

**IN RE: PETITION FOR VARIANCE**

E side of Middle River Road, 215 feet  
S of Bird River Road  
15<sup>th</sup> Election District  
6<sup>th</sup> Councilmanic District  
**(836 Middle River Road)**

834 Middle River Road LLC;  
Andrew Johns, Managing Member  
Legal Property Owner

\* BEFORE THE  
\* DEPUTY ZONING  
\* COMMISSIONER  
\* FOR BALTIMORE COUNTY  
\*  
\* **Case No. 08-400-A**

\* \* \* \* \*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by Andrew Johns, Managing Member of 834 Middle River Road LLC, the legal property owner. Petitioner is requesting variance relief from Section 229.6.D of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a parking lot with a setback of one foot in lieu of the required 20 feet. 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 variance request was Petitioner Andrew Johns on behalf of 834 Middle River Road LLC, and Patrick C. Richardson, Jr., with Richardson Engineering LLC, the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is rectangular in shape and contains 2.505 acres, more or less, and zoned B.L.R. and D.R.5.5. The property is improved with an 88 foot wide by 40 foot deep one-story retail building currently under construction that will contain 3,520 square feet when completed. The property is located on the west side of Middle River Road, opposite the intersection of Bird River Road and southeast of Pulaski Highway in the Middle River area of Baltimore County. An aerial photograph of the property that was marked

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m

and accepted into evidence as Petitioner's Exhibit 2 shows the long and narrow shape of the property, as well as a stream that essentially splits the property down the middle.

Petitioner purchased the property in 2004 and at that time, the property was improved with a dwelling and was zoned D.R.5.5. During the previous Comprehensive Zoning Map Process (CZMP), the front half of the property facing Middle River Road was changed to B.L.R. The dwelling was razed and Petitioner then began construction of the aforementioned building. Marked and accepted into evidence as Petitioner's Exhibit 3 are photographs showing the condition of the stream in 2004. As shown then, the stream was littered with debris and showed signs of erosion and was generally very unkempt and used by passersby as a dumping ground. According to Mr. Johns, since Petitioner's purchase of the property, the stream has been restored, a headwall has been rebuilt (as shown on the site plan) and a storm drain pipe has been extended, all at Petitioner's expense.

Because of the split zoning of the property and the environmental constraints on the property, which include a 75 foot stream buffer toward the rear of the property, the existing stream culvert and headwall, an existing storm drain and utility easement and a utility and storm water management easement, combined with the narrowness of the property, in order to develop the property, it was necessary for Petitioner to locate the building more toward the front of the property near Middle River Road.

The property has a prior zoning history which is relevant to the instant matter. In a prior zoning case, Petitioner sought variance relief from side yard and front yard setback requirements, as well as from parking setback requirements. In Case No. 05-257-A, Zoning Commissioner William J. Wiseman, III granted the variance relief pursuant to his Order dated February, 2005. A copy of the Order and site plan from that case were marked and accepted into evidence as

Petitioner's Exhibits 4 and 4A, respectively. The site plan from the previous case shows 19 parking spaces to be provided, with most of the spaces located to the rear of the property. It also shows the proposed entrance to the property more toward the center of the property line along Middle River Road.

At this juncture, as construction of the building has progressed and the location and configuration of the building and parking areas have become apparent, Petitioner realizes that the parking plan should be altered to better accommodate potential retail customers. In particular, the current site plan shows more parking located to the front of the property, as well as an additional handicapped space and adequate turnaround areas for the two proposed handicapped spaces. In fact, the crux of Petitioner's variance request in this case is to provide a larger turnaround area. In order to accomplish this, Petitioner requires a setback of one foot at the front corner of the turnaround area in lieu of 20 feet from the street right-of-way as required by Section 229.6.D of the B.C.Z.R. In addition, the entrance to the property will be moved slightly to the north in order to accommodate the additional parking in front of the property. Petitioner also submitted a copy of the Final Landscape Plan from the previous case that was approved by the County's Landscape Architect, Avery Harden, as well as the current Final Landscape Plan related to the instant matter. These plans were marked and accepted into evidence as Petitioner's Exhibits 5 and 6, respectively. The more recent landscape plan shows only very slight alterations to the previously approved plan to reflect the proposed changes in the parking configuration.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. The comments received from the Department of Environmental Protection and Resource Management dated March 25, 2008 indicate that the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains and the

Forest Conservation Regulations. There were no comments received opposing the requested relief.

Considering the testimony and evidence presented at the hearing, I am persuaded to grant the requested relief. As noted above, the site constraints associated with the property, the split zoning of the property, the narrowness of its shape, and Petitioner's desire to best accommodate potential customers to the retail building, necessitate the need for variance relief. Hence, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. These are the kind of peculiar circumstances that make the regulations impact this property disproportionately compared to others in the district. Therefore, I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The subject property is located along a commercialized corridor and was rezoned B.L.R. during the last CZMP cycle. Thus, the use proposed is appropriate and consistent with adjacent uses and the property's zoning classification, and will provide a needed benefit to the community. 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.

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

THEREFORE, IT IS ORDERED this 25<sup>th</sup> day of June, 2008 by this Deputy Zoning Commissioner, that Petitioner's variance request from Section 229.6.D of the Baltimore County

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6-25-08  
[Signature]

Zoning Regulations (B.C.Z.R.) to permit parking lot with a setback of one foot in lieu of the required 20 feet is hereby GRANTED, subject to the following.

1. Petitioner is advised that it 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 its 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. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. 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).
4. The property has a Forest Buffer and Forest Conservation Easement on site that was created through the development process. The easements must still be recorded with the Bureau of Land Acquisition.

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

ORDER RECEIVED FOR FILING  
6-25-08  
m



**BALTIMORE COUNTY**  
MARYLAND

JAMES T. SMITH, JR.  
*County Executive*

THOMAS H. BOSTWICK  
*Deputy Zoning Commissioner*

June 25, 2008

ANDREW JOHNS  
834 MIDDLE RIVER ROAD LLC  
2239 OLD EMMORTON ROAD  
BEL AIR MD 21015-6105

Re: Petition for Variance  
Case No. 08-400-A  
Property: 836 Middle River Road

Dear Mr. Johns:

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,

A handwritten signature in black ink, appearing to read "Th. H. Bostwick".

THOMAS H. BOSTWICK  
Deputy Zoning Commissioner  
for Baltimore County

THB:pz

Enclosure

c: Patrick C. Richardson, Jr., Richardson Engineering LLC, 30 East Padonia Road #500,  
Timonium MD 21093



**Flood**

# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 836 Middle River Road

which is presently zoned BLR & DR 5.5

**This Petition shall be filed with the Department of Permits and Development Management.** The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 229.6.D to permit parking lot with a setback of 1' in lieu of the required 20'

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

The property is split zoned. The irregular and narrow width of the site and the existing storm drain, stream, forest buffer, and easement make leasing of the building difficult without additional parking spaces. Other such information that may be introduced at the 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:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

## Legal Owner(s):

834 MIDDLE RIVER ROAD LLC

Name - Type or Print

Signature

Andrew Johns, Managing Member

Name - Type or Print

Signature

#2239 OLD EMMORTON ROAD

Address

410-977-7866

Telephone No.

BEL AIR, MARYLAND

City

State

21015-6105

Zip Code

## Representative to be Contacted:

Patrick C. Richardson, Jr.

Name

30 E. Padonia Road, Suite 500

Address

410-560-1502

Telephone No.

Timonium, Maryland

City

State

21093

Zip Code

## OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING \_\_\_\_\_

Case No. 08-400-A

REV 9/15/98

Reviewed By 6-25-08

Date 2/28/08

**ZONING DESCRIPTION  
834 MIDDLE RIVER ROAD, LLC  
836 MIDDLE RIVER ROAD  
15TH ELECTION DISTRICT  
5TH COUNCILMANIC DISTRICT  
BALTIMORE COUNTY, MARYLAND**

BEGINNING FOR THE SAME at a point in the centerline of Middle River Road approximately 215 feet south of the intersection of Bird River Road and Middle River Road, thence running and binding on the centerline of Middle River Road, (1) South 09 degrees 48 minutes 00 seconds East 125.17 feet to a point in the centerline of said road, (2) South 34 degrees 48 minutes 03 seconds West 45.39 feet, (3) South 45 degrees 30 minutes 00 seconds West 685.00 feet, (4) North 44 degrees 30 minutes 00 seconds West 172.25 feet, (5) North 49 degrees 51 minutes 00 seconds East 803.17 feet to the point of beginning;

Containing a net area of 104,828 square feet, or 2.407 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: #06-400-A

834 Middle River Road

E/side of Middle River Road, 215 feet south of Bird River Road

15th Election District - 8th Councilmanic District

Legal Owner(s): 834 Middle River Road, LLC, Andrew Johns

Variance: to permit parking lot with a setback of one foot in lieu of the required 20 feet.

Hearing: Wednesday, May 7, 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) 887-4386.

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

JT 4/821 Apr. 22

170884

## CERTIFICATE OF PUBLICATION

4/24/2008

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 4/22/2008.

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

*J. Wilkinson*

LEGAL ADVERTISING

**BALTIMORE COUNTY, MARYLAND**  
**OFFICE OF BUDGET AND FINANCE**  
**MISCELLANEOUS RECEIPT**

No. **11111**

Date: **2/28/08**

| Fund | Agcy | Orgn | Sub<br>Orgn | Rev<br>Source | Sub<br>Rev | Rept<br>Catg | BS<br>Acct | Amount |
|------|------|------|-------------|---------------|------------|--------------|------------|--------|
| 001  | 006  |      |             | 6150          |            |              |            | 325.00 |
|      |      |      |             |               |            |              |            |        |
|      |      |      |             |               |            |              |            |        |
|      |      |      |             |               |            |              |            |        |
|      |      |      |             |               |            |              |            |        |

Total: **325.00**

Rec

From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**PAID RECEIPT**

BUSINESS ACTUAL TIME BKM  
 2/28/2008 2/28/2008 09:16:31 1

REG 4501 WALKIN JRIC JHR  
 RECEIPT # 345222 2/28/2008 OPLN

Dep 5 520 ZONING VERIFICATION  
 CL NO. 011111

Receipt Tot 8325.00  
 8325.00 CK 1.00 CA  
 Baltimore County, Maryland

**CASHIER'S  
 VALIDATION**

# CERTIFICATE OF POSTING

RE: Case No.: 08-400-A

Petitioner/Developer: 834 MIDDLE

RIVER RD, LLC, ANDREW JOHNS

Date of Hearing/Closing: 5-7-08

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

ATTN: Kristea 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:

834 MIDDLE RIVER RD

The sign(s) were posted on 4-22-08  
(Month, Day, Year)

Sincerely,

Robert Black 4-28-08  
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

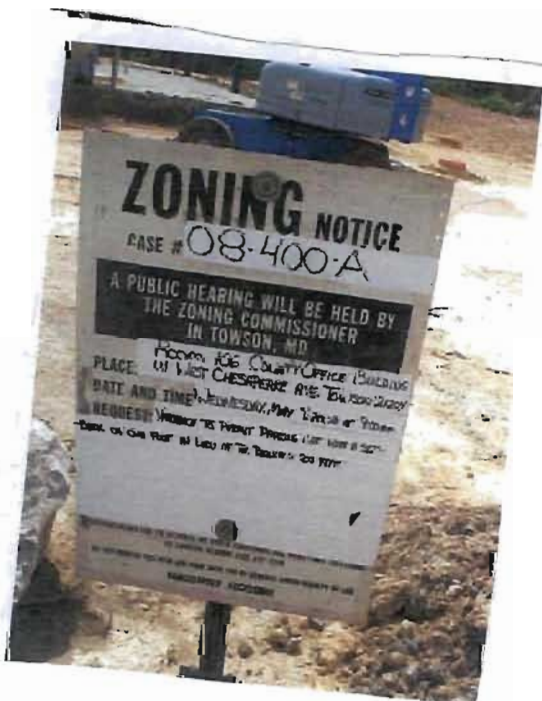
(Address)

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.**

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**For Newspaper Advertising:**

Item Number or Case Number: 08-400-A  
Petitioner: 834 MIDDLE RIVER RD, LLC ANDREW JOHNS  
Address or Location: ~~836~~ 836 MIDDLE RIVER RD

**PLEASE FORWARD ADVERTISING BILL TO:**

Name: ANDREW JOHNS  
Address: 2239 OLD EMMORTON RD  
BEL AIR MD 21015  
  
Telephone Number: 410-977-7866

Revised 2/20/98 - SCJ



**BALTIMORE COUNTY**

M A R Y L A N D

JAMES T. SMITH, JR.  
County Executive

March 17, 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: 08-400-A**

834 Middle River Road  
E/side of Middle River Road, 215 feet south of Bird River Road  
15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District  
Legal Owners: 834 Middle River Road, LLC, Andrew Johns

Variance to permit parking lot with a setback of one foot in lieu of the required 20 feet.

Hearing: Wednesday, May 7, 2008 at 9:00 a.m. in Room 106, County Office Building,  
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco  
Director

TK:klm

C: Patrick Richardson, Jr., 30 E. Padonia Road, Ste. 500, Timonium 21093  
Andrew Johns, 2239 Old Emmorton Road, Bel Air 21015-6105

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 22, 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, April 22, 2008 Issue - Jeffersonian

Please forward billing to:

Andrew Johns  
2239 Old Emmorton Road  
Bel Air, MD 21015

410-977-7866

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## NOTICE OF ZONING HEARING

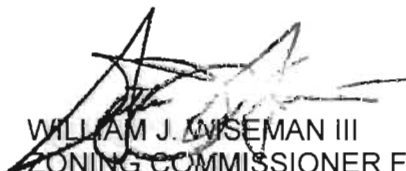
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834 Middle River Road  
E/side of Middle River Road, 215 feet south of Bird River Road  
15<sup>th</sup> Election District – 6<sup>th</sup> Councilmanic District  
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111 West Chesapeake Avenue, Towson 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*

April 30, 2008

834 Middle River Road, LLC  
Andrew Johns, Managing Member  
2239 Old Emmorton Road  
Bal Air, Maryland 21015-6105

Dear Mr. Johns:

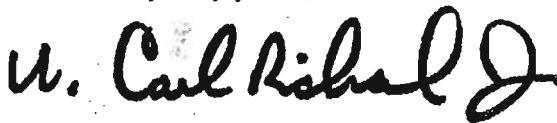
RE: Case Number: 08-400-A, 836 Middle River Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 28, 2008. 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  
Patrick C. Richardson, Jr. 30 E. Padonia Road, Suite 500 Timonium 21093



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: MARCH 10, 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. 8-400A  
836 MIDDLE RIVER RD  
MIDDLE RIVER PROPERTY  
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. 8-400A.

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<sup>1</sup> Steven D. Foster, Chief  
Engineering Access Permits  
Division

SDF/MB



**BALTIMORE COUNTY**  
M A R Y L A N D

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

March 12, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: March 10, 2008

Item Number: 400, 403, 404, 405, 406, 407, 409, 410, 411, 412, 413, 414, 415, 416 and 417

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.

1The 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

BW 5/7  
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED  
MAR 25 2008  
BY: \_\_\_\_\_

TO: Timothy M. Kotroco

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

DATE: March 25, 2008

SUBJECT: Zoning Item # 08-400-A  
Address 836 Middle River Road  
(Johns Property)

Zoning Advisory Committee Meeting of March 10, 2008

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

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

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

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:

The property has a Forest Buffer and Forest Conservation Easement on site that was created through the development process. The easements must still be recorded with land acquisition.

Reviewer: Brian Lindley

Date: 03/17/08

**BALTIMORE COUNTY, MARYLAND**

**INTEROFFICE CORRESPONDENCE**

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

**DATE:** March 13, 2008

**FROM:** <sup>DAK</sup> Dennis A. Kennedy, Supervisor  
Bureau of Development Plans Review

**SUBJECT:** Zoning Advisory Committee Meeting  
For March 17 2008  
Item Nos. 08-371, 400, 401, 402, 403, 404,  
405, 406, 408, 409, 410, 411, 412, 413, 414,  
416, and 417

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

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-03132008.doc

RE: PETITION FOR VARIANCE \* BEFORE THE  
836 Middle River Road; E/S Middle River \*  
Road, 215' S of Bird River Road \* ZONING COMMISSIONER  
15<sup>th</sup> Election & 6<sup>th</sup> Councilmanic Districts \*  
Legal Owner(s): 834 Middle River Rd, LLC \* FOR  
Petitioner(s) \*  
BALTIMORE COUNTY  
\*  
08-400-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  
Jefferson Building, Room 204  
105 West Chesapeake Avenue  
Towson, MD 21204  
(410) 887-2188

RECEIVED

MAR 11 2008

Per.....

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11<sup>th</sup> day of March, 2008, a copy of the foregoing Entry of Appearance was mailed to Patrick Richardson, Jr., 30 E. Padonia Road, Suite 500, Timonium, MD 21093, Representative for Petitioner(s).

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

CASE NAME JOHN'S PROPERTY  
CASE NUMBER 08-400  
DATE 5/7/08

[illegible]

ML-1M

DR

ML-1M

D.R. 3.5

D.R. 5.5

BL

BIRD

D.R. 3.5

BL

BLR

SITE

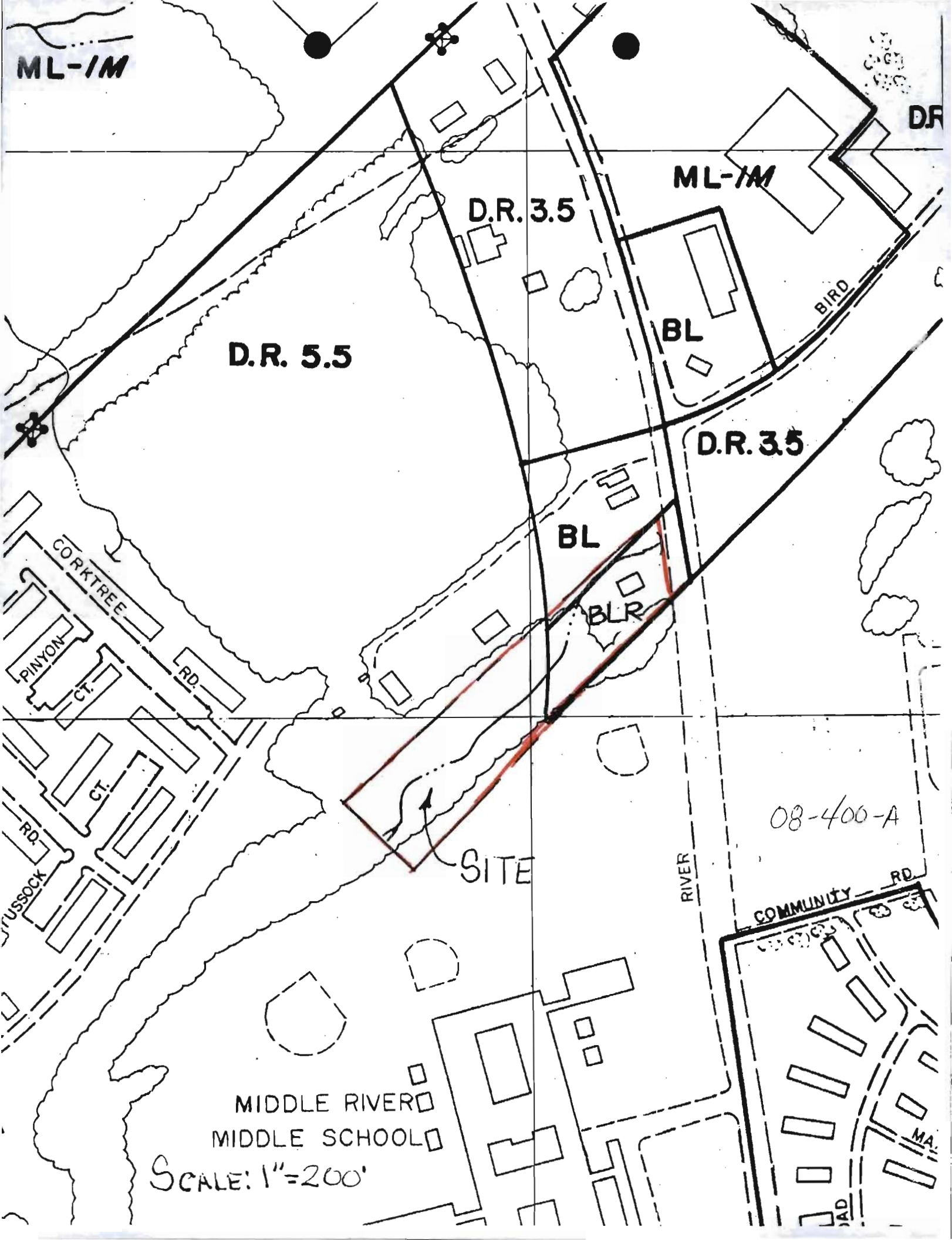
08-400-A

RIVER

COMMUNITY RD

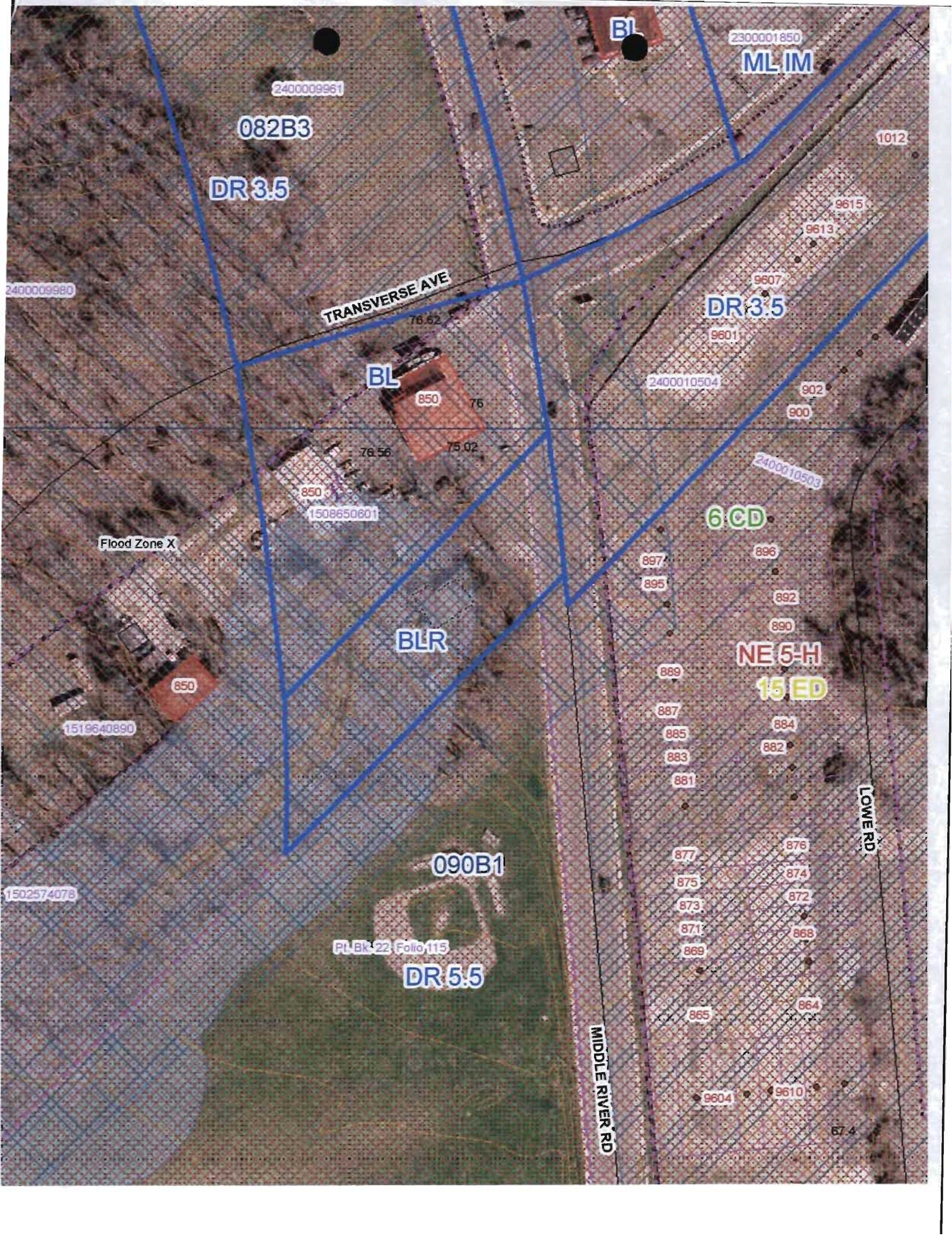
MIDDLE RIVER  
MIDDLE SCHOOL

SCALE: 1"=200'





08-400-A



2400009961

082B3

DR 3.5

2300001850

ML IM

1012

9615

9613

9607

DR 3.5

9601

2400010504

902

900

2400010503

6 CD

897

895

896

892

890

NE 5-H

15 ED

889

887

885

883

881

884

882

1519640890

850

BLR

090B1

PL BL 22 Folio 115

DR 5.5

MIDDLE RIVER RD

LOWE RD

67.4

Flood Zone X

TRANSVERSE AVE

76.62

BL

850

75

76.56

75.02

850

1508650601

2400009980

1502574078

Case No.: 08-400-A

Exhibit Sheet

Petitioner/Developer

Protestant

|        |                                                |  |
|--------|------------------------------------------------|--|
| No. 1  | Site Plan                                      |  |
| No. 2  | Aerial Photo                                   |  |
| No. 3  | 2 photos from 2004<br>showing stream condition |  |
| No. 4  | prior 2005 Case                                |  |
| No. 4A | prior 2005 site plan                           |  |
| No. 5  | prior approved landscape<br>plan               |  |
| No. 6  | current landscape plan<br>w/ minor changes     |  |
| No. 8  |                                                |  |
| No. 9  |                                                |  |
| No. 10 |                                                |  |
| No. 11 |                                                |  |
| No. 12 |                                                |  |

*previous order*

IN RE: PETITION FOR VARIANCE  
W/S Middle River Road, 125' S of the c/l  
Bird River Road  
**(836 Middle River Road)**  
15<sup>th</sup> Election District  
6<sup>th</sup> Council District  
  
834 Middle River Road, LLC  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 05-257-A  
\*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owners of the subject property, 834 Middle River Road, LLC, by and through Andrew Johns, Member. The Petitioners request a variance from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 229.6.C to permit a side yard setback of 0 feet in lieu of the required 20 feet; from Section 229.6.B to permit a front yard setback of 18 feet in lieu of the required 27.5 feet, and from Section 229.6.C to allow parking to be set back 10 feet from the ultimate right-of-way in lieu of the required 20 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Andrew Johns, Member and Principal in the 834 Middle River Road, LLC, owners of the subject property, and Patrick Richardson, Jr., the Professional Engineer who prepared the site plan for this property. There were no Protestants or other interested persons present.

Testimony and evidence presented revealed that the subject property is a rectangular shaped parcel located on the west side of Middle River Road, just south of Bird River Road in Middle River. The property contains a gross area of 2.505 acres, more or less, split zoned B.L.R. and D.R.5.5, and is presently improved with a two-story dwelling, which has been vacant for some time. The Petitioners recently purchased the property and are desirous of redeveloping same with a one-story retail building. As shown on the site plan, a 40' x 80' building containing 3,520 sq.ft. is proposed to be

PETITIONER'S  
EXHIBIT NO. 4

constructed in the B.L.R. zoned portion of the site, with accessory parking for up to 19 vehicles. Variance relief is necessitated due to the narrow width and irregular shape of the property and the site constraints associated therewith. In this regard, testimony indicated that the building could not be located further north on the property due to the existence of a 20-foot wide storm drain and utility easement which runs along the northern boundary. In addition, a stream runs along the rear, southern boundary of the property and extends into the center portion of the site. Thus, the Petitioner will extend the existing storm drain/utility easement an additional 50 feet towards the stream channel and center of the property to provide the required additional parking to the rear of the proposed building.

Zoning Advisory Committee (ZAC) comments were received from the Office of Planning. That agency recommended that the proposed structure be located a minimum of 10 feet from the southern property line so as to avoid encroachment onto the adjacent property and to allow for on-site maintenance and screening of the proposed building. Their comment also indicates that the performance standards set forth in the B.L.R. zone need be met. Other recommendations were made as to landscaping and screening of the property and design characteristics of the proposed building. In this regard, it is to be noted that the property immediately south of the subject site is owned by the Board of Education and is heavily wooded. Thus, the proposed building will be sufficiently screened from view.

ZAC comments were also received from the Department of Public Works. In this regard, that agency has requested that the Petitioner convey a public right-of-way for the drain extension and open stream along the entire site to Baltimore County and record an agreement that the County has the right to remove improvements in order to perform maintenance on its public facilities. The owner shall be responsible for the repair and replacement of all private improvements at no cost to the County.

After due consideration of the testimony and evidence presented, I am persuaded to grant the requested relief. As noted above, the site constraints associated with this property necessitate the need for variance relief. It is clear that strict compliance with the zoning regulations would result in a practical difficulty and unreasonable hardship for the Petitioners. The subject property is located along a commercialized corridor and was rezoned to B.L.R. during the last cycle. Thus, the use proposed is appropriate and consistent with adjacent uses and will provide a needed benefit to the community. No

one appeared in opposition to the request and but for the Office of Planning's objections to the 0-foot side setback, there were no adverse ZAC comments submitted by any County reviewing agency. Thus, I am persuaded that relief can be granted without detriment to the health, safety and general welfare of the surrounding locale.

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

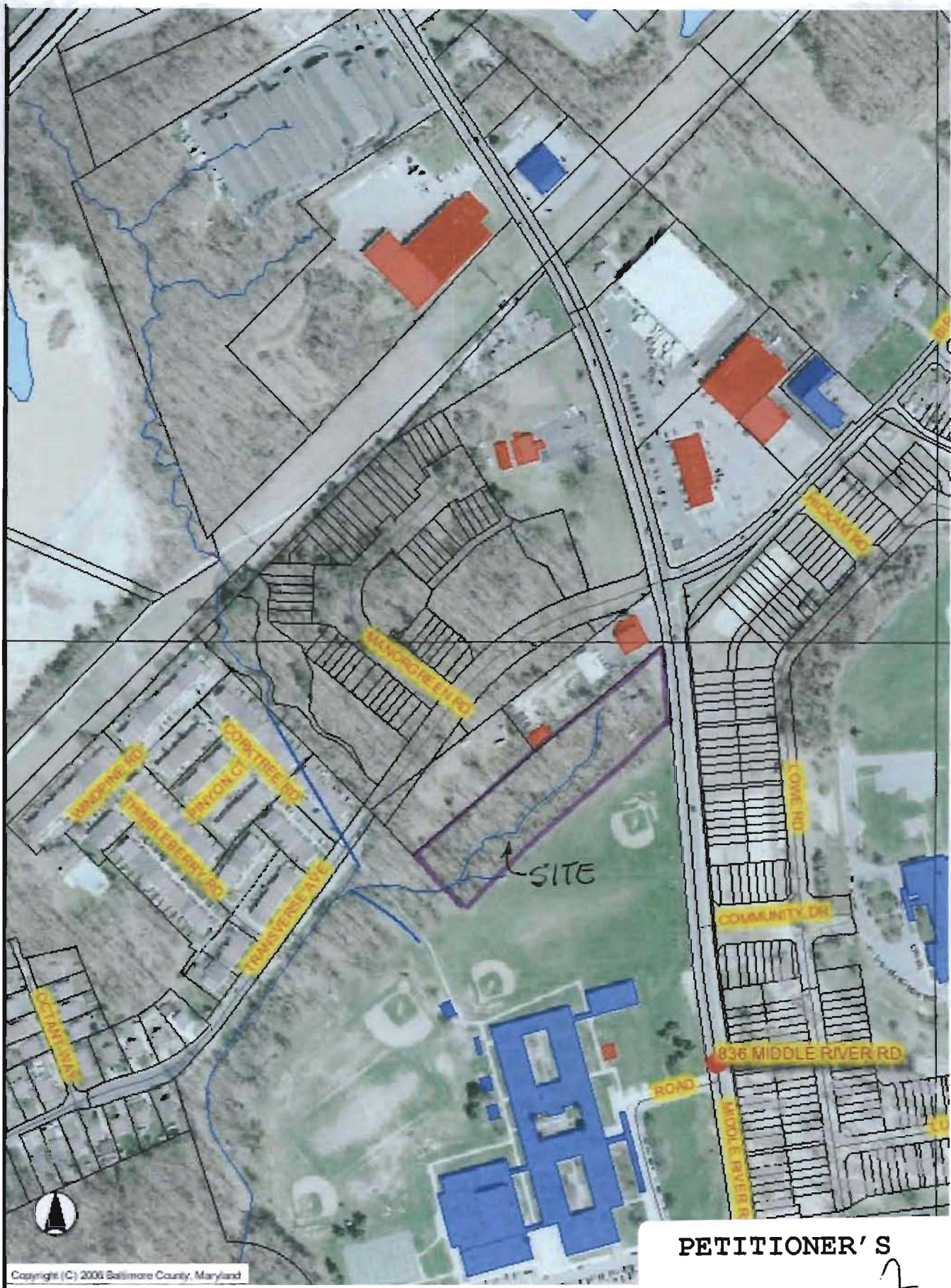
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this \_\_\_\_\_ day of February 2005 that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 229.6.C to permit a side yard setback of 0 feet in lieu of the required 20 feet; from Section 229.6.B to permit a front yard setback of 18 feet in lieu of the required 27.5 feet, and from Section 229.6.C to allow parking to be set back 10 feet from the ultimate right-of-way in lieu of the required 20 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) With the exception of Item 5, the Petitioner shall comply with all of the performance standards set forth in the ZAC comments submitted by the Office of Planning, dated January 18, 2005, a copy of which is attached hereto and made a part hereof.
- 3) Within sixty (60) days of the date hereof, the Petitioner shall record in the Land Records of Baltimore County an Agreement that the County has the right to remove private improvements that are located within public drainage and utility easement areas in order to perform maintenance on public utilities, including but not limited to, paved parking areas. The owner shall be responsible for the repair or replacement of private improvements at no cost to the County.
- 4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

WJW:bjs

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WILLIAM J. WISEMAN, III  
Zoning Commissioner  
for Baltimore County



PETITIONER' S

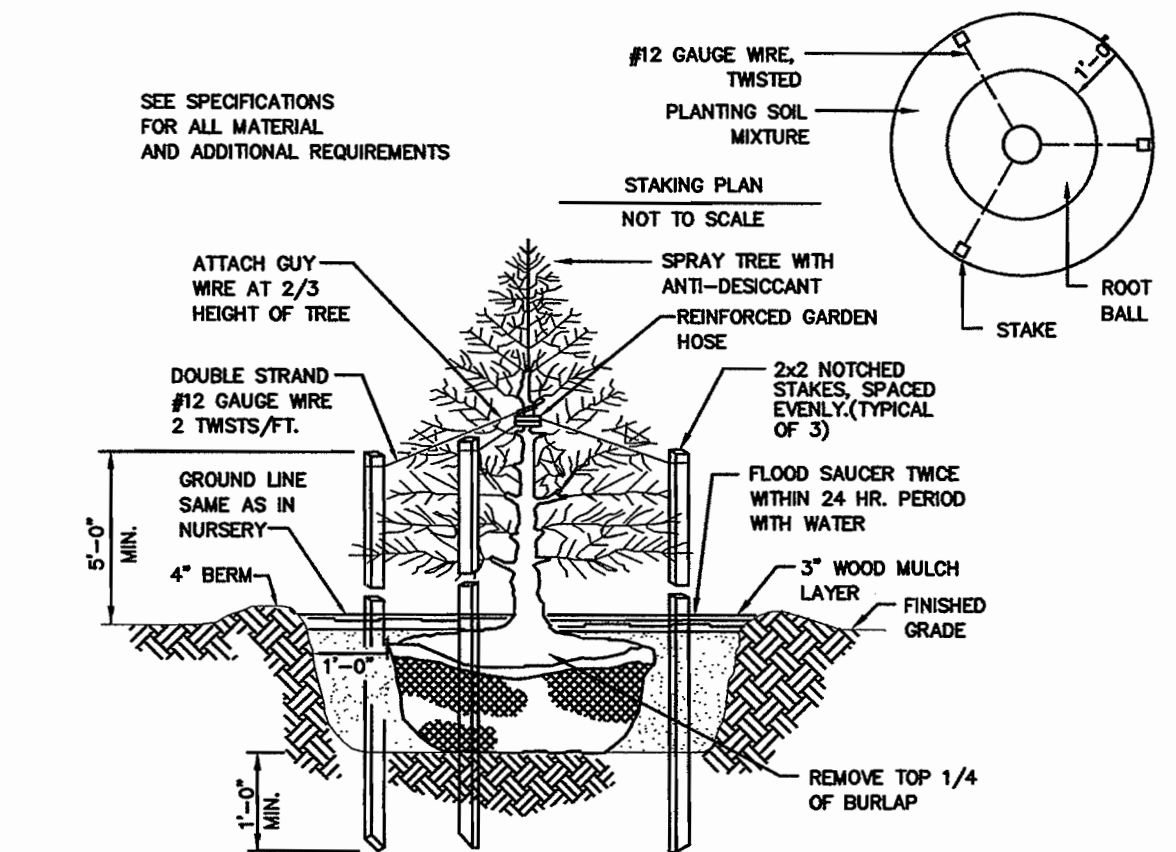
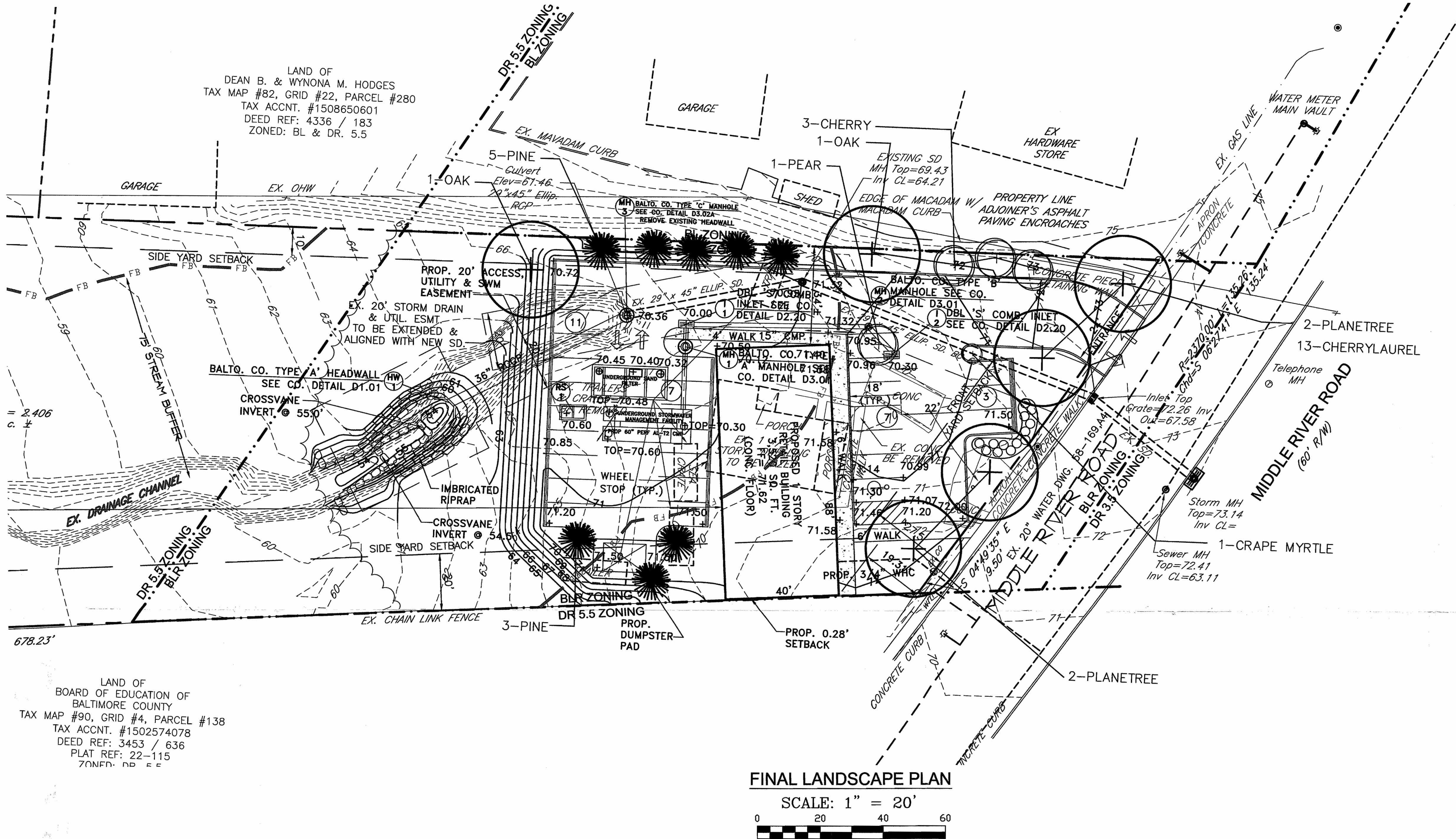
EXHIBIT NO. 2



PETITIONER' S

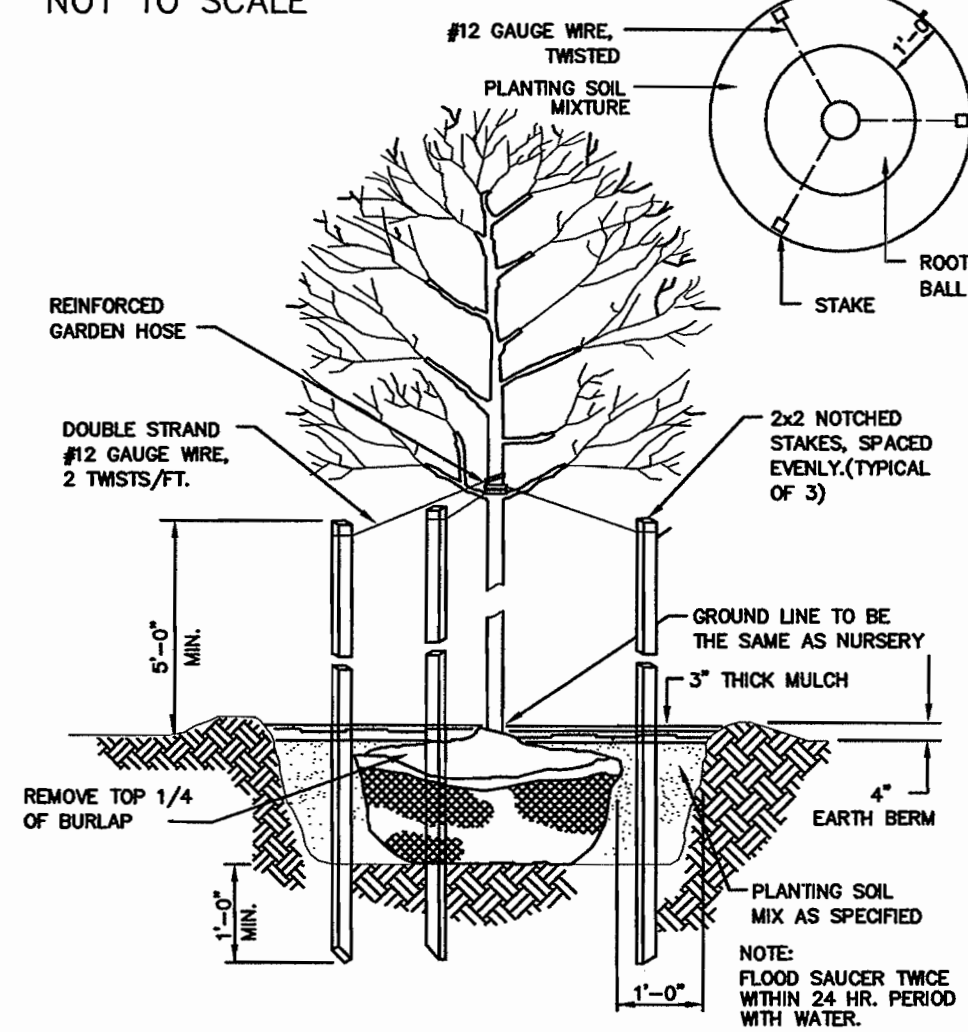
EXHIBIT NO.

3



#### EVERGREEN TREE PLANTING DETAIL

NOT TO SCALE



#### DECIDUOUS TREE PLANTING DETAIL

NOT TO SCALE

#### LANDSCAPE NOTES

- 1) ALL PLANT MATERIALS SHALL BE NURSERY GROWN AND SHALL CONFORM TO AMERICAN ASSOCIATION OF NURSERYMEN, INC. STANDARDS.
- 2) ALL PLANTING PROCEDURES AND SPECIFICATIONS SHALL CONFORM TO "LANDSCAPE SPECIFICATION GUIDELINES FOR BALTIMORE WASHINGTON METROPOLITAN AREA" LATEST EDITION.
- 3) THE CONTRACTOR SHALL CONTACT "MISS UTILITY" FOR UNDERGROUND UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO THE COMPLETION DATE.
- 4) ALL PLANTS SHALL BE GUARANTEED BY THE CONTRACTOR FOR ONE YEAR FOLLOWING THE INSTALLATION COMPLETION DATE.

| PLANT LIST |                                                    |                 |      |              |
|------------|----------------------------------------------------|-----------------|------|--------------|
| QUANTITY   | BOTANICAL NAME/COMMON NAME                         | MINIMUM SIZE    | ROOT | REMARKS      |
| 4          | PLATANUS X ACER, 'BLOODGOOD' / BLOODGOOD PLANETREE | 2 - 2 1/2" CAL. | B&B  |              |
| 2          | QUERCUS RUBRA / RED OAK                            | 2 - 2 1/2" CAL. | B&B  |              |
| 1          | LAGERSTROMIA 'NATCHEZ' / NATCHEZ Crape Myrtle      | 8'-9"           | B&B  | MULTI-STEM   |
| 1          | PRUNUS S. 'KWANZAN' / KWANZAN CHERRY               | 1 1/2 - 2" CAL. | B&B  |              |
| 1          | PYRUS C. 'REDSPICE' / REDSPIRE PEAR                | 1 1/2 - 2" CAL. | B&B  |              |
| 8          | PINUS STROBUS / EASTERN WHITE PINE                 | 5'-6"           | B&B  |              |
| 13         | PRUNUS LAUR. 'SKIP.' / SKIP CHERRYLAUREL           | 24-30"          | B&B  | IN MULCH BED |

#### LANDSCAPE TABULATION

- 1) 144 LIN. FT. OF ADJACENT ROAD / 40 = 3.6 PLANTING UNITS
- 2) 110 LIN. FT. OF INTERIOR ROAD / 20 = 5.5 PLANTING UNITS
- 3) 20 LIN. FT. PARKING ADJ. TO ROAD / 15 = 1.3 PLANTING UNITS
- 4) 45 LIN. FT. OF DUMPSTER / 15 = 3 PLANTING UNITS
- 5) 19 PARKING SPACES / 15 = 1.3 PLANTING UNITS

15 PLANTING UNITS REQUIRED  
15 PLANTING UNITS PROPOSED

#### OWNER'S SIGNATURE AND CERTIFICATION FORM

I certify that I have reviewed this Final Landscape Plan; that I am aware of the regulations presented in the Baltimore County Landscape Manual, and I agree to comply with these regulations and all applicable policy, guidelines and ordinances. I agree to certify the implementation of this approved Final Landscape Plan upon completion of the Landscape Installation not later than one (1) year from the date of approval of this plan to the Department of Permits and Development Management, Development Plans Review, County Office Building, Room 211, Towson, Md. 21204

Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_  
ANDREA JOHNS \_\_\_\_\_ 410-977-7866  
Print Owner's Name \_\_\_\_\_ Telephone # \_\_\_\_\_

2239 Old Emmorton Road, Bel Air, MD 21015  
(Print) Mailing address - city - state - zip

## Richardson Engineering, LLC

730 W. Padonia Road, Suite 101  
Cockeysville, Maryland 21030  
Phone: 410-560-1502 Fax: 410-560-0827

#### FINAL LANDSCAPE PLAN

JOHNS PROPERTY  
836 MIDDLE RIVER ROAD

15TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

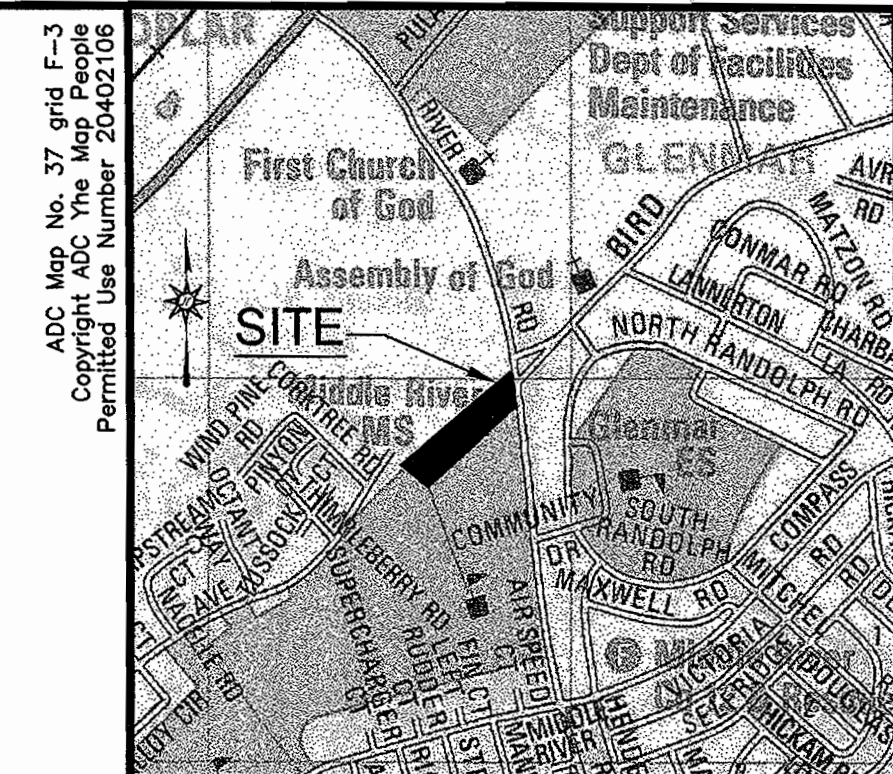
REVISIONS  
05-07-08 REVISED LAYOUT/ZONING HRG

DRAWN BY: CND  
DESIGNED BY: SDF  
SCALE: 1" = 20'

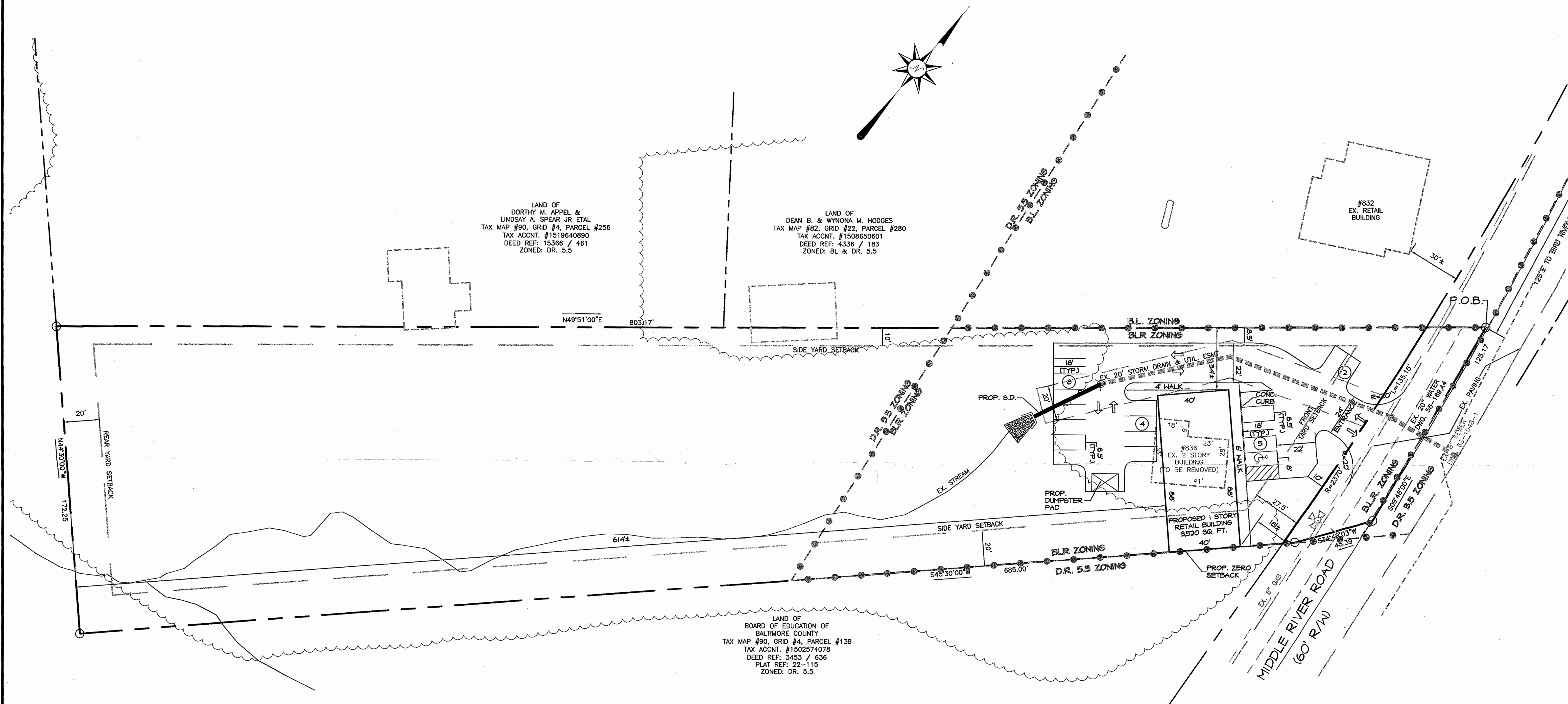
PETITIONER'S

DATE: 03091  
JOB NO.: 03091  
SHEET NO.: 7 OF 7

EXHIBIT NO. 6



LOCATION MAP  
SCALE: 1" = 1000'



#### GENERAL NOTES

1. OWNER: 834 MIDDLE RIVER ROAD LLC, 834 MIDDLE RIVER ROAD, BEL AIR, MARYLAND 21015-6105
2. SITE AREA: GROSS: 109,099 Sq.Ft. or 2.505 Ac.±; NET: 104,828 Sq.Ft. or 2.407 Ac.±
3. TAX ACCOUNT #1502200230
4. TAX MAP #90, GRID #4, PARCEL #1121
5. DEED REF: 18868 / 325
6. PRESENT ZONING: BLR
7. CENSUS TRACT: 4513
8. REGIONAL PLANNING DISTRICT: 327
9. COUNTY COUNCIL DISTRICT: 6
10. PREVIOUS COMMERCIAL PERMIT: N/A
11. PREVIOUS ZONING HEARINGS: N/A
12. EXISTING USE: VACANT HOUSE
13. PROPOSED USE: RETAIL
14. FLOOR AREA RATIO: .06 (MAX PERMITTED 0.33)
15. OPEN SPACE: N/A
16. PARKING: 5 SPACES PER 1000 Sq.Ft. OF FLOOR AREA; REQUIRED: 18 SPACES; PROVIDED: 19 SPACES.
17. BUILDING AREAS: EXISTING: 1343 Sq.Ft.; PROPOSED: 3,520 Sq.Ft. (HEIGHT 18')
18. SETBACKS: FRONT: 25' (AVERAGE: 30+25 2=27.5'); SIDE: 20' FROM RES. or 10' FROM NON RES.; REAR: 20'
19. UTILITIES: PUBLIC WATER & SEWER
20. NO 100 YEAR FLOODPLAIN ON SITE
21. WATERSHED: MIDDLE RIVER
22. 1"=200' SCALE ZONING MAP: NE 5-H
23. VARIANCE REQUESTED PER SECTION 229.6.C. FOR A SIDE YARD SETBACK OF 0' IN LIEU OF THE REQUIRED 20'.
24. VARIANCE REQUESTED PER SECTION 229.6.B. FOR A FRONT YARD SETBACK OF 18' IN LIEU OF THE REQUIRED 27.5'.
25. VARIANCE REQUESTED PER SECTION 229.6.D. FOR PARKING LOT AREAS TO BE 10' FROM THE ULTIMATE RIGHT-OF-WAY IN LIEU OF THE REQUIRED 20'.

## Richardson Engineering, LLC

730 W. Padonia Road, Suite 101  
Cockeysville, Maryland 21030  
Phone: 410-560-1502 Fax: 410-560-0827

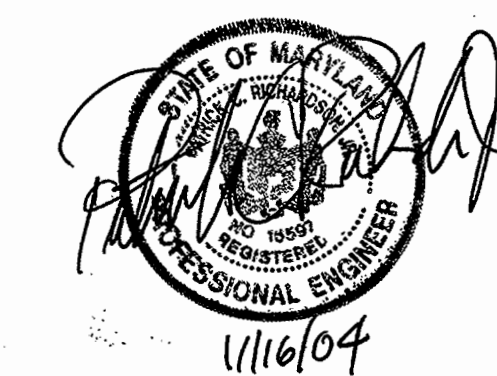
PLAN TO ACCOMPANY PETITION FOR  
ZONING VARIANCE

JOHNS PROPERTY  
836 MIDDLE RIVER ROAD

15TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

| REVISIONS      | DRAWN BY: | DESIGNED BY: | SCALE:     |
|----------------|-----------|--------------|------------|
| PETITIONER'S   | CND       | PCR          | 1" = 30'   |
| EXHIBIT NO. 4A | DATE:     | JOB NO.:     | SHEET NO.: |
|                | 10/12/04  | 03091        | 1 OF 1     |





LOCATION MAP  
SCALE: 1" = 1000'

#### GENERAL NOTES

- OWNER: 834 MIDDLE RIVER ROAD LLC  
#2239 OLD EMMORTON ROAD  
BEL AIR, MARYLAND 21015-6105
- SITE AREA:  
GROSS: 109,099 Sq.Ft. or 2,505 Ac.±  
NET: 104,828 Sq.Ft. or 2,407 Ac.±
- TAX ACCOUNT #1502200230
- TAX MAP #90, GRID #4, PARCEL #1121
- DEED REF: 18868 / 325
- PRESENT ZONING: BLR
- CENSUS TRACT: 4513
- REGIONAL PLANNING DISTRICT: 327
- COUNTY COUNCIL DISTRICT: 6
- PREVIOUS DRC: #0403060 FOR LIMITED EXEMPTION UNDER SECTION 32-4-106(a)(1)(vi) GRANTED ON 04-03-06.
- PREVIOUS ZONING HEARINGS:  
#05-257-A: VARIANCE REQUESTED PER SECTION 229.6.C. FOR A SIDE YARD SETBACK OF 0' IN LIEU OF THE REQUIRED 20', VARIANCE REQUESTED PER SECTION 229.6.B. FOR A FRONT YARD SETBACK OF 18' IN LIEU OF THE REQUIRED 27.5' & VARIANCE REQUESTED PER SECTION 229.6.D. FOR PARKING LOT AREAS TO BE 10' FROM THE ULTIMATE RIGHT-OF-WAY IN LIEU OF THE REQUIRED 20'; GRANTED ON 02-04-05.
- EXISTING USE: VACANT HOUSE
- PROPOSED USE: RETAIL
- FLOOR AREA RATIO: .06 (MAX PERMITTED 0.33)
- OPEN SPACE: N/A
- PARKING: 5 SPACES PER 1000 Sq.Ft. OF FLOOR AREA.  
REQUIRED: 18 SPACES.  
PROVIDED: 22 SPACES.
- BUILDING AREAS:  
EXISTING: 1,343 Sq.Ft.  
PROPOSED: 3,520 Sq.Ft. (HEIGHT 18')
- SETBACKS:  
FRONT: 25' (AVERAGE: 30+25+2=27.5')  
SIDE: 20' FROM RES. or 10' FROM NON RES.  
REAR: 20'
- UTILITIES: PUBLIC WATER & SEWER.
- NO 100 YEAR FLOODPLAIN ON SITE.
- WATERSHED: MIDDLE RIVER
- 1"=200' SCALE ZONING MAP: NE 5-H
- VARIANCE REQUESTED PER SECTION 229.6.D. FOR PARKING LOT AREAS TO BE 1.0' FROM THE ULTIMATE RIGHT-OF-WAY IN LIEU OF THE REQUIRED 20'. (PREVIOUSLY APPROVED AS 10')

PROFESSIONAL CERTIFICATION:  
I HEREBY CERTIFY THAT THESE DOCUMENTS  
WERE PREPARED OR APPROVED BY ME, AND  
THAT I AM A DULY LICENSED PROFESSIONAL  
ENGINEER UNDER THE LAWS OF THE STATE  
OF MARYLAND, LICENSE NUMBER 16597,  
EXPIRATION DATE: 08-01-2009



## Richardson Engineering, LLC

30 East Padonia Road, Suite 500  
Timonium, Maryland 21093  
Phone: 410-560-1502 Fax: 443-901-1208

PLAN TO ACCOMPANY  
ZONING PETITION FOR THE

JOHNS PROPERTY  
836 MIDDLE RIVER ROAD

15TH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

REVISIONS  
PETITIONER'S  
EXHIBIT NO. 1

DRAWN BY: CND  
DESIGNED BY: PCR  
SCALE: AS SHOWN  
DATE: 02-15-08  
JOB NO.: 03091  
SHEET NO.: 1 OF 1

