

IN RE: PETITION FOR SPECIAL HEARING *

E/S York Road, 2,745' S c/line of

Old York Road *

(21015 York Road) *

7th Election District *

3rd Council District *

83 At York, LLC

Petitioner *

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2008-0537-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by Randolph H. Shelley, managing member of 83 At York, LLC, through his attorney, Howard L. Alderman, Jr., Esquire. As filed, the Petitioner requests a special hearing pursuant to Sections 500.7, 1A04.3B.1.b and 1A04.3B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a set back for a proposed dwelling to be as close as 75 feet to the centerline of York Road that is also a scenic route in lieu of the required 150 feet.¹ The subject property and requested relief are more particularly described on the modified redlined site plan, which was submitted into evidence as Petitioner's Exhibit 3.

Appearing at the public hearing in support of the request were Randy Shelley and Howard L. Alderman, Jr., on behalf of the owner of the subject property, and James Grammer with McKee & Associates, Inc., the land planning and engineering firm that prepared the site plan(s) for the improvement of the subject property with a single-family, detached dwelling. Appearing as interested citizens were Manuel "Jake" Rivera and Tammy L. Rivera (21010 York Road), Louis

¹ At the onset of the hearing, and at the request of property owners on the opposite side of York Road, the site plan was modified shifting the proposed dwelling's building envelope further south away from a historic house (listed as No. 195 on the Final Landmarks List). This required the Petition being amended to reflect a 60-foot setback from the centerline of the collector road.

By _____
Date 10-3-08
203
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M. Levy and Rebecca G. Levy (21000 York Road), and Paul Miller (21006A York Road). These individuals identified themselves as interested citizens rather than Protestants, who reside nearby. These individuals were represented by J. Neil Lanzi, Esquire and engaged the services of Bruce Doak with Gerhold, Cross and Etzel, Ltd. as their consultant.

Testimony and evidence indicated that the subject property is located on the east side of York Road (Md. Rte. 45), south of Old York Road and just west of I-83 in Parkton. The property is presently vacant farmland and unimproved and is 1.942 acres in size, presently zoned R.C.5 and will be served by private water and septic systems. The property has been held in tact since at least 1938. The adjacent property along the eastern boundary is wetlands and vacant woods owned by Clair and Jean Burrs (a narrow triangular shaped parcel) next to the lands of Richard and Vickie Gribble further to the east. Across York Road on the western side are the properties of the Levy, Rivera and Miller families. The uncontradicted evidence presented disclosed the subject property has been a single lot of record since October 15, 1938 and the Petitioner does not own any adjoining land that could be combined with the subject property and that the subject property is not in any recorded subdivision. Therefore, I find that this lot of record, prior to September 2, 2003, meets the statutory requirements of B.C.Z.R. Section 1A04.3B.1.b(1) for consideration of the minimum acreage requirement and *the setback requirements of Paragraph 2 . . .* for proceeding by way of this Petition for Special Hearing.

The evidence presented was that the subject property as shown on the site plan is an irregular trapezoidal shaped lot with 558 feet of frontage on York Road, 577 feet along the east or rear boundary and measures some 246 feet wide on its north side and only 115 feet across the southern boundary. Compared to most other properties in the immediate area, this property has a very shallow depth. In order to maintain the required separation between the forest buffer, private well and private

By _____
Date 10-13-08
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septic reserve areas for the dwelling to be constructed, the available building envelope is severely reduced. Given these constraints, the location of the proposed dwelling has been moved as far back from the roadway as possible, resulting in a setback of approximately 65 feet from the centerline of York Road. The evidence proffered was clear that no additional area is available to move the proposed dwelling further from the centerline of the roadway. (See Petitioner's Exhibit 3 detailing site constraints). This lot existed in 1938, well prior to zoning regulations, the current R.C.5 classification and prior to York Road being designated a scenic route in the Baltimore County Master Plan.

Mr. Lanzi, on behalf of his clients, briefly stated what concerns they had about the subject property's development. He stated that the Petitioner has worked with neighbors and entered into negotiations to resolve their differences and, as a result, reduced to writing a Zoning/Development Agreement (Petitioner's Exhibit 5). The Agreement calls for, in brief, a landscape plan, moving the proposed home further south on the property and a right to approve building elevations, design and exterior materials, etc. as more particularly shown and described in Petitioner's Exhibit 5.

Counsel next reviewed the comments submitted by the Zoning Advisory Committee (ZAC). The Department of Environmental Protection and Resource Management (DEPRM) supports the setback relief requested. The Office of Planning is required, pursuant to B.C.Z.R., Section 1A04.4, to ensure that the Residential Performance Standards of the R.C.5 zone are met. Accordingly, the recommendation of the Office of Planning, in its ZAC comment of June 10, 2008, will require the Petitioner to demonstrate, prior to building permit, that the proposed dwelling meets those Performance Standards and accordingly this will be adopted as a condition of relief granted by this Order.

By _____
Date 10-3-08
103

Based on the testimony and evidence produced by the Petitioner and the agreements and provisions negotiated with affected neighbors, I am persuaded that the relief requested should be granted. The Petitioner is proposing a single home on a lot that was in existence prior to September 2, 2003. The Petitioner has abided by all environmental requirements in seeking approval for the development of the subject property. The testimony and evidence presented is clear that the granting of the requested relief will not result in detriment to the health, safety, or general welfare of the community, or otherwise affect public facilities, services or schools. Finally, the County Council, in expressly authorizing this type of relief for pre-existing lots, determines such relief to be consistent with the spirit and intent of the B.C.Z.R. where the statutory conditions are met.

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

THEREFORE, IT IS ORDERED, by the Zoning Commissioner for Baltimore County, this 3rd day of October 2008, that the Petition for Special Hearing to approve a 60 foot setback from the centerline of a collector road that is also designated a scenic route, for a principal dwelling in lieu of the required 150 feet, required by Baltimore County Zoning Regulations (B.C.Z.R.), Section 1A04.3B.2.b, in accordance with the modified redlined site plan marked as Petitioner's Exhibit 3, shall be and is hereby GRANTED, subject to the following restrictions to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Prior to issuance of a building permit for the dwelling to be constructed, the Petitioner must demonstrate to the Office of Planning, satisfaction of the appropriate provisions of the R.C.5 Residential Performance Standards.

RECEIVED FOR PLANNING
Date 10-3-08
By [signature]

3. The Zoning/Development Agreement, entered into and executed on October 1, 2008 as Petitioner's Exhibit 5 by and between Randolph H. Shelley; 83 At York, LLC, a Maryland Limited Liability Company; Manuel J. Rivera, Tammy L. Rivera, and signed by neighbors and owners of 21000 and 21006A York Road shall be attached to the original Order kept in the Office of Zoning Review, Department of Permits and Development Management, and adopted and incorporated by reference into this Order and made a part thereof.
4. When applying for a building permit, the site plan filed must reference this case and set forth and address the conditions and restrictions of this Order.

Any appeal of this decision must be made within thirty (30) days hereof.



WILLIAM J. WISEMAN III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 10-3-08
By [Signature]

ZONING/DEVELOPMENT AGREEMENT

THIS ZONING/DEVELOPMENT AGREEMENT (this "Agreement") made this 1st day of October, 2008 by and among, **RANDOLPH H. SHELLEY** (referred to hereafter as "Shelley" or Purchaser"); **83 AT YORK, LLC**, a Maryland limited liability company ("Owner"); **MANUEL J. RIVERA** and **TAMMY L. RIVERA** (collectively, the "Riveras") and all of those neighbors who have signed (if any) on Exhibit D [attached hereto and incorporated herein] (collectively, the "Neighbors") (the Riveras and the Neighbors are referred to collectively herein as the "Citizens").

RECITALS:

WHEREAS, the Owner, pursuant to a deed dated June 5, 2008, from Richard A. Gribble and Vicki L. Gribble, recorded among the Land Records of Baltimore County in Liber 27082, folio 165, is the fee simple owner of several properties described therein (the "Owner's properties"), including without limitation the property identified as 21015 York Road, having a property tax account number of 07-03-000528 ("Zoning Parcel"); and

WHEREAS, Shelley is the contract purchaser of the Zoning Parcel and has, together with the Owner, filed a Baltimore County Zoning Petition for Special Hearing, docketed as Case No. 2008-0537-SPH (the "Zoning Case"), seeking relief from applicable zoning setbacks so that the Zoning Parcel can be improved with a single-family, detached dwelling (the "Zoning Relief"); and

WHEREAS, in addition to the lots that exist and comprise the Owner's properties on the date of this Agreement, Shelley and the Owner will be processing for development approval two (2) additional lots to be created within certain of the Owner's properties, identified, shown and labeled as Parcel A and Parcel C on that certain drawing entitled "Sketch Plan Catterson/Gribble Properties" attached hereto and incorporated herein as Exhibit C; and

WHEREAS, the Citizens have contacted Shelley's representatives requesting certain modifications to the proposed location of the dwelling on the Zoning Parcel and the design and materials to be used for construction of the dwelling proposed on the Zoning Parcel and those to be used in the future construction of dwellings not yet under construction on the Owner's properties; and

WHEREAS, representatives of the Owner and Shelly have had an opportunity to discuss, in settlement and resolution of the concerns of the Citizens with respect to the Zoning Parcel and the development/improvement of the Owner's properties, reasonable points of agreement and conditions; and

WHEREAS, the parties hereto intend to resolve the concerns raised, through a modified plat to accompany the Petition for Special Hearing (the "modified Plat") and the zoning relief necessary to obtain approval of those modifications and through certain conditions and reviews applicable to

PETITIONER'S

EXHIBIT NO.

5

By _____
Date 10-3-08
COURT RECEIVED FOR FILING



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

October 3, 2008

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

RE: **PETITION FOR SPECIAL HEARING**
E/S York Road, 2,745' S c/line of Old York Road
(21015 York Road)
7th Election District - 3rd Council District
83 At York, LLC – Petitioner
Case No. 2008-0537-SPH

Dear Mr. Alderman:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Randy Shelley, 2601 Cotton Road, Millers, MD 21102
James Grammer, McKee & Associates, Inc., 5 Shawan Road, Suite 1, Cockeysville, MD 21030
Manuel "Jake" and Tammy L. Rivera, 21010 York Road, Parkton, MD 21120
Louis M. and Rebecca G. Levy, 21000 York Road, Parkton, MD 21120
Paul Miller, 21006A York Road, Parkton, MD 21120
J. Neil Lanzi, Esquire, 409 Washington Avenue, #617, Towson, MD 21204
Bruce Doak, Gerhold, Cross & Etzel, Ltd., 320 E. Towsontown Boulevard, #100, Towson, MD 21286
People's Counsel; DEPRM; Office of Planning; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 21015 York Road

which is presently zoned RC-5

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

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

(This box to be completed by planner)

pursuant to Sections 1A04.3.B.1.b and 1A04.3.B.2.b of the B.C.Z.R., a 75-foot setback from the centerline of York Road, in lieu of the required 150-foot minimum.

60

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

Contract Purchaser/Lessee:

Randolph H. Shelley

Name - Type or Print

Signature

2601 Cotter Road 410-329-8040

Address Telephone No.

Millers MD 21102

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

Richard A. Gribble

Name - Type or Print

Signature

Vickie L. Gribble

Name - Type or Print

Signature

21101 York Road 410-812-9860

Address Telephone No.

Parkton MD 21120

City State Zip Code

Representative to be Contacted:

James Grammer McKee & Associates, Inc.

Name

5 Shawan Rd, Ste. 1 410-527-1555

Address Telephone No.

Cockeysville MD 21030

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Case No. 2008-0537-SPH

REV 9/15/98

UNAVAILABLE FOR HEARING

By [Signature] Date 5-15-08

ORDER RECEIVED FOR FILING

Date

10-3-08

TV

McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

May 15, 2008

**ZONING DESCRIPTION
21015 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MD**

BEGINNING at a point in or near the center of York Road, said point being situated ²⁷⁴⁵2,475' southerly from the centerline Old York Road, and then leaving said road and running N 58° 02' 59 " E 246.00', S 06° 58' 43" E 576.70', S 48° 56' 17" W 115.00', N 04° 25' 15" W 124.49', N 24° 52' 01" W 434.00' to the beginning. Being all that secondly described parcel of land recorded in the Land Records of Baltimore County in Deed 25013, page 533 and containing 84,577 sf or 1.942 acres of land, more or less.

Being known as 21015 York Road and lying in the 7th Election District, 3rd Councilmanic District.

**CORRECTED 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: # 2008-0537-SPH

21015 York Road

E/side of York Road, 2,745 feet +/- south of centerline of Old York Road

7th Election District

3rd Councilmanic District

Legal Owner(s): Richard & Vickie Gribble

Contract Purchaser: Randolph Shelley

Special Hearing: pursuant to Section 1A04.3B.1b and 1A04.3.B.2.b of the BCZR, a 75 foot setback from the centerline of York Road, in lieu of the required 150 foot minimum.

Hearing: Wednesday, August 20, 2008 at 9:00 a.m. in the Jefferson Building, 2nd Floor, Hearing Room 1.105 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 8/602 Aug. 5 179907

CERTIFICATE OF PUBLICATION

8/7/, 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 8/5/, 2008.

☒ The Jeffersonian

☐ Arbutus Times

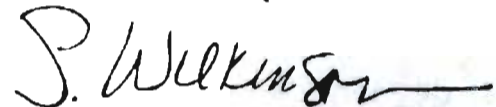
☐ Catonsville Times

☐ Towson Times

☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News



LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 15331

PAID RECEIPT

Date: 5-15-08

ISS # 02 00111111 JANA SEE
OFF # 570002 6/15/2000
5-530 200000 VERIFICATION
015331
Receipt Tot \$45.00
\$45.00 CA
Baltimore County, Maryland

Fund	Agcy	Orgn	Sub	Rev	Source	Rev	Sub	Rept	BS	Acct	Amount
001	006			6150							65.00

Total: 65.00

Rec From:

Mckee

For:

2008-0537-SPH

CASHIER'S
VALIDATION

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CERTIFICATE OF POSTING

RE: Case No: 2008-0537-SAH

Petitioner/Developer: McKEE'S
ASSOC.

Date Of Hearing/Closing: 8/20/08

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

Attention:

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
at 21015 YORK RD

This sign(s) were posted on August 1, 2008
(Month, Day, Year)

Sincerely,

Martin Ogle 8/1/08
(Signature of sign Poster and Date)

Martin Ogle

Sign Poster

16 Salix Court

Address

Balto. Md 21220

(443-629 3411)

ZONING NOTICE

CASE # 2006-0537-3PM

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

MEETING ROOM 1, 2ND FLOOR, TOWSON BUILDING 6

PLACE: 105 AL CASCAPACE AVE, TOWSON 21204

DATE AND TIME: WEDNESDAY, AUGUST 20, 2008
AT 9:00 AM

REQUEST: SPECIAL HEARING PURSUANT TO SECTION
100A.30.1.b AND 100A.30.1.b
2.b OF THE B.L.R. A 75 FOOT SETBACK FROM THE
CENTERLINE OF YORK ROAD, IN LIEU OF THE REQUIRED
150 FOOT MINIMUM

PROCEEDINGS SHALL BE HELD IN THE TOWSON BUILDING, 2ND FLOOR, MEETING ROOM 1, 2ND FLOOR, TOWSON BUILDING 6
TO CONSIDER THE ZONING CASE # 2006-0537-3PM

ALL NEW HEARING FEE WITH OUR MOST WELCOME OF \$50.00 UNDER PROPOSED LAW

HANDICAPPED ACCESSIBLE

negative 8/1/08

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: 0537

Petitioner: RICHARD A. GRIBBLE

Address or Location: 21015 YORK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: RANDOLPH H. SHELLEY

Address: 2601 COTTER ROAD

MILLERS MD 21102

Telephone Number: 410 329-8040

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 5, 2008 Issue - Jeffersonian

Please forward billing to:
Randolph Shelley
2601 Cotter Road
Millers, MD 21102

410-329-8040

CORRECTED 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: 2008-0537-SPH

21015 York Road
E/side of York Road, 2,745 feet +/- south of centerline of Old York Road
7th Election District – 3rd Councilmanic District
Legal Owners: Richard & Vickie Gribble
Contract Purchaser: Randolph Shelley

Special Hearing pursuant to Section 1A04.3B.1b and 1A04.3.B.2.b of the BCZR, a 75 foot setback from the centerline of York Road, in lieu of the required 150 foot minimum.

Hearing: Wednesday, August 20, 2008 at 9:00 a.m. in the Jefferson Building, 2nd Floor,
Hearing Room 1, 105 W. 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
MARYLAND

July 2, 2008
Timothy M. Kotroco

July 2, 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: 2008-0537-SPH

21015 York Road

E/side of York Road, 2,745 feet +/- south of centerline of Old York Road

7th Election District – 3rd Councilmanic District

Legal Owners: Richard & Vickie Gribble

Contract Purchaser: Randolph Shelley

Special Hearing pursuant to Section 1A04.3B.1b and 1A04.3.B.2.b of the BCZR, a 75 foot setback from the centerline of York Road, in lieu of the required 150 foot minimum.

Hearing: Wednesday, August 20, 2008 at 9:00 a.m. in the Jefferson Building, 2nd Floor,
Hearing Room 1, 105 W. Chesapeake Avenue, Towson 21204


Timothy Kotroco
Director

TK:klm

C: Randolph Shelley, 2601 Cotter Road, Millers 21102

Mr. & Mrs. Gribble, 21101 York Road, Parkton 21120

James Grammer, McKee & Assoc., 5 Shawan Road, Ste. 1, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, AUGUST 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, July 15, 2008 Issue - Jeffersonian

Please forward billing to:
Randolph Shelley
2601 Cotter Road
Millers, MD 21102

410-329-8040

NOTICE OF ZONING HEARING

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CASE NUMBER: 2008-0537-SPH

21015 York Road

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7th Election District – 3rd Councilmanic District

Legal Owners: Richard & Vickie Gribble

Contract Purchaser: Randolph Shelley

Special Hearing pursuant to Section 1A04.3B.1b and 1A04.3.B.2.b of the BCZR, a 75 foot setback from the centerline of York Road, in lieu of the required 150 foot minimum.

Hearing: ~~Wednesday~~, July 30, 2008 at 11:00 a.m. in the Jefferson Building, 1st Floor,
100 W. 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

June 18, 2008
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

NOTICE OF ZONING HEARING

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CASE NUMBER: 2008-0537-SPH

21015 York Road

E/side of York Road, 2,745 feet +/- south of centerline of Old York Road

7th Election District – 3rd Councilmanic District

Legal Owners: Richard & Vickie Gribble

Contract Purchaser: Randolph Shelley

Special Hearing pursuant to Section 1A04.3B.1b and 1A04.3.B.2.b of the BCZR, a 75 foot setback from the centerline of York Road, in lieu of the required 150 foot minimum.

Hearing: Wednesday, July 30, 2008 at 11:00 a.m. in the Jefferson Building, 1st Floor,
105 W. Chesapeake Avenue, Towson 21204

A handwritten signature in cursive script, reading "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Randolph Shelley, 2601 Cotter Road, Millers 21102

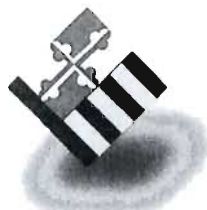
Mr. & Mrs. Gribble, 21101 York Road, Parkton 21120

James Grammer, McKee & Assoc., 5 Shawan Road, Ste. 1, Cockeysville 21030

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 15, 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.



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

August 13, 2008

Richard A. & Vickie L. Gribble
21101 York Rd.
Parkton, MD 21120

Dear: Richard A. & Vickie L. Gribble

RE: Case Number 2008-0537-SPH, 21015 York Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 15, 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:lnw

Enclosures

c: People's Counsel
Randolph H. Shelley, 2601 Cotter Rd., Millers, MD 21102
James Grammer: McKee & Associates, Inc., 5 Shawan Rd., Ste.1, Cockeysville, MD 21030

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 20 2008

BY: _____

TO: Timothy M. Kotroco

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

DATE: June 20, 2008

SUBJECT: Zoning Item # 08-537-SPH
Address 21015 York Road
(Gribble Property)

Zoning Advisory Committee Meeting of May 26, 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: Water Quality Regulations require a minimum 35 foot setback of a principal structure from a forest buffer easement. Compliance with this setback is one of the factors prompting this zoning petition.

Reviewer: Jonathan Bowman

Date: June 4, 2008

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 28, 2008

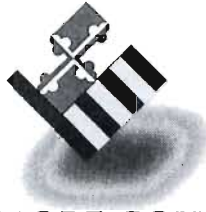
FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For June 2, 2008
Item Nos. 08-0311, 0535, 0536, 0537,
0538, 0539, and 0540

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

DAK: ~~CEN~~:lrk
cc: File

ZAC-05282008-NO COMMENTS



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

June 2, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: May 26, 2008

Item Number: 2008-0535-A, 0311-A, 0536-A, 0537-SPH, 0538-A, 0539-SPHX

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 7/30/20
9 HAM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 10, 2008

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

SUBJECT: 21015 York Road

INFORMATION:

Item Number: 8-537

Petitioner: Richard A. Gribble

Zoning: RC 5

Requested Action: Special Hearing

RECEIVED
JUN 12 2008

BY:.....

SUMMARY OF RECOMMENDATIONS:

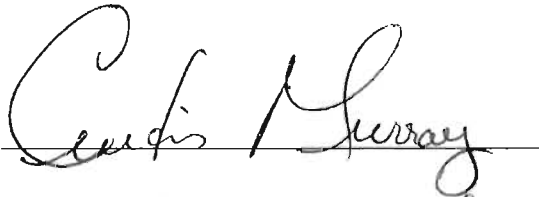
The Office of Planning does not oppose the petitioner's request. However, this office is required to provide a statement of finding to the Zoning Commissioner indicating how the proposed construction complies with the current RC 5 requirements. To prepare the statement of finding, the following information must be submitted to this office:

1. Photographs of existing adjacent dwellings and those across York Road.
2. Submit building elevations (all sides) of the proposed dwelling to this office for review and approval prior to the hearing. The proposed dwelling shall be compatible in size and architectural detail as that of the existing dwellings in the area. Ensure that the exterior of the proposed building(s) uses the same finish materials and architectural details on the front, side, and rear elevations. Use of quality material such as brick, stone, or cedar is encouraged.
3. Design all decks, balconies, windows, dormers, chimneys, and porches as a component of the building following dominant building lines. Decks shall be screened to minimize visibility from a public street.

4. Design all accessory structures at a scale appropriate to the dwelling and design garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch, and style.
5. The existing dwelling at 21010 York Road is a Final Landmarked Structure #195. Such designation shall be reflected on the site plan.
6. York Road is a Baltimore County Scenic Route. The adjacency of the final landmark and the scenic route merit special consideration. As such the Office of Planning recommends the following:
 - a. Relocate the driveway and garage to the south side of the house.
 - b. Provide enhanced landscaping along the frontage to buffer and screen views of the proposed house.
 - c. Submit a landscape plan that responds to Sections P and Q of the Baltimore County Landscape Manual.

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

Prepared By:



Division Chief:



CM/LL



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: 6/20/2008

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

RE: Baltimore County
Item No. 2008-0537-SPH
MD 45
2015 YORK ROAD
CREBBLE PROPERTY
SPECIAL HEARING

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 6/16/08. A field inspection and internal review reveals that an entrance onto MD 45 consistent with current State Highway Administration guidelines is required. As a condition of approval for 2015 YORK RD, Case Number 2008-0537 the applicant must contact the State Highway Administration to obtain an entrance permit.

Should you have any questions regarding this matter feel free to contact Michael Bailey at 410-545-5593 or 1-800-876-4742 extension 5593. Also, you may E-mail him at m Bailey@sha.state.md.us. Thank you for your attention.

Very truly yours,

for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

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



RE: PETITION FOR SPECIAL HEARING * BEFORE THE
21015 York Road; E/S of York Road, *
2,745' S c/line Old York Road * ZONING COMMISSIONER
7th Election & 3rd Councilmanic Districts *
Legal Owner(s): Richard & Vickie Gribble * FOR
Contract Purchaser(s): Randolph Shelley *
Petitioner(s) * BALTIMORE COUNTY
* 08-537-SPH

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

02
Per.....

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2008, a copy of the foregoing Entry of Appearance was mailed to James James Grammer, McKee & Associates, 5 Shawan Road, Suite 1, Cockeysville, MD 21030, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY

RE: PETITION FOR SPECIAL HEARING
21015 York Road

7th Election District
3rd Councilmanic District

Case No.: 2008-0537-SPH

Richard A. Gribble/Vicki L. Gribble,

Petitioner/Owner

Randolph Shelley,

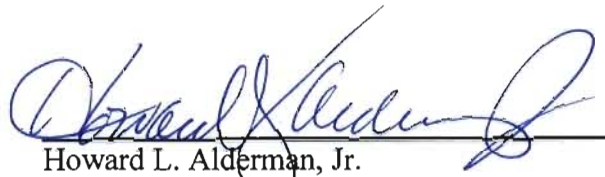
Petitioner/Contract Purchaser

ENTRY OF APPEARANCE

Madame Clerk:

Please enter the appearance of the undersigned counsel on behalf of the Petitioners in the above-captioned case and forward all further notices and other communications to me at the address listed below.

Thank you.



Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
halderman@LevinGann.com [e-mail]

Attorneys for Petitioners

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

October 1, 2008

William J. Wiseman, III, Zoning Commissioner
Baltimore County Hearing Officer
The Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
OCT 02 2008

BY:.....

RE: 21015 York Road
Case No. 2008-0537-SPH
Executed Zoning/Development Agreement

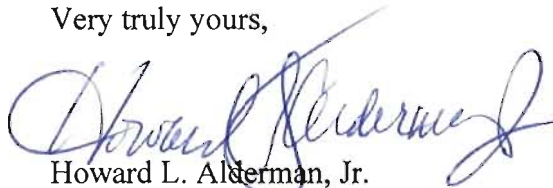
Dear Mr. Wiseman:

You will recall that at the August 20, 2008 scheduled hearing on the above-referenced case, you provided me and my clients, the Petitioners, with the opportunity to discuss with the neighbors and their legal counsel, J. Neil Lanzi, questions and concerns regarding the relief requested. As a result of those discussions, we introduced as the final Petitioners' exhibit a draft Zoning/Development Agreement that, in principle and with certain modifications, resolved the neighbors' questions and concerns. You left the record of the case open to accept a finalized agreement and, if no final agreement was reached, you intended to reconvene the hearing to provide the neighbors with the opportunity to present their case.

I am pleased to transmit to you a copy of the final and completely executed Zoning/Development Agreement and the exhibits referenced therein. Under copy of this letter, I am sending a completely executed original with all exhibits to Neil Lanzi.

On behalf of my clients I want to thank both you and Neil for the opportunity to allow reasonable individuals to meet, discuss and resolve questions, concerns and/or differences. Should you need any additional information in this regard, please contact Neil or me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk
Enclosure

c (w/encl.): Randolph H. Shelley & 83 At York, LLC [completely executed original & exhibits]
J. Neil Lanzi, Esquire [completely executed original & exhibits]

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

*To: Krista
7/7/08*
ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

June 30, 2008

VIA TELEFAX & REGULAR MAIL

Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

RE: 21015 York Road
Case No. **2008-0537-SPH**
Entry of Appearance
Request for Postponement

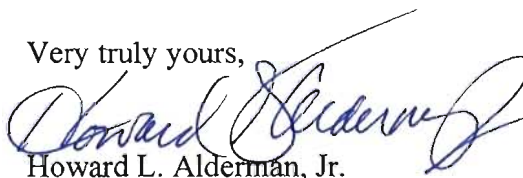
Dear Mr. Kotroco:

I have been retained by the Contract Purchaser/Co-Petitioner in the above-referenced case to represent the interests of the Petitioners before the Zoning Commissioner. Enclosed is my Entry of Appearance. Upon receiving a copy of the Notice of Zoning Hearing from McKee & Associates, Inc., I advised all Petitioners that I am out of the State during the last partial week of July and the first partial week of August on vacation.

Therefore, so that the Petitioners' interests may be represented, I am requesting that this matter be rescheduled to a date **after August 11, 2008**. As of this time the property has not been posted with the July 30th hearing date.

If Kristen would be so kind as to call me, I will coordinate the schedules of my witnesses with her available dates. Should you need additional information in support of this request, please do not hesitate to contact me.

Very truly yours,


Howard L. Alderman, Jr.

HLA/gk

c: Mr. Randolph Shelley
Mr. and Mrs. Gribble
Mr. James Grammer
Ms. Kristen Matthews

CASE NAME 20 Z1015 YORK ROAD
CASE NUMBER 2008-0537-SPH
DATE AUGUST 20, 2008

PETITIONER'S SIGN-IN SHEET

[illegible]

CASE NAME 21015 York Rd
CASE NUMBER 2008-0537-SPH
DATE 8/20/08

CITIZEN'S SIGN-IN SHEET

[illegible]



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw6.1)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 07 **Account Number -** 2500004411

Owner Information

Owner Name: 83 AT YORK LLC **Use:** RESIDENTIAL
Principal Residence: NO
Mailing Address: PO BOX 356 **Deed Reference:** 1) /27082/ 165
 MONKTON MD 21111-0356 2)

Location & Structure Information

Premises Address **Legal Description**
 21015 YORK RD 1.9317AC
 ES YORK RD
 AT BLTWY EXIT36 OLD YORK

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
7	10	307						2	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		1.93 AC	04

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2008	07/01/2007	07/01/2008
Land	87,440	142,090		
Improvements:	0	0		
Total:	87,440	142,090	0	105,656
Preferential Land:	0	0	0	0

Transfer Information

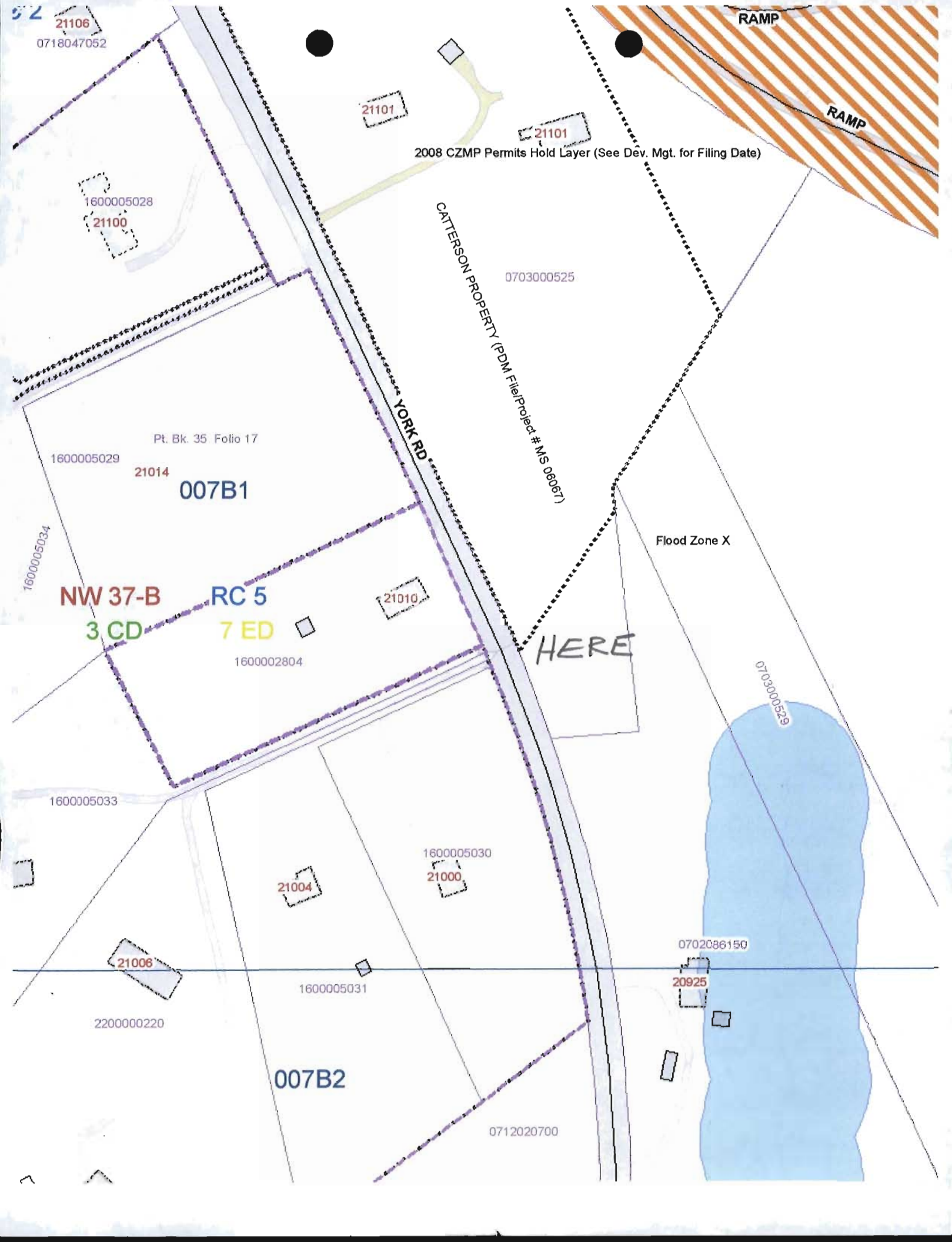
Seller: GRIBBLE RICHARD A/VICKI L	Date: 06/11/2008	Price: \$1,100,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /27082/ 165	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *



Case No.: 2008-0537-SPH

21015 York Rd.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Plan filed with Petition for Special Hwy	
No. 2	Deed History - Lot of Record since 1938	
No. 3	Red-lined - Modified PLAN	
No. 4	A thru D - Collectively Photographs	
No. 5	Draft to be Revised	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

INDIVIDUAL DEED - Coady & Farley, Attorneys-At-Law, 400 Allegheny Avenue,
Towson, MD 21204, (410) 337-0200

THIS DEED, Made this 5 day of June in the year two thousand eight, by and between RICHARD A. GRIBBLE and VICKI L. GRIBBLE, of the State of Maryland, of the first part, Grantor, and 83 AT YORK, LLC, a Maryland limited liability company, of the second part, Grantee, **WITNESSETH**: that in consideration of the sum of \$1,100,000.00, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant, convey and assign unto the said 83 AT YORK, LLC, its successors and assigns, in fee simple, all those six lots of ground situate in the 7th Election District of Baltimore County, Maryland, as more particularly described on EXHIBIT A attached hereto and incorporated herein.

TOGETHER with the buildings and improvements thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

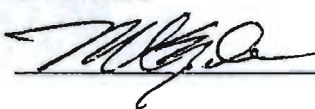
TO HAVE AND TO HOLD the said described six lots of ground and premises, unto and to the use of the said 83 AT YORK, LLC, its successors and assigns, in fee simple.

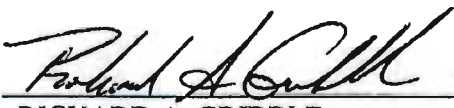
AND the said Grantor covenants to warrant specially the property hereby granted and conveyed; and to execute such further assurances of said land as may be requisite.

WHENEVER used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the hand(s) and seal(s) of said Grantor(s).

WITNESS:



 (SEAL)
RICHARD A. GRIBBLE



 (SEAL)
VICKI L. GRIBBLE

AGRICULTURAL TRANSFER TAX DUE
AMOUNT \$25270.80 DATE 6/10/08

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT: SIGNATURE HP

I HEREBY CERTIFY that on this 5 day of June, 2008, before me, the

REVIEWED SDAT
BALTIMORE COUNTY CIRCUIT COURT (Land Records) [MSA CE 62-26937] Book SM 27082, p. 0165. Printed 07/14/2008. Online
06/16/2008

BY SD DATE 6/10/08

ALL-STATE LEGAL® PETITIONER'S
EXHIBIT

2

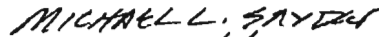
subscriber, a Notary Public of the State aforesaid, personally appeared RICHARD A. GRIBBLE and VICKI L. GRIBBLE, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, who signed the same in my presence, and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.



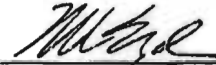
Notary Public

Notary's Seal
Here



My commission expires: 12/1/2010

This is to certify that the within instrument was prepared by or under the supervision of the undersigned; an Attorney duly admitted to practice before the Court of Appeals of Maryland.



Michael L. Snyder, Attorney

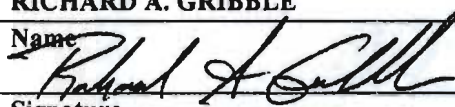
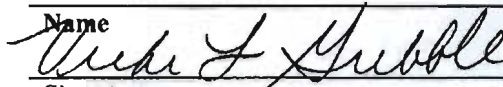
2008 MARYLAND FORM
Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate
Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor	RICHARD A. GRIBBLE and VICKI L. GRIBBLE

2. Reason for Exemption	
Resident Status	☒ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR) 0.3.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC §121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors	
Witness	 RICHARD A. GRIBBLE Name  Signature
Witness	 VICKI L. GRIBBLE Name  Signature
3b. Entity Transferors	
Witness/Agent	Name of Entity By: Name Title

Property:
six parcels, York Road

Form approved: 

Execution approved: 

Ready for record: 

Coady & Farley File No.: 37,028

Return To: COADY & FARLEY
Attorneys-at-Law
400 Allegheny Avenue
Towson, Maryland, 21204

D E E D

FROM
RICHARD A. GRIBBLE
VICKI L. GRIBBLE

TO
83 AT YORK, LLC

Block No. _____

Received for record _____
20 _____ at _____ o'clock
_____ M.
Same day recorded in Liber _____
No. _____ folio _____ &c. one of
the Land Records of _____
_____ and examined per
_____ Clerk.

0027082 170

McKEE & ASSOCIATES, INC.

Engineering • Surveying • Environmental Planning
Real Estate Development

May 15, 2008

**DESCRIPTION OF 1.6113 ACRES
LOT 3, "CATTERSON PROPERTY"
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
#21035 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a point situated on the fifth, or North 24 degrees 42 minutes 44 seconds West, 660.84-foot line, of the firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble; said point being distant South 24 degrees 42 minutes 44 seconds East, 452.11 feet from a McKee and Associates, Inc. rebar and cap at the end thereof; said point also being situated at the southwesternmost common corner of Lot 1 and Lot 3, as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", Baltimore County Minor Subdivision No. 06-067M; said point also being situated on the northeasternmost right-of-way line of York Road, Maryland Route 45, 120 feet wide, as shown and designated on the State Roads Commission of Maryland Right-of-Way Plat No. 22755; thence leaving said point of beginning, and leaving the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45, and running for a new line of division, over, across, under, and through the property of the herein Grantor, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 65 degrees 17 minutes 20 seconds East, 399.90 feet to a point situated on the seventh, or South 25 degrees 47 minutes 03 seconds East, 621.12-foot line, of the aforesaid firstly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533; said point being distant South 25 degrees 47 minutes 03 seconds East, 455.00 feet from a McKee and Associates, Inc. rebar and cap at the beginning thereof; thence leaving said point, and running with and binding on a part of the said seventh line,
- 2) South 25 degrees 47 minutes 03 seconds East, 146.05 feet to a point (erroneously shown as 166.12 feet on said Minor Subdivision Plan); said point being situated at the northeasternmost common corner of Lot 3 and Parcel "A", as shown and designated on the aforementioned Minor Subdivision Plan No. 06-067M; thence leaving said point, and running for new lines of division, over, across, under, and through the

EXHIBIT A

All those six lots or parcels of land situate in the 7th Election District of Baltimore County, Maryland, containing 1.6113 acres, 4.1193 acres, 0.2449 acres, 1.9317 acres, 5.8911 acres, and 2.0712 acres, more or less, as more particularly described as follows:

0027082 172
McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

May 15, 2008

**DESCRIPTION OF 4.1193 ACRES
LOT 1, "CATTERSON PROPERTY"
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
#21101 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a McKee and Associates, Inc. rebar and cap at the beginning of the sixth, or North 64 degrees 52 minutes 37 seconds East, 391.40-foot line, of the firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble; said rebar and cap also being located at the southwesternmost common corner of Lot 1 and Lot 2, as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", Baltimore County Minor Subdivision No. 06-067M; said rebar and cap also being distant South 24 degrees 42 minutes 44 seconds East, 271.73 feet from a concrete monument found at the end of the first, or South 45 degrees 43 minutes 20 seconds West, 407.32-foot line, which by deed dated March 21, 2007, and recorded among the aforesaid Land Records in Liber S.M. 25461, folio 47, was granted and conveyed by George Francis Wampler, by Virginia Miller Wampler, his attorney-in-fact, and Virginia Miller Wampler, his wife, to George Francis Wampler and Virginia Miller Wampler, his wife, and Anna Virginia Wampler, their daughter; said rebar and cap also being located on the northeasternmost right-of-way line of York Road, Maryland Route 45, 120 feet wide, as shown and designated on the State Roads Commission of Maryland Right-of-Way Plat No. 22755; thence leaving said rebar and cap, and leaving the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45, and running with and binding on the aforesaid sixth line, and also a part of the seventh line, respectively, of the aforesaid firstly described parcel of land of the aforementioned deed recorded in Liber S.M. 25013, folio 533, the following two (2) courses, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 64 degrees 52 minutes 37 seconds East, 391.40 feet to a McKee and Associates, Inc. rebar and cap located on the first, or South 20 degrees East, 61-9/10-perches line, which by deed dated January 19, 1921, and recorded among the aforesaid Land Records in Liber W.P.C. 531, folio 568, was granted and conveyed by Ella Hooper and Mary S. Hooper, both unmarried, to Clarence W. Hunt and Alice Hunt, his wife;

- property of the herein Grantor, and running with and binding on the common lines of Lot 3 and Parcel "A", the following three (3) courses:
- 3) South 59 degrees 31 minutes 17 seconds West, 207.35 feet to a point; thence,
 - 4) South 06 degrees 58 minutes 43 seconds East, 16.39 feet to a point; thence,
 - 5) South 58 degrees 02 minutes 59 seconds West, 192.88 feet to a point situated on the aforesaid fifth line, of the aforesaid firstly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533; said point being distant North 24 degrees 42 minutes 44 seconds West, 1.95 feet from the beginning thereof; said point also being situated at the southwesternmost common corner of Lot 3 and Parcel "A"; said point also being situated on the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45; thence leaving said point, and running with and binding on a part of the said fifth line, and also running with and binding on the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45,
 - 6) North 24 degrees 42 minutes 44 seconds West, 206.78 feet to the point of beginning.

CONTAINING 70,187 square feet, or 1.6113 acres of land, more or less.

BEING KNOWN and designated as #21035 York Road.

ALSO BEING known as "Lot 3", as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", which plan has been approved by Baltimore County, Maryland, as Baltimore County Minor Subdivision No. 06-067M.

BEING part of all that firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.

Robert P. Grim
Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 May '08
Date:

- said rebar and cap being distant South 25 degrees 47 minutes 03 seconds East, 405.40 feet from a stone found at the beginning thereof; thence leaving said rebar and cap, and running with and binding on a part of the said first line,
- 2) South 25 degrees 47 minutes 03 seconds East, 455.00 feet to a point; said point being situated at the northeasternmost common corner of Lot 1 and Lot 3, as shown and designated on the aforementioned Minor Subdivision Plan No. 06-067M; thence leaving said point, and running for a new line of division, over, across, under, and through the property of the herein Grantor,
 - 3) South 65 degrees 17 minutes 20 seconds West, 399.90 feet to a point situated on the fifth, or North 24 degrees 42 minutes 44 seconds West, 660.84-foot line, of the aforesaid firstly described parcel of land of the aforementioned deed recorded in Liber S.M. 25013, folio 533; said point being distant North 24 degrees 42 minutes 44 seconds West, 208.73 feet from the beginning thereof; said point also being situated on the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45; thence leaving said point, and running with and binding on a part of the said fifth line, and also running with and binding on the northeasternmost right-of-way line of York Road, Maryland Route 45,
 - 4) North 24 degrees 42 minutes 44 seconds West, 452.11 feet to the point of beginning.

CONTAINING 179,436 square feet, or 4.1193 acres of land, more or less.

BEING KNOWN and designated as #21101 York Road.

ALSO BEING known as "Lot 1", as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", which plan has been approved by Baltimore County, Maryland, as Baltimore County Minor Subdivision No. 06-067M.

BEING part of all that firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.

Robert P. Grim
Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 MAY '08
Date:

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McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

May 15, 2008

**DESCRIPTION OF 0.2449 ACRES
PARCEL A, "CATTERSON PROPERTY"
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a point situated on the fifth, or North 24 degrees 42 minutes 44 seconds West, 660.84-foot line, of the firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble; said point being distant North 24 degrees 42 minutes 44 seconds West, 1.95 feet from the beginning thereof; said point also being situated at the southwesternmost common corner of Lot 3 and Parcel "A", as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", Baltimore County Minor Subdivision No. 06-067M; said point also being located on the northeasternmost right-of-way line of York Road, Maryland Route 45, 120 feet wide, as shown and designated on the State Roads Commission of Maryland Right-of-Way Plat No. 22755; thence leaving said point of beginning, and leaving the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45, and running for new lines of division, over across, under, and through the property of the herein Grantor, and running with and binding on the common lines of Lot 3 and Parcel "A", the following three (3) courses, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 58 degrees 02 minutes 59 seconds East, 192.88 feet to a point; thence,
- 2) North 06 degrees 58 minutes 43 seconds West, 16.39 feet to a point; thence,
- 3) North 59 degrees 31 minutes 17 seconds East, 207.35 feet to a point situated on the seventh, or South 25 degrees 47 minutes 03 seconds East, 621.12-foot line, of the aforesaid firstly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533; said point being distant North 25 degrees 47 minutes 03 seconds West, 20.07 feet from the end thereof; thence leaving said point, and running with and binding on a part of the said seventh line,
- 4) South 25 degrees 47 minutes 03 seconds East, 20.07 feet to a point situated at the beginning of the first, or South 59 degrees 31 minutes 17 seconds West, 181.69-foot line of the aforesaid firstly described parcel of land of the aforementioned deed recorded in Liber S.M. 25013, folio 533; thence leaving said point, and running with

and binding on the aforesaid first line, and also running with and binding on the second, third, fourth, and a part of the fifth lines of the aforesaid firstly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533, the following five (5) courses:

- 5) South 59 degrees 31 minutes 17 seconds West, 181.69 feet to a point; thence,
- 6) South 06 degrees 58 minutes 43 seconds East, 26.75 feet to a point; thence,
- 7) South 58 degrees 02 minutes 59 seconds West, passing over a McKee and Associates, Inc. rebar and cap at a distance of 0.54 feet, for a total distance of 215.80 feet to a point; said point being distant North 24 degrees 42 minutes 45 seconds West, 0.24 feet from a ½-inch diameter iron pipe found; said point also being situated on the aforesaid northeasternmost right-of-way line of York Road, Maryland Route 45; thence leaving said point, and running with and binding on the northeasternmost right-of-way line of York Road, Maryland Route 45, the following two (2) courses:
- 8) North 24 degrees 43 minutes 44 seconds West, 28.29 feet to a point; thence,
- 9) North 24 degrees 42 minutes 44 seconds West, 1.95 feet to the point of beginning.

CONTAINING 10,668 square feet, or 0.2449 acres of land, more or less.

BEING KNOWN and designated as "Parcel A", as shown and designated on a plan entitled, "1st Refinement, Minor Subdivision Plan, Catterson Property", which plan has been approved by Baltimore County, Maryland, as Baltimore County Minor Subdivision No. 06-067M.

SUBJECT to a ten-foot wide Baltimore County Access Easement, running parallel with and perpendicular northwestwardly from the seventh line described herein, as shown and designated on the aforementioned Baltimore County Minor Subdivision Plan No. 06-067M.

BEING part of all that firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.

Robert P. Grim
Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 May '08
Date:

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McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

May 15, 2008

**DESCRIPTION OF 1.9317 ACRES
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
#21015 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a point situated at the beginning of the third, or North 66 degrees 20 minutes East, 246-foot line, which by deed dated October 15, 1938, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 1043, folio 355, was granted and conveyed by Ella Hooper, unmarried, to Clarence W. Hunt and Alice Hunt, his wife, said point being distant South 58 degrees 02 minutes 59 seconds West, 30.20 feet from the end of the third, or South 58 degrees 02 minutes 59 seconds West, 215.80-foot line, of the firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the aforesaid Land Records in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, said point also being situated in or near the centerline of the paving of York Road, Maryland Route 45; thence leaving said point of beginning, and leaving the aforesaid centerline of York Road, Maryland Route 45, and running with and binding on the third, fourth, fifth, first, and second lines, respectively, of the aforementioned deed recorded in Liber C.W.B., Jr. 1043, folio 355, the following five (5) courses, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 58 degrees 02 minutes 59 seconds East, passing over a McKee and Associates, Inc., rebar and cap at a distance of 245.46 feet for a total distance of 246.00 feet to a point; thence,
- 2) South 06 degrees 46 minutes 35 seconds East, 578.51 feet to the center of a 48-inches diameter tree; thence,
- 3) South 49 degrees 08 minutes 24 seconds West, 115.00 feet to a McKee and Associates, Inc. rebar and cap near the northeast side of York Road, Maryland Route 45; thence leaving said rebar and cap and running along York Road, Maryland Route 45,
- 4) North 03 degrees 25 minutes 14 seconds West, 125.99 feet to a point; thence continuing along York Road,
- 5) North 24 degrees 52 minutes 01 seconds West, 434.00 feet to the point of beginning.

CONTAINING 84,143 square feet, or 1.9317 acres of land, more or less.

BEING KNOWN and designated as #21015 York Road.

BEING all of that secondly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

ALSO BEING all of that parcel of land, which by deed dated October 15, 1938, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 1043, folio 355, was granted and conveyed by Ella Hooper, unmarried, to Clarence W. Hunt and Alice Hunt, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.

Robert P. Grim

Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 MAY '08

Date:

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McKEE & ASSOCIATES, INC.

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Real Estate Development*

May 15, 2008

**DESCRIPTION OF 5.8911 ACRES
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
#21019 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the same at a point situated at the end of the second, or South 4-1/2 degrees East, 20.5-foot line, of the fourthly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife; said point also being situated at the end of the second, or South 06 degrees 58 minutes 43 seconds East, 26.75-foot line, of the firstly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533; thence leaving said point of beginning, and running with and binding reversely on the aforesaid second line, and also running with and binding reversely on the first, sixth, fifth, fourth, and third lines, respectively, of the aforesaid fourthly described parcel of land, of the aforementioned deed recorded in Liber S.M. 25013, folio 533, the following six (6) courses, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 06 degrees 58 minutes 43 seconds West, 26.75 feet to a point; thence,
- 2) North 59 degrees 31 minutes 17 seconds East, 197.44 feet to a point; thence,
- 3) South 24 degrees 27 minutes 18 seconds East, 660.94 feet to a stone found; thence,
- 4) South 24 degrees 19 minutes 23 seconds East, 531.83 feet to a point; thence,
- 5) South 69 degrees 56 minutes 32 seconds West, 234.00 feet to a point; thence,
- 6) North 22 degrees 55 minutes 28 seconds West, 1,129.00 feet to the point of beginning.

CONTAINING 256,616 square feet, or 5.8911 acres of land, more or less.

BEING KNOWN and designated as #21019 York Road.

BEING all of that fourthly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.

Robert P. Grim

Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 May '08
Date:

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McKEE & ASSOCIATES, INC.

*Engineering • Surveying • Environmental Planning
Real Estate Development*

May 15, 2008

**DESCRIPTION OF 2.0712 ACRES
RICHARD A. GRIBBLE AND
VICKI L. GRIBBLE PROPERTY
#21025 YORK ROAD
7TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND**

BEGINNING for the FIRST at a point situated at the end of the third, or South 18 degrees 47 minutes East, 1,003.94-foot line, which by deed dated August 8, 1936, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 982, folio 276, was granted and conveyed by James P. Kelley, Lawrence E. Ensor, and John Mays Little, Trustees, to Clarence W. Hunt and Alice M. Hunt, his wife; said point also being situated at the end of the seventh, or South 25 degrees 47 minutes 03 seconds East, 621.12-foot line, of the firstly described parcel of land, which by deed dated December 15, 2006, and recorded among the aforesaid Land Records in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble; thence leaving said point of beginning, and running with and binding reversely on a part of the aforesaid third line, as now surveyed by McKee and Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 25 degrees 47 minutes 03 seconds West, passing over a McKee and Associates, Inc. rebar and cap at a distance of 621.12 feet, for a total distance of 663.90 feet to a McKee and Associates, Inc. rebar and cap located on the southwesternmost right-of-way line of Ramp "D", being an access ramp for the southbound direction of Interstate Route 83, as shown and designated on the State Roads Commission of Maryland Right-of-Way plat No. 17502; said rebar and cap being located at Ramp "D" Baseline of Right-of-Way station 5+13.83, 40.00 feet right; thence leaving said rebar and cap, and running with and binding on the aforesaid southwesternmost right-of-way line of Ramp "D", the following five (5) courses:
- 2) 248.47 feet along the arc of a curve to the left, having a radius of 808.20 feet, and being subtended by a chord bearing South 42 degrees 10 minutes 57 seconds East, 247.49 feet to a point of tangency; said point being situated at Ramp "D" Baseline of Right-of-Way station 7+50.00, 40.00 feet right; thence,
- 3) South 54 degrees 25 minutes 16 seconds East, 158.26 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 9+00.00, 46.00 feet right; thence,
- 4) South 57 degrees 02 minutes 26 seconds East, 85.21 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 9+79.05 P.R.C., 58.00 feet right; as shown and designated on the State Roads Commission of Maryland Right-of-Way plats Nos. 17502 and 17501; thence,
- 5) South 58 degrees 39 minutes 38 seconds East, 67.67 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 10+50.00, 67.00 feet right; thence,
- 6) South 57 degrees 32 minutes 51 seconds East, 155.90 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 12+16.11, 74.70 feet right; said point also being

- situated on the fourth, or North 66 degrees 44 minutes East, 466.95-foot line, of the aforementioned deed recorded in Liber C.W.B., Jr. 982, folio 276; said point being distant North 59 degrees 31 minutes 17 seconds East, 309.77 feet from the beginning thereof; thence leaving said point and leaving the aforesaid southwesternmost right-of-way line of Ramp "D", and running with and binding reversely on a part of the aforesaid fourth line,
- 7) South 59 degrees 31 minutes 17 seconds West, passing over a stone found at a distance of 127.52 feet, for a total distance of 307.77 feet to the point of beginning.

CONTAINING 85,151 square feet, or 1.9548 acres of land, more or less.

BEING KNOWN and designated as #21025 York Road.

BEING part of all that thirdly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

ALSO BEING part of all that parcel of land, which by deed dated August 8, 1936, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 982, folio 276, was granted and conveyed by James P. Kelley, Lawrence E. Ensor, and John Mays Little, Trustees, to Clarence W. Hunt and Alice M. Hunt, his wife.

BEGINNING for the SECOND at a stone found at the end of the second, or South 55 minutes West, 840.13-foot line, which by deed dated August 8, 1936, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 982, folio 276, was granted and conveyed by James P. Kelley, Lawrence E. Ensor, and John Mays Little, Trustees, to Clarence W. Hunt and Alice M. Hunt, his wife; said stone found also being located at the end of the seventh, or South 06 degrees 43 minutes 07 seconds East, 16.85-foot line, which by deed dated March 21, 2007, and recorded among the aforesaid Land Records in Liber S.M. 25461, folio 47, was granted and conveyed by George Francis Wampler, by Virginia Miller Wampler, his attorney-in-fact, and Virginia Miller Wampler, his wife, to George Francis Wampler and Virginia Miller Wampler, his wife, and Anna Virginia Wampler, their daughter; thence leaving said stone found, and running with and binding reversely on the aforesaid seventh line, as now surveyed by McKee & Associates, Inc., and referring the courses herein to the Maryland Coordinate System (NAD 83/91),

- 1) North 06 degrees 43 minutes 07 seconds West, 16.85 feet to a McKee and Associates, Inc. rebar and cap located on the southwesternmost right-of-way line of Ramp "D", being an access ramp for the southbound direction of Interstate Route 83, as shown and designated on the State Roads Commission of Maryland Right-of-Way plat No. 17502, said rebar and cap being located at Ramp "D" Baseline of Right-of-Way station 1+59.17, 72.56 feet right; thence leaving said rebar and cap, and running with and binding on the aforesaid southwesternmost right-of-way line of Ramp "D", the following three (3) courses:
- 2) South 58 degrees 57 minutes 52 seconds East, 68.07 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 2+00.00, 20.00 feet right; thence,
- 3) South 10 degrees 22 minutes 06 seconds East, 103.10 feet to a point; said point being situated at Ramp "D" Baseline of Right-of-Way station 3+00.00, 26.00 feet right; thence,
- 4) South 17 degrees 55 minutes 23 seconds East, 112.24 feet to a McKee and Associates,

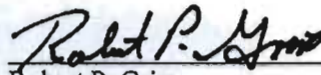
- Inc. rebar and cap, said rebar and cap being located at Ramp "D" Baseline of Right-of-Way station 4+07.98, 32.93 feet right; said rebar and cap also being located on the third, or South 18 degrees 47 minutes East, 1,003.94-foot line, of the aforementioned deed recorded in Liber C.W.B., Jr. 982, folio 276; said rebar and cap being distant South 25 degrees 47 minutes 03 seconds East, 251.61 feet from the beginning thereof; thence leaving said rebar and cap, and leaving the aforesaid southwesternmost right-of-way line of Ramp "D" and running with and binding reversely on a part of the aforesaid third line,
- 5) North 25 degrees 47 minutes 03 seconds West, 251.61 feet to the point of beginning.

CONTAINING 5,072 square feet, or 0.1164 acres of land, more or less.

BEING part of all that thirdly described parcel of land, which by deed dated December 15, 2006, and recorded among the Land Records of Baltimore County, Maryland, in Liber S.M. 25013, folio 533, was granted and conveyed by Darlene Jones, the Personal Representative of the Estate of Edna Irene Catterson, to Richard A. Gribble and Vicki L. Gribble, his wife.

ALSO BEING part of all that parcel of land, which by deed dated August 8, 1936, and recorded among the Land Records of Baltimore County, Maryland, in Liber C.W.B., Jr. 982, folio 276, was granted and conveyed by James P. Kelley, Lawrence E. Ensor, and John Mays Little, Trustees, to Clarence W. Hunt and Alice M. Hunt, his wife.

The Undersigned either personally prepared this metes and bounds description or was in responsible charge over its preparation and the surveying work reflected in it.


Robert P. Grim
Property Line Surveyor
Maryland Reg. No. 354



15 MAY '08
Date:

GENERAL NOTES

1. THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. THE PROPERTY IS LOCATED IN BALTIMORE COUNTY, MARYLAND.
3. THE PROPERTY IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.
4. THE PROPERTY IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.
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ASSOCIATION MISPLACED NOTE

NOTICE: THE ASSOCIATION HAS BEEN MISPLACED ON THIS PLAN. THE ASSOCIATION IS NOT TO BE USED FOR CONSTRUCTION.

SITE DATA

1. THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.
2. THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.
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20. THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.

SOIL & LITERATURE CHART

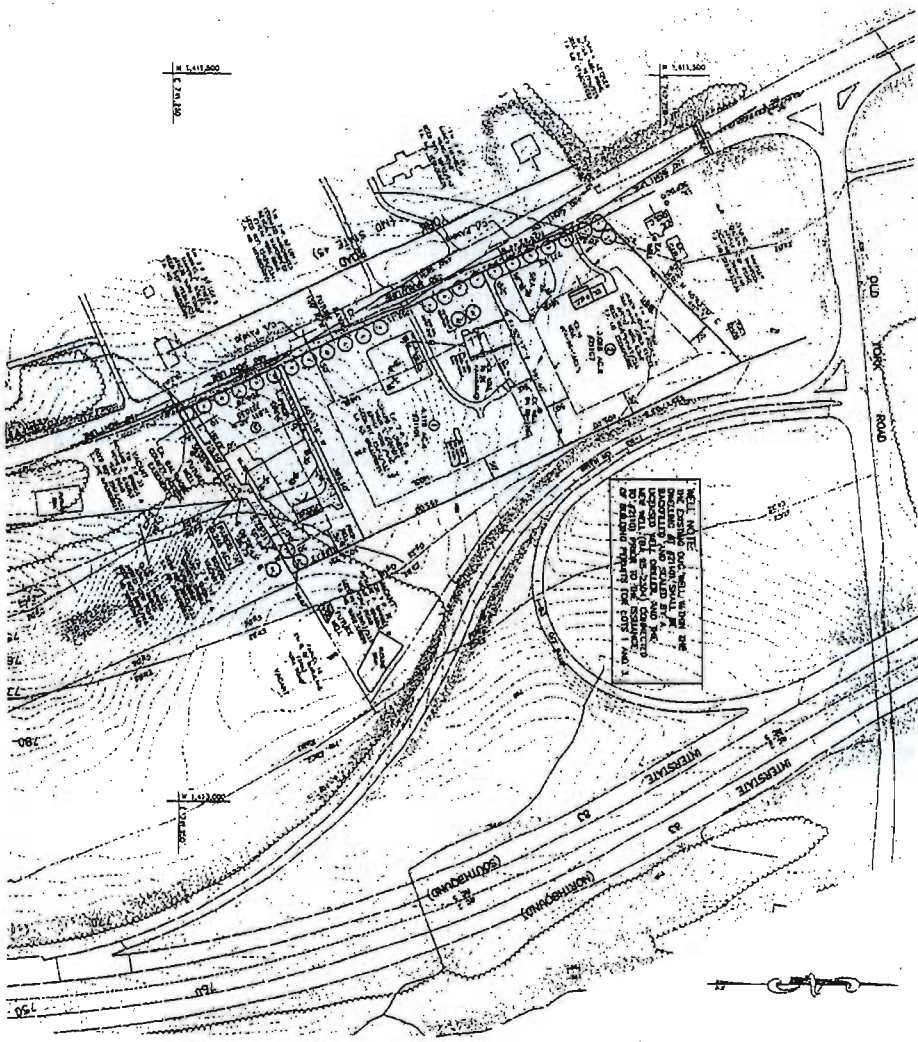
SOIL TYPE	LITERATURE	CHART
1. SANDY SILT	1. SANDY SILT	1. SANDY SILT
2. SILTY SAND	2. SILTY SAND	2. SILTY SAND
3. SILTY CLAY	3. SILTY CLAY	3. SILTY CLAY
4. CLAY	4. CLAY	4. CLAY
5. SILTY CLAY	5. SILTY CLAY	5. SILTY CLAY
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16. CLAY	16. CLAY	16. CLAY
17. SILTY CLAY	17. SILTY CLAY	17. SILTY CLAY
18. CLAY	18. CLAY	18. CLAY
19. SILTY CLAY	19. SILTY CLAY	19. SILTY CLAY
20. CLAY	20. CLAY	20. CLAY

STATIONING TABLE

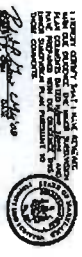
STATION	STATION	STATION
1. 0+00	1. 0+00	1. 0+00
2. 0+10	2. 0+10	2. 0+10
3. 0+20	3. 0+20	3. 0+20
4. 0+30	4. 0+30	4. 0+30
5. 0+40	5. 0+40	5. 0+40
6. 0+50	6. 0+50	6. 0+50
7. 0+60	7. 0+60	7. 0+60
8. 0+70	8. 0+70	8. 0+70
9. 0+80	9. 0+80	9. 0+80
10. 0+90	10. 0+90	10. 0+90
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13. 1+20	13. 1+20	13. 1+20
14. 1+30	14. 1+30	14. 1+30
15. 1+40	15. 1+40	15. 1+40
16. 1+50	16. 1+50	16. 1+50
17. 1+60	17. 1+60	17. 1+60
18. 1+70	18. 1+70	18. 1+70
19. 1+80	19. 1+80	19. 1+80
20. 1+90	20. 1+90	20. 1+90

NOTES

1. THE PROPERTY IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.



NOTE: THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND. THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND. THE SITE IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.



DATE	REVISION
1-11-06	FOR FINAL REVIEW COMMENTS
1-11-07	FOR FINAL REVIEW COMMENTS
1-11-08	FOR FINAL REVIEW COMMENTS

OWNER/APPPLICANT
BALTIMORE COUNTY
BALTIMORE, MARYLAND

1. THE PROPERTY IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.

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28. THE PROPERTY IS LOCATED IN THE CITY OF BALTIMORE, MARYLAND.

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only—All Copies Must Be Legible)

1	Type(s) of Instruments	(✓ Check Box if addendum-Intake Form is Attached.)			
2	Conveyance Type Check Box	1 Deed of Trust	2 Mortgage Lease	3 Other Assignment	4 Other
3	Tax Exemptions (if applicable) Cite or Explain Authority	Recordation	Indemnity Deeds of Trusts (H)	State Transfer	County Transfer
4	Consideration and Tax Calculations	Consideration Amount		Financial Consideration Only	
		Purchase Price/Consideration	\$ 1,100,000.00	Transfer and Recording Tax Consideration	\$ 1,100,000.00
		Any New Mortgage	\$ 1,245,000.00	Transfer Tax Consideration	\$ 1,245,000.00
		Balance of Existing Mortgage	\$	Less Exemption Amount	\$
		Other: Slave I-Deed	\$ 400,000.00	Total Transfer Tax	\$ 16,500.00
		Other: Grasmick I-Deed	\$ 150,000.00	Recordation Tax Consideration	\$
		Other: Miller I-Deed	\$ 100,000.00	X () per \$500	\$ 5,500.00
		Full Cash Value:	\$ 1,100,000.00	TOTAL DUE	\$
5	Fees	Amount of Fees	Doc. 1	Doc. 2	Agent:
		Recording Charge	\$ 75.00	\$ 75.00	Tax Bill:
		Surcharge	\$ 20.00	\$ 20.00	C.B. Credit:
		State Recordation Tax	\$ 5,500.00	\$	Ag. Tax/Other:
		State Transfer Tax	\$ 5,500.00	\$	\$ 25,270.80
		County Transfer Tax	\$ 16,500.00	\$	
		Other	\$ 25,270.80	\$	
		Other	\$	\$	
6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map
		07	07-03-000525	26013/533	7
		Subdivision Name	Lot (3a)	Block (3b)	Sec/AR (3c)
			1, 3 & Parcel A		
		Location/Address of Property Being Conveyed (2)			Parcel No.
		21035 York Road, Lot 3 (1.6113 Ac +/-), 21101 York Road, Lot 1 (4.1193 Ac +/-), Parcel A, York Road (0.2449 Ac +/-) Balto Co. MD			31, 33 & 115
		Other Property Identifiers (if applicable)			Var. LOG
		#07-03-000527, #07-03-000528, and #07-03-000529 (see Addendum)			(5)
		Residential ✓ or Non-Residential	Fee Simple ✓ or Ground Rent	Amount:	SqFt/Acreage (4)
		Partial Conveyance? Yes ✓ No	Description/Amt. of SqFt/Acreage Transferred:		5.975 Acres +/-
		If Partial Conveyance, List Improvements Conveyed:			
		Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)		
		Richard A. Gribble and Vicki L. Gribble	83 At York, LLC		
		Doc. 1 - Owner(s) of Record, If Different from Grantor(s)	Doc. 2 - Owner(s) of Record, If Different from Grantor(s)		
		Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)		
		83 At York, LLC, a Maryland limited liability company	Philip E. Logan and Charles E. Wagner, Jr.,		
		New Owner's (Grantee) Mailing Address			
		P.O. Box 356, Monkton, Maryland 21111			
		Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)		
		Instrument Submitted By or Contact Person			
		Name: Michael L. Snyder	Return to Contact Person		
		Firm: Coady & Farley	Hold for Pickup		
		Address: 400 Allegheny Avenue, Towson, Maryland 21204	Return Address Provided		
		Phone: (410) 337-0200			
		IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER			
		Assessment Information	Yes	No	Will the property being conveyed be the grantee's principal residence?
			Yes	No	Does transfer include personal property? If yes, identify:
			Yes	No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).
		Assessment Use Only - Do Not Write Below This Line			
		Terminal Verification	Agricultural Verification	Whole	Part
		Transfer Number	Date Received	Deed Reference	Assigned Property No.
		20	20	Geo.	Map
		Land	Buildings	Grid	Sub
		20	20	Parcel	Block
		20	20	Ex. St.	Plat
		20	20	Ex. Cd.	Section
		20	20	Occ. Cd.	Block
		20	20		Lot
		20	20		Occ. Cd.

GENERAL NOTES

1. ALL LOTS SHALL BE SUBJECT TO THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS OF RECORD FOR THE LOTS. THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS OF RECORD SHALL BE CONSIDERED TO BE PART OF THIS PLAN AND SHALL BE ENFORCED AS SUCH.

2. THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS OF RECORD SHALL BE CONSIDERED TO BE PART OF THIS PLAN AND SHALL BE ENFORCED AS SUCH.

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APPROPRIATE NUISANCE NOTE

1. THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS OF RECORD SHALL BE CONSIDERED TO BE PART OF THIS PLAN AND SHALL BE ENFORCED AS SUCH.

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SITE DATA

1. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

2. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

3. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

4. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

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8. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

9. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

10. LOT AREA: 1.00 AC. (43,560 SQ. FT.)

SOIL LIMITATION CHART

SOIL TYPE	PERCENTAGE	PERCENTAGE	PERCENTAGE	PERCENTAGE
CLAY	100	100	100	100
SAND	0	0	0	0
SILT	0	0	0	0
LOESS	0	0	0	0

STORMWATER LIST

NO.	DESCRIPTION	NO.	DESCRIPTION	NO.	DESCRIPTION
1	CLAY	1	CLAY	1	CLAY
2	SAND	2	SAND	2	SAND
3	SILT	3	SILT	3	SILT
4	LOESS	4	LOESS	4	LOESS
5	CLAY	5	CLAY	5	CLAY

McKEE & ASSOCIATES, INC.

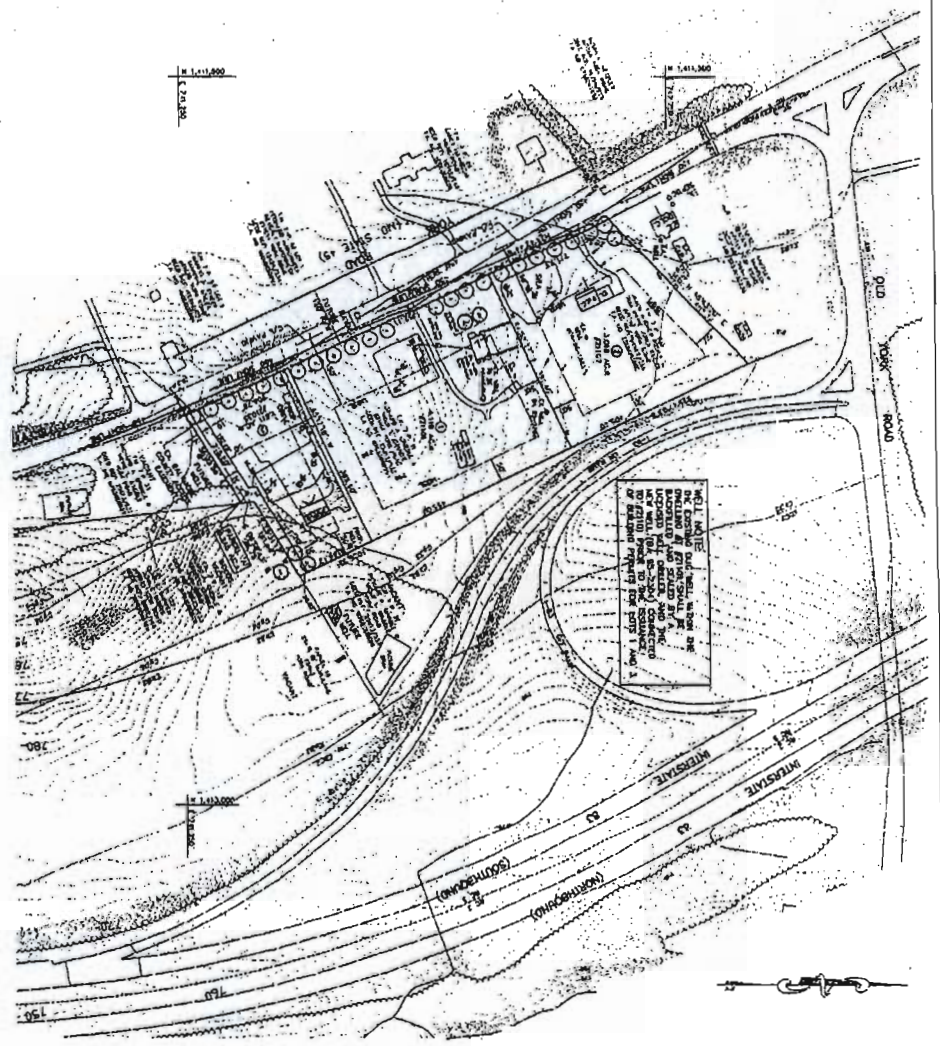
Engineering - Land Planning - Land Surveying

10000 York Road, Suite 100, Baltimore, MD 21244

Phone: (410) 524-1000

Fax: (410) 524-1001

Website: www.mckeeinc.com



THE EASEMENTS AND RESTRICTIONS SET FORTH IN THE DEEDS OF RECORD SHALL BE CONSIDERED TO BE PART OF THIS PLAN AND SHALL BE ENFORCED AS SUCH.



DATE	REVISION
10-10-06	1st EDITION, REVISION 1
10-10-07	2nd EDITION, REVISION 2
10-10-08	3rd EDITION, REVISION 3

DRAWN BY: [Name]

CHECKED BY: [Name]

DATE: 10-10-08

REASON FOR 1ST REVISION: B-15-02

DATE: 10-10-08

BY: [Name]

2nd EDITION, REVISION 2

DATE: 10-10-07

BY: [Name]

3rd EDITION, REVISION 3

DATE: 10-10-06

BY: [Name]

4th EDITION, REVISION 4

DATE: 10-10-05

BY: [Name]

5th EDITION, REVISION 5

DATE: 10-10-04

BY: [Name]

6th EDITION, REVISION 6

DATE: 10-10-03

BY: [Name]

7th EDITION, REVISION 7

DATE: 10-10-02

BY: [Name]

8th EDITION, REVISION 8

DATE: 10-10-01

BY: [Name]

9th EDITION, REVISION 9

DATE: 10-10-00

BY: [Name]

10th EDITION, REVISION 10

DATE: 10-10-99

BY: [Name]

11th EDITION, REVISION 11

DATE: 10-10-98

BY: [Name]

12th EDITION, REVISION 12

DATE: 10-10-97

BY: [Name]

13th EDITION, REVISION 13

DATE: 10-10-96

BY: [Name]

14th EDITION, REVISION 14

DATE: 10-10-95

BY: [Name]

15th EDITION, REVISION 15

DATE: 10-10-94

BY: [Name]

16th EDITION, REVISION 16

DATE: 10-10-93

BY: [Name]

17th EDITION, REVISION 17

DATE: 10-10-92

BY: [Name]

18th EDITION, REVISION 18

DATE: 10-10-91

BY: [Name]

19th EDITION, REVISION 19

DATE: 10-10-90

BY: [Name]

20th EDITION, REVISION 20

DATE: 10-10-89

BY: [Name]

21st EDITION, REVISION 21

DATE: 10-10-88

BY: [Name]

22nd EDITION, REVISION 22

DATE: 10-10-87

BY: [Name]

23rd EDITION, REVISION 23

DATE: 10-10-86

BY: [Name]

24th EDITION, REVISION 24

DATE: 10-10-85

BY: [Name]

25th EDITION, REVISION 25

DATE: 10-10-84

BY: [Name]

26th EDITION, REVISION 26

DATE: 10-10-83

BY: [Name]

27th EDITION, REVISION 27

DATE: 10-10-82

BY: [Name]

28th EDITION, REVISION 28

DATE: 10-10-81

BY: [Name]

29th EDITION, REVISION 29

DATE: 10-10-80

BY: [Name]

30th EDITION, REVISION 30

DATE: 10-10-79

BY: [Name]

31st EDITION, REVISION 31

DATE: 10-10-78

BY: [Name]

32nd EDITION, REVISION 32

DATE: 10-10-77

BY: [Name]

33rd EDITION, REVISION 33

DATE: 10-10-76

BY: [Name]

34th EDITION, REVISION 34

DATE: 10-10-75

BY: [Name]

35th EDITION, REVISION 35

DATE: 10-10-74

BY: [Name]

36th EDITION, REVISION 36

DATE: 10-10-73

BY: [Name]

37th EDITION, REVISION 37

DATE: 10-10-72

BY: [Name]

38th EDITION, REVISION 38

DATE: 10-10-71

BY: [Name]

39th EDITION, REVISION 39

DATE: 10-10-70

BY: [Name]

40th EDITION, REVISION 40

DATE: 10-10-69

BY: [Name]

0021082 105

21101 York Road

Addendum

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City
 ☒ County: Baltimore

The addendum form should be used when one transaction involves more than two instruments.
Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

5.	(Continued) Fees	Amount of Fees	Doc. 3	Doc. 4	Doc. 5	Doc. 6
		Recording Charge	\$ 20.00	\$ 75.00	\$ 75.00	\$ 75.00
		Surcharge	\$ 20.00	\$ 20.00	\$ 20.00	\$ 20.00
		State Recordation Tax	\$	\$	\$	\$
		State Transfer Tax	\$	\$	\$	\$
		County Transfer Tax	\$	\$	\$	\$
		Other	\$	\$	\$	\$
		Other	\$	\$	\$	\$

7.	(Continued) Transferred From	Doc. 3 - Grantor(s) Name(s)	Doc. 4 - Grantor(s) Name(s)
		Randolph H. Shelley, James W. McKee, Borrower; 83 At York, LLC, Guarantor	83 At York, LLC
		Doc. 3 - Grantor(s) Name(s)	Doc. 4 - Grantor(s) Name(s)
		83 At York, LLC, a Maryland limited liability company	83 At York, LLC, a Maryland limited liability company
		Doc. 3 - Owner(s) of Record, if Different from Grantor(s)	Doc. 4 - Owner(s) of Record, if Different from Grantor(s)
		Doc. 5 - Owner(s) of Record, if Different from Grantor(s)	Doc. 6 - Owner(s) of Record, if Different from Grantor(s)

8.	(Continued) Transferred To	Doc. 3 - Grantee(s) Name(s)	Doc. 4 - Grantee(s) Name(s)
		Slavie Federal Savings Bank, Lender	Philip E. Logan and Charles E. Wagner, Jr., Trustees for Slavie Federal Savings Bank
		Doc. 3 - Grantee(s) Name(s)	Doc. 4 - Grantee(s) Name(s)
		Grant I. Grasmik as Trustee	Roland Miller as Trustee

9.	(Continued) Other Names to be Indexed	Doc. 3 - Additional Names to be Indexed (Optional)	Doc. 4 - Additional Names to be Indexed (Optional)
		Doc. 5 - Additional Names to be Indexed (Optional)	Doc. 6 - Additional Names to be Indexed (Optional)

Special Instructions	Special Recording Instructions (if any): #07-03-000527 - 21015 York Road (1.937 Ac+/-) #07-03-000529 - 21019 York Road (5.8911 Ac+/-), and 07-03-000528 - 21025 York Road (2.0712 Ac+/-)
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RECORDATION TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
T.P. ART 12-108

DOC # 2

Initial:

Date:



LOOKING NORTH ALONG YORK ROAD FROM PROPOSED DRIVEWAY LOCATION



LOOKING SOUTH ALONG YORK ROAD FROM PROPOSED DRIVEWAY LOCATION

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH





VIEW TOWARDS NEW CONSTRUCTION NORTH OF SITE FROM PROPOSED DRIVEWAY LOCATION



VIEW TOWARDS PROPOSED BUILDING AREA FROM #21010 YORK ROAD

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH



08.18.2008 13:52

VIEW ACROSS YORK ROAD FROM CENTER OF PROPERTY TOWARDS #21000
YORK ROAD

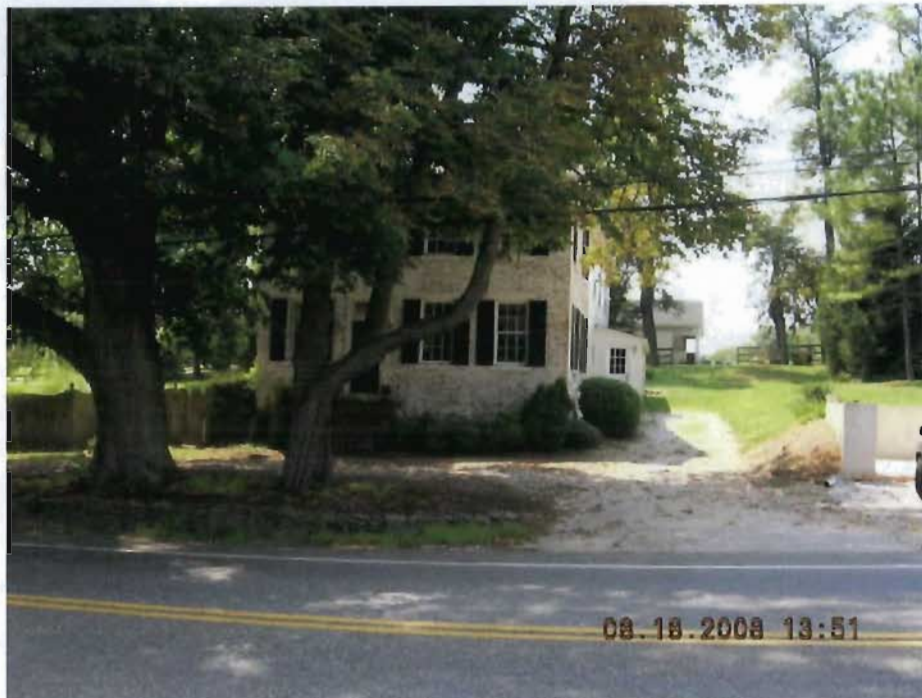


08.18.2008 18:17

VIEW OF BUILDING SITE FROM #21000 YORK ROAD

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH

4C



#21010 YORK ROAD, RIVERA RESIDENCE



GARAGE UNDER CONSTRUCTION AT #21010 YORK ROAD, RIVERA RESIDENCE

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH

47



VIEW FROM CENTER OF SITE TOWARDS #21010 YORK ROAD, RIVERA RESIDENCE



VIEW OF PROPERTY TO THE REAR OF THE PROPOSED DWELLING LOCATION

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH

49



VIEW OF WODDED AREA ALONG YORK ROAD FROM DRIVEWAY TO #21000
YORK ROAD

PICTURE EXHIBITS
21015 YORK ROAD
CASE No. 08-537-SPH

ZONING/DEVELOPMENT AGREEMENT

1st day of October, 2008 by and among, **RANDOLPH H. SHELLEY** (referred to hereafter as "Shelley" or Purchaser"); **83 AT YORK, LLC**, a Maryland limited liability company ("Owner"); **MANUEL J. RIVERA** and **TAMMY L. RIVERA** (collectively, the "Riveras") and all of those neighbors who have signed (if any) on Exhibit D [attached hereto and incorporated herein] (collectively, the "Neighbors") (the Riveras and the Neighbors are referred to collectively herein as the "Citizens").

RECITALS:

WHEREAS, the Owner, pursuant to a deed dated June 5, 2008, from Richard A. Gribble and Vicki L. Gribble, recorded among the Land Records of Baltimore County in Liber 27082, folio 165, is the fee simple owner of several properties described therein (the "Owner's properties"), including without limitation the property identified as 21015 York Road, having a property tax account number of 07-03-000528 ("Zoning Parcel"); and

WHEREAS, Shelley is the contract purchaser of the Zoning Parcel and has, together with the Owner, filed a Baltimore County Zoning Petition for Special Hearing, docketed as Case No. 2008-0537-SPH (the "Zoning Case"), seeking relief from applicable zoning setbacks so that the Zoning Parcel can be improved with a single-family, detached dwelling (the "Zoning Relief"); and

WHEREAS, in addition to the lots that exist and comprise the Owner's properties on the date of this Agreement, Shelley and the Owner will be processing for development approval two (2) additional lots to be created within certain of the Owner's properties, identified, shown and labeled as Parcel A and Parcel C on that certain drawing entitled "Sketch Plan Catterson/Gribble Properties" attached hereto and incorporated herein as Exhibit C; and

WHEREAS, the Citizens have contacted Shelley's representatives requesting certain modifications to the proposed location of the dwelling on the Zoning Parcel and the design and materials to be used for construction of the dwelling proposed on the Zoning Parcel and those to be used in the future construction of dwellings not yet under construction on the Owner's properties; and

WHEREAS, representatives of the Owner and Shelly have had an opportunity to discuss, in settlement and resolution of the concerns of the Citizens with respect to the Zoning Parcel and the development/improvement of the Owner's properties, reasonable points of agreement and conditions; and

WHEREAS, the parties hereto intend to resolve the concerns raised, through a modified plat to accompany the Petition for Special Hearing (the "modified Plat") and the zoning relief necessary to obtain approval of those modifications and through certain conditions and reviews applicable to

PETITIONER'S

EXHIBIT NO.

5

the Zoning Parcel and the Owner's properties in accordance with the agreements and provisions hereof.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. The above recitals form an integral part of this Agreement and are incorporated herein as if set forth again in their entirety.

2. The modified Plat will propose development of the Zoning Parcel by moving the proposed single-family dwelling to the south, in the approximate location and layout shown on Exhibit A, attached hereto and incorporated herein. The Zoning Parcel is also shown and identified as Parcel D on Exhibit C.

3. The dwelling proposed at this time, to be erected on the Zoning Parcel, is that shown on Exhibit B (elevations and floor plans), attached hereto and incorporated herein, with the parties recognizing that the final design of the dwelling and the exterior materials to be decided upon by the purchaser prior to building permit approval. Once the purchaser's final decisions on design and materials have been made, copies of both will be provided to the Citizens for review as provided below.

4. There is a common drive area, located adjacent to the northern boundary of the Zoning Parcel, which intersects with the eastern side of York Road approximately across from the Riveras' property at 21010 York Road (the "common drive area"). At the time of development approval processing of Parcel A as shown on Exhibit C, the common drive will be relocated along the proposed common property line between Lot 3 and Lot 4 as shown on Exhibit C (the "common access drive"). The parties hereto recognize and understand that any required panhandle lot areas of Lot Nos. 5, 6 and/or 7 as shown on Exhibit C may be physically created in the future in the common drive area to provide public road frontage for such lots, however, the ingress and egress for Lot Nos. 5, 6 and 7, notwithstanding the panhandle areas, shall be limited to the common access drive and access to Lot Nos. 5, 6 and 7 shall not be obtained along the panhandle areas of such Lots binding on York Road. The conceptual landscaping of that common access drive is shown on Exhibit A, which landscaping will be moved to the revised location of the common access drive. At the time of common access drive design and landscape plan development, a copy of each will be provided to the Citizens for review as provided below.

5. The dwelling to be erected on the Zoning Parcel and all new dwellings not yet under construction, but to be constructed on lots existing or created within the Owner's properties, will comply with applicable RC-5 performance standards and applicable provisions of the *Baltimore County Zoning Regulations*.

6. Copies of drawings/descriptions evidencing final design and materials for the dwelling on the Zoning Parcel, as well as copies of drawings/descriptions evidencing

design/materials for future new dwellings not yet under construction on lots existing or to be created within the Owner's properties, the relocated common drive and development landscaping will be provided to the Citizens for review, but not approval, as follows:

6.1. As drawings or descriptions of designs/materials of proposed dwellings, development landscaping and the common drive are prepared from time to time for submission, one copy of the drawings/descriptions describing the designs/materials shall be delivered by regular mail or by hand-delivery [notwithstanding the notice provisions of Section 24 hereof] to the Riveras contemporaneously with the submission to Baltimore County.

6.2. The Riveras agree to share such information, as submitted from time to time, with the Neighbors.

6.3. The submission of design and/or materials for review by the Riveras and/or the Neighbors shall pertain only to the initial construction of future, principal dwellings not yet under construction on lots existing or created in the Owner's properties.

7. Owner, Shelley and their respective successors and assigns agree that there will be no further subdivision of the Owner's properties into additional lots beyond that shown on Exhibit C [all Parcel references pertain to those areas so identified on Exhibit C] described as follows:

7.1. Parcel A - four residential lots, each containing one, single-family, detached dwelling;

7.2. Parcel B - one residential lot, containing one, single-family, detached dwelling;

7.3. Parcel C - two residential lots, each containing one, single-family, detached dwelling; and

7.4. Parcel D - one residential lot, containing one, single-family, detached dwelling.

8. The Citizens agree to support the Zoning Relief and any amendment thereto consistent with the agreements reached herein and the Exhibits attached hereto.

9. The Citizens agree to support the development and improvement of the Owner's properties consistent with Exhibit C and the agreements reached herein.

10. No future request, made directly or indirectly, will be made by any of the Citizens or any one of them to have the Zoning Relief or any portion of the Owner's properties reviewed by the Baltimore County Landmarks Commission or its professional staff. Owner and Shelley acknowledge that the Riveras have previously made inquiries to that Commission and neither those

inquiries nor comments generated by or on behalf of that Commission in the Zoning Case shall be deemed a violation or breach of this prohibition.

11. In the event that the Zoning Relief, as the same may be modified, is approved consistent with this Agreement and that approval is overturned or modified on appeal, this Agreement shall terminate automatically and neither it nor any exhibits attached hereto shall be of any further force or effect.

12. In the event that any portion of the Owner's properties is approved for development or improvement consistent with this Agreement and that approval is overturned or modified on appeal, this Agreement shall terminate automatically with respect to the Owner's properties other than the Zoning Parcel and neither it nor any exhibits attached hereto shall be of any further force or effect.

13. In the event of an appeal of the Zoning Relief or any approval obtained for the development or improvement of the Owner's properties by any person or entity, other than the Baltimore County Office of People's Counsel, the parties to this Agreement agree to participate in support of the approval obtained, each at their own expense, at all stages of appeal.

14. Prior to any party hereto seeking judicial enforcement of this Agreement, Shelley or the Citizens or any of them as the case may be, shall give the other written notice of the alleged grievance as provided herein. Within fifteen (15) days thereafter representatives of the respective parties to this Agreement shall meet to attempt to resolve amicably the alleged non-compliance or grievance. Failure to comply with the dispute resolutions of this enumerated paragraph shall nullify the complaining party's ability to enforce the alleged grievance.

15. After the dispute resolution provisions contained herein have been complied with, any party to this Agreement that is required to institute legal or equitable action in enforcement hereof, shall be deemed to have standing to institute such action, including without limitation an action for injunctive relief. Any party that is successful in obtaining a favorable outcome of any action filed in enforcement of this Agreement, whether by mediation, arbitration, settlement and/or trial shall be entitled to recover reasonable attorney's fees and court costs of the action from the person or entity who did not prevail in such action. The provisions of this enumerated paragraph shall not be applicable unless and until the dispute resolution provisions set forth herein have been followed strictly.

16. Upon approval of the Zoning Relief and future approvals for the development or improvement of the Owner's properties that are not inconsistent with this Agreement, the Citizens and each of them waive irrevocably the right to appeal any and all such approvals.

17. If the Zoning Relief, as it may be modified consistent with this Agreement, is not approved by the Zoning Commissioner or Deputy Commissioner for Baltimore County in accordance with the information shown thereon and this Agreement, this Agreement and the Exhibits attached hereto shall automatically terminate and be null and void and of no further force

and effect.

18. The parties hereto agree that reasonable adjustments in the location of landscaping, individual driveways, proposed grading, septic reserve areas, well locations, and building locations (residences only), and other features of the development and improvement of the Owner's properties shall be permitted provided that the same meets with approvals obtained from the governmental agency having jurisdiction thereover, including without limitation the Zoning Relief obtained.

19. This Agreement shall be construed, interpreted and enforced according to the laws of the State of Maryland, without regard to principles of conflict of law. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms of any such provision shall be more strictly construed against one party or the other by reason of the rule of construction that a document is to be construed most strictly against the party who itself or through its agent who prepared the same, it being agreed that the agents of all parties hereto have participated in the preparation of this Agreement.

20. This Agreement contains the full and complete agreement of the parties hereto and no oral agreements, past, present or future shall be effective or binding on or against the parties unless the same shall be reduced to writing and executed in the same manner as this Agreement.

21. Each of the parties hereto warrant that they or it have the authority to enter into this Agreement and to bind themselves hereby and have carefully read and understand this Agreement and are cognizant of the terms and conditions hereof and the obligations associated herewith.

22. The parties hereto each warrant and represent that they have the power and requisite legal authority to bind themselves, their organization if acting in a representative capacity and their respective successors and assigns to the agreements herein contained, and if a corporation, limited liability company, partnership or similar entity, each further warrants and represents that it is duly organized and is in existence in accordance with Maryland law and that it has taken all necessary action required to be taken by its charter, by-laws, or other organizational documents to authorize the execution of this Agreement.

23. Any notices required or permitted to be given by either party to the other shall be addressed to the parties as follows:

To Shelley: Randolph H. Shelley
 2601 Cotter Road
 Millers, MD 21102

with a copy to: Howard L. Alderman, Jr., Esquire
 Levin & Gann, PA
 Nottingham Centre, 8th Floor
 502 Washington Avenue
 Towson, Maryland 21204

To Riveras: Mr. and Mrs. Manuel J. Rivera
21010 York Road
Parkton, MD 21120

with a copy to: J. Neil Lanzi, Esquire
Law Office of J. Neil Lanzi
409 Washington Avenue, Suite 617
Towson, MD 21204

To Neighbors: As shown on Exhibit D

24. Any notice that is required to be given pursuant to this Agreement shall be in writing, and shall be deemed given upon actual receipt and shall be sent to all other parties by certified or registered mail, prepaid, or by federal express or other commercial overnight courier service to the last known address of the receiving party.

25. This Agreement is binding on the parties hereto and their respective successors and/or assigns and may be amended only by a subsequent written instrument and signed by the parties hereto or their respective successors and/or assigns.

26. The failure in any instance to enforce any of the covenants, restrictions and conditions contained in this Agreement shall in no event constitute a waiver or estoppel of the right to enforce the same or any other covenant, restriction or condition in the event of another violation occurring prior or subsequent thereto. In the event any one or more of the covenants, restrictions and conditions herein contained should for any reason be declared invalid, the remaining covenants, restrictions or conditions shall continue in full force and effect.

27. Each of the parties hereto have had the benefit of private legal counsel before entering into this Agreement and each has agreed to be responsible for their respective counsel fees.

28. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes, all of which shall together constitute a single and the same Agreement; each counterpart may be signed and transmitted initially by telefacsimile and the facsimile shall be considered as containing original signatures, provided that said counterpart is provided subsequently to each other party in its original form.

29. The parties hereto covenant and agree to execute such instrument or instruments as may be necessary from time to time to carry out the intent of the Agreement or to amend this Agreement as may be required by any governmental agencies having jurisdiction over the Zoning Relief and/or the Owner's properties in order to obtain all required approvals required and to otherwise comply with all applicable laws, regulations and codes in keeping with the spirit and intent of this Agreement.

30. To avoid the rule against perpetuities, all contingencies and obligations under this

Agreement shall take place no later than twenty (20) years from the date and year first above written.

31. Notwithstanding any provision hereof to the contrary and irrespective of any rule, construction or precedent under the common law of the United States and/or Maryland, neither this Agreement nor any provision hereof shall be binding on any party hereto nor shall any portion of this Agreement be enforceable in any proceeding or otherwise disclosed to any person or entity other than the parties hereto and their respective legal counsel unless and until the complete signatures of all parties to this Agreement have been affixed hereto as provided herein.

IN WITNESS WHEREOF, the parties hereto have affixed their respective hands and seals the date and year first above written.

WITNESS/ATTEST:

OWNER:

83 AT YORK, LLC, a Maryland limited liability company

By: _____ (SEAL)

[PRINTED/TYPED NAME]

[TITLE/CAPACITY/AUTHORITY]

SHELLEY:

_____ (SEAL)

Randolph H. Shelley

RIVERAS:

_____ (SEAL)

Manuel J. Rivera

_____ (SEAL)

Tammy L. Rivera

EXHIBIT "D"

NEIGHBORS:

Owners of 21000 York Road:

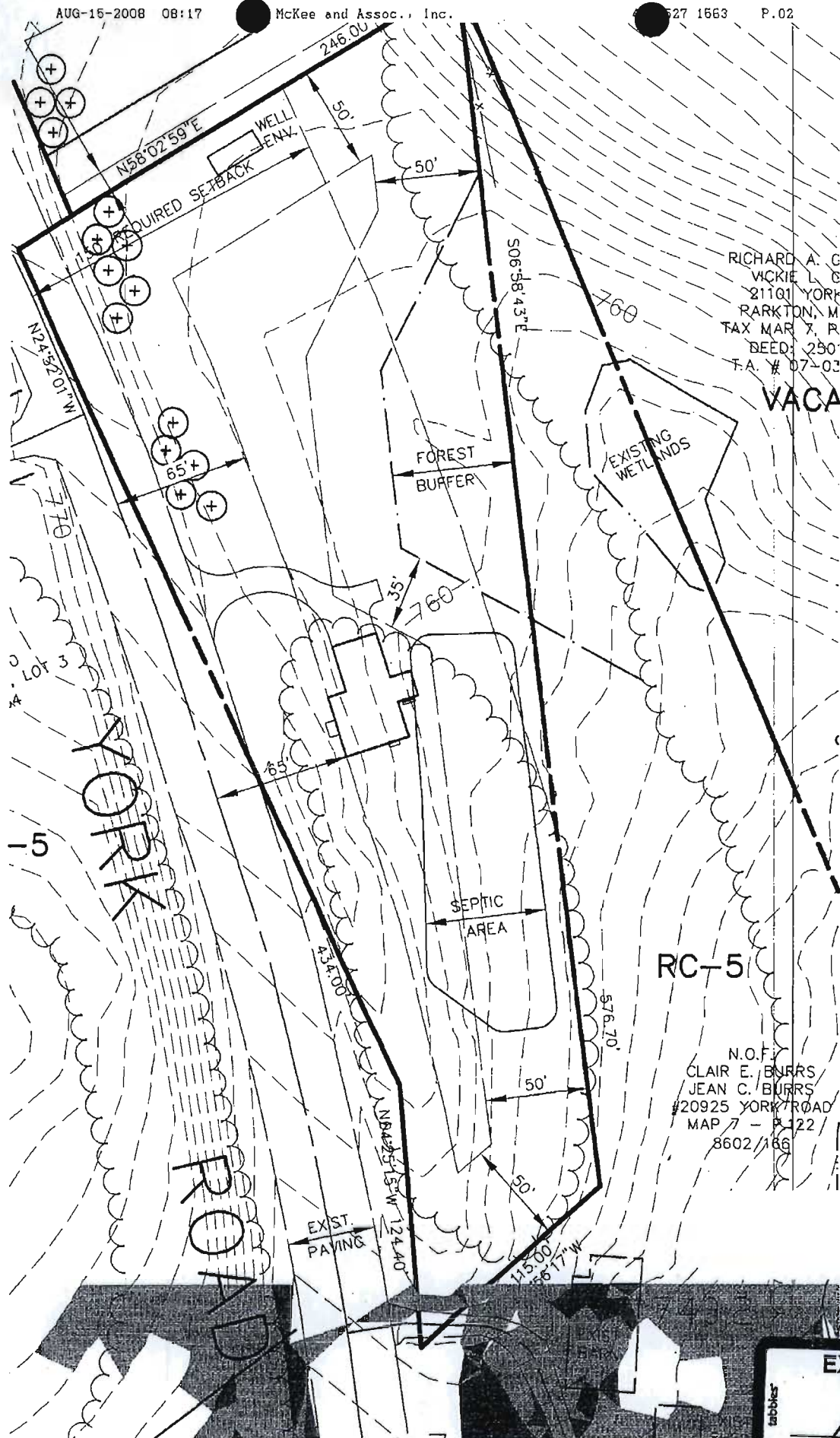
 (SEAL)
Louis Marvin Levy

Rebecca (SEAL)
Rebecca Gray Levy

Owners of 21006A York Road:

 (SEAL)
Paul J. Miller

Linda J. Miller (SEAL)
Linda J. Miller



~~RICHARD A. C~~
~~WICKIE L. C~~
~~21101 YORK~~
~~PARKTON, M~~
~~TAX MAR 7, P~~
~~DEED: 250~~
~~T.A. # 07-03~~

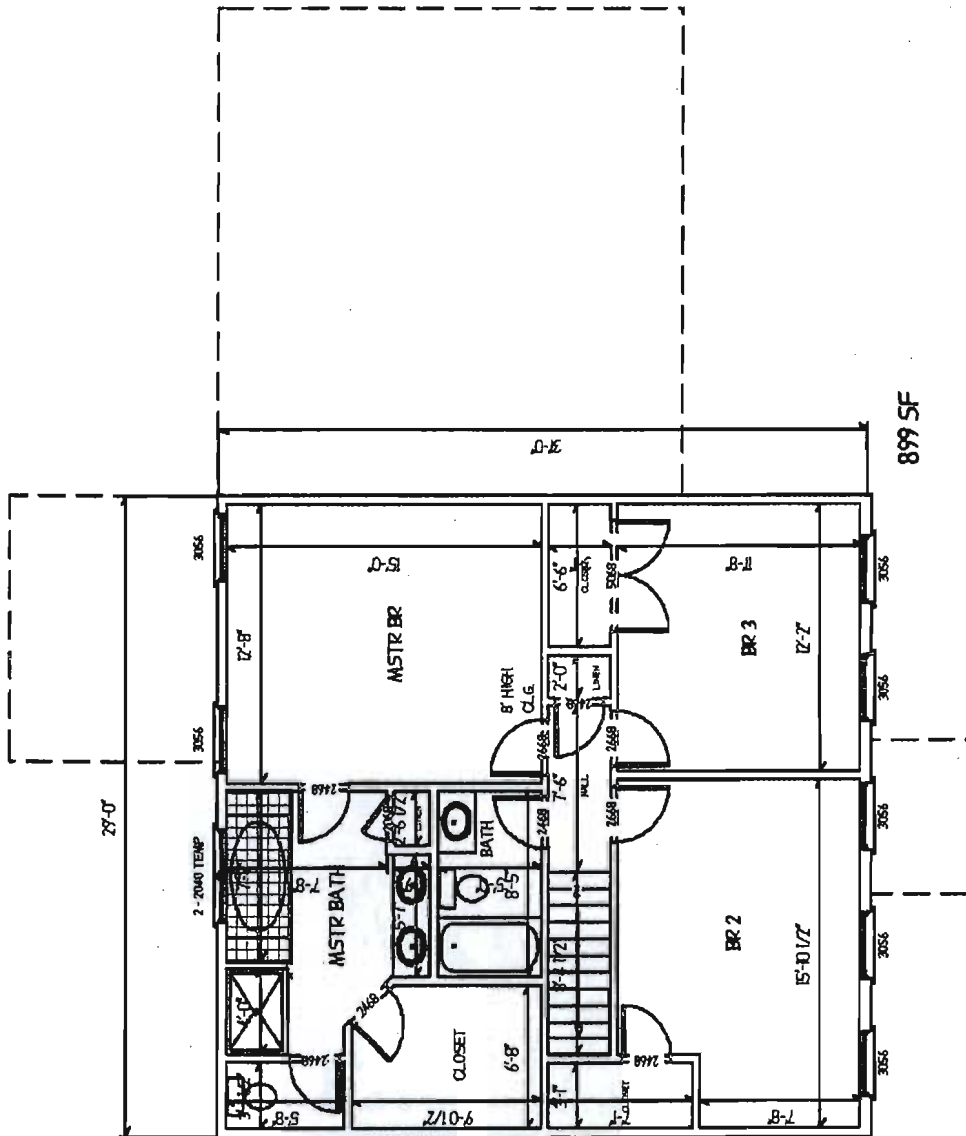
~~VACA~~

RC-5

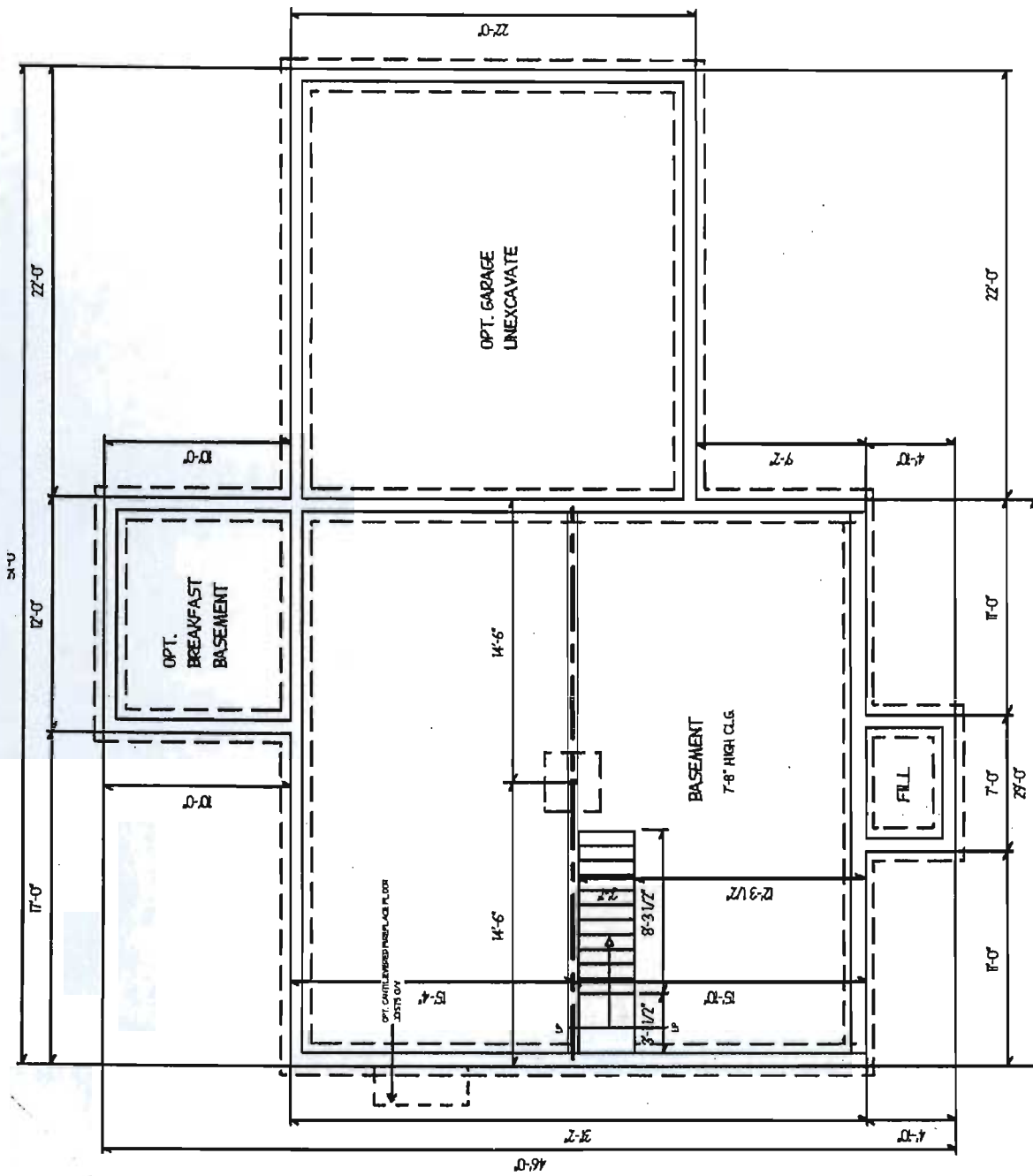
N.O.F.
CLAIR E. BURNS
JEAN C. BURNS
#20925 YORK ROAD
MAP 7 - P. 22
8602/186

EXHIBIT

A







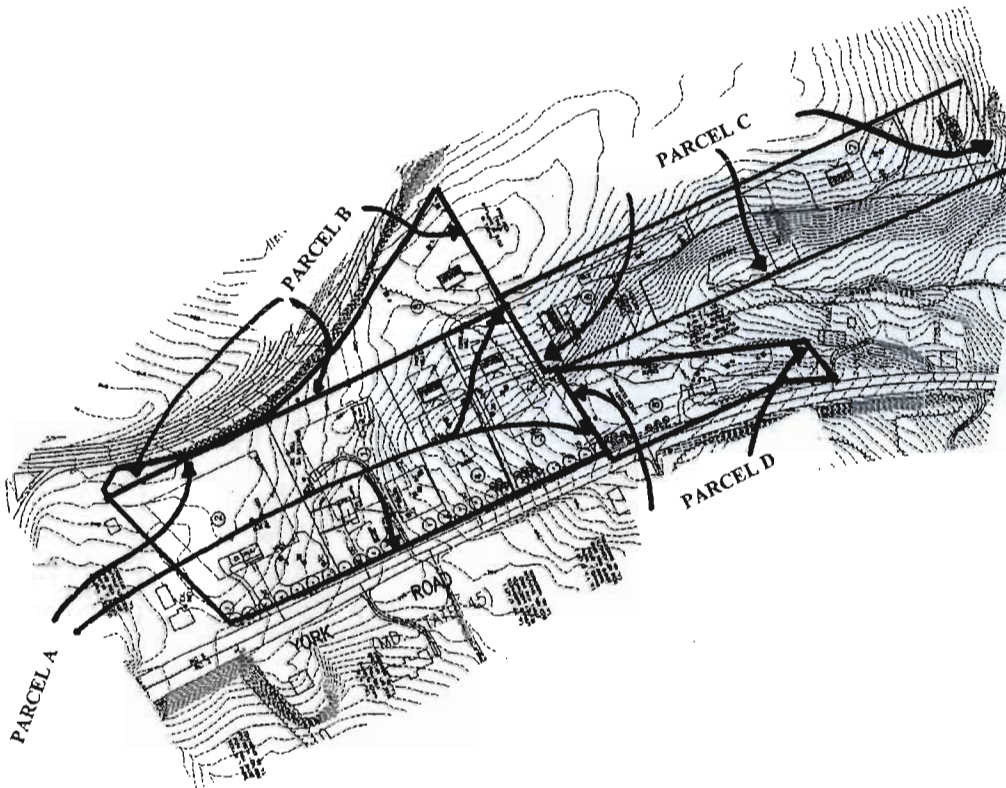


EXHIBIT
C

SKETCH PLAN
CATTERSON/GRIBBLE
PROPERTIES

#21101 YORK ROAD
7TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
DATE: AUGUST 12, 2008
SCALE: 1" = 150'

McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying
Midland Resource Planning - Road Estate Development
10000 YORK ROAD, SUITE 100 CROFTON, MD 21114
BALTIMORE, MD 21114-3333 (410) 337-1100



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Back River Neck Rd

which is presently zoned RC, 20 portion of the property

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

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

(This box to be completed by planner)

To permit a non-density transfer

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

Contract Purchaser/Lessee:

APC Realty and Equipment Company LLC/Sprint Nextel

Name - Type or Print

Sam O'Neill Sam O'Neill

Signature

7056 Samuel Morse Dr., Suite 100, 443-278-3890
Address Telephone No.
Columbia MD 21046
City State Zip Code

Attorney For Petitioner:

James R. Michal

Name - Type or Print

James R. Michal

Signature

Jackson & Campbell, P.C.

Company

1120 20th St. NW, Suite 300 202-457-1652
Address Telephone No.
Washington DC 20036
City State Zip Code

Legal Owner(s):

Back River LLC

Name - Type or Print

Albert C Jones

Signature

Albert C. Jones

Name - Type or Print

Signature

810 Back River Neck Rd 410-574-9337

Address

Telephone No.

Essex

MD

21221

City

State

Zip Code

Representative to be Contacted:

James R. Michal

Name

1120 20th St. NW Suite 300

Address

Telephone No.

Washington

DC

20036

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2008-0531-SPHX

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By ca Date 5/8/08



Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property
located at 810 Back River Neck Rd., Baltimore, MD 21221

which is presently zoned RC 20

Deed Reference: 13577 / 535 Tax Account # 2300004470

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

To permit a Tower at a height of 125' in a RC.20 zone

Refer to exhibit "B" for a detailed support statement.

Section 1A05.1.C.8; 426

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

Contract Purchaser/Lessee:

APC Realty and Equipment Company, LLC/Sprint Nextel

Name - Type or Print

SAY ONELL

Signature

7055 SAMUEL MORSE DR

Address

Columbia

MD

Telephone No.

21046

City

State

Zip Code

Attorney For Petitioner:

James R. Michal, Esq.

Name - Type or Print

James R. Michal

Signature

Jackson & Campbell, PC

Company

1120 20th St NW

Address

Washington

DC

Telephone No.

20036

City

State

Zip Code

Legal Owner(s):

Back River LLC

Name - Type or Print

Albert C Jones

Signature

Name - Type or Print

Signature

810 Back Neck River Rd.

Address

Baltimore

MD

Telephone No.

21221

City

State

Zip Code

Representative to be Contacted:

James R. Michal, Esq

Name

1120 20th St. NW

Address

Washington

DC

Telephone No.

20036

City

State

Zip Code

Case No. 2008-0531-SPHX

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

Reviewed By *LM*

Date

5/23/08

439 East Main Street
Westminster, MD 21157-5539



410-848-1790
FAX (410) 848-1791

Back River Neck Road

A description of a 5.9002 acre parcel of land located on the west side of Back River Neck Road in the 15th Election District of Baltimore County, Maryland.

Beginning at a rebar and cap marked "KCI" found on the westerly right-of-way line of Back River Neck Road, thence in a southerly direction with the said right-of-way line.

1. By a non tangent curve to the right having a radius distance of 775.00 feet, an arc length of 228.14 feet being subtended by a chord bearing and distance of South 04 degrees 41 minutes 38 seconds West, 227.32 feet to a point at the end of the 5th or North 63 degrees 47 minutes 49 seconds East, 779.71 foot line of a deed from Henry A. Pettit and Helen G. Pettit his wife to Theodore Julio and Anna Julio dated May 8, 1973 and recorded among The Land Records of Baltimore County, Maryland in Liber 5361, folio 664 thence leaving said right-of-way and binding on and running reversely with a portion of the said 5th line;
2. South 74 degrees 15 minutes 00 seconds West, 445.36 feet to a point, thence leaving said 5th line and running for two (2) new lines of division through the land now or previously owned by Theodore Julio;
3. South 15 degrees 45 minutes 00 seconds East, 126.00 to a point, thence;
4. South 74 degrees 15 minutes 00 seconds West, 323.00 to a point on the 4th or North 26 degrees 12 minutes 11 seconds West, 491.92 foot line of the aforementioned deed 5361/664, thence binding on and running with a portion of said 4th line;
5. North 15 degrees 45 minutes 00 seconds West, 49.00 feet to a point on the 2nd or North 16 degrees 53 minutes West, 1356 foot line in a deed from Robert B. Simms and Brenda J. Scruggs to Back 50, LLC dated August 17, 2004 and recorded among said land records in Liber 20628, folio 117, thence leaving said 2nd line and running for three (3) new lines of division through the land now or previously owned by Back 50, LLC;
6. South 74 degrees 15 minutes 00 seconds West, 65.50 feet to a point, thence;
7. North 15 degrees 45 minutes 00 seconds West, 300.00 feet to a point, thence;

Case # 2008-0531-SPH

Serving Maryland, Pennsylvania, Virginia & West Virginia with offices in:

Westminster
439 East Main Street, Westminster, MD 21157
(410) 848-1790 • (410) 848-1791 FAX

Frederick
8445 Progress Drive, Suite BB, Frederick, MD 21701
(301) 662-1789 • (301) 662-8004 FAX



8. North 74 degrees 15 minutes 00 seconds East, 65.50 feet to a point at the beginning of the 4th or South 15 degrees 45 minutes 00 seconds 223.00 foot line of a deed from Anthony D. Luciano, Personal Representative of the Estate of Augustine L. Luciano and Ruth Elise Luciano to Back River, LLC dated February 2, 1999 and recorded among the said land records in Liber 13577, folio 535, thence binding on and running with the aforementioned 2nd line;
9. North 15 degrees 45 minutes 00 seconds West 33.00 feet to a point at the end of the fifth or South 74 degrees 15 minutes West, 30.00 foot line as described in a deed of conveyance from Maria Luciano to Albert Ladanyi and Eva I. Ladanyi, dated January 27, 1976 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K. 5606 folio 589 etc.; thence binding on and running reversely with the fifth, fourth and third lines, as follows;
10. North 74 degrees 15 minutes 00 seconds East, 30.62 feet, thence;
11. By a curve to the right an arc length of 65.98 feet having a radius of 40.00 feet and being subtended by a chord bearing and distance of North 31 degrees 45 minutes 42 seconds East 58.75 feet, thence;
12. North 79 degrees 01 minutes 02 seconds East passing over a point the distance of 85.35 feet at the beginning of said third line, said point also being at the end of the fourth or South 79 degree 01 minute West 91.32 foot line as described in a deed of conveyance from Maria Luciano to Frank DiAngelo and Anthony A. DiAngelo, dated January 27, 1967, and recorded among the aforesaid Land Records in Liber E.H.K. 5606 folio 587, in all, a distance of 176.67 feet to a point at the beginning thereof; thence binding on and running with a part of the third or South 74 degree 15 minute West 68.08 foot line of said deed;
13. North 74 degrees 15 minutes 00 seconds East 25.00 feet; thence leaving said line for a new line of division;
14. South 15 degrees 45 minutes 00 seconds East 58.00 feet to a point on the third or South 74 degree 15 minute West 650.00 foot line as described in the abovementioned conveyance from Luciano et al to Back River, LLC (13577/535); thence binding on and running reversely with a part of said third line;
15. North 74 degrees 15 minutes 00 seconds East, 375.00 feet to a rebar and cap marked "KCI" at the end of the 2nd or North 15 degrees 45 minutes 00 seconds West, 10.00 foot line of the aforementioned deed 13577/535, thence binding on and running reversely with the 2nd and 1st lines of said deed;

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **3962**

Date: **5/9/08**

PAID RECEIPT

BUSINESS ACTUAL TIME
 5/12/2008 5/09/2008 15:33:31
 REC-805 WALKIN TREE LND
 RECEIPT # 444097 5/09/2008
 5 528 ZONING VERIFICATION
 013962
 Recpt Tot \$705.00
 \$705.00 13 1.00 12
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				705.00
001	006			6150				705.00
Total: 705.00								705.00

Rec From: **Back River LLC** **2007-0531 SPH**
 For: **810 Back River Neck**
Essex Md 21221

DISTRIBUTION
 WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

**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: # 2008-0531-SPHX
810 Back River Neck Road
West/South of Back River Neck
Road, 207 feet S/of Potter
Farm Road

15th Election District
6th Councilmanic District
Legal Owner(s): Back River,
LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint
Nextel

Special Hearing: to permit a
non-density transfer. Special

Exception: to permit a tower
height of 125 feet in an RC20
zone.

Hearing: Wednesday, August
20, 2008 at 9:00 a.m. in 1st
Floor Hearing Room, Jefferson
Building, 105 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.

JTB 8/6/08 Aug. 5 179905

CERTIFICATE OF PUBLICATION

8/7/, 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 8/5/, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

Certiflcate of Posting

RE: Case NO. 2008-0531-SPHX

Petitioner/Developer _____

Back River, LLCDate of Hearing/Closing 8/20/08

Baltimore County
Department of Permits and Development Managements
County Office Building - Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

Attention:

This letter is to certify, under penalties of perjury, that the necessary sign(s) as required by law, were posted conspicuously on the property located at _____

810 Back River Neck Road

The sign(s) were posted on 8/5/08
(Month, Day, Year)

Sincerely,

(Signature of sign Poster and date)Richard E. Hoffman
(Printed Name)

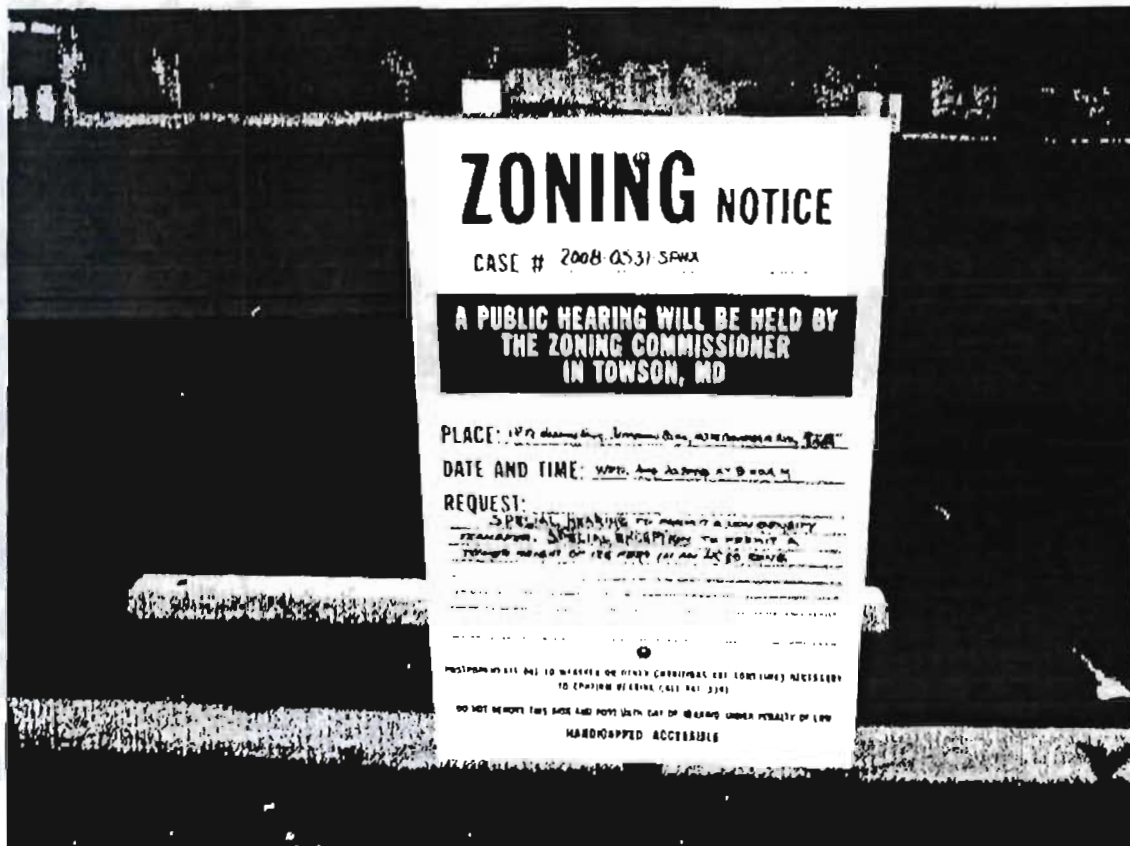
See Attached
Photograph

904 Dellwood Drive
(Address)Fallston, Md. 21047
(City, State, Zip Code)410-879-3122
(Telephone Number)

Certificate of Posting
Photograph Attachment

Re: 2008-0531-SPHX

Petitioner/Developer: _____

Back River, LLCDate of Hearing/Closing: 8/20/08

810 Back River Neck Road

Posted: 8/5/08Richard E. Hoffman

DEPARTMENT OF **PLANNING 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: 2008 - 0531-SPHX
Petitioner: Back River LLC
Address or Location: 810 BACK RIVER Neck Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jay O'Neil
Address: 7055 Samuel Morse Dr Suite 100
Columbia Md. 21046
Telephone Number: 202-457-1652

Revised 2/20/98 - SCJ



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

June 19, 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: 2008-0531-SPHX

810 Back River Neck Road

West/South of Back River Neck Road, 207 feet S/of Potter Farm Road

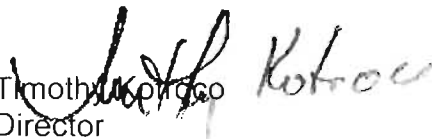
15th Election District – 6th Councilmanic District

Legal Owners: Back River, LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint Nextel

Special Hearing to permit a non-density transfer. Special Exception to permit a tower height of 125 feet in an RC20 zone.

Hearing: Friday, August 1, 2008 at 10:00 a.m. in Hearing Room 1, 2nd Floor,
Jefferson Building, 105 W. Chesapeake Avenue, Towson 21204


Timothy M. Kotroco
Director

TK:klm

C: James Michal, Jackson & Campbell, 1120 20th St. NW, Washington DC 20036
Jay O'Neill, APC Realty & Equip., 7055 Samuel Morse Drive, Columbia 21046
Albert Jones, Back River, 810 Back River Neck Road, Baltimore 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 17, 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, July 17, 2008 Issue - Jeffersonian

Please forward billing to:

Jay O'Neil
7055 Samuel Morse Drive, Ste. 100
Columbia, MD 21046

202-457-1652

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: 2008-0531-SPHX

810 Back River Neck Road

West/South of Back River Neck Road, 207 feet S/of Potter Farm Road

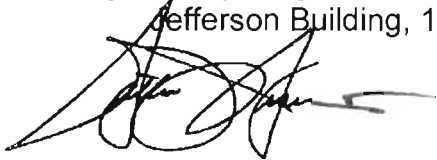
15th Election District – 6th Councilmanic District

Legal Owners: Back River, LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint Nextel

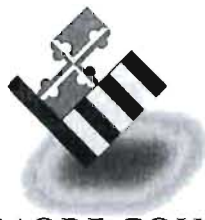
Special Hearing to permit a non-density transfer. Special Exception to permit a tower height of 125 feet in an RC20 zone.

Hearing: Friday, August 1, 2008 at 10:00 a.m. in Hearing Room 1, 2nd Floor,
Jefferson Building, 105 W. 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

August 13, 2008

James R. Michal, Esq.
Jackson & Campbell, PC
1120 20th St. NW
Washington, DC 20036

Dear: James R. Michal, Esq.

RE: Case Number 2008-0531-SPHX, 810 Back River Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 23, 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:lnw

Enclosures

c: People's Counsel
Albert C. James: Back River LLC, 810 Back River Rd., Baltimore, MD 21221
Jay O'Neil, 7055 Samuel Morse Dr., Columbia, MD 21046

TB 8/20
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUL 03 2008

BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: July 2, 2008

SUBJECT: Zoning Item # 08-531-SPH
Address 810 Back River Neck Road
(Back River, LLC Property)

Zoning Advisory Committee Meeting of June 17, 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 this property must comply with the Chesapeake Bay Critical Area (CBCA) Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments: Comments concerning CBCA requirements cannot be completed due to unknown issues. The forest adjacent to the proposed location of the antenna meets the criteria for forest interior dwelling bird species habitat. DEPRM needs more information on the implications of the 200-foot radius from the tower and the adjusted property limits on the FIDS habitat and required stream, tidal/nontidal wetland buffers, and forest protection. There is a stream on and offsite to the northwest and west of the tower site.

Reviewer: Paul Dennis

Date: June 30, 2008

TB
8-20-08

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 12, 2008

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

RECEIVED
AUG 18 2008

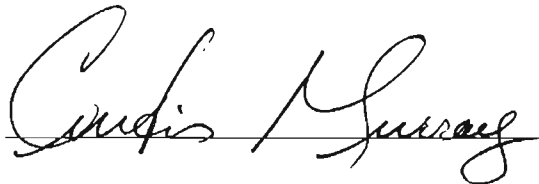
BY:

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-531- Special Exception**

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

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

Prepared By:



Division Chief: _____

CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 19, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For June 23, 2008
Item Nos. 08-456, ~~0531~~, 0543, 0558, 0559, 0560,
0561, 0562, 0563, 0566, 0567, 0568, and 0571

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

DAK:CEN:lrk

cc: File

ZAC-06192008-NO COMMENTS



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

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

Maryland Department of Transportation

Date: 6-20-2008

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

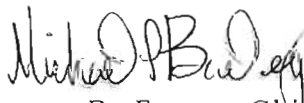
RE: Baltimore County
Item No 2008-0531-SPH
810 BACK RIVER NECK RD
BACK RIVER, L.L.C. PROPERTY
SPECIAL HENFEING
SPECIAL EXCEPTION

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. 2008-0531-SPH.

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: August 21, 2008
TO: File
FROM: Thomas Bostwick, Deputy Zoning Commissioner
RE: Petition for Special Hearing and Special Exception
Case No. 2008-0531-SPHX – 810 Back River Neck Road

This matter came before me on August 20, 2008 on Petitions for Special Hearing and Special Exception. The Special Hearing was requested to permit a non-density transfer of land and the Special Exception was requested to permit a telecommunications tower at a height of 125 feet in an R.C.20 Zone. The Petitioners are the property owner, Back River LLC by Albert "Buck" Jones and the contract lessee, APC Realty and Equipment Company LLC/Sprint Nextel.

Petitioners' attorney, James Michal, appeared with several witnesses in support of the requests for relief. Also appearing was Assistant County Attorney Nancy West and Mike Mohler, Deputy Director of Permits and Development Management and Head of the Code Inspections and Enforcement Division. Ms. West related that this case has had significant history and that because of this, I should consider postponing the case. The history I gleaned from both parties is as follows:

In 2001, Sprint PCS and Back River LLC petitioned for a variance to erect a 115 foot monopole on the subject property. Then-Zoning Commissioner Lawrence Schmidt granted the variance request and shortly thereafter, Petitioners erected the cell tower. The case was appealed to the Board of Appeals and they denied the variances requested. The Circuit Court affirmed and the Court of Special Appeals affirmed the denial of the variances. During these proceeding four years, the cell tower was erected and continued to operate.

Over the last few years, Code Enforcement has attempted to enforce the Court of Special Appeals decision and have the cell tower taken down. During this period, it also appears that Petitioners have attempted to "right" the situation by trying to take out the need for the variances by acquiring sufficient adjacent land so as not to need the setbacks from the original variance case (Case No. 02-159-A). They have also filed the instant petitions for special hearing for a non-density transfer (assuming they can acquire the requisite land) and special

exception to extend the existing tower from 115 feet to 125 feet to accommodate Sprint Nextel on the tower.

In a somewhat related matter, in 2007 and Case No. 07-506-X, Petitioners and property owners Patricia Shaneybrook and Susan Basso and contract lessee Verizon Wireless requested a special exception to erect a cell tower on Back River Neck Road, not far from the subject property where the "illegal" cell tower currently operates. Zoning Commissioner William J. Wiseman, III granted that special exception, noting that the requested tower would essentially be a "replacement" to the tower on the subject property that was denied by the Court of Special Appeals in 2005.

In addition, currently, the Code Enforcement Office and Petitioners and the Shaneybrook and Verizon parties are in discussions in an effort to possibly ultimately allow the existing cell tower to remain and for Verizon to occupy part of that tower to enhance its service. As noted earlier, Petitioners are trying to acquire sufficient adjacent land so they no longer need variance relief, which would in turn legitimize the existence of the tower.

With that backdrop, the County, through Ms. West and Mr. Mohler, requested that the current matter be postponed, believing it was not appropriate for Petitioners to be requesting zoning relief when the parties were in the throes of administrative enforcement proceedings involving removal of the existing "illegal" tower. I agreed with Ms. West and postponed the case. I directed that the parties attempt to resolve the outstanding issues prior to re-scheduling this matter. Otherwise, with the prior Court of Special Appeals mandate, the relief requested in this case may not be appropriate, especially if Petitioner cannot acquire the necessary adjacent land.

The undersigned did open the hearing prior to the postponement. It should be re-scheduled probably for mid to late October or November 2008 and should be assigned to me. It does NOT need to be re-posted and re-published.

c: Nancy West, Assistant County Attorney
Mike Mohler, Deputy Director of Permits and Development Management
and Head of the Code Inspections and Enforcement Division

From: Patricia Zook
To: Mohler, Mike; West, Nancy
Date: 8/21/2008 11:24:31 AM
Subject: Case No. 2008-0531-SPHX – 810 Back River Neck Road

Nancy and Mike -

Please see Tom Bostwick's memorandum to the case file.

Kristen - the case file is being returned to PDM for safe keeping.

Patti Zook
Baltimore County
Office of the Zoning Commissioner
Jefferson Building, Suite 103
105 West Chesapeake Avenue
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

CC: Bostwick, Thomas; Matthews, Kristen

- 8-20-08-

2008-0531-SPHX

- Jim Muel - Pet's Atty

- Nanny West - Ant County Atty

↳ Mike Mullen

↳ after 10/10/08 PD

Pet - 10/01

Bdly Appeals 5/03

City Sp. Appeals 8/03

3/08- Letter, from Bulldog Engineer
Re: Grand

↳ w/ draw use + occupancy permit

- Kasey - represent Young's

- Frank Bergsma - represent Shaverbrook

- Brad Newell Wash Peninsula Comm Association send
letter to Tim Brad in 8/19/06

CASE NAME _____
CASE NUMBER 2008-0531-SPHX
DATE 8-20-08

[illegible]

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER 7008-0531-SPHX

DATE 8-20-08

CITIZEN'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E-MAIL

CARL MAYNARD

1546 DENTON RD

BALTO MD 21221



Catherine Travis
2019 Silver Lane Rd.
Baltimore, MD 21221

CASE NAME _____
CASE NUMBER _____
DATE _____

NAME _____

CITY, STATE, ZIP

Mike Moller

Salt to PPM

305 W. Chesapeake Ave. Thomas

REPORT@battimail.com 4m0.600

Nancy West

Baker Co. Oppen of law

400 Wash. Ave. Portland 1204

4 newest @ hulkmore county ma
gov.

*adjacent tower
nearby*

IN RE: **PETITION FOR SPECIAL
EXCEPTION**

SW/S Back River Neck Road, 800' N
of c/line Pottery Farm Road
(720 Back River Neck Road)
15th Election District
6th Council District

Patricia Shaneybrook & Susan Basso
Owners

Cellco Partnership, *Contract Lessee*
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-506-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owners of the subject property, Patricia Shaneybrook and Susan Basso and the Contract Lessee, Cellco Partnership d/b/a Verizon Wireless, through their attorney, David H. Karceski, Esquire. The Petitioners request a special exception pursuant to Sections 1A05.2.C.8, 1B01.1.C.24, 426.5.D and 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a wireless telecommunications tower/facility on the property. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1A.

Appearing at the requisite public hearing in support of the request on behalf of the owners was Brian G. West, Esquire. Jay Schapiro, Verizon's Real Estate Site Manager, and Scott Kass, its RF Engineer, appeared on behalf of Verizon Wireless. Also appearing were Thomas E. Wolfe, registered landscape architect, and David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco. Also appearing were Thomas E. Wolfe, registered landscape architect, and David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco. Also appearing were Thomas E. Wolfe, registered landscape architect, and David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco. Also appearing were Thomas E. Wolfe, registered landscape architect, and David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco.

*adjacent/tower
nearby*

IN RE: **PETITION FOR SPECIAL
EXCEPTION**

SW/S Back River Neck Road, 800' N
of c/line Pottery Farm Road
(720 Back River Neck Road)
15th Election District
6th Council District

Patricia Shaneybrook & Susan Basso
Owners

Cellco Partnership, *Contract Lessee*
Petitioners

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BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-506-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owners of the subject property, Patricia Shaneybrook and Susan Basso and the Contract Lessee, Cellco Partnership d/b/a Verizon Wireless, through their attorney, David H. Karceski, Esquire. The Petitioners request a special exception pursuant to Sections 1A05.2.C.8, 1B01.1.C.24, 426.5.D and 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a wireless telecommunications tower/facility on the property. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1A.

Appearing at the requisite public hearing in support of the request on behalf of the owners was Brian G. West, Esquire. Jay Schapiro, Verizon's Real Estate Site Acquisition Manager, and Scott Kass, its RF Engineer, appeared on behalf of Verizon Wireless along with David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco Partnership. Also appearing were Thomas E. Wolfe, registered landscape architect, and Brian E. Siverling, professional engineer, with Morris & Ritchie Associates, Inc., the firm responsible for the

preparation of the site plan. There were no Protestants or other interested persons present, however, it is noted that a letter was received from the Back River Neck Peninsula Community Association supporting the proposed tower at this location which was accepted into evidence as Petitioners' Exhibit 5.

Testimony and evidence revealed that the subject property is an unimproved parcel located adjacent to and on the west side of Back River Neck Road just south of Turkey Point Road in Essex across from the Chesapeake High School and the site of the Turkey Point Middle School.¹ The property consists of a gross area of 9.76 acres, more or less, predominantly zoned R.C.20 with a small sliver of D.R.3.5 and B.L. in the southeastern corner of the site. Petitioners seek to install a new telecommunications tower and equipment shelter on the property, as illustrated on Petitioners' Exhibit 1B. The location proposed for this telecommunications compound is to the western or rear portion of the site. Specifically, Verizon Wireless proposes to install a 120-foot tall telecommunications monopole with antennas and related equipment shelters on the property. As confirmed by its representatives at the hearing, they conducted an extensive search for an appropriate site for either antennas or a new tower to address the service problems in the area. That search resulted in the identification of the subject property as a potential location for a new tower after other possibilities, such as existing buildings or structures or commercially zoned properties, were exhausted. A drive test confirmed the suitability of the site, and Verizon Wireless then worked with both the property owners and the surrounding community to come up with a tower proposal that satisfied everyone's needs and concerns.

¹ The history of this property indicates a Petition for Special Exception approving an adult day care center was granted in Case No. 00-139-X. B.C.Z.R. Section 502.3 requires a utilization of such a use take place within a two-year period. This time restriction having passed and no extensions granted, the Order is now void.

The proposed tower is in essence a replacement tower for an existing wireless communications facility located at 810 Back River Neck Road previously approved by the then Zoning Commissioner Lawrence E. Schmidt in Case No. 02-159-A. On appeal, however, certain setback relief necessary for that tower's existence was ultimately denied. The Office of Planning, in its July 26, 2007 Zoning Advisory Committee (ZAC) comment, recognized that the 810 Back River Neck Road tower is now operating illegally on that property. For this reason, and the reasons more fully set forth in the unreported Court of Special Appeals decision entitled *Sprint PCS, et al v. Baltimore County*, Md. Case No. 0047 (September term 2004), the Petitioner filed the instant Petition for Special Exception.

The Office of Planning issued an original comment, dated July 19, 2006. In its comment, Planning recommended approval of the requested relief provided that the Petitioner presented evidence that best efforts in minimizing the visual impact of the proposed tower was presented given the towers location in a resource conservation zone. Additionally, the July 19th comment requested that an approval for this tower be restricted to the removal of an existing monopole tower presently located at 810 Back River Neck Road. In its revised July 26, 2007 ZAC comment, the Office of Planning indicating that the Code Enforcement Office should take the necessary steps needed for the removal of the tower within 180 days from the date the subject replacement tower is constructed and determined to be operational. Jeffrey Long, Deputy Director for the Office of Planning, attended the hearing in this regard. During the presentation of the case, he reviewed Petitioners' photographs that revealed the limited visibility of the proposed tower (*See* Petitioner's Exhibit 9) and confirmed his office's satisfaction regarding the tower's location on the property. Additionally, Mr. Long confirmed his office's position regarding the 810 Back River Neck Road tower and its removal as contained in the July 26th

ZAC comment. After reviewing the Courts opinion as articulate in *Sprint v. Baltimore County* (Petitioners' Exhibit 10), I concur with the Office of Planning's viewpoint regarding the removal of the existing tower following the installation and activation of Petitioners' tower.

The Department of Environmental Protection and Resource Management (DEPRM) submitted a ZAC comment following the public hearing in this case on August 2, 2007. DEPRM's comment indicated that the property was within the Resource Conservation Area of the Chesapeake Bay Critical Area. DEPRM's reviewer, Kevin Brittingham, outlined the required goals to be met. As a condition of approval, I will incorporate these comments and attach them to this Order.

As Verizon Wireless confirmed, a 120-foot tower is tall enough to serve its purposes and allow for potential co-location, yet low enough that the impacts on the residents of the surrounding neighborhood are minimized. The location of the tower on the property also helps minimize its appearance.

Having considered all of the evidence and testimony on these points, I am persuaded to grant the Petition for Special Exception. Verizon Wireless's efforts in trying to find an appropriate site and in working with the community to come up with an acceptable proposal are evidenced by the letter of support from the community written by Mr. Celmer and from the lack of any opposition at the hearing. I have examined the proposal in the context of B.C.Z.R. Sections 426 and 502.1, and find that Petitioners have produced strong and substantial evidence at the hearing that the proposed telecommunications tower/facility is appropriate at this site, meets the County's requirements for a new tower, and will have little or no impact, visual or otherwise, on the surrounding community. Petitioners are, therefore, entitled to the relief

requested. It is clear that they have made every effort to identify a suitable location and have taken steps to minimize the impacts in its design, placement and construction.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this _____ day of August 2007, that the Petition for Special Exception for a wireless telecommunications tower/facility pursuant to Sections 1A05.2.C.8, 1B01.1.C.24, 426.D and 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibits 1A and 1B, be and is hereby GRANTED, subject to the following restriction:

1. Petitioners may apply for building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
2. Compliance with the ZAC comment submitted by DEPRM relative to compliance with the Chesapeake Bay Critical Area regulations as contained in the Baltimore County Code as well as the Resource Conservation Area comments set forth in the revised remarks, dated August 2, 2007, a copy of which is attached hereto and made a part hereof.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0047

September Term, 2004

SPRINT PCS, ET AL.

v.

BALTIMORE COUNTY, MARYLAND

Eyler, James R.,
Adkins,
Barbera,

JJ.

Opinion by Adkins, J.

Filed: August 3, 2005

RECEIVED
JUL 24 2007

PETITIONER'S

BY:.....

3C03005849

EXHIBIT NO. _____

Sprint PCS and Back River, LLC,¹ appellants, petitioned Baltimore County zoning authorities for setback variances so that they could build a wireless telecommunications tower. The Baltimore County Zoning Commissioner granted the variances on the ground that the subject property is "unique" in that the setback requirements for such a tower preclude this permitted use of the property due to the narrow width of the property. On de novo appeal, however, the Baltimore County Board of Zoning Appeals (the Board) denied the variances on the ground that the property is not unique. The Board's decision was affirmed by the Circuit Court For Baltimore County. Sprint asks us to overturn the circuit court's affirmance of the Board's decision.

FACTS AND LEGAL PROCEEDINGS

Back River LLC owns the subject property, which is a 4.31 acre parcel located at 810 Back River Neck Road on the Back River Peninsula in eastern Baltimore County, near the intersection of Pottery Farm Road. The parcel has a long rectangular shape. Its width, the frontage on Back River Neck Road, is 223 feet. Its length is approximately 850 feet on the northern boundary and 763 feet along the southern.

The property is designated by the Baltimore County Master Plan 2010 as a "gateway" to the peninsula. It is zoned Manufacturing Light (ML) and has been the site of commercial uses for more than

¹Back River LLC owns the subject property, and leases a portion of it to Sprint PCS. For convenience, we shall refer to both appellants collectively as Sprint.

60 years. There are currently two one-story commercial buildings, one of which is a strip business center housing the owner's construction business, a dry cleaner, landscaper, beauty salon, and carpet store. The other building is a storage facility.

These buildings, along with a macadam parking lot, are located in the "front" half of the parcel nearest the road. Across the street is a medic station and a former elementary school that has most recently been used as a community center. Along the northern boundary in that portion of the lot is a private drive serving three residential properties with existing dwellings. The "rear" part of the parcel is not developed, except that a large part of it is graveled so that it can be used for storage of construction vehicles, boats, etc. This portion of the property is bordered on the north by three vacant and wooded lots, all of which are zoned Rural Conservation 20 (RC20). The southern boundary is bordered by RC20 property on which there is a residence.

Sprint seeks to improve network coverage for its cellular services, due to customer complaints and company studies suggesting that Sprint's service is unreliable in this area. Studies showed that, in order to bridge the gaps in network service, Sprint would have to add wireless facilities within a "search ring" determined by its radio frequency engineers. This search ring measures approximately one mile north to south and 1/4 mile east to west along Back River Neck Road.

recommendation from the Baltimore County Tower Review Committee (TRC), whose members represent the Office of Planning, the Office of Budget and Finance, and the community. The TRC concluded that Sprint "provided ample documentation that the 115-foot monopole . . . is indeed required for the network." It recommended that the construction be approved if Sprint agreed that two other carriers could also use the tower and appropriate landscaping was installed as a buffer for the tower and equipment cabinets.

On May 14, 2001, the Baltimore County Development Review Committee (DRC), "which is composed of each of those departments involved in land-use decisions[,] " issued an administrative order finding the proposed facility "meets the requirements of a limited exemption under Section 26-171(A) (7)" of the Baltimore County Code. The DRC authorized Sprint to "proceed with building permit application."

With these in hand, Sprint petitioned for setback variances on October 19, 2001. In support of its application, Sprint asserted that the shape of the parcel and its location in the midst of surrounding vegetation distinguishes this parcel from other properties in the area. Sprint presented evidence that one of the other parcels is zoned Business Light and is located immediately northeast of this site, approximately 165 feet deep and 221 feet wide. Another parcel is zoned ML and located on the east side of Back River Neck Road to the south of the subject property, but it

DISCUSSION

Setbacks And Variances For Wireless Telecommunications Towers

Baltimore County Zoning Regulations (BCZR) establish front, rear, and side setbacks based primarily upon three factors: (1) the use for the subject property, (2) the zoning classification of the subject property, and (3) the zoning classifications of neighboring properties. For ML sites surrounded by residentially zoned properties, the standard rear and side setback is 50 feet. See BCZR § 255.1, § 243.2, § 243.3. But a wireless telecommunications tower on such a site must satisfy a greater setback requirement - at least 200 feet from any residential boundary. See BCZR 426.6.A.1. And "[a] structure housing equipment for a tower" must be set back 120 feet from "any other owner's property or zone line."

Relief from these setbacks is available via an area variance. Under BCZR section 426.6.11 governing setbacks for wireless telecommunications towers, "[t]he Zoning Commissioner, and Board of Appeals upon appeal, may grant a variance to a[n] . . . area requirement, including any setback[.]" "A variance refers to administrative relief which may be granted from the strict application of a particular development limitation in the zoning ordinance (i.e., setback, area and height limitations, etc.)." *Mayor and Council of Rockville v. Rylyns Enterprises, Inc.*, 372 Md.

514, 537 (2002). A variance authorizes the property owner "to use his property in a manner forbidden'" by applicable zoning restrictions. See *Cromwell v. Ward*, 102 Md. App. 691, 700 (1995). In contrast to special exceptions, which "contemplate a permitted use . . . [once] the prescribed conditions are met[.]" a variance "contemplates a departure from the terms of the [zoning] ordinance in order to preclude confiscation of the property[.]" *Id.* at 699-700 (citations omitted).

The test that governs variance requests generally also governs tower variance requests:

The zoning commissioner of Baltimore County and County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations . . . only in cases **where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request** and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. . . . [A]ny such variance shall be granted only if in strict harmony with the spirit and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant other variances. . . .

BCZR § 307.1 (emphasis added); see BCZR § 426.11 (area setback for wireless telecommunications tower and related equipment may be granted "in accordance with Section 307").

"The burden of showing facts to justify . . . [a] variance rests upon the applicant[.]" *Easter v. Mayor and City Council of*

Baltimore, 195 Md. 395, 400 (1950). Both the "special circumstances or conditions" requirement, which is typically referred to as the "uniqueness" element, and the "practical difficulty" element of the two-pronged test must be satisfied. "[T]he law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been--a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." *Cromwell*, 102 Md. App. at 721. Here, the Board did not reach a decision regarding practical difficulty because it concluded that Sprint failed to prove uniqueness. Our focus, therefore, is on the Board's factual finding that the property is not unique.

Judicial Review Of The Board's Decision

In reviewing the denial of an area variance request, we examine whether the Board, "as an administrative agency, correctly reached the conclusions required by the Zoning Ordinance for the [denial] of a variance[,]" which means that "we must review the administrative decision itself." *Mastandrea v. North*, 361 Md. 107, 133 (2000); see also *Stansbury v. Jones*, 372 Md. 172, 182 (2002) (standard of appellate review is "the same whether the agency grants or denies" the variance). This means that our role is "to

repeat the task" performed by the circuit court. See *Red Roof Inns, Inc. v. People's Counsel for Baltimore County*, 96 Md. App. 219, 224 (1993).

We may "uphold the decision of the Board only 'on the basis of the agency's reasons and findings.'" *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 504, cert. denied, 342 Md. 584 (1996). For factual findings, "the correct test . . . is whether the issue before the administrative body is 'fairly debatable,' that is, whether its determination is based upon evidence from which reasonable persons could come to different conclusions." *White v. North*, 356 Md. 31, 44, 50 (1999); see *Stansbury*, 372 Md. at 182. If we find evidence to support the Board's action, we may not substitute our judgment even if the evidence also supports different factual inferences. See *Mastandrea*, 361 Md. at 133.

Consequently, we must decide whether the Board erred in concluding that the parcel has no special circumstances or conditions that make it unique for variance purposes.

Special Circumstances Or Conditions

As we noted above, the "special circumstances or conditions" prong of the variance test is commonly referred to as a "uniqueness" requirement, even though it is not necessary for the applicant to show truly unique circumstances. Uniqueness has a "rather specialized meaning" in zoning law. See *Umerley*, 108 Md.

App. at 506. As Judge Cathell explained when he was a member of this Court,

"[u]niqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. .

An example of uniqueness is found in the use variance case of *Frankel v. Mayor and City Council*, 223 Md. 97, 104 (1960), where the Court noted: "[H]e met the burden: the irregularity of the ... lot that it was located on a corner of an arterial highway and another street, that it is bounded on two sides ... by parking lots and public ... institutions, that immediately to its south are the row houses...."

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339 (1986), quoted from the Queen Anne's County ordinance:

"Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific ... property ..., or by reason of exceptional topographic conditions or other extraordinary situation or special condition of ... property ... the literal enforcement ... would make it exceptionally difficult ... to comply ... and would cause unwarranted hardship and injustice...."

The general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court in *Ad + Soil, Inc.*

North v. St. Mary's County, 99 Md. App. 502, 514-15, cert. denied sub nom. *Enoch v. North*, 336 Md. 224 (1994) (emphasis added). See also *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 434 (2003) (adopting this standard).

Thus, "the initial and essential first step in the determination of appropriateness of an area variance" is whether "the subject property is so inherently unique that the ordinance's impact thereon would be disproportionate when compared to other lands in the district." *Chester Haven Beach P'ship v. Bd. of Appeals for Queen Anne's County*, 103 Md. App. 324, 338 (1995); see also *Umerley*, 108 Md. App. at 506 ("the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property").

The Court of Appeals has recognized that special conditions may exist when "'property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions of the zoning ordinance[.]'" *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554 (1965) (citation omitted).

Thus, the fundamental issue in an area variance petition is "whether the property owner . . . is being denied a reasonable use of property" if the variance is denied. *Lewis*, 377 Md. at 419. In such cases, the grant of a variance may be appropriate relief. See *Bounds*, 240 Md. at 554.

Our review of Maryland case law reveals a number of appellate cases addressing uniqueness. In many cases denying a variance on this ground, the petitioner did not satisfy its burden of proof because the unique circumstances were caused by the plight of the property owner rather than by a characteristic of the land itself. See *Cromwell*, 102 Md. App. at 719.

For example, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339 (1986), the petitioner sought setback variances for four acres it had purchased to develop as a sludge storage and distribution facility, but later learned of local restrictions on where the facility could be situated within the parcel. The setback variances were denied because the lot was large enough to comply fully with the mandatory setbacks simply by relocating the proposed facility on the property. The Court of Appeals agreed with the Queen Anne's County Board of Appeals that the need for the variance did not result from exceptional or extraordinary characteristics of the land itself. See *id.* at 340-41.

Similarly, in *Umerley*, the applicants sought setback variances so that they could continue to operate their trucking facility,

which pre-dated Baltimore County zoning regulations prohibiting such facilities within certain distances of residential zones, wetlands, and a major road. This Court held that the Board of Appeals erred in failing to consider whether the property was unique, but proceeded to determine as a matter of law that there was insufficient evidence to support a finding of uniqueness. See *Umerley*, 108 Md. App. at 506-08. Because neither the long-term violation of the zoning laws, nor the importance of the business to the county and state economy, could be considered "an inherent characteristic[,]'" there was no evidence from which a uniqueness finding could be made. See *id.* at 508.

In *Evans v. Shore Communications, Inc.*, 112 Md. App. 284 (1998), we affirmed the denial of a height variance necessary to build a wireless telecommunications tower in Talbot County. We specifically rejected the applicant's arguments that the property was unique because it satisfied the technological requirements for wireless service and because it had an elevation that reduced the need for a higher tower on that property or elsewhere. See *id.* at 308.

There are, however, Maryland cases in which courts have acknowledged a showing of uniqueness for purposes of a variance petition. In *Alviani v. Dixon*, 365 Md. 95, 121 (2001), the Court of Appeals affirmed the grant of area variances enabling construction of a automotive service facility in Anne Arundel

County. The 1.2 acre property in question was circular and surrounded by roads and access ramps along US Route 50, as a result of the State having previously obtained portions of that same parcel in order to construct those adjacent roadways. The Court approved the Board's finding that a seven-foot variance from the required 150 feet of road frontage was justified, because "the Petitioners cannot change their amount of lot frontage" given that the parcel "is surrounded on all sides by either unbuildable road rights-of-way or actual road bed[.]" See *id.* at 104.

Writing for the Court, Judge Cathell also pointed to substantial evidence supporting the Board's grant of a 25-foot variance from the 60-foot setback requirement for structures on a highway. See *id.* at 10506. Specifically, the Court agreed that the variance was justified because

the circular shape of the property and its proximity to Route 50 and its service ramps would leave [the petitioners] with "no reasonable possibility of developing the lot with a canopy over the pump islands which meets the requirements of the Zoning Regulations."

Id. at 105-06.

In *Stacy v. Montgomery County*, 239 Md. 189, 193 (1965), the Court of Appeals affirmed the grant of a *de minimis* side setback variance that allowed the applicant to operate a child care home within 25 feet of the property line. That property was a "surveyor's nightmare" in that its front and side boundaries

changed course several times, and the rear property line was approximately 46 feet narrower than the front property line. The Court of Appeals agreed with the Board that "there is no doubt that the shape of the subject property presented the hardship" justifying a setback variance. *Id.* at 194.

Two cases involving the critical area law are of interest. Most recently, in *Lewis*, the Court of Appeals found substantial evidence of uniqueness that would support a critical area variance.⁴ The applicant owned an island on which he wished to build a hunting lodge, but critical area setbacks limited the buildable area of the island to three small, irregularly-shaped, non-contiguous, and heavily vegetated areas. The original building plans were disapproved due to their environmental impact on these buildable areas. Wicomico County zoning authorities concluded that less damage would be done by building within the critical area buffer zone. The property owner began construction of the lodge in critical areas without obtaining the necessary variances, but later applied for them. The County denied the variance requests.

⁴Variance requirements for critical buffer areas differ in some respects from those in non-critical areas. See *Mastandrea*, 361 Md. 107, 139-40 (2000). But an applicant for a setback variance from a 100 foot critical area buffer must show that "strict implementation" of the setback would impede the proposed use due to "the features of the site or other circumstances other than financial considerations[.]" See *id.* at 141-42.

The Court of Appeals vacated that decision and remanded for further administrative proceedings. Writing for a majority of the Court, Judge Cathell explained that, for purposes of the variance application, the material issue was the uniqueness of this property, rather than the applicant's unauthorized construction on it.

[T]he issue of petitioner's construction of his six hunting camp buildings prior to his applying for a variance request is a "red herring." As previously mentioned, under the County Code and, more importantly, **because of the physical characteristics of Phillips Island, petitioner needed a variance to build any camp on the island regardless of whether he had started construction before applying for the variance due to the small, irregular, non-contiguous shape of the non-Buffer area on Phillips Island. . . . Essentially, his claim is that his property has unique physical characteristics which entitle him to receive a variance in order to avoid an unwarranted hardship. The Board should have analyzed petitioner's request in this light and not in the context of a self-created hardship. . . . [H]is hardship was a result of the unique physical features of his property and not because of actions taken by petitioner[.]**

Lewis, 377 Md. at 425-26 (emphasis added).

In *Mastandrea v. North*, 361 Md. 107 (2000), the Court affirmed the grant of a critical area setback variance allowing construction of a brick pathway for the owners' wheelchair-bound daughter to enjoy the waterfront. The petitioners offered evidence that the heavy clay soil substantially inhibited wheelchair travel along the shoreline. The Court of Appeals held that the Talbot

County Board of Appeals "did not have to consider whether denying the variance would have denied the [petitioners] a reasonable and significant use of the 'entire' lot." *Id.* at 136-37. "Rather, the Board was required to (and did) consider whether the property owners, in light of their daughter's disability, would be denied a reasonable and significant use of the waterfront of their property without the access that the path provided." *Id.* at 136. The Board properly "recognized that a literal application of the [setback requirements] would deprive [the daughter] of an ability to enjoy the property on which she resides as others in the area similarly situated may enjoy theirs without the need for a similar path." *Id.* at 138. These facts supported the Board's conclusion "that there was a special condition or circumstance unique to the lot." *Id.* at 137.

Unlike other cases, in *Mastandrea*, the Court found at least part of the uniqueness related to a family member's individual disability that created special needs with respect to the land, rather than the land itself. But it also found that the soil near the river was uniquely unsuited for wheelchair travel because it was "'one of the heaviest clay soils' [the Mastandreas'] expert 'had ever tested[.]'" *Id.* at 136. It did not require that the Mastandreas prove that the soil conditions on neighboring properties were better, largely because the "Commission neither offered any evidence to the contrary nor questioned the

Mastandreas' expert witness on this point[.]” *Id.* at 136-37. Moreover, in reaching its decision, the Court placed paramount emphasis on the daughter's disability and public policy favoring accommodation of disabilities. See *id.* at 137-38. This case may be limited in its application to situations involving special needs for enjoyment of property arising from disabilities.

The Board's Decision

Baltimore County Zoning Regulations permit both the Zoning Commissioner and the Board to grant setback variances. See BCZR § 307.1 (Zoning Commissioner and, upon appeal, the Board have “power to grant variances”); BCZR § 426.11 (Board “may grant a variance . . . in accordance with Section 307”). Here, the Zoning Commissioner found that the narrow shape of the parcel is an inherent and unchangeable characteristic of the property that makes it unique within the meaning of Baltimore County's zoning ordinances. In his memorandum decision, the Commissioner stated:

it is clear that the subject site is a unique property. The uniqueness is driven by the narrowness of the lot. Although the property contains in excess of 4.0 acres in area, it is but 223 feet wide. Section 426.6 of the B.C.Z.R. requires a 200-foot setback from the nearest property line to the tower. In view of the width of the property, this setback cannot be maintained. That is, any site must be a minimum of 400 feet in width to provide appropriate setbacks on all sides. E75-76. (Emphasis added.)

On appeal, the Board disagreed with the Zoning Commissioner's determination that the property is unique:

As to the uniqueness of this particular property, the property is rectangular and flat; there is no unique subsurface conditions, historical significance, or environmental factors to take into consideration. There is no access or non-access to navigable waters and there are no obstructions or abutting properties. The fact that there are trees on the property does not make it unique, since there are numerous properties in the area that possess trees. While this may be the only M.L. property within the "search ring" established by Sprint, this does not make the property unique. The search ring is an artificial area established by Sprint and does not necessarily indicate that there are not other properties in the area where a tower could be located through the granting of a special exception. The fact that a piece of property is zoned M.L. and therefore would allow a tower to be erected on that property as a matter of right does not make the property "unique." E280

Sprint argues:

[T]he subject property is rectangular in shape and only 233' wide at its widest point and, therefore, so narrow that no matter where the telecommunications facility is placed on the property, the setbacks required under the County Zoning Ordinance cannot be satisfied. The record also shows that nearby residentially zoned adjacent properties are shaped wider and are large enough to accommodate the required setbacks, albeit a special exception would be required if the facility were to be placed on such properties. . . . This undisputable fact renders the Property unique, as compared to its neighboring properties. The Board, however, completely ignored this evidence[.]

Because we think the issues of whether the Board made sufficient factual findings to support its decision, and whether the property is "undisputabl[y]" unique, are intertwined, we address them

together.

The problem with Sprint's argument is that this property is not especially narrow.⁵ The property has a width of 223 feet in the area selected for the monopole, which is 140% of the width of a college football field. Residences and businesses are commonly built on properties less than half of this width. See, e.g., V. Woener, Annotation, *Validity and Construction of Zoning Regulations Prescribing a Minimum Width or Frontage For Residence Lots*, 96 A.L.R.2d 1367, § 4 (1964) (citing cases involving various minimum lot frontage or width requirements). Although the length of the property is 3.8 times its width (850 along the northern boundary and 768 along the southern boundary), there was no showing or contention that the length was problematic. As the Board found, it is "currently improved with two buildings that house [a] contracting business and approximately seven other commercial operations[,] as well as "a parking lot which accomodates these uses." The record reveals that, even with these existing uses in the front, there was also space available for another ML use in the rear of the property.

⁵BCZR §307.1 does not specifically identify narrowness or shallowness as a "special circumstance or condition." We assume, but do not decide, that narrowness could also be considered in support of a variance in the absence of explicit mention in the ordinance. As Judge Cathell pointed out with respect to a St. Mary's County ordinance that did not refer explicitly to narrowness or shallowness, "[t]he general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court [of Appeals] in *Ad + Soil, Inc.*" See *North*, 99 Md. App. at 515.

Although the standard for uniqueness is not whether there is any other reasonable use for the property, an applicant for a variance must still show "special circumstances or conditions" not shared by other properties in the area, which would cause him unwarranted hardship. See *Lewis*, 377 Md. at 417, 421; *Umerley*, 108 Md. App. at 506. "[A] property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness[.]" *Cromwell*, 102 Md. App. at 721.

Sprint failed to show that the so-called narrowness of this property differed from other properties in the area. When Marianne Kiernan, an engineer who was Sprint's expert on the zoning criteria, was asked what was unique about the property, she replied:

The property itself is unique in the narrowness of the property itself. It's a long, rectangular parcel approximately 850 feet deep, 223 wide, plus or minus. That makes the property unique in itself.

The setting of the property is unique in this area also. It is surrounded by woodland on the northern, western and southern boundaries. There are two existing structures located on the very front of the property.

The property itself is primarily graveled in the southwestern corner of the property where the subject site is located. There's an open gravel area.

So the property is unique in it[s]

narrowness and in the setting itself basically with the existing structure on the front, near Back River Neck Road, and the open area towards the rear of the parcel.

Thus, Ms. Kiernan gave three reasons for the property's uniqueness:

1) its narrowness; 2) that it was surrounded by woodland on the north, west and south, and 3) the location of the existing structures in the front, with the open area in the back. None of these reasons meets the legal requirement for establishing a variance.

She did not explain why a property that was 223 feet wide was unique in its narrowness. When asked on cross what other properties in the area she compared in order to decide this width was unique, she pointed to no other properties in the area that were any wider. Indeed, she pointed to no other properties at all. Moreover, she acknowledged that she was not saying that "there's no other piece of property in Baltimore County designated M.L. that's shaped like a rectangle that's 200-some feet wide[.]" The following colloquy occurred on cross:

Q: This property is unique compared to what other properties? That's what I meant to ask you.

[Ms. Kiernan]: Okay. If I could explain, I am also bounded within the search ring area that's issued by Sprint PCS. Their intent is to place a telecommunication tower in a particular area.

That area is defined by Sprint RF engineers. Mr. Hassan who testified prior explained how the area itself was defined to

meet Sprint's coverage objective. Within that particular search ring, this subject parcel is unique.

When asked if she was saying: "just because Sprint has identified a [search ring], that makes this piece of property unique compared to other properties in Baltimore County[,]" she simply repeated her mantra, "Yes, I believe the property is unique."

Ms. Kiernan's second and third reasons for calling the property unique related not to a limiting aspect of the property, but rather to factors that made the property a good one for a Sprint tower - that it was surrounded by woodlands, and there was plenty of space in the back of the property. Neither of these factors make it "exceptionally difficult to comply" with the setback, cause unwarranted hardship, or cause the setback to have a "disproportionate impact" on the property. Rather, these are **positive** factors about the site because the woodlands and the buildings on the front provide screening to hide the unappealing visual appearance of the tower. Such positive factors do not support a claim for uniqueness in this context.

By itself, the fact that a property cannot accommodate an otherwise permitted use without an area variance generally does not **require** the grant of a variance.⁶ A contrary result would permit "the exception to swallow the rule," because zoning authorities

⁶If the permitted uses in a particular zone were quite limited, we might apply an exception to this rule. That is not the case in this ML zone.

would be obligated to grant a setback variance simply because the setback requirements would prevent a permitted use. Yet, this appeal rests almost solely on Sprint's theory that the property is unique because it was not wide enough to meet the setback requirements for the monopole.

In its brief, Sprint asserts that "[t]he record also shows that nearby residentially zoned adjacent properties are shaped wider and are large enough to accommodate the required setbacks, albeit a special exception would be required if the facility were to be placed on such properties." We have reviewed the three record extract pages Sprint identifies as support for this assertion. None of the pages contains any evidence that adjacent residentially zoned properties could accommodate the required setbacks.

Extract page 392 is a site plan of the subject property, showing seven adjacent residential lots, two of which are shown to be improved with dwellings. The site plan contains dimensions for the subject property, but none for these adjacent lots. Sprint points to no testimony about the dimensions of these lots, and we have found none. There is no indication about whether these lots are drawn to scale,⁷ so there was no way for the Board to visually

⁷They appear not to be, and two different site plans in the record depict these lots in different sizes relative to the subject property. In other words, in one site plan they appear to be narrower than the subject property, and in another, they appear

(continued...)

compare the sizes from the site plans. Finally, Sprint points to no place in the record where it asked the Board to compare these lots to the subject property for the purposes of determining uniqueness. The memorandum submitted for Sprint in lieu of closing argument contained no such request and never mentioned that these residential lots were larger or that they would suffer less impact from this setback requirement. Sprint cannot complain, on appeal, about the Board's failure to make a factual finding that they never asked the Board to consider.

Extract page 519, an exhibit introduced by Sprint, is a map that depicts the area of the "search ring." It was introduced through the testimony of the president of a site acquisition firm "contracted by Sprint to do site acquisition work and zoning work[.]" He explained that he was given a map by Sprint, showing the search area, and the exhibit was "a blow-up of the map[.]" He explained why the subject property was desirable for purposes of a cellular tower. He did not testify about the size of any other properties depicted on the map, and did not compare the size of other properties with the subject property. Again, this map is not drawn to scale.

Sprint has pointed to no other testimony, and we have found none, about other nearby properties, wider then the subject

⁷(...continued)
broader. In both site plans, the subject properties are drawn to scale.

property, that could accommodate the monopole because of enhanced width. In its closing memorandum submitted to the Board, Sprint claimed that the testimony of People's Counsel's land use expert, Jack Dillon, "supports the uniqueness of the property." His testimony does not support this claim. Dillon said that there were four sites within Sprint's "search ring" on which cellular towers were permitted by right, subject to setback requirements. E. 649. When asked, "are any of those sites at least 400 feet wide and deep at the same time," Dillon answered:

The B.L. to the north is about 300 feet wide, 250 deep. This site is 200 feet wide and 600 feet deep [sic]. The M.L. down further, it's very narrow along the frontage, actually looks like it's probably less than fifty feet wide along the frontage, and extends about 500 feet deep, and widens out in the back to maybe 250 feet, and the B.L. further down is only approximately 200 feet wide and roughly 200 feet deep.

In its closing memorandum, Sprint claimed that the following question and answer by Dillon established uniqueness:

Q: But those four sites [i.e., the three mentioned above plus the subject property] are various shapes and configurations?

A. That's true.

The varying sizes of the four properties does not establish uniqueness because there was no showing that any of them could meet the setback requirement for cellular towers without a variance. As we have explained before, uniqueness is established when the owners of one property suffer a disproportionate impact from the setback

requirement than other nearby owners. See *Umerley*, 108 Md. App. at 505 (for variance, "zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties").

Further, the parcel cannot be characterized as unique based solely upon Sprint's search ring.⁸ As *Evans* teaches, the fact that this parcel falls within a geographic area selected by Sprint for technological reasons is not a characteristic that is inherent to the property. See *Evans*, 112 Md. App. at 308.

In short, Sprint points to no evidence, and we are aware of none, that would permit the inference that the alleged narrowness of the subject property means that Sprint suffers a disproportionate impact from the setback requirements, as compared to other nearby property owners. For this reason, we reject Sprint's complaint that the Board erred by not making a factual finding about whether the subject property's alleged narrowness made it unique. Unlike the zoning board's opinion in *Lewis*, in which it failed to say whether the property was unique, here the

⁸In support of its uniqueness claim, Sprint also argues that "the [p]roperty is the largest parcel located within the Search Ring, upon which a telecommunications facility is permitted by right under the BCZR." Further, they contend that "location of Sprint's facility on the [p]roperty also satisfies Sprint's coverage objectives in the area and fulfills a much-needed service in the area[.]"

Board explicitly found that it was not unique.⁹

Additionally, the Board described the variances that were requested, indicating the setbacks required:

75 feet at the southern property (a side setback) in lieu of the required 200 feet, a setback of 135 feet to the western property line (the rear setback) in lieu of the required 200 feet, and a setback of 148 feet to the northern property line (a side setback) in lieu of the required 200 feet for a wireless telecommunications tower and a variance from BCZR § 426.6A.2 to allow a setback of 40 feet to the southern property line in lieu of the required 125 feet for equipment cabinets for a wireless telecommunications tower[.]

Thus, it clearly considered the width of the property, since the width determined the necessity and extent of the side setbacks. Although it did not write a lengthy analysis of why a width of 223 feet was not unique, under these circumstances, that was not necessary. Without any witnesses or other evidence that provided factual support for any legally viable theory for how a 223 foot wide property is uniquely narrow, the Board was not required to concoct its own "straw man" theory, and then knock it down.

The Board, knowing the property's undisputed dimensions, must only decide whether those dimensions make it unique. The Board found no uniqueness. As we said before, if we were to hold that a

⁹Moreover, the unique aspect to the Lewis property was the shape of the buildable area of the property, which consisted of three small, irregularly-shaped, non-contiguous and heavily vegetated areas. See *Lewis*, 377 Md. at 425.

variance **must** be granted, simply because a property cannot accommodate one otherwise permitted use without an area variance, we would be permitting "the exception to swallow the rule." Moreover, for all the reasons set forth previously, had the Board found that the property's "narrowness" made it unique, we would not uphold that finding because the evidence was not sufficient to establish that.

The Telecommunications Act of 1996

Sprint argues that the Board's denial of its petition for variance violates the Telecommunications Act of 1996 ("the Act"). See 47 U.S.C. § 332(c)(7)(B)(iii). It argues that "a zoning body's denial of wireless telecommunications facility must be supported by substantial evidence in the record," citing the statute, and *New Par v. City of Saginaw*, 161 F. Supp. 2d 759, 764 (E.D. Mich. 2001) *aff'd*, 301 F.3d 390 (6th Cir. 2002). We reject this argument largely for the reasons explained in the previous section.

The ML zone permits cellular towers by right, subject to a 200 foot setback requirement "from any other owner's residential property line." BCZR § 426.6(A)(1). Because the setback requirement could not be met, it was necessary for Sprint to prove grounds for a variance. Sprint does not contend that the Act overrides local setback requirements. Indeed, it states that "except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government

or instrumentality thereof over decisions regarding the placement, construction . . . of personal wireless service facilities." 47 U.S.C. § 332(c)(7)(A). See also *Voicestream Minneapolis, Inc. v. St. Croix County*, 342 F.3d 818, 830 (7th Cir. 2003) ("the [Act's] substantial evidence test is a procedural safeguard which is centrally directed at whether the local zoning authority's decision is consistent with the applicable [local] zoning requirements") (citations omitted). This decision is supported by substantial evidence in the record.

The standard for review of a zoning authority's decision under the Act mirrors administrative agency standards under Maryland law. See *Am. Tower LP v. City of Huntsville*, 295 F.3d 1203, 1207 (11th Cir. 2002) ("The 'substantial evidence' standard envisioned by Section 332 is the traditional substantial evidence standard used by courts to review agency decisions. The usual standard defines 'substantial evidence' as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion'").

For the reasons stated in the previous section, Sprint failed to prove grounds for the variances requested here, and therefore the Board's denial of its petition did not violate the Act.

Conclusion

For the foregoing reasons, we affirm the judgment of the

circuit court affirming the Board's denial of the variance petition.

JUDGMENT AFFIRMED. COSTS TO BE
PAID BY APPELLANTS.

EXHIBIT B

**JUSTIFICATION STATEMENT IN SUPPORT OF A SPECIAL HEARING AND A
SPECIAL EXCEPTION FOR AN EXISTING PUBLIC UTILITY USE CELLULAR
TELECOMMUNICATION MONOPOLE AND WIRELESS COMMUNICATION
ANTENNAE**

Applicant(s): **Back River, LLC & APC Realty & Equipment Company, LLC/
Sprint Nextel**
Site: **Back River Neck Rd.**
Sprint Site #: **WA54XC641**
Property Address: **810 Back River Neck Rd., Essex, MD 21221**

Introduction

Applicant, APC Realty & Equipment Company, LLC/ Sprint Nextel, (hereinafter "Sprint") is the owner of an existing 115' high wireless communication facility which counts with two wireless carriers, Sprint and T-Mobile Northeast LLC (hereinafter T-Mobile), providing wireless telecommunications network facilities throughout the region and its coverage objective with this application is to maintain its current coverage along *Back River Neck Road and its surrounding environs*. Back River, LLC (hereinafter "Property Owner") is the property owner in which the wireless facility lies. In order to properly establish a link in the network, Applicants seek a special exception to allow the existing wireless facility meet the County of Baltimore's zoning requirements. In addition, Applicants request an extension to the current height (115') of the tower to 125' in order to allow a third carrier to collocate at a 123' RAD center.

Site Description

The existing wireless facility is located on the property owned by Back River, LLC, Liber 13577, Folio 535, Parcel 824. The property is divided into two different zones, the front portion is zoned ML and is improved by a commercial strip and the rear portion of the property, where the existing telecommunication facility is located, is zoned RC.20¹.

Currently, the site counts with two telecommunication providers, Sprint Nextel and T-Mobile. A third carrier, is also interested in collocating at a 123' (h) RAD center.

Access to the proposed facility is via an existing access road to the property off Back River Neck Road.

¹ Applicant, Property Owner, was not able to establish when was the property or portion of the property was reclassified from M.L. to R.C.20 after a decision dated November 15, 1963, which reclassified from R.6. to M.L. per research in county tax and land records. In fact, per Baltimore County tax records, the underlying property, as of date of submission of this application, has been taxed in its entirety as M.L.

Project Description and Need

As an FCC licensee, Sprint and T-Mobile are committed to providing seamless telecommunications service to its users, and seek to create a seamless, state-of-the-art all-digital wireless network. This requires the installation of a network of telecommunications antennas and equipment facilities so as to allow each facility to broadcast and receive radio signals within a strictly limited radio frequency range to each wireless user in the vicinity of the facility. Moreover, each facility must be able to pass the user's signal to an adjacent facility as each user travels out of the coverage area into an adjacent coverage area. Each facility is capable of covering only a limited area, generally determined by the height of the antennas, the local topography and terrain, as well as obstructions such as buildings and structures.

To achieve a desired coverage within the intended geographical coverage area, each antenna facility must be strategically located so as to ensure maximum coverage and a minimum overlap with each other facility. Because of the low power of the system, the antennas are effective only within a limited geographic area. Thus, each facility site is subject to technical and geographical constraints in order to provide reliable and efficient service. The existing pole structure is necessary in order continue providing service to Sprint's and T-Mobile's customers and to permit a future carrier to mount the antennas at a height sufficient to service the intended coverage area and to provide a direct line of sight to the other antenna facilities in their network. Moreover, the proposed height of the antennas is sufficient for the radio signal to clear any obstructions such as trees, buildings, or other structures while simultaneously providing coverage to the intended area.

Poorly located facilities or areas without such a facility will leave "holes", or areas where transmission is not possible. Since one of the primary benefits of the wireless communication system is the ability to communicate to and from any location, a network of facilities that provide seamless coverage is essential. The location and design of each facility in the network is therefore critical to the overall functioning of the entire network. Without a facility at or near this location, Sprint and T-Mobile are unable to provide seamless coverage to its users.

Antenna Description

The panel antennas measure approximately 6'x 2'x 1' or less, refer to Exhibit E for details. The antennae do not generate any noise, dust, fumes, odors, lights, glare, or vibrations. Nor do they interfere with radio, television or telephone reception. The antennae emissions comply with all applicable EPA and FCC emission requirements.

Equipment Description

All of the carrier's related telecommunications equipment cabinets are enclosed within the proposed lease area and are situated near the base of the pole structure. Neither the antennae nor the related equipment will produce any noise, fumes, dust, odors, lights, glare or vibrations.

APPLICABLE LEGAL STANDARDS

Section 704 of the 1996 Telecommunications Act requires that State and local governments "(I) shall not unreasonably discriminate among providers of functionally equivalent [wireless telecommunications] services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services." Accordingly, local governments cannot prohibit, either by law or by action, wireless telecommunications facilities. Regulations cannot have the effect of prohibiting wireless facilities, even though it may purport to allow such facilities. Moreover, local governments must undertake to consider all wireless telecommunications zoning requests on an equal basis.

Applicants submit its proposed facility on the subject property and that with the addition of the new properties acquired by Back River complies with the Baltimore County Zoning Ordinance. The granting of a Special Exception use will be in harmony with the spirit and intent of the Zoning Regulations; and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed use complies with the special exception criteria. The Baltimore County Special Exception criteria follow in boldface; Applicant's response immediately follows in italics.

ARTICLE 5, ADMINISTRATION AND ENFORCEMENT.

Section 502 Special Exceptions

502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;

Applicants' Response: The existing wireless communication facility has demonstrated not to be detrimental to the health, safety and/or general welfare of the locality involved. In addition, none of the carriers installations have or will interfere with radio, television or telephone reception and the emissions comply with all applicable EPA and FCC emission requirements. Furthermore, neither the antennae nor the related equipment will produce any noise, fumes, dust, odors, lights, glare or vibrations. Finally, the health, safety and general welfare of the locality is currently and will continue to advanced from the approval of the existing wireless telecommunication facility by the governmental agencies, the people and businesses that utilize its services in their daily activities and/or duties.

B. Tend to create congestion in roads, streets or alleys therein;

Applicants' Response: The existing monopole is an unmanned facility that requires only one or two monthly maintenance visits and, therefore, it has had and will continue to have a minimal impact in terms of usage or traffic.

C. Create a potential hazard from fire, panic or other danger.

Applicants' Response: The existing wireless communication facility was built to comply with all Federal, State and Local requirements. In addition, history has proven that wireless communication facilities do not create potential fire, panic or other hazards to the surrounding community.

D. Tend to overcrowd land and cause undue concentration of population;

Applicants' Response: See Answer to Paragraph B above.

E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

Applicants' Response: The existing facility is unmanned with only 1 or 2 monthly maintenance visits. It has not and will not produce any noise, vibrations, odors or Fumes which may interfere with conveniences or improvements. Further, it does not require water or sewer facilities. Applicants' proffer that the existing facility has enhanced the service provided to the nearby schools, emergency response agencies, businesses and residents which are customers of Sprint and T-Mobile.

F. Interfere with adequate light and air.

Applicants' Response: The existing facility is located to the rear of the property owned by Back River, LLC behind the existing strip mall and is surrounded by dense vegetation. The proposed utility is unobtrusive. It blends with its environment and it does NOT interfere with adequate light and air.

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations.

Applicants' Response: Applicant, Back River LLC, has obtained deeds to portions of the properties that abut to the right and to the rear of 810 Back River Neck Rd and also has a contractual agreement for a portion of the property that abuts to the left of 810 Back River Neck Rd in order to meet the County of Baltimore's 200' setback requirements. Hence, the existing wireless communication facility will be consistent with the purposes of the property's zoning classification nor will it in any other way be inconsistent with the spirit and intent of these Zoning Regulations if approved. In addition, a Wireless Telecommunication Facility is permitted by way of Special Exception according to the County of Baltimore's Zoning Ordinance, see Section 1A05.C.8

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

Applicants' Response: Applicants have taken great care to locate the wireless telecommunication facility away from existing resource protection areas and woods. Furthermore, the existing facility disturbs less than 2,500 sq. ft. of the Back River property. Applicant submits that the existing wireless

facility is not inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.**

Applicants' Response: The property is allegedly located² and surrounded by RC.20 and ML zoning area, hence, none of the zone mentioned will be affected. Also, see response to Paragraph H above.

Article 4. Section 426.6 Setback requirements for wireless telecommunications towers.

- A. A tower shall be set back at least 200 feet from any other owner's residential property line.**

Applicants' Response: See response to Paragraph G above.

- B. A structure housing equipment for a tower shall meet the minimum setback requirements from any other owner's property or zone line.**

Applicants' Response: See response to Paragraph G above.

Conclusion

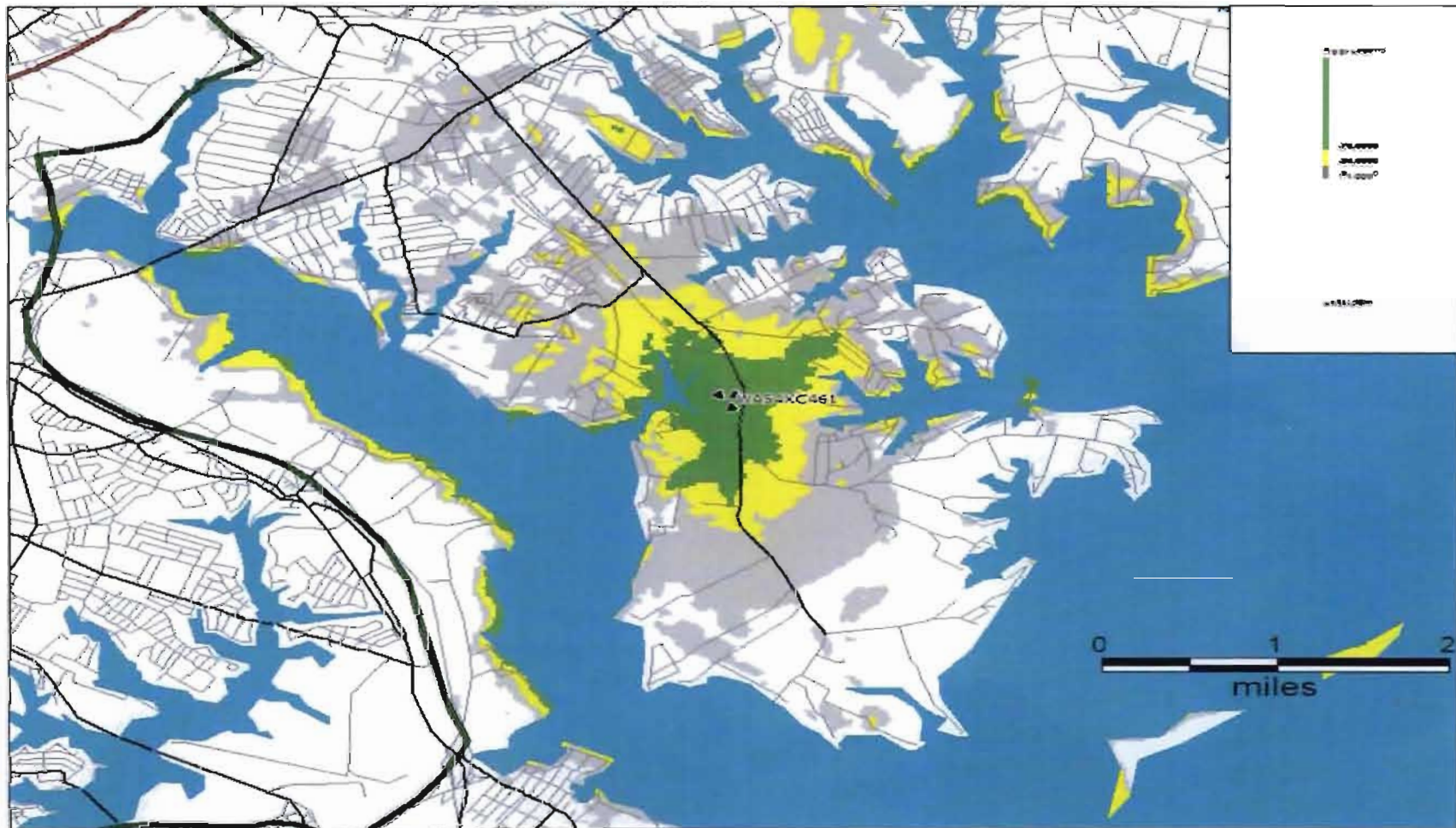
The growing utilization of wireless technology cannot be doubted. Wireless communication not only facilitates economic growth but is also invaluable in providing emergency and other services to the community of Baltimore County.

The applicants, respectfully request approval of the Special Exception and a 10' (h) extension for the telecommunications monopole located on 810 Back River Neck Rd as described above in this Justification Statement and as indicated in supporting exhibits accompanying this document. The applicant has proved the public need and benefit to the citizens, business owners and emergency services of Baltimore County and its Government. The application is in compliance with the Baltimore County Zoning Ordinance. Granting of the Special Exception, Special Hearing and the 10' (h) extension will, therefore, be appropriate and in the best interest of Baltimore County its citizens and public agencies.

692445v.1

² See Footnote Number 1

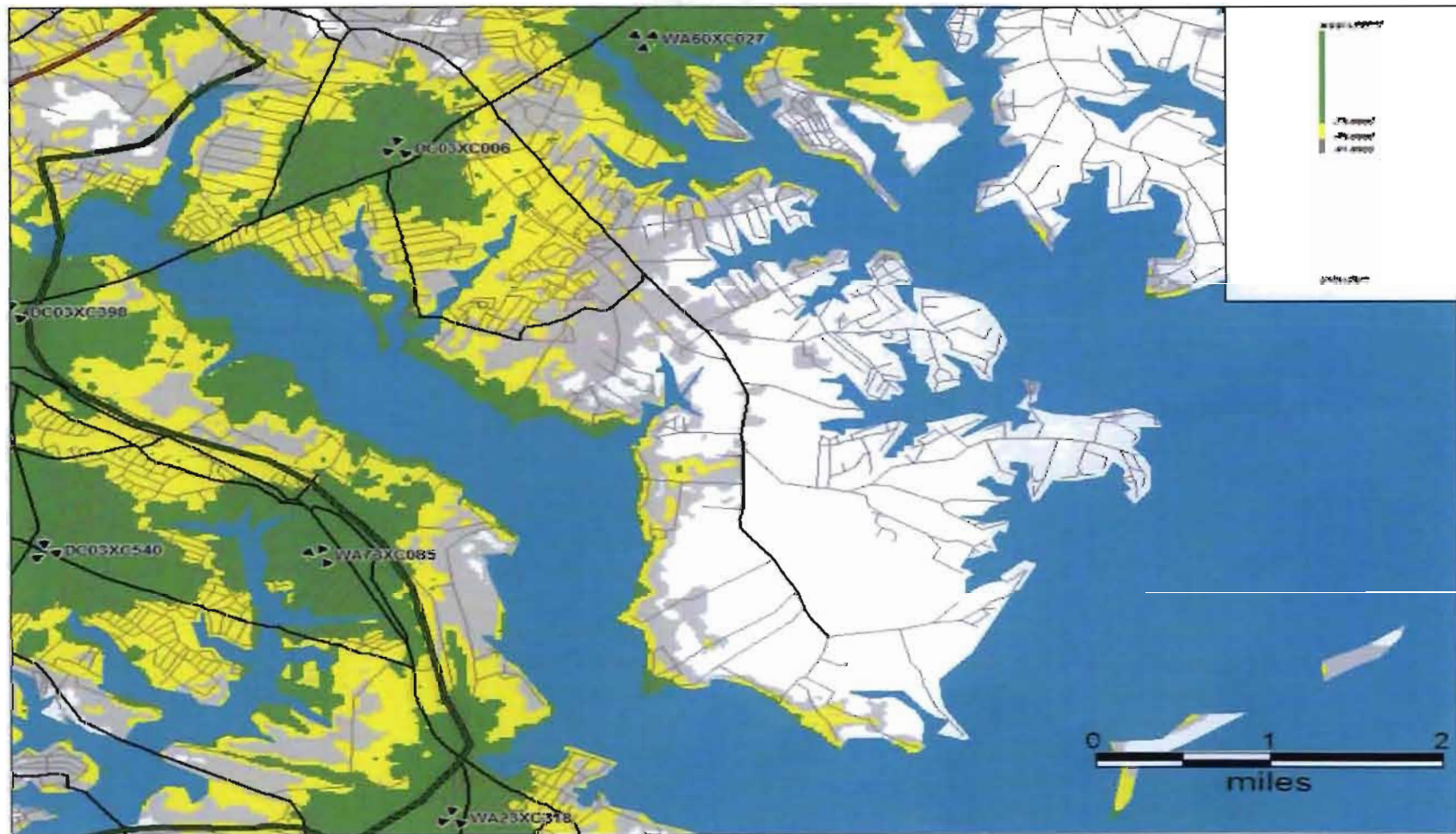
WA54XC461



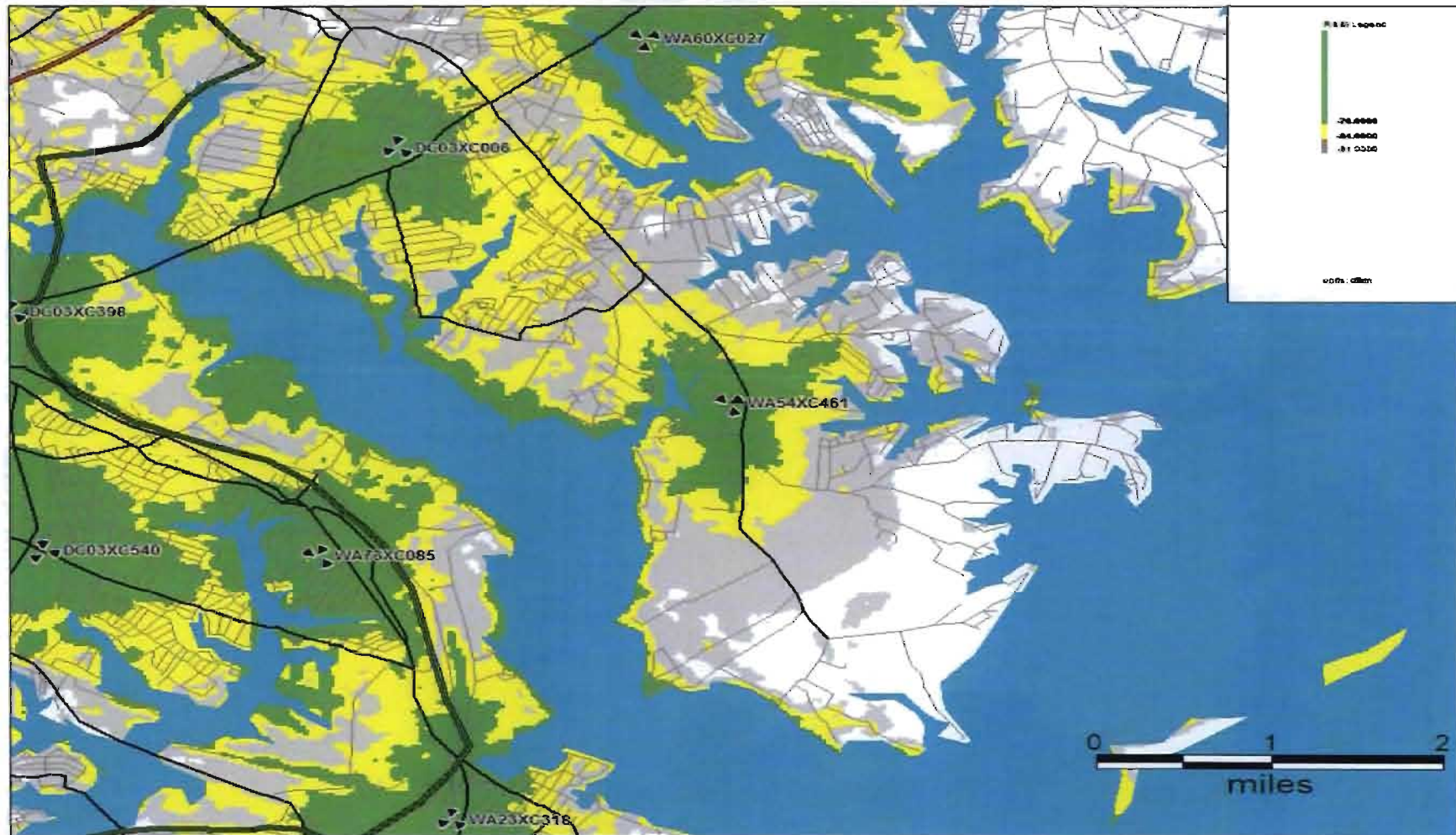
2008-0531 - SPHX

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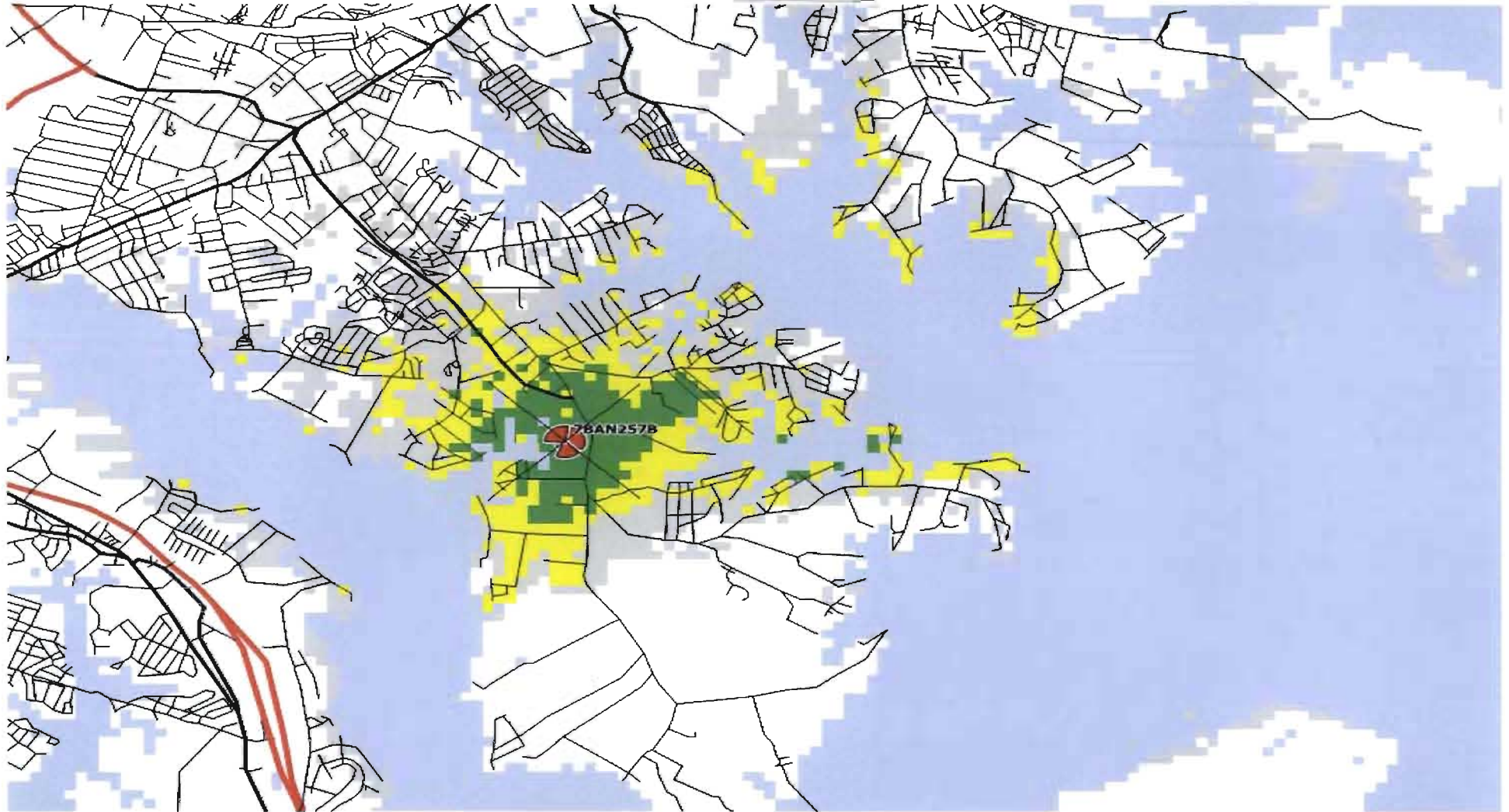
EXISTING COVERAGE WITHOUT WA54XC461



WA54XC461 AND SURROUNDING COVERAGE



..T..Mobile..

BAN257

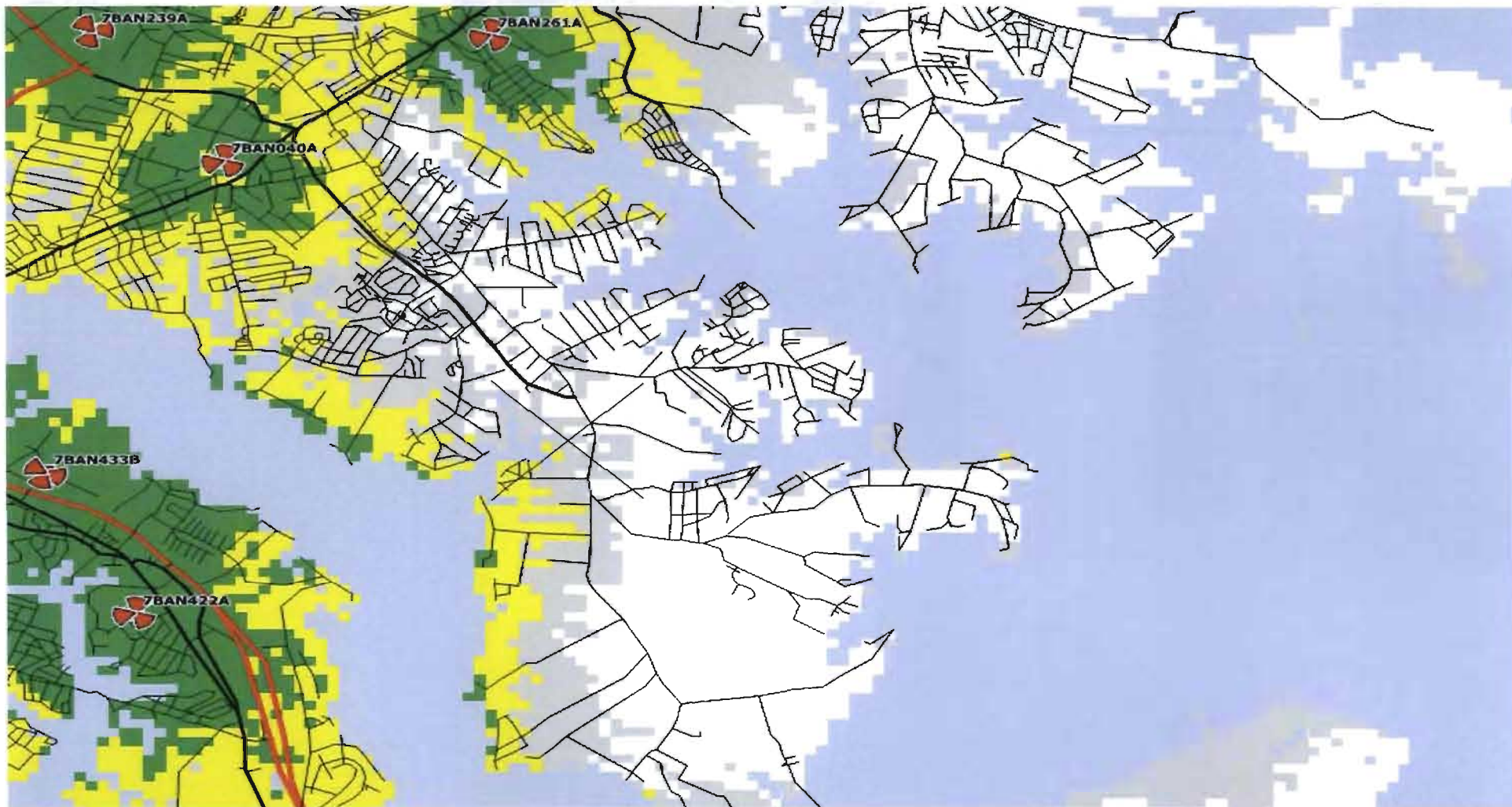
- $-76.0 \leq x \text{ dBm} < -76 \text{ dBm}$
- $-84.0 \leq x < -76.0 \text{ dBm} < -84 \text{ dBm}$
- $-91.0 \leq x < -84.0 \text{ dBm} < -91 \text{ dBm}$

2008-0531 - SPHX

ROCKSOLID
COVERAGE



Existing Coverage without BAN257

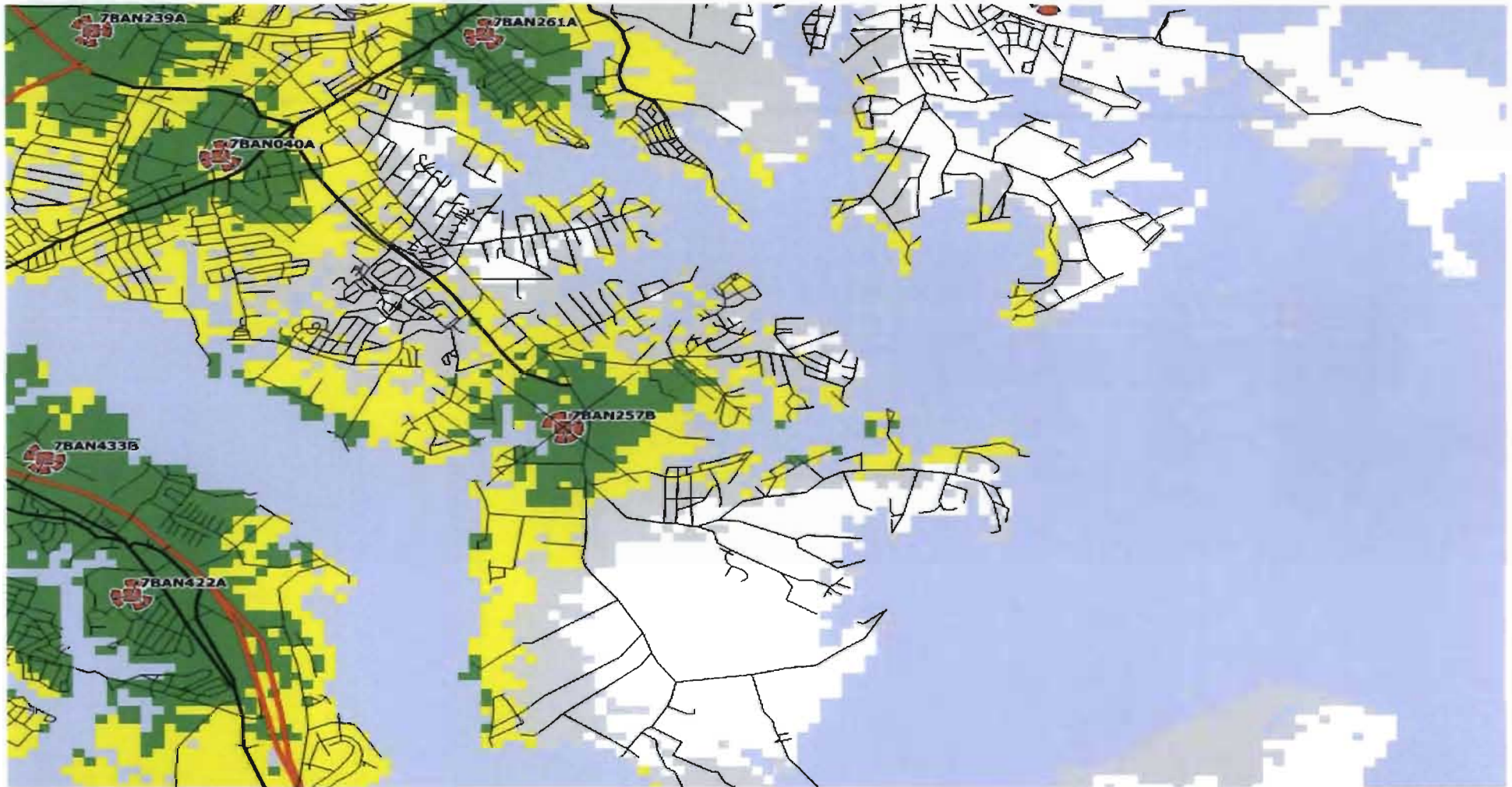


- -76.0 ≤ x dBm -76 dBm
- -84.0 ≤ x < -76.0 dBm -84 dBm
- -91.0 ≤ x < -84.0 dBm -91 dBm

ROCKSOLID
COVERAGE



BAN257 and surrounding coverage



- -76.0 ≤ x dBm -76 dBm
- -84.0 ≤ x < -76.0 dBm -84 dBm
- -91.0 ≤ x < -84.0 dBm -91 dBm

ROCKSOLID
COVERAGE

EXHIBIT E

/Products /Base Station Antennas /Directional /Cellular /PCS /
GSM 1900 (1850-1990)
PCSA065-16

PDF

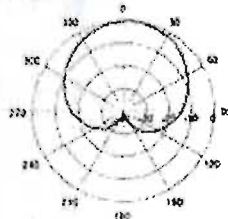
PCSA065-16



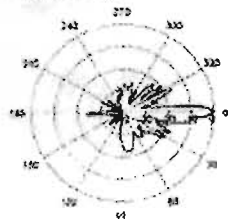
Cellular 1850 - 1990 MHz
V-Pol / 65° Az / 18.8 dBi

Type	PCSA065-16-x
Product Code	PCSA065-16-x
Frequency Range (MHz)	1850 - 1990
Gain	18.8 dBi (16.7 dBd)
Input Impedance (Ohms)	50
VSWR	< 1.4 : 1
Polarisation	Vertical
Electrical Downtilt (x)	0°, 2°, 5°
Horizontal Beamwidth (-3 dB)	65°
Vertical Beamwidth (-3 dB)	5.7°
1st Upper Sidelobe	< -18 dB
1st Null:	> -20 dB
Front to Back Ratio	> 25 dB
Intermodulation	< -153 dBc for 2 x 20 W carriers
Input Power (Watts)	250
Input Connector Type / Location	7/16-DIN Female / Rear
Operating Temperature	-40° F (-40° C) to +140° F (+60° C)
Wind Speed	150 mph (241 km/h; 67 m/s)
Wind Loads (160 km/h)	Front: 63 lbf (280 N) Side: 56 lbf (247 N)
Antenna Weight	20.6 lbs (9.4 kg)
Dimensions (In)	Height: 62.7 Width: 8.5 Depth: 7.5 (1595 x 215 x 190 mm)

Horizontal Plane



Vertical Plane



Pole Mounting Kit: MKS02P01 - Weight: 6.5 lbs (2.9 kg)
Scissor Tilt Mounting Kit: MKS02T06 - Weight: 8.3 lbs (3.8 kg)
Bar Tilt Mounting Kit Option: MKS02T07 - Weight: 8.7 lbs (3.9 kg)

Jaybeam Wireless reserve the right to amend any specification or antenna without prior notice
The specification shown above is indicative of the product and full technical details can be obtained directly from the company

England : Rutherford Drive - Park Farm South - Wellingborough - Northamptonshire NN8 6AX -

Tel : + 44 (0)1933 40 84 08 - Fax : + 44 (0) 1933 40 84 04

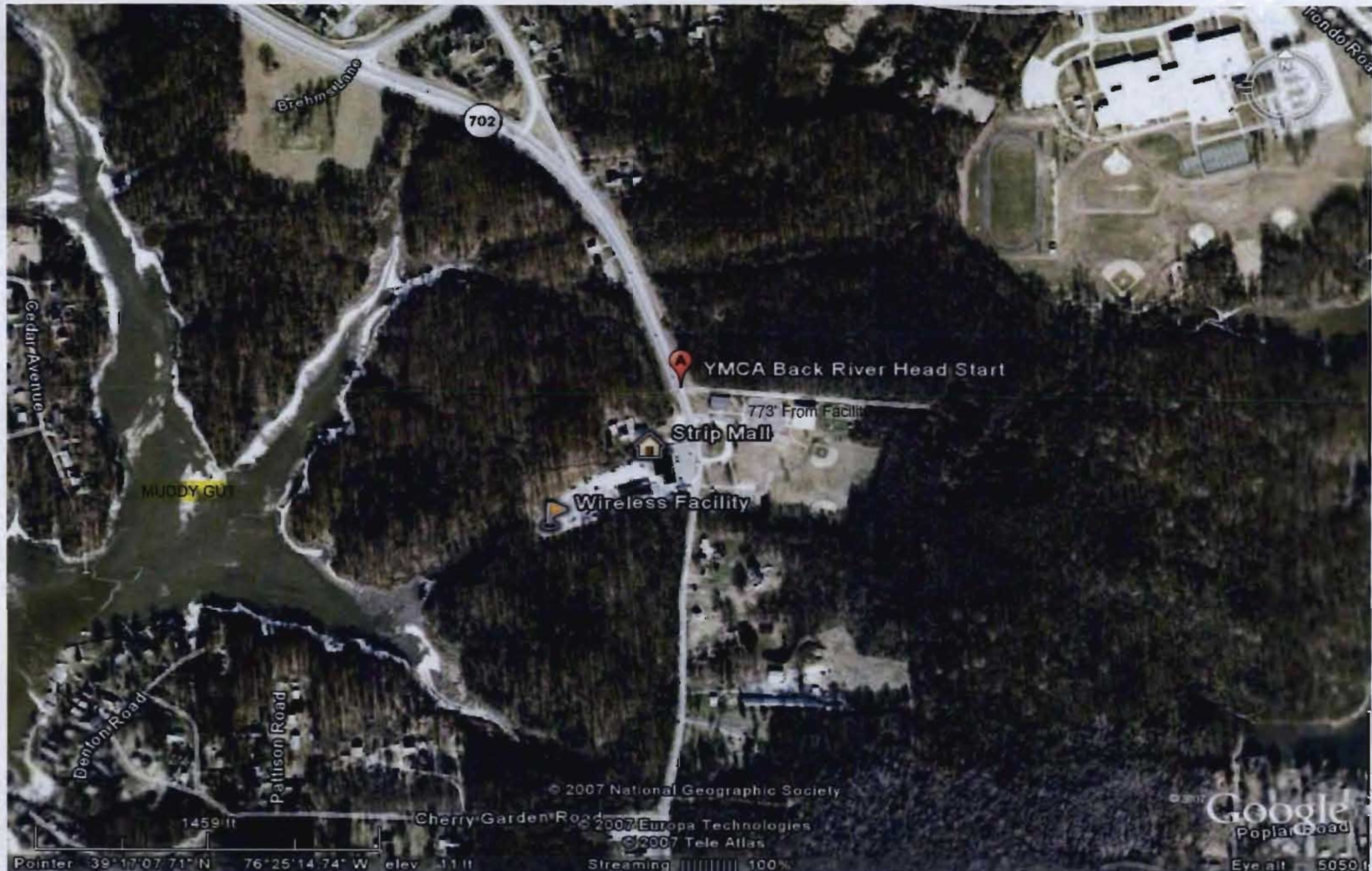
France : ZI La Boitardière, Chemin du Roy, 37400 Amboise,

Tel : +33 2 47 30 69 70, Fax : +33 2 47 57 35 06

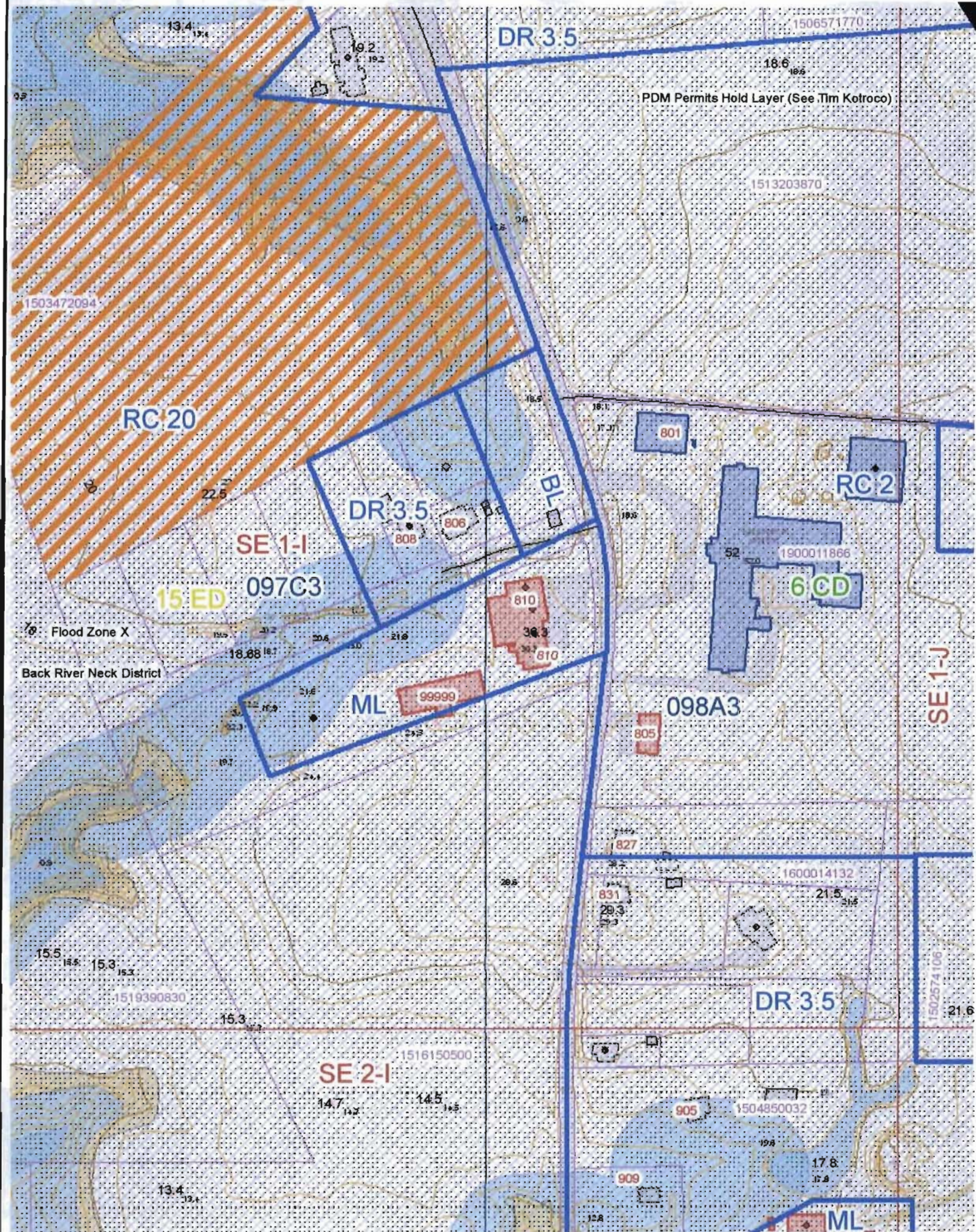
United States : 730 21st Street Drive, SE, Hickory, North Carolina 28602,

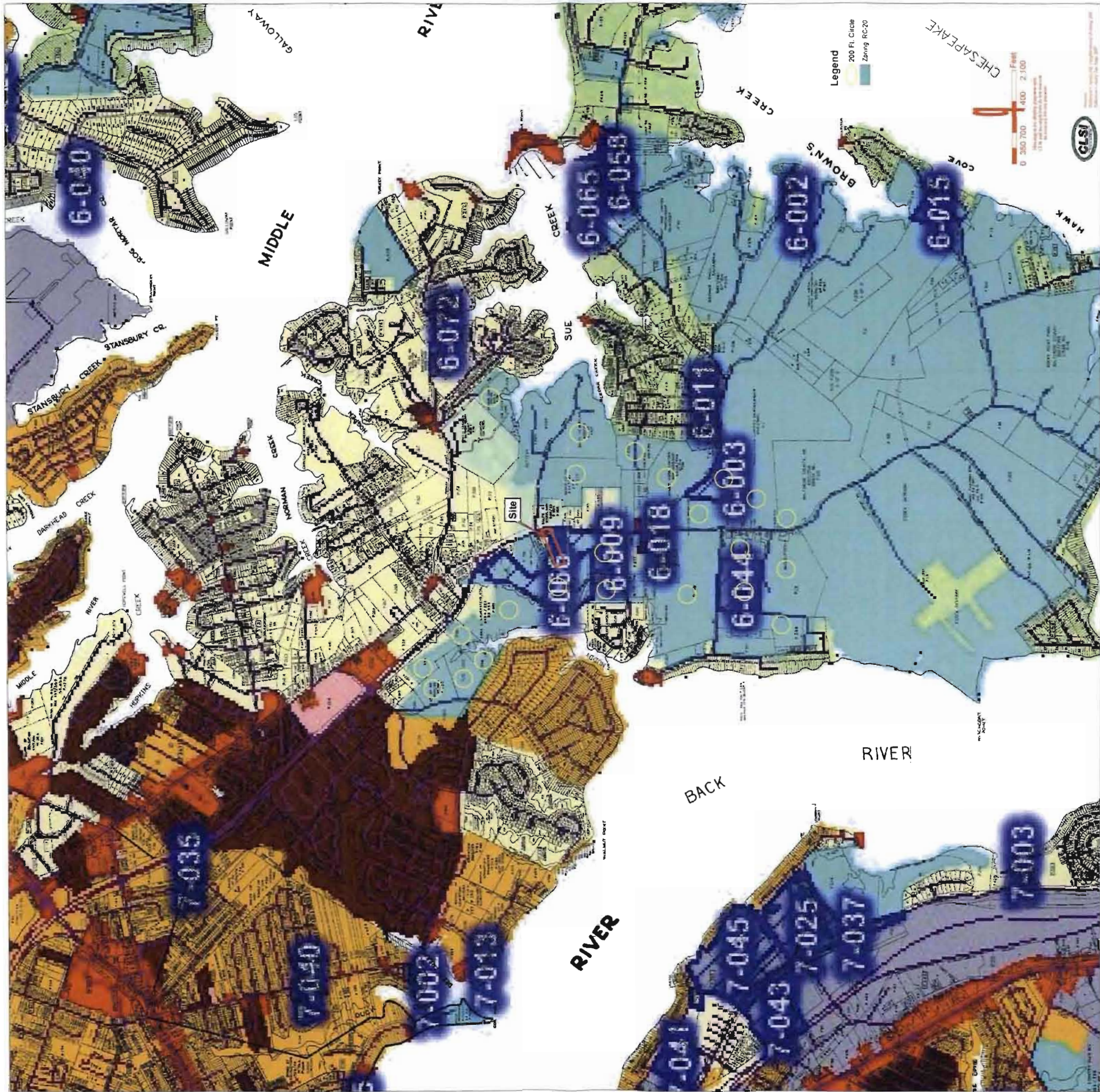
Tel: +1-828-324-6971 ext. 302, Fax: +1-828-327-6027

EXHIBIT F



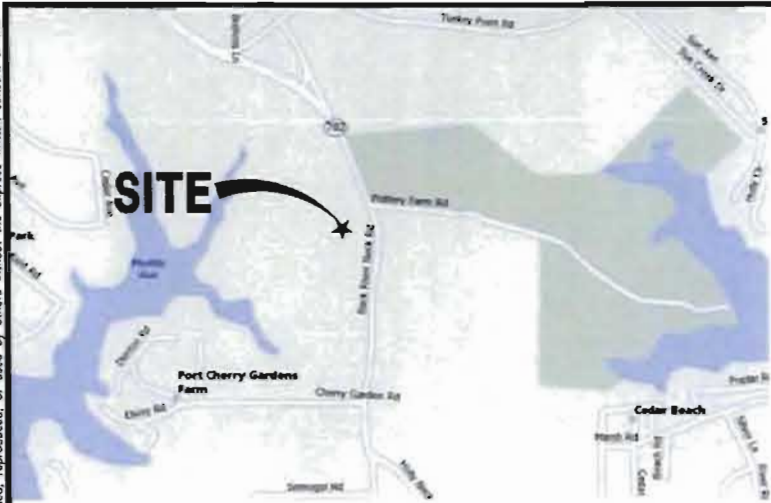
2008-0531 - SPHX



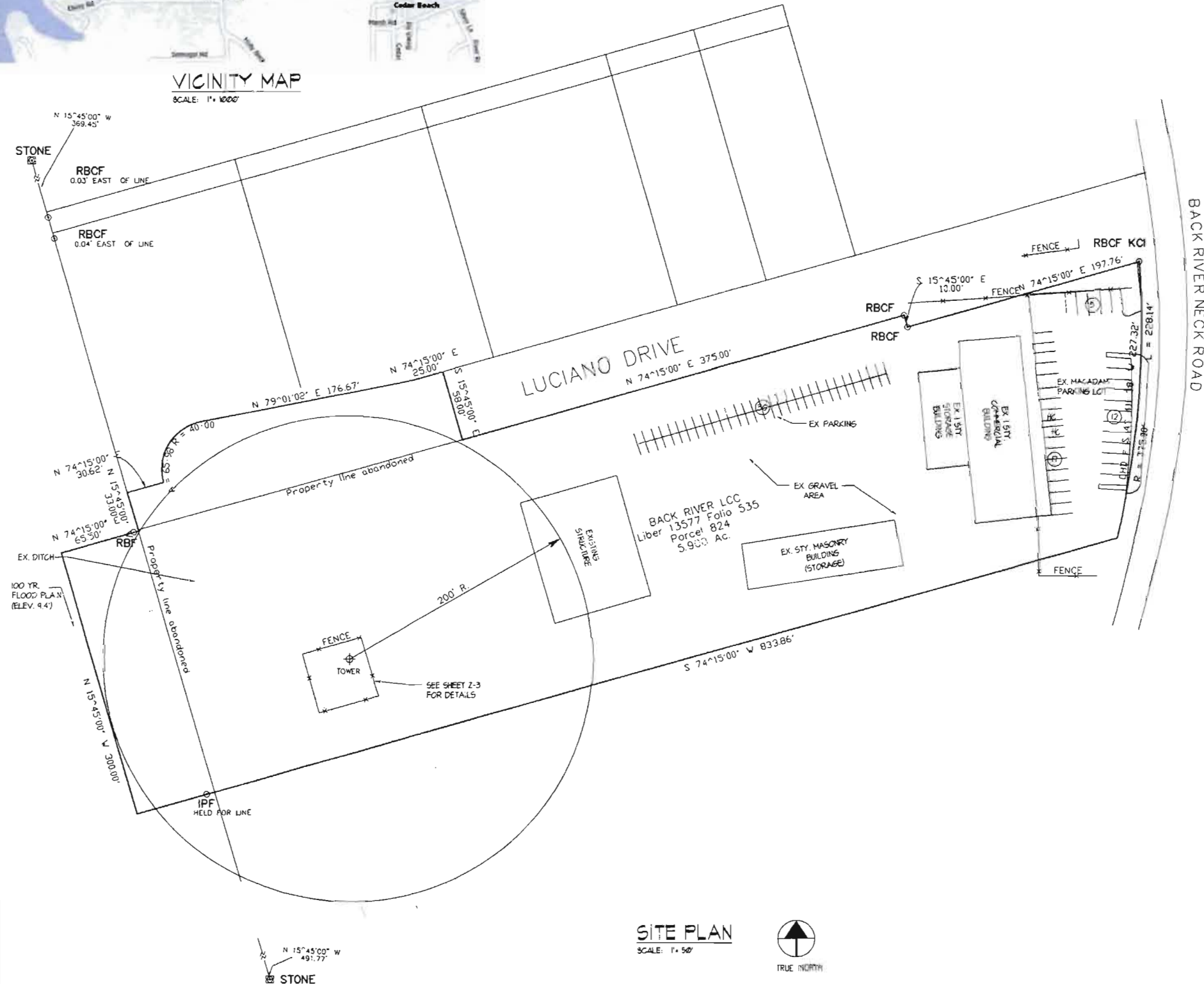


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VICINITY MAP
SCALE: 1" = 1000'



SITE NOTES:

1. APPLICANT: SPRINT PCS
7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046
CONTACT: C/O JAY O'NEILL
(410) 963-7400
2. PROPERTY AND TOWER OWNER: BACK RIVER LLC
800 VOIGTS LANE
BALTIMORE, MD 21221-1634
3. SITE DATA: TAX MAP 97 GRID 24 PARCEL 824
TAX ACCOUNT NO. 15-2300004470
LIBER 13577, FOLIO 535
TRACT AREA: 5.89 AC
ELECTION DISTRICT: 15
ADC MAP: 37 GRID K-13
ADDRESS: 810 BACK RIVER NECK ROAD
BALTIMORE, MD 21221
EXISTING USE: COMMERCIAL
COUNCILMAN'S DISTRICT NO. 5
DEED REFERENCE: 13577/535
WATERSHED: 6 HARRIS MILL GREEK
PROPERTY AREA 5.8947 AC(±)
PARKING SPACES: 64
4. CURRENT ZONING: ML /RC-20
5. A MONOPOLE AND TELECOMMUNICATIONS ANTENNA ARE A PERMITTED USE BY RIGHT, IN THE ML ZONE.
A. HEIGHT OF PROPOSED MONOPOLE: 125'
B. SETBACKS, PER SECTION 426.6A3 REQUIRED:
REQUIRED: FRONT - 200'
SIDE - 200'
REAR - 200'
PROVIDED: FRONT = 638'
SIDE = 200' MIN / 200' MAX
REAR = 200'
EQUIPMENT CABINETS SETBACK:
REQUIRED: FRONT = 125'
SIDE = 125'
REAR = 125'
PROVIDED: FRONT = 620'
SIDE = 200' MIN / 200' MAX
REAR = 100'
6. TOTAL DISTURBED AREA = 0' SF ±
7. LATITUDE: 39° 17' 12.60" N (NAD 83/91)
LONGITUDE: 76° 25' 44.78" W (NAD 83/91)
GROUND ELEVATION: 18' AMSL
PROPOSED STRUCTURE HEIGHT: 125'
TOTAL ELEVATION ABOUT MAIN SEA LEVEL: 133'
8. THE EXISTING TOWER IS LOCATED AT LEAST ONE HORIZONTAL FOOT FOR EACH VERTICAL FOOT OF HEIGHT (125') FROM ANY EXISTING OUTSIDE DWELLINGS OR RESIDENTIAL ZONES. NO SCHOOLS OR PUBLIC PARKS ADJOIN THIS SITE.
9. THE STRUCTURE DOES NOT SUPPORT LIGHTS OR SIGNS.
10. THE APPLICANT WILL PROVIDE CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER THAT THE STRUCTURE WILL MEET APPLICABLE DESIGN STANDARDS FOR WIND LOADS IN ACCORDANCE WITH THE LATEST TIA/EIA STANDARD.
11. NO WATER OR SANITARY SERVICES ARE REQUIRED FOR THE OPERATION OF THIS FACILITY.
12. WIRELESS TRANSMITTING DEVICES MUST COMPLY WITH ANSI STANDARD C95-1982.
13. THE INFORMATION AND COMPOUND LOCATION SHOWN HEREON HAVE BEEN COMPILED FROM CLIENT RECORDS AND IS BELIEVED TO BE RELIABLE. HOWEVER, THE ACCURACY IS NOT GUARANTEED AND MAY BE SUBJECT TO REVISION.
14. PROPERTY SHOWN HEREON LIES WITHIN ZONE C, AN AREA OF MINIMAL FLOODING, AS PER FEMA COMMUNITY PANEL NO. 240010 0445 C EFFECTIVE DATE, NOVEMBER 17, 1993. HOWEVER THIS SITE PLAN REFLECTS UPDATED TOPOGRAPHY NOT REFLECTED ON FEMA MAPPING. THE 100 YEAR FLOOD BOUNDARY IS SHOWN ON THIS PLAN BASED ON NEW TOPOGRAPHY AND THE FEMA BASED FLOOD ELEVATION OF 9.4'.
15. THIS SITE IS EXEMPT FROM STORMWATER MANAGEMENT REQUIREMENTS.
16. THIS SITE IS EXEMPT FROM THE BALTIMORE COUNTY WOODLAND CONSERVATION AND TREE PRESERVATION ORDINANCE.

LEGEND

- PROP. TREE LINE
- EX. FENCE
- POLE
- PROP. FENCE
- EX. CONTOURS
- PROP. CONTOURS
- INDICATES SURFACE FLOW
- SPOT ELEVATION



APC REALTY AND EQUIPMENT COMPANY, LLC

a/b/o
SPRINT

7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046

SUBMITTALS

DATE	DESCRIPTION	REV.
11/01/07	FOR REVIEW	A
02/04/08	CLIENT REVIEW	B

APPROVALS:

SITE ACQUISITION MANAGER _____
RF ENGINEER _____
RF MANAGER _____
OPERATIONS MANAGER _____
CONSTRUCTION MANAGER _____
LANDLORD _____

TAI

ENGINEERS-MANAGERS-TECHNICAL SERVICES
11469 Cranhill Drive, Suite A
Owings Mills, Maryland 21117
tel: 410 358-3108 • fax: 410 358-3109

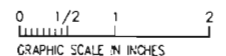
SEAL

JOB NO: 28001-WA54XC461

DRAWN: DSS

CHECKED: T.B.

SCALE:



TITLE:

SITE PLAN
AND NOTES

SAR# WA54XC461
BACK RIVER NECK
810 BACK RIVER NECK RD
BALTIMORE, MD 21221

SHEET NUMBER:

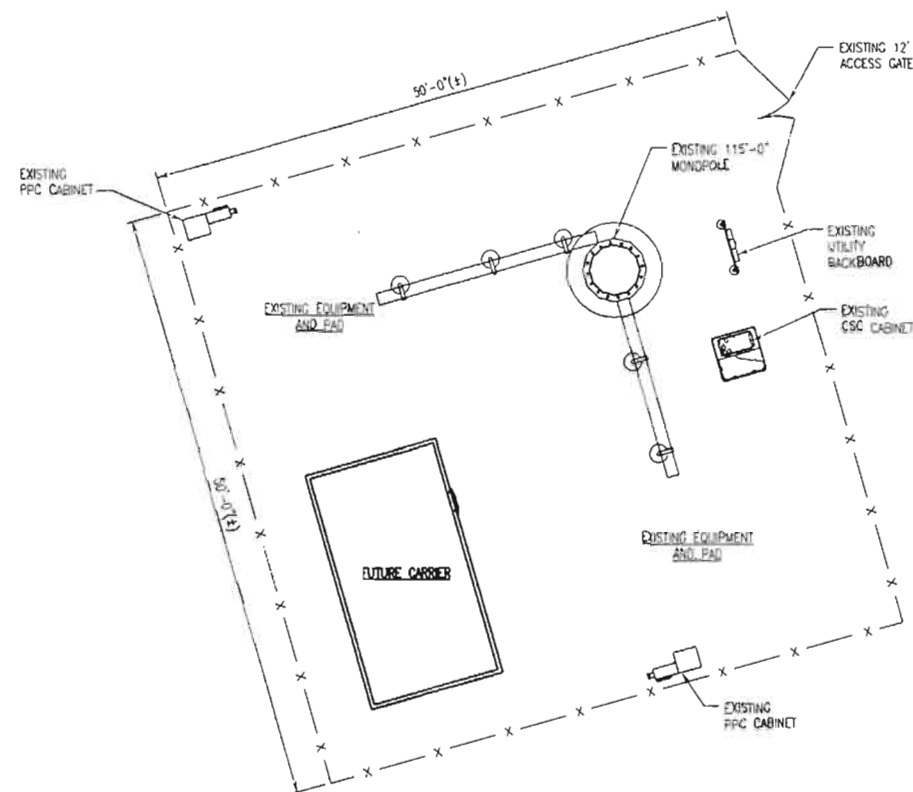
Z-2

REV. B EQUIPMENT TYPE: CDMA

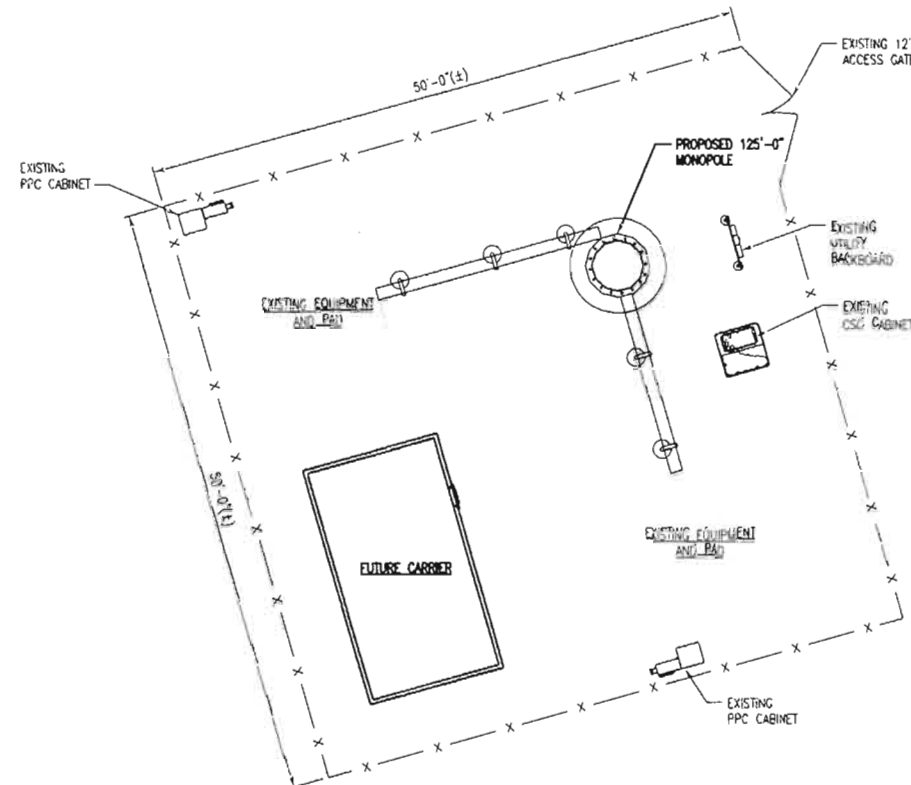
SITE ID No. WA54XC461

SITE NAME: BACK RIVER NECK

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EXISTING COMPOUND PLAN
SCALE: 3/16" = 1'-0"



PROPOSED COMPOUND PLAN
SCALE: 3/16" = 1'-0"



APR REALTY AND
EQUIPMENT COMPANY, LLC

d/b/a
SPRINT

7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046

SUBMITTALS

DATE	DESCRIPTION	REV.
11/01/07	FOR REVIEW	A
02/04/08	CLIENT REVIEW	B

APPROVALS:

SITE ACQUISITION
MANAGER

RF ENGINEER

RF MANAGER

OPERATIONS
MANAGER

CONSTRUCTION
MANAGER

LANDLORD

TAI

ENGINEERS, MANAGERS, TECHNICAL SERVICES
11459 Greenbriar Drive, Suite A
Owings Mills, Maryland 21117
Tel: 410-350-3108 • Fax: 410-350-3109

SEAL:

JOB NO: 28001-WA54XC461

DRAWN: DSS

CHECKED: T.B.

SCALE:

0 1/2 1 2
GRAPHIC SCALE IN INCHES

TITLE:

EXISTING AND
PROPOSED
COMPOUND
PLAN

SAR# WA54XC461
BACK RIVER NECK
810 BACK RIVER NECK RD
BALTIMORE, MD 21221

SHEET NUMBER:

Z-3

REV. B EQUIPMENT TYPE: CDMA

SITE ID No. WA54XC461

SITE NAME: BACK RIVER NECK

IN RE: PETITION FOR ADMIN. VARIANCE

W side Riverside Avenue, 150 N of
Mitchells Road
15th Election District
6th Councilmanic District
(1328 East Riverside Avenue)

James Gernhart and Christine W. Gernhart
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-530-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, James Gernhart and Christine W. Gernhart for property located at 1328 East Riverside Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard. The subject waterfront property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners state that the existing shed has been in the front yard and in use since the home was constructed in 2007. Photographs submitted by the Petitioners depict many similar accessory structures in front yards of neighboring properties. In fact, the adjacent properties located at 1332 East Riverside Drive, 1322 East Riverside Drive and 1330 East Riverside Drive expressed support for the accessory structure located in the front yard.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated June 4, 2008 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations and must comply with maximum impervious surface limits, 15% minimum forest cover and restrictions on any disturbance or development within the 100 foot tidal buffer based on Limited Development Area and Buffer

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16-5-08

133

Management Area requirements. Comments were received from the Bureau of Development Plans Review dated May 26, 2008 which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 18, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 5th day of June, 2008 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard is hereby GRANTED, subject to the following:

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6-5-08
13

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 such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100 foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.
4. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
5. The flood protection elevation for this site is 11.2 feet.
6. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
7. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building 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

ORDER RECEIVED FOR FILING

6-5-08
pz



TAX. ACCOUNT # 1511150310
1507471200

Petition for Administrative Variance
to the Zoning Commissioner of Baltimore County

for the property located at 1328 E RIVERSIDE AVE
which is presently zoned RC 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) 400.1 TO ALLOW AN ACCESSORY STRUCTURE IN THE FRONT YARD OF AN EX SINGLE FAMILY DWELLING IN LIEU OF THE REQUIRED REAR YARD

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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:

James GERHART JR.
Name - Type or Print
[Signature]
Signature
1328 E. Riverside Ave. 410 852-0793
Address Telephone No.
Baltimore - MD. 21221
City State Zip Code

Attorney For Petitioner:

N/A
Name - Type or Print
Signature
Company
Address Telephone No.
City State Zip Code

Legal Owner(s):

James Gerhart Jr.
Name - Type or Print
[Signature]
Signature
Christine W. Gerhart
Name - Type or Print
C.W. Gerhart
Signature
1328 E. Riverside Ave 410-852-843
Address Telephone No.
Balto. MD. 21221
City State Zip Code

Representative to be Contacted:

JAMES GERHART JR.
Name
1328 E. Riverside Ave 410 852-0793
Address Telephone No.
Balto. MD. 21221
City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2008 - 0530 - A

Reviewed By CM Date 5-9-08

REV 10/25/01

Estimated Posting Date 5-18-08

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

1328 E. Riverside Ave
Address
Balto. MD. 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The shed in question was in the front yard and has been being used in such capacity. It would create undue hardship to relocate shed at this time. It is understood that when the shed is no longer usable that the property will revert to the existing Building Code. This condition was pre existing prior to my constructing a SFD.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

[Signature]
Signature
JAMES GERNHART JR.
Name - Type or Print

Signature

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 17th day of APRIL, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

HARVARD, JAMES GERNHART JR.
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Joseph A. Grzelik
Notary Public
My Commission Expires 6/1/2009

ZONING DESCRIPTION

Zoning description for 1328 E. Riverside Ave.

Beginning at a point on the West side of East Riverside Ave. which is 150 feet North of the intersecting street Mitchells Rd. Being lot # 14 & 15 in the subdivision of Back River Neck Park as recorded in Baltimore County plat book # 7, Folio # 4 containing 40450 sq. ft. and located in the 15th. Election District, 6th. Councilmanic district.

0530

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **13960**

Date: **5-9-08**

PAID RECEIPT

BUSINESS ACTUAL TIME
 5/12/2008 5/09/2008 15:17:06 2

REC 1002 MAIL JANA JEE
 RECEIPT # 577884 5/09/2008 05/09

Dept 5 538 ZONING VERIFICATION
 013960

Receipt Tot. \$65.00
 \$65.00 CH \$1.00 CA
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		006		0150				65.00

Total: **65.00**

Rec
 From: **J. Gennaro**

For: **1328 E. Krollville Ave - As Vnd**
2008-0506-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No. 08-0530-A

Petitioner/Developer: J.

GERNHART

Date of Hearing/Closing: 6-2-08

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:

1328 E. RIVERSIDE AVE

The sign(s) were posted on 5-18-08
(Month, Day, Year)

Sincerely,

Robert Black 5-20-08
(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)



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Contact Person: CRAIG Mc Graw Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 5-9-08 Posting Date: 5-18-08 Closing Date: 6-02-08

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

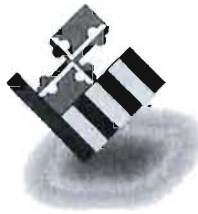
Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Petitioner's Name J. GERHART Telephone 410-852-243

Posting Date: 5-18-08 Closing Date: 6-2-08

Wording for Sign: TO PERMIT ALLOW AN ACCESSORY STRUCTURE IN THE FRONT
YARDS OF AN EX. SINGLE FAMILY DWELLING IN LIEU OF THE
REQUIRED REAR YARDS

WCR - Revised 6/25/04



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.

County Executive

James & Christine W. Gernhart
1328 E, Riverside Ave.
Baltimore, MD 21221

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management
June 2, 2008

Dear: James & Christine W. Gernhart

RE: Case Number 2008-0530-A, Address: 1328 E, Riverside Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 09, 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:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 22, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 26, 2008
Item No. 08-530

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

The base flood elevation for this site is 10.2 feet Baltimore County Datum.

The flood protection elevation for this site is 11.2 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK:CEN:lrk

cc: File

ZAC-ITEM NO 08-530-05212008.doc



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

May 20, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: May 19, 2008

Item No.: 518, 520-528, 530, and 532-534.

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.

The Fire Marshal's Office has no comments at this time.

Don W. Muddiman, Acting Lieutenant
Fire Marshal's Office
(Office) 410-887-4880
MS-1102F

cc: File



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: May 20, 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. B-530-A
1328 RIVERSIDE AVENUE
GREENHART PROPERTY
ADMINISTRATIVE 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. B-530-A.

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,

Fo^a Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 28, 2008

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

RECEIVED
MAY 28 2008

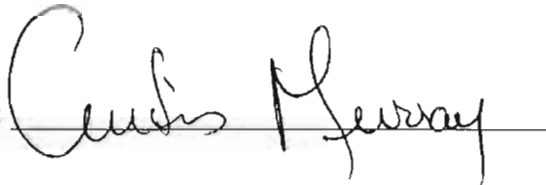
BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-530- Administrative Variance**

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

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

Prepared By:



CM/LL

AV
6-2-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 04 2008

BY:

TO: Timothy M. Kotroco

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

DATE: June 4, 2008

SUBJECT: Zoning Item # 08-530-A
Address 1328 E. Riverside Avenue
(Gernhart Property)

Zoning Advisory Committee Meeting of May 19, 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:

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

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

X 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: This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100-foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.

Reviewer: Paul Dennis

Date: May 21, 2008

April 15, 2008

To Whom It May Concern,

We the undersigned do hereby give our approval for the residents at 1328 E. Riverside Ave. to have an accessory structure in there front yard. This would not create any undo hardship to us, the immediate neighbors or the neighborhood in general.

1332 E. Riverside Ave.

1322 E. Riverside Ave.

1330 E. Riverside Ave.

Mark Dyson

MARK DYSON

E. J. Wendelstedt

MRS. WENDELSTEDT

Florence E. Christensen

WILLIAM CHRISTENSE

0530

previous
order

IN RE: PETITION FOR VARIANCE
W/S of East Riverside Avenue, 200 feet
south of Mitchell Road
15th Election District
6th Councilmanic District
(1326 and 1328 East Riverside Avenue)

Joseph and Noel Bates
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 06-559-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Joseph and Noel Bates. The Petitioners are requesting variance relief for property located at 1326 and 1328 East Riverside Avenue. Variance relief is requested from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively.

The property was posted with notice of the public hearing date and time on June 18, 2006. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 20, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict

compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Bureau of Development Plans Review dated May 17, 2006 and contains restrictions. A ZAC comment letter was received from the Department of Environmental Planning and Resource Management dated June 8, 2006 which contains restrictions. A ZAC comment letter was received from the Office of Planning dated June 6, 2006, which contains restrictions. Subsequently the Planning Office issued revised comments dated July 5, 2006, a copy of which is incorporated into the file of this case.

Interested Persons

Appearing at the hearing on behalf of the variance request were James Gernhart and Joseph Bates, Petitioner. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the subject property contains 0.86 acres zoned RC 5 and is improved by two single family dwellings. As shown on the Plat to

Accompany exhibit 1, the Petitioner proposes to raze both dwellings and erect one large modern home to replace the existing homes shown on the Petitioner's photographs, exhibit 4 A. The new home would be located on two 50 foot wide lots whereas the two existing homes are each located on one 50 foot lot.

Mr. Gernhart indicated that the two lots are Lot 14 and 15 of the Back River Neck Park subdivision which was recorded among the land records in 1921 as shown on exhibit 2. He indicated that he understood that this property had been zoned DR 5.5 until very recently when the area was down zoned to RC 5. He noted that a home on lots 14 and 15 as proposed would have met all DR 5.5 regulations but now the same house requires variances. Finally he noted that as shown on the lots originally were approximately 450 feet long which would have meant the combined lots contained about an acre. However the area suffered significant erosion over the past eighty years and as a result today the combined lots have only 0.86 acres.

In regard to the height variance, Mr. Gernhart noted that the Bureau of Development Plans Review comment requires the first floor to be elevated above ground level at least 10.4 feet to avoid being flooded in an Isabel type storm. This means that his proposed two story home will reach 47 feet at the peak of the roof and so does not meet the 35 foot height regulation. However, he also noted that the lots behind the subject property are vacant or farm land so that there will be no complaints about the height cutting off view of the water. Also see photographs 5 A, 5 B and 5 C. In fact he contacted the owner of the lots to the rear who supported the requests because of lower density.

In regard to the side yard setbacks, the Petitioner points out that even by combining two lots into one 100 foot wide lot, the 50 foot side yard setback requirements of RC 5 can not be met. Nor is there any property on either side which the Petitioner can purchase to meet the regulations. Finally he noted that the existing house on lot 14 is only 9 feet from the property line and his proposal is to increase this to 10 feet. The new house is 24 feet from the property line on the other side to allow a side loaded garage as shown.

The Planning Office comments originally indicated that the side yard setback should be 15 feet on each side as well as requesting information to allow a finding of compatibility in this RC 5 zoned property. However the Planning Office issued revised comments after the Petitioner supplied the information requested, found the proposed home to be compatible, and agreed to a 10 foot side yard setback under the circumstances.

A letter of opposition was received from Jackie Nickel objecting to the size of the proposed home.

Findings of Fact and Conclusions of Law

I suppose technically the requests for variance for lot size and width could have been filed as a request for special hearing under Section 1A04.3 B.1. The height would still require a variance. I will treat all requests for variance as indicated in the Petition.

The file shows a letter in opposition from a neighbor whose primary objections seems to be the size of the proposed dwelling. However it appears from the testimony and photographs that the lots behind the new home are either vacant or farm. The

Petitioner indicated the community association did not oppose the size of the dwelling considering two homes would be replaced with one.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This subdivision and the subject lots were created much before the zoning was imposed on the area. The imposition of RC 5 zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. The proposed dwelling on two lots would have met the prior DR 5.5 regulations.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There is no more land on either side which the Petitioner can purchase to meet the regulations. Even with 100 foot combined lot, he still can not meet a 50 foot side yard setback or the area requirements.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance as the Petitioner is razing two homes to be replaced by one.

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. This is an improved pattern of development whereas there were two homes on each 50 foot lot now there is one home on a 100 foot lot. There will be no change to the character of the neighborhood. The water view lots behind are vacant or farm.

THEREFORE, IT IS ORDERED, this 6th day of July, 2006, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively is hereby GRANTED, subject to the following conditions:

1. The Petitioner may apply for his building permit 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, the 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 Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).
3. This property is within the Limited Development Area of the CBCA. The impervious surface limit is 15% of the lot size, and 15% tree cover must be maintained. The property is also in a Buffer Management Area, which establishes a 100 foot buffer.
4. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.

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

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER

JVM:pz



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 15 **Account Number -** 1507471200

Owner Information

Owner Name:	GERNHART JAMES R,JR GERNHART CHRISTINE W	Use:	RESIDENTIAL
Mailing Address:	1328 E RIVERSIDE AVE BALTIMORE MD 21221-6319	Principal Residence:	YES
		Deed Reference:	1) /24504/ 524 2)

Location & Structure Information

Premises Address	Legal Description
1328 E RIVERSIDE AVE	1328 E RIVERSIDE AVE
	BACK RIVER NECK PARK
	WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	6	226					14	3	Plat Ref: 7/ 4

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2007	5,176 SF	22,700.00 SF	34
Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value	Phase-In Assessments	
		As Of	As Of	As Of
		01/01/2006	07/01/2007	07/01/2008
Land	134,670	204,670		
Improvements:	489,820	626,980		
Total:	624,490	831,650	762,596	831,650
Preferential Land:	0	0	0	0

Transfer Information

Seller: BATES JOSEPH C	Date: 09/21/2006	Price: \$700,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /24504/ 524	Deed2:
Seller: BARNETT KEVIN H BARNETT JOYCE L	Date: 04/17/1992	Price: \$112,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 9141/ 766	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

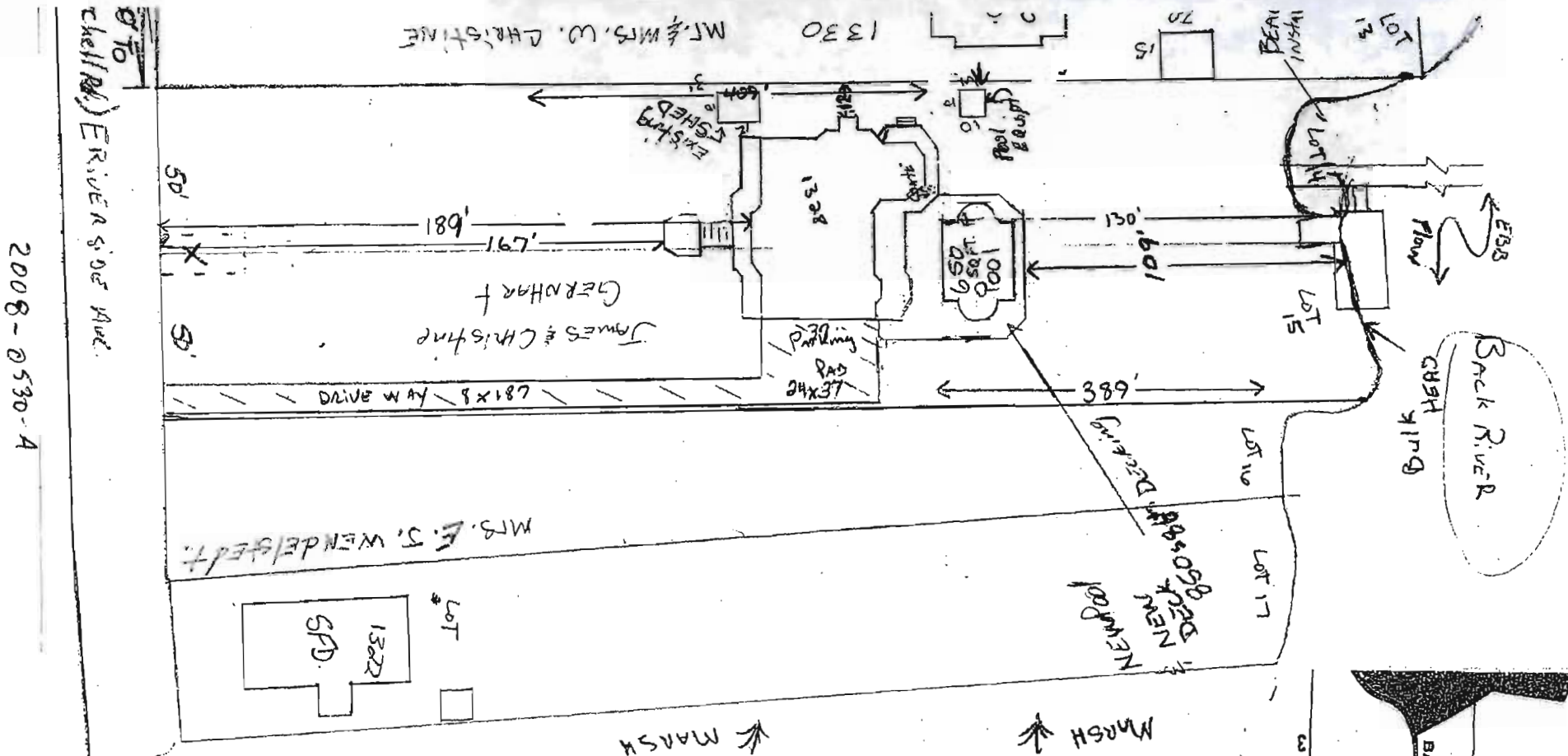
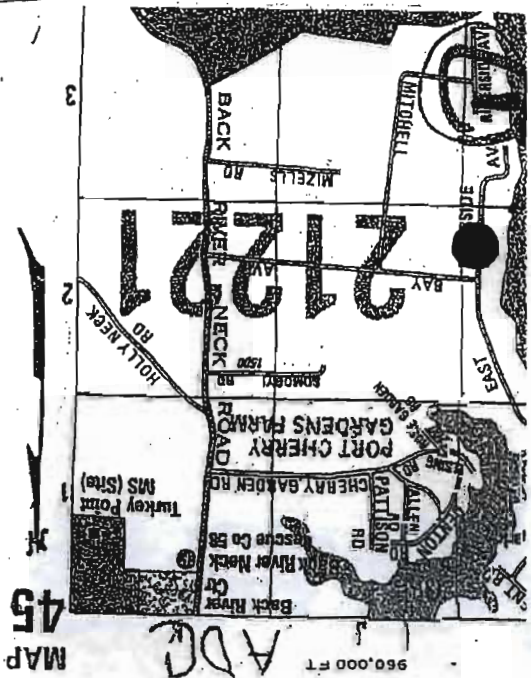
Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

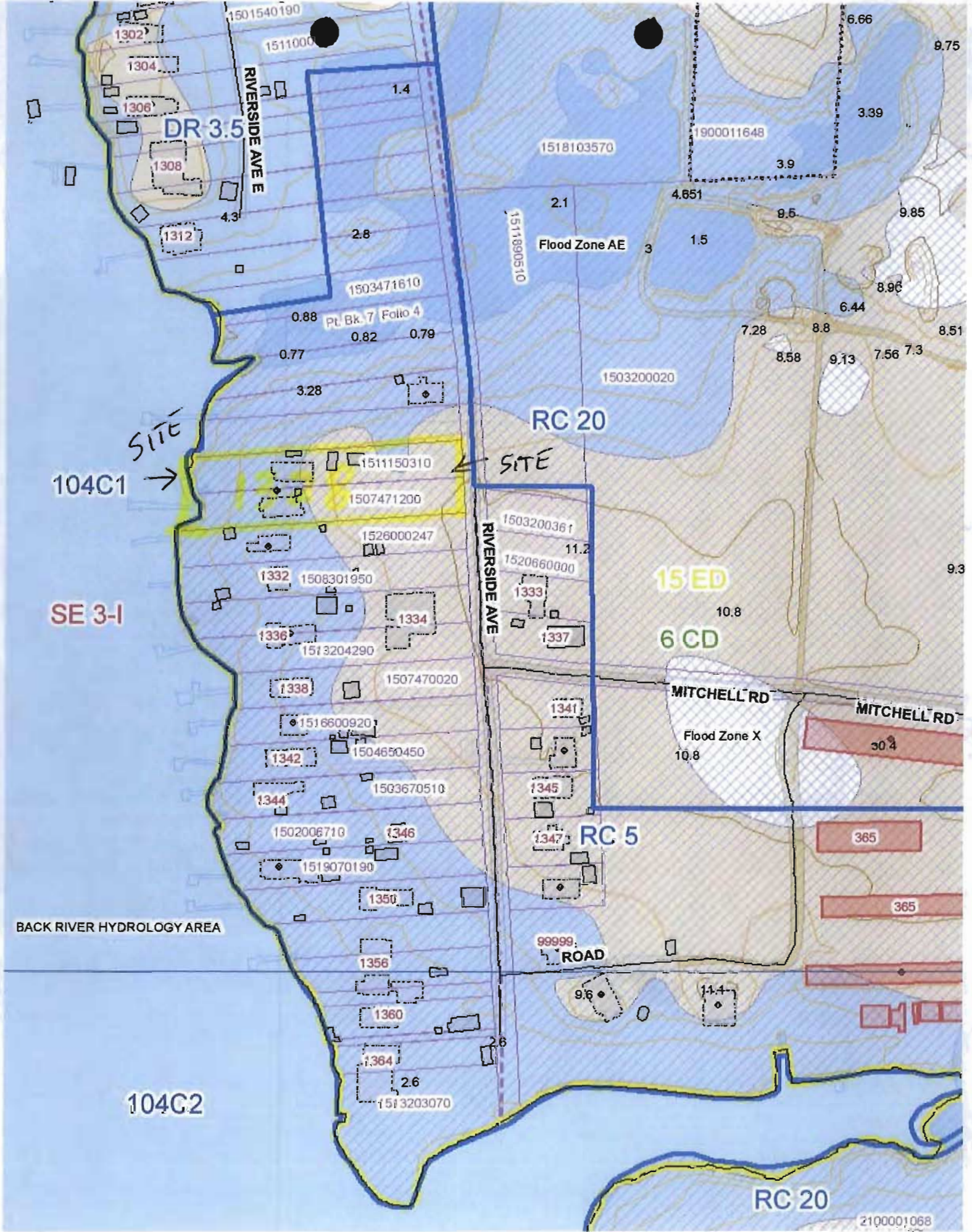
Special Tax Recapture:
 * NONE *

Sec 1150



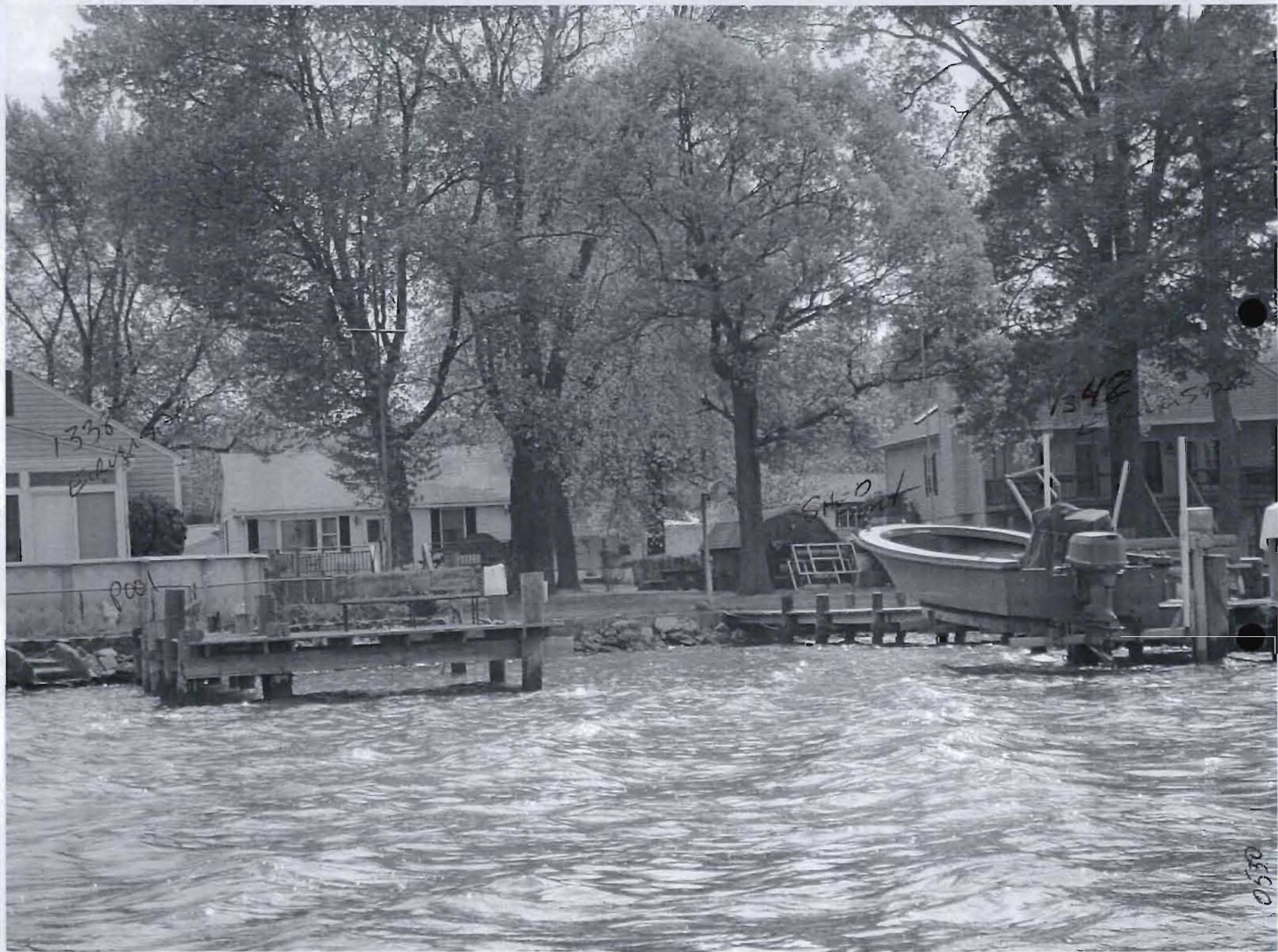
OWNER: JAMES & C HILSHOF GENSHALT
ADDRESS: 1320 E 327 E RIVER SIDE AVE.
SUBDIV: RICH RIVER NE BK
PLAT BOOK = 2 COL 10 & LOT = 14 & 15
TWS 1607 3110 223
ELECT DIST: 15 Council: 6
Zone: RE 5 Lot 512 4045056
Public Water & Sewer: 100 yr Flood
Cherokee Day Central Area: YES
Historic Property: No prior warning
06-559-A

2008-0530-A



0530







0530



1328 E. River St.
ReAR









Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at Back River Neck Rd

which is presently zoned RC, 20 portion of the property

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

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

(This box to be completed by planner)

To permit a non-density transfer

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

Contract Purchaser/Lessee:

APC Realty and Equipment Company LLC/Sprint Nextel

Name - Type or Print

Sam O'Neill Sam O'Neill

Signature

7056 Samuel Morse Dr., Suite 100, 443-278-3890
Address Telephone No.
Columbia MD 21046
City State Zip Code

Attorney For Petitioner:

James R. Michal

Name - Type or Print

James R. Michal

Signature

Jackson & Campbell, P.C.

Company

1120 20th St. NW, Suite 300 202-457-1652
Address Telephone No.
Washington DC 20036
City State Zip Code

Legal Owner(s):

Back River LLC

Name - Type or Print

Albert C Jones

Signature

Albert C. Jones

Name - Type or Print

Signature

810 Back River Neck Rd 410-574-9337

Address

Telephone No.

Essex

MD

21221

City

State

Zip Code

Representative to be Contacted:

James R. Michal

Name

1120 20th St. NW Suite 300

Address

Telephone No.

Washington

DC

20036

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2008-0531-SPHX

REV 9/15/98

UNAVAILABLE FOR HEARING

Reviewed By ca Date 5/8/08



Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property located at 810 Back River Neck Rd., Baltimore, MD 21221

which is presently zoned RC 20

Deed Reference: 13577 / 535 Tax Account # 2300004470

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

To permit a Tower at a height of 125' in a RC.20 zone

Refer to exhibit "B" for a detailed support statement.

Section 1A05.1.C.8; 426

Property is to be posted and advertised as prescribed by the zoning regulations.

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

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

Contract Purchaser/Lessee:

APC Realty and Equipment Company, LLC/Sprint Nextel

Name - Type or Print

SAY ONELL

Signature

7055 SAMUEL MORSE DR

Address

Columbia

MD

Telephone No.

21046

City

State

Zip Code

Attorney For Petitioner:

James R. Michal, Esq.

Name - Type or Print

James R. Michal

Signature

Jackson & Campbell, PC

Company

1120 20th St NW

Address

Washington

DC

Telephone No.

20036

City

State

Zip Code

Legal Owner(s):

Back River LLC

Name - Type or Print

Albert C Jones

Signature

Name - Type or Print

Signature

810 Back Neck River Rd.

Address

Baltimore

MD

Telephone No.

21221

City

State

Zip Code

Representative to be Contacted:

James R. Michal, Esq

Name

1120 20th St. NW

Address

Washington

DC

Telephone No.

20036

City

State

Zip Code

Case No. 2008-0531-SPHX

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

Reviewed By *LM*

Date

5/23/08

439 East Main Street
Westminster, MD 21157-5539



410-848-1790
FAX (410) 848-1791

Back River Neck Road

A description of a 5.9002 acre parcel of land located on the west side of Back River Neck Road in the 15th Election District of Baltimore County, Maryland.

Beginning at a rebar and cap marked "KCI" found on the westerly right-of-way line of Back River Neck Road, thence in a southerly direction with the said right-of-way line.

1. By a non tangent curve to the right having a radius distance of 775.00 feet, an arc length of 228.14 feet being subtended by a chord bearing and distance of South 04 degrees 41 minutes 38 seconds West, 227.32 feet to a point at the end of the 5th or North 63 degrees 47 minutes 49 seconds East, 779.71 foot line of a deed from Henry A. Pettit and Helen G. Pettit his wife to Theodore Julio and Anna Julio dated May 8, 1973 and recorded among The Land Records of Baltimore County, Maryland in Liber 5361, folio 664 thence leaving said right-of-way and binding on and running reversely with a portion of the said 5th line;
2. South 74 degrees 15 minutes 00 seconds West, 445.36 feet to a point, thence leaving said 5th line and running for two (2) new lines of division through the land now or previously owned by Theodore Julio;
3. South 15 degrees 45 minutes 00 seconds East, 126.00 to a point, thence;
4. South 74 degrees 15 minutes 00 seconds West, 323.00 to a point on the 4th or North 26 degrees 12 minutes 11 seconds West, 491.92 foot line of the aforementioned deed 5361/664, thence binding on and running with a portion of said 4th line;
5. North 15 degrees 45 minutes 00 seconds West, 49.00 feet to a point on the 2nd or North 16 degrees 53 minutes West, 1356 foot line in a deed from Robert B. Simms and Brenda J. Scruggs to Back 50, LLC dated August 17, 2004 and recorded among said land records in Liber 20628, folio 117, thence leaving said 2nd line and running for three (3) new lines of division through the land now or previously owned by Back 50, LLC;
6. South 74 degrees 15 minutes 00 seconds West, 65.50 feet to a point, thence;
7. North 15 degrees 45 minutes 00 seconds West, 300.00 feet to a point, thence;

Case # 2008-0531-SPH

Serving Maryland, Pennsylvania, Virginia & West Virginia with offices in:

Westminster
439 East Main Street, Westminster, MD 21157
(410) 848-1790 • (410) 848-1791 FAX

Frederick
8445 Progress Drive, Suite BB, Frederick, MD 21701
(301) 662-1789 • (301) 662-8004 FAX



8. North 74 degrees 15 minutes 00 seconds East, 65.50 feet to a point at the beginning of the 4th or South 15 degrees 45 minutes 00 seconds 223.00 foot line of a deed from Anthony D. Luciano, Personal Representative of the Estate of Augustine L. Luciano and Ruth Elise Luciano to Back River, LLC dated February 2, 1999 and recorded among the said land records in Liber 13577, folio 535, thence binding on and running with the aforementioned 2nd line;
9. North 15 degrees 45 minutes 00 seconds West 33.00 feet to a point at the end of the fifth or South 74 degrees 15 minutes West, 30.00 foot line as described in a deed of conveyance from Maria Luciano to Albert Ladanyi and Eva I. Ladanyi, dated January 27, 1976 and recorded among the Land Records of Baltimore County, Maryland in Liber E.H.K. 5606 folio 589 etc.; thence binding on and running reversely with the fifth, fourth and third lines, as follows;
10. North 74 degrees 15 minutes 00 seconds East, 30.62 feet, thence;
11. By a curve to the right an arc length of 65.98 feet having a radius of 40.00 feet and being subtended by a chord bearing and distance of North 31 degrees 45 minutes 42 seconds East 58.75 feet, thence;
12. North 79 degrees 01 minutes 02 seconds East passing over a point the distance of 85.35 feet at the beginning of said third line, said point also being at the end of the fourth or South 79 degree 01 minute West 91.32 foot line as described in a deed of conveyance from Maria Luciano to Frank DiAngelo and Anthony A. DiAngelo, dated January 27, 1967, and recorded among the aforesaid Land Records in Liber E.H.K. 5606 folio 587, in all, a distance of 176.67 feet to a point at the beginning thereof; thence binding on and running with a part of the third or South 74 degree 15 minute West 68.08 foot line of said deed;
13. North 74 degrees 15 minutes 00 seconds East 25.00 feet; thence leaving said line for a new line of division;
14. South 15 degrees 45 minutes 00 seconds East 58.00 feet to a point on the third or South 74 degree 15 minute West 650.00 foot line as described in the abovementioned conveyance from Luciano et al to Back River, LLC (13577/535); thence binding on and running reversely with a part of said third line;
15. North 74 degrees 15 minutes 00 seconds East, 375.00 feet to a rebar and cap marked "KCI" at the end of the 2nd or North 15 degrees 45 minutes 00 seconds West, 10.00 foot line of the aforementioned deed 13577/535, thence binding on and running reversely with the 2nd and 1st lines of said deed;

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **3962**

Date: **5/9/08**

PAID RECEIPT

BUSINESS ACTUAL TIME
 5/12/2008 5/09/2008 15:33:31
 REC-805 WALKIN DRILL DRG
 RECEIPT # 444097 5/09/2008 01:11
 5 528 ZONING VERIFICATION
 013962
 Recpt Tot \$705.00
 \$705.00 13 1.00 12
 Baltimore County, Maryland

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				705.00
001	006			6150				705.00
Total:								705.00

Rec From: Back River LLC 2007-0531 SPH
 For: 810 Back River Neck
Essex Md 21221

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

**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: # 2008-0531-SPHX
810 Back River Neck Road
West/South of Back River Neck
Road, 207 feet S/of Potter
Farm Road

15th Election District
6th Councilmanic District
Legal Owner(s): Back River,
LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint
Nextel

Special Hearing: to permit a
non-density transfer. Special

Exception: to permit a tower
height of 125 feet in an RC20
zone.

Hearing: Wednesday, August
20, 2008 at 9:00 a.m. in 1st
Floor Hearing Room, Jefferson
Building, 105 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.

JTB 8/6/08 Aug. 5 179905

CERTIFICATE OF PUBLICATION

8/7/, 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 8/5/, 2008.

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

S. Wilkinson

LEGAL ADVERTISING

Certiflcate of Posting

RE: Case NO. 2008-0531-SPHX

Petitioner/Developer _____

Back River, LLCDate of Hearing/Closing 8/20/08

Baltimore County
Department of Permits and Development Managements
County Office Building - Room 111
111 W. Chesapeake Ave.
Towson, Md. 21204

Attention:

This letter is to certify, under penalties of perjury, that the necessary sign(s) as required by law, were posted conspicuously on the property located at _____

810 Back River Neck Road

The sign(s) were posted on 8/5/08
(Month, Day, Year)

Sincerely,

(Signature of sign Poster and date)Richard E. Hoffman
(Printed Name)

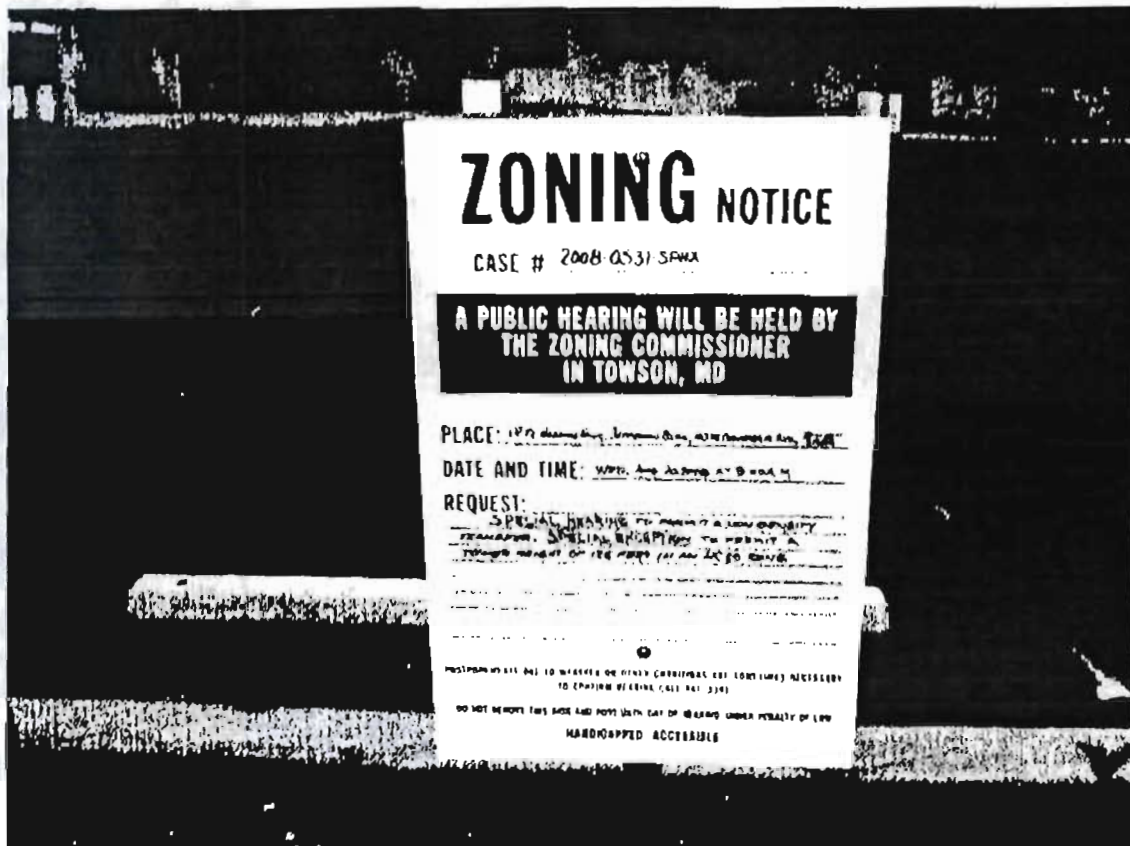
See Attached
Photograph

904 Dellwood Drive
(Address)Fallston, Md. 21047
(City, State, Zip Code)410-879-3122
(Telephone Number)

Certificate of Posting
Photograph Attachment

Re: 2008-0531-SPHX

Petitioner/Developer: _____

Back River, LLCDate of Hearing/Closing: 8/20/08

810 Back River Neck Road

Posted: 8/5/08Richard E. Hoffman

DEPARTMENT OF **PLANNING 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: 2008 - 0531-SPHX
Petitioner: Back River LLC
Address or Location: 810 BACK RIVER Neck Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jay O'Neil
Address: 7055 Samuel Morse Dr Suite 100
Columbia Md. 21046
Telephone Number: 202-457-1652

Revised 2/20/98 - SCJ



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

June 19, 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: 2008-0531-SPHX

810 Back River Neck Road

West/South of Back River Neck Road, 207 feet S/of Potter Farm Road

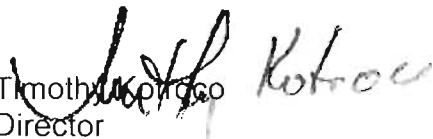
15th Election District – 6th Councilmanic District

Legal Owners: Back River, LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint Nextel

Special Hearing to permit a non-density transfer. Special Exception to permit a tower height of 125 feet in an RC20 zone.

Hearing: Friday, August 1, 2008 at 10:00 a.m. in Hearing Room 1, 2nd Floor,
Jefferson Building, 105 W. Chesapeake Avenue, Towson 21204


Timothy M. Kotroco
Director

TK:klm

C: James Michal, Jackson & Campbell, 1120 20th St. NW, Washington DC 20036
Jay O'Neill, APC Realty & Equip., 7055 Samuel Morse Drive, Columbia 21046
Albert Jones, Back River, 810 Back River Neck Road, Baltimore 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JULY 17, 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, July 17, 2008 Issue - Jeffersonian

Please forward billing to:

Jay O'Neil
7055 Samuel Morse Drive, Ste. 100
Columbia, MD 21046

202-457-1652

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: 2008-0531-SPHX

810 Back River Neck Road

West/South of Back River Neck Road, 207 feet S/of Potter Farm Road

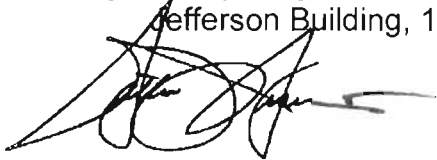
15th Election District – 6th Councilmanic District

Legal Owners: Back River, LLC

Contract Purchaser: APC Realty & Equipment Co., LLC/Sprint Nextel

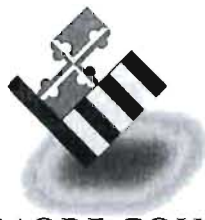
Special Hearing to permit a non-density transfer. Special Exception to permit a tower height of 125 feet in an RC20 zone.

Hearing: Friday, August 1, 2008 at 10:00 a.m. in Hearing Room 1, 2nd Floor,
Jefferson Building, 105 W. 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

August 13, 2008

James R. Michal, Esq.
Jackson & Campbell, PC
1120 20th St. NW
Washington, DC 20036

Dear: James R. Michal, Esq.

RE: Case Number 2008-0531-SPHX, 810 Back River Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 23, 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:lnw

Enclosures

c: People's Counsel
Albert C. James: Back River LLC, 810 Back River Rd., Baltimore, MD 21221
Jay O'Neil, 7055 Samuel Morse Dr., Columbia, MD 21046

TB 8/20
9AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUL 03 2008

BY:.....

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: July 2, 2008

SUBJECT: Zoning Item # 08-531-SPH
Address 810 Back River Neck Road
(Back River, LLC Property)

Zoning Advisory Committee Meeting of June 17, 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 this property must comply with the Chesapeake Bay Critical Area (CBCA) Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments: Comments concerning CBCA requirements cannot be completed due to unknown issues. The forest adjacent to the proposed location of the antenna meets the criteria for forest interior dwelling bird species habitat. DEPRM needs more information on the implications of the 200-foot radius from the tower and the adjusted property limits on the FIDS habitat and required stream, tidal/nontidal wetland buffers, and forest protection. There is a stream on and offsite to the northwest and west of the tower site.

Reviewer: Paul Dennis

Date: June 30, 2008

TB
8-20-08

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: August 12, 2008

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

RECEIVED
AUG 18 2008

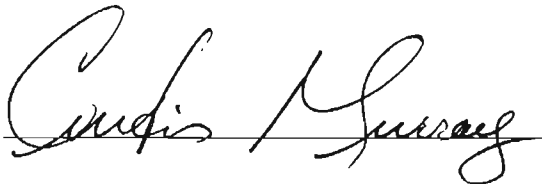
BY:

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-531- Special Exception**

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

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

Prepared By:



Division Chief: _____

CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 19, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For June 23, 2008
Item Nos. 08-456, 0531, 0543, 0558, 0559, 0560,
0561, 0562, 0563, 0566, 0567, 0568, and 0571

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

DAK:CEN:lrk

cc: File

ZAC-06192008-NO COMMENTS



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

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

Maryland Department of Transportation

Date: 6-20-2008

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

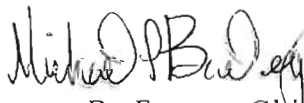
RE: Baltimore County
Item No 2008-0531-SPH
810 BACK RIVER NECK RD
BACK RIVER, L.L.C. PROPERTY
SPECIAL HENGEING
SPECIAL EXCEPTION

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. 2008-0531-SPH.

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: August 21, 2008
TO: File
FROM: Thomas Bostwick, Deputy Zoning Commissioner
RE: Petition for Special Hearing and Special Exception
Case No. 2008-0531-SPHX – 810 Back River Neck Road

This matter came before me on August 20, 2008 on Petitions for Special Hearing and Special Exception. The Special Hearing was requested to permit a non-density transfer of land and the Special Exception was requested to permit a telecommunications tower at a height of 125 feet in an R.C.20 Zone. The Petitioners are the property owner, Back River LLC by Albert "Buck" Jones and the contract lessee, APC Realty and Equipment Company LLC/Sprint Nextel.

Petitioners' attorney, James Michal, appeared with several witnesses in support of the requests for relief. Also appearing was Assistant County Attorney Nancy West and Mike Mohler, Deputy Director of Permits and Development Management and Head of the Code Inspections and Enforcement Division. Ms. West related that this case has had significant history and that because of this, I should consider postponing the case. The history I gleaned from both parties is as follows:

In 2001, Sprint PCS and Back River LLC petitioned for a variance to erect a 115 foot monopole on the subject property. Then-Zoning Commissioner Lawrence Schmidt granted the variance request and shortly thereafter, Petitioners erected the cell tower. The case was appealed to the Board of Appeals and they denied the variances requested. The Circuit Court affirmed and the Court of Special Appeals affirmed the denial of the variances. During these proceeding four years, the cell tower was erected and continued to operate.

Over the last few years, Code Enforcement has attempted to enforce the Court of Special Appeals decision and have the cell tower taken down. During this period, it also appears that Petitioners have attempted to "right" the situation by trying to take out the need for the variances by acquiring sufficient adjacent land so as not to need the setbacks from the original variance case (Case No. 02-159-A). They have also filed the instant petitions for special hearing for a non-density transfer (assuming they can acquire the requisite land) and special

exception to extend the existing tower from 115 feet to 125 feet to accommodate Sprint Nextel on the tower.

In a somewhat related matter, in 2007 and Case No. 07-506-X, Petitioners and property owners Patricia Shaneybrook and Susan Basso and contract lessee Verizon Wireless requested a special exception to erect a cell tower on Back River Neck Road, not far from the subject property where the "illegal" cell tower currently operates. Zoning Commissioner William J. Wiseman, III granted that special exception, noting that the requested tower would essentially be a "replacement" to the tower on the subject property that was denied by the Court of Special Appeals in 2005.

In addition, currently, the Code Enforcement Office and Petitioners and the Shaneybrook and Verizon parties are in discussions in an effort to possibly ultimately allow the existing cell tower to remain and for Verizon to occupy part of that tower to enhance its service. As noted earlier, Petitioners are trying to acquire sufficient adjacent land so they no longer need variance relief, which would in turn legitimize the existence of the tower.

With that backdrop, the County, through Ms. West and Mr. Mohler, requested that the current matter be postponed, believing it was not appropriate for Petitioners to be requesting zoning relief when the parties were in the throes of administrative enforcement proceedings involving removal of the existing "illegal" tower. I agreed with Ms. West and postponed the case. I directed that the parties attempt to resolve the outstanding issues prior to re-scheduling this matter. Otherwise, with the prior Court of Special Appeals mandate, the relief requested in this case may not be appropriate, especially if Petitioner cannot acquire the necessary adjacent land.

The undersigned did open the hearing prior to the postponement. It should be re-scheduled probably for mid to late October or November 2008 and should be assigned to me. It does NOT need to be re-posted and re-published.

c: Nancy West, Assistant County Attorney
Mike Mohler, Deputy Director of Permits and Development Management
and Head of the Code Inspections and Enforcement Division

From: Patricia Zook
To: Mohler, Mike; West, Nancy
Date: 8/21/2008 11:24:31 AM
Subject: Case No. 2008-0531-SPHX – 810 Back River Neck Road

Nancy and Mike -

Please see Tom Bostwick's memorandum to the case file.

Kristen - the case file is being returned to PDM for safe keeping.

Patti Zook
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Office of the Zoning Commissioner
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CC: Bostwick, Thomas; Matthews, Kristen

- 8-20-08-

2008-0531-SPHX

- Jim Muel - Pet's Atty

- Nanny West - Ant County Atty

↳ Mike Mullen

↳ after 10/10/08 PM

Pet - 10/01

Bdly Appeals 5/03

City Sp. Appeals 8/03

3/08- letter, from Bulldog Engineer
Re: Grand

↳ w/ draw use + occupancy permit

- Kasecki - represent Young's

- Frank Bergendy - represent Shaverbrook

- Brad New Wood Peninsula Com Association send
letter to Tim Brad in 8/19/06

CASE NAME _____
CASE NUMBER 2008-0531-SPHX
DATE 8-20-08

[illegible]

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER 7008-0531-SPHX

DATE 8-20-08

CITIZEN'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E-MAIL

CARL MAYNARD

1546 DENTON RD

BALTO MD 21221



Catherine Travis
2019 Silver Lane Rd.
Baltimore, MD 21221

CASE NAME _____
CASE NUMBER _____
DATE _____

NAME _____

CITY, STATE, ZIP

Mike Moller

Salt to PPM

305 W. Chesapeake Ave. Towson

REPORT@battimark.com 408-608

Nancy West

Baker Co. Oppen of law

400 Wash. Ave. Portland 1204

4 newest @ hulkmore county ma
gov.

*adjacent tower
nearby*

IN RE: **PETITION FOR SPECIAL
EXCEPTION**

SW/S Back River Neck Road, 800' N
of c/line Pottery Farm Road
(720 Back River Neck Road)
15th Election District
6th Council District

Patricia Shaneybrook & Susan Basso
Owners

Cellco Partnership, *Contract Lessee*
Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 07-506-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the legal owners of the subject property, Patricia Shaneybrook and Susan Basso and the Contract Lessee, Cellco Partnership d/b/a Verizon Wireless, through their attorney, David H. Karceski, Esquire. The Petitioners request a special exception pursuant to Sections 1A05.2.C.8, 1B01.1.C.24, 426.5.D and 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a wireless telecommunications tower/facility on the property. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioners' Exhibit 1A.

Appearing at the requisite public hearing in support of the request on behalf of the owners was Brian G. West, Esquire. Jay Schapiro, Verizon's Real Estate Site Manager, and Scott Kass, its RF Engineer, appeared on behalf of Verizon Wireless. Also David Karceski, Esquire and Christopher D. Mudd, attorneys for Cellco, appearing were Thomas E. Wolfe, registered landscape architect, and [redacted] a professional engineer, with Morris & Ritchie Associates, Inc., the firm for the [redacted]

*adjacent/tower
nearby*

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BEFORE THE

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preparation of the site plan. There were no Protestants or other interested persons present, however, it is noted that a letter was received from the Back River Neck Peninsula Community Association supporting the proposed tower at this location which was accepted into evidence as Petitioners' Exhibit 5.

Testimony and evidence revealed that the subject property is an unimproved parcel located adjacent to and on the west side of Back River Neck Road just south of Turkey Point Road in Essex across from the Chesapeake High School and the site of the Turkey Point Middle School.¹ The property consists of a gross area of 9.76 acres, more or less, predominantly zoned R.C.20 with a small sliver of D.R.3.5 and B.L. in the southeastern corner of the site. Petitioners seek to install a new telecommunications tower and equipment shelter on the property, as illustrated on Petitioners' Exhibit 1B. The location proposed for this telecommunications compound is to the western or rear portion of the site. Specifically, Verizon Wireless proposes to install a 120-foot tall telecommunications monopole with antennas and related equipment shelters on the property. As confirmed by its representatives at the hearing, they conducted an extensive search for an appropriate site for either antennas or a new tower to address the service problems in the area. That search resulted in the identification of the subject property as a potential location for a new tower after other possibilities, such as existing buildings or structures or commercially zoned properties, were exhausted. A drive test confirmed the suitability of the site, and Verizon Wireless then worked with both the property owners and the surrounding community to come up with a tower proposal that satisfied everyone's needs and concerns.

¹ The history of this property indicates a Petition for Special Exception approving an adult day care center was granted in Case No. 00-139-X. B.C.Z.R. Section 502.3 requires a utilization of such a use take place within a two-year period. This time restriction having passed and no extensions granted, the Order is now void.

The proposed tower is in essence a replacement tower for an existing wireless communications facility located at 810 Back River Neck Road previously approved by the then Zoning Commissioner Lawrence E. Schmidt in Case No. 02-159-A. On appeal, however, certain setback relief necessary for that tower's existence was ultimately denied. The Office of Planning, in its July 26, 2007 Zoning Advisory Committee (ZAC) comment, recognized that the 810 Back River Neck Road tower is now operating illegally on that property. For this reason, and the reasons more fully set forth in the unreported Court of Special Appeals decision entitled *Sprint PCS, et al v. Baltimore County*, Md. Case No. 0047 (September term 2004), the Petitioner filed the instant Petition for Special Exception.

The Office of Planning issued an original comment, dated July 19, 2006. In its comment, Planning recommended approval of the requested relief provided that the Petitioner presented evidence that best efforts in minimizing the visual impact of the proposed tower was presented given the towers location in a resource conservation zone. Additionally, the July 19th comment requested that an approval for this tower be restricted to the removal of an existing monopole tower presently located at 810 Back River Neck Road. In its revised July 26, 2007 ZAC comment, the Office of Planning indicating that the Code Enforcement Office should take the necessary steps needed for the removal of the tower within 180 days from the date the subject replacement tower is constructed and determined to be operational. Jeffrey Long, Deputy Director for the Office of Planning, attended the hearing in this regard. During the presentation of the case, he reviewed Petitioners' photographs that revealed the limited visibility of the proposed tower (*See* Petitioner's Exhibit 9) and confirmed his office's satisfaction regarding the tower's location on the property. Additionally, Mr. Long confirmed his office's position regarding the 810 Back River Neck Road tower and its removal as contained in the July 26th

ZAC comment. After reviewing the Courts opinion as articulate in *Sprint v. Baltimore County* (Petitioners' Exhibit 10), I concur with the Office of Planning's viewpoint regarding the removal of the existing tower following the installation and activation of Petitioners' tower.

The Department of Environmental Protection and Resource Management (DEPRM) submitted a ZAC comment following the public hearing in this case on August 2, 2007. DEPRM's comment indicated that the property was within the Resource Conservation Area of the Chesapeake Bay Critical Area. DEPRM's reviewer, Kevin Brittingham, outlined the required goals to be met. As a condition of approval, I will incorporate these comments and attach them to this Order.

As Verizon Wireless confirmed, a 120-foot tower is tall enough to serve its purposes and allow for potential co-location, yet low enough that the impacts on the residents of the surrounding neighborhood are minimized. The location of the tower on the property also helps minimize its appearance.

Having considered all of the evidence and testimony on these points, I am persuaded to grant the Petition for Special Exception. Verizon Wireless's efforts in trying to find an appropriate site and in working with the community to come up with an acceptable proposal are evidenced by the letter of support from the community written by Mr. Celmer and from the lack of any opposition at the hearing. I have examined the proposal in the context of B.C.Z.R. Sections 426 and 502.1, and find that Petitioners have produced strong and substantial evidence at the hearing that the proposed telecommunications tower/facility is appropriate at this site, meets the County's requirements for a new tower, and will have little or no impact, visual or otherwise, on the surrounding community. Petitioners are, therefore, entitled to the relief

requested. It is clear that they have made every effort to identify a suitable location and have taken steps to minimize the impacts in its design, placement and construction.

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

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this _____ day of August 2007, that the Petition for Special Exception for a wireless telecommunications tower/facility pursuant to Sections 1A05.2.C.8, 1B01.1.C.24, 426.D and 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibits 1A and 1B, be and is hereby GRANTED, subject to the following restriction:

1. Petitioners may apply for building permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
2. Compliance with the ZAC comment submitted by DEPRM relative to compliance with the Chesapeake Bay Critical Area regulations as contained in the Baltimore County Code as well as the Resource Conservation Area comments set forth in the revised remarks, dated August 2, 2007, a copy of which is attached hereto and made a part hereof.

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

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0047

September Term, 2004

SPRINT PCS, ET AL.

v.

BALTIMORE COUNTY, MARYLAND

Eyler, James R.,
Adkins,
Barbera,

JJ.

Opinion by Adkins, J.

Filed: August 3, 2005

RECEIVED
JUL 24 2007

PETITIONER'S

BY:.....

3C03005849

EXHIBIT NO. _____

Sprint PCS and Back River, LLC,¹ appellants, petitioned Baltimore County zoning authorities for setback variances so that they could build a wireless telecommunications tower. The Baltimore County Zoning Commissioner granted the variances on the ground that the subject property is "unique" in that the setback requirements for such a tower preclude this permitted use of the property due to the narrow width of the property. On de novo appeal, however, the Baltimore County Board of Zoning Appeals (the Board) denied the variances on the ground that the property is not unique. The Board's decision was affirmed by the Circuit Court For Baltimore County. Sprint asks us to overturn the circuit court's affirmance of the Board's decision.

FACTS AND LEGAL PROCEEDINGS

Back River LLC owns the subject property, which is a 4.31 acre parcel located at 810 Back River Neck Road on the Back River Peninsula in eastern Baltimore County, near the intersection of Pottery Farm Road. The parcel has a long rectangular shape. Its width, the frontage on Back River Neck Road, is 223 feet. Its length is approximately 850 feet on the northern boundary and 763 feet along the southern.

The property is designated by the Baltimore County Master Plan 2010 as a "gateway" to the peninsula. It is zoned Manufacturing Light (ML) and has been the site of commercial uses for more than

¹Back River LLC owns the subject property, and leases a portion of it to Sprint PCS. For convenience, we shall refer to both appellants collectively as Sprint.

60 years. There are currently two one-story commercial buildings, one of which is a strip business center housing the owner's construction business, a dry cleaner, landscaper, beauty salon, and carpet store. The other building is a storage facility.

These buildings, along with a macadam parking lot, are located in the "front" half of the parcel nearest the road. Across the street is a medic station and a former elementary school that has most recently been used as a community center. Along the northern boundary in that portion of the lot is a private drive serving three residential properties with existing dwellings. The "rear" part of the parcel is not developed, except that a large part of it is graveled so that it can be used for storage of construction vehicles, boats, etc. This portion of the property is bordered on the north by three vacant and wooded lots, all of which are zoned Rural Conservation 20 (RC20). The southern boundary is bordered by RC20 property on which there is a residence.

Sprint seeks to improve network coverage for its cellular services, due to customer complaints and company studies suggesting that Sprint's service is unreliable in this area. Studies showed that, in order to bridge the gaps in network service, Sprint would have to add wireless facilities within a "search ring" determined by its radio frequency engineers. This search ring measures approximately one mile north to south and 1/4 mile east to west along Back River Neck Road.

recommendation from the Baltimore County Tower Review Committee (TRC), whose members represent the Office of Planning, the Office of Budget and Finance, and the community. The TRC concluded that Sprint "provided ample documentation that the 115-foot monopole . . . is indeed required for the network." It recommended that the construction be approved if Sprint agreed that two other carriers could also use the tower and appropriate landscaping was installed as a buffer for the tower and equipment cabinets.

On May 14, 2001, the Baltimore County Development Review Committee (DRC), "which is composed of each of those departments involved in land-use decisions[,] " issued an administrative order finding the proposed facility "meets the requirements of a limited exemption under Section 26-171(A) (7)" of the Baltimore County Code. The DRC authorized Sprint to "proceed with building permit application."

With these in hand, Sprint petitioned for setback variances on October 19, 2001. In support of its application, Sprint asserted that the shape of the parcel and its location in the midst of surrounding vegetation distinguishes this parcel from other properties in the area. Sprint presented evidence that one of the other parcels is zoned Business Light and is located immediately northeast of this site, approximately 165 feet deep and 221 feet wide. Another parcel is zoned ML and located on the east side of Back River Neck Road to the south of the subject property, but it

DISCUSSION

Setbacks And Variances For Wireless Telecommunications Towers

Baltimore County Zoning Regulations (BCZR) establish front, rear, and side setbacks based primarily upon three factors: (1) the use for the subject property, (2) the zoning classification of the subject property, and (3) the zoning classifications of neighboring properties. For ML sites surrounded by residentially zoned properties, the standard rear and side setback is 50 feet. See BCZR § 255.1, § 243.2, § 243.3. But a wireless telecommunications tower on such a site must satisfy a greater setback requirement - at least 200 feet from any residential boundary. See BCZR 426.6.A.1. And "[a] structure housing equipment for a tower" must be set back 120 feet from "any other owner's property or zone line."

Relief from these setbacks is available via an area variance. Under BCZR section 426.6.11 governing setbacks for wireless telecommunications towers, "[t]he Zoning Commissioner, and Board of Appeals upon appeal, may grant a variance to a[n] . . . area requirement, including any setback[.]" "A variance refers to administrative relief which may be granted from the strict application of a particular development limitation in the zoning ordinance (i.e., setback, area and height limitations, etc.)." *Mayor and Council of Rockville v. Rylyns Enterprises, Inc.*, 372 Md.

514, 537 (2002). A variance authorizes the property owner "to use his property in a manner forbidden'" by applicable zoning restrictions. See *Cromwell v. Ward*, 102 Md. App. 691, 700 (1995). In contrast to special exceptions, which "contemplate a permitted use . . . [once] the prescribed conditions are met[.]" a variance "contemplates a departure from the terms of the [zoning] ordinance in order to preclude confiscation of the property[.]" *Id.* at 699-700 (citations omitted).

The test that governs variance requests generally also governs tower variance requests:

The zoning commissioner of Baltimore County and County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations . . . only in cases **where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request** and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. . . . [A]ny such variance shall be granted only if in strict harmony with the spirit and intent of said . . . area . . . regulations, and only in such manner as to grant relief without injury to public health, safety and general welfare. They shall have no power to grant other variances. . . .

BCZR § 307.1 (emphasis added); see BCZR § 426.11 (area setback for wireless telecommunications tower and related equipment may be granted "in accordance with Section 307").

"The burden of showing facts to justify . . . [a] variance rests upon the applicant[.]" *Easter v. Mayor and City Council of*

Baltimore, 195 Md. 395, 400 (1950). Both the "special circumstances or conditions" requirement, which is typically referred to as the "uniqueness" element, and the "practical difficulty" element of the two-pronged test must be satisfied. "[T]he law in Maryland and in Baltimore County under its charter and ordinance remains as it has always been--a property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on specific property because of the property's uniqueness before any consideration will be given to whether practical difficulty or unnecessary hardship exists." *Cromwell*, 102 Md. App. at 721. Here, the Board did not reach a decision regarding practical difficulty because it concluded that Sprint failed to prove uniqueness. Our focus, therefore, is on the Board's factual finding that the property is not unique.

Judicial Review Of The Board's Decision

In reviewing the denial of an area variance request, we examine whether the Board, "as an administrative agency, correctly reached the conclusions required by the Zoning Ordinance for the [denial] of a variance[,]" which means that "we must review the administrative decision itself." *Mastandrea v. North*, 361 Md. 107, 133 (2000); see also *Stansbury v. Jones*, 372 Md. 172, 182 (2002) (standard of appellate review is "the same whether the agency grants or denies" the variance). This means that our role is "to

repeat the task" performed by the circuit court. See *Red Roof Inns, Inc. v. People's Counsel for Baltimore County*, 96 Md. App. 219, 224 (1993).

We may "uphold the decision of the Board only 'on the basis of the agency's reasons and findings.'" *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 504, cert. denied, 342 Md. 584 (1996). For factual findings, "the correct test . . . is whether the issue before the administrative body is 'fairly debatable,' that is, whether its determination is based upon evidence from which reasonable persons could come to different conclusions." *White v. North*, 356 Md. 31, 44, 50 (1999); see *Stansbury*, 372 Md. at 182. If we find evidence to support the Board's action, we may not substitute our judgment even if the evidence also supports different factual inferences. See *Mastandrea*, 361 Md. at 133.

Consequently, we must decide whether the Board erred in concluding that the parcel has no special circumstances or conditions that make it unique for variance purposes.

Special Circumstances Or Conditions

As we noted above, the "special circumstances or conditions" prong of the variance test is commonly referred to as a "uniqueness" requirement, even though it is not necessary for the applicant to show truly unique circumstances. Uniqueness has a "rather specialized meaning" in zoning law. See *Umerley*, 108 Md.

App. at 506. As Judge Cathell explained when he was a member of this Court,

"[u]niqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. .

An example of uniqueness is found in the use variance case of *Frankel v. Mayor and City Council*, 223 Md. 97, 104 (1960), where the Court noted: "[H]e met the burden: the irregularity of the ... lot that it was located on a corner of an arterial highway and another street, that it is bounded on two sides ... by parking lots and public ... institutions, that immediately to its south are the row houses...."

In some zoning ordinances, the specialness or uniqueness requirement is more explicitly set out. The Court of Appeals, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339 (1986), quoted from the Queen Anne's County ordinance:

"Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific ... property ..., or by reason of exceptional topographic conditions or other extraordinary situation or special condition of ... property ... the literal enforcement ... would make it exceptionally difficult ... to comply ... and would cause unwarranted hardship and injustice...."

The general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court in *Ad + Soil, Inc.*

North v. St. Mary's County, 99 Md. App. 502, 514-15, cert. denied sub nom. *Enoch v. North*, 336 Md. 224 (1994) (emphasis added). See also *Lewis v. Dep't of Natural Resources*, 377 Md. 382, 434 (2003) (adopting this standard).

Thus, "the initial and essential first step in the determination of appropriateness of an area variance" is whether "the subject property is so inherently unique that the ordinance's impact thereon would be disproportionate when compared to other lands in the district." *Chester Haven Beach P'ship v. Bd. of Appeals for Queen Anne's County*, 103 Md. App. 324, 338 (1995); see also *Umerley*, 108 Md. App. at 506 ("the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property").

The Court of Appeals has recognized that special conditions may exist when "'property, due to unique circumstances applicable to it, cannot reasonably be adopted to use in conformity with the restrictions of the zoning ordinance[.]'" *Salisbury Bd. of Zoning Appeals v. Bounds*, 240 Md. 547, 554 (1965) (citation omitted).

Thus, the fundamental issue in an area variance petition is "whether the property owner . . . is being denied a reasonable use of property" if the variance is denied. *Lewis*, 377 Md. at 419. In such cases, the grant of a variance may be appropriate relief. See *Bounds*, 240 Md. at 554.

Our review of Maryland case law reveals a number of appellate cases addressing uniqueness. In many cases denying a variance on this ground, the petitioner did not satisfy its burden of proof because the unique circumstances were caused by the plight of the property owner rather than by a characteristic of the land itself. See *Cromwell*, 102 Md. App. at 719.

For example, in *Ad + Soil, Inc. v. County Comm'rs*, 307 Md. 307, 339 (1986), the petitioner sought setback variances for four acres it had purchased to develop as a sludge storage and distribution facility, but later learned of local restrictions on where the facility could be situated within the parcel. The setback variances were denied because the lot was large enough to comply fully with the mandatory setbacks simply by relocating the proposed facility on the property. The Court of Appeals agreed with the Queen Anne's County Board of Appeals that the need for the variance did not result from exceptional or extraordinary characteristics of the land itself. See *id.* at 340-41.

Similarly, in *Umerley*, the applicants sought setback variances so that they could continue to operate their trucking facility,

which pre-dated Baltimore County zoning regulations prohibiting such facilities within certain distances of residential zones, wetlands, and a major road. This Court held that the Board of Appeals erred in failing to consider whether the property was unique, but proceeded to determine as a matter of law that there was insufficient evidence to support a finding of uniqueness. See *Umerley*, 108 Md. App. at 506-08. Because neither the long-term violation of the zoning laws, nor the importance of the business to the county and state economy, could be considered "an inherent characteristic[,]'" there was no evidence from which a uniqueness finding could be made. See *id.* at 508.

In *Evans v. Shore Communications, Inc.*, 112 Md. App. 284 (1998), we affirmed the denial of a height variance necessary to build a wireless telecommunications tower in Talbot County. We specifically rejected the applicant's arguments that the property was unique because it satisfied the technological requirements for wireless service and because it had an elevation that reduced the need for a higher tower on that property or elsewhere. See *id.* at 308.

There are, however, Maryland cases in which courts have acknowledged a showing of uniqueness for purposes of a variance petition. In *Alviani v. Dixon*, 365 Md. 95, 121 (2001), the Court of Appeals affirmed the grant of area variances enabling construction of a automotive service facility in Anne Arundel

County. The 1.2 acre property in question was circular and surrounded by roads and access ramps along US Route 50, as a result of the State having previously obtained portions of that same parcel in order to construct those adjacent roadways. The Court approved the Board's finding that a seven-foot variance from the required 150 feet of road frontage was justified, because "the Petitioners cannot change their amount of lot frontage" given that the parcel "is surrounded on all sides by either unbuildable road rights-of-way or actual road bed[.]" See *id.* at 104.

Writing for the Court, Judge Cathell also pointed to substantial evidence supporting the Board's grant of a 25-foot variance from the 60-foot setback requirement for structures on a highway. See *id.* at 10506. Specifically, the Court agreed that the variance was justified because

the circular shape of the property and its proximity to Route 50 and its service ramps would leave [the petitioners] with "no reasonable possibility of developing the lot with a canopy over the pump islands which meets the requirements of the Zoning Regulations."

Id. at 105-06.

In *Stacy v. Montgomery County*, 239 Md. 189, 193 (1965), the Court of Appeals affirmed the grant of a *de minimis* side setback variance that allowed the applicant to operate a child care home within 25 feet of the property line. That property was a "surveyor's nightmare" in that its front and side boundaries

changed course several times, and the rear property line was approximately 46 feet narrower than the front property line. The Court of Appeals agreed with the Board that "there is no doubt that the shape of the subject property presented the hardship" justifying a setback variance. *Id.* at 194.

Two cases involving the critical area law are of interest. Most recently, in *Lewis*, the Court of Appeals found substantial evidence of uniqueness that would support a critical area variance.⁴ The applicant owned an island on which he wished to build a hunting lodge, but critical area setbacks limited the buildable area of the island to three small, irregularly-shaped, non-contiguous, and heavily vegetated areas. The original building plans were disapproved due to their environmental impact on these buildable areas. Wicomico County zoning authorities concluded that less damage would be done by building within the critical area buffer zone. The property owner began construction of the lodge in critical areas without obtaining the necessary variances, but later applied for them. The County denied the variance requests.

⁴Variance requirements for critical buffer areas differ in some respects from those in non-critical areas. See *Mastandrea*, 361 Md. 107, 139-40 (2000). But an applicant for a setback variance from a 100 foot critical area buffer must show that "strict implementation" of the setback would impede the proposed use due to "the features of the site or other circumstances other than financial considerations[.]" See *id.* at 141-42.

The Court of Appeals vacated that decision and remanded for further administrative proceedings. Writing for a majority of the Court, Judge Cathell explained that, for purposes of the variance application, the material issue was the uniqueness of this property, rather than the applicant's unauthorized construction on it.

[T]he issue of petitioner's construction of his six hunting camp buildings prior to his applying for a variance request is a "red herring." As previously mentioned, under the County Code and, more importantly, **because of the physical characteristics of Phillips Island, petitioner needed a variance to build any camp on the island regardless of whether he had started construction before applying for the variance due to the small, irregular, non-contiguous shape of the non-Buffer area on Phillips Island. . . . Essentially, his claim is that his property has unique physical characteristics which entitle him to receive a variance in order to avoid an unwarranted hardship. The Board should have analyzed petitioner's request in this light and not in the context of a self-created hardship. . . . [H]is hardship was a result of the unique physical features of his property and not because of actions taken by petitioner[.]**

Lewis, 377 Md. at 425-26 (emphasis added).

In *Mastandrea v. North*, 361 Md. 107 (2000), the Court affirmed the grant of a critical area setback variance allowing construction of a brick pathway for the owners' wheelchair-bound daughter to enjoy the waterfront. The petitioners offered evidence that the heavy clay soil substantially inhibited wheelchair travel along the shoreline. The Court of Appeals held that the Talbot

County Board of Appeals "did not have to consider whether denying the variance would have denied the [petitioners] a reasonable and significant use of the 'entire' lot." *Id.* at 136-37. "Rather, the Board was required to (and did) consider whether the property owners, in light of their daughter's disability, would be denied a reasonable and significant use of the waterfront of their property without the access that the path provided." *Id.* at 136. The Board properly "recognized that a literal application of the [setback requirements] would deprive [the daughter] of an ability to enjoy the property on which she resides as others in the area similarly situated may enjoy theirs without the need for a similar path." *Id.* at 138. These facts supported the Board's conclusion "that there was a special condition or circumstance unique to the lot." *Id.* at 137.

Unlike other cases, in *Mastandrea*, the Court found at least part of the uniqueness related to a family member's individual disability that created special needs with respect to the land, rather than the land itself. But it also found that the soil near the river was uniquely unsuited for wheelchair travel because it was "'one of the heaviest clay soils' [the Mastandreas'] expert 'had ever tested[.]'" *Id.* at 136. It did not require that the Mastandreas prove that the soil conditions on neighboring properties were better, largely because the "Commission neither offered any evidence to the contrary nor questioned the

Mastandreas' expert witness on this point[.]” *Id.* at 136-37. Moreover, in reaching its decision, the Court placed paramount emphasis on the daughter's disability and public policy favoring accommodation of disabilities. See *id.* at 137-38. This case may be limited in its application to situations involving special needs for enjoyment of property arising from disabilities.

The Board's Decision

Baltimore County Zoning Regulations permit both the Zoning Commissioner and the Board to grant setback variances. See BCZR § 307.1 (Zoning Commissioner and, upon appeal, the Board have “power to grant variances”); BCZR § 426.11 (Board “may grant a variance . . . in accordance with Section 307”). Here, the Zoning Commissioner found that the narrow shape of the parcel is an inherent and unchangeable characteristic of the property that makes it unique within the meaning of Baltimore County's zoning ordinances. In his memorandum decision, the Commissioner stated:

it is clear that the subject site is a unique property. The uniqueness is driven by the narrowness of the lot. Although the property contains in excess of 4.0 acres in area, it is but 223 feet wide. Section 426.6 of the B.C.Z.R. requires a 200-foot setback from the nearest property line to the tower. In view of the width of the property, this setback cannot be maintained. That is, any site must be a minimum of 400 feet in width to provide appropriate setbacks on all sides. E75-76. (Emphasis added.)

On appeal, the Board disagreed with the Zoning Commissioner's determination that the property is unique:

As to the uniqueness of this particular property, the property is rectangular and flat; there is no unique subsurface conditions, historical significance, or environmental factors to take into consideration. There is no access or non-access to navigable waters and there are no obstructions or abutting properties. The fact that there are trees on the property does not make it unique, since there are numerous properties in the area that possess trees. While this may be the only M.L. property within the "search ring" established by Sprint, this does not make the property unique. The search ring is an artificial area established by Sprint and does not necessarily indicate that there are not other properties in the area where a tower could be located through the granting of a special exception. The fact that a piece of property is zoned M.L. and therefore would allow a tower to be erected on that property as a matter of right does not make the property "unique." E280

Sprint argues:

[T]he subject property is rectangular in shape and only 233' wide at its widest point and, therefore, so narrow that no matter where the telecommunications facility is placed on the property, the setbacks required under the County Zoning Ordinance cannot be satisfied. The record also shows that nearby residentially zoned adjacent properties are shaped wider and are large enough to accommodate the required setbacks, albeit a special exception would be required if the facility were to be placed on such properties. . . . This undisputable fact renders the Property unique, as compared to its neighboring properties. The Board, however, completely ignored this evidence[.]

Because we think the issues of whether the Board made sufficient factual findings to support its decision, and whether the property is "undisputabl[y]" unique, are intertwined, we address them

together.

The problem with Sprint's argument is that this property is not especially narrow.⁵ The property has a width of 223 feet in the area selected for the monopole, which is 140% of the width of a college football field. Residences and businesses are commonly built on properties less than half of this width. See, e.g., V. Woener, Annotation, *Validity and Construction of Zoning Regulations Prescribing a Minimum Width or Frontage For Residence Lots*, 96 A.L.R.2d 1367, § 4 (1964) (citing cases involving various minimum lot frontage or width requirements). Although the length of the property is 3.8 times its width (850 along the northern boundary and 768 along the southern boundary), there was no showing or contention that the length was problematic. As the Board found, it is "currently improved with two buildings that house [a] contracting business and approximately seven other commercial operations[,] as well as "a parking lot which accomodates these uses." The record reveals that, even with these existing uses in the front, there was also space available for another ML use in the rear of the property.

⁵BCZR §307.1 does not specifically identify narrowness or shallowness as a "special circumstance or condition." We assume, but do not decide, that narrowness could also be considered in support of a variance in the absence of explicit mention in the ordinance. As Judge Cathell pointed out with respect to a St. Mary's County ordinance that did not refer explicitly to narrowness or shallowness, "[t]he general thrust of the meaning of special features or uniqueness of property for variance purposes relates to the type of uniqueness discussed by the Court [of Appeals] in *Ad + Soil, Inc.*" See *North*, 99 Md. App. at 515.

Although the standard for uniqueness is not whether there is any other reasonable use for the property, an applicant for a variance must still show "special circumstances or conditions" not shared by other properties in the area, which would cause him unwarranted hardship. See *Lewis*, 377 Md. at 417, 421; *Umerley*, 108 Md. App. at 506. "[A] property's peculiar characteristic or unusual circumstances relating only and uniquely to that property must exist in conjunction with the ordinance's more severe impact on the specific property because of the property's uniqueness[.]" *Cromwell*, 102 Md. App. at 721.

Sprint failed to show that the so-called narrowness of this property differed from other properties in the area. When Marianne Kiernan, an engineer who was Sprint's expert on the zoning criteria, was asked what was unique about the property, she replied:

The property itself is unique in the narrowness of the property itself. It's a long, rectangular parcel approximately 850 feet deep, 223 wide, plus or minus. That makes the property unique in itself.

The setting of the property is unique in this area also. It is surrounded by woodland on the northern, western and southern boundaries. There are two existing structures located on the very front of the property.

The property itself is primarily graveled in the southwestern corner of the property where the subject site is located. There's an open gravel area.

So the property is unique in it[s]

narrowness and in the setting itself basically with the existing structure on the front, near Back River Neck Road, and the open area towards the rear of the parcel.

Thus, Ms. Kiernan gave three reasons for the property's uniqueness:

1) its narrowness; 2) that it was surrounded by woodland on the north, west and south, and 3) the location of the existing structures in the front, with the open area in the back. None of these reasons meets the legal requirement for establishing a variance.

She did not explain why a property that was 223 feet wide was unique in its narrowness. When asked on cross what other properties in the area she compared in order to decide this width was unique, she pointed to no other properties in the area that were any wider. Indeed, she pointed to no other properties at all. Moreover, she acknowledged that she was not saying that "there's no other piece of property in Baltimore County designated M.L. that's shaped like a rectangle that's 200-some feet wide[.]" The following colloquy occurred on cross:

Q: This property is unique compared to what other properties? That's what I meant to ask you.

[Ms. Kiernan]: Okay. If I could explain, I am also bounded within the search ring area that's issued by Sprint PCS. Their intent is to place a telecommunication tower in a particular area.

That area is defined by Sprint RF engineers. Mr. Hassan who testified prior explained how the area itself was defined to

meet Sprint's coverage objective. Within that particular search ring, this subject parcel is unique.

When asked if she was saying: "just because Sprint has identified a [search ring], that makes this piece of property unique compared to other properties in Baltimore County[,]" she simply repeated her mantra, "Yes, I believe the property is unique."

Ms. Kiernan's second and third reasons for calling the property unique related not to a limiting aspect of the property, but rather to factors that made the property a good one for a Sprint tower - that it was surrounded by woodlands, and there was plenty of space in the back of the property. Neither of these factors make it "exceptionally difficult to comply" with the setback, cause unwarranted hardship, or cause the setback to have a "disproportionate impact" on the property. Rather, these are **positive** factors about the site because the woodlands and the buildings on the front provide screening to hide the unappealing visual appearance of the tower. Such positive factors do not support a claim for uniqueness in this context.

By itself, the fact that a property cannot accommodate an otherwise permitted use without an area variance generally does not **require** the grant of a variance.⁶ A contrary result would permit "the exception to swallow the rule," because zoning authorities

⁶If the permitted uses in a particular zone were quite limited, we might apply an exception to this rule. That is not the case in this ML zone.

would be obligated to grant a setback variance simply because the setback requirements would prevent a permitted use. Yet, this appeal rests almost solely on Sprint's theory that the property is unique because it was not wide enough to meet the setback requirements for the monopole.

In its brief, Sprint asserts that "[t]he record also shows that nearby residentially zoned adjacent properties are shaped wider and are large enough to accommodate the required setbacks, albeit a special exception would be required if the facility were to be placed on such properties." We have reviewed the three record extract pages Sprint identifies as support for this assertion. None of the pages contains any evidence that adjacent residentially zoned properties could accommodate the required setbacks.

Extract page 392 is a site plan of the subject property, showing seven adjacent residential lots, two of which are shown to be improved with dwellings. The site plan contains dimensions for the subject property, but none for these adjacent lots. Sprint points to no testimony about the dimensions of these lots, and we have found none. There is no indication about whether these lots are drawn to scale,⁷ so there was no way for the Board to visually

⁷They appear not to be, and two different site plans in the record depict these lots in different sizes relative to the subject property. In other words, in one site plan they appear to be narrower than the subject property, and in another, they appear
(continued...)

compare the sizes from the site plans. Finally, Sprint points to no place in the record where it asked the Board to compare these lots to the subject property for the purposes of determining uniqueness. The memorandum submitted for Sprint in lieu of closing argument contained no such request and never mentioned that these residential lots were larger or that they would suffer less impact from this setback requirement. Sprint cannot complain, on appeal, about the Board's failure to make a factual finding that they never asked the Board to consider.

Extract page 519, an exhibit introduced by Sprint, is a map that depicts the area of the "search ring." It was introduced through the testimony of the president of a site acquisition firm "contracted by Sprint to do site acquisition work and zoning work[.]" He explained that he was given a map by Sprint, showing the search area, and the exhibit was "a blow-up of the map[.]" He explained why the subject property was desirable for purposes of a cellular tower. He did not testify about the size of any other properties depicted on the map, and did not compare the size of other properties with the subject property. Again, this map is not drawn to scale.

Sprint has pointed to no other testimony, and we have found none, about other nearby properties, wider then the subject

⁷(...continued)
broader. In both site plans, the subject properties are drawn to scale.

property, that could accommodate the monopole because of enhanced width. In its closing memorandum submitted to the Board, Sprint claimed that the testimony of People's Counsel's land use expert, Jack Dillon, "supports the uniqueness of the property." His testimony does not support this claim. Dillon said that there were four sites within Sprint's "search ring" on which cellular towers were permitted by right, subject to setback requirements. E. 649. When asked, "are any of those sites at least 400 feet wide and deep at the same time," Dillon answered:

The B.L. to the north is about 300 feet wide, 250 deep. This site is 200 feet wide and 600 feet deep [sic]. The M.L. down further, it's very narrow along the frontage, actually looks like it's probably less than fifty feet wide along the frontage, and extends about 500 feet deep, and widens out in the back to maybe 250 feet, and the B.L. further down is only approximately 200 feet wide and roughly 200 feet deep.

In its closing memorandum, Sprint claimed that the following question and answer by Dillon established uniqueness:

Q: But those four sites [i.e., the three mentioned above plus the subject property] are various shapes and configurations?

A. That's true.

The varying sizes of the four properties does not establish uniqueness because there was no showing that any of them could meet the setback requirement for cellular towers without a variance. As we have explained before, uniqueness is established when the owners of one property suffer a disproportionate impact from the setback

requirement than other nearby owners. See *Umerley*, 108 Md. App. at 505 (for variance, "zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties").

Further, the parcel cannot be characterized as unique based solely upon Sprint's search ring.⁸ As *Evans* teaches, the fact that this parcel falls within a geographic area selected by Sprint for technological reasons is not a characteristic that is inherent to the property. See *Evans*, 112 Md. App. at 308.

In short, Sprint points to no evidence, and we are aware of none, that would permit the inference that the alleged narrowness of the subject property means that Sprint suffers a disproportionate impact from the setback requirements, as compared to other nearby property owners. For this reason, we reject Sprint's complaint that the Board erred by not making a factual finding about whether the subject property's alleged narrowness made it unique. Unlike the zoning board's opinion in *Lewis*, in which it failed to say whether the property was unique, here the

⁸In support of its uniqueness claim, Sprint also argues that "the [p]roperty is the largest parcel located within the Search Ring, upon which a telecommunications facility is permitted by right under the BCZR." Further, they contend that "location of Sprint's facility on the [p]roperty also satisfies Sprint's coverage objectives in the area and fulfills a much-needed service in the area[.]"

Board explicitly found that it was not unique.⁹

Additionally, the Board described the variances that were requested, indicating the setbacks required:

75 feet at the southern property (a side setback) in lieu of the required 200 feet, a setback of 135 feet to the western property line (the rear setback) in lieu of the required 200 feet, and a setback of 148 feet to the northern property line (a side setback) in lieu of the required 200 feet for a wireless telecommunications tower and a variance from BCZR § 426.6A.2 to allow a setback of 40 feet to the southern property line in lieu of the required 125 feet for equipment cabinets for a wireless telecommunications tower[.]

Thus, it clearly considered the width of the property, since the width determined the necessity and extent of the side setbacks. Although it did not write a lengthy analysis of why a width of 223 feet was not unique, under these circumstances, that was not necessary. Without any witnesses or other evidence that provided factual support for any legally viable theory for how a 223 foot wide property is uniquely narrow, the Board was not required to concoct its own "straw man" theory, and then knock it down.

The Board, knowing the property's undisputed dimensions, must only decide whether those dimensions make it unique. The Board found no uniqueness. As we said before, if we were to hold that a

⁹Moreover, the unique aspect to the Lewis property was the shape of the buildable area of the property, which consisted of three small, irregularly-shaped, non-contiguous and heavily vegetated areas. See *Lewis*, 377 Md. at 425.

variance **must** be granted, simply because a property cannot accommodate one otherwise permitted use without an area variance, we would be permitting "the exception to swallow the rule." Moreover, for all the reasons set forth previously, had the Board found that the property's "narrowness" made it unique, we would not uphold that finding because the evidence was not sufficient to establish that.

The Telecommunications Act of 1996

Sprint argues that the Board's denial of its petition for variance violates the Telecommunications Act of 1996 ("the Act"). See 47 U.S.C. § 332(c)(7)(B)(iii). It argues that "a zoning body's denial of wireless telecommunications facility must be supported by substantial evidence in the record," citing the statute, and *New Par v. City of Saginaw*, 161 F. Supp. 2d 759, 764 (E.D. Mich. 2001) *aff'd*, 301 F.3d 390 (6th Cir. 2002). We reject this argument largely for the reasons explained in the previous section.

The ML zone permits cellular towers by right, subject to a 200 foot setback requirement "from any other owner's residential property line." BCZR § 426.6(A)(1). Because the setback requirement could not be met, it was necessary for Sprint to prove grounds for a variance. Sprint does not contend that the Act overrides local setback requirements. Indeed, it states that "except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government

or instrumentality thereof over decisions regarding the placement, construction . . . of personal wireless service facilities." 47 U.S.C. § 332(c)(7)(A). See also *Voicestream Minneapolis, Inc. v. St. Croix County*, 342 F.3d 818, 830 (7th Cir. 2003) ("the [Act's] substantial evidence test is a procedural safeguard which is centrally directed at whether the local zoning authority's decision is consistent with the applicable [local] zoning requirements") (citations omitted). This decision is supported by substantial evidence in the record.

The standard for review of a zoning authority's decision under the Act mirrors administrative agency standards under Maryland law. See *Am. Tower LP v. City of Huntsville*, 295 F.3d 1203, 1207 (11th Cir. 2002) ("The 'substantial evidence' standard envisioned by Section 332 is the traditional substantial evidence standard used by courts to review agency decisions. The usual standard defines 'substantial evidence' as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion'").

For the reasons stated in the previous section, Sprint failed to prove grounds for the variances requested here, and therefore the Board's denial of its petition did not violate the Act.

Conclusion

For the foregoing reasons, we affirm the judgment of the

circuit court affirming the Board's denial of the variance petition.

JUDGMENT AFFIRMED. COSTS TO BE
PAID BY APPELLANTS.

EXHIBIT B

**JUSTIFICATION STATEMENT IN SUPPORT OF A SPECIAL HEARING AND A
SPECIAL EXCEPTION FOR AN EXISTING PUBLIC UTILITY USE CELLULAR
TELECOMMUNICATION MONOPOLE AND WIRELESS COMMUNICATION
ANTENNAE**

Applicant(s): **Back River, LLC & APC Realty & Equipment Company, LLC/
Sprint Nextel**
 Site: **Back River Neck Rd.**
 Sprint Site #: **WA54XC641**
 Property Address: **810 Back River Neck Rd., Essex, MD 21221**

Introduction

Applicant, APC Realty & Equipment Company, LLC/ Sprint Nextel, (hereinafter "Sprint") is the owner of an existing 115' high wireless communication facility which counts with two wireless carriers, Sprint and T-Mobile Northeast LLC (hereinafter T-Mobile), providing wireless telecommunications network facilities throughout the region and its coverage objective with this application is to maintain its current coverage along *Back River Neck Road and its surrounding environs*. Back River, LLC (hereinafter "Property Owner") is the property owner in which the wireless facility lies. In order to properly establish a link in the network, Applicants seek a special exception to allow the existing wireless facility meet the County of Baltimore's zoning requirements. In addition, Applicants request an extension to the current height (115') of the tower to 125' in order to allow a third carrier to collocate at a 123' RAD center.

Site Description

The existing wireless facility is located on the property owned by Back River, LLC, Liber 13577, Folio 535, Parcel 824. The property is divided into two different zones, the front portion is zoned ML and is improved by a commercial strip and the rear portion of the property, where the existing telecommunication facility is located, is zoned RC.20¹.

Currently, the site counts with two telecommunication providers, Sprint Nextel and T-Mobile. A third carrier, is also interested in collocating at a 123' (h) RAD center.

Access to the proposed facility is via an existing access road to the property off Back River Neck Road.

¹ Applicant, Property Owner, was not able to establish when was the property or portion of the property was reclassified from M.L. to R.C.20 after a decision dated November 15, 1963, which reclassified from R.6. to M.L. per research in county tax and land records. In fact, per Baltimore County tax records, the underlying property, as of date of submission of this application, has been taxed in its entirety as M.L.

Project Description and Need

As an FCC licensee, Sprint and T-Mobile are committed to providing seamless telecommunications service to its users, and seek to create a seamless, state-of-the-art all-digital wireless network. This requires the installation of a network of telecommunications antennas and equipment facilities so as to allow each facility to broadcast and receive radio signals within a strictly limited radio frequency range to each wireless user in the vicinity of the facility. Moreover, each facility must be able to pass the user's signal to an adjacent facility as each user travels out of the coverage area into an adjacent coverage area. Each facility is capable of covering only a limited area, generally determined by the height of the antennas, the local topography and terrain, as well as obstructions such as buildings and structures.

To achieve a desired coverage within the intended geographical coverage area, each antenna facility must be strategically located so as to ensure maximum coverage and a minimum overlap with each other facility. Because of the low power of the system, the antennas are effective only within a limited geographic area. Thus, each facility site is subject to technical and geographical constraints in order to provide reliable and efficient service. The existing pole structure is necessary in order continue providing service to Sprint's and T-Mobile's customers and to permit a future carrier to mount the antennas at a height sufficient to service the intended coverage area and to provide a direct line of sight to the other antenna facilities in their network. Moreover, the proposed height of the antennas is sufficient for the radio signal to clear any obstructions such as trees, buildings, or other structures while simultaneously providing coverage to the intended area.

Poorly located facilities or areas without such a facility will leave "holes", or areas where transmission is not possible. Since one of the primary benefits of the wireless communication system is the ability to communicate to and from any location, a network of facilities that provide seamless coverage is essential. The location and design of each facility in the network is therefore critical to the overall functioning of the entire network. Without a facility at or near this location, Sprint and T-Mobile are unable to provide seamless coverage to its users.

Antenna Description

The panel antennas measure approximately 6'x 2'x 1' or less, refer to Exhibit E for details. The antennae do not generate any noise, dust, fumes, odors, lights, glare, or vibrations. Nor do they interfere with radio, television or telephone reception. The antennae emissions comply with all applicable EPA and FCC emission requirements.

Equipment Description

All of the carrier's related telecommunications equipment cabinets are enclosed within the proposed lease area and are situated near the base of the pole structure. Neither the antennae nor the related equipment will produce any noise, fumes, dust, odors, lights, glare or vibrations.

APPLICABLE LEGAL STANDARDS

Section 704 of the 1996 Telecommunications Act requires that State and local governments "(I) shall not unreasonably discriminate among providers of functionally equivalent [wireless telecommunications] services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services." Accordingly, local governments cannot prohibit, either by law or by action, wireless telecommunications facilities. Regulations cannot have the effect of prohibiting wireless facilities, even though it may purport to allow such facilities. Moreover, local governments must undertake to consider all wireless telecommunications zoning requests on an equal basis.

Applicants submit its proposed facility on the subject property and that with the addition of the new properties acquired by Back River complies with the Baltimore County Zoning Ordinance. The granting of a Special Exception use will be in harmony with the spirit and intent of the Zoning Regulations; and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The proposed use complies with the special exception criteria. The Baltimore County Special Exception criteria follow in boldface; Applicant's response immediately follows in italics.

ARTICLE 5, ADMINISTRATION AND ENFORCEMENT.

Section 502 Special Exceptions

502.1 Before any special exception may be granted, it must appear that the use for which the special exception is requested will not:

A. Be detrimental to the health, safety or general welfare of the locality involved;

Applicants' Response: The existing wireless communication facility has demonstrated not to be detrimental to the health, safety and/or general welfare of the locality involved. In addition, none of the carriers installations have or will interfere with radio, television or telephone reception and the emissions comply with all applicable EPA and FCC emission requirements. Furthermore, neither the antennae nor the related equipment will produce any noise, fumes, dust, odors, lights, glare or vibrations. Finally, the health, safety and general welfare of the locality is currently and will continue to advanced from the approval of the existing wireless telecommunication facility by the governmental agencies, the people and businesses that utilize its services in their daily activities and/or duties.

B. Tend to create congestion in roads, streets or alleys therein;

Applicants' Response: The existing monopole is an unmanned facility that requires only one or two monthly maintenance visits and, therefore, it has had and will continue to have a minimal impact in terms of usage or traffic.

C. Create a potential hazard from fire, panic or other danger.

Applicants' Response: The existing wireless communication facility was built to comply with all Federal, State and Local requirements. In addition, history has proven that wireless communication facilities do not create potential fire, panic or other hazards to the surrounding community.

D. Tend to overcrowd land and cause undue concentration of population;

Applicants' Response: See Answer to Paragraph B above.

E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

Applicants' Response: The existing facility is unmanned with only 1 or 2 monthly maintenance visits. It has not and will not produce any noise, vibrations, odors or Fumes which may interfere with conveniences or improvements. Further, it does not require water or sewer facilities. Applicants' proffer that the existing facility has enhanced the service provided to the nearby schools, emergency response agencies, businesses and residents which are customers of Sprint and T-Mobile.

F. Interfere with adequate light and air.

Applicants' Response: The existing facility is located to the rear of the property owned by Back River, LLC behind the existing strip mall and is surrounded by dense vegetation. The proposed utility is unobtrusive. It blends with its environment and it does NOT interfere with adequate light and air.

G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations.

Applicants' Response: Applicant, Back River LLC, has obtained deeds to portions of the properties that abut to the right and to the rear of 810 Back River Neck Rd and also has a contractual agreement for a portion of the property that abuts to the left of 810 Back River Neck Rd in order to meet the County of Baltimore's 200' setback requirements. Hence, the existing wireless communication facility will be consistent with the purposes of the property's zoning classification nor will it in any other way be inconsistent with the spirit and intent of these Zoning Regulations if approved. In addition, a Wireless Telecommunication Facility is permitted by way of Special Exception according to the County of Baltimore's Zoning Ordinance, see Section 1A05.C.8

H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

Applicants' Response: Applicants have taken great care to locate the wireless telecommunication facility away from existing resource protection areas and woods. Furthermore, the existing facility disturbs less than 2,500 sq. ft. of the Back River property. Applicant submits that the existing wireless

facility is not inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone.**

Applicants' Response: The property is allegedly located² and surrounded by RC.20 and ML zoning area, hence, none of the zone mentioned will be affected. Also, see response to Paragraph H above.

Article 4. Section 426.6 Setback requirements for wireless telecommunications towers.

- A. A tower shall be set back at least 200 feet from any other owner's residential property line.**

Applicants' Response: See response to Paragraph G above.

- B. A structure housing equipment for a tower shall meet the minimum setback requirements from any other owner's property or zone line.**

Applicants' Response: See response to Paragraph G above.

Conclusion

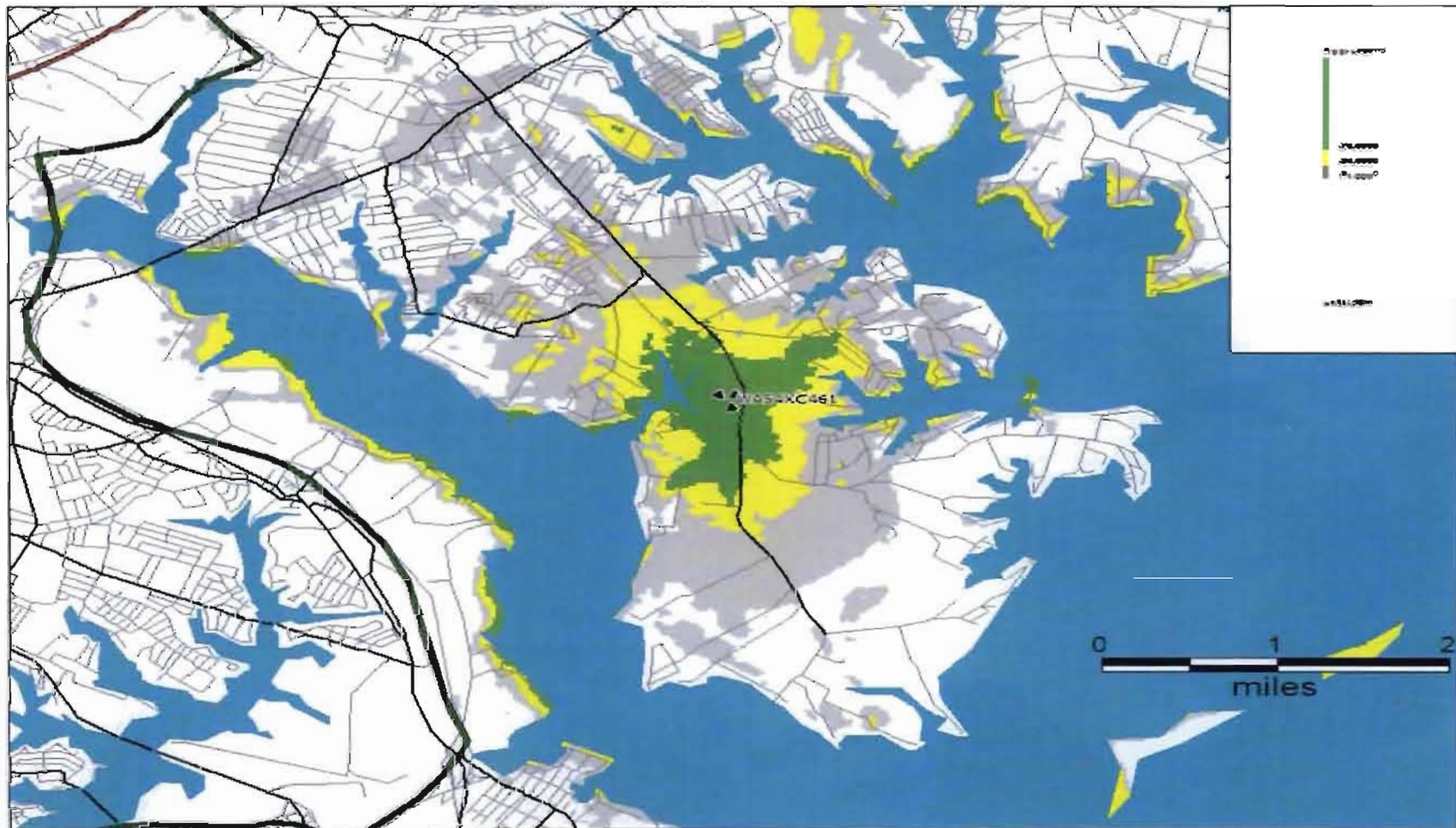
The growing utilization of wireless technology cannot be doubted. Wireless communication not only facilitates economic growth but is also invaluable in providing emergency and other services to the community of Baltimore County.

The applicants, respectfully request approval of the Special Exception and a 10' (h) extension for the telecommunications monopole located on 810 Back River Neck Rd as described above in this Justification Statement and as indicated in supporting exhibits accompanying this document. The applicant has proved the public need and benefit to the citizens, business owners and emergency services of Baltimore County and its Government. The application is in compliance with the Baltimore County Zoning Ordinance. Granting of the Special Exception, Special Hearing and the 10' (h) extension will, therefore, be appropriate and in the best interest of Baltimore County its citizens and public agencies.

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² See Footnote Number 1

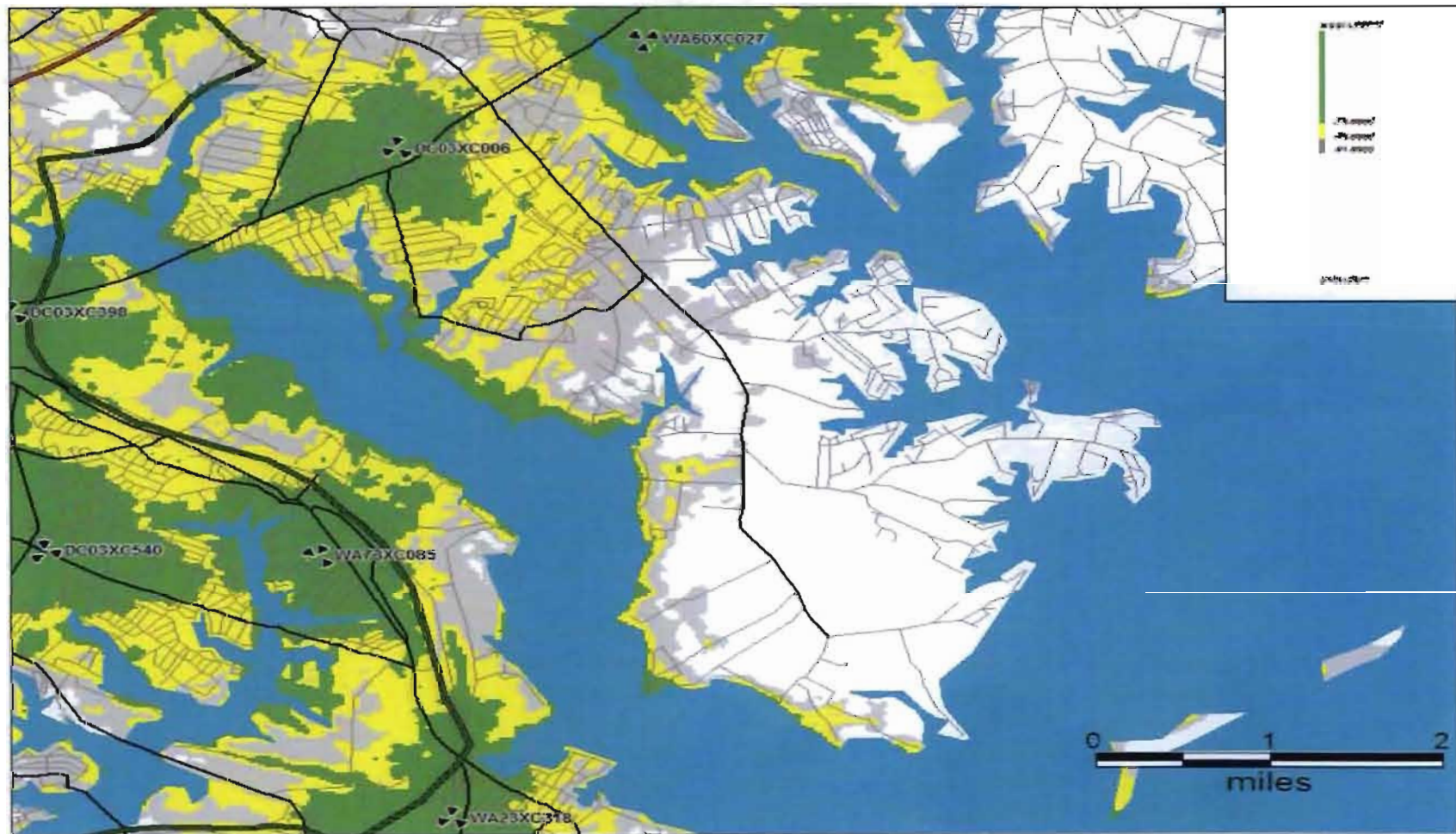
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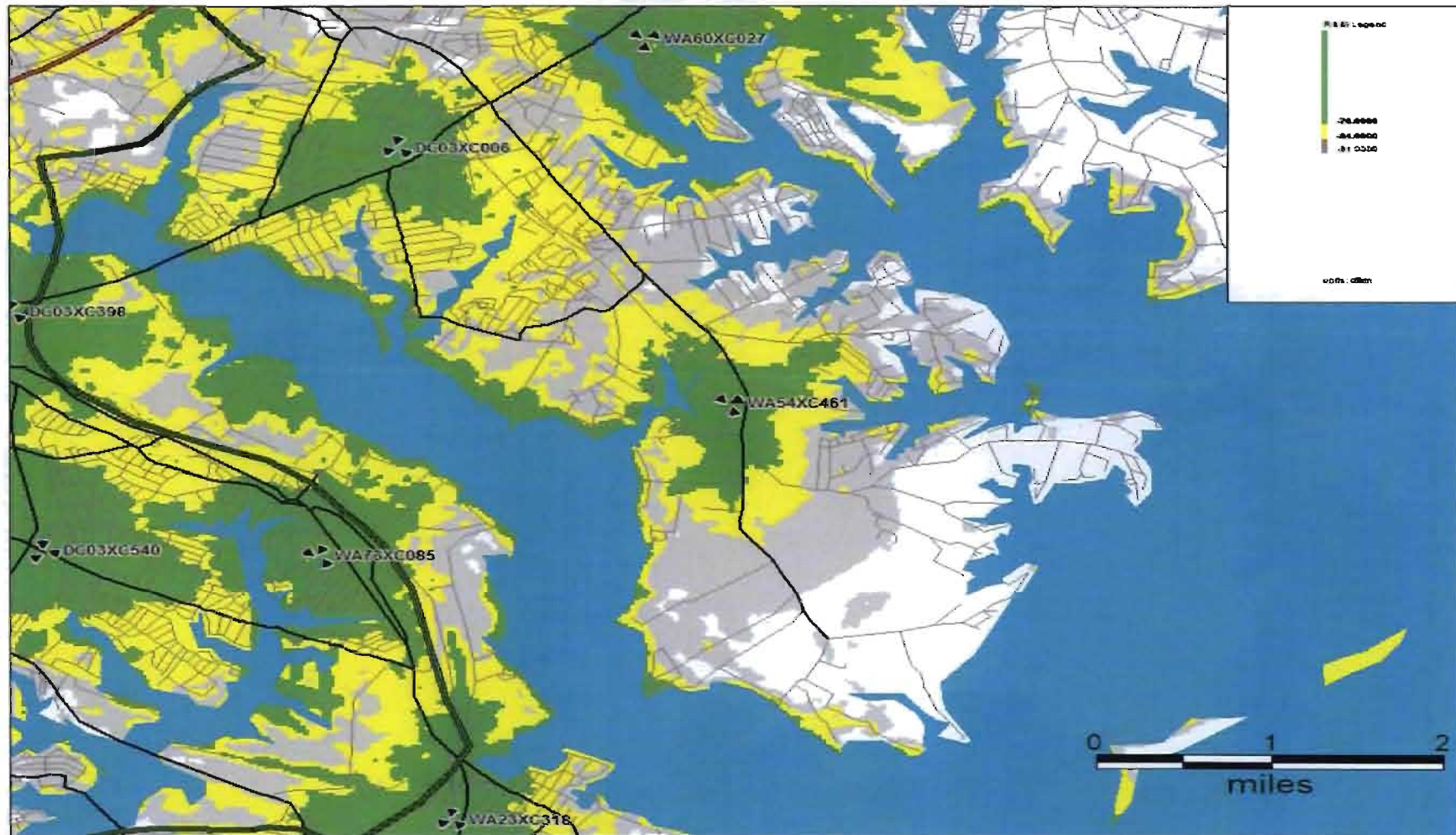
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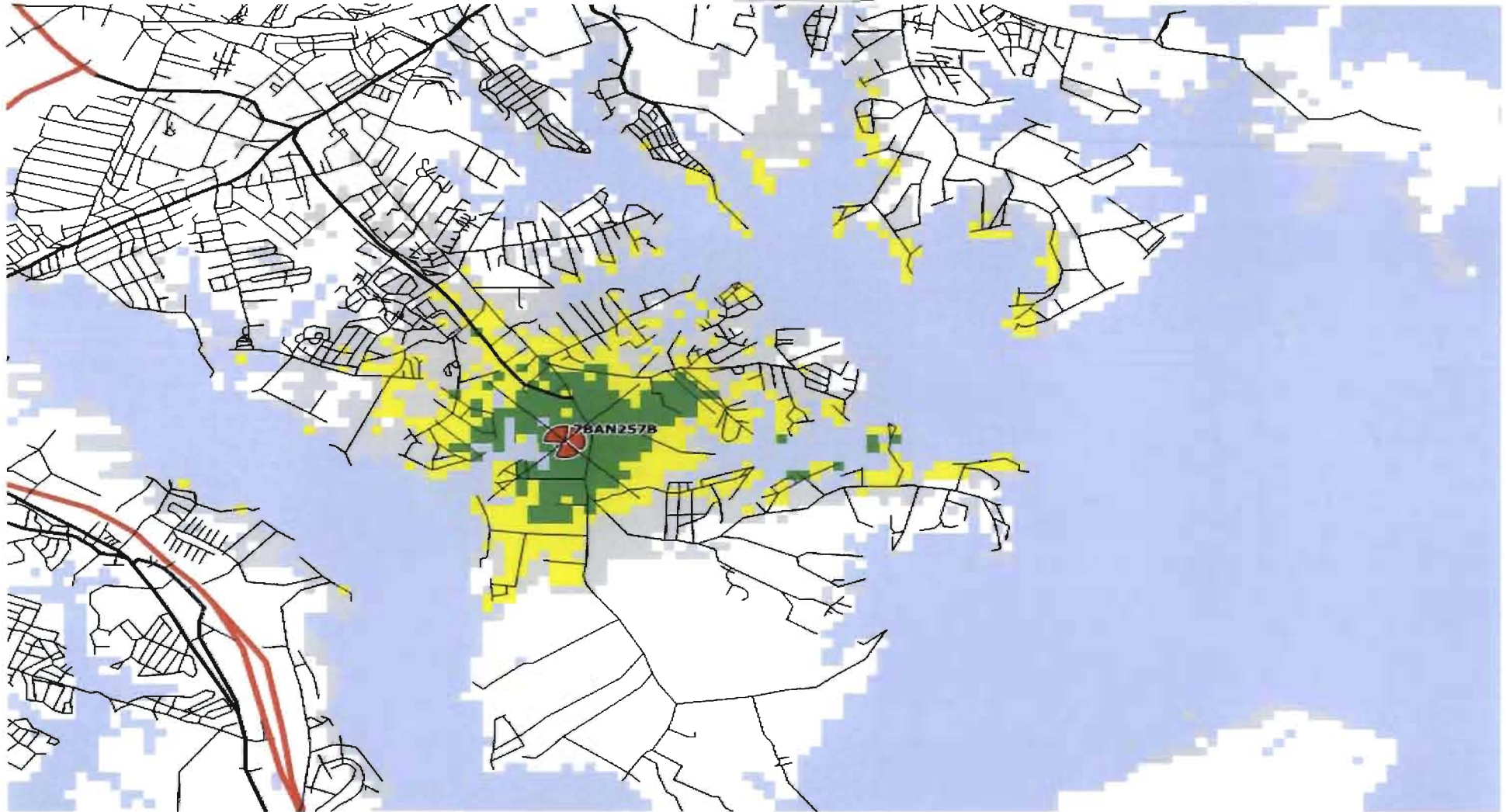
EXISTING COVERAGE WITHOUT WA54XC461



WA54XC461 AND SURROUNDING COVERAGE



..T..Mobile..

BAN257

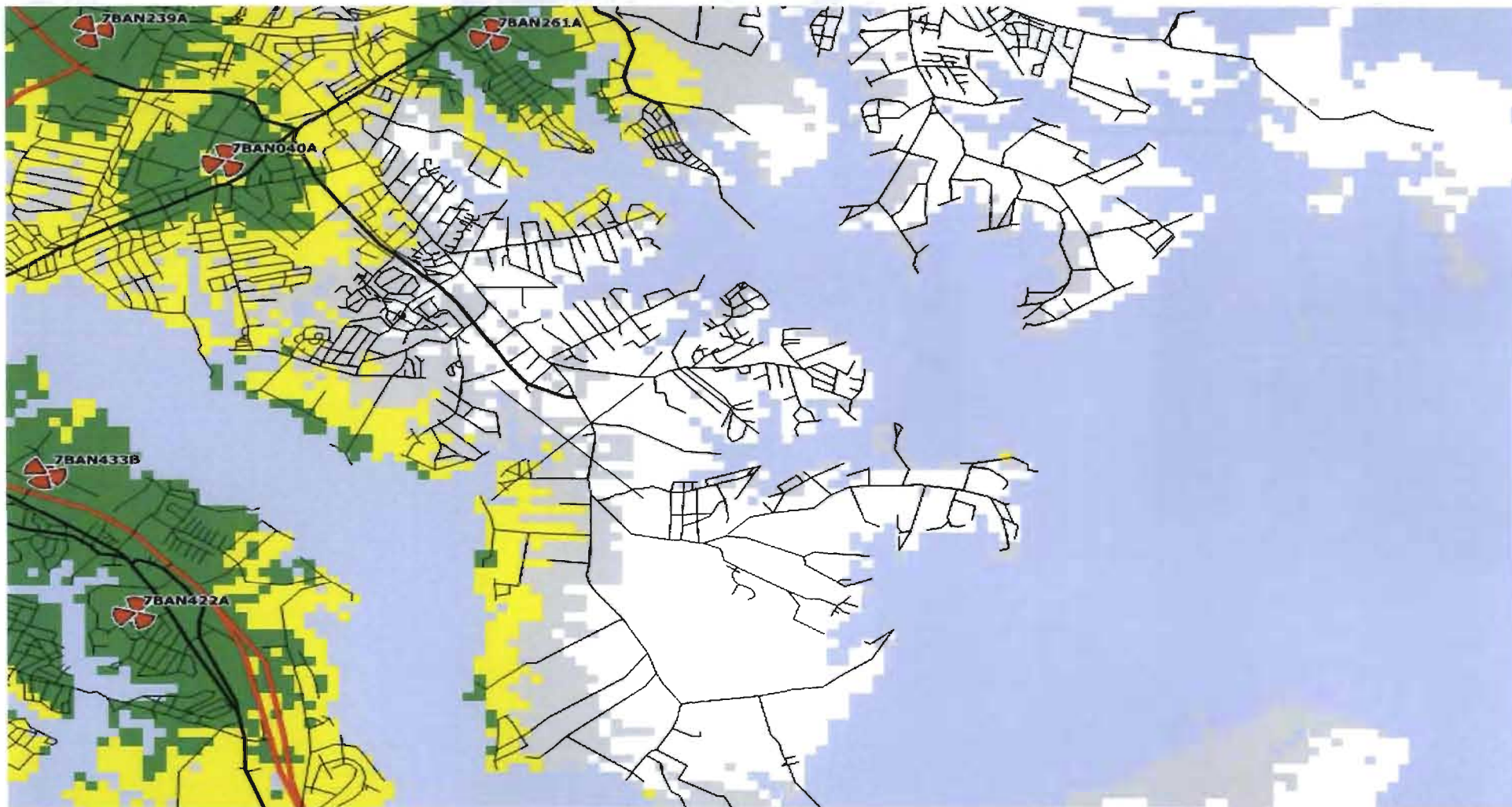
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ROCKSOLID
COVERAGE



Existing Coverage without BAN257

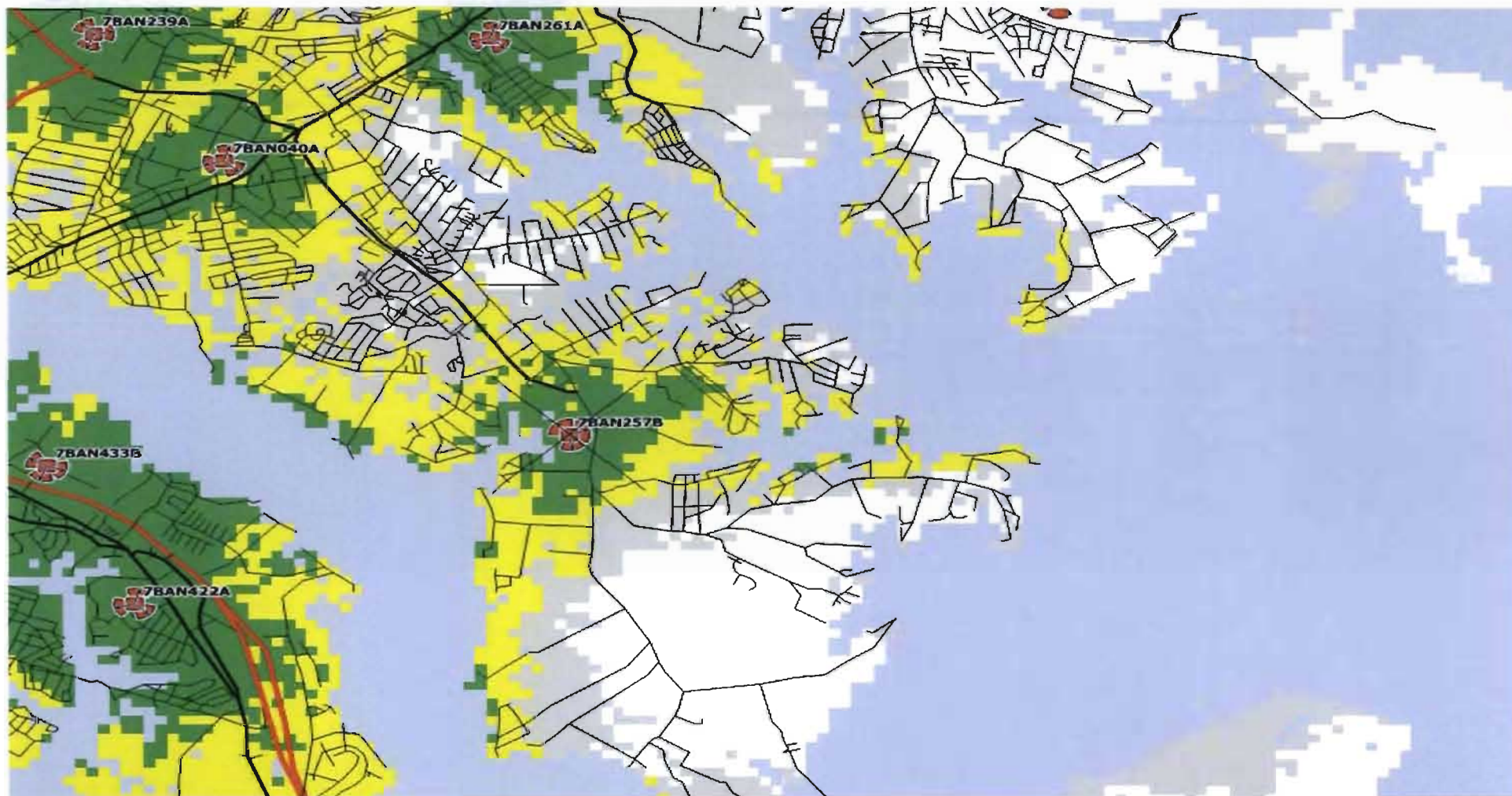


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ROCKSOLID
COVERAGE



BAN257 and surrounding coverage



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- -91.0 ≤ x < -84.0 dBm -91 dBm

ROCKSOLID
COVERAGE

EXHIBIT E

/Products /Base Station Antennas /Directional /Cellular /PCS /
GSM 1900 (1850-1990)
PCSA065-16

PDF

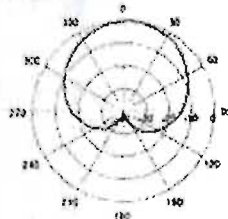
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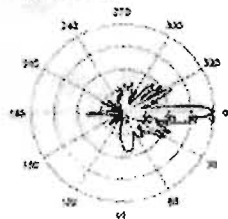
Cellular 1850 - 1990 MHz
V-Pol / 65° Az / 18.8 dBi

Type	PCSA065-16-x
Product Code	PCSA065-16-x
Frequency Range (MHz)	1850 - 1990
Gain	18.8 dBi (16.7 dBd)
Input Impedance (Ohms)	50
VSWR	< 1.4 : 1
Polarisation	Vertical
Electrical Downtilt (x)	0°, 2°, 5°
Horizontal Beamwidth (-3 dB)	65°
Vertical Beamwidth (-3 dB)	5.7°
1st Upper Sidelobe	< -18 dB
1st Null:	> -20 dB
Front to Back Ratio	> 25 dB
Intermodulation	< -153 dBc for 2 x 20 W carriers
Input Power (Watts)	250
Input Connector Type / Location	7/16-DIN Female / Rear
Operating Temperature	-40° F (-40° C) to +140° F (+60° C)
Wind Speed	150 mph (241 km/h; 67 m/s)
Wind Loads (160 km/h)	Front: 63 lbf (280 N) Side: 56 lbf (247 N)
Antenna Weight	20.6 lbs (9.4 kg)
Dimensions (In)	Height: 62.7 Width: 8.5 Depth: 7.5 (1595 x 215 x 190 mm)

Horizontal Plane



Vertical Plane



Pole Mounting Kit: MKS02P01 - Weight: 6.5 lbs (2.9 kg)
Scissor Tilt Mounting Kit: MKS02T06 - Weight: 8.3 lbs (3.8 kg)
Bar Tilt Mounting Kit Option: MKS02T07 - Weight: 8.7 lbs (3.9 kg)

Jaybeam Wireless reserve the right to amend any specification or antenna without prior notice
The specification shown above is indicative of the product and full technical details can be obtained directly from the company

England : Rutherford Drive - Park Farm South - Wellingborough - Northamptonshire NN8 6AX -

Tel : + 44 (0)1933 40 84 08 - Fax : + 44 (0) 1933 40 84 04

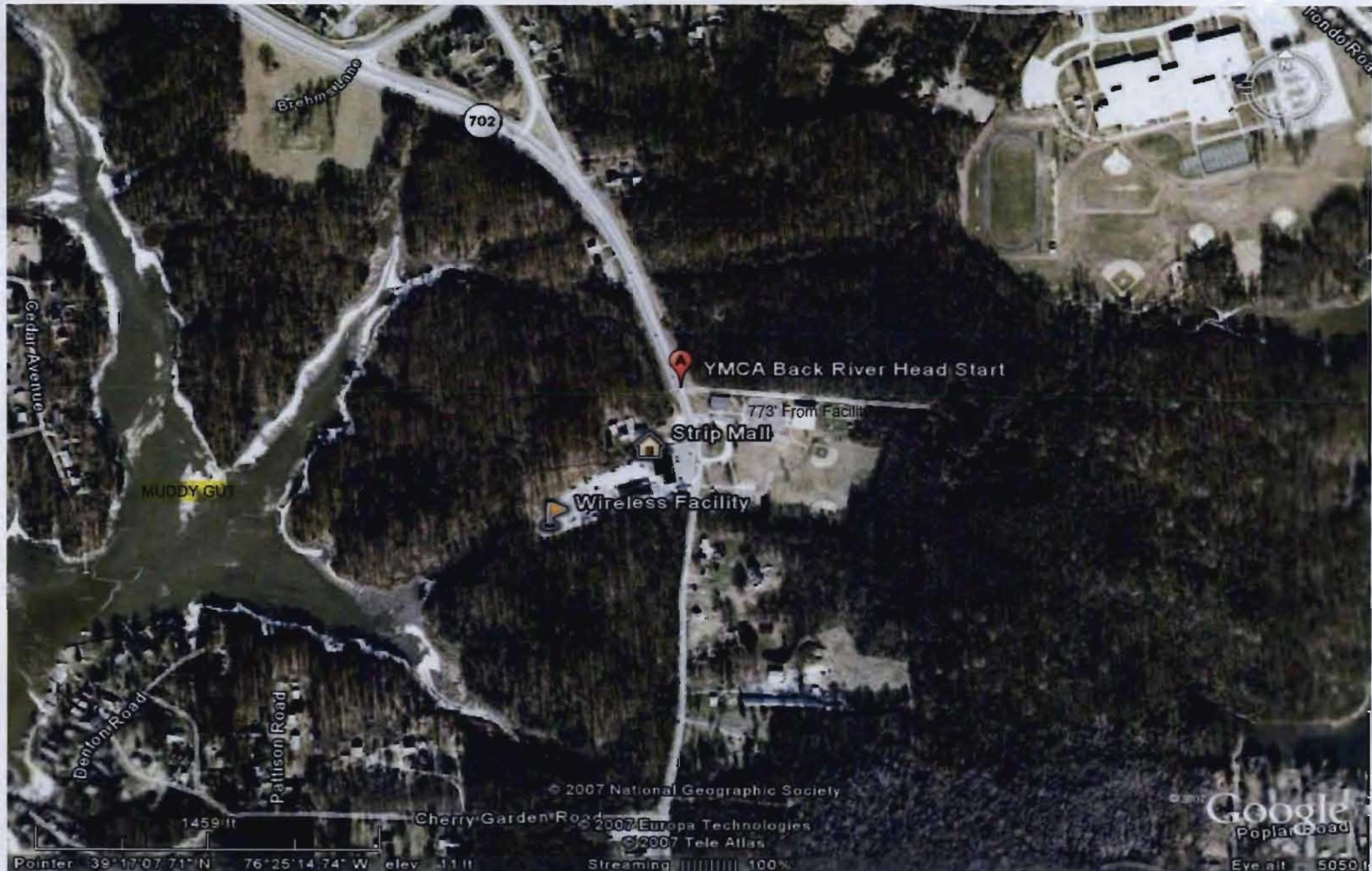
France : ZI La Boitardière, Chemin du Roy, 37400 Amboise,

Tel : +33 2 47 30 69 70, Fax : +33 2 47 57 35 06

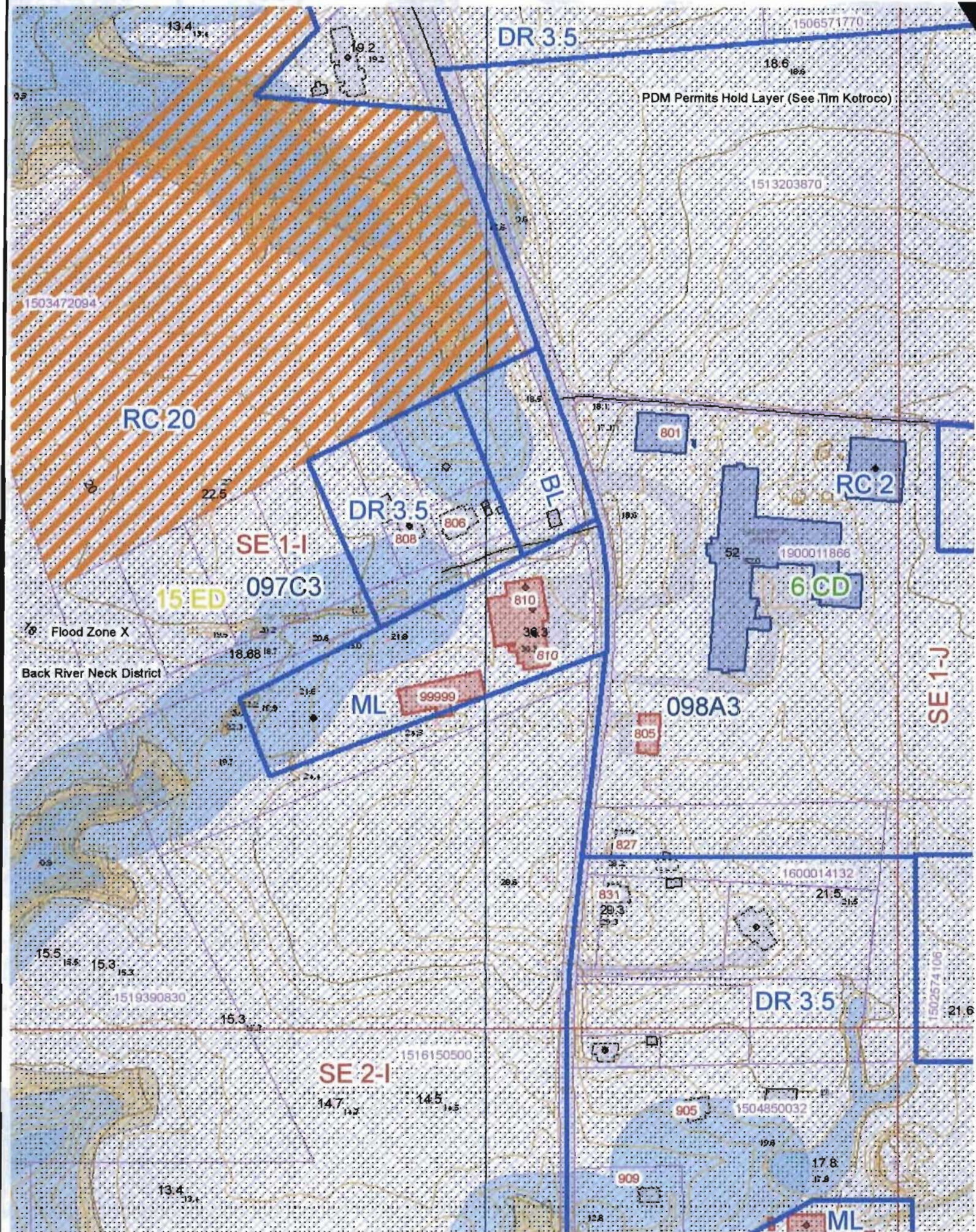
United States : 730 21st Street Drive, SE, Hickory, North Carolina 28602,

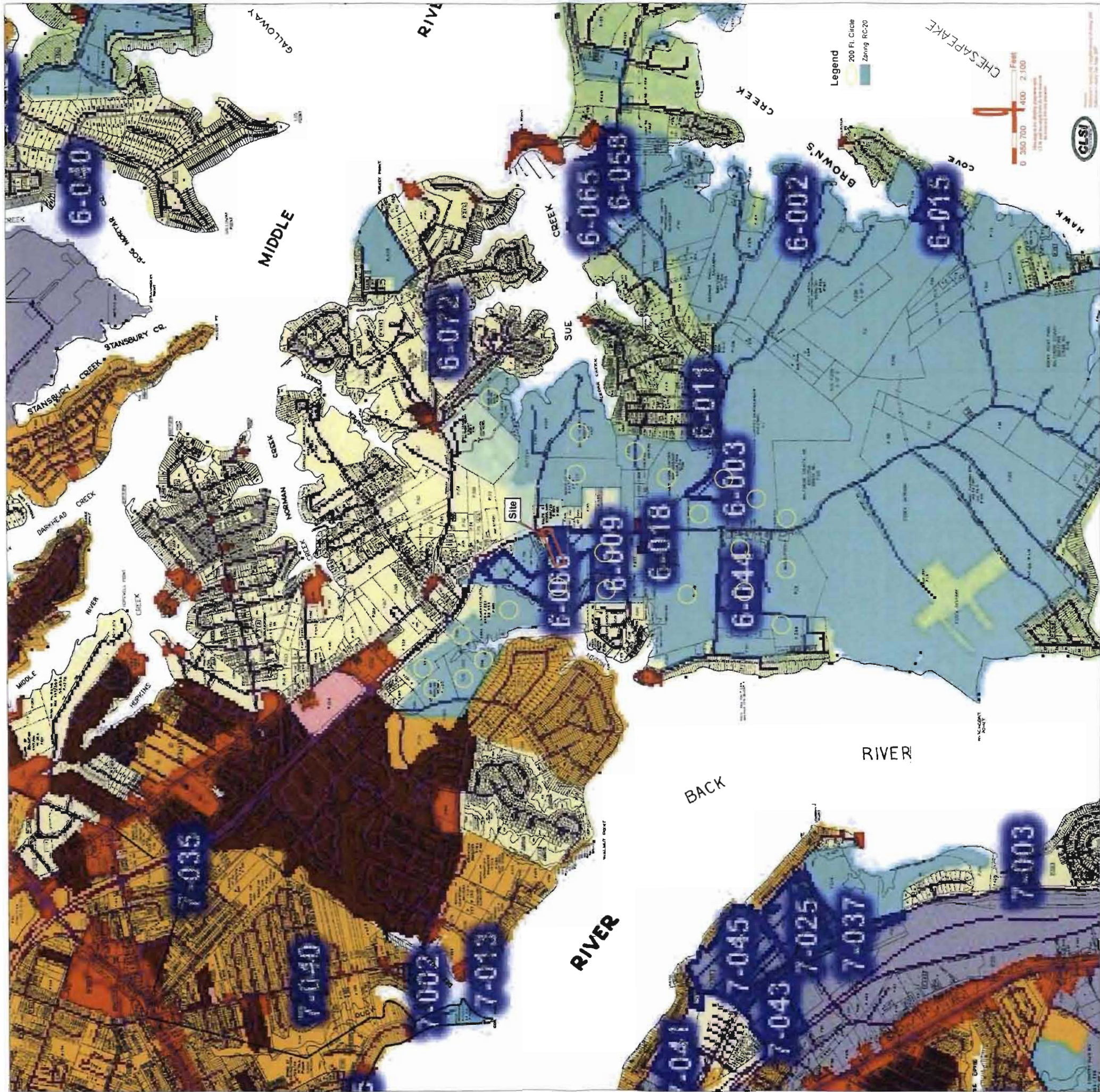
Tel: +1-828-324-6971 ext. 302, Fax: +1-828-327-6027

EXHIBIT F



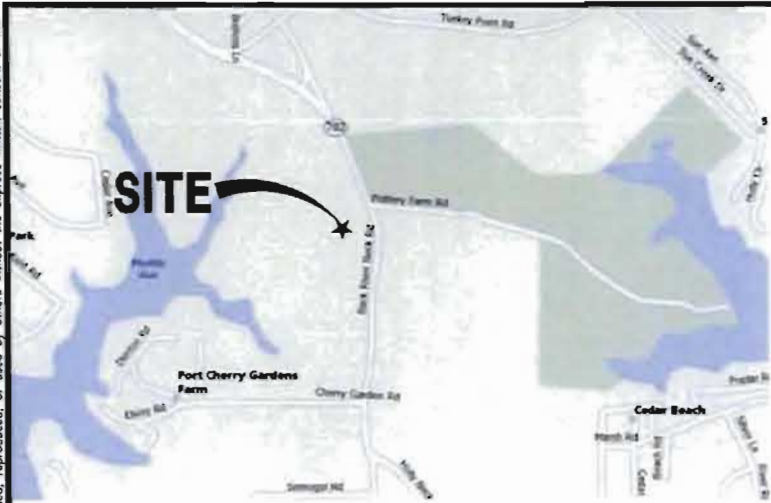
2008-0531 - SPHX



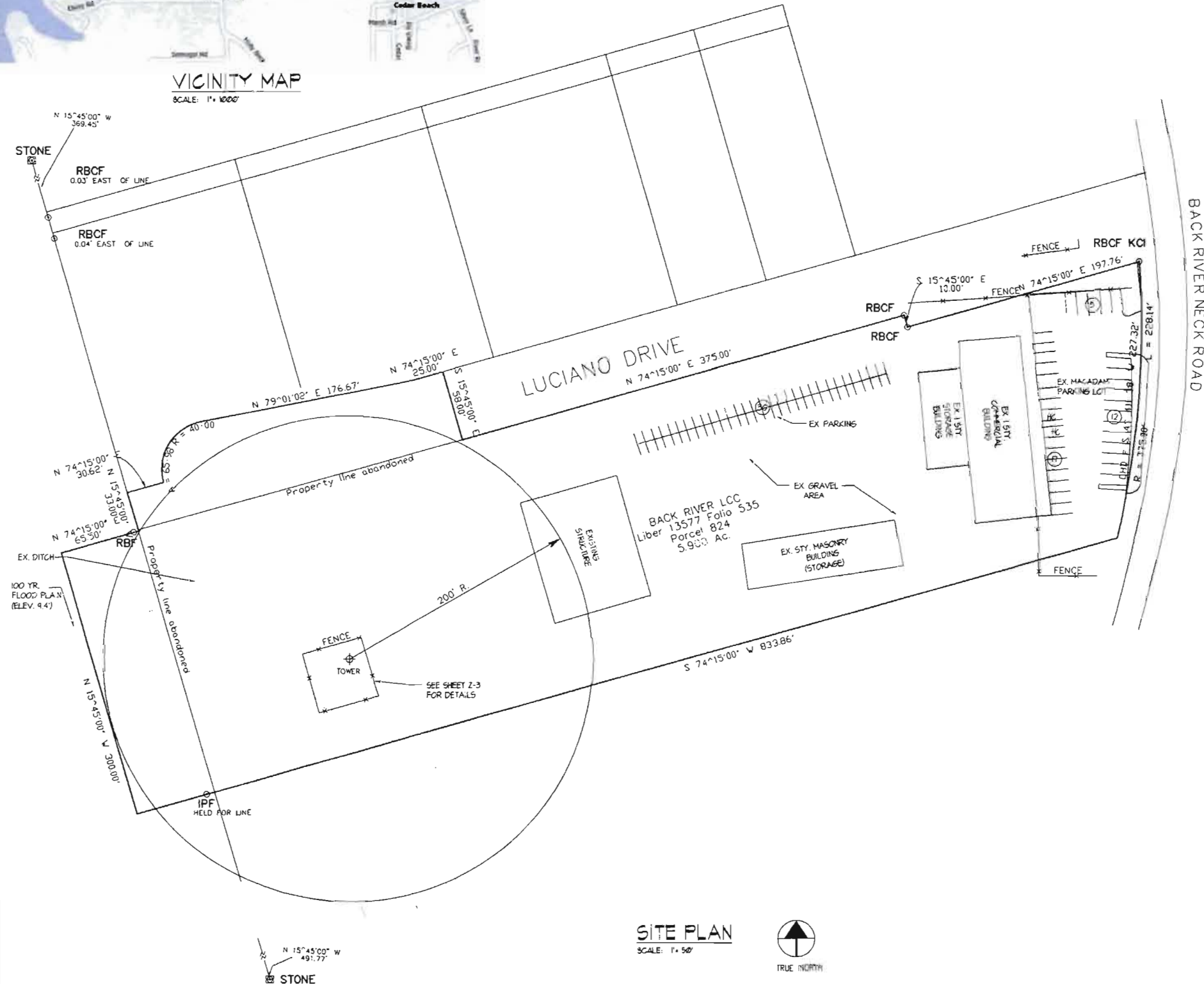


2008-0531 - SPHX

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VICINITY MAP
SCALE: 1" = 1000'



SITE PLAN
SCALE: 1" = 50'



SITE NOTES:

1. APPLICANT: SPRINT PCS
7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046
CONTACT: C/O JAY O'NEILL
(410) 963-7400
2. PROPERTY AND TOWER OWNER: BACK RIVER LLC
800 VOIGTS LANE
BALTIMORE, MD 21221-1634
3. SITE DATA: TAX MAP 97 GRID 24 PARCEL 824
TAX ACCOUNT NO. 15-2300004470
LIBER 13577, FOLIO 535
TRACT AREA: 5.89 AC
ELECTION DISTRICT: 15
ADC MAP: 37 GRID K-13
ADDRESS: 810 BACK RIVER NECK ROAD
BALTIMORE, MD 21221
EXISTING USE: COMMERCIAL
COUNCILMAN'S DISTRICT NO. 5
DEED REFERENCE: 13577/535
WATERSHED: 6 HARRIS MILL GREEK
PROPERTY AREA 5.8947 AC(±)
PARKING SPACES: 64
4. CURRENT ZONING: ML /RC-20
5. A MONOPOLE AND TELECOMMUNICATIONS ANTENNA ARE A PERMITTED USE BY RIGHT, IN THE ML ZONE.
A. HEIGHT OF PROPOSED MONOPOLE: 125'
B. SETBACKS, PER SECTION 426.6A3 REQUIRED:
REQUIRED: FRONT - 200'
SIDE - 200'
REAR - 200'
PROVIDED: FRONT = 638'
SIDE = 200' MIN / 200' MAX
REAR = 200'
EQUIPMENT CABINETS SETBACK:
REQUIRED: FRONT = 125'
SIDE = 125'
REAR = 125'
PROVIDED: FRONT = 620'
SIDE = 200' MIN / 200' MAX
REAR = 100'
6. TOTAL DISTURBED AREA = 0' SF ±
7. LATITUDE: 39° 17' 12.60" N (NAD 83/91)
LONGITUDE: 76° 25' 44.78" W (NAD 83/91)
GROUND ELEVATION: 18' AMSL
PROPOSED STRUCTURE HEIGHT: 125'
TOTAL ELEVATION ABOUT MAIN SEA LEVEL: 133'
8. THE EXISTING TOWER IS LOCATED AT LEAST ONE HORIZONTAL FOOT FOR EACH VERTICAL FOOT OF HEIGHT (125') FROM ANY EXISTING OUTSIDE DWELLINGS OR RESIDENTIAL ZONES. NO SCHOOLS OR PUBLIC PARKS ADJOIN THIS SITE.
9. THE STRUCTURE DOES NOT SUPPORT LIGHTS OR SIGNS.
10. THE APPLICANT WILL PROVIDE CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER THAT THE STRUCTURE WILL MEET APPLICABLE DESIGN STANDARDS FOR WIND LOADS IN ACCORDANCE WITH THE LATEST TIA/EIA STANDARD.
11. NO WATER OR SANITARY SERVICES ARE REQUIRED FOR THE OPERATION OF THIS FACILITY.
12. WIRELESS TRANSMITTING DEVICES MUST COMPLY WITH ANSI STANDARD C95-1982.
13. THE INFORMATION AND COMPOUND LOCATION SHOWN HEREON HAVE BEEN COMPILED FROM CLIENT RECORDS AND IS BELIEVED TO BE RELIABLE. HOWEVER, THE ACCURACY IS NOT GUARANTEED AND MAY BE SUBJECT TO REVISION.
14. PROPERTY SHOWN HEREON LIES WITHIN ZONE C, AN AREA OF MINIMAL FLOODING, AS PER FEMA COMMUNITY PANEL NO. 240010 0445 C EFFECTIVE DATE, NOVEMBER 17, 1993. HOWEVER THIS SITE PLAN REFLECTS UPDATED TOPOGRAPHY NOT REFLECTED ON FEMA MAPPING. THE 100 YEAR FLOOD BOUNDARY IS SHOWN ON THIS PLAN BASED ON NEW TOPOGRAPHY AND THE FEMA BASED FLOOD ELEVATION OF 9.4'.
15. THIS SITE IS EXEMPT FROM STORMWATER MANAGEMENT REQUIREMENTS.
16. THIS SITE IS EXEMPT FROM THE BALTIMORE COUNTY WOODLAND CONSERVATION AND TREE PRESERVATION ORDINANCE.

LEGEND

- PROP. TREE LINE
- EX. FENCE
- POLE
- PROP. FENCE
- EX. CONTOURS
- PROP. CONTOURS
- INDICATES SURFACE FLOW
- SPOT ELEVATION



APC REALTY AND
EQUIPMENT COMPANY, LLC

a/b/o
SPRINT

7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046

SUBMITTALS

DATE	DESCRIPTION	REV.
11/01/07	FOR REVIEW	A
02/04/08	CLIENT REVIEW	B

APPROVALS:

SITE ACQUISITION
MANAGER _____
RF ENGINEER _____
RF MANAGER _____
OPERATIONS
MANAGER _____
CONSTRUCTION
MANAGER _____
LANDLORD _____

TAI

ENGINEERS-MANAGERS-TECHNICAL SERVICES
11469 Cranhill Drive, Suite A
Owings Mills, Maryland 21117
tel: 410 358-3108 • fax: 410 358-3109

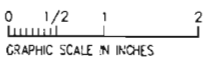
SEAL

JOB NO: 28001-WA54XC461

DRAWN: DSS

CHECKED: T.B.

SCALE:



TITLE:

SITE PLAN
AND NOTES

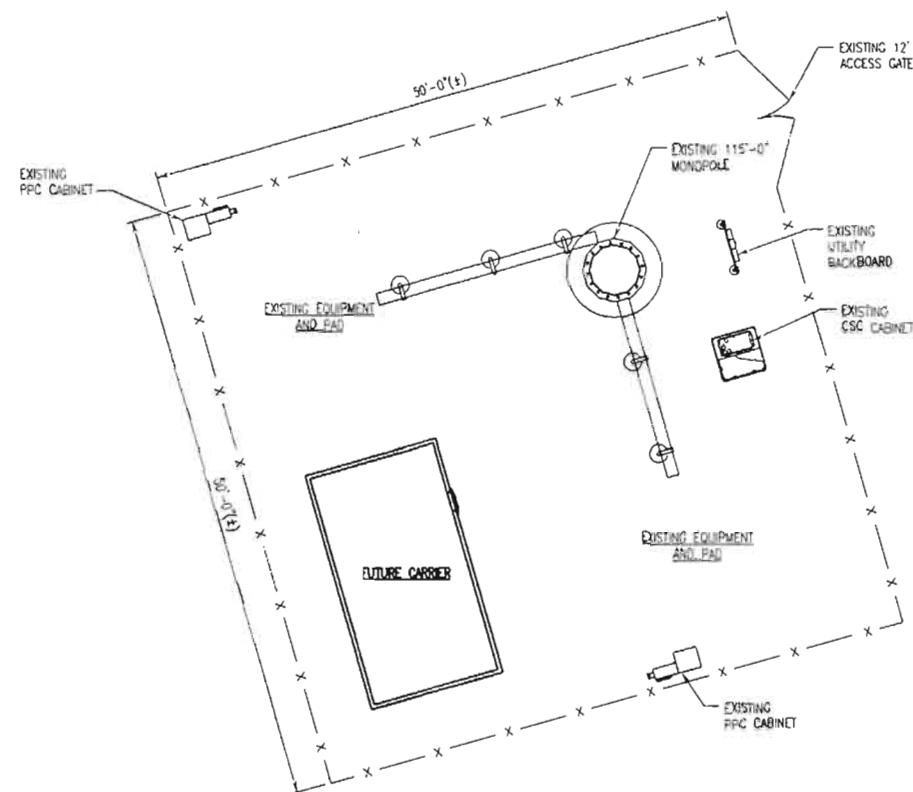
SAR# WA54XC461
BACK RIVER NECK
810 BACK RIVER NECK RD
BALTIMORE, MD 21221

SHEET NUMBER:

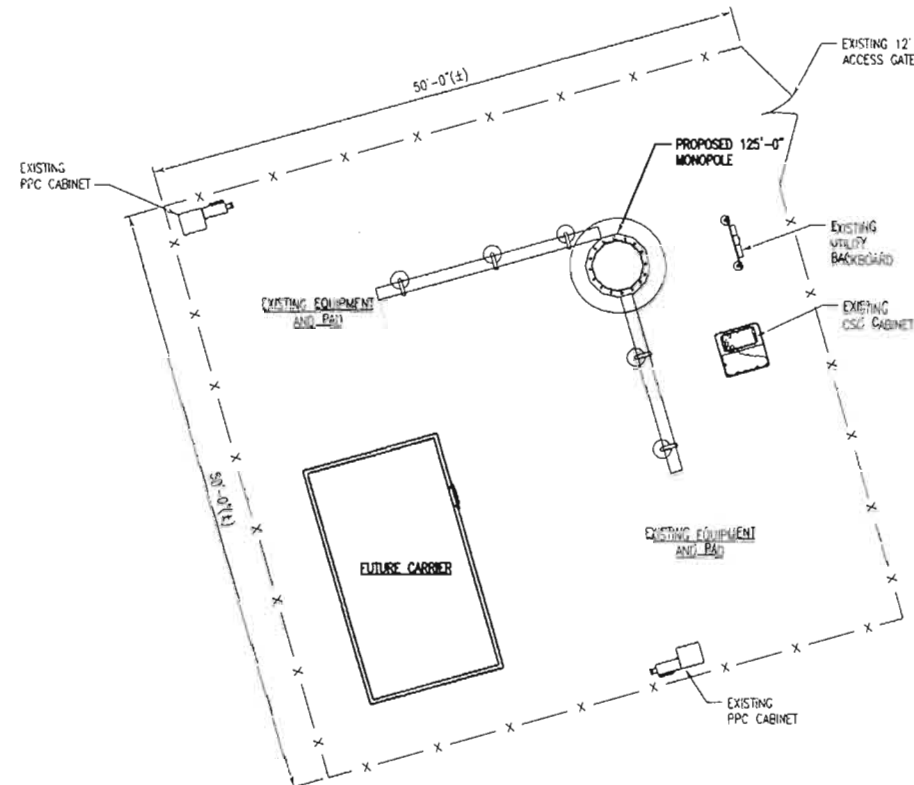
Z-2

SITE NAME: BACK RIVER NECK
SITE ID No. WA54XC461
REV. B EQUIPMENT TYPE: CDMA

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EXISTING COMPOUND PLAN
SCALE: 3/16" = 1'-0"



PROPOSED COMPOUND PLAN
SCALE: 3/16" = 1'-0"



APR REALTY AND
EQUIPMENT COMPANY, LLC

d/b/a
SPRINT

7055 SAMUEL MORSE DRIVE
SUITE 100
COLUMBIA, MD 21046

SUBMITTALS

DATE	DESCRIPTION	REV.
11/01/07	FOR REVIEW	A
02/04/08	CLIENT REVIEW	B

APPROVALS:

SITE ACQUISITION
MANAGER

RF ENGINEER

RF MANAGER

OPERATIONS
MANAGER

CONSTRUCTION
MANAGER

LANDLORD

TAI

ENGINEERS, MANAGERS, TECHNICAL SERVICES
11459 Greenbriar Drive, Suite A
Owings Mills, Maryland 21117
Tel: 410-350-3108 • Fax: 410-350-3109

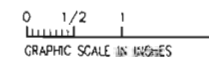
SEAL:

JOB NO: 28001-WA54XC461

DRAWN: DSS

CHECKED: T.B.

SCALE:



TITLE:

EXISTING AND
PROPOSED
COMPOUND
PLAN

SAR# WA54XC461
BACK RIVER NECK
810 BACK RIVER NECK RD
BALTIMORE, MD 21221

SHEET NUMBER:

Z-3

REV. B EQUIPMENT TYPE: CDMA

SITE ID No. WA54XC461

SITE NAME: BACK RIVER NECK

IN RE: PETITION FOR ADMIN. VARIANCE

W side Riverside Avenue, 150 N of
Mitchells Road
15th Election District
6th Councilmanic District
(1328 East Riverside Avenue)

James Gernhart and Christine W. Gernhart
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 08-530-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, James Gernhart and Christine W. Gernhart for property located at 1328 East Riverside Avenue. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard. The subject waterfront property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners state that the existing shed has been in the front yard and in use since the home was constructed in 2007. Photographs submitted by the Petitioners depict many similar accessory structures in front yards of neighboring properties. In fact, the adjacent properties located at 1332 East Riverside Drive, 1322 East Riverside Drive and 1330 East Riverside Drive expressed support for the accessory structure located in the front yard.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated June 4, 2008 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations and must comply with maximum impervious surface limits, 15% minimum forest cover and restrictions on any disturbance or development within the 100 foot tidal buffer based on Limited Development Area and Buffer

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16-5-08
P3

Management Area requirements. Comments were received from the Bureau of Development Plans Review dated May 26, 2008 which indicate that the first floor or basement must be at least one foot above the flood plain elevation in all construction, the building should be designed and adequately anchored to prevent flotation or collapse and constructed of materials resistant to flood damage. Flood-resistant construction should be in accordance with the Baltimore County Building Code which adopts the International Building Code.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on May 18, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 5th day of June, 2008 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the front yard of an existing single family dwelling in lieu of the required rear yard is hereby GRANTED, subject to the following:

RECEIVED FOR FILING
6-5-08
13

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 such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100 foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.
4. The base flood elevation for this site is 10.2 feet Baltimore County Datum.
5. The flood protection elevation for this site is 11.2 feet.
6. In conformance with Federal Flood Insurance Requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.
7. The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential (commercial) development.
8. The building engineer shall require a permit for this project.
9. The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.
10. Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the International Building 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

ORDER RECEIVED FOR FILING

6-5-08
pz



TAX. ACCOUNT # 1511150310
1507471200

Petition for Administrative Variance
to the Zoning Commissioner of Baltimore County

for the property located at 1328 E RIVERSIDE AVE
which is presently zoned RC 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) 400.1 TO ALLOW AN ACCESSORY STRUCTURE IN THE FRONT YARD OF AN EX SINGLE FAMILY DWELLING IN LIEU OF THE REQUIRED REAR YARD

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

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:

James GERHART JR.
Name - Type or Print
[Signature]
Signature
1328 E. Riverside Ave. 410 852-0793
Address Telephone No.
Baltimore - MD. 21221
City State Zip Code

Attorney For Petitioner:

N/A
Name - Type or Print
Signature
Company
Address Telephone No.
City State Zip Code

Legal Owner(s):

James Gerhart Jr.
Name - Type or Print
[Signature]
Signature
Christine W. Gerhart
Name - Type or Print
C.W. Gerhart
Signature
1328 E. Riverside Ave 410-852-843
Address Telephone No.
Balto. MD. 21221
City State Zip Code

Representative to be Contacted:

JAMES GERHART JR.
Name
1328 E. Riverside Ave 410 852-0793
Address Telephone No.
Balto. MD. 21221
City State Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2008 - 0530 - A

Reviewed By CM Date 5-9-08

REV 10/25/01

Estimated Posting Date 5-18-08

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at

1328 E. Riverside Ave
Address
Balto. MD. 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

The shed in question was in the front yard and has been being used in such capacity. It would create undue hardship to relocate shed at this time. It is understood that when the shed is no longer usable that the property will revert to the existing Building Code. This condition was pre existing prior to my constructing a SFD.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

[Signature]
Signature
JAMES GERNHART JR.
Name - Type or Print

Signature

Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 17th day of APRIL, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

HARVARD, JAMES GERNHART JR.
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Joseph A. Grzelik
Notary Public
My Commission Expires 6/1/2009

ZONING DESCRIPTION

Zoning description for 1328 E. Riverside Ave.

Beginning at a point on the West side of East Riverside Ave. which is 150 feet North of the intersecting street Mitchells Rd. Being lot # 14 & 15 in the subdivision of Back River Neck Park as recorded in Baltimore County plat book # 7, Folio # 4 containing 40450 sq. ft. and located in the 15th. Election District, 6th. Councilmanic district.

0530

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **13960**

Date: **5-9-08**

PAID RECEIPT

BUSINESS ACTUAL TIME
 5/12/2008 5/09/2008 15:17:06 2

REC 1002 MAIL JANA JEE
 >>RECEIPT N 577884 5/09/2008 08:18

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		006		00100				65.00

Total: **65.00**

Rec
 From: **J. Gennaro**

For: **1320 E. Kirtland Ave - As Vnd**
2008-0506-A

Dept 5 538 ZONING VERIFICATION
 013960
 Recpt Tot. 65.00
 65.00 CH 1.00 CA
 Baltimore County, Maryland

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No. 08-0530-A

Petitioner/Developer: J.

GERNHART

Date of Hearing/Closing: 6-2-08

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:

1328 E. RIVERSIDE AVE

The sign(s) were posted on 5-18-08
(Month, Day, Year)

Sincerely,

Robert Black 5-20-08
(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)



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Contact Person: CRAIG Mc Graw Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 5-9-08 Posting Date: 5-18-08 Closing Date: 6-02-08

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

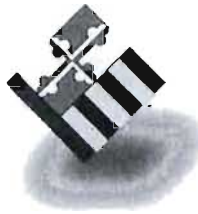
Case Number 08- 0530 -A Address 1328 E RIVERSIDE AVE

Petitioner's Name J. GERHART Telephone 410-852-243

Posting Date: 5-18-08 Closing Date: 6-2-08

Wording for Sign: TO PERMIT ALLOW AN ACCESSORY STRUCTURE IN THE FRONT
YARDS OF AN EX. SINGLE FAMILY DWELLING IN LIEU OF THE
REQUIRED REAR YARDS

WCR - Revised 6/25/04



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.

County Executive

James & Christine W. Gernhart
1328 E, Riverside Ave.
Baltimore, MD 21221

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management
June 2, 2008

Dear: James & Christine W. Gernhart

RE: Case Number 2008-0530-A, Address: 1328 E, Riverside Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 09, 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:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 22, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For May 26, 2008
Item No. 08-530

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

The base flood elevation for this site is 10.2 feet Baltimore County Datum.

The flood protection elevation for this site is 11.2 feet.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation in all construction.

The property to be developed is located adjacent to tidewater. The developer is advised that the proper sections of the *Baltimore County Building Code* must be followed whereby elevation limitations are placed on the lowest floor (*including basements*) of residential (*commercial*) development.

The building engineer shall require a permit for this project.

The building shall be designed and adequately anchored to prevent flotation, collapse, or lateral movement of structure with materials resistant to flood damage.

Flood-resistant construction shall be in accordance with the Baltimore County Building Code which adopts, with exceptions, the *International Building Code*.

DAK:CEN:lrk

cc: File

ZAC-ITEM NO 08-530-05212008.doc



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

May 20, 2008

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

ATTENTION: Zoning Review planners

Distribution Meeting of: May 19, 2008

Item No.: 518, 520-528, 530, and 532-534.

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.

The Fire Marshal's Office has no comments at this time.

Don W. Muddiman, Acting Lieutenant
Fire Marshal's Office
(Office) 410-887-4880
MS-1102F

cc: File



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: May 20, 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. B-530-A
1328 RIVERSIDE AVENUE
GREENHART PROPERTY
ADMINISTRATIVE 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. B-530-A.

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,

Foa¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

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

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 28, 2008

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

RECEIVED
MAY 28 2008

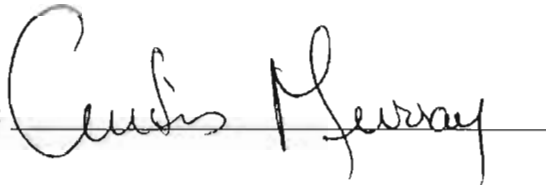
BY:.....

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-530- Administrative Variance**

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

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

Prepared By:



CM/LL

AV
6-2-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED
JUN 04 2008

BY:

TO: Timothy M. Kotroco

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

DATE: June 4, 2008

SUBJECT: Zoning Item # 08-530-A
Address 1328 E. Riverside Avenue
(Gernhart Property)

Zoning Advisory Committee Meeting of May 19, 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:

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

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

X 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: This property must comply with maximum impervious surface limits, a 15% minimum forest cover, and restrictions on any disturbance/development within the 100-foot tidal buffer based on Limited Development Area and Buffer Management Area requirements.

Reviewer: Paul Dennis

Date: May 21, 2008

April 15, 2008

To Whom It May Concern,

We the undersigned do hereby give our approval for the residents at 1328 E. Riverside Ave. to have an accessory structure in there front yard. This would not create any undo hardship to us, the immediate neighbors or the neighborhood in general.

1332 E. Riverside Ave.

1322 E. Riverside Ave.

1330 E. Riverside Ave.

Mark Dyson

MARK DYSON

E. J. Wendelstedt

MRS. WENDELSTEDT

Florence E. Christensen

WILLIAM CHRISTENSEN

0530

previous
order

IN RE: PETITION FOR VARIANCE
W/S of East Riverside Avenue, 200 feet
south of Mitchell Road
15th Election District
6th Councilmanic District
(1326 and 1328 East Riverside Avenue)

Joseph and Noel Bates
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 06-559-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Joseph and Noel Bates. The Petitioners are requesting variance relief for property located at 1326 and 1328 East Riverside Avenue. Variance relief is requested from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively.

The property was posted with notice of the public hearing date and time on June 18, 2006. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on June 20, 2006 to notify any interested persons of the scheduled hearing date and relief requested.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict

compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Bureau of Development Plans Review dated May 17, 2006 and contains restrictions. A ZAC comment letter was received from the Department of Environmental Planning and Resource Management dated June 8, 2006 which contains restrictions. A ZAC comment letter was received from the Office of Planning dated June 6, 2006, which contains restrictions. Subsequently the Planning Office issued revised comments dated July 5, 2006, a copy of which is incorporated into the file of this case.

Interested Persons

Appearing at the hearing on behalf of the variance request were James Gernhart and Joseph Bates, Petitioner. No protestants or citizens appeared at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the subject property contains 0.86 acres zoned RC 5 and is improved by two single family dwellings. As shown on the Plat to

Accompany exhibit 1, the Petitioner proposes to raze both dwellings and erect one large modern home to replace the existing homes shown on the Petitioner's photographs, exhibit 4 A. The new home would be located on two 50 foot wide lots whereas the two existing homes are each located on one 50 foot lot.

Mr. Gernhart indicated that the two lots are Lot 14 and 15 of the Back River Neck Park subdivision which was recorded among the land records in 1921 as shown on exhibit 2. He indicated that he understood that this property had been zoned DR 5.5 until very recently when the area was down zoned to RC 5. He noted that a home on lots 14 and 15 as proposed would have met all DR 5.5 regulations but now the same house requires variances. Finally he noted that as shown on the lots originally were approximately 450 feet long which would have meant the combined lots contained about an acre. However the area suffered significant erosion over the past eighty years and as a result today the combined lots have only 0.86 acres.

In regard to the height variance, Mr. Gernhart noted that the Bureau of Development Plans Review comment requires the first floor to be elevated above ground level at least 10.4 feet to avoid being flooded in an Isabel type storm. This means that his proposed two story home will reach 47 feet at the peak of the roof and so does not meet the 35 foot height regulation. However, he also noted that the lots behind the subject property are vacant or farm land so that there will be no complaints about the height cutting off view of the water. Also see photographs 5 A, 5 B and 5 C. In fact he contacted the owner of the lots to the rear who supported the requests because of lower density.

In regard to the side yard setbacks, the Petitioner points out that even by combining two lots into one 100 foot wide lot, the 50 foot side yard setback requirements of RC 5 can not be met. Nor is there any property on either side which the Petitioner can purchase to meet the regulations. Finally he noted that the existing house on lot 14 is only 9 feet from the property line and his proposal is to increase this to 10 feet. The new house is 24 feet from the property line on the other side to allow a side loaded garage as shown.

The Planning Office comments originally indicated that the side yard setback should be 15 feet on each side as well as requesting information to allow a finding of compatibility in this RC 5 zoned property. However the Planning Office issued revised comments after the Petitioner supplied the information requested, found the proposed home to be compatible, and agreed to a 10 foot side yard setback under the circumstances.

A letter of opposition was received from Jackie Nickel objecting to the size of the proposed home.

Findings of Fact and Conclusions of Law

I suppose technically the requests for variance for lot size and width could have been filed as a request for special hearing under Section 1A04.3 B.1. The height would still require a variance. I will treat all requests for variance as indicated in the Petition.

The file shows a letter in opposition from a neighbor whose primary objections seems to be the size of the proposed dwelling. However it appears from the testimony and photographs that the lots behind the new home are either vacant or farm. The

Petitioner indicated the community association did not oppose the size of the dwelling considering two homes would be replaced with one.

Considering all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. This subdivision and the subject lots were created much before the zoning was imposed on the area. The imposition of RC 5 zoning on this property disproportionably impacts the subject property as compared to others in the zoning district. The proposed dwelling on two lots would have met the prior DR 5.5 regulations.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. There is no more land on either side which the Petitioner can purchase to meet the regulations. Even with 100 foot combined lot, he still can not meet a 50 foot side yard setback or the area requirements.

No increase in residential density beyond that otherwise allowable by the Zoning Regulations will occur as a result of granting this variance as the Petitioner is razing two homes to be replaced by one.

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. This is an improved pattern of development whereas there were two homes on each 50 foot lot now there is one home on a 100 foot lot. There will be no change to the character of the neighborhood. The water view lots behind are vacant or farm.

THEREFORE, IT IS ORDERED, this 6th day of July, 2006, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1A04.3.A.B.1.a, 2.b of the Baltimore County Zoning Regulations to allow a proposed dwelling on a lot containing 0.86 acres $\pm$ with a height of 48 feet and side setbacks of 10 and 24 feet in lieu of the minimum required 1.5 acres, maximum height of 35 feet and minimum 50 feet setback each respectively is hereby GRANTED, subject to the following conditions:

1. The Petitioner may apply for his building permit 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, the 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 Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).
3. This property is within the Limited Development Area of the CBCA. The impervious surface limit is 15% of the lot size, and 15% tree cover must be maintained. The property is also in a Buffer Management Area, which establishes a 100 foot buffer.
4. Flood-resistant construction shall be in accordance with the requirement of B.O.C.A. International Building Code adopted by the County.

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

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER

JVM:pz



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw4.3)

[Go Back](#)
[View Map](#)
[New Search](#)

Account Identifier: District - 15 Account Number - 1507471200

Owner Information

Owner Name:	GERNHART JAMES R,JR GERNHART CHRISTINE W	Use:	RESIDENTIAL
Mailing Address:	1328 E RIVERSIDE AVE BALTIMORE MD 21221-6319	Principal Residence:	YES
		Deed Reference:	1) /24504/ 524 2)

Location & Structure Information

Premises Address	Legal Description
1328 E RIVERSIDE AVE	1328 E RIVERSIDE AVE
	BACK RIVER NECK PARK
	WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	6	226					14	3	Plat Ref: 7/ 4

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2007	5,176 SF	22,700.00 SF	34
Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value	Phase-In Assessments	
		As Of	As Of	As Of
		01/01/2006	07/01/2007	07/01/2008
Land	134,670	204,670		
Improvements:	489,820	626,980		
Total:	624,490	831,650	762,596	831,650
Preferential Land:	0	0	0	0

Transfer Information

Seller: BATES JOSEPH C	Date: 09/21/2006	Price: \$700,000
Type: MULT ACCTS ARMS-LENGTH	Deed1: /24504/ 524	Deed2:
Seller: BARNETT KEVIN H BARNETT JOYCE L	Date: 04/17/1992	Price: \$112,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 9141/ 766	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

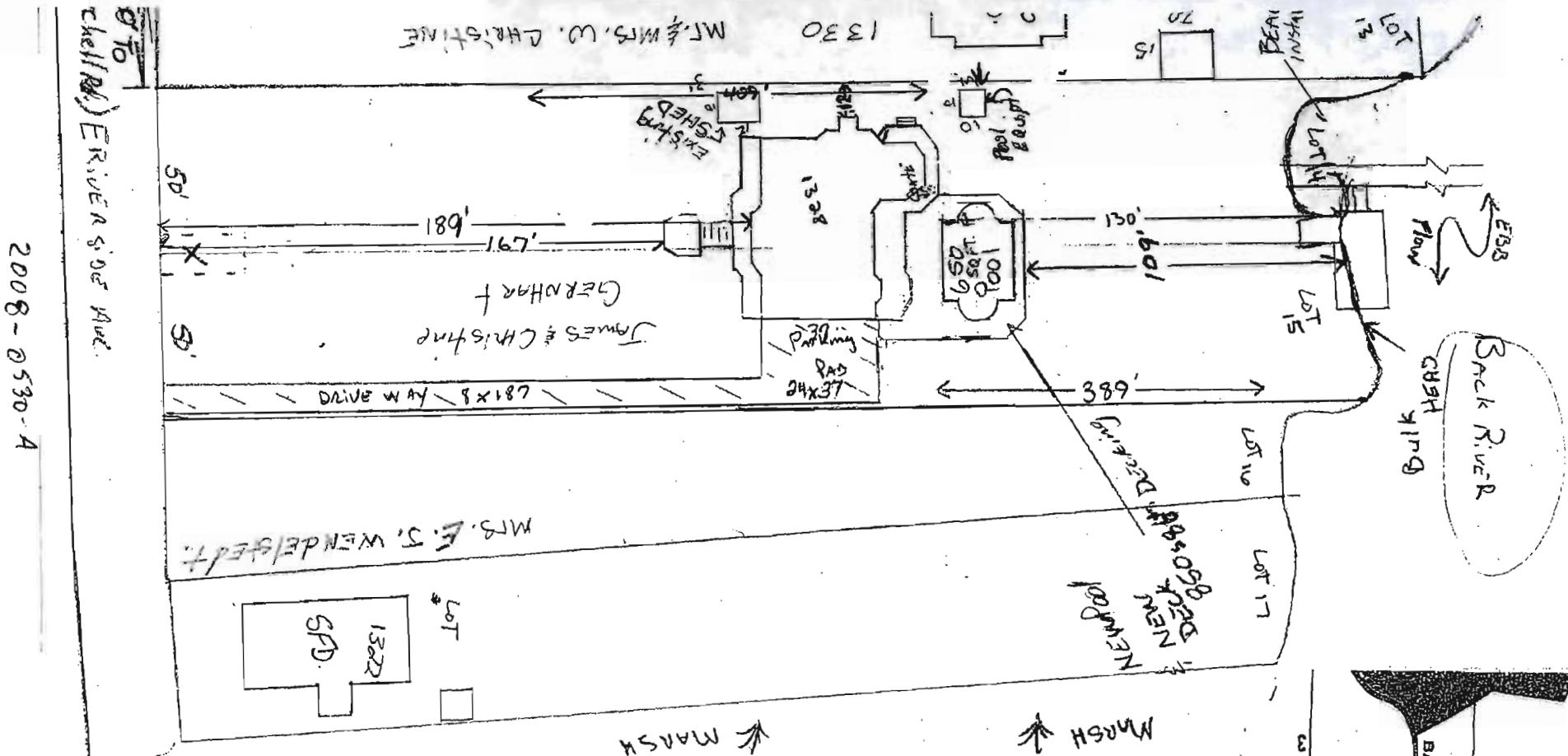
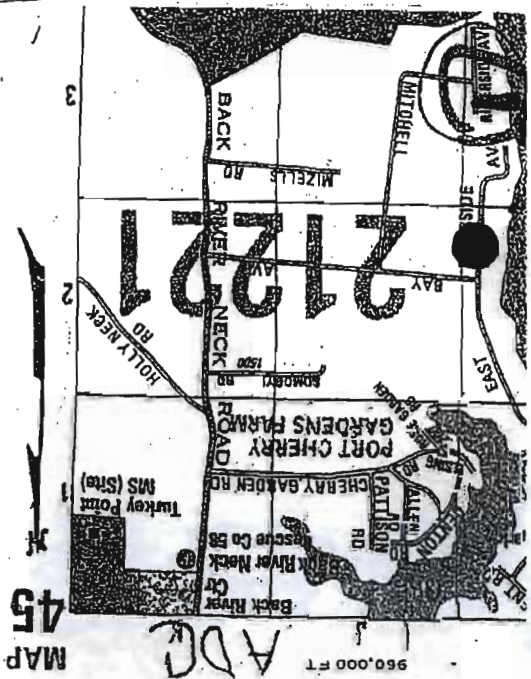
Exemption Information

Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

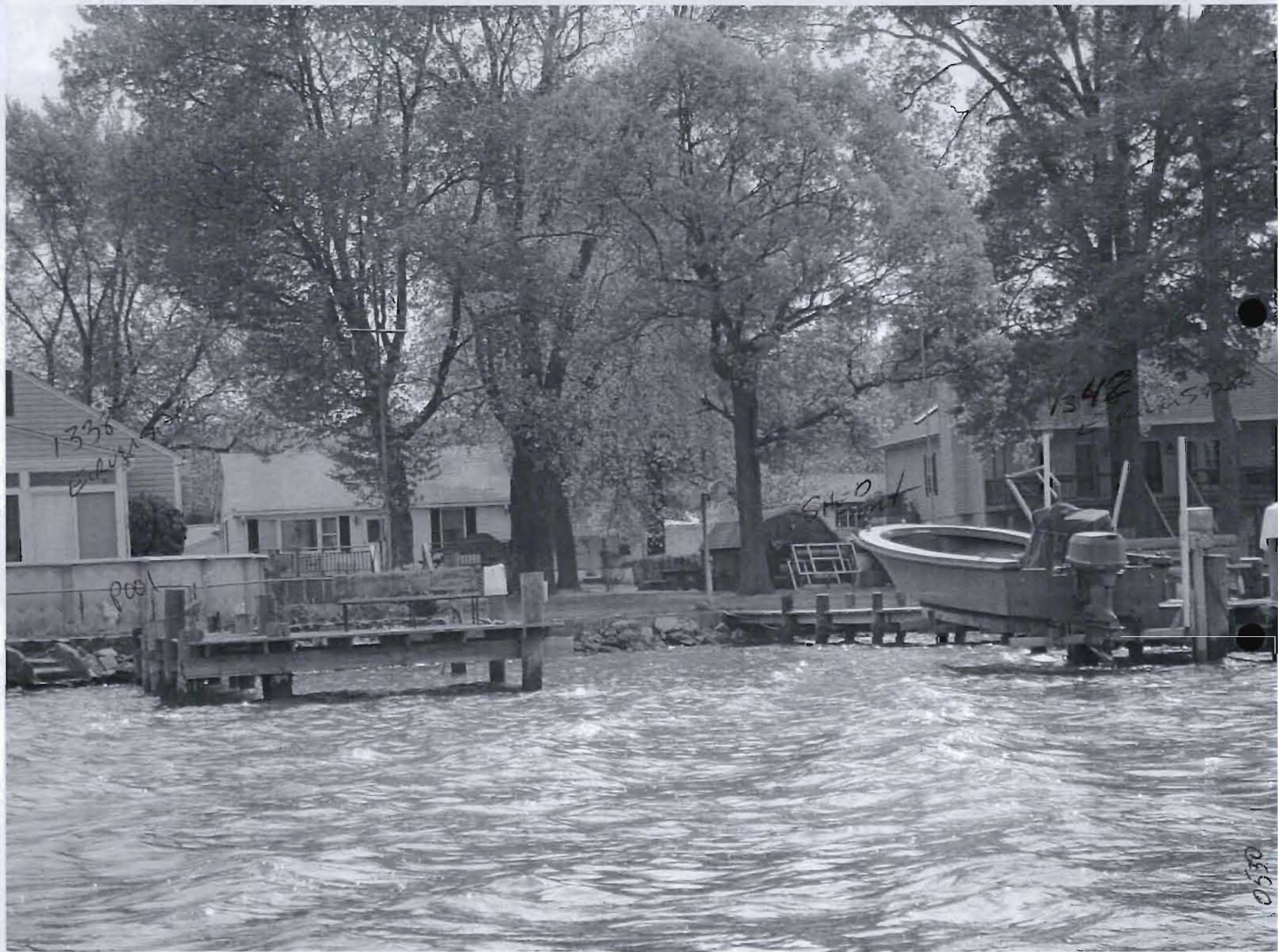
Sec 1150



owner: JAMES & CHRISTINE GEMMILL
Address: 1320 E 327 E. RIVER SIDE AVE.
Subdiv: RICH RIVER NE 2 AC
Plot Book = 2 Folio & Lot = 14 & 15
TWS 1607 Folio 223
Elect: DIST: 15 Council: 6
Zone: RE 5 Lot 512 40450567
Public Water & Sewer: 100 yr Flood
Chinook Bay Central Area: YES
Historical Property: No prior burning: 06-559-A

2008-0530-A







0530



1328 E. River St.
ReAR





How
1330
E. Riverside

SHED
1333
E. Riverside

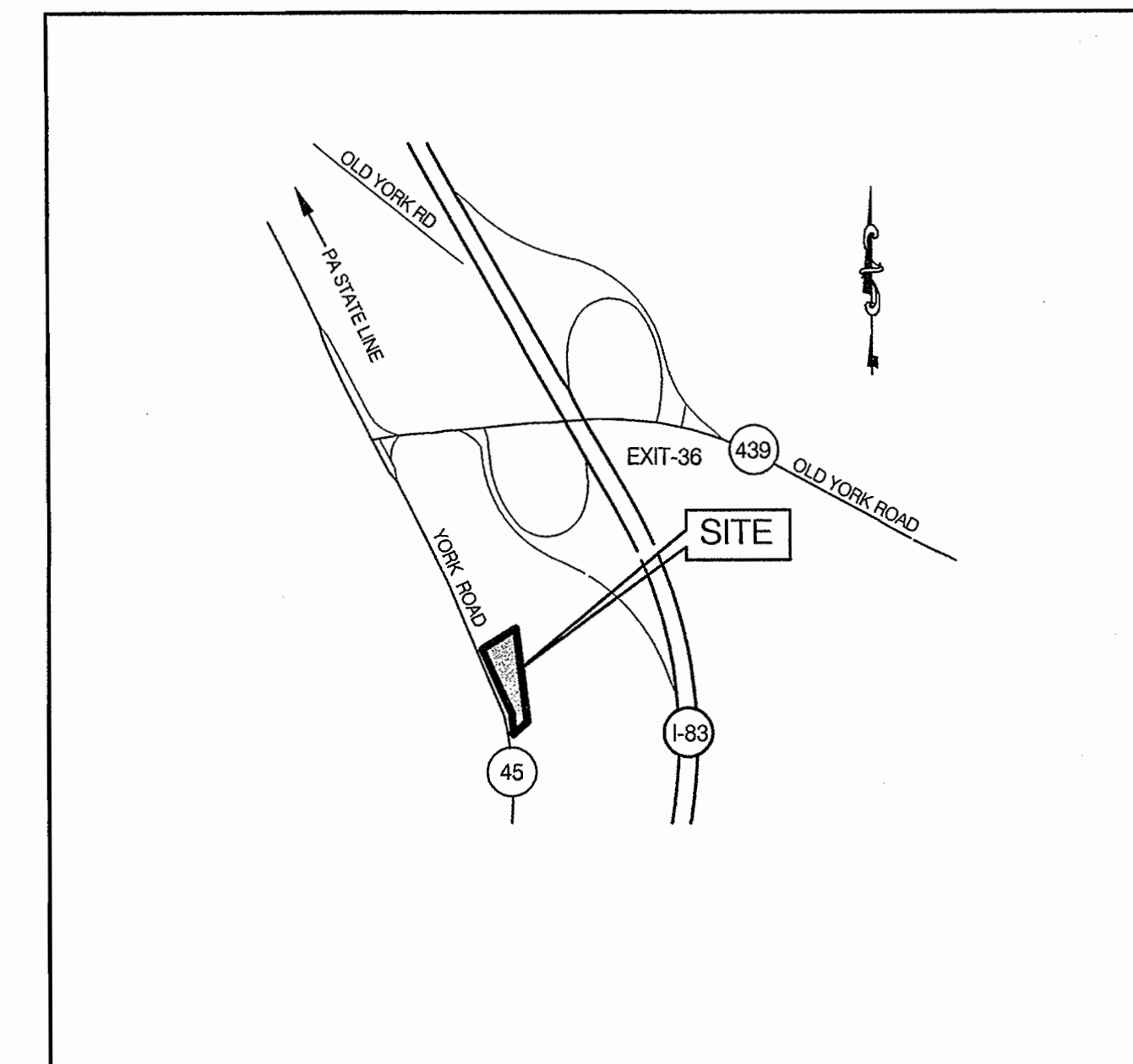
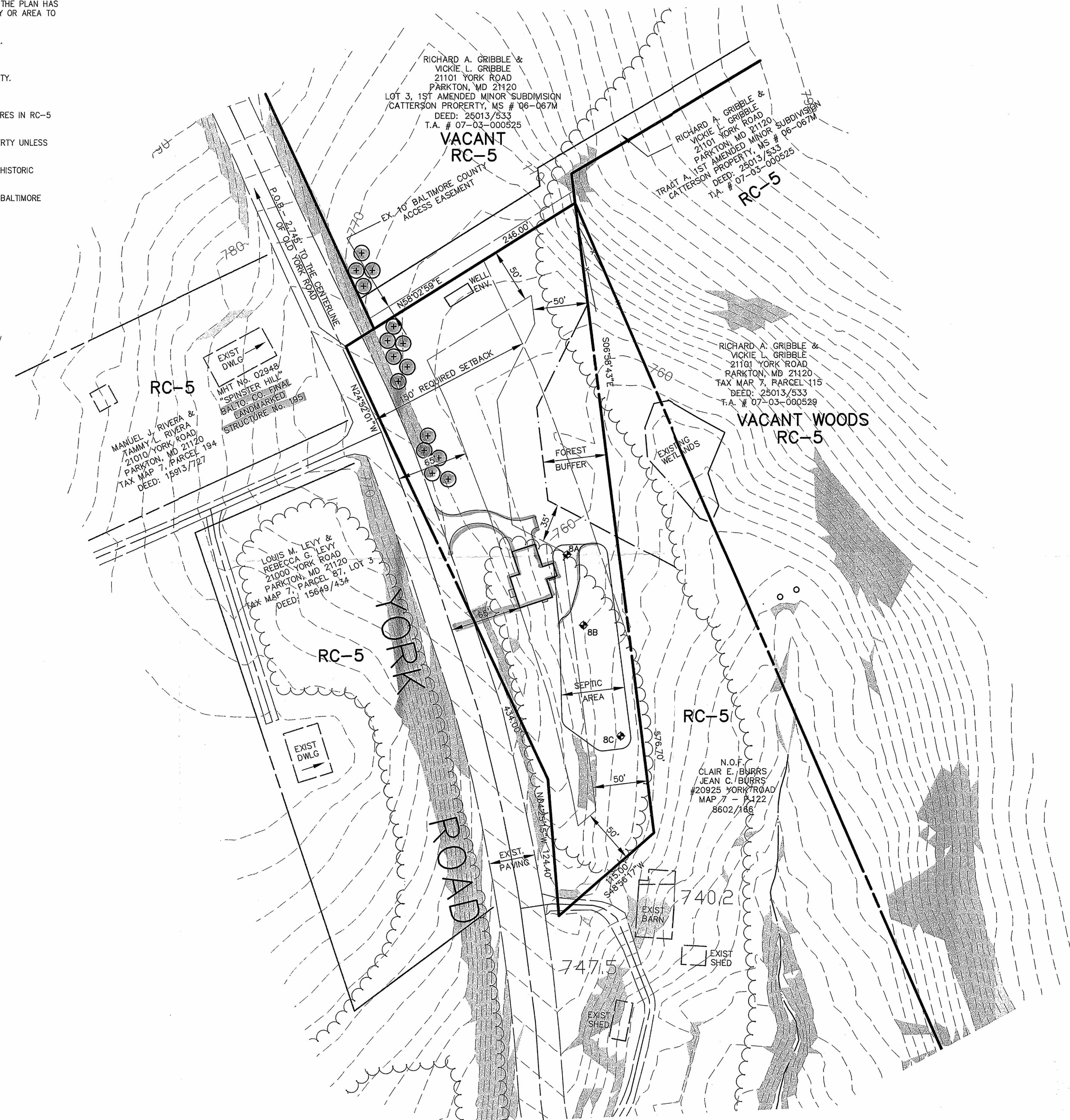
SHED

1330
E. RIVERSIDE
REM

1328 E. Riverside
Pool



1. ALL LOTS SHOWN HEREON TO BE SERVED BY A PRIVATE WELL AND SEPTIC SYSTEM.
2. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE OCTOBER 15, 1938. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
3. SITE IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
4. EXISTING LAND COVER IS MEADOW AND FOREST.
5. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE PROPERTY.
6. EXISTING SITE USE IS AGRICULTURAL.
7. MAXIMUM BUILDING HEIGHT PERMITTED FOR PRINCIPAL STRUCTURES IN RC-5 ZONING IS 35 FEET.
8. THERE ARE NO ZONING LINES WITHIN 200 FEET OF THIS PROPERTY UNLESS OTHERWISE SHOWN.
9. THIS PROPERTY IS NOT HISTORIC AND NOT LOCATED WITHIN A HISTORIC DISTRICT.
10. THIS SITE IS NOT LOCATED IN ANY DEFICIENT AREAS ON THE BALTIMORE COUNTY BASIC SERVICE MAPS.



VICINITY MAP
SCALE: 1" = 1000'

ELECTION DISTRICT: 7TH

COUNCILMANIC DISTRICT: 3RD

1" = 200' SCALE MAP No.: 007b1 & 007b2

PRESENT ZONING: RC-5

LOT SIZE:	<u>1.942</u> ACREAGE	<u>84,577</u> SQUARE FEET
	PUBLIC	PRIVATE
WATER	☐	☒
SEWER	☐	☒
		YES
CHESAPEAKE BAY CRITICAL AREA:	☐	☒
100-YEAR FLOOD PLAIN:	☐	☒
HISTORIC PROPERTY BUILDING:	☐	☒
PRIOR ZONING HEARINGS:	☐	☒
OWNER INFORMATION:	NAME: RICHARD A. GRIBBLE VICKIE L. GRIBBLE	
ADDRESS:	21101 YORK ROAD PARKTON, MD 21120	
PHONE No.: 410-812-9860		
DEED REFERENCE: 25013/533		
PROPERTY TAX ACCT. No.: 07-03-000528		

REVISÉ

PLAT TO ACCOMPANY PETITION FOR
SPECIAL HEARING

#21015 YORK ROAD

7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND

$$1'' = 50'$$

DATE: APRIL 29, 2008
REVISED: AUGUST 19, 2008



McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying

Natural Resource Planning - Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563


 GEOFFREY C. SCHULTZ
 MARYLAND REG. NO. 2115

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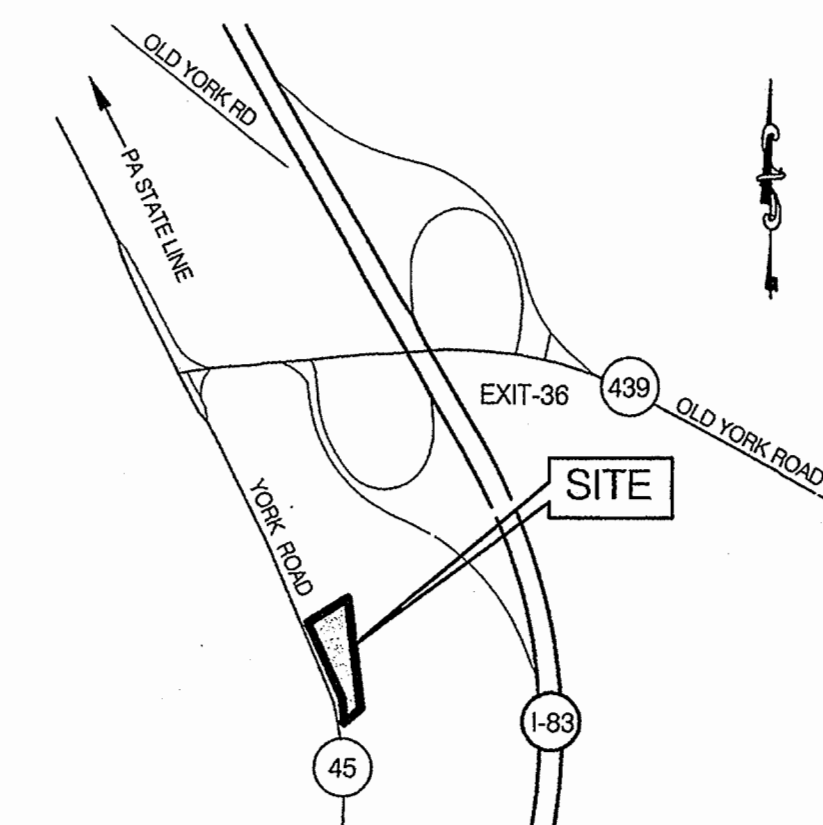
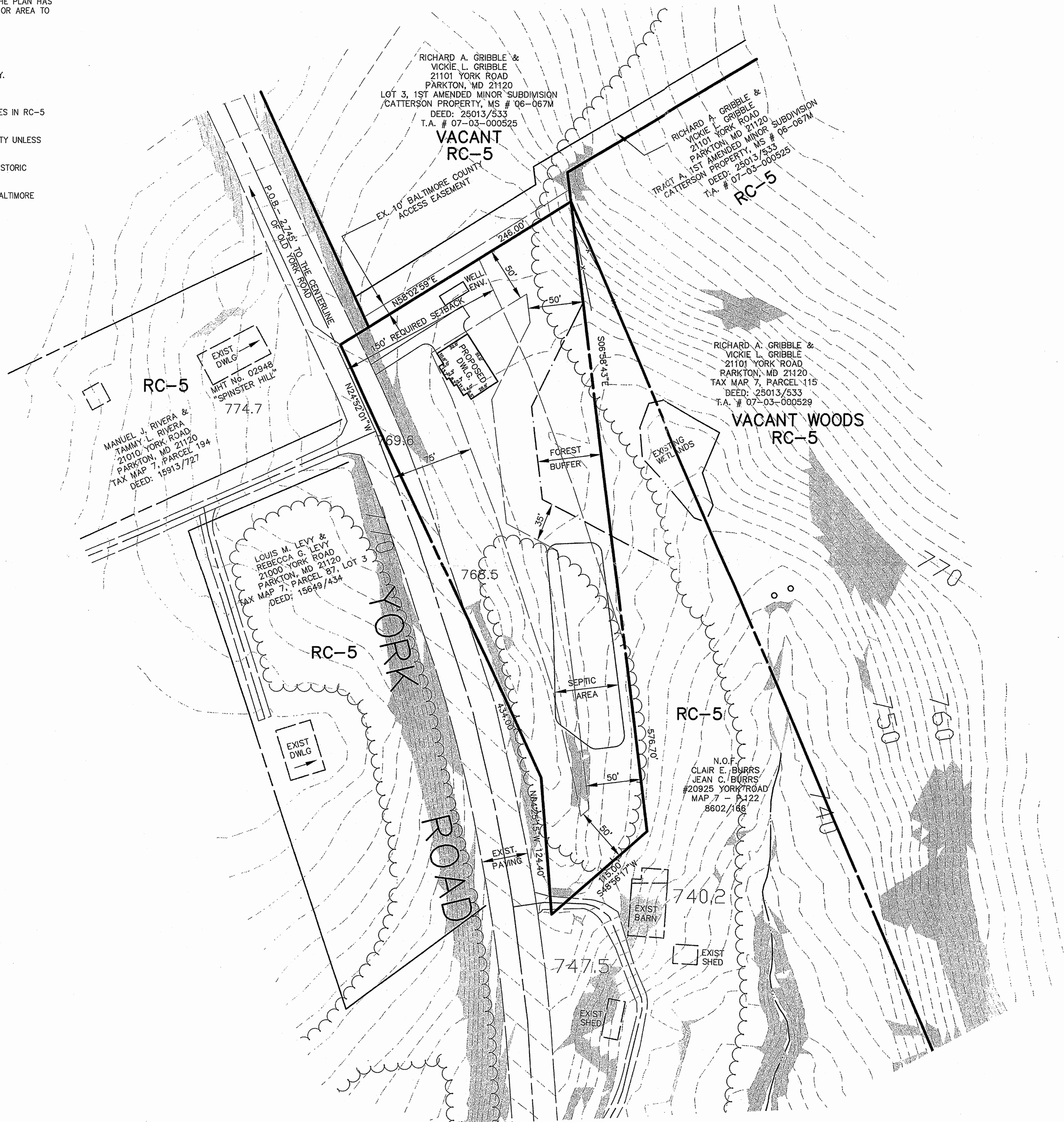
DRAWN BY: JDN

CHECKED BY: JDC

JOB No.: 07-149

GENERAL NOTES

1. ALL LOTS SHOWN HEREON TO BE SERVED BY A PRIVATE WELL AND SEPTIC SYSTEM.
2. THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD INTACT SINCE OCTOBER 15, 1938. THE DEVELOPER'S SURVEYOR HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THE PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED, OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-SITE DWELLINGS.
3. SITE IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
4. EXISTING LAND COVER IS MEADOW AND FOREST.
5. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE PROPERTY.
6. EXISTING SITE USE IS AGRICULTURAL.
7. MAXIMUM BUILDING HEIGHT PERMITTED FOR PRINCIPAL STRUCTURES IN RC-5 ZONING IS 35 FEET.
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VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT: 7TH

COUNCILMANIC DISTRICT: 3RD

1" = 200' SCALE MAP No.: 007b1 # 007b2

PRESENT ZONING: RC-5

LOT SIZE: 1.942 ACREAGE 84,577 SQUARE FEET

	PUBLIC	PRIVATE	YES	NO
WATER	☐	☒		
SEWER	☐	☒		
CHESAPEAKE BAY CRITICAL AREA:			☐	☒
100-YEAR FLOOD PLAIN:			☐	☒
HISTORIC PROPERTY/ BUILDING:			☐	☒
PRIOR ZONING HEARINGS:			☐	☒

OWNER INFORMATION: NAME: RICHARD A. GRIBBLE
VICKIE L. GRIBBLE

ADDRESS: 21101 YORK ROAD
PARKTON, MD 21120

PHONE No.: 410-812-9860

DEED REFERENCE: 25013/533

PROPERTY TAX ACCT. No.: 07-03-000528

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

#21015 YORK ROAD

7TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

BALTIMORE COUNTY, MARYLAND

DATE: APRIL 29, 2008



5/15/08
GEOFFREY C. SCHULTZ
DATE
MARYLAND REG. No. 21154

McKEE & ASSOCIATES, INC.
Engineering - Land Planning - Land Surveying

Natural Resource Planning - Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

COMPUTED BY: DRAWN BY: JDG CHECKED BY: JDG JOB No.: 07-149

PETITIONER'S

EXHIBIT NO. 1

0537-8P+