4HS	GARDCO	H19-1-4XFL-400MH-VOLT-NA- WITH INTERNAL HOUSE SIDE SHIELD	18'-0"	1	400W MH -OSRAM/SYL.	FULL CUT-OFF

ISO CURVES ARE MAINTAINED AND SHOWN AT 0.25, 0.5, AND 1.0 FC.

The calculations shown were made utilizing accepted procedures of the Illuminating Engineering Society of North America. Variations in lamp output, ballast output, line voltage, dirt depreciation, and other factors may affect actual results. Unless otherwise stated, all results are maintained values, utilizing accepted Light Loss Factors (LLF).

PETITIONER'S EXHIBIT 8 A

K2 LIGHTING
448 S. Gulph Road
King of Prussia
Pennsylvania
19406
610.265.7073 p
610.265.7075 f

REVISIONS

date:	no.	description	chkd	by

SEAL:

DRAWING NAME: Wawa, Inc. Site Lighting W512

LOCATION: Reistertown Road (Rt. 140) and Stockdale Avenue, Baltimore County, Maryland

project no.	drawn by:
	SKT
date: 12.06.2007	checked by: K.Keilt
scale: 1"=30'	approved by: K.Keilt
sheet no. L1.0	

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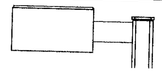
K:\2_Jobs\2007 Jobs\Wawa\L1.dwg 12/7/2007 9:23:56 AM daron SCALE 30.0000 / IN.

Notes:

Job
Type:

FORM 10 SQUARE

EH/H/HT ARM MOUNT



GENERAL DESCRIPTION: The Sandoo arm mounted Square Form 10 products are sharp cutoff luminaires for high intensity discharge lamps up to 1000 watts. The EH units are manufactured from internal extruded aluminum and finished in an Architectural Class 1 anodizing. The H and HT style luminaires are deformed aluminum with a thermoset polyester finish. Both products can accept one of eight (8) interchangeable and rotatable precision segmented optical systems.

ORDERING

PREFIX	CONFIGURATION	DISTRIBUTION	WATTAGE	VOLTAGE	FINISH	OPTIONS

Enter the most significant appropriate information. Note: Sandoo reserves the right to refuse a configuration, for all combinations and designations are valid. Refer to notes below for explanations and directions. For questions or concerns, please consult the factory.

PREFIX

EN12	12" Square Extruded Luminaire
EN19	19" Square Extruded Luminaire
H12	12" Square Extruded Luminaire
H19	19" Square Extruded Luminaire
HT19	19" Tall Square Extruded Luminaire
H26	26" Square Extruded Luminaire

CONFIGURATION

1	Single Assembly	3@120	Triple at 120°
2	Twin Assembly	4	Quad Assembly
2@90	Twin Assembly at 90°		
3	Triple at 90°		

DISTRIBUTION

Symmetrical Optics		Asymmetrical Optics	
1	Type I	VS	Type V
3	Type III		Square Asymmetric Beam (50% of Total Lamp Lumens within Beam)
4	Type IV (not for HT)		
FR	Type IV		Rectangular Beam
5	Type V		
		FCPV*	Full Cutoff Type III
Use of these replacement optics will void UL listing.		FCVS*	Full Cutoff Type V
		* Consult factory for typical vertical candlepower data.	

VOLTAGE

120	230	347	Multi-Volt (120-277 VAC)
208	277	480	Multi-Volt (347-480 VAC)

WATTAGE

HPS	MH	Pulse Start MH	PMH
100HPS	250MH	750PSMH	600PSMH
150HPS	400MH	1000PSMH	
200HPS	1000MH		
250HPS	1500MH	1500PSMH	
310HPS		2000PSMH	
400HPS			
1000HPS			
1500HPS			

FINISH

Standard	
BLK	Black Anodized
BRZ	Bronze Anodized
NA	Natural Aluminum Anodized
OC	Optional Color Paint (Add AC prefix to ordering code)
SC	Special Color Paint (Add SC prefix to ordering code)
Textured	
BKP	Bronze Paint
BLP	Black Paint
OC	Optional Color Paint (Add AC prefix to ordering code)
SC	Special Color Paint (Add SC prefix to ordering code)

OPTIONS

F	Fusing - Input
LF	In-Line In-Pole Fusing
PC	Photocontrol and Receptacle (Add 4" to OAH)
PCR	Photocontrol Receptacle only
POLY	Polycarbonate Safety Lens (Add 2" to OAH and 4" to OAW)
HS	Internal Housesider Shield (Add 2" to OAH and 4" to OAW)
GS	Guard Glare Shield
SG	Safety Glass Lens - Not for Use (Add 2" to OAH and 4" to OAW)
CD	Clear Drop Diffuser (for type V only)
MF	Mast Arm Fitter
MU	10" Uplift Bracket
UB	Quick Disconnect for Ballast Tray
AP	Adjustable Knuckle - Pole Mount (Fits pipe 4" - 6" O.D.)
AT	Adjustable Knuckle - Tenon Mount (Fits 2 7/8" - 4" O.D.)
PTF2	Pole Top Fitter - 2 3/4" Dia. Tenon
PTF3	Pole Top Fitter - 3-3 1/2" Dia. Tenon
PTF4	Pole Top Fitter - 3 1/2-4" Dia. Tenon

Sandoo Lighting reserves the right to change materials or modify the design of any product without notification and/or the company's consent. Product improvement program. The above specifications do not supersede Local Codes.
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A Sandoo Company

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2441 Alvarado Street
San Leandro, CA 94577

(800)227-0188
(510)357-6500 in California
Fax: (510)357-3088
www.sfcalighting.com

SANDOO LIGHTING
7915-4307R

TYPE P3HS AND P4

spero lighting
SINCE 1918

THE AWLH SERIES ARCHITECTURAL WALL LIGHT

AWLH

AWLH SERIES SPECIFICATIONS

APPLICATIONS: The AWL Wall Light series is a durable, wall mounted light source with a rounded contemporary design which compliments any architectural decor. The AWLH DOWNLIGHT unit provides excellent lighting for roadways, parking areas, wall surfaces, entryways, walkways and safety and security lighting. The AWLH-UD UPLIGHT/DOWNLIGHT application is include architectural highlights, ceilings, wall surfaces, corners, columns and canopies.

LAMP TYPES: The AWL is furnished with a medium base high pressure sodium, metal halide or pulse start metal halide lamp in the horizontal burning position. Wattages are available up 175W metal halide, 150W pulse start metal halide or 150W high pressure sodium or 42W compact fluorescent.

LAMPHOLDER: Heavy porcelain pulse rated 4KV with nickel plated screw shell and spring loaded center contact.

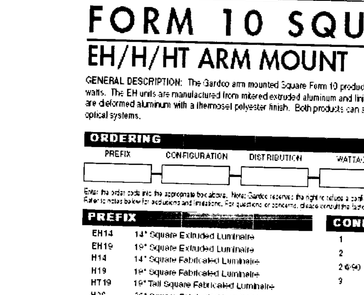
BALLAST: The AWL utilizes high power factor Class H core and coil HID or electronic CFL ballasts. See voltage selection in ordering guide. The ballast is mounted to a housing reinforcement plate, providing a heat sink for long ballast life.

REFLECTOR: The downlight fixture offers a selection of either wide throw (WT) IES Type I, or forward throw (FT) IES Type IV reflector. See photometrics page.

HOUSING: Die cast aluminum with powder coat painted finish.

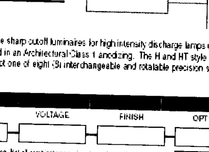
LENS: The AWL incorporates an impact resistant clear glass lens.

LABELS: Listed by Underwriters Laboratories for WET LOCATIONS.



SPERO ELECTRIC

AWLH-UD Uplight/Downlight



AWLH-UD
TOP VIEW

THE SPERO ELECTRIC CORPORATION 1705 NOBLE ROAD CLEVELAND, OHIO 44112
(216) 851-3300 - PHONE (216) 851-0300 - FAX http://www.sperolighting.com AWL-1

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TYPE SE and SE1

AWL SERIES - DIMENSIONS

AWLH

AWLH-UD

ORDERING GUIDE

FIXTURE	WATTAGE	VOLTAGE	HOUSING COLOR	OPTIONS
AWLH-FT AWLH-WT	50HPS 70HPS 100HPS 150HPS	120 208 240 277 347 480	DBZ Bronze Powder Coat Finish	SF Single Fuse DF Double Fuse TP Tamper Proof Screws EM750 Emergency CFL Ballast 750 Lumens EM1000 Emergency CFL Ballast 1000 Lumens EM3500 Emergency CFL Ballast 3500 Lumens
AWLH-UD	70PSMH 100PSMH 150PSMH			
	175MH	MT CMT		
	26-CFL 32-CFL 42-CFL			

AWLH-FT - 100HPS - MT - DBZ - SF

EXAMPLE OF A TYPICAL ORDER

SPERO ELECTRIC

THE SPERO ELECTRIC CORPORATION 1705 NOBLE ROAD CLEVELAND, OHIO 44112
(216) 851-3300 - PHONE (216) 851-0300 - FAX http://www.sperolighting.com AWL-2

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TYPE SFA

CATALOG NO. _____
TYPE NO. _____ JOB NAME _____

STRUCK 1-3

FloodPak Series FPL

ORDERING INFORMATION

Catalog Number: Example: FPL400MAL-3

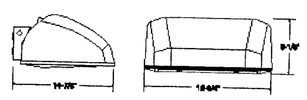
FPL					
SERIES: FPL FloodPak Large	WATTAGE: 250-250W 400-400W *	LAMP SOURCE: MA Metal Halide (OMA) HX High Pressure Sodium (OHX)	LAMP: L-Lamp Switched	OPTIONS: AMC-Automatic Handy-Switch Light Lamp Included	VOLTAGE: 1-120V 2-208V 3-240V 4-277V

* Requires inducer outer jacketed lamp.
MED units supplied with clear medium base lamp.

ACCESSORIES

FPLKNUCKLE - Adjustable 2" Tenon Slipfitter.
FPLARM - Shoebox Arm. Converts FloodPak to pole-mount minimum 4" square pole.
FPLSHIELD - Vandal Shield. Helps protect lens and lamp from breakage. Clear polycarbonate shield snaps in place over glass lens.
FPLRPA - Round pole adapter.
FPL552 - Replacement Lens.

TECHNICAL INFORMATION



UL Wet Location Listed.

7-94

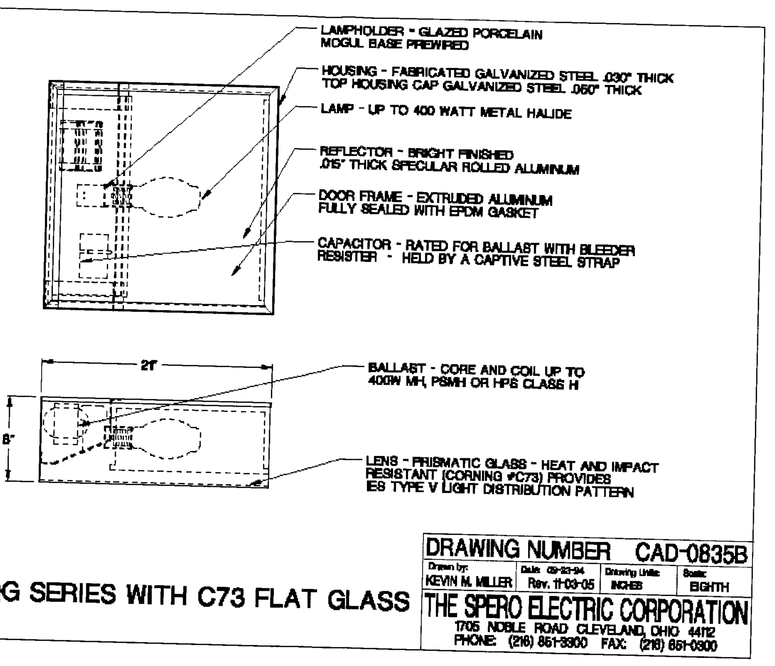
PRODUCT SPECIFICATIONS

- The FloodPak is a perfect blend of architectural design and performance.
- The FloodPak can be surface mounted in various positions. Use it as a cut-off wallpack, or tip it up 22.5° for forward throw with semi-cut-off. Tip it up 45° for floodlighting, or turn it over and use it for indirect accent lighting.
- The FloodPak can also be pole mounted or ground mounted using mounting accessories.
- Precision die-cast aluminum construction. All exposed hardware is stainless steel.
- Durable, fade resistant, TGIC polyester powder finish is standard but the FloodPak is available in a variety of designer colors.
- Hinged door frame with clear tempered glass lens.
- Multi-faceted reflection system provides uniform distribution.
- Injection molded triple finger silicone gasket.
- UL wet location listed for above or below horizontal aiming.
- Complies with a UL approved mounting box rated for 90°C supply wire with integral bubble level.
- Integral heat sink ensures cool operation.
- Meets IESNA cut-off requirements.
- Contractor Friendly, design with integral cable permitting easy, hands free wiring.

STRUCK Finance

2345 Walsh Ave. • Unit No. 3700 • Santa Clara, CA 95051

TYPE SFD



SQG SERIES WITH C73 FLAT GLASS

DRAWING NUMBER CAD-0835B
Drawn by: KEVIN M. MILLER | Date: 03-23-94 Rev. 11-03-05 | Drawing Units: INCHES | Scale: EIGHTH

THE SPERO ELECTRIC CORPORATION
1705 NOBLE ROAD CLEVELAND, OHIO 44112
PHONE: (216) 851-3300 FAX: (216) 851-0300

PETITIONER'S EXHIBIT 8

K2 LIGHTING
445 S. Gulph Road
King of Prussia
Pennsylvania
19406

610.265.7073 p
610.265.7075 f

REVISIONS

no.	description	by
date:		

SEAL:

DRAWING NAME: Wawa, Inc. Site Lighting W512
Reistertown Road (Rt. 140) and Stockdale Avenue

LOCATION: Baltimore County, Maryland

project no.	drawn by: SKT
date: 12.06.2007	checked by: K.Keilt
scale:	approved by: K.Keilt
sheet no. L1.1	

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