

IN RE: PETITION FOR SPECIAL VARIANCE

SE side of Transverse Avenue,
75 feet +/- NE of c/l of Corktree Road
15th Election District
6th Councilmanic District
(852 Middle River Road)

Jacqueline E. Stillerman
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-264-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Variance filed by the legal owner of the subject property, Jacqueline E. Stillerman. Petitioner is requesting special variance relief from Section 4A02.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same (transportation) is less than necessary, and for such other and further relief that may be deemed necessary by the Zoning Commissioner for Baltimore County. The subject property and the requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the special variance request was Neil Stillerman, principal of Stillskyes Superior Builders. Mr. Stillerman is the proposed builder/developer of the site. The title of the subject property is in the name of his spouse, Jacqueline Stillerman. Also present at the hearing was Kenneth J. Wells with KJ Wells, Inc., the licensed property line surveyor who prepared the site plan. Petitioner was represented by Lawrence E. Schmidt, Esquire of Gildea & Schmidt, LLC. There were no Protestants or other interested citizens in attendance at the hearing.

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Testimony and evidence offered revealed that the subject property is an irregular-shaped unimproved parcel, consisting of approximately 1.27 acres and zoned D.R.5.5. The property has frontage on the unimproved roadbed of Transverse Avenue and abuts the Middle River Middle School campus, in eastern Baltimore County. The paved portion of Transverse Avenue ends immediately to the southwest side of the subject property. Mr. Stillerman proposes the development/subdivision of the property with five single-family detached homes. This is within the zoning density permitted.

In order to proceed with this proposed development, the developer has submitted a Concept Plan pursuant to the development review process contained in Article 32, Subtitle 2 of the Baltimore County Code ("BCC"). Concept Plan Comments were issued by the reviewing County agencies as a result of their respective reviews of the Concept Plan. One of the comments alerted Petitioner to the fact that the subject property is located within the shed of a failing intersection located at Middle River Road and Pulaski Highway (MD Route 40). This intersection has been assigned an "F" level of service pursuant to the current Basic Service Map for transportation. Thus, and as will be explained in more detail below, the instant Petition for Special Variance was filed.

The Concept Plan Comments also address the proposed access and road frontage issue as it relates to the development of the site. As is noted above, the property does not have frontage on any paved section of a public road as the paving for Transverse Avenue ends immediately adjacent to the southwest property line. It is also relevant that a proposed residential development has been approved across the bed of the unimproved section of Transverse Avenue from the subject property. This development will be a large subdivision of townhouses and is known as "Green Wood Manor."

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In order to provide access to the five dwellings proposed on the subject site, the Department of Public Works has taken the position that Mr. Stillerman will be required to improve a portion of Transverse Avenue. As explained at the hearing by Mr. Wells, one-half of the ultimate width of the road on the subject property's "side" of the road will be improved by Mr. Stillerman and Stillskyes Superior Builders. This will permit the subject property to have access to a paved public road. Moreover, as is more particularly shown on the site plan, two of the proposed single-family dwellings will have direct access via driveway to the improved public road and the remaining three units will share a common driveway from the road. Petitioner anticipates moving forward through the development review process to resolve any additional County agency comments or concerns, pending the outcome of the instant Petition for Special Variance.

The Petition for Special Variance is requested pursuant to Section 4A02.4.G of the B.C.Z.R. This section falls within the growth management regulations contained in Article 4A of the B.C.Z.R. Petitions for Special Variance under this section have rarely been considered by the Office of the Zoning Commissioner and this is indeed a case of first impression so far as the undersigned is concerned. Thus, a brief overview of the growth management regulations is appropriate.

Pursuant to Section 4A00.1 of the B.C.Z.R., the purpose and intent of Article 4A, entitled "Growth Management," is to generally "implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development." Additionally, the growth management regulations seek to encourage development patterns that are consistent with the preservation of the quality of life in existing neighborhoods, to ensure the adequacy of public facilities and infrastructure, the preservation of the natural, agricultural and environmental resources and to promote appropriate new growth and development. The purpose and intent of the Basic Service Maps of the growth management regulations is set forth in Section 4A02.1 of the

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B.C.Z.R. Therein, it is provided that Basic Service Maps are to be annually prepared by the County to ensure that public facilities are in place to adequately serve proposed development. Additionally, Section 4A02.2 of the B.C.Z.R. states that in the event of any conflict between the growth management regulations and any other provision of the B.C.Z.R., the provisions of the growth management regulations control. Thus, the Petition for Special Variance requested in this case is governed by the requirements in Article 4A and, hence, the variance provisions of Section 307 of the B.C.Z.R. are not applicable.

Section 4A02.3 of the B.C.Z.R. sets out in detail the adoption process for the Basic Services Maps. There are actually three maps adopted; one related to the supply of public water, the second related to public sewage, and the third related to transportation. Petitioner seeks relief in this case only as to the third map (transportation map). Section 4A02.3 of the B.C.Z.R. sets forth in full detail the methodology to be employed during the annual adoption of the three Basic Services Maps by the Baltimore County Council. Additionally, Section 4A02.3.G of the B.C.Z.R. provides that no building permit or subdivision approval can be granted unless the Director of the Office of Planning has issued a reserve capacity use certificate for the proposed development. That section goes on to state that a property owner/developer shall make application for a reserve capacity use certificate in a method to be set forth by the Office of Planning. In this case, Mr. Wells testified at the hearing that because development proposed pursuant to the provisions of the special variance regulation (Section 4A02.4.G) have rarely been sought, he was advised by the Office of Planning that it has not produced for public use any such "application form." Moreover, he was informed that notwithstanding the provisions of Section 4A02 of the B.C.Z.R., the Office of Planning does not maintain a list of the pending applications.

Section 4A02.4 of the B.C.Z.R. sets out the Basic Services Mapping standards. The standards are individually established as they relate to water supply, sewage, and transportation.

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Moreover, Section 4A02.4.E of the B.C.Z.R. sets forth certain exceptions to the Basic Services Mapping standards. For example, Section 4A02.4.E.1.a of the B.C.Z.R. provides that minor subdivisions of three or fewer single-family detached dwellings are exempted from certain provisions of the Basic Services Mapping statute. Finally, Section 4A02.4.G of the B.C.Z.R. provides that a Special Variance can be granted from a provision of this subsection. In order for special variance relief to be granted, the Zoning Commissioner must hold a public hearing and must determine that the granting will not violate the particular provision's purpose, pursuant to making certain findings -- effectively a two-prong test. First, the Zoning Commissioner must determine that the demand or impact of the proposed development will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal. Second, the Zoning Commissioner must find that the granting of a petition would not adversely affect a person whose application was filed prior to Petitioner's application.

In this case, relief is requested because the intersection of Middle River Road and Pulaski Highway is a failing intersection. It has been graded as an "F" level of service intersection and the "shed" of this intersection is shown on Petitioner's Exhibit No. 4, which includes the subject property. As the subject property is located within that shed, building permits cannot be issued nor development approval given until the intersection is improved and no longer failing or special variance relief is granted.

Addressing this second requirement for a Petition for Special Variance first, the uncontradicted testimony and evidence offered in this case was that the application submitted by Petitioner would not adversely affect a person whose application was filed prior to Petitioner's application. As noted above, apparently due to the rare utilization of the relief afforded by this special variance process, there is no list maintained by the Office of Planning and thus there is no

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“person whose application was filed prior to the petitioner’s application.” I therefore find that Petitioner has met this criteria in that its application is effectively first in line. I am cognizant of the fact there is other proposed development in the area, but that development is apparently not proceeding forward pursuant to the variance process set forth in growth management regulations as described herein. Thus, Petitioner has met its burden insofar as this test.

Turning next to the first prong identified, a finding must be made that the impact of the proposed development will be less than that assumed by the district standard that would otherwise restrict or prohibit the development; or that the district standard does not apply. Unfortunately, a review of the regulations at issue discloses that the “district standard” is neither a defined term nor is it described anywhere in Article 4A. In fact, testimony offered at the hearing is that the Baltimore County Bureau of Traffic Engineering has not defined the term and it is not a phrase used in the parlance of traffic engineers.

Although these special variance cases are rare, they are not altogether unfamiliar and the most recent case of this type came before the Office of the Zoning Commissioner as Case No. 05-336-SA, a copy of which was marked and accepted into evidence as Petitioner’s Exhibit 5. That case was considered by former Deputy Zoning Commissioner John D. Murphy and relief was granted by the approval of a Special Variance on May 16, 2005. The Findings of Fact and Conclusions of Law rendered therein is instructive. Deputy Commissioner Murphy analyzed the issue of the impact of the proposed development on proposed conditions as he formulated the “district standard.” He considered whether the anticipated impacts on traffic as they related to such issues as volume, congestion, movement and timing of the proposed development would be less than the impact normally associated with a development of that type and size. He concluded that if the impacts were less, then relief could be granted pursuant to a petition for special variance. Specific factors such as the anticipated volume of traffic to be generated, the route

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(including access and exit) of traffic to and from the proposed development, anticipated road improvements in the area, the nature and timing of the traffic generated by the proposed development, existing potential development patterns in the area, the nature of the land use proposed for development and existing development in the area are all factors that need be considered in determining whether special variance relief should be granted.

In the instant case, a copy of the County's data collection sheet and traffic analysis for the intersection of Middle River Road and Pulaski Highway was marked and accepted into evidence as Petitioner's Exhibit 3. This exhibit depicts traffic counts for the intersection and analyzes the levels of service for respective movements through that intersection. For example, volumes and analysis are provided for straight (through) traffic patterns in each direction on both roads through the intersections, as well as left and right turning movements for each roadway. It is to be noted that an intersection is considered failing by Baltimore County if but one traffic movement reaches an unsatisfactory level. That is, an intersection might have adequate capacity for through traffic in all directions, but still be determined failing if a single turning movement capacity is inadequate. Obviously, the manner in which a proposed development will impact specific directions/movements in the intersection is a significant consideration in determining the merits of a special variance request.

In this case, there are several factors that support a finding that the impact of the proposed development will be less than anticipated and that the Petition for Special Variance should be granted. First, as shown on an aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 2, although the subject property is in the shed, it is located a significant distance to the southwest of the failing intersection of Middle River Road and Pulaski Highway and is not easily accessible thereto. As described above, the paved section of Transverse Avenue ends immediately to the southwest of the subject property. It will be extended to provide frontage

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on the property; however, as a part of this development, that extension will not continue to the northeast and intersect with Middle River Road. Ultimately, that connection of Transverse Avenue and Middle River Road may be made not as part of this subject development, but rather due to the Green Wood Manor townhouse development. Thus, Transverse Avenue, even after the proposed improvements required as a part of this subdivision, will be a dead end street and will not provide direct access for the future residents of the subject property to Middle River Road.

Data was submitted from the Baltimore County Bureau of Traffic Engineering regarding traffic counts undertaken on June 6, 2007 and was marked and accepted into evidence as Petitioner's Exhibit 3. It was this investigation which lead to the designation of the Middle River Road and Pulaski Highway intersection as a failing intersection (Grade F) under the 2007 Basic Services Maps now in effect. That data shows that the highest volume of traffic, which contributed to the failing grade, resulted from the morning movement of through traffic westbound on Pulaski Highway. In fact, the data showed that 41,066 cars passed through that intersection westbound on Pulaski Highway during the morning peak hour.

The evidence indicates that if the residents of the proposed development were to travel westerly (toward the Baltimore beltway) in the AM hour, none would utilize the intersection. Rather, they would proceed southwesterly on Transverse Avenue to Honeycomb Road and ultimately intersect Pulaski Highway southwest of the failing intersection. Thus, due to these unusual circumstances, it is clear there will be no impact on the intersection during its peak volume. Similarly, traffic generated to and from this proposed development will not impact the intersection during the evening peak hour. Residents and visitors to the five homes proposed coming from the west (i.e. returning home from work) will not utilize the intersection. Thus, it is equally clear that existing traffic patterns, anticipated road improvements, the contemplated volume direction and timing of traffic to and/or from the proposed development are all factors that

weigh in favor of a finding that the anticipated impact of this development will be less than that assumed by the "district standard."

Secondly, the testimony offered by Stephen Weber, Chief of the Traffic Engineering Division of the Department of Public Works, to Deputy Commissioner Murphy and Deputy Commissioner Murphy's conclusions in Case No. 05-336-SA are also instructive. Therein, Mr. Weber opined and Deputy Commissioner Murphy agreed that the anticipated impact of a six lot subdivision would be negligible. Characterizing Mr. Weber's testimony, Deputy Commissioner Murphy wrote at page 4 that "[f]rom this data he concluded that the impact of these three additional homes on the intersection was imperceptible." In fact, he indicated the daily fluctuations of traffic using the intersection were greater from the added trips from the three homes. He also noted that "generally special variances are granted in failing traffic sheds when the number of lots is less than 10." These facts, opinions and conclusions are relevant to the instant case. The proposed subdivision is under ten units and the negligible amount of traffic to be generated to and from the subject site is insignificant when compared with the traffic volumes that utilize the subject intersection.

Based upon the foregoing, I find that the testimony and evidence that has been offered is sufficient to comply with the special variance standard set forth in Section 4A03.4.G of the B.C.Z.R. Thus, the Petition for Special Variance shall be granted and relief approved so that the proposed subdivision may be approved and building permits issued for this subdivision, notwithstanding its location within the shed of a failing intersection.

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

THEREFORE, IT IS ORDERED, this 25th day of April, 2008 by this Deputy Zoning Commissioner, that pursuant to a finding that the demand or impact of the development

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proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, and that the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application, Petitioner's request for Special Variance from Section 4A02.4 of the Baltimore County Zoning Regulations (B.C.Z.R.) is hereby GRANTED subject to the following.

1. Petitioner is advised that he may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner shall improve Transverse Avenue in accordance with the requirements of the Department of Public Works. In particular, Petitioner agrees to improve one-half of the ultimate width of the road on Petitioner's "side" of the road.
3. The property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

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

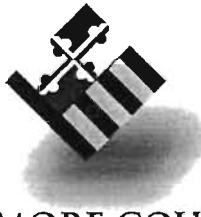


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz







BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

April 25, 2008

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Special Variance
Case No. 08-264-A
Property: 852 Middle River Road

Dear Mr. Schmidt:

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: Neil Stillerman, 304 Patuxent Avenue, Baltimore MD 21237
Kenneth Wells, KJ Wells Inc., 7403 New Cut Road, Kingsville MD 21087



Petition for Special Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 852 Middle River Road

which is presently zoned: D.R. 5.5

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

1. 4A02.4 to permit the proposed nonindustrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, pursuant to Section 4A02.4.G; and
2. For such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, pursuant to the following:

1. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal;
2. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b; and
3. For such other reasons as will be offered at the public hearing for this matter.

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:

Lawrence E. Schmidt

Name - Type or Print

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Jacqueline E. Stillerman

Name - Type or Print

Signature

Name - Type or Print

Signature

304 Patuxent Avenue

Address

Telephone No.

Baltimore

MD

21237-3217

State

Zip Code

Representative to be Contacted:

Lawrence E. Schmidt

Name

600 Washington Avenue Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

Case No.

08-264-A

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By

Date

12.13.07

REV 9/15/98

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kjWellsInc
Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

December 12, 2007

Zoning Description
of
Still Meadows
at 852 Middle River Road

15th Election District
6th Councilmanic District

Beginning at a point located on the southeast side of proposed Transverse Avenue, intended to be extended to Middle River Road, of which the right-of-way varies in width at a distance of 75 feet northeast of the centerline of Corktree Road which is 50 feet wide, thence 1) *North 35 degrees 46 minutes 41 seconds East 177.61 feet*, 2) *North 52 degrees 06 minutes 42 seconds East 221.22 feet*, 3) *South 37 degrees 53 minutes 18 seconds East 130.58 feet*, 4) *South 49 degrees 38 minutes 42 seconds West 380.42 feet*, 5) *North 44 degrees 42 minutes 18 seconds West 97.69 feet* to the place of beginning. Containing 1.27 acres of land more or less.



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: #08-264-A

852 Middle River Road

S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District - 6th Councilmanic District

Legal Owner(s): Jacqueline Stillerman

Special Variance: to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 20, 2008 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

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

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

JT/3/632 Mar. 4

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CERTIFICATE OF PUBLICATION

3/6/2008

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 3/4/2008.

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

J. Wilkins

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 03748

Date: 12.13.07

DATE RECEIPT
 PRINT RECEIPT

BUSINESS ACTION TIME PER

1/2007 12/13/2007 15:19:50 2

REG 02 MAIL 0000 00

>>> 01 0 053037 12/13/2007 OPEN

Dept 3 000 000000 0000 000000

000790

Receipt tot 1425.00

\$325.00 CR 4.00 CA

Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	000			6130				325.00

Total: 325.00

Rec

From: J. STILLERMAN

For: OR-264-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No.: 08-264-A

Petitioner/Developer: JACQUELINE

STILLERMAN-STILLSKEYS SUPERIOR
BUILDERS 3-70-08

Date of Hearing/Closing: 3-20-06

**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:

852 MIDDLE RIVER RD

The sign(s) were posted on 3-5-08
(Month, Day, Year)

Sincerely,

Robert Black 3-11-08
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



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: #08-264-A

852 Middle River Road

S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District - 6th Councilmanic District

Legal Owner(s): Jacqueline Stillerman

Special Variance: to permit the proposed non-Industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Friday, February 22, 2008 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) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
2/020 Feb. 7 162731

CERTIFICATE OF PUBLICATION

2/7/2008

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/7/2008.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 08-264-A

Petitioner/Developer: JACQUELINE
STILLERMAN

Date of Hearing/Closing: 1-22-08

**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: _____

852 MIDDLEBURN RD

The sign(s) were posted on

1-4-08

(Month, Day, Year)

Sincerely,

Robert Black 1-5-08
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



**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.

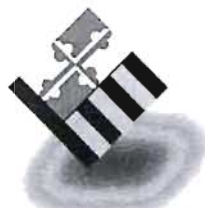
OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 264
Petitioner: JACQUELINE STILLERMAN
Address or Location: 304 PATUXENT Ave.

PLEASE FORWARD ADVERTISING BILL TO:

Name: LAWRENCE E SCHMIDT
Address: 600 WASHINGTON AVE, Suite 200
TOWSON, MD 21204
Telephone Number: 410-821-0070



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

January 2, 2008
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: 08-264-A

852 Middle River Road

S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District – 6th Councilmanic District

Legal Owners: Jacqueline Stillerman

Special Variance to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Friday, February 22, 2008 at 9:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Jacqueline Stillerman, 304 Patuxent Avenue, Baltimore 21237

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 7, 2008.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 7, 2008 Issue - Jeffersonian

Please forward billing to:
Lawrence Schmidt
Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

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: 08-264-A

852 Middle River Road

S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District – 6th Councilmanic District

Legal Owners: Jacqueline Stillerman

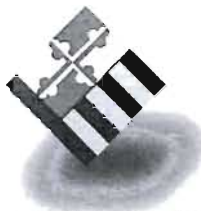
Special Variance to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Friday, February 22, 2008 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.



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

February 26, 2008
TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

NEW NOTICE OF ZONING HEARING

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

CASE NUMBER: 08-264-A

852 Middle River Road

S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District – 6th Councilmanic District

Legal Owners: Jacqueline Stillerman

Special Variance to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 20, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Lawrence Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204
Jacqueline Stillerman, 304 Patuxent Avenue, Baltimore 21237

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 5, 2008.**
- (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, March 4, 2008 Issue - Jeffersonian

Please forward billing to:

Lawrence Schmidt

410-821-0070

Gildea & Schmidt

600 Washington Avenue, Ste. 200

Towson, MD 21204

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: 08-264-A

852 Middle River Road

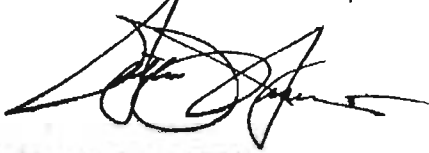
S/east side of Transverse Avenue, 75 feet +/- northeast of centerline of Corktree Road

15th Election District – 6th Councilmanic District

Legal Owners: Jacqueline Stillerman

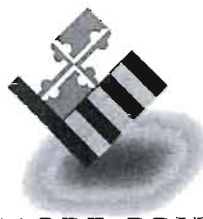
Special Variance to permit the proposed non-industrial development where it has been determined that the capacity of the public facilities necessary to accommodate same is less than necessary, and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 20, 2008 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

February 12, 2008

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

Dear Mr. Schmidt:

RE: Case Number: 08-264-A, 852 Middle River Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 13, 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
Jacqueline e. Stillerman 304 Patuxent Avenue Baltimore 21237-3217

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
JAN 18 2008

BY:

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *JWL*

DATE: January 17, 2008

SUBJECT: Zoning Item # 08-264-A
Address 852 Middle River Road
(Stillerman Property)

Zoning Advisory Committee Meeting of December 17, 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:

Reviewer: Regina Esslinger

Date: January 15, 2008

TB 2/22

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

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

DATE: January 18, 2008

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

RECEIVED
JAN 29 2008

BY: _____

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-264- Special Variance**

The Office of Planning has reviewed the above referenced case(s) and does not support the petitioner's request for special variance as the proposal falls within an area that does not have adequate public facilities to support the demand that the project would produce. Should the Zoning Commissioner determine otherwise the following conditions mentioned in the Concept Plan Comments for the subject property shall carry forth:

1. Orient Lots 4 and 5 toward Transverse Road.
2. Provide the tax map, grid and parcel number information on the plan.
3. Indicate the street address to all adjacent properties.
4. State whether there the property was part of a zoning hearing and list the case number, decision and any conditions or state there is no zoning case history.
5. Provide sidewalks along Transverse Road.

Moreover, The access for this site is Transverse Avenue, which is proposed to be built by others. Until Transverse Avenue is built across the frontage, or unless this petitioner enters into a Public Works Agreement to build Transverse Avenue, no building permits or plats will be approved.

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

Prepared By: _____

Division Chief: _____
CM/LL

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February 11, 2005

RECEIVED

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

FEB 11 2005

SUBJECT: 8834, 8836, 8838 Wilson Avenue

ZONING COMMISSIONER

INFORMATION:

Item Number: 5-336

Petitioner: Benjamin Bronstein

Zoning: DR 5.5

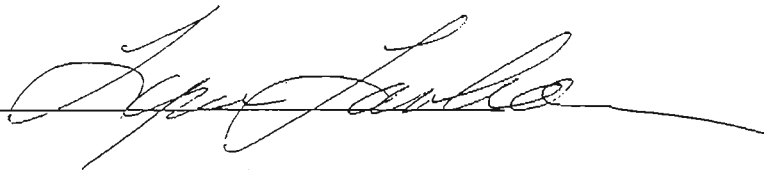
Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request and does not oppose the petitioner's request to permit construction of three lots in a transportation deficient area. The traffic shed area for the Harford and Putty Hill Road is a well-developed older community and has limited capacity or available land for additional new residential development. Development of three lots at this location should not negatively affect the district.

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

Division Chief:



LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 4, 2008

FROM: ^{DAK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 24, 2007
Item No. 08-264

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

This site is in a commuter-shed that is designated as level of service "F" on the 2007 Basic Services Transportation Map. We recommend that relief from the basic services not be granted. There are other proposed developments in this commuter-shed that are already approved through the development process that are being held up. If any relief is to be granted, it should be offered to those who have waited the longest.

DAK:CEN:clw

cc: File

ZAC-ITEM NO 08-264-01032008.doc



Baltimore County
Fire Department

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

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

December 28, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: December 17, 2007

Item Number: 261,262,263,264

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.

- . 3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C) 443-829-2946
MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper



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

State Highway
Administration

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

Maryland Department of Transportation

Date: JANUARY 3, 2008

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

RE: Baltimore County
Item No. 8-264A
852 MIDDLE RIVER ROAD
STILLERMAN PROPERTY
SPECIAL VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 8-264A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

DATE: February 25, 2008

TO: Kristen Matthews
Department of Permits & Development Management

FROM: Patti Zook, Legal Secretary to
Tomas Bostwick, Deputy Zoning Commissioner

SUBJECT: Cases To Be Rescheduled Due to Inclement Weather
Case Nos. 08-264-A, 08-270-A and 08-277-A

The above-referenced cases need to be rescheduled because of inclement weather on Friday, February 22, 2008. You were kind enough to pick the files up this morning.

Please place a copy of this memorandum in each case file

Thanks for your help.

RE: PETITION FOR VARIANCE
852 Middle River Road; SE/S Transverse
Avenue, 75' NE c/line Corktree Road
15th Election & 6th Councilmanic Districts
Legal Owner(s): Jacqueline Stillerman
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 08-264-A

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO

Deputy People's Counsel

Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of January, 2008, a copy of the foregoing Entry of Appearance was mailed to, Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

JAN 02 2008

Per _____

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

CASE NAME 08-264-A
CASE NUMBER _____
DATE 3-20-08

[illegible]



200 SCALE ZONING MAP
NUMBER 090B1

MAPQUEST.

A: 852 Middle River Rd, Middle River, MD 21220-2513



BALTIMORE COUNTY TRAFFIC ENGINEERING

TURNING MOVEMENT COUNT DATA

LOCATION	MIDDLE RIVER RO + PULASKI HWY									DATE OF COUNT								A.M. P.M.	6/6/2007		
ROADS:	MIDDLE RIVER RD				MIDDLE RIVER RD					PULASKI HWY				PULASKI HWY				E + W TOTAL	GRAND TOTAL		
	NORTHBOUND				SOUTHBOUND					EASTBOUND				WESTBOUND							
	AM	L	S	R	TOTAL	L	S	R	TOTAL	N + S TOTAL	L	S	R	TOTAL	L	S	R			TOTAL	
6:00-6:15		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
6:15-6:30		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
6:30-6:45		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
6:45-7:00		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
7:00-7:15		98	59	32	189	21	42	40	103	292	45	149	53	247	34	360	18	412	659	951	
7:15-7:30		90	65	39	194	9	36	20	65	259	39	170	55	264	27	349	18	394	658	917	
7:30-7:45		88	73	28	189	16	42	32	90	279	38	188	68	294	52	670	13	735	1029	1308	
7:45-8:00		97	79	41	217	21	63	27	111	328	49	206	74	329	59	540	10	609	938	1266	
8:00-8:15		79	90	61	230	15	60	22	97	327	62	242	76	380	65	621	18	704	1084	1411	
8:15-8:30		70	82	54	206	21	49	23	93	299	45	233	88	366	69	580	22	671	1037	1336	
8:30-8:45		73	83	47	203	13	36	38	87	290	52	256	74	382	53	530	15	598	980	1270	
8:45-9:00		68	77	54	199	14	39	23	76	275	46	241	70	357	59	516	18	593	950	1225	
AM HOUR TOTALS																					
6:00-7:00		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
6:15-7:15		98	59	32	189	21	42	40	103	292	45	149	53	247	34	360	18	412	659	951	
6:30-7:30		188	124	71	383	30	78	60	168	551	84	319	108	511	61	709	36	806	1317	1868	
6:45-7:45		284	197	99	572	46	120	92	258	830	122	507	176	805	113	1379	49	1541	2346	3176	
7:00-8:00		373	276	140	789	67	183	119	369	1158	171	713	250	1134	172	1919	59	2150	3284	4442	
7:15-8:15		354	307	169	830	61	201	101	363	1193	188	806	273	1267	203	2180	59	2442	3709	4902	
7:30-8:30		334	324	184	842	73	214	104	391	1233	194	869	306	1369	245	2411	63	2719	4088	5321	
7:45-8:45		319	334	203	856	70	208	110	388	1244	208	937	312	1457	246	2271	65	2582	4039	5283	
8:00-9:00		290	332	216	838	63	184	106	353	1191	205	972	308	1485	246	2247	73	2566	4051	5242	
	NORTHBOUND				SOUTHBOUND					N + S TOTAL	EASTBOUND				WESTBOUND				E + W TOTAL	GRAND TOTAL	
	PM	L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL				
3:00-3:15		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
3:15-3:30		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
3:30-3:45		80	71	74	225	30	96	19	145	370	38	410	44	492	71	219	18	308	800	1170	
3:45-4:00		80	84	90	254	33	91	15	139	393	35	409	48	492	65	194	16	275	767	1160	
4:00-4:15						0															
4:00-4:15		69	80	78	227	36	110	31	177	404	60	408	52	520	101	280	25	406	926	1330	
4:15-4:30		65	68	75	208	29	100	24	153	361	62	511	56	629	74	190	14	278	907	1268	
4:30-4:45		70	92	59	221	26	90	19	135	356	39	409	57	505	68	239	27	334	839	1195	
4:45-5:00		74	87	65	226	36	94	24	154	380	60	396	64	520	58	210	15	283	803	1183	
5:00-5:15		79	128	84	291	29	104	27	160	451	90	540	82	712	78	218	26	322	1034	1485	
5:15-5:30		75	118	70	263	31	109	23	163	426	58	466	65	589	66	240	27	333	922	1348	
5:30-5:45		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
5:45-6:00		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
PM HOUR TOTALS																					
3:00-4:00		160	155	164	479	63	187	34	284	763	73	819	92	984	136	413	34	583	1567	2330	
3:15-4:15		229	235	242	706	99	297	65	461	1167	133	1227	144	1504	237	693	59	989	2493	3660	
3:30-4:30		294	303	317	914	128	397	89	614	1528	195	1738	200	2133	311	883	73	1267	3400	4928	
3:45-4:45		284	324	302	910	124	391	89	604	1514	196	1737	213	2146	308	903	82	1293	3439	4953	
4:00-5:00		278	327	277	882	127	394	98	619	1501	221	1724	229	2174	301	919	81	1301	3475	4976	
4:15-5:15		288	375	283	946	120	388	94	602	1548	251	1856	259	2366	278	857	82	1217	3583	5131	
4:30-5:30		298	425	278	1001	122	397	93	612	1613	247	1811	268	2326	270	907	95	1272	3598	5211	
4:45-5:45		228	333	219	780	96	307	74	477	1257	208	1402	211	1821	202	668	68	938	2759	4016	
5:00-6:00		154	246	154	554	60	213	50	323	877	148	1006	147	1301	144	458	53	655	1956	2833	

LOCATION MIDDLE RIVER RD + PULASKI HWY

	RECORDER	WEATHER	ROAD SURFACE	DAY OF THE WEEK	DATE OF COUNT
A.M.	CFB	CLEAR	DRY	WED	6/6/2007
P.M.	CFB	CLEAR	DRY	WED	6/6/2007

PERCENTAGE TURNING MOVEMENTS AND TOTAL VOLUMES

ROADS:	MIDDLE RIVER RD				MIDDLE RIVER RD				PULASKI HWY				PULASKI HWY					
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND					
	L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL	L	S	R	TOTAL		
%TURNING	41%	37%	22%	100%	18%	51%	31%	100%	AM	14%	64%	21%	100%	9%	88%	3%	100%	N/A
MOVEMENT	31%	38%	31%	100%	20%	65%	15%	100%	PM	10%	80%	10%	100%	23%	71%	7%	100%	N/A
TOTAL	663	608	356	1627	130	367	225	722	AM	376	1685	558	2619	418	4166	132	4716	9684
VOLUMES	592	728	595	1915	250	794	182	1226	PM	442	3549	468	4459	581	1790	168	2539	10139
GRAND																		
TOTALS	1255	1336	951	3542	380	1161	407	1948		818	5234	1026	7078	999	5956	300	7255	19823
ESTIMATED	SOUTH LEG				NORTH LEG				WEST LEG				EAST LEG					
ADTS	22059				14433				48184				45311					

ESTIMATED VEHICLES ENTERING THE INTERSECTION > 64993

INTERSECTION: MIDDLE RIVER RD + PULASKI HWY

DESCRIPTION: PULASKI IS A FOUR LANE STATE RD WITH LEFT TURN LANES AND ARROWS. MIDDLE RIVER IS A TWO LANE RD WITH LEFT TURN LANES AND ARROWS. AND RIGHT ONLY N/B.

THE SIGNAL FUNCTIONS AS A 8 PHASE LIGHT. THE CYCLE LENGTHS AVERAGE 171 SECONDS IN THE MORNING AND 164 SECONDS IN THE AFTERNOON. THE PEAK HOUR IN THE MORNING IS 7:30 TO 8:30 AND IS 4:30 TO 5:30 IN THE AFTERNOON. THE PEAK FLOW OCCURS IN THE W/B DIRECTION OF PULASKI HWY DURING THE AM AND IN THE E/B DIRECTION OF PULASKI HWY IN THE PM.

LOADED CYCLES

	NORTHBOUND	SOUTHBOUND	EASTBOUND	WESTBOUND
% OF LOADS	10%	5%	48%	48%
AM HOUR	7:45-8:45	7-8	7:15-8:15	7:45-8:45
% OF LOADS	26%	91%	52%	39%
PM HOUR	4:15-5:15	3:45-4:45	4:15-5:15	4-5

REMARKS: *

PETITIONER'S

EXHIBIT NO. 3

THE LEVEL OF SERVICE IS: F

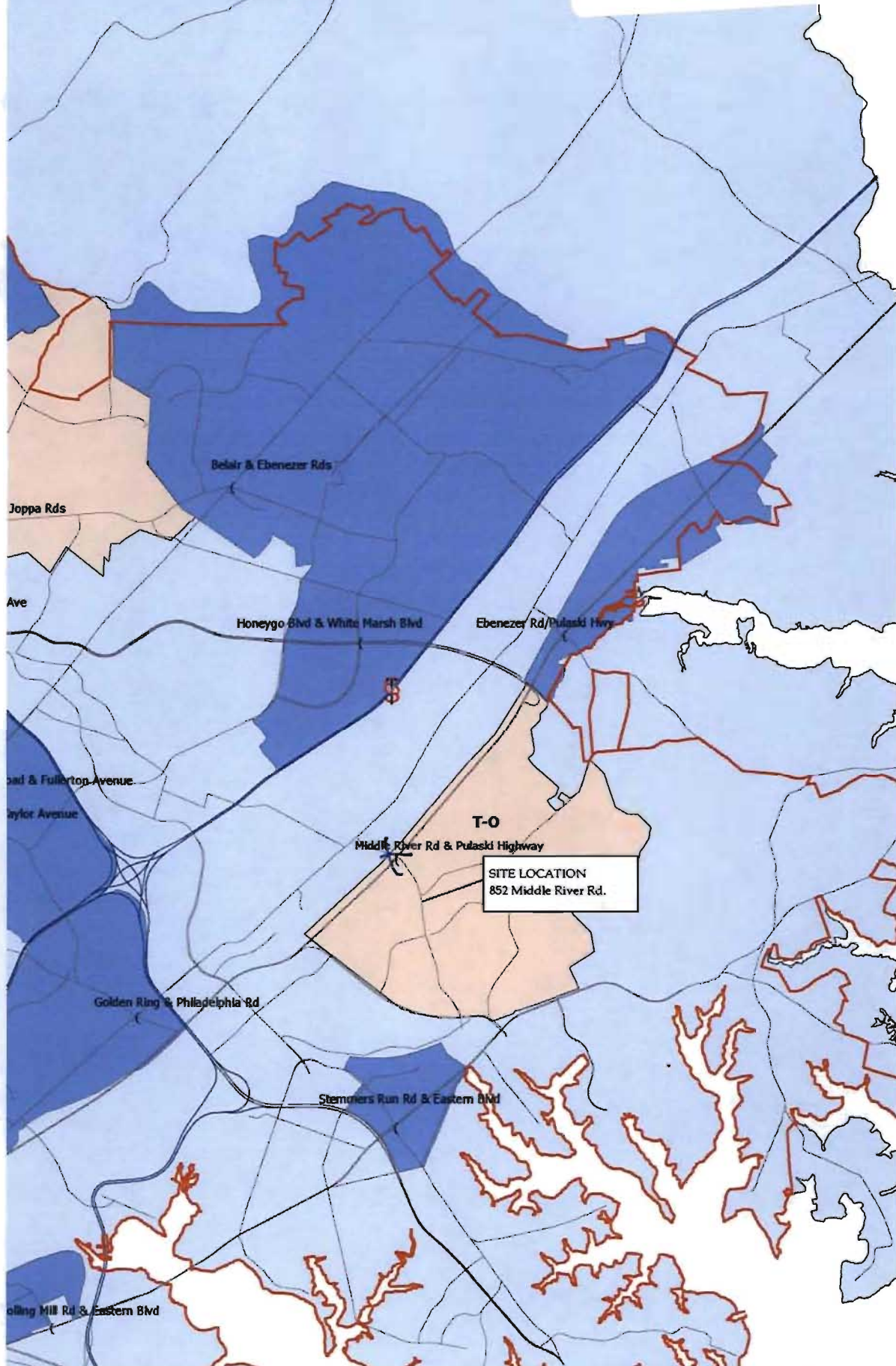
A - 0% B - 1-10% C - 11-30% D - 31-70% E - 71-85% F - 86-100%

FOR UPDATED LIST YES OR NO DATE REVIEWED: _____ APPROVED BY: _____ CHECKED BY: _____

PETITIONER'S

EXHIBIT NO.

4

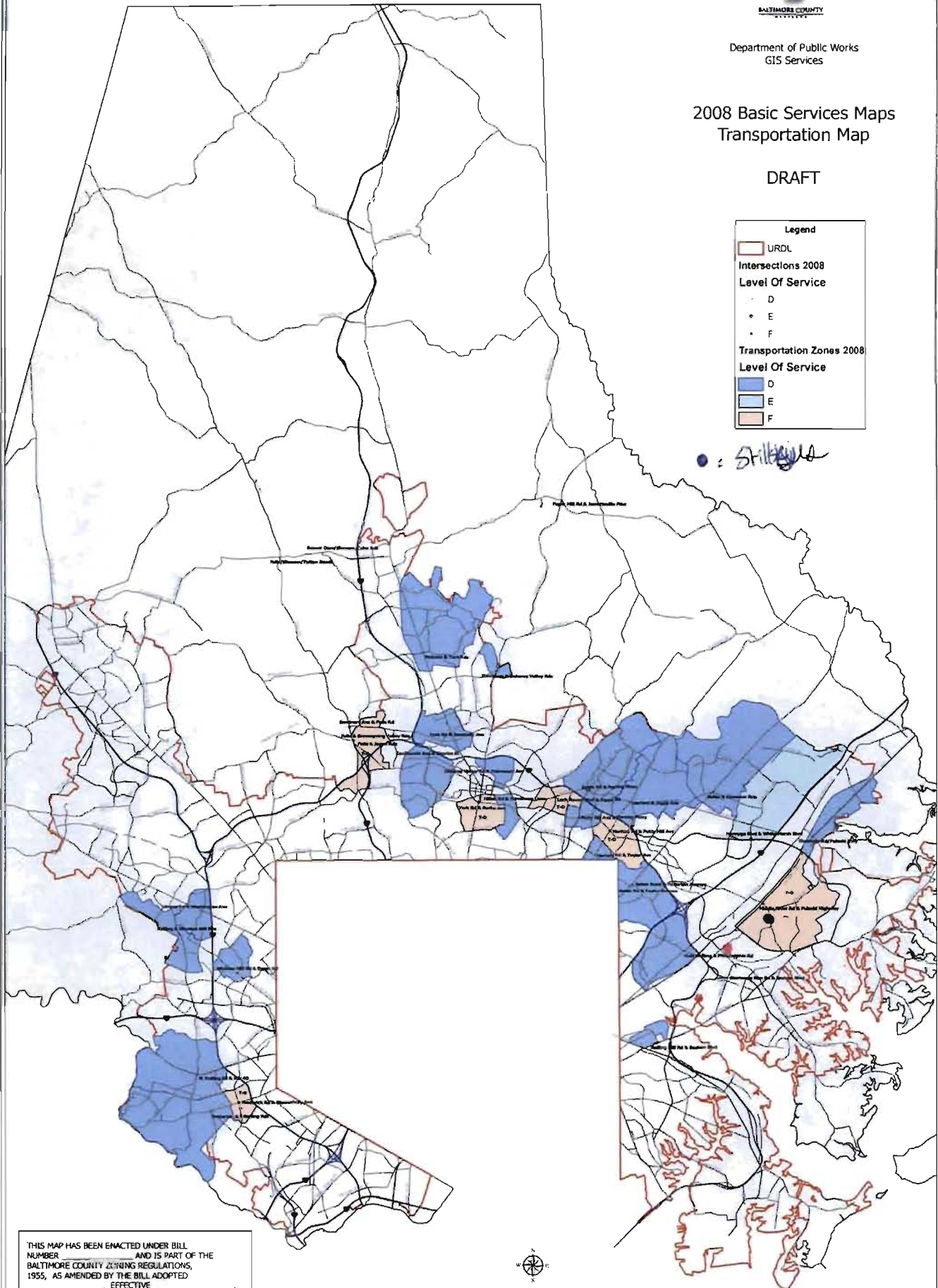
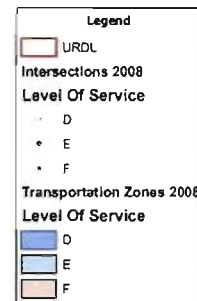




Department of Public Works
GIS Services

2008 Basic Services Maps Transportation Map

DRAFT



THIS MAP HAS BEEN ENACTED UNDER BILL
NUMBER _____ AND IS PART OF THE
BALTIMORE COUNTY ZONING REGULATIONS,
1955, AS AMENDED BY THE BILL ADOPTED
EFFECTIVE _____

COUNTY COUNCIL OF BALTIMORE COUNTY



Continuum Review:
Approved: State Order 1940 83
Baltimore County Seal Scale Order
Date Captured at 1" = 1,000'

Prepared For:
Baltimore County
Baltimore County
Baltimore County
Baltimore County

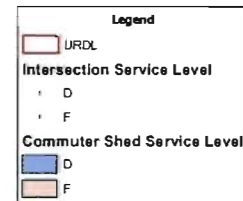


Department of Public Works
GIS Services

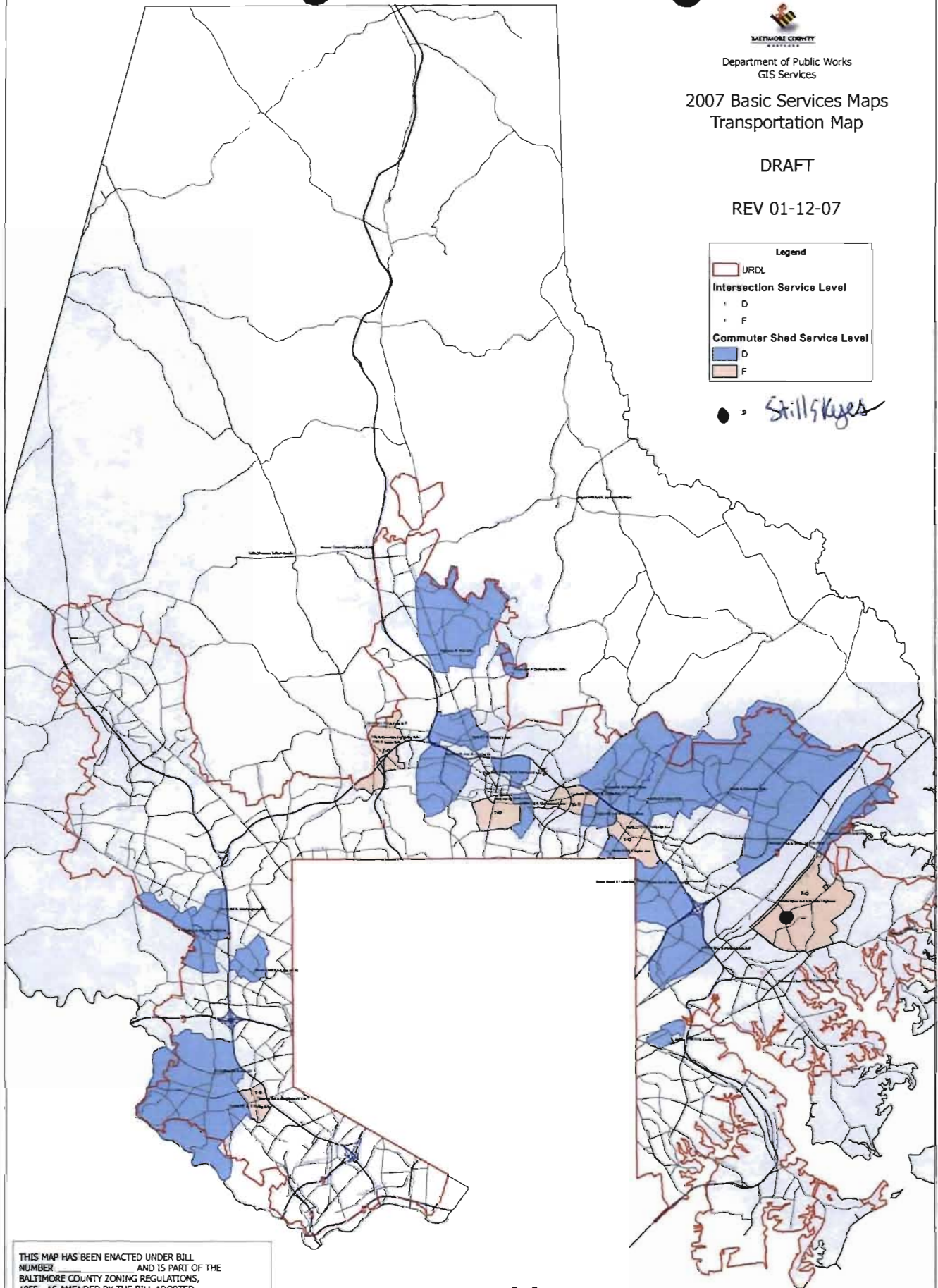
2007 Basic Services Maps Transportation Map

DRAFT

REV 01-12-07



● = *Still Skyes*



THIS MAP HAS BEEN ENACTED UNDER BILL
NUMBER _____ AND IS PART OF THE
BALTIMORE COUNTY ZONING REGULATIONS,
1955, AS AMENDED BY THE BILL ADOPTED
_____, EFFECTIVE _____.

COUNTY COUNCIL OF BALTIMORE COUNTY



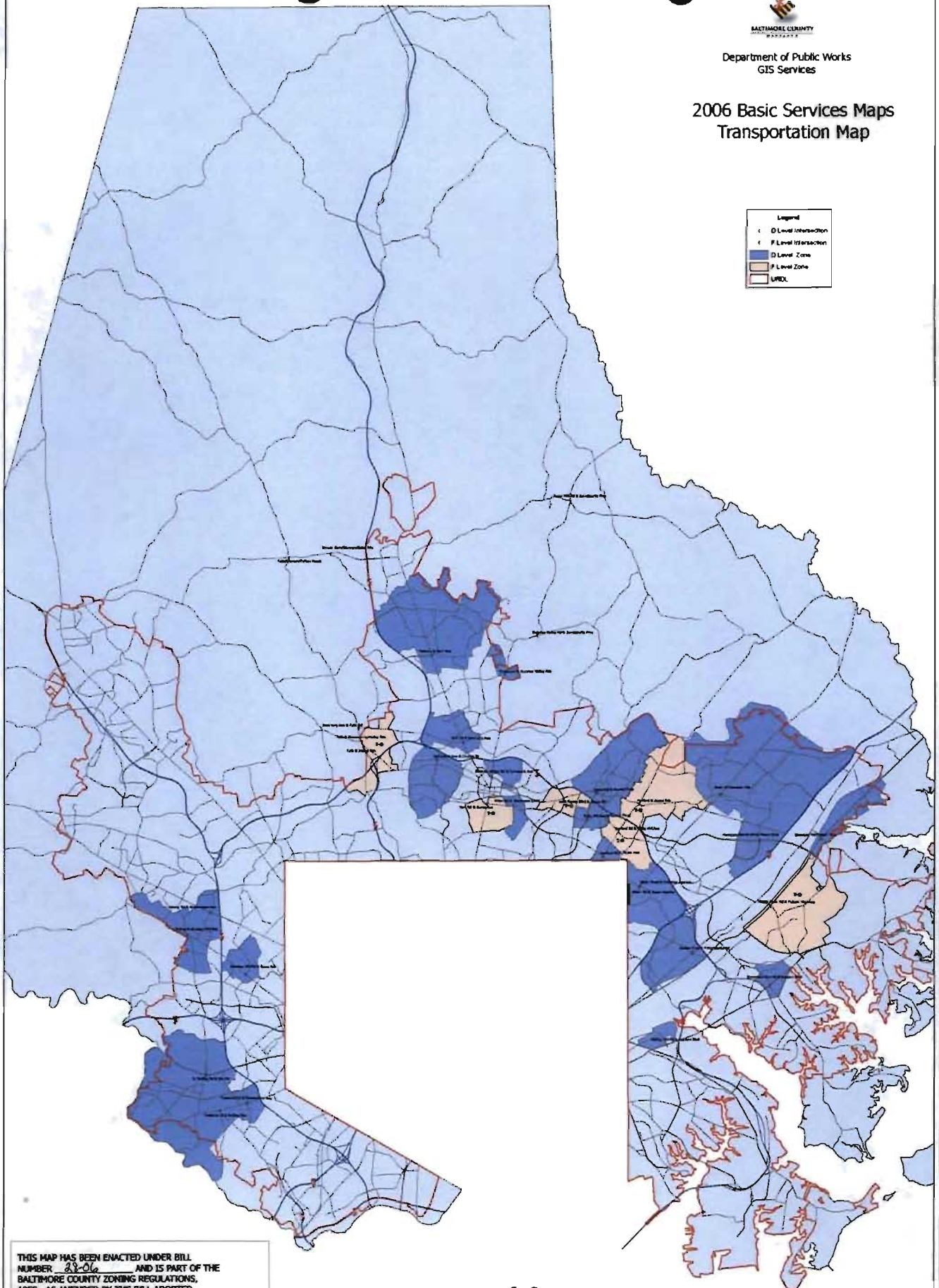
Coordinate System:
NAD83 / NAD83 / NAD83
Baltimore County Scale: 1:25,000
Data Captured at: 12/12/07

Prepared by:
GIS Services
Baltimore County
December 1, 2007



Department of Public Works
GIS Services

2006 Basic Services Maps Transportation Map



THIS MAP HAS BEEN ENACTED UNDER BILL
NUMBER 28-06 AND IS PART OF THE
BALTIMORE COUNTY ZONING REGULATIONS,
1955, AS AMENDED BY THE BILL ADOPTED
APRIL 17, 2006, EFFECTIVE JUNE 3, 2006

[Signature]
COUNTY COUNCIL OF BALTIMORE COUNTY



Coordinate System:
Maryland State Plane NAD 83
Baltimore County 10 48 34 40 Data
Data Captured at 1" = 1,000'

Prepared by:
GIS Services
Baltimore County
November 20, 2006

IN RE: PETITION FOR ADMIN. VARIANCE
SW/S of Wilson Avenue, 750 ft. NW
of Putty Hill Avenue
14th Election District
6th Councilmanic District
(8834, 8836, 8838 Wilson Avenue)

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 05-336-SA

FDP, LLC,
By: Dante Betro, Authorized Member
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Variance filed by the legal owners of the subject property, FDP, LLC, by Dante Betro an authorized member. The variance request is for properties located at 8834, 8836 and 8838 Wilson Avenue in Baltimore County. The special variance is requested from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 4A02.4.G of the B.C.Z.R., to permit construction on three lots in a transportation deficient area. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition for Variance.

The property was posted with Notice of Hearing on January 21, 2005, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on January 25, 2005 to notify any interested persons of the scheduled hearing date.

Applicable Law

4A02.1 Purpose and intent. The County Council finds that important public facilities in certain predominantly urban areas of the county are inadequate to serve all of the development that would be permitted under the regulations of the zones or commercial districts within which those areas lie. Basic Services Maps are hereby established to regulate non-industrial development in those under-served areas to a degree commensurate with the availability of these

PETITIONER' S

EXHIBIT NO. 5

facilities. Basic Services Maps are not permanent and will be reviewed annually with reports to the County Council.

b. Correction of deficiency. In the case of a deficiency which has been corrected by actual construction of adequate facilities, the maps may be amended, at any time, to reflect the correction, by resolution of the County Council after certification by the Department of Public Works, in the case of a water or sewer deficiency, or the Department of Traffic Engineering, in the case of a traffic deficiency, that the needed facility has been constructed and is performing so that the area no longer suffers a service deficiency. Where correction of the deficiency has been accomplished by means of private funding, the developer or developers paying the cost of correction shall have a preferred claim to any increase in the reserve capacity resulting from the correction irrespective of the requirements of Section 4A02.3.G.2.b. Absent a contrary agreement between the developers contributing to the cost of correction, the developers shall share in any increase in reserve capacity on a prorated basis in accordance with their percentage of contribution to the entire cost of correction.

F. Basic Services Maps are not intended to permanently establish either areas of service deficiencies or areas of service availability and adequacy. Such maps will be reviewed annually, as it is the intent of the County Council that existing service deficiencies will be corrected in accordance with the Master Plan and capital improvements program. The County Council also recognizes that continuing development in certain areas may create service deficiencies in areas that presently have adequate levels of service. In some cases, changes in underlying zoning classifications may have to be made to better correlate development potential.

Transportation. Intent. The transportation standards and maps are intended to regulate non-industrial development where it has been determined that the capacity of arterial and arterial collector intersections is less than the capacity necessary to accommodate traffic both from established uses and from uses likely to be built pursuant to this article. Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector intersection situated within the mapped area will, on the date the map becomes effective, be rated at level-of-service E or F under standards established by the Highway Capacity Manual, 1965, published by the Highway Research Board of the Division of Engineering and Industrial Research, National Academy of Sciences National Research Council.

E. General exceptions to basic services mapping standards.

1. The provisions of Section 4A02.4.A, B, C and D do not apply to any of the following:
 - a. Any development of three or fewer single-family detached dwellings, or establishment of their accessory uses, on a lot of record as of November 19, 1979 (see Section 101).

Petitions for special variance from provisions of this subsection.

1. The Zoning Commissioner may, after a public hearing, grant a petition for a special variance from a provision of this subsection, only to an extent that will not violate that provision's purpose, pursuant to a finding:
 - a. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal; and

- b. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b.
2. The Office of Planning shall give a report on the petition to the Zoning Commissioner prior to his consideration of the petition.
3. The Zoning Commissioner may grant or deny the petition, or grant it subject to any conditions or limitations consistent with the criteria set forth in Paragraph 1 above.
4. An appeal may be filed with the County Board of Appeals within 30 days of the decision of the Zoning Commissioner.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the variance request were Dante and Flora Betro, Petitioners. Donald E. Hicks appeared on behalf of Hicks Engineering, the engineering firm that prepared the site plan of the property and Benjamin Bronstein, Esquire, represented the Petitioners. Walter Smith and Steven Weber, county employees, appeared at the hearing at the request of the Petitioner. Appearing at the hearing as protestants or citizens were Janet & Donald Keplinger, Albert & Rachel Diegel, Arthur & Margaret Dietsch, Jerome Beck, Fred Altman and Ruth Baisden. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony proffered by the Petitioner indicated that the Petitioner bought six lots fronting on Wilson Avenue. These six were part of a ten lot subdivision which was recorded in the Land Records of Baltimore County on March 11, 1997. The County Council passed the transportation portion of the Basic Services Map in January 6, 1997 which designated the intersection of Harford Road and Putty Hill Avenue as a failing intersection. The transportation shed

surrounding this intersection included these ten lots. All agreed that the subdivision should not have been allowed to be recorded under the circumstances, but as Walter Smith, project manager for the Department of Permits & Development Management testified, it often takes 5 to 6 months for the final subdivision plat to be recorded. Apparently in that time the intersection was declared to have become failing (F level).

History aside, the Petitioner applied for and received a three lot exemption under Section 4A02.E.1.a and has or is building three homes on lots 4, 5, and 6. The question in this case is whether or not a special variance should be granted to allow homes on lots 1, 2, and 3. Apparently lots 7, 8, 9 and 10 are vacant and are not owned by the Petitioner.

Steven Weber, Chief of the Traffic Engineering Division of the Department of Public Works, testified that the County studies show the peak time for the Harford Road/Putty Hill intersection is 7:15 AM to 8:15 AM. and that the number of vehicles using the intersection at that hour is approximately 3,100. He next testified that during this hour, the trips generated by the proposed three lots were 2.55 trips. From this data, he concluded that the impact of these three additional homes on the intersection was imperceptible. In fact, he indicated that daily fluctuations of traffic using the intersection were greater than the added trips from the three homes. He also noted that generally special variances are granted in failing traffic sheds when the number of lots is less than 10.

A great deal of the time for cross-examination of Mr. Weber was taken by residents of Wilson Avenue who complained vehemently about traffic on Sunday mornings going to and from St. Ursula's Church via a curb cut in the cul-de-sac in which Wilson Avenue terminates. Apparently, this issue had been raised and debated for several years before the hearing on the subject case without adequate resolution as far as the residents along Wilson Avenue were

concerned. Given Mr. Weber's position in the County, he became the focus of much questioning about this continuing problem as seen from the residents' standpoint. Ms. Keplinger, one of the residents, supplemented her complaints about church traffic given at the hearing by a long and detailed recount of her efforts to stop the church traffic and her frustration at not being successful thus far.

Mr. Weber mentioned that Putty Hill Avenue was the subject of an ongoing County capital improvement program to widen Putty Hill at its intersection with Harford Road. However, neither Wilson Avenue or the part of Putty Hill not near the intersection were scheduled for improvement according to Mr. Weber. He indicated that at peak hours, traffic backs up from the intersection of Harford Road and Putty Hill east to Wilson Avenue. Finally, he mentioned that the Department interprets the transportation portion of the Basic Services Legislation to exempt three lots for each subdivided tract of land recorded before 1979.

Mr. Smith, from the Department of Permits and Development Management, testified that the ten lot subdivision was recorded in the Land Records for Baltimore County on March 11, 1997. He indicated that the County Council passed the transportation portion of the Basic Services Map in January 6, 1997 which designated the intersection of Harford Road and Putty Hill Avenue as a failing intersection. The transportation shed surrounding this intersection included these ten lots. He indicated the subdivision should not have been allowed to be recorded under the circumstances, but it often takes 5 or 6 months for the final subdivision plat to be recorded. Apparently in that time, the rating of the intersection at Putty Hill and Harford Road changed to level "failing F" and the plat reviewers failed to detect the problem. He also noted that there was no reserve capacity use certificate in the subdivision file.

The protestants who live along Wilson Avenue testified at length regarding the traffic generated by the Church on Sunday morning, the difficulty this traffic causes for elderly residents, and their opposition to even the small traffic that would be generated by the proposed three homes. Ruth Baisden, President of the Greater Parkville Community Council, described the efforts made by the community. She testified that they worked to delete a general widening of Putty Hill Avenue from the Master Plan, and to reduce the high number of traffic accidents on Harford Road. In general she noted that her organization does not support in-fill development, but rather seeks to preserve open space such as the subject lots. She also indicated that there was no hardship in this case other than economic return for the developer. Finally, she noted that this subdivision involved 10 lots of which the Petitioner bought 6 at a later time. She expressed concern that the remaining lots could also be granted a three lot exemption.

Finally, Mr. Bronstein pointed out that the County has to correct failing intersections. He stated that the impact on the failing intersection of these three lots would be insignificant, and that the problem of church generated traffic did not occur at the same time (Sunday morning) as the peak traffic in the failing intersection. He also noted that there is no reserve capacity use certificate for this subdivision. Finally, he argued that since the Planning Office did not comment on this request, this indicated Planning's approval.

The Planning Office submitted a comment after the hearing on the case which indicated that they did not oppose the Petitioner's request and the development of three lots would not negatively affect the district.

Findings of fact and conclusions of law

As I explained at the hearing, the issue of church traffic on Wilson Avenue is not before me. I do not have the power to order the church to stop using Wilson Avenue on Sunday

mornings. That said, I want to recognize the problem articulated so well by Ms. Keplinger's post hearing letter.

In addition, the issue of whether or not the Petitioner was entitled to a three lot exemption under the regulations is not before me. I will only note that the law allowing these exemption seems to require that the development involve 3 lots or less (this development involved 10 lots) and was recorded before 1979 (this subdivision was recorded in 1997). It appears that the County reviewers grant a blanket three lot exemption to all proposed developments in failing traffic sheds.

As Mr. Bronstein points out, this is a case for special variance and not a typical variance case under Section 307 of the B.C.Z.R. Consequently, the usual suspects of uniqueness, hardship, practical difficulty and impact are not factors to be considered. In order to grant a special variance, the special variance law requires:

1. that it will not violate that purpose of the legislation,
2. that the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or
3. that the standard is not relevant to the development proposal; and
4. That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b.

Regarding criteria #4, from the testimony in this case, I have no evidence that granting the petition will adversely affect some other developer with a reserve capacity use certificate already in place. Apparently, this subdivision was not issued such a certificate. Whether there are any other developments pending in this traffic shed, I do not know, but have to trust that if such were the case the planning and traffic engineering groups would know and object. They have not.

Regarding criteria # 2 and #3, Mr. Weber testified that the impact of these three homes on the failing intersection of Putty Hill and Harford Road is "imperceptible". In fact, the additional

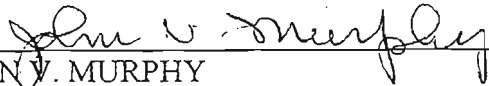
traffic at peak hour is lower than the daily variations of traffic in that intersection at the peak time. Consequently, I find that criteria #2 and #3 are satisfied.

Finally, in regard to #1, again the impact of these three homes is so small that it becomes lost in the noise of data variations and so, I find that it does not violate that purpose of the legislation which is to limit development while facilities improvement are being designed and constructed. I note also the Planning Office comment that development of these three lots will not adversely affect the neighborhood. Consequently I will grant the special variance.

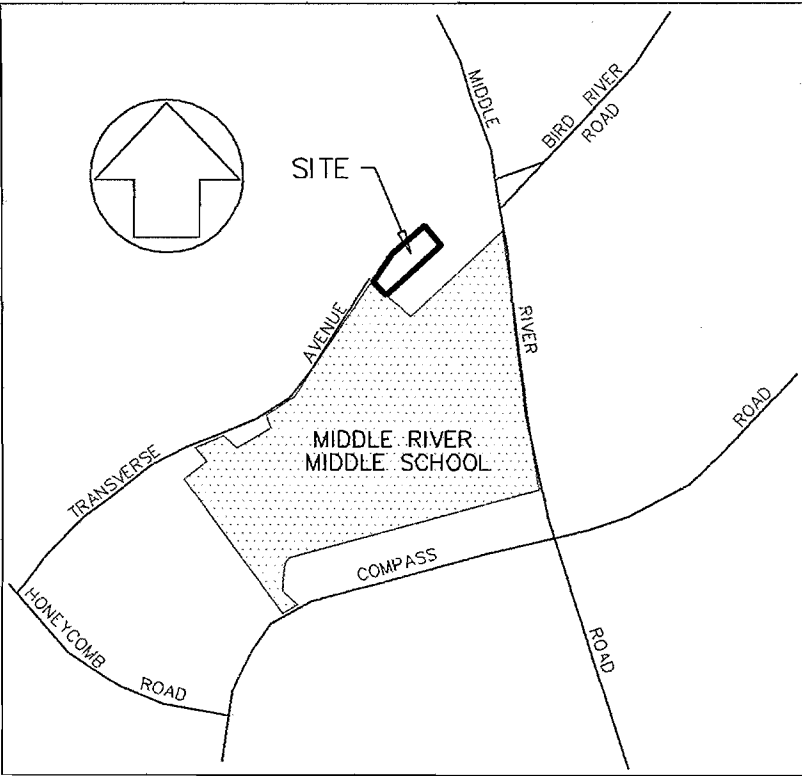
Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' special variance request should be granted.

THEREFORE, IT IS ORDERED, this 16 day of February, 2005, by this Deputy Zoning Commissioner, that the Petitioners' request for special variance requested from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 4A02.4.G of the B.C.Z.R., to permit construction on three lots in a transportation deficient area, be and is hereby GRANTED.

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



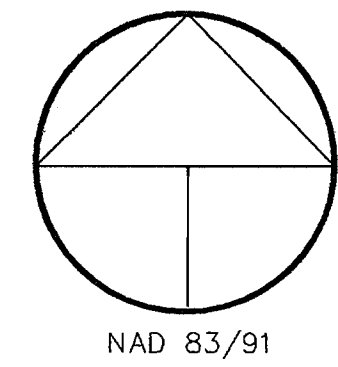
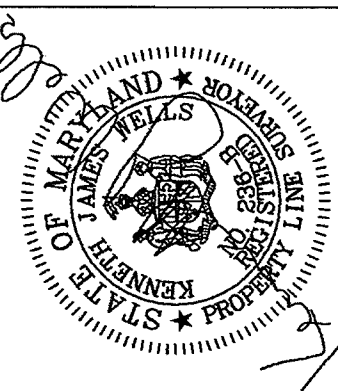
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY



VICINITY MAP
SCALE: 1" = 1000'

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning



REVISIONS:
NO. DATE

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Aerial Image of the Neighborhood
and Road Network Surrounding
STILL MEADOWS
BALTIMORE COUNTY
MARYLAND

PDM# 15-892

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 2/18/2008
PROJECT NO.:
2005-032
SHEET 1 OF 1

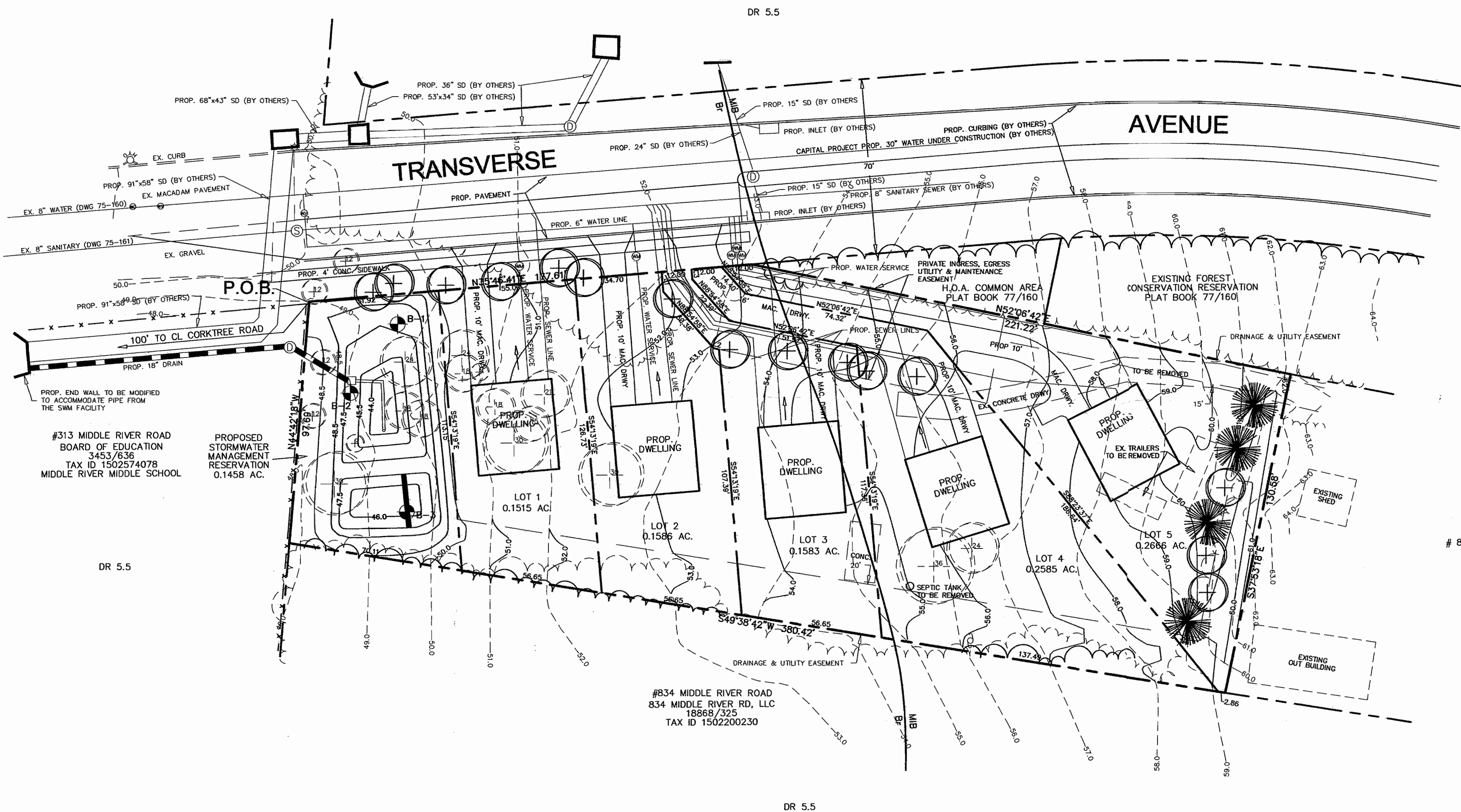
PETITIONER'S

EXHIBIT NO. 2

Scale: 1" = 500'

LEGEND:

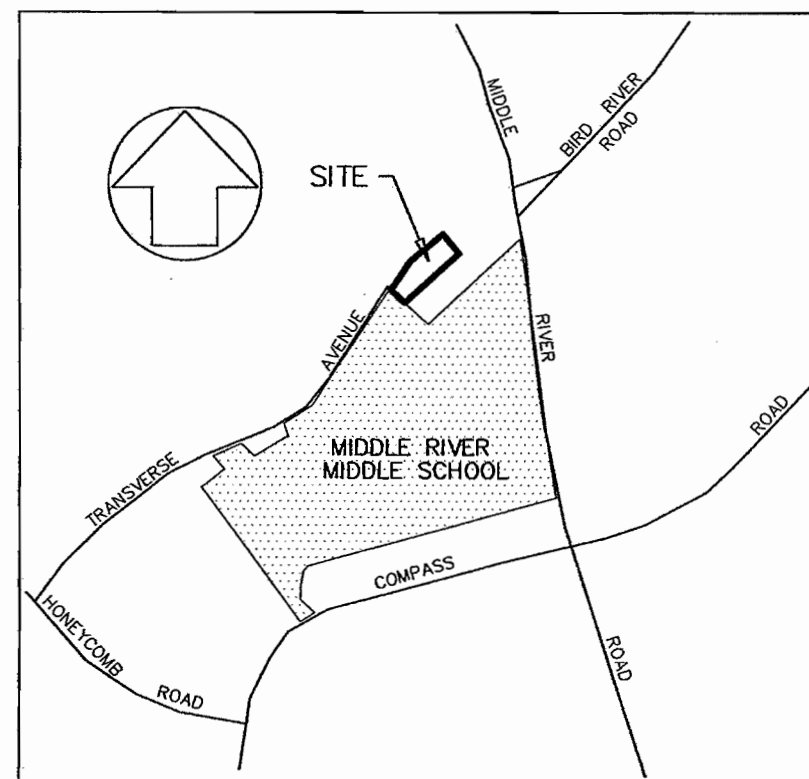
- Mb82 SOIL SERIES
- 200— EX. CONTOURS
- 200— PROP. CONTOURS
- x— FENCING
- A—A— EX. WOODS LINE
- A—A— PROP. TREELINE
- 100— LIMIT OF DISTURBANCE
- ① STORM DRAIN MANHOLE
- ② SANITARY SEWER MANHOLE
- ③ CLEAN OUT
- ④ UTILITY POLE
- ⑤ LIGHT POLE
- ⑥ GAS CAP
- ⑦ WATER CAP
- ⑧ WATER METER
- ⑨ WATER VALVE
- ⑩ FIRE HYDRANT
- MSL MINIMUM BUILDING SETBACK LINE



GREENWOOD MANOR
PLAT BOOK 77/160
TOWNHOUSE DEVELOPMENT

SITE DATA:

- OWNERS: JACQUELINE STILLERMAN
- OWNERS' ADDRESS: 304 PATUXENT AVENUE
BALTIMORE, MARYLAND 21237
410-484-3611
- DEVELOPER: SAME AS OWNER
- TAX ACCOUNT NO.: 1519640890
- DEED REFERENCES: 22284/509
- PLAT REFERENCES: NONE
- CURRENT ZONING: DR 5.5
- CENSUS TRACT: 4513.00
- WATERSHED: 1
- SUBWERSHED: 4
- ELECTION DISTRICT: 15TH
- COUNCILMANIC DISTRICT: 6TH
- SCHOOL DISTRICT: VICTORY VILLA ES
- DENSITY CALCULATIONS:
UNITS ALLOWED: 1.27 AC x 5.5 = 6
UNITS PROPOSED = 5
- PLANNING DISTRICT: 327
- ZONING MAP: 090B1
- PARKING: REQUIRED 5 x 2 = 10 SPACES
PROVIDED = 10 SPACES
- PROPOSED AVERAGE DAILY TRIPS: 5 x 10 = 50
- AREA CALCULATIONS:
GROSS AREA: 1.1393 AC.
NET AREA: 1.1393 AC.
HIGHWAY WIDENING: —0—
- LIMIT OF DISTURBANCE: 70,500 ± SF
- NO PRIOR ZONING CASE HISTORY
- TAX MAP: 90 GRID: 4 PARCEL: 256



VICINITY MAP
SCALE: 1" = 1000'

DR 5.5

850 MIDDLE RIVER ROAD
HODGES
4336/183
TAX ID: 1508650601

SPECIAL VARIANCE REQUEST:

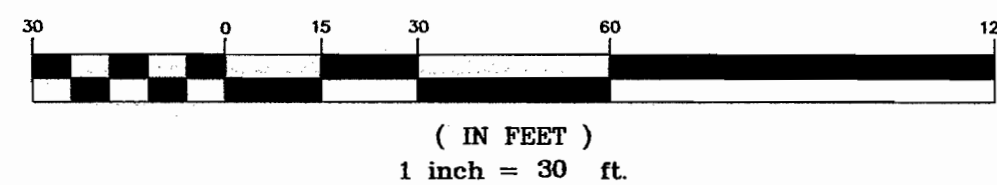
- 4A02.4 to permit the proposed nonindustrial development where it has been determined that the capacity of the public facilities necessary to accommodate some is less than necessary, pursuant to Section 4A02.4.G; and
 - For such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.
- PURSUANT TO:
- That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development, or that the standard is not relevant to the development proposal;
 - That the granting of the petition will not adversely affect a person whose application was filed prior to the petitioner's application in accordance with Section 4A02.3.G.2.b; and
 - For such other reasons as will be offered at the public hearing for this matter.

LINE TABLE		
LINE	LENGTH	BEARING
L1	8.00	N54°13'19"W
L2	2.17	S52°06'42"W
L3	4.00	N54°13'19"W

PETITIONER'S

EXHIBIT NO. 1

GRAPHIC SCALE



Plan to Accompany a Petition
for a Special Variance
of
STILL MEADOWS
BALTIMORE COUNTY
MARYLAND

PDM# 15-892

DRAWN BY: KJW

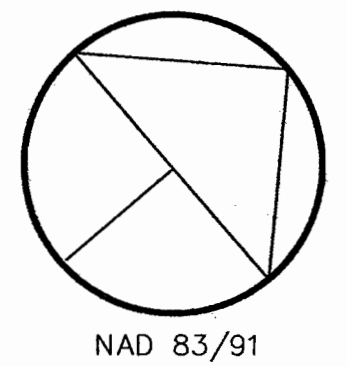
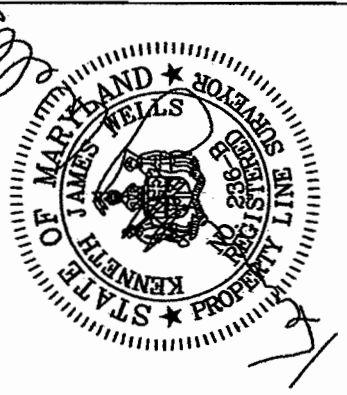
CHECKED BY: KJW

DATE: 12/12/2007

PROJECT NO.:

2005-032

SHEET 1 OF 1



REVISIONS:	
NO.	DATE
1	2/18/2008

KJ Wells Inc
7403 NEW CUT ROAD
KINGSDALE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning