

9/24/10

IN THE
MATTER OF
PSA FINANCIAL, INC.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. : 03-C-09-14647

* * * * *

MEMORANDUM OPINION AND ORDER

This matter came before the Court on an appeal from the Baltimore County Board of Appeals. Petitioner, PSA Financial, Inc., filed a timely appeal, and a hearing was held on September 8, 2010. For the reasons stated in open court and set forth herein, the decision of the Baltimore County Board of Appeals shall be affirmed.

PROCEDURAL HISTORY

Petitioner, PSA Financial, Inc., filed an original petition for a sign variance from Baltimore County Zoning Regulation § 450.4.I.5(d) to allow two illuminated signs on the multi-tenant office building located at 11311 McCormick Road in Hunt Valley, Maryland. Zoning Commissioner, William Wiseman, found that Petitioner satisfied the variance test and granted the order for variance on September 16, 2008.

Respondent, People's Counsel for Baltimore County, filed an appeal to the Baltimore County Board of Appeals from Commissioner Wiseman's Order. People's Counsel contended that Petitioner intended to attach an enterprise sign¹ on the building at 11311 McCormick Road, which is outside the scope of the zoning regulations. The Baltimore County Board of Appeals

¹ An enterprise sign, defined in the Table of Sign Regulations, is an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization. Baltimore County Zoning Regulations § 450.4 Attachment 1:5.

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concluded by a 2-1 majority that the proposed enterprise sign did not meet the Baltimore County Zoning Requirements and therefore denied the variance.

FACTUAL HISTORY

11311 McCormick Road is a five story multi-tenant office building located in Hunt Valley, Maryland. PSA Financial, Inc.² (hereinafter PSA) is one of the tenants of that building and leases the entire fifth floor.³ Clients and visitors of PSA enter and exit the building through one of the four common building entrances on the ground floor, as do all other visitors to the other entities throughout the building.

STANDARD OF REVIEW

For appellate review of a decision of the local zoning body, such as the County Board of Appeals, the Court will directly evaluate the agency decision and apply the same standards of review as the intermediate appellate court. *Armstrong, et al. v. Mayor and City Council of Baltimore, et al.*, 410 Md. 426, 443 (2009). The Court's function is not to substitute their assessment of the facts for those of the Board, but merely to evaluate whether the evidence before the Board was "fairly debatable." *Id.*

The Circuit Court's scope of review of a decision of an administrative agency is narrow, recognizing that the agency has expertise in a particular area and ordinarily should be free to exercise its discretion as such. *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 395 (1979). The Court must affirm a decision on the facts if it is supported by "substantial evidence." *Armstrong*, 410 at 443. A conclusion by the County Board of Appeals satisfies the substantial evidence test if "a reasonable mind might accept as adequate the evidence supporting it." *Id.*

² PSA provides insurance, financial, and employee benefits services.

³ PSA has a 12 year lease that commenced on May 1, 2008.

ANALYSIS

This appeal hinges on the interpretation of the Table of Signs Regulations § 450.4 of the Baltimore County Zoning Regulations. Subsection III.5(a) excludes enterprise type signs from being placed on a multi-tenant office building. Subsection III.5(d) is the exception, allowing for an enterprise sign that may be wall-mounted or a canopy if there is a “separate commercial entity with exterior customer entrance.”

For statutory interpretation, Courts avoid constructions that are “illogical, unreasonable, or inconsistent with common sense” and rather interpret and harmonize the statutes as a whole, giving meaning and effect to all parts of the statutory language and refraining from interpretations that render any part of a law surplusage or contradictory. *Trinity Assembly of God v. People’s Counsel for Baltimore County*, 407 Md. 53 (2008).

Petitioner argued that the only reasonable interpretation of § 450.4.III.5(d) is that tenants who lease in a multi-tenant building with a common entrance possess the requisite customer entrance so as to be permitted to erect one canopy and one wall-mounted sign. Petitioner based this argument upon the opinion of both Baltimore County’s County Attorney and Zoning Commissioner William Wiseman. PSA contended that there is no language in the regulation requiring an “exclusive” entrance and claimed that PSA has a separate exterior entrance that is shared by other tenants in the building.

People’s Counsel countered that based upon the plain language of this regulation, enterprise signs are excluded on multi-tenant office buildings with a limited exception. The only exception for an enterprise sign on a multi-tenant office building is for an entity with a separate exterior customer entrance, which PSA does not have. Respondent offered that a reasonable explanation for this particular zoning regulation is that the County Council did not allow for

enterprise signs for every tenant of a multi-tenant office building because it would lead to signage clutter.

Based upon the plain language of Baltimore County Zoning Regulation §450.4.III.5(d), a “separate entrance” implies something other than a common entrance. The multi-tenant office building at 11311 McCormick Road has four common entrances which PSA shares with the other tenants in the building. PSA does not have its own, separate entrance. Petitioner’s argument that PSA has a “separate” but not “exclusive” entrance and as such is entitled to an enterprise sign is an unreasonable interpretation of this regulation. If that were the case, virtually every tenant in a multi-tenant office building would be deemed to have a “separate” entrance and the limitations on enterprise signs would be rendered meaningless.

The clear intent for the exception of an enterprise sign is for an entity in a multi-tenant office building that has a separate entrance used as ingress and egress for their own carved out space in the building, such as a bank or restaurant on the ground floor of the building. The Baltimore County Board of Appeals properly interpreted this regulation and concluded that PSA did not meet the regulatory requirements for an enterprise sign. There was substantial evidence in the record to support this finding. Therefore, denial of the variance by the Baltimore County Board of Appeals was proper based upon the substantial evidence before it.

CONCLUSION

For the reasons stated herein and in open court on September 8, 2010, the decision of the County Board of Appeals shall be affirmed.

_____ *alr/10*
Date

_____ *Kathleen Gallogly Cox*
Kathleen Gallogly Cox
Judge

Clerk: ✓ Please send copies to all parties.

IN THE
MATTER OF
PSA FINANCIAL, INC.

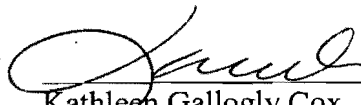
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* Case No. : 03-C-09-14647

* * * * *

JUDGMENT ORDER

For the reasons stated in this Court's Memorandum Opinion dated September 24, 2010,
the decisions of the Baltimore County Board of Appeals dated August 5, 2009 are AFFIRMED.

9/24/10
Date


Kathleen Gallogly Cox
Judge

Clerk: Please send copies to:

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✓ Peter Zimmerman
People's Counsel for Baltimore County
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Hunt Valley 75 linked Partnership
County Board of Appeals

FILED OCT 01 2010

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4/26/10

PETITION OF: PSA FINANCIAL, INC.
11311 McCormick Road
Hunt Valley, Maryland 21031-8622

* IN THE CIRCUIT COURT
* FOR
* BALTIMORE COUNTY

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF BALTIMORE
COUNTY

* CIVIL ACTION NO: 03-C-09-014647

Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

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IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic District

*
* BALTIMORE COUNTY
* BOARD OF APPEALS

Case No.: 08-582-A
Before the County Board of Appeals

*
*
*

* * * * *

REPLY MEMORANDUM IN SUPPORT OF PETITION FOR JUDICIAL REVIEW

PSA Financial, Inc. ("PSA"), Lessee of the leasehold space in the property known as 11311 McCormick Road, which is owned by Hunt Valley 75 Limited Partnership, by its undersigned counsel, pursuant to Maryland Rule 7-202, et seq., hereby files this Reply Memorandum of Law in Support of its Petition for Judicial Review.

I. SEPARATE NOT EXCLUSIVE

In its Memorandum in Support of the Petition, PSA analyzed the nine provisions of Baltimore County Zoning Regulations ("BCZR") Section 405.4 I.5(d), which controls the use of signs at the Subject Property. See Petitioner's Memorandum 9-10. People's Counsel's only objection to PSA's meeting this regulation is that PSA does not have "separate exterior customer

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entrances.” PSA does have a separate exterior entrance; it is shared by other tenants in the building, and no others. “Separate” yes, “exclusive” no. People’s Counsel asserts that “the core problem with Petitioners’ [sic] position is that it conflates ‘separate’ and ‘common’ entrances, as if they were the same or equivalent.” See Respondent’s Memorandum 23. PSA does not contend that separate and common are the same or equivalent. PSA asserts that “separate” and “exclusive” are not the same or equivalent. People’s Counsel provided the definitions of separate and common but failed to include the definition of exclusive. The relevant excerpt of the definition of “exclusive” from the website of the Merriam-Webster online dictionary is:

1 a : excluding or having power to exclude b : limiting or limited to possession, control, or use by a single individual or group

2 a : excluding others from participation b : snobbishly aloof

3 a : accepting or soliciting only a socially restricted patronage (as of the upper class) b : STYLISH, FASHIONABLE c : restricted in distribution, use, or appeal because of expense

4 a : SINGLE, SOLE <exclusive jurisdiction> b : WHOLE, UNDIVIDED <his exclusive attention>

Despite People’s Counsel’s argument that “exclusive” customer entrances are required, there is no such directive in the Table of Sign Regulations.

Zoning Commissioner William Wiseman, Assistant County Attorney Adam Rosenblatt and Board of Appeals member Lawrence M. Stahl agreed with the distinction between “separate” and “exclusive”. Commissioner Wiseman stated in his Findings of Fact and Conclusions of Law that PSA is a “separate commercial entity” and “testimony was offered that there are four (4) separate entrances, one on each face of the commercial structure.” A copy of the Opinion of the Zoning Commissioner is attached to PSA’s Memorandum as Exhibit “H”. David S. Iannucci, Director of Baltimore County’s Office of Economic Development, drafted a

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letter dated November 17, 2008 to the Baltimore County Office of Law requesting¹ a legal interpretation of BCZR Section 450. Mr. Rosenblatt, Assistant County Attorney, found that Commissioner Wiseman had correctly interpreted BCZR Section 450.4.I.5(d). His letter to Mr. Iannucci states,

“[t]he section permits tenants who lease common area entrance space to maintain enterprise signs in accordance with the Table of Sign Regulations ... the Table cannot be read to limit signage to entities with *exclusively* owned exterior custom entrances. If the regulation were read in that manner, as suggested by the Office of the People’s Counsel on appeal, the regulation would essentially prevent any signage from ever being erected on a multi-tenant, retail or industrial building -- the type of structures specifically enumerated in § 450.4.III.5(d).” A copy of the County Attorney’s letter is attached as Exhibit “G”.

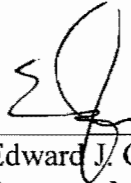
In a dissenting opinion, Mr. Stahl, the Board’s Chairman, disagreed with the Majority’s interpretation of BCZR Section 450. He stated “[t]he Majority has determined that the language of the statute requires that ‘each entity within the multi-tenant office building must have an exterior entrance for the customers, separate from the rest of the tenants.’” Mr. Stahl adopted the interpretation of Commissioner Wiseman and the Baltimore County Office of Law. Furthermore, he concluded that “if the intent of the law was to limit the availability of the subject requested signage only to entities with ‘exclusive’ rather than common entrances, the County Council could easily have stated as much in the applicable code section.” A copy of the Dissenting Opinion by Lawrence M. Stahl is attached to PSA’s Memorandum as Exhibit “I”.

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¹ People’s Counsel contends that PSA requested the Baltimore County Office of Law to interpret BCZR Section 450.4.I.5(d). Mr. Iannucci made a request to the Baltimore County Office of Law. People’s Counsel also argues that PSA changed the nature of its petition by requesting a legal interpretation “that tenants in multi-tenant office buildings with common entrances are entitled to wall-mounted enterprise signs as a matter of right.” See Respondent’s Memorandum 22. The Board’s Majority Opinion denied PSA’s requested relief based on its interpretation of BCZR Section 450.4.I.5(d). PSA has continued to address this issue, but did not change the nature of its petition.

structure ("flex space") should be allowed two enterprise signs, while an office tenant in a multiple story non-canopied structure should be allowed no enterprise signs.

WHEREFORE, PSA Financial Inc., requests that the Court reverse the Board of Appeals' decision and direct that permits be issued for two enterprise signs to be erected on the Subject Property.



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PETITION OF: PSA FINANCIAL, INC.
11311 McCormick Road
Hunt Valley, Maryland 21031-8622

* IN THE CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CIVIL ACTION NO: 03-C-09-014647

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF BALTIMORE
COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic District

Case No.: 08-582-A
Before the County Board of Appeals

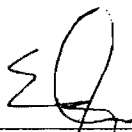
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of April, 2010, a copy of the foregoing Reply Memorandum in Support of Petition for Judicial Review was mailed, postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

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3/10/10

PETITION OF: PSA FINANCIAL, INC.
11311 McCormick Road
Hunt Valley, Maryland 21031-8622

* IN THE CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* CIVIL ACTION NO: 03-C-09-014647

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IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic District

Case No.: 08-582-A
Before the County Board of Appeals

* * * * *

MEMORANDUM IN SUPPORT OF PETITION FOR JUDICIAL REVIEW

PSA Financial, Inc. ("PSA"), Lessee of the leasehold space in the property known as 11311 McCormick Road, which is owned by Hunt Valley 75 Limited Partnership, by its undersigned counsel, pursuant to Maryland Rule 7-202, et seq., hereby files this Memorandum of Law in Support of its Petition for Judicial Review. Judicial Review is sought of the November 6, 2009 decision of the County Board of Appeals of Baltimore County (which confirmed its August 5, 2009 decision) concerning the Petition for Variance so as to allow two wall-mounted enterprise signs to be erected on 11311 McCormick Road.

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**BALTIMORE COUNTY
BOARD OF APPEALS**

I. PRIOR PROCEEDINGS

This matter came before the County Board of Appeals of Baltimore County (the "Board") on a *de novo* appeal from the Baltimore County Zoning Commissioner, William Wiseman, III. On September 16, 2008, Commissioner Wiseman issued a decision granting PSA a variance from Section 450.4.I.5(d) of the Baltimore County Zoning Regulations ("BCZR") to place two signs on 11311 McCormick Road. The Office of the People's Counsel (the "People's Counsel") appealed the Zoning Commissioner's decision to the Board. A two-day public hearing was held on March 5, 2009 and April 1, 2009 and a public deliberation was held on May 20, 2009. On August 5, 2009, the Board issued a majority opinion denying PSA's request for a variance from BCZR Section 450.4.I.5(d). On August 20, 2009, People's Counsel filed a Motion for Reconsideration on the basis that the Board's Majority Opinion conflicted with the Board's decision made in public deliberation, the State Open Meetings Law, and the law governing signs. On September 2, 2009, PSA filed a Response to People's Counsel's Motion for Reconsideration. The Board considered the Motion for Reconsideration and the Response to the Motion for Reconsideration and held a public deliberation on October 1, 2009. The Board confirmed its decision on November 6, 2009.

II. QUESTIONS PRESENTED

- A. Was the Board's Majority Opinion Arbitrary and Capricious?**
- B. Was the Board's Majority Opinion Unsupported by Substantial Evidence?**

III. STATEMENT OF FACTS

PSA is the tenant of the entire fifth floor of 11311 McCormick Road (the "Subject Property") in Hunt Valley, Maryland. Hunt Valley 75 Limited Partnership is the legal owner of the Subject Property. The Property is a part of the Corporate Office Properties Trust ("COPT")

properties. The Subject Property is a multi-tenant five-story office building located in The Hunt Valley Office Park, 8th Election District; 3rd Councilmanic District. (3/05/09 Tr. at 7).¹ The Subject Property contains approximately 9.281 acres and is zoned ML-IM (Manufacturing-Light, Industrial-Major). PSA employs over one-hundred and eighty (180) white collar professionals. PSA has over fifteen thousand (15,000) clients (businesses and individuals) for whom it provides a broad array of services and advice, including insurance, financial planning and employee benefits. (3/05/09 Tr. at 17, 19). On a daily basis, PSA has a regular and substantial stream of visitors and guests. On some days the number of visitors is in the hundreds. (3/05/09 Tr. at 20). There are seven (7) conference rooms and two (2) training facilities in the leasehold space. The Subject Property is located about two hundred and seventy-five (275) feet off of McCormick Road. (3/05/09 Tr. at 26). Currently, there is no joint identification sign to mark the Subject Property or identify its tenants. (4/01/09 Tr. at 118).

PSA has leased the entire fifth floor of the Subject Property since May 1, 2008; the fifth floor is the top floor of the building. (3/05/09 Tr. at 18). PSA's lease is for a term of twelve (12) years. (3/05/09 Tr. at 21). There is a penthouse/mechanical room above the fifth floor. (3/05/09 Tr. at 76). PSA has twenty-four hour, seven days per week access to the building through the main first floor entrance (including the north and west faces) and it leases (with other tenants) the common areas in the building, including the first floor lobby, the stairwells, and the elevators. Those stairwells and elevators provide PSA with access to its fifth floor leasehold space. (3/05/09 Tr. at 23-24).

On June 20, 2008, PSA filed a Petition for Variance from BCZR Section 450.4.I.5(d). A copy of the Petition is attached as Exhibit "A." That Petition sought permission to place two

¹ All transcript references are to either the March 5, 2009 proceeding ("3/05/09") or to the April 1, 2009 proceeding ("4/01/09"), both before the County Board of Appeals, and both transcripts being a part of this Court record.

enterprise² signs on the Subject Property, one on the north face of the structure with a size of 194.83 sq. ft.³, and the other on the west face of the structure with a size of 226.25 sq. ft. (3/05/09 Tr. at 114, 123). The proposed enterprise signs would state: "PSA Insurance & Financial Services." (3/05/09 Tr. at 107). The Petition stated: "Although signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse level, directly above the applicant's leasehold space."

The summary of this dispute is that PSA asserts that it is entitled to place "enterprise" signs on the Subject Property. People's Counsel contended that only "joint identification"⁴ signs are permitted because PSA does not have an "exclusive entrance" and does not meet the BCZR requirements for an enterprise sign. The Board's Majority Decision opined that "there is no question that PSA has the right to erect two (2) wall-mounted signs on the north and west side of the building they occupy at 11311 McCormick Drive. That right was extended to them in their Lease as a non-exclusive right by Corporate Office Properties." A copy of the Board's Majority Opinion dated August 5, 2009 is attached as Exhibit "C." A copy of the Board's November 6, 2009 confirming Opinion is attached as Exhibit "D". Although the Board concluded that the PSA would have the authority to install the signs at the penthouse/mechanical level, the Board denied the variance requested by PSA to install two (2) enterprise signs on the Subject Property.

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² "Enterprise" signs are defined in the Table of Sign Regulations (BCZR § 450.4 Attachment 1:1(5)) as follows: "Enterprise [sign], meaning an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization." A copy of the proposed enterprise sign is attached as Exhibit "B". (4/01/09 Tr. at 94).

³ Signs are measured by drawing an imaginary rectangle around the proposed sign using its widest and tallest points, and measuring the square footage of the imaginary box. Hence, signs are often smaller than the assigned square footage. In this instance, the actual sign area is substantially smaller than Baltimore County's "imaginary box" square footage, as evidenced by PSA's Exhibit "B".

⁴ "Joint Identification" signs are defined in the Table of Sign Regulations (BCZR § 450.4 Attachment 1:1(7)) as follows: "Joint Identification [sign], meaning an accessory sign displaying the identity of a multi-occupant non-residential development such as a shopping center, office building or office park."

IV. STANDARD OF REVIEW

A Circuit Court's scope of review of a decision of an administrative agency is narrow, recognizing that the agency has expertise in a particular area and ordinarily should be free to exercise its discretion as such. *Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 395, 396 A.2d 1080, 1087 (1979), citing *Finney v. Halle*, 241 Md. 224, 241, 216 A.2d 530, 539 (1966). "Accordingly, this [C]ourt adheres to the proposition that a reviewing court will not substitute its judgment for that of an administrative board where the issue is fairly debatable and the record contains substantial evidence supporting the administrative decision." *Annapolis, supra* at 395, 296 A.2d at 1087. "Fairly debatable" is defined as "whether [the administrative body's] determinations is [sic] based upon evidence from which reasonable persons could come to different conclusions." *Rogers v. Eastport Yachting Center, LLC*, 408 Md. 722, 727, 971 A.2d 322, 325 (2008).

The administrative agency must have substantial evidence in the record supporting its decision. *Id.* In this context, substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Caucus Distributors, Inc. v. Maryland Securities Comm'n*, 320 Md. 313, 324, 577 A.2d 783, 788 (1990). If the agency's decision is not supported by substantial evidence or "where the agency draws impermissible or unreasonable inferences and conclusions from undisputed evidence," then the agency's decision is owed no deference from the reviewing court. *Rogers, supra* at 727, 971 A.2d at 325. If the decision of an administrative agency is based upon an error of law, such decisions are due no deference. *Id.*

Pursuant to State Government Article, Section 10-222(h)(3), a reviewing court may reverse or modify an administrative decision only if a substantial right of the Petitioner has been prejudiced because "a finding, conclusion or decision of the agency: (i) is unconstitutional; (ii) exceeds the statutory authority or jurisdiction of the agency; (iii) results from an unlawful procedure; (iv) is affected by any other error of law; (v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or (vi) is arbitrary or capricious."

V. ARGUMENT

This appeal is taken from the Board's interpretation of the BCZR requirements for an enterprise sign and from the Board's denial of PSA's request for a variance. As such, the Board of Appeals' erroneous interpretation of Baltimore County regulations is entitled to no deference by the Circuit Court in reviewing this appeal.

A. Board's Majority Opinion Interpretation of BCZR Section 450.4.VI.5(d) Was Arbitrary and Capricious and Should Be Reversed.

PSA asserts that it is permitted, as of right, to erect two (2) enterprise signs on the Subject Property. People's Counsel in essence contends that BCZR Section 450.4(A) precludes the use of enterprise signs. That section, in part, states: "For any sign that meets the definition of more than one class, the more restrictive class will control."

Signs are important business tools. BCZR Sections 450.1(A) and (B) reflect this fact. "Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community." *Id.* (3/05/09 Tr. at 7). PSA is a business, not a property owner. PSA needs and is entitled to enterprise signs, advertising its presence. PSA was given a non-exclusive right in its Lease to install two exterior back lit or internally lit signs on the Subject Property. A copy of the relevant

portion of PSA's Lease is attached as Exhibit "E." COPT's representative, John Hermann, wrote a letter on behalf of the landlord in support of PSA's signage request; a copy of the letter was introduced as an exhibit in the proceedings before the Board. A copy of Mr. Hermann's letter dated, September 11, 2008 is attached as Exhibit "F." (3/05/09 Tr. at 35-36).

In prior proceedings, two members of the community testified in support of PSA's request for a variance. Richard Cobert, a representative of Baltimore County's Department of Economic Development, testified before the Board. He stated that Baltimore County Government supports PSA's application and that the signage is attractive and consistent with the existing signage in the business community. Mr. Cobert testified that PSA is part of a burgeoning area of Financial, Investment, and Real Estate ("FIRE") businesses in the Hunt Valley area. (3/05/09 Tr. at 160-163). Mary Ellen Morrison, Executive Director of the Hunt Valley Business Forum a business group of over 100 local businesses, testified that the Forum also supported the proposed signs. (3/05/09 Tr. at 86-89).

People's Counsel maintains that PSA's request for a variance does not satisfy the Table of Sign Regulations (the "Table") as it is applied to enterprise signs. Pursuant to BCZR Section 450.4.VI.5(d), "an entity with separate exterior customer entrance may erect one canopy⁵ and one wall-mounted sign." Despite the clear language of this regulation, People's Counsel claims that PSA should be required to have an "exclusive" exterior customer entrance. People's Counsel's interpretation of Subsection (d)(VI) fails to properly interpret the Regulation's term: "separate exterior customer entrance." Baltimore County's County Attorney and the Zoning Commissioner agreed that the only reasonable interpretation of BCZR Section 450.4.VI.5(d)(VI) is that tenants who lease a common entrance into a multi-tenant office building possess the

⁵ "Canopy" signs are defined in BCZR § 450.5(B)(3) as follows: "a fixed, roof-like structure, other than an awning, which projects from a wall of a building and extends along a majority of the wall's length to provide shelter over an entrance or walkway." (3/05/09 Tr. 11)

requisite customer entrance so as to be permitted to erect one canopy and one wall-mounted sign. (3/05/09 Tr. at 12-13, 168, 195). Copies of the County Attorney's letter and the Opinion of the Zoning Commissioner are attached as Exhibits "G" and "H." People's Counsel offered no contrary authority. It is herein asserted there may be no better authority than the opinion of the County Attorney, as that office is tasked by County Charter with representing the Baltimore County Council which, in turn, creates the Regulations about which this matter is concerned.

If this regulation is interpreted as suggested by the Board, so as to require an "exclusive customer entrance," it would effectively prohibit all signage from being erected on a multi-tenant, retail or industrial building. People's Counsel's and the Board's interpretation is both unfair and illogical, as the County Attorney has opined, and would directly conflict with BCZR 450.1(A)-(B). Board of Appeals' Chairman, Lawrence M. Stahl wrote a Dissenting Opinion which addressed this issue. Mr. Stahl relied on the interpretation of County Attorney and the Zoning Commissioner. He concluded that "if the intent of the law was to limit the availability of the subject requested signage only to entities with 'exclusive' rather than common entrances, the County Council could easily have stated as much in the applicable code section." A copy of the Dissenting Opinion by Lawrence M. Stahl is attached as Exhibit "I." PSA does have a "separate exterior entrance"; it is shared by other tenants in the building, and no others. "Separate" yes, "exclusive" no.

People's Counsel's theory, as apparently adopted by the Board, would result in the patently unfair situation where an office tenant in a one-story "flex space" structure with a canopied entrance would be allowed two enterprise signs, while an office tenant (such as PSA) in a multiple story structure without canopies (such as 11311 McCormick Road) would be allowed zero enterprise signs.

An analysis of the "enterprise sign" provisions of the BCZR confirms that PSA is entitled, as of right, to erect enterprise signs. BCZR Section 405.4 I.5(d) controls the use of signs at the Subject Property. The Sign Regulations have nine (I through IX) categories. Each will be described below, *seriatim*. A copy of the relevant portion of the "Sign Table" is attached as Exhibit "J."

I. This column merely references enterprise signs which are defined as: "an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization." Surely, there can be no dispute that the proposed PSA sign satisfies the definition of an "enterprise" sign inasmuch as it displays the identity of PSA and otherwise advertises its "insurance and financial services." (PSA makes great effort to brand itself as "PSA Insurance and Financial Services".)

II. This column, at Subsection (d), permits wall-mounted and canopy signs. Again, there can be no dispute that proposed signs are to be wall-mounted. Further, the uncontroverted testimony is that there are no canopies on the building.

III. This column describes "zones or uses." Again, it is undisputed that the Subject Property is a multi-tenant office building. Further still, there can be no dispute that PSA is a "separate commercial entity" with an "exterior customer entrance." Without an "exterior customer entrance," PSA would be unable to access the structure and its leasehold space.

IV. This column describes the permits required before a sign can be erected. A use permit is required.

V. This column describes the maximum area of the face of the sign. It states that the sign may be "two times the length of the wall containing the exterior entrance." As previously described, the proposed signs are well within the sizes permitted based upon the

length of the walls. Further, since PSA leases the entire footprint of the fifth floor, it is entitled to a sign which is based upon the entire width. Regardless, PSA seeks signs which are less than fifty percent (50%) of the permitted sign sizes.

VI. This column describes the maximum number of signs permitted. It states that: "An entity with separate exterior customer" may erect one canopy sign and one wall-mounted sign. Since PSA has "separate exterior customer entrances", it is entitled to one wall-mounted sign on each face and one canopy sign on each face. Despite People's Counsel's argument that "exclusive" customer entrances are required, there is no such language in the Table of Sign Regulations.

VII. This column has to do with height of signs. As the testimony in prior proceedings made clear, there is no height limitation applicable to a multi-story, multi-tenant office building. BCZR Section 450.4(G) confirms that this column's height limitations apply only to free-standing signs.

VIII. This column concerns illumination and confirms that the signs sought by PSA are permitted to be illuminated.

IX. This column concerns "additional limitations" but, in this instance, there are none since 11311 McCormick Road is in an ML zone, not a B.C. (Business Community) zone.

The above analysis makes clear that PSA is entitled, as of right, to the signs it seeks. This Court may conclude, as did the Zoning Commissioner, that the Department of Permits and Development Management improvidently refused to issue permits and that no variances or other forms of relief are required.

B. The Board's Decision to Deny the Variance Is Unsupported by Substantial Evidence and Should Be Reversed.

In Baltimore County, the Zoning Commissioner and the Board have the power to grant a variance “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.” BCZR § 307.1. The Board never analyzed whether the Subject Property was unique or peculiar. The Board’s Majority Opinion stated “there was no testimony or exhibits presented at the hearing to dispute the Petitioner’s authority to install the signs at [the penthouse/mechanical] level, so the fact that whether the building is unique or not is immaterial.” See Exhibit “C.” Since the Board had nothing before it to challenge PSA’s assertion, the Board must grant the variance. Therefore, the Board’s denial of the variance is unsupported by substantial evidence in the record.

To grant a variance, the zoning body must complete a two-step inquiry. See *Trinity Assembly of God v. People’s Counsel*, 178 Md. App. 232, 246, 941 A.2d 560, 568 (2008). First, there must be a determination of “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.” *Id.* If the zoning body concludes that the subject property is unique or peculiar, then there must be a determination of “whether an unreasonable hardship results from the disproportionate impact of the ordinance.” *Id.*

To the extent that this Court determines that a variance is required, PSA satisfied the two-step variance test and proved that the Subject Property is unique and that without the variance, PSA would be disproportionately impacted. PSA requested a variance in order to have two wall-mounted signs instead of the authorized canopy sign and wall-mounted sign. The

special circumstance that exists is there is no canopy around the commercial structure on which a canopy sign might be erected. Both PSA's president, Chip Lewis, and the People's Counsel expert, James S. Patton, testified before the Board that there are no canopies on the building as that term is defined in BCZR § 450.5(B)(3). (3/05/09 Tr. at 11, 24-25, 4/01/09 Tr. at 88). Therefore, PSA is unable to erect a canopy sign. If this Court grants a variance, PSA would be on equal footing with other tenants with canopied structures, who are authorized to have one wall-mounted sign and one canopy sign.

PSA needed to prove only that a "practical difficulty" existed to be entitled to relief. "A variance from sign regulations is deemed to be an 'area' variance, the impact of which is viewed as being much less drastic than that of a 'use' variance," so there is a lesser standard of proof. *Red Roof Inns, Inc. v. People's Counsel for Baltimore County*, 96 Md. App. 219, 224-25, 624 A.2d 1281, 1284 (1993). The three criteria for "practical difficulty" are: (1) "whether compliance with the strict letter of the restrictions governing area, set-backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome," (2) "whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners," and (3) "whether relief can be granted in such fashion that the spirit of the ordinance will be observed and the public safety and welfare secured." *Id.* at 226, 624 A.2d at 1284, quoting *Anderson v. Board of Appeals*, 22 Md. App. 28, 39, 322 A.2d 220, 226 (1974).

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PSA explained the “practical difficulty” confronted by following BCZR Section 450.4.VI.5(d) with strict compliance. The building is “hidden” in many respects due to landscaping and mature trees which mask the perimeter of the five-story building, as well as a second set of trees that almost completely obscure the bottom two floors of the building. The building is located behind the Bank of America structures, which are located at the corner of Shawan Road and McCormick Road. PSA’s visitors and clients have commented on the fact that it is difficult to locate the building. (3/05/09 Tr. at 25-28). The proposed locations of the signs and ground view perspectives confirm the fact that signage will benefit PSA in advertising its business and location. (3/05/09 Tr. at 34-36). Copies of the proposed locations and ground view perspectives are attached as Exhibits “K” through “O.” Without the variance, PSA would be in a disadvantageous position in that it would be unable to advertise its business in the same manner as other businesses. If PSA is barred from placing a wall-mounted signs on the building, the zoning regulations will have a negative impact on the Subject Property in comparison to structures with canopies, which are permitted to erect two (2) signs. *See Trinity Assembly of God, supra* at 246, 941 A.2d at 568. If a variance is granted to erect two (2) enterprise signs, then PSA will be granted substantial relief and will maintain the spirit of BCZR Section 450.4.VI.5(d).

To the extent that the Board believes that a variance is required in order to erect a wall-mounted sign at the penthouse/mechanical level, PSA contends that the proposed signs are not “roof signs⁶” as defined in BCZR Section 450.5(B)(7). The proposed sign will not be erected on the roof of the building. (3/05/09 Tr. at 122). Instead, a variance would be required from the provisions of BCZR Section 450.5(B)(9)(b), which relate to wall-mounted signs. The

⁶ “Roof” signs are defined in BCZR § 450.5(B)(7) as follows: “roof sign: a sign erected upon the roof of a building.”

penthouse/mechanical level is an appropriate place to erect a wall-mounted sign because there are no eaves or parapets at that level.

VI. CONCLUSION

The Board's Majority Opinion's interpretation of BCZR section 450.4.VI.5(d) was arbitrary and capricious. The Board opined that PSA has the right to erect wall-mounted enterprise signs on the north and west faces of the Subject Property. The Board's Majority Opinion's interpretation of "separate exterior customer entrance" was at odds with the Zoning Regulations, as confirmed in the County Attorney's letter and in the Opinion of the Zoning Commissioner. Nowhere in the Zoning Regulations is such a preclusion articulated. PSA satisfies all of the Table of Sign Regulations provisions and must now be permitted to obtain use permits to erect two wall-mounted enterprise signs.

The Board's decision to deny the variance was unsupported by the substantial evidence in the record. The Board failed to conclude its analysis of whether the Subject Property was unique or peculiar with a finding of such. A variance was not required, and the Board should have so stated, as did the Zoning Commissioner.

There is no lawful reason that an office tenant in a one story, canopied structure ("flex space") should be allowed two enterprise signs, while office tenant in a multiple story non-canopied structure should be allowed no enterprise signs.

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WHEREFORE, PSA Financial Inc., requests that the Court reverse the Board of Appeals and direct that permits be issued for enterprise signs to be erected.



Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
The Royston Building, Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-1800

Attorneys for PSA Financial, Inc.

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21204-4575
410-823-1800

PETITION OF: PSA FINANCIAL, INC. * IN THE CIRCUIT COURT

11311 McCormick Road *
Hunt Valley, Maryland 21031-8622 * FOR

* BALTIMORE COUNTY

FOR JUDICIAL REVIEW OF THE * CIVIL ACTION NO: 03-C-09-014647
DECISION OF THE COUNTY *
BOARD OF APPEALS OF BALTIMORE *
COUNTY *

Old Courthouse, Room 49 *
400 Washington Avenue *
Towson, Maryland 21204 *

IN THE MATTER OF: *
Hunt Valley 75 Limited Partnership *
11311 McCormick Road *
8th Election District *
3rd Councilmanic District *

Case No.: 08-582-A *
Before the County Board of Appeals *

* * * * *

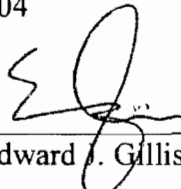
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of March, 2010, a copy of the foregoing

Memorandum in Support of Petition for Judicial Review was mailed, postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204



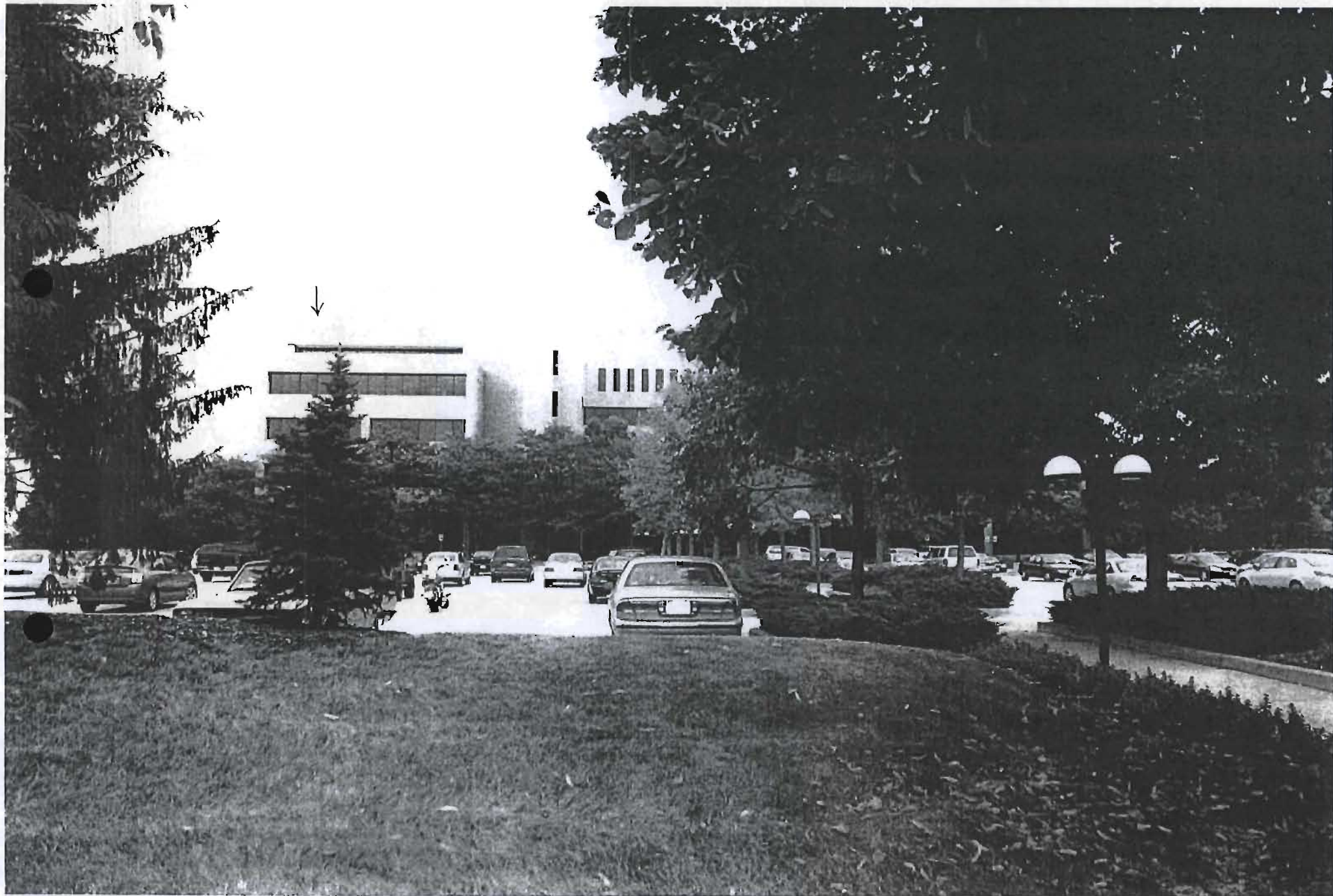
Edward J. Gilliss

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MCLEAN & REID, LLP
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BALTIMORE COUNTY ZONING REGULATIONS

I	II	III	IV	V	VI	VII	VIII	IX
Class	Structural Type	Zone or Use	Permit Required	Maximum Area/Face	Maximum No./Premises	Height	Illumination	Additional Limitations
ENTERPRISE, (cont'd)	(d) Wall-mounted; canopy	On multi-tenant office, retail or industrial building, accessory to separate commercial entity with exterior customer entrance	Use	Two times the length of the wall containing the exterior entrance and defining the space occupied by the separate commercial entity	Entity with separate exterior customer entrance may erect one canopy and one wall-mounted sign	Not applicable	Yes, but in C.B. only when use to which sign is accessory is open	In C.B., area shall not exceed 100 square feet
	(e) Service station canopy	Fuel service station	Use	25 square feet per canopy sign	Six	Not applicable	Yes	Permanent signage under the canopy on pumps or supports shall not be counted towards the canopy, freestanding or wall-mounted signage limits. Except for windows, commercial special events signs shall not be permitted on the premises.

EXHIBIT 5



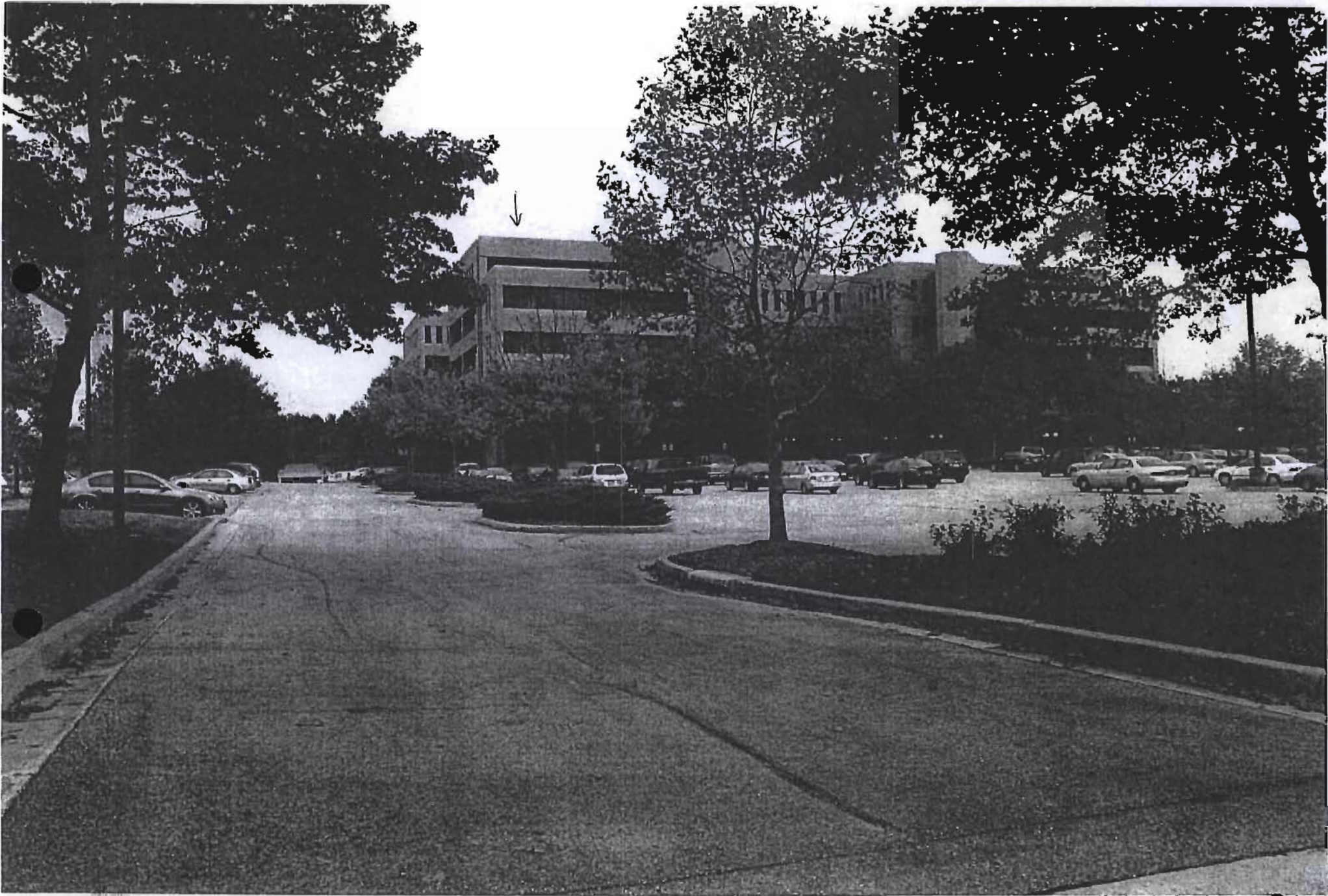
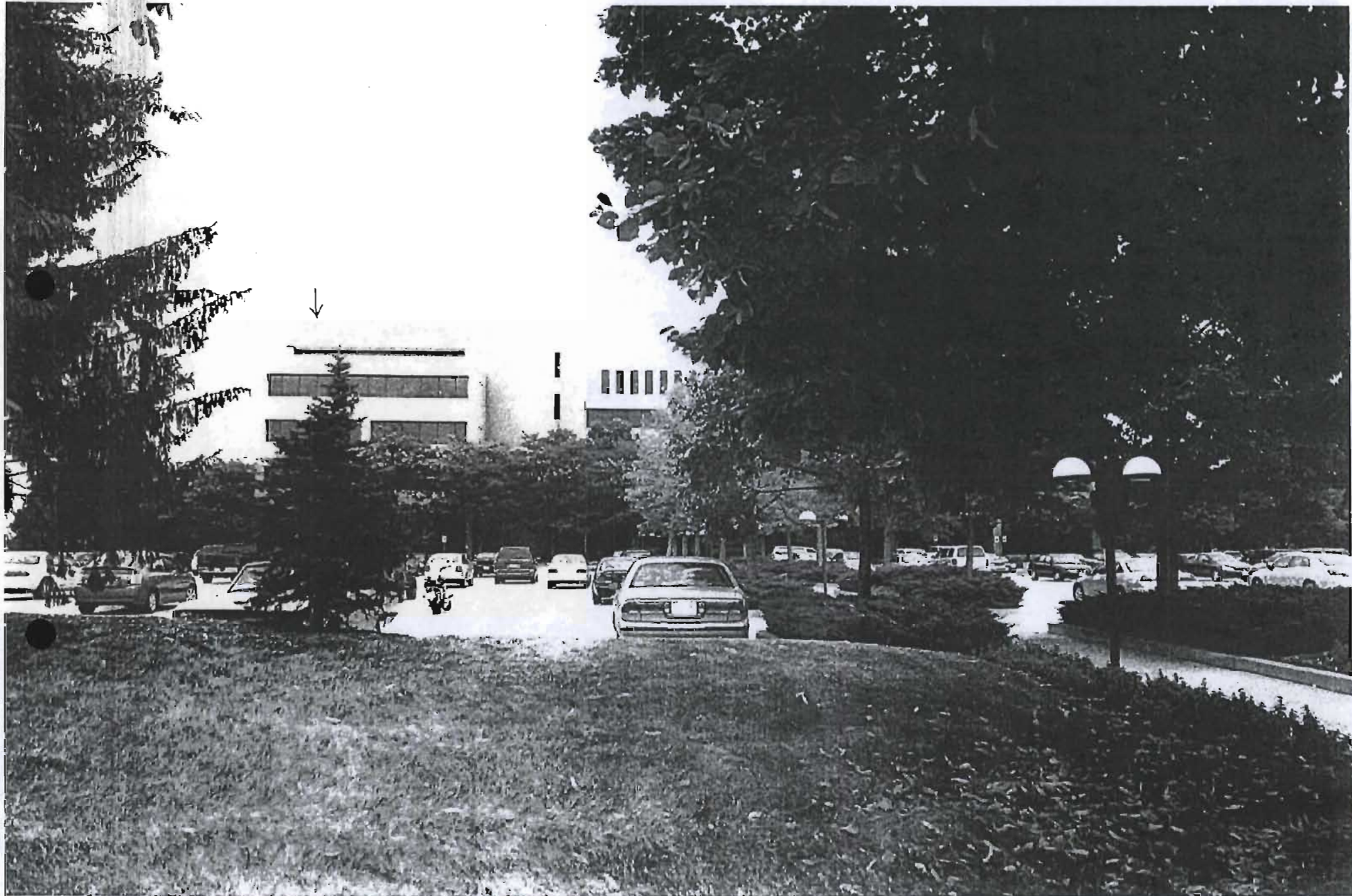


EXHIBIT L



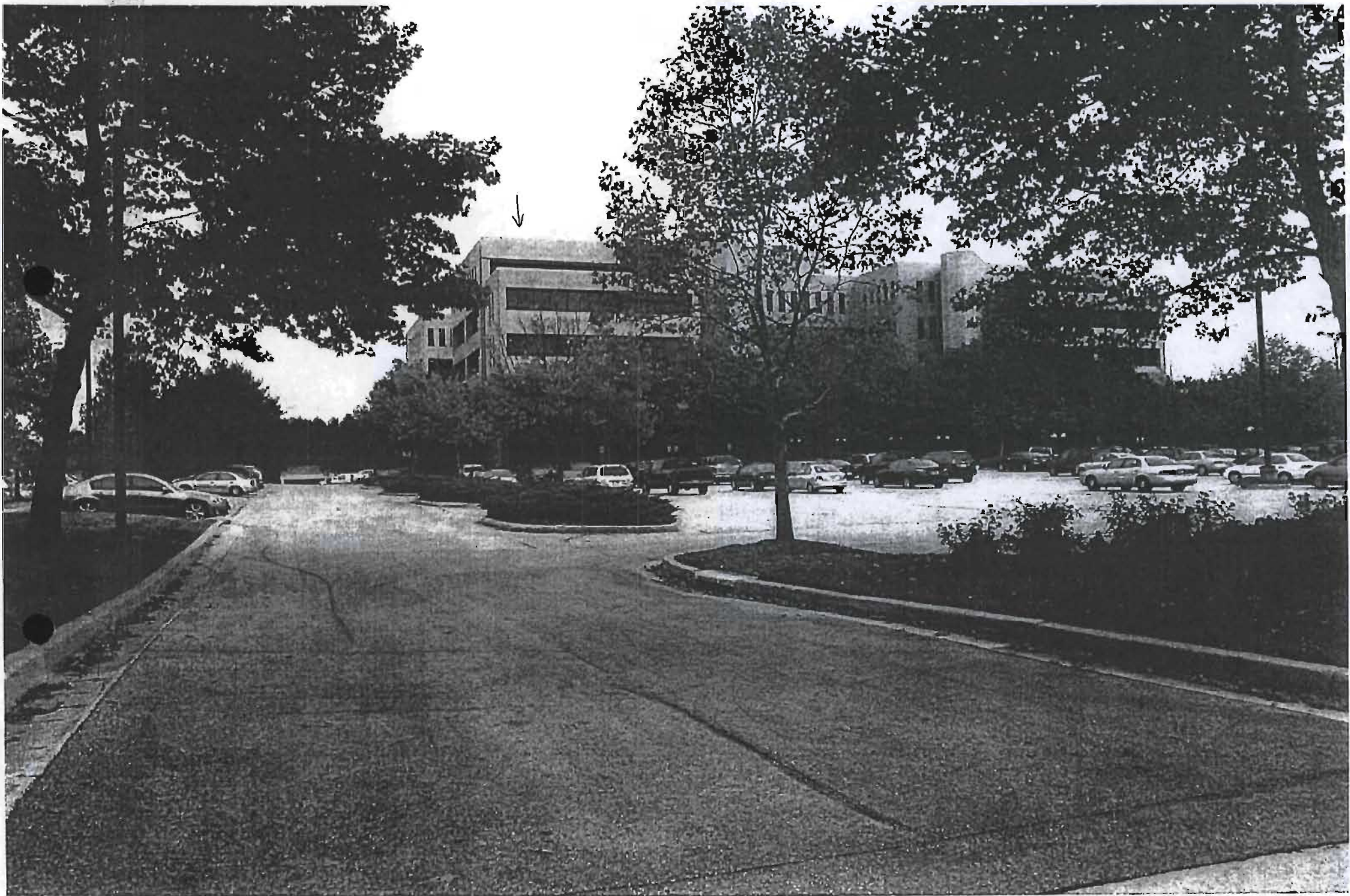


EXHIBIT N



EXHIBIT 0

2/2/10

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
PSA FINANCIAL, INC – LESSEE

CIVIL ACTION
NO.: 03-C-09-014647

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF:
HUNT VALLEY 75 LIMITED PARTNERSHIP -
LEGAL OWNERS; PSA FINANCIAL, INC. –
LESSEE, FOR VARIANCE ON PROPERTY
LOCATED ON THE S/SIDE OF MCCORMICK
ROAD, NE CORNER OF MCCORMICK AND
SCHILLING ROADS
(11311 MCCORMICK ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: **08-582-A**

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2010 FEB -2 AM 10: 23
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

* * * * *

**PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the County Board of Appeals of Baltimore County and, in answer to the
Petition for Judicial Review directed against it in this case, herewith transmits the record of
proceedings had in the above-entitled matter, consisting of the original papers on file in the
Department of Permits and Development Management and the Board of Appeals of Baltimore
County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY**

No. 08-582-A

June 20, 2008	Petition for Variance to permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with a size of 194.83 square feet and the other on the west elevation on the fifth floor with a size of 226.25 square feet, filed by Edward J. Gilliss, Esquire on behalf of PSA Financial, Inc., Petitioners.
July 15	Entry of Appearance filed by People's Counsel for Baltimore County.
August 14	Certificate of Publication in newspaper
August 7	Certificate of Posting.
August 19	ZAC Comments.
August 28	Hearing held before the Zoning Commissioner
September 16	Findings of Fact and Conclusions of Law issued by the Zoning Commissioner. Petition for Variance was GRANTED approving the both requested signs.
October 8, 2008	Notice of Appeal filed by People's Counsel for Baltimore County.
March 5, 2009	Board convened for hearing, Day #1.
April 1, 2009	Board convened for hearing, Day #2

Exhibits submitted at hearing (two days) before the Board of Appeals:

Petitioner's Exhibit No.

- 1 – Table of sign regulations from the Baltimore County Zoning Regulations (BCZR)
- 2 – Lease between Hunt Valley 75 Limited Partnership, Landlord, and PSA Financial, Inc., Tenant
- 3 – Vicinity Map of 11311 McCormick Road
- 4 – Aerial Photograph of Building
- 5 – Aerial view of the Hunt Valley Business District

- 6 – Aerial Photo from building facing north
- 7 – Aerial Photo from building facing west
- 8 – Photo of the West side of building from the parking lot.
- 9 – Photo of the building facing the North side
- 10 – Plat/Site plan for Variance.
- 11 – Two photos indicating the location of the proposed signs
- 12 – Photo of building showing location of one sign
- 13 – Letter from Corporate Office Properties Trust
- 14 – Photo showing Bank of America building with name
- 15 – Drawing (2 pages) prepared by Gable Signs of proposed signs
- 16 – Letter (memo) to PSA Financial, Inc. from Department of Economic Development. (DED)
- 17 – Letter dated 11/21/08 from Adam Rosenblatt, Assistant County Attorney to David Innucci, Director of Baltimore County Department of Economic Development.

People's Counsel Exhibit No.

- 1 – Aerial Photo of building outlined in yellow
- 2 – Photo showing one Hunt Valley sign
- 3 – Packet of Special Regulations for Signs
- 4 – A-I - Photographs
- 5 – Excerpt of Area Map
- 6 – Directional map of property
- 7 – Baltimore County Office of Planning and Zoning Official Zoning Map
- 8 – Maryland Assessments and Taxation Sheet
- 9 – (Exhibit showing Corporate Office Properties Trust Annual Report)
Internet Disc of 11311 McCormick Road MapQuest of property
(Note: 10k eliminated)
- 10 – PSA Corporate description
- 11 – Internet of other entities at 11311 McCormick Road (First two pages only)
- 12 – Resume of James S. Patton, P.E.
- 13 – Greater Timonium Community Council Resolution Rule 8 for Mr. Eric Rockel
- 14 – Letter from Louis W. Miller
- 15 – Letter from Donald Gerding
- 16 – Rule 8 papers for Nedda Evans

May 8, 2009

People's Counsel for Baltimore County's Memorandum filed by Peter M. Zimmerman and Carole S. Demilio.

May 8, 2009 Post Hearing Memorandum filed by Edward J. Gilliss, Esquire on behalf of PSA Financial, Inc., Petitioners.

May 20 Board convened for public deliberation.

August 5 Final Majority Opinion and Order issued by the Board in which the Petition for Variance was DENIED, with Dissenting Opinion by Board Member, Lawrence M. Stahl.

August 20 People's Counsel for Baltimore County's Motion for Reconsideration, Clarification and Correction filed by Peter M. Zimmerman and Carole S. Demilio.

September 3 Petitioner's Response to People's Counsel's Motion for Reconsideration filed by Edward J. Gilliss, Esquire on behalf of Petitioners.

October 1 Board convened for Public deliberation on People's Counsel for Baltimore County's Motion for Reconsideration, Clarification and Correction.

November 6 Ruling on People's Counsel for Baltimore County's Motion for Reconsideration, Clarification and Correction issued by the Board in which the Motion for Reconsideration, Clarification and Correction was DENIED; and the Petition for Variance was DENIED.

December 4 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Edward J. Gilliss, Esquire, on behalf of PSA Financial, Inc., Petitioners

December 9 Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.

December 10 Certificate of Compliance sent to all parties and interested persons.

December 10, 2009 Response to Petition for Judicial Review filed by People's Counsel for Baltimore County.

February 1, 2010 Transcript of testimony filed.

February 2, 2010 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Sunny Cannington

Sunny Cannington, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204
410-887-3180

cc: Hunt Valley 75 Limited Partnership
PSA Financial, Inc. /c/o Trevor Lewis
Warren Weaver
Donald Gerding
Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning

Justin Hoffman/PSA Financial, Inc.
Edward J. Gillis, Jr.
Mary Ellen Morrison
Nedda Evans

Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney

12/10/09

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF:
PSA FINANCIAL, INC - LESSEE

CIVIL ACTION
NO.: 03-C-09-014647

FOR JUDICIAL REVIEW OF THE OPINION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING - ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

IN THE MATTER OF :
HUNT VALLEY 75 LIMITED PARTNERSHIP -
LEGAL OWNERS; PSA FINANCIAL, INC. -
LESSEE FOR VARIANCE ON PROPERTY
LOCATED ON THE S/SIDE OF MCCORMICK
ROAD, NE CORNER OF MCCORMICK AND
SCHILLING ROADS
(11311 MCCORMICK ROAD)

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

BOARD OF APPEALS CASE NO.: 08-582-A

* * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

Hunt Valley 75 Limited Partnership
6711 Columbia Gateway Drive
Columbia MD 21046

Justin Hoffman
PSA Financial, Inc.
11311 McCormick Road
Hunt Valley, MD 21030

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CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

PSA Financial, Inc.
c/o Trevor Lewis
11311 McCormick Road
Hunt Valley, MD 21030

Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Edward J. Gillis, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave, Ste 600
Towson, MD 21204

William J. Wiseman, III, Zoning
Commissioner
The Jefferson Building, Suite 103
105 W. Chesapeake Avenue
Towson, MD 21204

Warren Weaver
7440 Ft. Smallwood Road
Baltimore, MD 21226

Arnold F. "Pat" Keller, Director
Office of Planning
The Jefferson Building, Suite 101
105 W. Chesapeake Avenue
Towson, MD 21204

Mary Ellen Morrison
P.O. Box 1322
Hunt Valley, MD 21030

Timothy Kotroco, Director
Office of Permits and Development Mgmt
County Office Building
111 W. Chesapeake Avenue, Suite 105
Towson, MD 21204

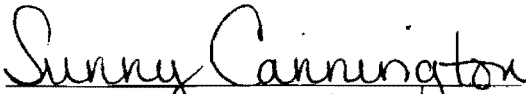
Donald Gerding
335 Old Trail Road
Baltimore, MD 21212

Nedda Evans
224 Tracey's Road
Sparks, MD 21152

John E. Beverungen, County Attorney
Office of Law
400 Washington Avenue
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 10th day of December, 2009, a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.


Sunny Cannington, Legal Secretary
County Board of Appeals
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 10, 2009

Edward J. Gillis, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave, Ste 600
Towson, MD 21204

Office of People's Counsel
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-09-014647
In the Matter of: Hunt Valley 75 Limited Partnership – Legal Owner &
PSA Financial, Inc. - Lessee
Board of Appeals Case No.: 08-582-A

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on December 4, 2009 by PSA Financial, Inc by and through their attorney, Edward J. Gilliss, Esquire, in the Circuit Court for Baltimore County from the decision of the Board of Appeals for Baltimore County rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review filed by People's Counsel within 60 days. PSA Financial, Inc by and through their attorney, Edward J. Gilliss, Esquire, having taken the appeal, are responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

The Court Reporter that must be contacted to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-837-3027
HEARING DATE: March 5, 2009 and April 1, 2009

This office has also notified Ms. Peatt that a transcript on the above matter is due for filing in the Circuit Court. A copy of the Petition for Judicial Review has been provided to the Court Reporter which will enable her to contact the responsible parties.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Sunny Cannington
Legal Secretary

Enclosure

cc: Hunt Valley 75 Limited Partnership
PSA Financial, Inc. /c/o Trevor Lewis
Warren Weaver
Donald Gerding
Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning

Justin Hoffman/PSA Financial, Inc.
Edward J. Gillis, Jr.
Mary Ellen Morrison
Nedda Evans

Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney

12/4/09

PETITION OF: PSA FINANCIAL, INC.
11311 McCormick Road
Hunt Valley, Maryland 21031-8622

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

FOR JUDICIAL REVIEW OF THE
DECISION OF THE COUNTY
BOARD OF APPEALS OF BALTIMORE
COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

CIVIL ACTION NO:

C-09-14647

RECEIVED AND FILED

2009 DEC -4 PM 2:49

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic District

Case No.: 08-582-A
Before the County Board of Appeals

* * * * *

PETITION FOR JUDICIAL REVIEW

PSA Financial, Inc. ("PSA"), Lessee of leasehold space in the property known as 11311 McCormick Road, which is owned by Hunt Valley 75 Limited Partnership, by its undersigned counsel, pursuant to Rule 7-202, Maryland Rules of Procedure, submits this Petition for Judicial Review of the Board of Appeals' November 6, 2009 Order in above-captioned matter. This Petitioner was a party to this proceeding before the County Board of Appeals.

Edward J. Gilliss, Esq.
Royston, Mueller, McLean & Reid, LLP
The Royston Building, Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204
410-823-1800
Counsel for PSA Financial, Inc.

RECEIVED

DEC 09 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

ROYSTON, MUELLER,
MCLEAN & REID, LLP
SUITE 600
102 W PENN. AVE.
TOWSON, MARYLAND
21204-4575
410-823-1800

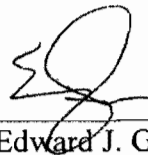
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4 day of December, 2009, a copy of the foregoing

Petition for Judicial Review was mailed, postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

Board of Appeals of Baltimore County
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204



Edward J. Gilliss

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-09-014647

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Court House Room 49
400 Washington Avenue
Towson, MD 21204

11/6/09

IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 08-582-A
*

* * * * *

**RULING ON PEOPLE’S COUNSEL FOR BALTIMORE COUNTY’S
MOTION FOR RECONSIDERATION, CLARIFICATION, AND CORRECTION**

This matter comes before the Board of Appeals of Baltimore County as a result of a Motion for Reconsideration, Clarification, and Correction (herein referred to as “Motion for Reconsideration”) filed by People’s Counsel for Baltimore County for a reconsideration of the Majority Opinion issued by the Board on August 5, 2009, Denying Petitioner’s request for a Variance in Case No.: 08-582-A. The Motion for Reconsideration was received by the Board on August 20, 2009, in accordance with Rule 10 of the Rules of Practice and Procedure of the County Board of Appeals. Response to the Motion was filed by Mr. Edward J. Gillis, Esquire Attorney for Petitioner and was received by the Board on September 3, 2009. A public deliberation on the Motion for Reconsideration was held by the Board on October 1, 2009.

The Motion for Reconsideration contends that the Board’s Majority Opinion is in conflict with its decision made in public deliberation on May 20, 2009, is in conflict with the State Open Meetings Act, is internally inconsistent, and conflicts with the Baltimore County Zoning Regulations governing signs. It is noted that Board member, Lawrence Stahl, who chaired the two-day de novo hearings held on March 5, 2009 and April 1, 2009, and who wrote the Minority

Dissenting Opinion, attended the public deliberation on the Motion for Reconsideration on October 1, 2009 but did not participate in the opinion rendered on the Motion.

Board members Crizer and Witt, at the public deliberation on October 1, 2009, reviewed the minutes of the public deliberation held on May 20, 2009 and concluded there are no conflicts or inconsistencies with the Majority Opinion as rendered.

Petitioner had requested a Variance to install two signs, one at the penthouse level and one at the fifth floor level, of the multi-tenant five-story office building located at 11311 McCormick Road. The authority for non-exclusive right to install the two signs was extended to the Petitioner in their lease by Corporate Office Properties, the owner of the building. One of the proposed signs was to be an enterprise sign.

The minutes of the public deliberation held on May 20, 2009 are consistent with and affirm the Board's Majority Opinion. This consistency confirms and satisfies the intent of the State Open Meetings Act. People's Counsel's assertion that the Majority Opinion is "internally inconsistent" and "in conflict with the law governing signs in so far as it states that the Petitioner has the authority to install two proposed signs", could be the result of People's Counsel confusing the difference between Corporate Office Properties giving PSA, Petitioner, the non-exclusive right to install the signs in their lease and the Baltimore County Zoning Regulations pertaining to signs. It is clear the Majority Opinion and the Minutes of the public deliberation define this difference and accurately conclude the proposed enterprise sign does not satisfy the Baltimore County Zoning Regulations. The Minutes of the public deliberation of the hearing and the public deliberation of the Motion for Reconsideration both confirm and are consistent with the Majority Opinion. Therefore the Motion for Reconsideration, Clarification, and Correction of the Majority Opinion is denied.


ORDER

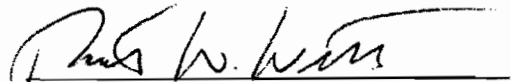
THEREFORE, IT IS, this 6th day of November, 2009, by majority vote by the Board of Appeals of Baltimore County,

ORDERED that People's Counsel for Baltimore County's Motion for Reconsideration, Clarification, and Correction, in Case No. 08-582-A, be and is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Edward W. Crizer, Jr.


Robert W. Witt

11/6/09



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 6, 2009

Edward J. Gillis, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave, Ste 600
Towson, MD 21204

RE: *In the Matter of: Hunt Valley 75 Limited Partnership-Appellant/Petitioner*
Case No.: 08-582-A

Dear Mr. Gillis:

Enclosed please find a copy of the Ruling on People's Counsel for Baltimore County's Motion for Reconsideration, Clarification, and Correction issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in black ink that reads "Theresa R. Shelton/kc".

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c: Hunt Valley 75 Limited Partnership
Trevor Lewis/PSA Financial, Inc.
Warren Weaver
Donald Gerding
Office of People's Counsel
Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney

Justin Hoffman/PSA Financial, Inc.
Edward J. Gillis, Jr.
Mary Ellen Morrison
Nedda Evans
William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning

9/2/09

IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic

PSA FINANCIAL, INC.

Petitioner

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY

* Case No. 08-582-A

*

* * * * *

**PETITIONER'S RESPONSE TO PEOPLE'S COUNSEL'S
MOTION FOR RECONSIDERATION**

PSA Financial, Inc. ("PSA"), Lessee of the property known as 11311 McCormick Road, which is owned by Hunt Valley 75 Limited Partnership, by its undersigned counsel, hereby submits this Response to Motion for Reconsideration, and, through it, seeks the relief requested in its Petition for Variance so as to allow two wall-mounted enterprise signs.

Signs Permitted "as of Right"

PSA is permitted, as of right, to erect two (2) enterprise signs. The Board of Appeals ("BOA") opined that "there is no question that PSA has the right to erect two (2) wall-mounted signs on the north and west sides of the building they occupy at 11311 McCormick Drive. That right was extended to them in their Lease as a non-exclusive right by Corporate Office Properties." (See BOA Majority Opinion dated August 5, 2009, a copy of which is attached hereto and incorporated herein as Petitioner's **Exhibit 1**). Furthermore, an analysis of the enterprise sign provisions of the Baltimore County Zoning Regulations ("BCZR") confirms this "as of right" conclusion.

However, the Office of the People's Counsel ("People's Counsel") maintains that PSA's request does not meet the BCZR requirements for an enterprise sign because PSA does not have

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BALTIMORE COUNTY
BOARD OF APPEALS

an “exclusive entrance.” Pursuant to BCZR § 450.4.VI.5(d), “an entity with separate exterior customer entrance may erect one canopy and one wall-mounted sign.” The term “exclusive” is not part of the language in the BCZR Table of Sign Regulations. The Zoning Commissioner and Baltimore County’s County Attorney interpreted this regulation that “separate exterior customer entrance” did not limit signage to entities with an “exclusive exterior customer entrance.” (See, Assistant County Attorney Adam Rosenblatt’s letter dated November 21, 2008, attached hereto and incorporated herein as Petitioner’s Exhibit 2.)

Request for Variance

In the BOA’s Majority Opinion, Mr. Crizer and Mr. Witt mistakenly concluded that PSA filed for a variance to compensate for the fact that it does not have an exclusive exterior customer entrance. There was no determination as to whether or not the building was unique; Mr. Crizer and Mr. Witt simply stated that this is immaterial. Although the BOA found that PSA has the right to erect the signs, it denied the variance to install two (2) wall-mounted enterprise signs on the building. In order to reconcile this discrepancy, PSA must conclude that Mr. Crizer and Mr. Witt believed there was no need for a variance because they found the signs are permitted as of right. Although Mr. Stahl wrote a Dissenting Opinion, he concurs that PSA has the right to erect the signs on the north and west faces of 11311 McCormick Road and that one of the signs may be erected on the penthouse/mechanical level of the building.

To the extent that the BOA determines that a variance is required, PSA explained the “special circumstances” and “practical difficulty” confronted by following BCZR § 450.4.VI.5(d) with strict compliance. PSA requested a variance in order to have two wall-mounted signs instead of the authorized canopy sign and wall-mounted sign. There are no canopies on the building, so PSA is unable to erect a canopy sign. If the BOA grants a variance,

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PSA would be on equal footing with other tenants with canopied structures who are authorized to have one wall-mounted sign and one canopy sign. Without the variance, PSA would be in a disadvantageous position in that it would be unable to advertise its business in the same manner as other businesses. Simply stated, the zoning impacts PSA “disproportionately.” *See Trinity Assembly of God v. People’s Counsel*, 178 Md. App. 232, 246 (2008). Another problem with the location is the building is “hidden” in many respects due to the mature trees and other landscaping. PSA’s visitors and clients have commented on the fact that it is difficult to locate the building.

In addition, PSA has reached out to the community for support of its request for signage. The BOA heard testimony from the Baltimore County Department of Economic Development and the Hunt Valley Business Forum in support of granting the variance. Although People’s Counsel’s witness, James Patton, claimed that the proposed signs would pose a risk to the “health, safety or welfare of the community,” he was unable to articulate any risks (other than the possibility of the sign falling from the wall).

To the extent that the BOA believes that a variance is required in order to erect a wall-mounted sign at the penthouse/mechanical level, PSA contends that the proposed sign is not a “roof sign” as defined in BCZR § 450.5(B)(7). The proposed sign will not be erected on the roof of the building. Instead, a variance would be required from the provisions of BCZR § 450.5(B)(9)(b), which relate to wall-mounted signs. The penthouse/mechanical level is an appropriate place to erect a wall-mounted sign because there are no eaves or parapets at that level.

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Dissenting Opinion

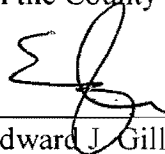
People's Counsel asserts that Mr. Stahl's Dissenting Opinion is inconsistent with the zoning regulations. Mr. Stahl opined that PSA has a right to erect two wall-mounted signs on 11311 McCormick Road and that one of the signs could be erected on the penthouse/mechanical level of the building. (See Dissenting Opinion by Lawrence M. Stahl, a copy of which is attached hereto and incorporated herein as Petitioner's Exhibit 3.) Mr. Stahl relies on the interpretation of Baltimore County's County Attorney and the Zoning Commissioner. People's Counsel contends that this interpretation is "palpably incorrect, illogical, and subversive to the legislative language and intent to control sign clutter." (See People's Counsel's Motion for Reconsideration, p. 7, a copy of which is attached here to and incorporated herein as Petitioner's Exhibit 4).

There may be no better authority than the opinion of the County Attorney, as that office is tasked by its Charter with representing the Baltimore County Council which, in turn, creates the Regulations about which this matter is concerned. Moreover, if this regulation was interpreted as suggested by People's Counsel, it would prohibit all signage from being erected on a multi-tenant, retail or industrial building. People's Counsel's interpretation would be both unfair and illogical, and would directly conflict with BCZR 450.1(A)-(B), which states "[b]ecause signage is necessary for the success and growth of businesses in the county, the regulation of signage must reasonably accommodate the needs of the business community." Furthermore, Mr. Stahl concluded that "if the intent of the law was to limit the availability of the subject requested signage only to entities with 'exclusive' rather than common entrances, the County Council could easily have stated as much in the applicable code section."

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Conclusion

The BOA held that PSA has the right to erect wall-mounted enterprise signs on the north and west faces of 11311 McCormick Road. People's Counsel's interpretation of BCZR § 450.4.VI.5(d) would preclude any multi-story, multi-tenant office building from having enterprise signs. Nowhere in the Zoning Regulations is such a preclusion articulated. Surely, as Mr. Stahl concluded had the County Council desired to preclude enterprise signs on multi-story, multi-tenant office buildings, it could have easily so stated. Instead, PSA satisfies all of the Table of Sign Regulations provisions and must now be permitted to obtain use permits to erect wall-mounted signs. This conclusion is consistent with the Baltimore County Zoning Regulations, the lease between the property owner and PSA, and, importantly, consistent with interpretation of the regulations as contained in the County Attorney's letter.

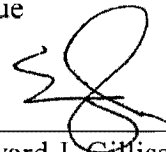


Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
The Royston Building, Suite 600
102 W. Pennsylvania Avenue
Towson, Maryland 21204-4575
(410) 823-1800
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2 day of September, 2009 a copy of the foregoing Response to Motion for Reconsideration was mailed, first class, postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
Suite 204, Jefferson Building
105 W. Chesapeake Avenue
Towson, MD 21204



Edward J. Gilliss

ROYSTON, MUELLER,
MCLEAN & REID, LLP
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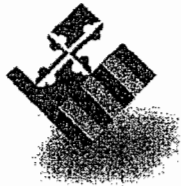
IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 08-582-A
*

* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County as a result of an appeal filed by People's Counsel for Baltimore County from an Order dated September 16, 2008 by the Zoning Commissioner for Baltimore County granting Petitioner's request for a Variance from Section 450.4.1.5(d) of the Baltimore County Zoning Regulations (BCZR) to permit two illuminated signs, one on the north elevation of the penthouse directly above the fifth floor (the space occupied by the Petitioner) wall of the multi-tenant office building with a sign of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the Petitioner) with a sign of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants of the building. Petitioner's request for the Variance is that the Petitioner is the sole tenant on the top level of the building on the fifth floor and signage is appropriate at or near the Petitioner's occupancy level. Signage is also necessary for consumers to know of the Petitioner's new Baltimore County location and to ensure the commercial viability of the Petitioner in its new location. Signage will lessen the hardship of the Petitioner's location. Although signs are permitted, the granting of a Variance confirms authority to place a sign on the penthouse level directly above the Petitioner's



NOV 21 2008

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN
County Attorney
Office of Law

November 21, 2008

David S. Iannucci, Director
Baltimore County Dept of Economic Development
400 Washington Avenue
Towson, MD 21093

Re: Interpretation of Table of Sign Regulations
Baltimore County Zoning Regulations § 450
Zoning Case Number 08-0582-A

Dear Mr. Iannucci:

This correspondence is in response to your letter dated November 17, 2008, in which you requested a legal interpretation of § 450 of the Baltimore County Zoning Regulations (B.C.Z.R.). I understand that this regulation was the subject of case number 08-0582-A before the Zoning Commissioner, which involved a sign variance requested by PSA Financial, Inc. (PSA) for an office building located at 11311 McConnick Road. After reviewing the relevant regulations, as well as the facts specific to PSA's request, it is the opinion of the Baltimore County Office of Law that the Zoning Commissioner correctly interpreted § 450 of the B.C.Z.R., and reached the proper conclusion in granting the sign variance to PSA.

In the case before the Zoning Commissioner, PSA requested a variance from § 450.4.I.5(d) of the B.C.Z.R. to permit the construction of two illuminated signs on a multi-tenant office building, the fifth floor of which houses their offices. One of the signs would be located on the north elevation directly above the fifth floor wall of the building, and the other sign would be located on the west elevation of the fifth floor of the building. Since PSA proposed the erection of two wall-mounted signs, as opposed to one wall-mounted and one canopy sign as permitted by the regulations, the company required a variance from the Zoning Commissioner.

Initially, the Zoning Commissioner went into great detail to explain that the size of each of the proposed signs conforms to the requirements of Section V of B.C.Z.R. § 450.4, entitled Table of Sign Regulations. It appears that the Commissioner's language is self explanatory on this point, and that the only remaining legal question is whether § 450 requires an "exclusive" entrance in order to permit signage.

IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT.

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 08-582-A
*

* * * * *

DISSENTING OPINION

I both concur in part and dissent in part from the Opinion of the Majority.

I concur with the Majority's conclusion that PSA Financial Incorporated (PSA) has the right to erect two wall mounted signs on the north and west faces of the subject property. I further concur with their conclusion that one of those signs could be erected on the wall of the penthouse/mechanical level of the building.

I disagree with the Majority as it relates to their interpretation of Section 450 of the Baltimore County Zoning Regulations (BCZR) concerning "enterprise" signs. The Majority has determined that the language of the statute requires that "each entity within the multi-tenant office building must have an exterior entrance for the customers, separate from the rest of the tenants." This interpretation agrees with the position taken by the People's Counsel for Baltimore County that without such an "exclusive" entrance, PSA does not meet the requirements for an "enterprise" sign as called for in the BCZR Section 450 (table inside regulations), which was entered as Petitioners Exhibit number 1. This member adopts the interpretation of the Zoning Commissioner below as further elucidated by the Baltimore County Office of Law in their November 21, 2008 letter to David Iannucci, Director of the Baltimore County Department of Economic Development, and entered into evidence as Petitioners Exhibit number 17.

Both the Office of Law and the Zoning Commissioner below concluded that Section 450 does not require an "exclusive" entrance in order to permit the "enterprise" sign as requested.

RE: PETITION FOR VARIANCE	*	BEFORE THE COUNTY
11311 McCormick Road; S/S McCormick Rd,		
NE corner McCormick & Schilling Roads	*	BOARD OF APPEALS
8 th Election & 3 rd Councilmanic Districts		
Legal Owner(s): Hunt Valley 75 Ltd P-ship	*	FOR
Contract Purchaser(s): PSA Financial Inc		
Petitioner(s)	*	BALTIMORE COUNTY
	*	08-582-A
* * * * *	*	* * * * *

**PEOPLE’S COUNSEL FOR BALTIMORE COUNTY’S
MOTION FOR RECONSIDERATION, CLARIFICATION, AND CORRECTION**

People’s Counsel for Baltimore County files this motion for reconsideration of the August 5, 2009 Opinion and Order of the County Board of Appeals (CBA). Rule 10 of the CBA Rules of Practice and Procedure authorizes and governs this motion. The specific grounds and reasons for the motion follow:

Introduction

The County Board of Appeals (CBA) majority opinion is in conflict with its decision made in public deliberation, in conflict with the State Open Meetings Law, internally inconsistent, and in conflict with the law governing signs insofar as it states that Petitioner has the authority to install the two proposed PSA Financial signs on the north penthouse/mechanical level and on the west face fifth-story level.

This extraordinary case began with a flawed petition by a tenant for two large wall-mounted enterprise signs on a multi-tenant office building despite the prohibition on such signs unless accessory to a separate commercial entity with an exterior customer entrance. It attracted intense efforts by the Department of Economic Development and an Assistant County Attorney to promote or justify the approval of the signs. It posed a threat to allow sign proliferation which not only would be detrimental to the Hunt Valley area, but also to be a precedent for tenants to clutter and blot the landscape with multiple signs on multi-tenant buildings, whether office, retail, or industrial.

After a fair trial, and a public deliberation required by state law, the CBA majority of Edward W. Crizer and Robert W. Witt agreed that such enterprise signs were prohibited. They applied the law correctly, understanding its context in this case and as a

precedent for other such signage here and around the county. They steadfastly insisted on this correct interpretation, notwithstanding the energetic effort and interpretation of Lawrence M. Stahl, who dissented.

Nevertheless, in an apparently strange turnabout, the CBA majority subsequently delivered an opinion which seems to approve the proposed signs as a matter of law. Upon this reading, the opinion is not only incorrect legally, but also in conflict with the State Open Meetings Law. It must be corrected.

Perhaps the CBA majority did not mean to indicate the approval of the proposed enterprise signs, but merely added *dicta* to refer to the allowance for wall-mounted enterprise signage. If so, however, the majority failed to state that the law limits such signage to a single wall-mounted joint identification with a maximum of 150 square feet. The majority also omitted the specific prohibition of wall-mounted signs at the penthouse/mechanical level.

The State Open Meetings Law

The State Open Meetings law plays an important role in this case. The Maryland General Assembly has established a legislative policy that public bodies conduct public business in open meetings, and in an open and public manner to ensure accountability of government officials. Md. Ann. Code State Government Article § 10-501. To implement this policy, the law requires zoning boards, among other public bodies, to hold public meetings to decide land use cases. § 10-503(b). See Wesley Chapel Bluemount v. Baltimore County 347 Md. 125 (1997). Since the advent of the public meetings law, the County Board of Appeals has set public deliberations for zoning cases and, following Wesley Chapel, for development cases. The law requires the preparation of written minutes, which reflect each item considered, the action on each item, and the vote on each item. § 10-509(b), (c). For the purpose of enforcement, there is an optional complaint procedure, but "... this does not affect or prevent the use of other available remedies." § 10-510(a)(3), (b). In the context of a quasi-judicial zoning proceeding, a party may and must raise any pertinent legal issue. Prince George's County v. Ray's Used Cars 398 Md. 632, 644-56 (2007).

To satisfy the stated legislative purpose to ensure accountability, the written opinion must comport with the public decision. It is meaningless to require a decision to be made in public deliberation, only to have the final written order contradict that very decision. In this context, the public deliberation is not a non-binding exercise or performance. It has consequences for the final written findings of fact and conclusions of law. They must be consistent with the public decision. Otherwise, the public deliberation is no more than a charade; and the accountability envisioned by the law disappears.

The Maryland Court of Appeals wrote in City of New Carrollton v. Rogers 287 Md. 56, 72 (1982), quoting Town of Palm Beach v. Gradison 296 So. So. 2d 473, 477 (Fla. 1974),

“One purpose of the government in the sunshine law was to prevent as nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptance . . . The statute should be construed so as to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages. . . .”

The CBA’s decision in public deliberation to deny the proposed signs

The present case involved a petition for a sign variance for two enterprise signs on a multi-tenant building in the M.L. Zone. Accordingly, after the *de novo* hearing, the CBA set this case in for public deliberation on May 20, 2009. After intense and lengthy deliberation, the majority of the panel, Edward W. Crizer and Robert W. Witt, agreed with our office’s interpretation and position: (1) The sign law generally does not allow wall-mounted enterprise signs on multi-tenant office buildings, BCZR § 450.4.5(a); (2) more specifically, it does not allow the proposed signs on this multi-tenant office building because the PSA signs do not fit within the exception for a “separate commercial entity with exterior customer entrance,” as required by BCZR § 450.4.5(d). Rather, PSA shares common entrances with the many other tenants.

The majority considered the language and purpose of the law, the distinction between occupants with separate entrances, and, as a practical matter, the detrimental multiplication impact of a precedent for allowance of wall-mounted enterprise signs for any tenant of a multi-tenant building. The majority also ruled that even if such signs were allowed, the petitioner had not met the standards for any zoning variance requested.

The majority declined to declare under what provision any wall-mounted would be allowed. As Mr. Witt pointed out repeatedly, Petitioners had made a mistake by filing for enterprise signs. It was not apt, therefore, for the Board to determine under what category and limits a wall-mounted sign might be allowed. (Our office had pointed out, and James Patton had testified, in context, that petitioners could apply for a wall-mounted joint identification, without advertising, but that the law placed a limitation of one sign with a maximum size of 150 square feet). BCZR § 450.4.7(e). The petition here did not request any wall-mounted joint identification signs, or any variance for such signs. Anyway, such a petition would have to be denied for the same reasons the majority gave for denial of the variances with respect to any enterprise signs.

Meanwhile, panel member Lawrence Stahl made his best effort to urge the majority to interpret the law to approve the enterprise signs, unconditionally or conditionally. He asserted that the requirement for a "separate" entrance meant what he described as an "exclusive entrance." Therefore, any of the tenants would be eligible for wall-mounted enterprise signs. As a fallback position, he suggested that on this building, the CBA could limit it to the PSA signs in question, and preclude any other tenants from approval (even though there is no legal basis for such discrimination).

But the majority did not agree with him. Messrs. Crizer and Witt held steadfastly that the proposed signs are not permitted, and that the petition was mistaken. At no time did they indicate that the signs were allowed under any other provision of the law. Indeed, no such provision exists. As noted, even if designed realistically to fit the joint identification category, PSA would be limited to one sign, no more than 150 square feet in size, without advertising, and not on the penthouse/mechanical level. Mr. Stahl thereupon announced he would write a dissenting opinion.

The CBA minutes, attached hereto, corroborate the above description. The majority never stated or found that the proposed wall-mounted signs were allowed. Indeed, their decision was just the opposite. That is precisely why Mr. Stahl dissented.

The CBA Majority Opinion On its Face Conflicts with the Open Meetings Law as well as the Zoning Law: Perhaps the CBA Did Not Mean to Approve the Proposed Signs; If So, the Decision Must be Clarified

For the first time in our recollection, the CBA's written opinion appears to contradict the determination made in public deliberation. The "decision" section of the majority opinion begins on page 7. It starts with this ambiguous or erroneous statement,

"There is no question that PSA has the right to erect (2) wall-mounted signs on the north and west sides of the building they occupy at 11311 McCormick Drive. That right was extended to them in their Lease as a non-exclusive right by Corporate Office Properties."

Perhaps the majority was speaking here only of PSA's right under its lease, and not under zoning law, but the language of the first sentence is open-ended. If interpreted to mean that the right is under zoning law, this contradicts the majority's public decision and is legally erroneous. Our concern is magnified by the majority's later comment on page 9. We shall get to that shortly, after first reviewing the majority's accurate discussion of the main substantive question of legal interpretation.

The majority goes on to review the essential disagreement about interpretation of BCZR § 450.4.5(d). See pages 8-9. They describe Petitioners' view, supported by Assistant County Attorney Adam Rosenblatt, as well as People's Counsel's opposing view. The majority goes on to conclude, at page 8,

"Messrs. Witt and Crizer interpreted this sentence to mean that each entity within the multi-tenant office [building] must have an exterior entrance for the customers, separate from the rest of the tenants. Mr. Stahl, however, disagrees, stating that his interpretation of the sentence was that if the County Council intended for each entity in the structure to be required to have a separate entrance in order to qualify for an Enterprise sign, they would have said so."

This accurately tracks the majority decision during public deliberation (although the use of the third person --- "Messrs. Witt and Crizer" rather than "we" --- is puzzling because Messrs. Witt and Crizer are the authors of the opinion. Ordinarily, this language would be used only if another person wrote the opinion).

Immediately thereafter, however, in the first paragraph on page 9, the majority opinion inexplicably writes that the proposed wall-mounted signs are allowed. Echoing the initial sentence of the decision on page 7, this paragraph states,

“The Board discussed the Petitioner’s request for a waiver to install the two signs at the penthouse/mechanical level of building. There was no testimony or exhibits presented at the hearing to dispute the Petitioner’s authority to install the signs at that level, so the fact that whether the building is unique or not is immaterial. The Board concluded therefore that the Petitioner would have the authority to install the signs at that level.”

On the face of it, this statement reverses the publicly announced decision and is clearly erroneous. The allowance plainly contradicts what the majority decided at its open deliberation. In so stating, the CBA undermined and violated the Open Meetings Law. It is meaningless to require decisions to be made openly, if they can then be changed outside the view of the public.

The allowance also contradicts the conclusion in the preceding paragraph, in where the majority repeated its publicly stated view that PSA’s request for enterprise signs must be disallowed for lack of a separate entrance. What is especially bizarre is the majority’s statement that, “There was no testimony or exhibits presented at the hearing to dispute the Petitioner’s authority to install the signs at that level, so the fact that that whether the building is unique or not is immaterial.” The primary thrust of our People’s Counsel’s case was that the enterprise signs are not allowed because of the lack of a separate customer entrance. This theme was repeated again and again. In addition, as to the penthouse/mechanical level, we identified the specific prohibition of signs on the walls enclosing mechanical facilities. BCZR § 450.5.B.9.b.

It is more aggravating that the CBA majority’s newly discovered allowance of PSA’s proposed signs is without legal basis or justification. The opinion gives no legal reasons to support the purported allowance, and there are none.

Perhaps the majority did not mean to provide such an open-ended approval. Perhaps the CBA meant to give recognition to the allowance for a single wall-mounted joint identification sign up to 150 square feet in area. Perhaps the CBA also overlooked the prohibition of wall-mounted signs at the penthouse/mechanical level. But that is not what the opinion says.

The majority follows up its mistaken allowance with the statement that "... whether the building is unique or not is immaterial." This would be a correct if the signs were permitted by right. There would then be no need for variances.

Yet, the CBA majority then determines to "deny the variance requested by Petitioner to install an Enterprise sign on the building at 11311 McCormick Road." Unfortunately, it is unclear that this denial still has any import, in light of the majority's allowance of the signs by right. Here, the majority opinion ends.

Our reading of the majority opinion as an open-ended approval of PSA's proposed signs is reinforced by the views expressed in dissent. Another consequence of the above-quoted paragraph on page 7 is that it enabled Mr. Stahl to write a concurring and dissenting opinion, rather than just the dissent reflected in the CBA minutes. As he contentedly wrote at the beginning of his opinion,

"I concur with the Majority's conclusion that PSA Financial Incorporated (PSA) has the right to erect two wall mounted signs on the north and west faces of the subject property. I further concur with their conclusion that one of those signs could be erected on the wall of the penthouse/mechanical level of the building."

Mr. Stahl then goes on to dissent from the majority's acceptance of our position that the relevant part of BCZR § 450 requires a particular separate entrance for a tenant to qualify for a wall-mounted enterprise sign on a multi-tenant office building. He relies on the conclusions of the Assistant County Attorney and the Zoning Commissioner. As we demonstrated, their advocacy or point-of-view to allow such signs is palpably incorrect, illogical, and subversive to the legislative language and intent to control sign clutter.

Mr. Stahl did not attempt to reconcile the inconsistency between the majority's allowance of the proposed signs and their legal interpretation of BCZR § 450. This logical inconsistency enabled him to concur and dissent at the same time. So, from a public deliberation position of complete dissent, his position drew new life from the CBA majority's reversal of its conclusion about the permissibility of the signs.

Remarkably, while Mr. Stahl had concurred in the public deliberation that the site was not unique so that any required variances would not be justified, he made no mention of this actual concurrence in his dissenting opinion. This is yet another discrepancy.

We shall not speculate as to the causes of the turnaround from the time of the public deliberation to the written opinion. It occurred out of sight. Perhaps it was a mix of inadvertent mistakes and ambiguities. However described, there was and is no legal justification for the CBA majority to change its mind, or to give that appearance.

Conclusion

The right and legal thing to do is for the CBA majority to restore and/or clarify the correct decision made in public deliberation. The CBA must disavow its purported allowance of the proposed signs. Unless this is done, PSA will be able to use the opinion to obtain permits for the two illegal signs.

If the decision is not corrected, our office must file a petition for judicial review. We would challenge not only the legal correctness of the majority opinion on the merits, but also its evisceration of the State Open Meetings Law. We should not be put in a position to expend public time and resources to correct these palpable errors. Furthermore, if the Department of Permits and Development Management issues sign permits while judicial review is pending, ~~it will~~ likely be a protracted and difficult process to secure their removal upon the success of our petition for judicial review.

Correspondingly, if the CBA does reconsider and correct its decision, and clarify that the proposed signs are not allowed as a matter of law, then our office will defend the majority decision in the courts. Mr. Stahl's opinion will then revert properly to the posture of a dissenting opinion, as it was at the conclusion of the public deliberation.

Wherefore, People's Counsel respectfully requests that the CBA issue an opinion and order which states,

"Upon review of People's Counsel's Motion for Reconsideration, Clarification, and Correction, and the response thereto, the County Board of Appeals grants the motion. The proposed two PSA wall-mounted enterprise signs are not allowed as a matter of law in the M.L. Zone because they are not accessory to any separate entrance. The Board also clarifies that there is a prohibition on wall-mounted signs at the penthouse/mechanical level.

“While another provision of the law allows a single wall-mounted joint identification (without advertising) up to 150 square feet in area, the petition here does not request a joint identification sign. Therefore, the Board does not need to discuss the scope of this provision or the extent to which a joint identification sign may be allowed. It is enough to say that the proposed enterprise signs are not allowed.

“Furthermore, the majority finds that the property is not unique for the purpose of variance law. Therefore, to the extent that the law might allow any variances from the limitations of the law on enterprise signs in M.L. Zones, the variances must be, and are, denied. In the interest of guidance and avoidance of future litigation, the Board notes that this finding would govern any petition for variances to the provisions of the law governing wall-mounted joint identification signs.”

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People’s Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 2009, a copy of the foregoing People’s Counsel for Baltimore County’s Motion for Reconsideration was mailed to Edward Gillis, Esquire, 102 W. Pennsylvania Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioners, to John Beverungen, Esquire, County Attorney, and to Adam Rosenblatt, Assistant County Attorney, 400 Washington Avenue, Towson, Maryland 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People’s Counsel for Baltimore County

8/20/09

RE: PETITION FOR VARIANCE *
11311 McCormick Road; S/S McCormick Rd,
NE corner McCormick & Schilling Roads *
8th Election & 3rd Councilmanic Districts *
Legal Owner(s): Hunt Valley 75 Ltd P-ship *
Contract Purchaser(s): PSA Financial Inc *
Petitioner(s) *

BEFORE THE COUNTY

BOARD OF APPEALS

FOR

RECEIVED
BALTIMORE COUNTY
AUG 20 2009

08-582-A

**BALTIMORE COUNTY
BOARD OF APPEALS**

* * * * *

**PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S
MOTION FOR RECONSIDERATION, CLARIFICATION, AND CORRECTION**

People's Counsel for Baltimore County files this motion for reconsideration of the August 5, 2009 Opinion and Order of the County Board of Appeals (CBA). Rule 10 of the CBA Rules of Practice and Procedure authorizes and governs this motion. The specific grounds and reasons for the motion follow:

Introduction

The County Board of Appeals (CBA) majority opinion is in conflict with its decision made in public deliberation, in conflict with the State Open Meetings Law, internally inconsistent, and in conflict with the law governing signs insofar as it states that Petitioner has the authority to install the two proposed PSA Financial signs on the north penthouse/mechanical level and on the west face fifth-story level.

This extraordinary case began with a flawed petition by a tenant for two large wall-mounted enterprise signs on a multi-tenant office building despite the prohibition on such signs unless accessory to a separate commercial entity with an exterior customer entrance. It attracted intense efforts by the Department of Economic Development and an Assistant County Attorney to promote or justify the approval of the signs. It posed a threat to allow sign proliferation which not only would be detrimental to the Hunt Valley area, but also to be a precedent for tenants to clutter and blot the landscape with multiple signs on multi-tenant buildings, whether office, retail, or industrial.

After a fair trial, and a public deliberation required by state law, the CBA majority of Edward W. Crizer and Robert W. Witt agreed that such enterprise signs were prohibited. They applied the law correctly, understanding its context in this case and as a

precedent for other such signage here and around the county. They steadfastly insisted on this correct interpretation, notwithstanding the energetic effort and interpretation of Lawrence M. Stahl, who dissented.

Nevertheless, in an apparently strange turnabout, the CBA majority subsequently delivered an opinion which seems to approve the proposed signs as a matter of law. Upon this reading, the opinion is not only incorrect legally, but also in conflict with the State Open Meetings Law. It must be corrected.

Perhaps the CBA majority did not mean to indicate the approval of the proposed enterprise signs, but merely added *dicta* to refer to the allowance for wall-mounted enterprise signage. If so, however, the majority failed to state that the law limits such signage to a single wall-mounted joint identification with a maximum of 150 square feet. The majority also omitted the specific prohibition of wall-mounted signs at the penthouse/mechanical level.

The State Open Meetings Law

The State Open Meetings law plays an important role in this case. The Maryland General Assembly has established a legislative policy that public bodies conduct public business in open meetings, and in an open and public manner to ensure accountability of government officials. Md. Ann. Code State Government Article § 10-501. To implement this policy, the law requires zoning boards, among other public bodies, to hold public meetings to decide land use cases. § 10-503(b). See Wesley Chapel Bluemount v. Baltimore County 347 Md. 125 (1997). Since the advent of the public meetings law, the County Board of Appeals has set public deliberations for zoning cases and, following Wesley Chapel, for development cases. The law requires the preparation of written minutes, which reflect each item considered, the action on each item, and the vote on each item. § 10-509(b), (c). For the purpose of enforcement, there is an optional complaint procedure, but "... this does not affect or prevent the use of other available remedies." § 10-510(a)(3), (b). In the context of a quasi-judicial zoning proceeding, a party may and must raise any pertinent legal issue. Prince George's County v. Ray's Used Cars 398 Md. 632, 644-56 (2007).

To satisfy the stated legislative purpose to ensure accountability, the written opinion must comport with the public decision. It is meaningless to require a decision to be made in public deliberation, only to have the final written order contradict that very decision. In this context, the public deliberation is not a non-binding exercise or performance. It has consequences for the final written findings of fact and conclusions of law. They must be consistent with the public decision. Otherwise, the public deliberation is no more than a charade; and the accountability envisioned by the law disappears.

The Maryland Court of Appeals wrote in City of New Carrollton v. Rogers 287 Md. 56, 72 (1982), quoting Town of Palm Beach v. Gradison 296 So. So. 2d 473, 477 (Fla. 1974),

“One purpose of the government in the sunshine law was to prevent as nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptanceThe statute should be construed so as to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages. . . .”

The CBA’s decision in public deliberation to deny the proposed signs

The present case involved a petition for a sign variance for two enterprise signs on a multi-tenant building in the M.L. Zone. Accordingly, after the *de novo* hearing, the CBA set this case in for public deliberation on May 20, 2009. After intense and lengthy deliberation, the majority of the panel, Edward W. Crizer and Robert W. Witt, agreed with our office’s interpretation and position: (1) The sign law generally does not allow wall-mounted enterprise signs on multi-tenant office buildings, BCZR § 450.4.5(a); (2) more specifically, it does not allow the proposed signs on this multi-tenant office building because the PSA signs do not fit within the exception for a “separate commercial entity with exterior customer entrance,” as required by BCZR § 450.4.5(d). Rather, PSA shares common entrances with the many other tenants.

The majority considered the language and purpose of the law, the distinction between occupants with separate entrances, and, as a practical matter, the detrimental multiplication impact of a precedent for allowance of wall-mounted enterprise signs for any tenant of a multi-tenant building. The majority also ruled that even if such signs were allowed, the petitioner had not met the standards for any zoning variance requested.

The majority declined to declare under what provision any wall-mounted would be allowed. As Mr. Witt pointed out repeatedly, Petitioners had made a mistake by filing for enterprise signs. It was not apt, therefore, for the Board to determine under what category and limits a wall-mounted sign might be allowed. (Our office had pointed out, and James Patton had testified, in context, that petitioners could apply for a wall-mounted joint identification, without advertising, but that the law placed a limitation of one sign with a maximum size of 150 square feet). BCZR § 450.4.7(e). The petition here did not request any wall-mounted joint identification signs, or any variance for such signs. Anyway, such a petition would have to be denied for the same reasons the majority gave for denial of the variances with respect to any enterprise signs.

Meanwhile, panel member Lawrence Stahl made his best effort to urge the majority to interpret the law to approve the enterprise signs, unconditionally or conditionally. He asserted that the requirement for a “separate” entrance meant what he described as an “exclusive entrance.” Therefore, any of the tenants would be eligible for wall-mounted enterprise signs. As a fallback position, he suggested that on this building, the CBA could limit it to the PSA signs in question, and preclude any other tenants from approval (even though there is no legal basis for such discrimination).

But the majority did not agree with him. Messrs. Crizer and Witt held steadfastly that the proposed signs are not permitted, and that the petition was mistaken. At no time did they indicate that the signs were allowed under any other provision of the law. Indeed, no such provision exists. As noted, even if designed realistically to fit the joint identification category, PSA would be limited to one sign, no more than 150 square feet in size, without advertising, and not on the penthouse/mechanical level. Mr. Stahl thereupon announced he would write a dissenting opinion.

The CBA minutes, attached hereto, corroborate the above description. The majority never stated or found that the proposed wall-mounted signs were allowed. Indeed, their decision was just the opposite. That is precisely why Mr. Stahl dissented.

The CBA Majority Opinion On its Face Conflicts with the Open Meetings Law as well as the Zoning Law: Perhaps the CBA Did Not Mean to Approve the Proposed Signs; If So, the Decision Must be Clarified

For the first time in our recollection, the CBA's written opinion appears to contradict the determination made in public deliberation. The "decision" section of the majority opinion begins on page 7. It starts with this ambiguous or erroneous statement,

"There is no question that PSA has the right to erect (2) wall-mounted signs on the north and west sides of the building they occupy at 11311 McCormick Drive. That right was extended to them in their Lease as a non-exclusive right by Corporate Office Properties."

Perhaps the majority was speaking here only of PSA's right under its lease, and not under zoning law, but the language of the first sentence is open-ended. If interpreted to mean that the right is under zoning law, this contradicts the majority's public decision and is legally erroneous. Our concern is magnified by the majority's later comment on page 9. We shall get to that shortly, after first reviewing the majority's accurate discussion of the main substantive question of legal interpretation.

The majority goes on to review the essential disagreement about interpretation of BCZR § 450.4.5(d). See pages 8-9. They describe Petitioners' view, supported by Assistant County Attorney Adam Rosenblatt, as well as People's Counsel's opposing view. The majority goes on to conclude, at page 8,

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Peter Max Zimmerman

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People’s Counsel for Baltimore County
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August, 2009, a copy of the foregoing People’s Counsel for Baltimore County’s Motion for Reconsideration was mailed to Edward Gillis, Esquire, 102 W. Pennsylvania Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioners, to John Beverungen, Esquire, County Attorney, and to Adam Rosenblatt, Assistant County Attorney, 400 Washington Avenue, Towson, Maryland 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People’s Counsel for Baltimore County

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Hunt Valley 75 Limited Partnership 08-582-A

DATE: May 20, 2009

BOARD/PANEL: Lawrence Stahl
 Robert Witt
 Edward Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to allow 2 illuminated signs with a size of 194.83 square feet and 226.25 square feet, respectively.
2. Is the allowance of 2 illuminated, enterprise signs granted by right?
3. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
4. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Petitioners requested two illuminated, enterprise signs to be approved by right. If the illuminated signs were not granted by right, the Petitioner requested a Variance to allow the two illuminated, enterprise signs.
- The Zoning Commissioner had granted the Petition for Variance with restrictions, allowing the signs by Variance and not by right.
- The Board discussed this matter and the rights of the Petitioners. Mr. Stahl indicated that he would feel more comfortable granting the enterprise signs as a right because he didn't feel that the property fit the "Uniqueness" requirements of Cromwell.
- The Board discussed the Special Regulations Chart found in the Baltimore County Code (Petitioner's Exhibit No.1) number 5 applies to Enterprise signs as an accessory structure "which displays the identity and which may otherwise advertise the products or services associated with the individual organization." The Board determined that this matter only fits "Structural type (d)" of the Enterprise sign section of the chart, which addresses multi-tenant offices. The "Zone or Use" portion of the chart indicates that Wall-mounted or canopies are permitted "on [a] multi-tenant office, retail or industrial building,

IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD

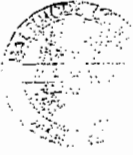
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 08-582-A

* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County as a result of an appeal filed by People's Counsel for Baltimore County from an Order dated September 16, 2008 by the Zoning Commissioner for Baltimore County granting Petitioner's request for a Variance from Section 450.4.I.5(d) of the Baltimore County Zoning Regulations (BCZR) to permit two illuminated signs, one on the north elevation of the penthouse directly above the fifth floor (the space occupied by the Petitioner) wall of the multi-tenant office building with a sign of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the Petitioner) with a sign of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants of the building. Petitioner's request for the Variance is that the Petitioner is the sole tenant on the top level of the building on the fifth floor and signage is appropriate at or near the Petitioner's occupancy level. Signage is also necessary for consumers to know of the Petitioner's new Baltimore County location and to ensure the commercial viability of the Petitioner in its new location. Signage will lessen the hardship of the Petitioner's location. Although signs are permitted, the granting of a Variance confirms authority to place a sign on the penthouse level directly above the Petitioner's



County Board of Appeals of Baltimore

JEFFERSON BUILDING
SECOND FLOOR
15 WEST CHESTER STREET
BALTIMORE, MD 21201

August 20, 2009

Peter Max Zimmerman, Esquire
Office of People's Counsel for Baltimore County
The Jefferson Building, Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of:* **Hunt Valley 75 Limited Partnership – LO Petitioner**
Case No. 08-582-A Request for Reconsideration

Dear Mr. Zimmerman:

This will acknowledge receipt of your Motion for Reconsideration filed this date in the subject matter. A copy of your motion to reconsider, along with any response that may be filed thereto will be forwarded to the appropriate Board members for their review and ultimate consideration.

With regard to this request for reconsideration, Rule 10 of the Board's Rules of Practice and Procedure states in part as follows:

...The filing of a motion for reconsideration shall stay all further proceedings in the matter, including the time limits and deadlines for the filing of a petition for judicial review. After public deliberation and in its discretion, the board may convene a hearing to receive testimony or argument or both on the motion. Each party participating in the hearing on the motion shall be limited to testimony or argument only with respect to the motion; the board may not receive additional testimony with respect to the substantive matter of the case. Within 30 days after the date of the board's ruling on the motion for reconsideration, any party aggrieved by the decision shall file a petition for judicial review. The petition for judicial review shall request judicial review of the board's original order, the board's ruling on the motion for reconsideration or both. [Emphasis added.]

Therefore, in response to your motion for reconsideration, a public deliberation will be scheduled and appropriate notice promptly sent to all parties to this matter.

Should you have any questions, please contact me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Administrator

c: Edward J. Gillis, Esquire
Hunt Valley 75 Limited Partnership
c/o Justin Hoffman
Warren Weaver Mary Ellen Morrison
William J. Wiseman III Zoning Commissioner
John Beverungen, County Attorney

PSA Financial, Inc. c/o Trevor Lewis
Donald Gerding Nedda Evans
Timothy M. Kotroco, Director, PDM
Adam Rosenblatt, Assistant County Attorney

8/5/09

IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
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* CASE NO.: 08-582-A
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* * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County as a result of an appeal filed by People's Counsel for Baltimore County from an Order dated September 16, 2008 by the Zoning Commissioner for Baltimore County granting Petitioner's request for a Variance from Section 450.4.I.5(d) of the Baltimore County Zoning Regulations (BCZR) to permit two illuminated signs, one on the north elevation of the penthouse directly above the fifth floor (the space occupied by the Petitioner) wall of the multi-tenant office building with a sign of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the Petitioner) with a sign of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants of the building. Petitioner's request for the Variance is that the Petitioner is the sole tenant on the top level of the building on the fifth floor and signage is appropriate at or near the Petitioner's occupancy level. Signage is also necessary for consumers to know of the Petitioner's new Baltimore County location and to ensure the commercial viability of the Petitioner in its new location. Signage will lessen the hardship of the Petitioner's location. Although signs are permitted, the granting of a Variance confirms authority to place a sign on the penthouse level directly above the Petitioner's

leasehold space. No tenant occupies the penthouse/mechanical room above the tenant's level on the fifth floor. Petitioners, Hunt Valley 75 Limited Partnership, the legal owner of the subject property and PSA Financial Incorporated, Lessee, were represented by Edward J. Gillis, Esquire, with Royston, Mueller, McLean & Reid, LLP. The People's Counsel for Baltimore County was represented by Peter Max Zimmerman, Esquire. At the conclusion of the hearing, representatives for the Petitioners and the Appellant agreed to submit post-hearing Memorandums in lieu of closing arguments. A two-day public *De Novo* hearing was held on March 5, 2009 and April 1, 2009. A Public Deliberation was held on May 20, 2009.

BACKGROUND

The subject property is a multi-tenant five story office building located at 11311 McCormick Road in The Hunt Valley Office Park, 8th Election District; 3rd Councilmanic District. It occupies 9.28 acres and is zoned ML-IM (Manufacturing – Light, Industrial-Major). There are four (4) common entrances to the building. The building was constructed in 1986 and is known as One Hunt Valley, which is reflected on the free standing entrance sign at the main entrance of the building on McCormick Road. The common entrance on each of the four sides of the building serves the various tenants and visitors. PSA Financial Incorporated has leased the entire fifth floor of the building since May 1, 2008 and has a non-exclusive right to install two exterior back or internally lit signs on the building.

ISSUE

Petitioners have requested a Variance to install an enterprise type sign on the penthouse/mechanical level of the building. In lieu of a canopy and separate entrance for each

tenant of the building, there are four common entrances which are utilized by all of the tenants. Because of this lack of a canopy and/or separate entrance, the Petitioners have requested a Variance to install an enterprise sign on the top level of the building.

Section 450.4.I.5(d) of the BCZR Table of Sign Regulations, for which the Variance is requested, defines Enterprise sign:

5. I – CLASS – ENTERPRISE – meaning an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organizations

II – STRUCTURAL TYPE – (d) Wall-mounted; canopy

III – ZONE OR USE – On multi-tenant office, retail or industrial building, accessory to separate commercial entity with exterior customer entrance

VI - MAXIMUM NO./PREMISES – Entity with separate exterior customer entrance may erect one canopy and one wall-mounted sign.

TESTIMONY AND EVIDENCE

Over the two-day hearing period much testimony and exhibits were presented by both Petitioners and Appellant. Mr. Gillis in his opening statement on Day #1 entered as Petitioners Exhibit No.1 - Baltimore County Table of Sign Regulations and referred specifically to page 4-136, which covers wall-mounted canopy Enterprise signs. He called as his first witness Mr. Trevor Lewis, Jr., President of PSA Financial Incorporated. Mr. Lewis stated that PSA employs between 170 and 180 employees and has approximately 15,000 customers. The company provides broad financial services including property and casualty, employee benefits, retirement plans and wealth management. In 2008, his company moved to Hunt Valley. The space he

occupies in the building includes a conference center for meetings and conferences. Customers come to the office on a daily basis. On a slow week they may have as few as 100 customers, on a busy week 1,000 customers. He said his growth depends on visibility. He said the building sits back off the road and is camouflaged by trees and is difficult to find. He said he has naming rights for the building and submitted as Petitioner's Exhibit No. 13, a letter dated September 11, 2008 to William J. Wiseman, Zoning Commissioner of Baltimore County from John Herman, the on-site Property Manager, expressing Corporate Office properties support for Petitioner's request to place signs on the north and west faces of 11311 McCormick Road. Attached to the letter was a rendering of the signs to be placed. It reads PSA Financial and has its logo. Mr. Lewis said the height of the building is less than the Bank of America Building next door, which has a sign saying Bank of America. Mr. Gillis called Mary Ellen Morrison. Ms. Morrison has been the Executive Director of the Hunt Valley Business Forum for 18 months. The Forum has 125 members. Mrs. Morrison said she supports PSA. She said the sign is necessary for the Hunt Valley area and will benefit other tenants. On cross-examination by Mr. Zimmerman, she testified that the boundaries of the Forum are Parkton to the north, Timonium to the south, Interstate 83 to the west and York Road to the east. She did not testify before the Zoning Commissioner. She travels McCormick Road but has never been in the building, doesn't know any of the other tenants in the building, and did not attempt to find out. Saw no sign when driving past. PSA asked her to get involved. She testified that the Hunt Valley Business Forum is an Advocacy Group that supports its members. She was not representing Corporate Office Properties. She saw the letter from Mr. Herman. She was not sure if the approval of the Petitioner's request would set a precedent. The Forum has no policy concerning signs.

Mr. Gillis called Mr. Alan Nethen of Gable Signs. Mr. Nethen testified that he has 45 years experience in the sign industry and has been with Gable Sign for 6 years. He was accepted as an expert in signs and reviewed the drawings of the two signs to be installed (See Petitioner's Exhibit No.: 15). The west wall sign has the logo and PSA; the north wall sign has the logo, PSA and the words "Insurance and Financial services".

Mr. Gillis called Mr. Richard Cobert. Mr. Cobert is with the Baltimore County Department of Economic Development and is responsible for the Hunt Valley area. Mr. Cobert testified that the signs would attract business to Baltimore County. Mr. Gillis introduced as Petitioner's Exhibit No. 16 a Memorandum from David S. Iannucci, Executive Director of the Baltimore County Department of Economic Development to PSA indorsing PSA's signage request.

Mr. Gillis introduced as Petitioner's Exhibit No. 17 a letter dated November 21, 2008 from Adam M. Rosenblatt, Assistant County Attorney for Baltimore County to David S. Iannucci, the Director of the Baltimore County Department of Economic Development, in response to Mr. Iannucci's request dated November 17, 2008, for legal interpretation of paragraph 450 of BCZR in the subject case. Mr. Rosenblatt's letter says "this office supports the Zoning Commissioner's interpretation, and believes it to be the only reasonable interpretation, because the table can not be read to limit signage to entities with exclusively owned exterior customer entrances. If the regulation were read in that manner, as suggested by the Office of People's Counsel on appeal, the regulation would essentially prevent any signage from ever being erected on a multi-tenant, retail or industrial building – the type of structure specifically enumerated in paragraph 405.4. III.5 (d)".

Mr. Zimmerman at the beginning of the second day of the hearing introduced as People's Counsel Exhibit No.4, which are 9 photographs showing various angles of the location of the

building, the free-standing sign identifying the building as One Hunt Valley, the Bank of America Building and examples of Enterprise signs in the area. Mr. Zimmerman called Mr. James S. Patton as his first witness. Mr. Patton is President of Patton Consultants, Ltd. and has over 35 years experience in site engineering and site planning (See People's Counsel's Exhibit No.: 12). He was accepted as an expert witness in planning, zoning and civil engineering. Mr. Patton testified he took the pictures in People's Counsel Exhibit No.4. He reviewed the Zoning Commissioner's decision, visited the site and reviewed the zoning petition. In his opinion, the zoning petition was improperly filed. It was filed as a Variance for an Enterprise sign. He testified that the regulation for an Enterprise sign excluded multi-office buildings that do not have separate customer entrances. It was clear to him that there were other tenants in the building and they use the common entrances. He said Mr. Rosenblatt's letter (Petitioner's Exhibit No. 17) was wrong. The proposed sign does not meet the regulation and is not permitted as an Enterprise sign. When asked what he thought would be permitted, he said a joint identification sign. In his opinion the building is not unique and is medium in size to other buildings in the area. To allow Enterprise signs on a multi-tenant building with common entrances and no canopies would create clutter. Corporate Office Properties chose to have PSA name the building.

Two citizens also testified against the Petition for the Variance. Ms. Nedda Evans spoke on her own behalf and the Sparks-Glencoe Community Planning Committee (See People's Counsel Exhibit No. 16). Mr. Zimmerman introduced as People's Counsel Exhibit No. 1 an aerial photograph showing the subject building and other buildings in the area. Exhibits 17 A-17 C are photographs of the building from different locations. Ms. Evans said the buildings in the area are prominent and highly visible. There is nothing unique about the building. She

doesn't know why people can't find it. She feels that the sign would have an adverse impact and other businesses would want to do the same.

The second citizen to testify was Mr. Eric Rockel. Mr. Rockel is the President of the Greater Timonium Community Council. (See People's Counsel Exhibit No. 13). Mr. Rockel's main concern is that the aspect of the Variance being granted is excessive. He does not see wall-mounted signs on other buildings. He said it is a very conservative, button-down look and nicely landscaped area. He feels that if the Variance were permitted it would set a precedent and other property owners would ask for similar variances. It will cause visual clutter. He said that there is nothing unique about the property. Mr. Rockel's testimony concluded People's Counsel case.

Mr. Gillis and Mr. Zimmerman submitted comprehensive and detailed Post-Hearing Memorandums and these were reviewed by the Board in addition to the testimony and evidence presented at the two day hearing.

DECISION

There is no question that PSA has the right to erect two (2) wall-mounted signs on the north and west sides of the building they occupy at 11311 McCormick Drive. That right was extended to them in their Lease as a non-exclusive right by Corporate Office Properties. Testimony and Exhibits presented suggest that the intent of the non-exclusive right was to identify or name the building in order to increase its visibility. Exhibit E-1, attached to the Lease (Petitioners Exhibit No. 2), confirms this original intent. It shows PSA, Incorporated and its logo. Testimony and Exhibits presented at the hearing confirm that the Petitioner now intends for one of the signs to be an Enterprise sign, that is, a sign that would not only identify the building, but would also advertise PSA's services. Petitioner contends that because there are no

canopies on the building they have the right to erect two (2) wall-mounted signs; one (1) of which is an Enterprise sign. People's Counsel contends that the proposed Enterprise sign does not meet the BCZR requirements for an Enterprise sign, because there are no separate entity entrances. There are four common entrances utilized by all of the tenants of the building. To compensate for this shortcoming, Petitioner has filed for a Variance; however, the Variance only confirms the authority to place the signs on the penthouse level above Petitioner's space. It does not address the lack of separate entity entrances. Petitioner introduced as Petitioner's Exhibit No. 17, a letter from Adam Rosenblatt from the County Attorney's Office to David S. Iannucci, Director of the Baltimore County Department of Economic Development, which supports the Zoning Commissioner's interpretation that tenants who lease common entrances to a multi-tenant office building, possess the requisite customer entrance to erect one (1) canopy and one (1) wall-mounted Enterprise sign. Their office believes it to be the only reasonable interpretation, because the table cannot be read to limit signage to entities with exclusively owned exterior customer entrances. People's Counsel contends this disregards the plain language of the regulation. They contend a "common entrance" available to all the tenants or commercial entities does not translate to a use by a "separate commercial entity with a separate exterior entrance". The "Z" (zoned) or "U" (use) position of the Regulation Chart indicates that wall-mounted or canopy signs are permitted "on multi-tenant office, retail or industrial building, accessory to separate commercial entity with exterior customer entrance". Messrs. Witt and Crizer interpreted this sentence to mean that each entity within the multi-tenant office must have an exterior entrance for the customers, separate from the rest of the tenants. Mr. Stahl however disagrees, stating that his interpretation of the sentence was that if the County Council intended

for each entity in the structure to be required to have a separate entrance in order to qualify for an Enterprise sign, they would have said that.

The Board discussed the Petitioner's request for a waiver to install the two signs at the penthouse/mechanical level of the building. There was no testimony or exhibits presented at the hearing to dispute the Petitioner's authority to install the signs at that level, so the fact that whether the building is unique or not is immaterial. The Board concluded therefore that the Petitioner would have the authority to install the signs at that level.

After a reviewing the testimony, exhibits, Post-Hearing Memorandums and BCZR, the majority of this Board has determined to deny the variance requested by Petitioner to install an Enterprise sign on the building at 11311 McCormick Road.

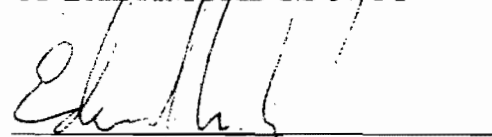
ORDER

THEREFORE, IT IS, this 5th day of August, 2009, by majority vote by the Board of Appeals of Baltimore County,

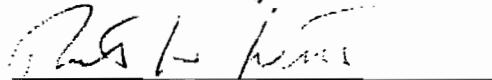
ORDERED that the Petitioners' request for Variance in Case No. 08-582-A seeking relief from Section 450.4.I.5(d) of the Baltimore County Zoning Regulations (BCZR) to permit two illuminated signs, one on the north elevation of the penthouse directly above the fifth floor (the space occupied by the Petitioner) wall of the multi-tenant office building with a sign of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the Petitioner) with a sign of 226.25 square feet respectively, be and is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Edward W. Crizer, Jr.



Robert W. Witt

8/5/09

IN THE MATTER OF
THE APPLICATION OF
HUNT VALLEY 75 LIMITED PARTNERSHIP
FOR A VARIANCE ON THE PROPERTY
LOCATED AT 11311 MCCORMICK ROAD
S/SIDE MCCORMICK, NE CORNER OF
MCCORMICK AND SCHILLING ROAD

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.: 08-582-A
*

* * * * *

DISSENTING OPINION

I both concur in part and dissent in part from the Opinion of the Majority.

I concur with the Majority's conclusion that PSA Financial Incorporated (PSA) has the right to erect two wall mounted signs on the north and west faces of the subject property. I further concur with their conclusion that one of those signs could be erected on the wall of the penthouse/mechanical level of the building.

I disagree with the Majority as it relates to their interpretation of Section 450 of the Baltimore County Zoning Regulations (BCZR) concerning "enterprise" signs. The Majority has determined that the language of the statute requires that "each entity within the multi-tenant office building must have an exterior entrance for the customers, separate from the rest of the tenants." This interpretation agrees with the position taken by the People's Counsel for Baltimore County that without such an "exclusive" entrance, PSA does not meet the requirements for an "enterprise" sign as called for in the BCZR Section 450 (table inside regulations), which was entered as Petitioners Exhibit number 1. This member adopts the interpretation of the Zoning Commissioner below as further elucidated by the Baltimore County Office of Law in their November 21, 2008 letter to David Iannucci, Director of the Baltimore County Department of Economic Development, and entered into evidence as Petitioners Exhibit number 17.

Both the Office of Law and the Zoning Commissioner below concluded that Section 450 does not require an "exclusive" entrance in order to permit the "enterprise" sign as requested.

Adam M. Rosenblatt, Assistant County Attorney, the author of the November 21, 2008 letter, points to section 450.4.III.5(d) allowing wall mounted and canopy signs on “multi-tenant office, retail or industrial buildings” in conjunction with subsection 450.4.VI.5(d) which states that “each entity with separate exterior customer entrance may erect one canopy and one wall mounted sign.”

Concluding that the two sections needed reconciliation with each other, he supported the finding of the Zoning Commissioner that:

...tenants who lease a common entrance to a multi-tenant office building possess the requisite customer entrance to erect one canopy and one wall-mounted sign. This office supports the Zoning Commissioner’s interpretation, and believes it to be the only reasonable interpretation, because the Table cannot be read to limit signage to entities with *exclusively* owned exterior customer entrances. If the regulation were read in that manner, as suggested by the Office of People’s Counsel on appeal, the regulation would essentially prevent any signage from ever being erected on a multi-tenant, retail or industrial building – the type of structures specifically enumerated in Section 450.4.III.5(d).

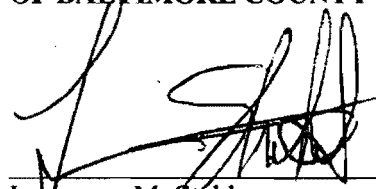
This member, in agreeing with this interpretation, believes that if the intent of the law was to limit the availability of the subject requested signage only to entities with “exclusive” rather than common entrances, the County Council could easily have stated as much in the applicable code section. In addition, Mr. Rosenblatt addressed the question of intent of the law, noting that:

Furthermore, it is the opinion of this office that the interpretation employed by the Zoning Commissioner furthers the spirit and intent of the BCZR. Section 450.1B states that: ‘Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community.’ Indeed, any interpretation of Section 450.4 that effectively prevents all tenants from erecting signs on multi-tenant buildings is contrary to the purposes expressly stated in the regulations.

The testimony of Trevor Lewis established the volume of use of PSA employees and customers at the subject site. Witnesses Mary Ellen Morrison and Richard Colbert underlined both the needs of the business community and the difficulties faced by Petitioners and others if the interpretation of Section 450 presented by People’s Counsel and noted by the Majority was adopted.

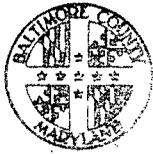
For all of the above reasons, therefore, I respectfully concur in part as noted above and dissent in part to the opinion of the Majority in this case.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**

A handwritten signature in black ink, appearing to read 'L. Stahl', written over a horizontal line.

Lawrence M. Stahl

8/5/09



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
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TOWSON, MARYLAND, 21204
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FAX: 410-887-3182

August 5, 2009

Edward J. Gillis, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Ave, Ste 600
Towson, MD 21204

RE: *In the Matter of: Hunt Valley 75 Limited Partnership-Appellant/Petitioner*
Case No.: 08-582-A

Dear Mr. Gillis:

Enclosed please find a copy of the final Majority Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter. Also enclosed is a copy of Mr. Stahl's Dissenting Opinion.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c: Hunt Valley 75 Limited Partnership
Trevor Lewis/PSA Financial, Inc.
Warren Weaver
Donald Gerding
Office of People's Counsel
Timothy Kotroco, Director/PDM
John E. Beverungen, County Attorney

Justin Hoffman/PSA Financial, Inc.
Edward J. Gillis, Jr.
Mary Ellen Morrison
Nedda Evans
William J. Wiseman, III, Zoning Commissioner
Arnold F. "Pat" Keller, Director/Planning

5/8/09

IN THE MATTER OF:
Hunt Valley 75 Limited Partnership
11311 McCormick Road
8th Election District
3rd Councilmanic

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 08-582-A

Petitioner

* * * * *

POST-HEARING MEMORANDUM

PSA Financial, Inc. ("PSA"), Lessee of the property known as 11311 McCormick Road, which is owned by Hunt Valley 75 Limited Partnership, by its undersigned counsel, hereby submits this Post-Hearing Memorandum, and, through it, seeks the relief requested in its Petition for Variance so as to allow two wall-mounted enterprise signs.

Petition for Variance

On June 20, 2008, a Petition for Variance was filed. A copy of the Petition is attached as Exhibit "A." That Petition sought permission to place two signs, one on the north face of the structure with a size of 194.83 sq. ft.,¹ and the other on the west face of the structure with a size of 226.25 sq. ft. The Petition stated:

Although signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse level, directly above the applicant's leasehold space.

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RECEIVED

MAY - 8 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

¹ Signs are measured, as detailed in the parties' stipulation, by drawing an imaginary rectangle around the proposed sign using its widest and tallest points, and measuring the square footage of the imaginary box. Hence, signs are often smaller than the assigned square footage. In this instance, the actual sign area is substantially smaller than the County's "imaginary box" square footage, as is shown in Petitioner's Exhibit 15.

Summary of Dispute

The summary of this dispute is that the Petitioner asserts that it is entitled to place “enterprise” signs on the structure. People’s Counsel argues that only “joint identification” signs are permitted.

“Enterprise” signs are defined in the Table of Sign Regulations (BCZR § 450.4 Attachment 1:1(5)) as follows:

Enterprise [sign], meaning an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization.

PSA Financial seeks to erect enterprise signs which state: “PSA Insurance & Financial Services.” (See Petitioner’s Exhibit No. 15.)

“Joint Identification” signs are defined in the Table of Sign Regulations (BCZR § 450.4 Attachment 1:1(7)) as follows:

Joint Identification [sign], meaning an accessory sign displaying the identity of a multi-occupant non-residential development such as a shopping center, office building or office park.

People’s Counsel’s argument seems to be that PSA should view its desired signage as People’s Counsel views it, a sign identifying the building, not as PSA views it, a sign advertising “PSA Insurance & Financial Services.”

Although it seems patent that PSA should be entitled to erect a sign advertising its business, People’s Counsel in essence asserts that BCZR § 450.4(A) precludes the use of enterprise signs. That section, in part, states:

For any sign that meets the definition of more than one class, the more restrictive class will control.

People's Counsel seems to miss the point. Signs are important business tools. Sections 450.1(A) and (B) reflect this fact; regulation of signage "must reasonably accommodate the needs of the business community."

PSA is a business, not a property owner. PSA needs and is entitled to enterprise signs, advertising its presence. (People's Counsel's argument would better apply if the property owner had requested to place a sign on the structure: "One Hunt Valley," consistent with the street level sign now on McCormick Road. *See* People's Counsel Ex. 4E).

People's Counsel, as an alternative "strategy," asserts that PSA does not satisfy the Table of Sign Regulations as it is applied to enterprise signs (Subsection (d)); People's Counsel adds its own "spin" on that subsection asserting that despite the clear language of the Regulation, PSA should be required to have an "exclusive" exterior customer entrance. People's Counsel's interpretation of Subsection (d)(VI) fails to properly interpret the Regulation's term: "separate exterior customer entrance" and thereby fails to give credence to the County Attorney's letter of advice on that precise issue. Exhibit 17. PSA does have a "separate exterior entrance"; it is shared by others who are tenants in the building, and no others. "Separate" yes, "exclusive" no.

Summary of the Facts

Uncontroverted facts regarding the building known as 11311 McCormick Road are that there are "separate exterior entrances," at a minimum, on the north and west faces of the structure. (Testimony of Mr. Lewis and of Mr. Patton.)

Uncontroverted testimony is that PSA leases the entire fifth floor of the structure known as 11311 McCormick Road and that the fifth floor is the top floor of that building. Further, the testimony, uncontroverted, is that PSA has 24 hour, seven day per week access to the building through the main first floor entrance (including the north and west faces) and that it leases (with

other tenants) the common areas in the building, including the first floor lobby, the stairwells, and the elevators. Those stairs and elevators provide PSA with access to its fifth floor leasehold space. (Testimony of Mr. Lewis.)

Further still, uncontroverted testimony and Exhibit 2 reflect that PSA has the property owner's permission to erect signs, as requested in this action, on the building. The landlord's letter advice, consistent with the lease terms, is contained in Exhibit 13.

Baltimore County's Department of Economic Development's representative, Richard Cobert, testified, consistent with the Exhibit 16, that Baltimore County supports PSA's application to erect two signs on the structure and that signage in this instance is attractive and consistent with the business community. Mr. Cobert testified that PSA is part of a burgeoning area of Financial, Investment, and Real Estate ("FIRE") businesses in the area.

Similarly, the testimony of the Hunt Valley Business Forum's Executive Director, Mary Ellen Morrison, was that the proposed signs are wholly welcomed by the Forum.

The only testimony that the proposed signs would pose a risk to the "health, safety or welfare" of the community was the testimony of People's Counsel's expert witness, James Patton, who, on cross-examination was unable to articulate any health risks, any safety risks (other than the possibility of the sign actually falling from the wall) or any welfare risks. Mr. Patton was only able to state that he believed that there was no "exclusive" exterior entrance and that only a joint identification sign was appropriate. (Those conclusory statements were without any fact support.)

PSA's president, Chip Lewis, testified to the fact that PSA employs over 180 white collar professionals and that the business has a regular and substantial stream of visitors and guests.

There are seven conference rooms in the leasehold space, as well as two large training facilities. Non-employees, on a daily basis, come to PSA's offices.

Mr. Lewis further explained that because of mature trees and other landscaping, the building in which PSA is located is in many respects "hidden." Exhibits 4 through 12 show the building, the proposed locations of the signs and ground view perspectives confirming the fact that signage will benefit PSA in advertising its business and location.

Uncontroverted testimony also confirmed that 11311 McCormick Road does not have a "canopy" as that term is defined in § 450.5(B)(3) of the Baltimore County Zoning Regulations. (Testimony of Mr. Lewis and Mr. Patton.)

Uncontroverted testimony also included the fact that the roof of 11311 McCormick Road does not have "eaves" or traditional "parapets" (castle-like protrusions above the roofline), as those terms are used in § 450.5(b)(9)(b). Surely, the integrity of the roof line is not compromised by a planned sign on the mechanical room wall above the fifth floor.

Testimony and exhibits confirm that the north wall of 11311 McCormick Road is 252 feet long and that a permitted sign could be as large as 504 square feet. The proposed sign on that face is 226.25 square feet. Similarly, the west wall is 240 feet long; a permitted sign could be up to 480 square feet, but the proposed sign is only 194.83 square feet. *See* Exhibits 10 and 15, as well as Table Sign Regulations, Enterprise (d)(V), where it is stated that the maximum area of a sign is "two times the length of the wall containing the exterior entrance and defining the space occupied by the separate commercial entity."

Signs Permitted "as of Right"

PSA is permitted, as of right, to erect enterprise signs.

The Table of Sign Regulations permits such signs on “multi-tenant office buildings.” 11311 McCormick Road is a multi-tenant office building. Table of Sign Regulations, (d), contains the regulatory provisions permitting such signs. People’s Counsel’s arguments notwithstanding, there is nothing in the Regulations which demands that a one-story flex building (a “St. John Properties” style building), with multiple tenants, be treated differently or more favorably than a multi-story tenant office building such as 11311 McCormick Road, also with multiple tenants. Baltimore County’s County Attorney so opines in the letter attached as Exhibit 17. People’s Counsel offered no contrary authority. There may be no better authority than the opinion of the County Attorney, as that office is tasked by Charter with representing the County Council which, in turn, creates the Regulations about which this matter is concerned.

An analysis of the enterprise sign provisions of the BCZR confirms this “as of right” conclusion. The Sign Regulations have IX categories. Each will be described below, *seriatum*.

I. This column merely references Enterprise Signs which are defined as: “an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization.” Surely, there can be no dispute that the proposed PSA sign satisfies the definition of an “enterprise” sign inasmuch as it displays the identity of PSA and otherwise advertises its “insurance and financial services.”

II. This column, at Subsection (d), permits wall-mounted and canopy signs. Again, there can be no dispute that proposed signs are to be wall-mounted. Further the uncontroverted testimony is that there are no canopies on the building.

III. This column describes “zones or uses.” Again, it is undisputed that 11311 McCormick Road is a multi-tenant office building. Further still, there can be no dispute that

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PSA is a "separate commercial entity" with "exterior customer entrance." Without an "exterior customer entrance," PSA would be unable to access the structure and its leasehold space.

IV. This column describes the permits required before a sign can be erected. A use permit is required.

V. This column describes the maximum area of the face of the sign. It states that the sign may be "two times the length of the wall containing the exterior entrance." As previously described, the proposed signs are well within the sizes permitted based upon length of the walls. Further, since PSA leases the entire footprint of the fifth floor, it is entitled to a sign which is based upon the entire width. Regardless, PSA seeks signs which are less than 50% of the permitted sign sizes.

VI. This column describes the maximum number of signs permitted. It states that: "An entity with separate exterior customer" may erect one canopy sign and one wall-mounted sign. Since PSA has "separate exterior customer entrances" on the north and west faces, it is entitled to one wall-mounted sign on each face and one canopy sign on each face. Despite People's Counsel's argument that "exclusive" customer entrances are required, there is no such language in the Table of Sign Regulations. People's Counsel's interpretation would preclude a tenant in a multi-story office building from permission to erect enterprise signs. As the County Attorney has opined (Exhibit 17), such would be unfair and illogical.

Further, since there are no canopies on this structure, a tenant at 11311 McCormick Road would be unable to have signage equal to tenants' structures containing canopies. Board of Appeals relief permitting additional wall-mounted signage instead of canopy signage would place a tenant in a non-canopied structure on footing equal to others.

VII. This column has to do with height of signs. As the testimony made clear, there is no height limitation applicable to a multi-story, multi-tenant office building. Section 450.4(G) confirms that this column's height limitations apply only to free-standing signs.

VIII. This column concerns illumination and confirms that the signs sought by PSA are permitted to be illuminated.

IX. This column concerns "additional limitations" but, in this instance, there are none since 11311 McCormick Road is in an ML zone, not a BC zone.

The above analysis makes clear that PSA is entitled, as of right, to the signs it now seeks. This Board may conclude, as did the Zoning Commissioner, that the Department of Permits and Development Management improvidently refused to issue permits and that no variances or other relief are required.

Variance

To the extent that a variance may be required, § 307.1 of the Baltimore County Zoning Regulations would control. This Board may grant variances from the sign regulations where special circumstances exist and where strict compliance would result in practical difficulty or other undue hardship.

To the extent that this Board determines that a variance is required, it is patent that special circumstances do exist. Here, 11311 McCormick Road does not have canopies and, hence, PSA is unable to erect a canopy sign. Without variance relief, PSA would be treated differently and less favorably than an entity seeking an enterprise sign on a structure having a canopy. Simply stated, the zoning impacts PSA "disproportionately." See, *Trinity Assembly of God v. People's Counsel*, 178 Md. App. 232, 246 (2008).

Strict compliance would result in practical difficulty or undue hardship since PSA would be in a disadvantageous position if unable to advertise its business. A location, owned by another, behind mature landscaping, needs signage.

A variance may also be required in order to erect the north facing sign on the wall of the mechanical room above the fifth floor. Again, such a sign would “replace” the sign that would be permitted on a canopy, but the structure has no canopies.

Despite People’s Counsel’s protestations to the contrary, the proposal to place a sign on that mechanical room is not a “roof sign” as that term is defined in § 450.5(B)(7). A “roof sign” is a “sign erected upon the roof of a building.” Instead, variance in this instance may be required from the provisions of § 450.5(B)(9)(b), which relate to wall-mounted signs. Subsection (b) states:

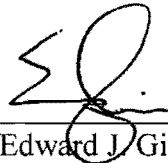
No part of a wall-mounted sign may extend beyond the eaves or parapet, whichever is higher, at the top of the wall to which it is attached, or be placed on the walls or screening enclosing elevator, air conditioning or similar utility mechanisms which project above the eaves or parapet.

Here, PSA asserts that, since there are no eaves or parapets, the mechanical room above the fifth floor is appropriate space on which a sign may be erected. To the extent that the Board believes that variances are required in order to erect such a sign, the analysis above details the “special circumstances” and “practical difficulty” with which PSA is confronted.

Conclusion

PSA seeks authority to erect wall-mounted enterprise signs on the north and west faces of 11311 McCormick Road. It asserts that it is permitted, as of right, to do so since there are entrances into the building on both faces.

People's Counsel's argument that only "joint identification" signs are permitted would preclude any multi-story, multi-tenant office building from having enterprise signs. Nowhere in the Regulations is such a preclusion articulated. Surely, had the County Council desired to preclude enterprise signs on multi-story, multi-tenant office buildings, it could have easily so stated. Instead, as explained in this Memorandum, PSA satisfies all of the Table of Sign Regulations provisions and must now be permitted to obtain use permits to erect wall-mounted signs on the north and west faces of 11311 McCormick Road. This conclusion is consistent with the Baltimore County Zoning Regulations, the lease between the property owner and PSA, and, importantly, consistent with interpretation of the regulations as contained in the County Attorney's letter (Exhibit 17).

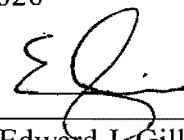


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of May, 2009 a copy of the foregoing Post-Hearing Memorandum was mailed, first class, postage prepaid, to:

Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County
606 Baltimore Avenue, Suite 204
Towson, MD 21204-4026



Edward J. Gilliss

5/8/09

RE: PETITION FOR VARIANCE *
11311 McCormick Road; S/S McCormick Rd,
NE corner McCormick & Schilling Roads *
8th Election & 3rd Councilmanic Districts
Legal Owner(s): Hunt Valley 75 Ltd P-ship *
Contract Purchaser(s): PSA Financial Inc
Petitioner(s) *

BEFORE THE COUNTY

BOARD OF APPEALS

FOR

BALTIMORE COUNTY

08-582-A

RECEIVED
MAY - 8 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

* * * * *

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MEMORANDUM

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Legal Owner(s): Hunt Valley 75 Ltd P-ship	*	FOR
Contract Purchaser(s): PSA Financial Inc		
Petitioner(s)	*	BALTIMORE COUNTY
	*	08-582-A
*	*	*
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PEOPLE’S COUNSEL FOR BALTIMORE COUNTY’S MEMORANDUM

Introduction

This case comes to the County Board of Appeals (CBA) upon People’s Counsel’s October 8, 2008 *de novo* appeal of Zoning Commissioner (ZC) William Wiseman’s September 16, 2008 grant of a petition for variance for two illuminated signs on the north and west elevations of the multi-tenant office building at 11311 McCormick Road. The CBA held two days of trial hearings on March 5 and April 1, 2009, heard testimony, and admitted numerous exhibits, coincidentally 17 on each side. Pursuant to the CBA’s instruction, our office files this post-hearing memorandum.

For this petition for sign variances, the property owner is Hunt Valley 75 Limited Partnership, (HVLP), a subsidiary of Corporate Office Properties Trust (COPT). The tenant, PSA Financial, Inc., (“PSA”) is, however, the party primarily interested in two new large wall-mounted “enterprise” signs on the north “penthouse” elevation above the fifth-floor leasehold area and on the west face. The stated purposes of the signs are a mix of identification, advertising, and branding, consistent with the petition, the definition of “enterprise” sign, and the entirety of the evidence. The petition for variance is filed under the enterprise sign category described in BCZR § 450.4(5)(d)

Specifically, the petition for variance filed June 20, 2008 states in “Exhibit A,” “BCZR § 450.4(5)(d)

To permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with a size of 194.83 sf and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 sf. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants including the applicant.”

The petition also states in “Exhibit B” a number of “Reasons for the Variance” to support a contention “hardship or practical difficulty.” The stated reasons are that “signage is appropriate at or near the tenant’s [fifth floor] occupancy level;” that it “ ... is necessary for consumers to know of the applicant’s new Baltimore County location and to ensure the commercial viability of the applicant in its new location;” that it will “ ... lessen the hardship of the applicant’s business location;” and that “[A]lthough signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse [mechanical room] level directly above the applicant’s lease hold space”

As the Board knows, the BCZR § 307.1 standards for variances are strict. The Court of Appeals has explained the interrelated tests of “uniqueness” and “practical difficulty” most recently in another sign variance case. Trinity Assembly of God v. People’s Counsel for Baltimore County 407 Md. 53 (2008). There, the Court affirmed this Board’s denial of a church’s proposed sign variance and found there was no violation of the federal law protecting religious exercise from substantial burden (RLUIPA). The Court also reviewed the additional strict standard for sign variances under BCZR § 450.8.A.1, which focuses on visual clutter.

But before the Board addresses the variance test, there is a threshold question. Do the proposed wall-mounted signs qualify as enterprise signs permitted by right in the M.L. Zone category applicable to multi-tenant office buildings under BCZR § 450.4.5. Even though petitioners have asked for variances, their main argument seems to be that these proposed signs are permitted by right, and that there is no need for a variance.

This is an irregular argument procedurally, because petitioners have not filed a petition for a special hearing for a legal determination of permissibility. The special hearing process affords the opportunity for what amounts to a declaratory judgment. See Antwerpen v. Baltimore County 163 Md. App. 194, 209 (2005). But petitioners have filed for a variance, and a variance only.

In any event, the signs do not qualify for approval as enterprise signs under BCZR § 450.4.5(d). Moreover, we have identified the BCZR § 450.4.7(e) joint identification sign category applicable to the M.L. Zone, which would allow a single wall-mounted sign with a maximum size of 150 feet.

We have communicated our position consistently. Nevertheless, petitioners continue to insist that the petition qualifies in the enterprise category. The bottom line is that petitioners have not chosen to admit the fundamental flaw in their petition and have not asked for the opportunity to amend or correct it.

Baltimore County enacted comprehensive new sign legislation in Bill 89-97. The sign law defines "enterprise" and "joint identification" signs. An "enterprise sign" is defined as, "meaning a sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization." BCZR § 450.4(5) In contrast, a joint identification is defined in BCZR § 450.4.7 as "meaning an accessory sign displaying the identity of a multi-occupant nonresidential development such as a shopping center, office building, or office park.

It should be underlined that the sign table generally prohibits wall-mounted and enterprise signs on multi-tenant buildings in M.L. zones. BCZR § 450.4.5(a) provides for some wall-mounted enterprise signs in M.L. Zones, but specifically "excluding multi-tenant office, retail, or industrial building."

BCZR § 450.4.5(d) does, on the other hand, allow a wall-mounted sign or canopy sign on a "multi-tenant office, retail, or industrial building" where it is "accessory to separate commercial entity with separate exterior customer entrance." This provision intends plainly to accommodate an enterprise with its own separate entrance. It does not allow or permit a separate sign for each tenant of a typical building with a common entrance or common entrances for its several tenants. For example, the many multi-tenant office buildings in Towson --- the (still) Mercantile Building, the Lafayette Building, the Susquehanna Building --- do not have wall-mounted signs for tenants on the exterior of the buildings. Rather, they may have a single identification sign for the building. On occasion, if there is a separate business with its own entrance, usually on the first floor, there may be a separate sign for that occupant, such as the PNC Bank in the Mercantile Building, or a restaurant such as Paolo's or Troia's.

Here, there is no separate entrance for PSA. To gain access to its fifth-floor occupancy, it has the use in common, along with other tenants, of four first-floor public entrances to the building. Plainly, this does not qualify as a situation with a "separate

commercial entity with separate exterior customer entrance.” The petition concedes as much, and all of the testimony and exhibits confirm this point.

BCZR § 450.4.5(a) and (d) are the only provisions for wall-mounted enterprise signs in the M.L. Zone. They are specific and restrictive. This is sensible because without such restrictions, each and every tenant could clutter the exterior walls of such a building with their many signs. Can you imagine the Empire State Building with multiple wall-mounted advertising signs on every story? Clearly, the legislative intent is to foster appropriately dignified signage on the walls of multi-tenant buildings.

Correspondingly, BCZR § 450.4.5(b) allows certain types of freestanding signs in M.L. Zones, but, as in subsection (a), excludes multi-tenant buildings. There is thus a consistent purpose here to exclude enterprise signs on such buildings, with the exception of separate commercial entities with separate entrances.

In this context, PSA’s occupancy of a large space does not confer any advantage or entitlement. The law does not distinguish between the relative magnitudes of occupancies. Similarly, PSA’s claim of an exclusive arrangement by lease covenant (despite the non-exclusive language of lease paragraph 51) is also irrelevant. A lease cannot preempt the plain legislative language. Nor does this lease purport to do that.

Meanwhile, the sign law accommodates owners of multi-tenant office buildings by allowing a single joint identification sign to display the identity of the building. BCZR § 450.4.7(e). It makes allowance for one per principal building, with a maximum size of 12% of the area of the wall upon which it is erected, or a maximum of 150 square feet per frontage. Multi-tenant office buildings may also have freestanding joint identification signs under BCZR § 450.4.7(d). The One Hunt Valley sign on McCormick Drive is such a sign here. Of course, as in any zone, a directional sign showing the address is permitted. BCZR § 450.4.3. There is an address sign at each entrance here.

It is thus apparent that PSA, with the consent of the owner, is asking for something which plainly is not permitted. Petitioners have tried to bluff their way through with the fallacious theory that the four common entrances belong separately to PSA. They have enlisted the Department of Economic Development (DED). They have obtained the acquiescence of the Zoning Commissioner. They have even secured, via DED, an opinion

from an assistant county attorney. But these various endorsements and approvals conflict squarely with the necessary and appropriate construction of the zoning ordinance.

There is another threshold point to make about wall-mounted signs of any kind. BCZR § 450.5.B.9.b states,

“Wall-mounted sign: A sign painted on a wall of a building or structurally attached to a building wall in a plane parallel to the wall Wall-mounted signs are subject to the following:

* * *

No part of a wall-mounted sign may extend above the eaves or parapet, whichever is higher, at the top of the wall to which it is attached, or be placed on the wall or screening enclosing elevator, air conditioning or similar utility mechanisms which project above the eaves or parapet.”

This dovetails with BCZR § 450.5.B.7, which prohibits roof signs.

“Roof sign: A sign erected upon the roof of a building. “Roof sign” includes a sign having its structural framework or supporting elements attached, in whole or in part, to a roof, but does not include a sign erected upon a mansard, as that term is defined in Section 450.3. Roof signs are prohibited.”

The proposed sign on the north face of the rooftop mechanical room is prohibited on this ground alone.

Petitioners are thus ineligible for a variance for a wall-mounted enterprise sign. The petition is fundamentally flawed on the several grounds identified above. The petition should therefore be dismissed as legally insufficient. That is the end of it.

Furthermore, they could not satisfy the variance test if, hypothetically, they had applied for variances for two wall-mounted joint identification signs instead of one, with sizes greater than the maximum 150 square feet. There is no uniqueness to the property and no resulting practical difficulty affecting use of the property. Such variances would also conflict with the legislative intention for a single such sign per principal building.

Questions Presented

1. a. Whether petitioners, having filed a petition for variances for enterprise signs, are precluded from arguing that its proposed signage is permitted by right?

b. Whether the appropriate way to question permissibility by right of the proposed enterprise signage would be to file a petition for special hearing and thus to provide public notice that the petition raises this question for legal determination?

c. Whether the scope of the CBA's inquiry, therefore, is to decide whether petitioners are entitled to sign variances for the proposed enterprise signs?

2. If the issue were properly raised, does the sign legislation limit wall-mounted enterprise signs for tenants of a multi-tenant office building to commercial occupants or tenants with separate entrances and correspondingly prohibit such signs for occupants or tenants who share a common entrance or entrances with others?

3. a. Whether the sign law further disqualifies and prohibits such multi-tenant office building tenants using common entrances from requesting a sign variance in the enterprise class?

b. Whether, in any event, there is absent any evidence of such uniqueness and resulting practical difficulty as would substantiate a petition for variance for the proposed enterprise signage (or, hypothetically, for extra joint identification signage)?

4. Should the CBA have excluded the assistant county attorney's opinion?

Statement of Facts, and Commentary

To put the facts in perspective, some commentary will help to highlight their relationship to the issues. The argument will then serve to recapitulate the case.

The Property

The property is in the prominent Hunt Valley Office Park and is zoned M.L.-I.M. (Manufacturing-Light- Industrial-Major overlay). It occupies 9.28 acres. For over two decades, there has been a 5-story office building with over 236,000 square feet of enclosed space and 200, 000 square feet of office space. Pet. Exh. 10, P.C. Exh. 8. Each story has over 40,000 square feet, almost an acre. There is also a significant rooftop mechanical structure. The height of the building to the roof is 70 feet, and to the top of the mechanical structure is 82 feet. Pet. Exh. 8, 9.

The building sits substantially back from the property lines. This allows it to have four common entrances, with accessible surrounding parking areas and attractive landscaping at the boundaries. In addition to the large outdoor parking area, there is a parking garage on the east side. There appear to be in the order of magnitude of about 1000 parking spaces. There is a photograph of the west side parking area and the building in the background. P.C. Exh. 4D.

The tax records state that the building was built in 1986, and the testimony is consistent with that. Petitioners' attorney suggested during the cross-examination of James Patton that Westinghouse used to occupy the building, and Mr. Patton did not disagree. There is no evidence, however, that Westinghouse had any wall-mounted sign, or any sign similar to what PSA now proposes.

In recent years and at present, the building is a multi-tenant office building. It is known as One Hunt Valley, reflected in the freestanding entrance sign by that name at the main west entrance on McCormick Road P.C. Exh. 4E. The building is a sprawling complex. The common entrances on each of the four sides for access serve the various tenants and visitors. There is no separate entrance allocated or particular to PSA.

The Location

The Hunt Valley industrial and office park is situated conveniently between Shawan Road on the north, York Road on the east, Warren Road on the south, and Interstate-83, all of which are main roads in the greater Cockeyville area. There are northbound interstate highway exits at Warren Road and Shawan Road, and a southbound exit just at Shawan Road.

The upscale midrise office buildings are mainly south of Shawan Road and include the One Hunt Valley building at 11311 McCormick Road. This building is located about a block south of the signalized intersection at Shawan and McCormick roads. The Executive Plaza buildings are to the west, and the Bank of America building or buildings are to the north. McCormick Road is also a well-known road in the office park, named after the McCormick Company, the original developer of the area. There is excellent access to I-83 and to York Road. The area is relatively flat.

To the north of Shawan Road, the Hunt Valley regional shopping center slopes upward towards hills further to the north and west. To the northwest, on higher ground, are the Embassy Suites hotel and the Shawan Center, another office park. Across I-83, south of Shawan Road are the hills of Oregon Ridge Park. See Pet. Exh. 7.

The building is visible from many vantage points near and far. While visibility of any property varies depending on point of view, the testimony of James Patton and Nedda Evans indicate that the building is visible from near the Shawan Road exit to I-83,

from the Embassy Suites hotel area on the north side of Shawan Road, from the Hunt Valley Shopping Center also on that north side, and, of course, from locations closer to the property. Ms. Evans' photographs confirm in particular that the building is visible from locations in the Hunt Valley Shopping Center. PC. Exh. 17A-B. It may be that the building is visible from the Oregon Ridge park, but that would have to be tested.

PSA's CEO Trevor Lewis stated repeatedly that the building is "hidden" by the Bank of America towers or trees along McCormick Road. This is a misuse of the word "hidden." Unlike many office buildings, One Hunt Valley Plaza has substantial setbacks from its property lines and from other buildings which have substantial setbacks. Standing alone, it has enhanced visibility. The higher topography to the north and west is another advantage. To be sure, one can select a location just to the north of the Bank of America building from where the subject building would not be visible. But relative to other office buildings in urban and suburban settings, there is excellent visibility here.

Correlatively, it is quite easy to get to the building. Whether or not a visitor is from the area, has mapquest or GPS, or simply follows routine directions, there is no trouble finding the Hunt Valley area, and there is no trouble getting to this building. The PSA website has a simple directional map. P.C. Exh. 10. Another tenant, McLean, Koehler, Sparks & Hammond, has provides equally simple text directions. P.C. Exh. 11.

Ironically, if the building were so hidden, it would be useless to have the proposed signs. It is precisely because the building has excellent visibility that PSA wants to advertise its presence and brand the building.

The Two Proposed Signs

The sign area is defined as the perimeter of the rectangle enclosing the face of the sign. BCZR § 450.3. The proposed sign on the north elevation is on the wall of the mechanical room. It will occupy 194 square feet with PSA in capital letters and the PSA logo. The proposed sign on the west elevation, on the wall of the fifth story, will occupy 226 square feet. It will have the letters PSA, the logo, and the lettering for "Insurance & Financial Services." Pet. Exh. 15. The signs are for identification, advertising, and branding purposes.

The PSA Lease and the Privilege afforded by COPT

On December 31, 2007 PSA Financial signed an 11-year lease, with renewal options, to occupy the fifth floor of the building beginning in May 1, 2008. Pet. Exh. 2. So far as the record shows, therefore, PSA has been operating there for almost a year. PSA has identified paragraph 51 in connection with its claim to an exclusive right to signage. Remarkably, the paragraph allows PSA the “non-exclusive right to install ... two (2) back exterior or internally lit signs on the Building”

The property owner’s representative, John Herrmann, wrote a September 11, 2008 letter to support PSA’s petition. Pet. Exh. 13. He added that PSA is “ ... the only tenant which has been given the authority to install signage such as that proposed. No other tenant enjoys this privilege.” COPT may yet afford this privilege to other tenants.

There is also nothing in Herrmann’s letter to suggest that the property owner has experienced a practical difficulty with respect to the use of the building prior to the present petition. As he describes it, the opportunity to ask for such a signage is a “privilege” afforded to the tenant, not a remedy for any difficulty or hardship.

The Department of Economic Development’s Support

At the request of petitioners’ attorney, Department of Economic Development (DED) Director David Iannucci sent a memorandum to PSA Insurance & Financial Services on August 4, 2008 to support the expansion of PSA’s “risk management, wealth services, and employee benefits divisions in their new location” The Iannucci memorandum states that PSA would add 25 new employees at the 42,000 square foot facility, that PSA would buy new businesses, and that there would be an expected several hundred more positions through acquisitions. The salaries would be \$95,000.00 or higher. Iannucci wrote, among other things,

“The McCormick Road corridor is undergoing redevelopment of former manufacturing buildings into office space for professional service firms. Branding this business center with signature firms like PSA Financial promotes the attraction and growth of high-wage financial, insurance, real estate, IT, and pharmaceutical operations.”

David Iannucci did not appear at the hearing. Rather, one of his subordinates appeared. In any event, his endorsement of PSA functions effectively as an advocacy document for a private business. There is no evidence that the Hunt Valley office park

was experiencing particular problems due to lack of signage. Indeed, as other witnesses indicated, the limitation and moderation of signage contribute to the attractiveness of the area. Moreover, the endorsement is unrelated to any uniqueness of the property or any resulting practical difficulty. The building has always been an office building. Iannucci just responded to PSA's private request to support a branding opportunity for its business, without regard to legislative criteria for signs.

During cross-examination, the DED representative attempted to minimize the concern that approval of the PSA signs would lead to others. He suggested it would be difficult for others to obtain special exceptions and variances. He implied that it was acceptable to favor PSA, but that no one else would or should be allowed. It was unclear why PSA should be accorded this privileged treatment.

The DED representative acknowledged that another tenant -- Morgan, Keller, Sparks, and Hammond --- would also be worthy of such signage. He was not familiar with the identities of all of the tenants and did not commit further. Evidently, his department would decide on a case-by-case basis which businesses should be supported.

The Assistant County Attorney's Correspondence and Opinion

At the March 5, 2009 hearing, Petitioners' attorney, Edward Gilliss, submitted for the first time two letters from Assistant County Attorney (ACA) Adam Rosenblatt to the County Board of Appeals relating to this case. These letters had never been disclosed to People's Counsel. These consist of a hand-delivered cover letter dated March 2, 2009 to the secretary of the County Board of Appeals, and an attached November 21, 2008 letter to Director Iannucci, which purports to be "... expressing the Baltimore County Office of Law's views and opinions pertaining to the subject matter of the above captioned case." Pet. Exh. 17. In fact, they expressed Mr. Rosenblatt's personal views.

ACA Rosenblatt had neither communicated with People's Counsel nor sent him copies of these letters. Rather, they were in the sole possession of Petitioners' counsel until produced at the March 5 hearing. Subsequent to the conclusion of the hearings, while preparing this memorandum, People's Counsel reviewed the CBA file. There was a notation in the file that ACA Rosenblatt had hand-delivered the correspondence to the CBA on March 2, 2009. But neither the notation nor the correspondence indicates any

copy sent to People's Counsel, and in fact there was no such delivery. These failures are aggravated by the fact that ACA Rosenblatt's correspondence includes a description of People's Counsel's position. Because Mr. Rosenblatt never had any communication with People's Counsel, it is most likely that Petitioners' attorney, Mr. Gilliss, provided Mr. Rosenblatt with his version of People's Counsel's position. Inevitably, Mr. Rosenblatt's correspondence gave an inaccurate, incomplete, and misleading description of People's Counsel's position and the supposed consequences.

At the March 5 hearing, People's Counsel objected immediately to the admissibility of the ACA correspondence. The Chair overruled the objection, stating nevertheless that the CBA would decide the legal issues. People's Counsel here restates and revives the office's objection. The ACA letters constitute just the personal opinion of ACA Rosenblatt. They do not properly constitute an opinion of the office of law. Even if the office of law had rendered an opinion, it would be inadmissible under the circumstances of this case.

It is quite remarkable that the county attorney, John Beverungen, did not sign the November 21, 2008 or March 2, 2009 ACA letters. The absence of his signature deprives ACA Rosenblatt's correspondence of proper legal authority. Charter § 508 assigns to the County Attorney the authority to "... to give advice and opinions ..." It does not authorize an assistant county attorney to issue an opinion in the absence of the county attorney's written approval and signature.

Furthermore, the ACA's November 21, 2008 personal letter states that it is "in response to your [Iannucci;s] letter dated November 17, 2008. ... which ... requested a legal interpretation." There is no indication that the County Administrative Officer approved this request, so there was again no legal authority under Charter § 508(3).

This odd chain of events apparently began with the request of PSA's attorney, Edward Gilliss, for DED's support. As Director Iannucci's August 4, 2008 memorandum to PSA Insurance & Financial Services began, Pet. Exh. 16,

"Royston, Mueller, McLean & Reid LLC [R,M, M & R] has contacted our department on your behalf concerning the zoning special hearing for this project."

Mr. Gilliss is the only R, M, M & R attorney whose appearance is entered in the case.

The November 17, 2008 DED request for interpretation was not produced. It should have been. It furthered the supportive response of DED to PSA's attorneys. With an interval of four days between the DED and ACA November letters, it seems the matter was hurried, if not conclusion-driven or orchestrated. Did DED and PSA know that the ACA opinion would be favorable before the written request was composed? Either way, the ACA's personal views served as a practical matter as an additional brief for PSA.

Even had the county attorney signed off on ACA Rosenblatt's letters, this would not correct or cure the situation. There is no proper role for the county attorney to play in this case. The county attorney does not defend the zoning commissioner's quasi-judicial decision in *de novo* appeals to the County Board of Appeals in variance cases. Nor does the county attorney defend departmental recommendations or endorsements, whether by DED or any other department.

Sometimes, the county attorney participates as a party to defend a departmental decision. This could include defense of a PDM building permit or enforcement decisions, a DEPRM variance or enforcement decisions, or a PDM development decisions. That is not the case here. In any event, the county attorney has not entered his appearance as a party. Rather, an ACA has sent a personal written opinion.

There are about 600 zoning cases filed each year. It is difficult to recall a situation where an assistant county attorney (or the county attorney) delivered to the CBA a written opinion to support a departmental endorsement in a zoning case, with or without notification to our office. If it has occurred, then it has occurred but rarely. This appears to be an extraordinary situation.

Consider that PSA's attorney, Edward Gilliss, recently County Attorney, is now Chairman of the Baltimore County Planning Board. The Baltimore County Office of Law is the legal advisor to the Planning Board. It is reasonable to ask whether these relationships tend to cross-pollinate so that the office of law may appear more accessible and inclined to deliver an opinion favorable to PSA. On top of this, upon information and belief, ACA Rosenblatt sometimes sits alongside Zoning Commissioner Wiseman and his deputy to assist them in zoning hearings and proceedings (although that does not appear to have occurred in the ZC hearing here). This further complicates the appearance

of a web of relationships. In this context, it is not surprising that the ACA's opinion supports PSA and echoes ZC Wiseman's opinion.

The content of this opinion does not mitigate these concerns. ACA Rosenblatt's argument is inaccurate and incomplete.

The ACA opinion parrots ZC Wiseman interpretation's of BCZR § 450.4.5(d) that the requirement for a "separate exterior customer entrance" for an enterprise sign does not mean an "exclusive" entrance. He wrote on page 2,

"In order to reconcile these, sections, the Zoning Commissioner held that tenants who lease a common entrance to a multi-tenant office building possess the requisite customer entrance to erect one canopy and one wall-mounted sign. This office supports the Zoning Commissioner's interpretation, and believes it to be the only reasonable interpretation, because the Table cannot be read to limit signage to entities with *exclusively* owned exterior customer entrances. If the regulation were read in that manner, as suggested by the Office of People's Counsel on appeal. The regulation would essentially prevent any signage from ever being erected on a multi-tenant, retail or industrial building –the type of structures enumerated in § 450.4.III.5(d).

At the outset, this disregards the plain language. A "common entrance" available to all the tenants or commercial entities simply does not translate to the use by a "separate commercial entity with a separate exterior entrance." The words "common" and "separate" are virtually antonyms. The opinion also ignores the specific legislative intent of BCZR § 450.4.5(a) to restrict wall-mounted signs from multi-tenant buildings.

Otherwise stated, ZC Wiseman had blurred or finessed the legislative distinction specifically delineated for separate entities with separate entrances. It is elementary that "separate" and "common" entrances are inherently unequal. Contrary to the Commissioner's suggestion, this is not a distinction without a difference. It seems that the bureaucratic interest in supporting PSA trumped the public interest in an objective implementation of the law geared to control signage on multi-tenant buildings.

The Commissioner had also failed to take into account the practical distinction between multi-tenant office buildings with common entrances, which traditionally do not have tenant-advertising signage, and buildings with separate premises and entrances for some or all of the occupants, typically with a sign for each separate entrance. To illustrate, there is a major difference between the typical mid-rise or high-rise office

building, such as found in Hunt Valley or Towson, and the “flex” office-warehouse structure, such as those featured by St. John Properties.

The ACA, moreover, is wrong to contend that People’s Counsel’s view “ ... would essentially prevent any signage from ever being erected on a multi-tenant retail or industrial building.” Here, the ACA opinion disregards the sensible allowance for a joint identification sign in BCZR § 450.4.7(e). The joint identification sign is the type of sign typically found on such a building, if indeed the building chooses to have a wall-mounted identification sign. Many such buildings do not have wall-mounted signs. Rather, they have address or directional signs at the entrance. A perusal of the office buildings in the Towson town center shows that some buildings have an identification sign and some have no such signs. There may be signs for separate first floor premises with separate entrances, such as banks, financial service entities, or restaurants. None of these buildings have multiple wall-mounted signs for the many tenants using a common entrance.

Meanwhile, the ACA opinion disregards the adverse practical impact of his opinion. Based on his opinion, any tenant using a common entrance would have an entitlement to wall-mounted signs, perhaps without numerical limit. What’s good for PSA is good for everybody else (notwithstanding the DED representative’s initial suggestion that PSA alone would have this benefit.). This would lead to an offensive proliferation of sign clutter on multi-tenant buildings.

The ACA opinion continues, again on page 2,

“Furthermore, it is the opinion of this office that the interpretation employed by the Zoning Commissioner furthers the spirit and intent of the B.C.Z.R. Section 450.1B states that: “Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community.” In deed, any interpretation of § 450.4 that effectively prevents all tenants from erecting signs on multi-tenant buildings is contrary to the purposes expressly stated in the regulations.”

In this next paragraph, the ACA opinion quotes selectively the BCZR § 450.1.B legislative finding to stress the business community’s need for signage. But his opinion disregarded the BCZR § 450.1.C - § 450.1.G legislative findings. The County Council there found that the amount of signage in Baltimore County is excessive and incompatible, distracts drivers and pedestrians, creates traffic and safety hazards, reduces

the effectiveness of road signs, mars the county's appearance, jeopardizes property values, undermines the master plan's goals to improve the quality of commercial corridors, and has an adverse effect on the natural, landscaped, and built environment.

It is People's Counsel's position that a personal advocacy document of an assistant county attorney does not belong in the evidentiary record and does not qualify for admissibility as evidence. In any event, it does not withstand scrutiny on the merits. The ACA's opinion undermines legislative intent and is injurious to the public interest.

Trevor "Chip" Lewis

As noted, PSA CEO Chip Lewis kept repeating the incantation that the building to which he chose to relocate is "hidden." The main culprits, he suggested, were the Bank of America building and the trees along McCormick Road. He also claimed that professional visitors from out of town are unable to find the place. He said they get lost.

It is to be expected that petitioners will embellish and exaggerate in order to get a result. But if one believes Mr. Lewis, it would take a detective to discover this 82-foot high, 236,000 square foot building with a 1000-vehicle parking area and facility on 9 acres. One is left to wonder how the building functioned for over 20 years without PSA and its additional promotional signage.

As we inquired in cross-examination, "You can't be serious?" While he refused to admit that his flight into the "hidden" crossed into fantasyland, that is where it landed.

The rest of his testimony essentially recited the virtue of his business and the favorable treatment received from COPT and the Department of Economic Development. There was nothing substantial to support the request for variances.

The sign contractor and the site plan

Petitioners' called just one expert witness. He was from the sign contractor, Gable Sign & Graphics, Inc., (GS & S), which also prepared the site plan. Pet. Exh. 15.

The site plan is not sealed. It lists initials of a sales representative: WWW. While the site plan describes the proposed signs, there is no description of the property, the adjacent properties, the topography, the zoning, the zoning history, or any other items typically enumerated to satisfy Zoning Commissioner guidelines. We pointed out that the petition is a "Drop Off" petition. This means the zoning office did not review it.

As for the expert testimony, it mostly described the promotional function of the signs and the idea that the signs could fit in the enterprise sign category. Clearly, the proposed signs have an advertising function.

On cross-examination, the witness had to admit that PSA does not have its own separate entrance, in contrast to the familiar industrial, office, or commercial properties with spaces for separate entities using separate entrances, typically on the first or second floors. He also admitted that he had considered the joint identification category. Apparently, he did not use it either because the proposed signs go beyond identification and into advertising, or because the enterprise sign category does not contain such specific numeric and size limits as those found in the joint identification category.

Indeed, petitioners have never been unaware of the problem of qualification for an enterprise sign. Rather, they have chosen to persist with the unsustainable argument that the four common entrances are magically transformed into PSA's separate entrances.

James S. Patton. P.E.

People's Counsel asked planning, zoning, and engineering expert James S. Patton, P.E. to conduct an independent review and evaluation of this matter. He was the only expert witness with educational background and experience in these broad disciplines. P.C. Exh. 12. As shown by his resume and his testimony, Mr. Patton had significant experience with office, industrial, commercial, and residential developments in Baltimore County and had been accepted by the Board as an expert on prior occasions. It is noteworthy that appellate courts have recognized the ability of planning and zoning experts to contribute helpful testimony on issues of legal interpretation. Marzullo v. Kahl 366 Md. 158, 181-88 (2001) (Paul Solomon) To be sure, these opinions must be based on supporting facts and sound reasoning.

Here, Mr. Patton reviewed the petition, made a site investigation, took photographs, and considered the zoning regulations in their entirety. He methodically identified all of the relevant provisions of the sign legislation for enterprise and joint identification signs in the M.L. zone. He reviewed the plain language in the BCZR § 450.4 sign table, which limits enterprise signs on multi-tenant buildings to those tenants with separate entrances (BCZR § 450.4.5(a),(d)). Correlatively, he highlighted the BCZR

§ 450.4.7(e) M.L. zone allowance for a single joint enterprise sign with a maximum size of 150 feet. He also discussed the BCZR § 450.5.B.9 prohibition on wall-mounted signs attached to rooftop mechanical structures and the BCZR § 450.7 prohibition of roof signs. He took into consideration the legislative intent to control excessive signage and clutter in BCZR § 450.1 and 450.8.A.1. The latter provision states,

“450.8 Administration and compliance.

A. Interpretation

1. In considering request for special exceptions and variances, the provisions of this section shall be strictly construed, unless the demonstrable effect of a liberal construction will prevent or reduce the confusion and visual clutter caused by excessive signage.”

He added the perspective of experience and practice relevant to multi-tenant office and commercial buildings in Baltimore County. He compared, with examples, the typical multi-tenant office or commercial building with common entrances to the commercial and industrial buildings designed with separate entrances and frontage. (See photographs P.C. Exh. 4E, 4F for examples of occupants with separate entrances). He also took into consideration that some multi-occupant buildings with common entrances also have separate entrances for particular tenants, usually at street level.

Mr. Patton reflected that it makes sense to allow a multi-tenant office building to have an identification sign. He even allowed that the identification sign could incorporate the name of a prominent occupant (.i.e. the Mercantile Building), but not detailed advertising language. He described this as “naming rights” for the building, and felt that these could be used for the one joint identification sign allowed per principal building (although the legislation does not mention “naming rights.”).

Here, this would allow a single wall-mounted joint identification sign below roof level. It could identify the building as “One Hunt Valley.” It could arguably identify the building as the “PSA Center.” But it could not have advertising language.

Mr. Patton then turned to analysis of variance standards. He was the only expert witness to do so. He reviewed whether petitioners would be entitled to variances with respect either to the enterprise sign or, hypothetically, the joint enterprise sign category.

In view of the specific prohibition of wall-mounted enterprise signs for multi-tenant buildings with common entrances, he stated that the allowance of a variance here would amount to a use variance rather than an area variance. It is elementary that use variances are generally disallowed under BCZR § 307.1. See, e.g. McLean v. Soley 270 Md. 208, 213-14 (1973). Moreover, BCZR § 450.8.A.2 states,

“450.8 Administration and compliance.

A. Interpretation

* * *

2. No special exception or variance may be granted if it will result in the authorization of a sign class which is not otherwise permitted for a particular zone or use by Section 450.4.”

It is apparent, therefore, that disqualification of the petitioners’ proposal from eligibility for the enterprise sign class further precludes the application for such a variance.

Hypothetically, Mr. Patton analyzed whether petitioners could conceivably request variance for two signs of the size proposed as joint identification signs. This assumed, moreover, that the signs would be identification signs rather than advertising signs.

Mr. Patton reviewed the neighborhood in detail and found that there was nothing “unique” about the property. It is one of a number of multi-story, multi-tenant office buildings in the Hunt Valley office park with M.L. zoning. It is in a good location. The topography is unremarkable. There is good visibility, as his photographs confirm. P.C. Exh. 4. He also reviewed the question of resulting practical difficulty in the use of the building and found there was no such difficulty. The building has been used productively for over two decades without such wall-mounted signs. On cross-examination, when pressed by petitioners’ counsel as to the impact on public safety, health, and welfare, Patton particularly stated that the proposed signage would have an adverse impact on public welfare. Here, he focused on the legislative intent to prevent sign clutter.

Nedda Evans and Eric Rockel; other citizens

Nedda Evans spoke on her own behalf and on behalf of the Sparks-Glencoe Community Planning Council. The citizens from this area work, shop, dine, and drive in this area. Hunt Valley is both a shopping destination and a gateway from the rural north area to the more developed urban area.

Ms. Evans' stated that erection of PSA's two large electronic signs would be excessive, would dominate the landscape. They would be visible from great distances. She observed that the signs would distract traffic. She produced three recent photographs to illustrate the area and the visibility of the site. She noted that, without such evidence as "balloon" tests (often produced in cellular telephone cases), it is difficult to be more precise about the locations from which the signs would be visible. Nevertheless, considering the photographs taken from the Hunt Valley mall, the hills rising to the north, and the Oregon Ridge Park hills to the west, she expressed a reasonable concern that the signs would be visible from not only nearby, but also miles away.

Ms. Evans said that the Hunt Valley office area currently is attractive and dignified. As a shopping center also, the Hunt Valley mall has also been attractively developed. Under these circumstances, the proposed signs would cause blight in the area.

Ms. Evans observed that there was nothing unique about the property. It is one of a number of office buildings. It is easy to locate and to find. She had no trouble getting there, just based on the address. Moreover, as there is nothing unique about the property, she expressed her concern that the approval here would set a precedent for other new signs. These would compound the blight. After all, one variance can be expected to lead to another. Zoning cases are important both in themselves and for the precedents they set.

Eric Rockel, Greater Timonium Community Council president, also found the proposed signage to be excessive. He confirmed the attractiveness of the Hunt Valley office area. He also described the attractive Shawan Center office area on International Circle to the northwest, close to I-83. He thought that some restrictive covenants contributed to the limitations on signs in this area. Whatever the reason, the office center had developed without the proliferation of wall-mounted signage.

Mr. Rockel also confirmed that there is nothing unique about the office building at 11311 McCormick Road. It is one of a group of office buildings in the area. The location is accessible. There is nothing unusual about landscaping or trees.

There were submitted correspondence from Louis Miller, also of GTCC, and Donald Gerding, of Rodgers Forge. Mr. Gerding, who testified in the Trinity Assembly of God sign variance case, was unable to attend here because of health issues.

* During cross-examination of Ms. Evans or Mr. Rockel, there was discussion of signs in the mall area. While the mall area necessarily has more signs to support separate commercial entities in the Business-Major zone, this is a different zone with different regulations, and the situation involves separate businesses. The differing sign situation in a shopping mall could not justify a proliferation of signs on office buildings in the M.L. zone, especially in a relatively unscathed area such as the Hunt Valley office area.

The property owner and other tenants

It should be kept in mind that until PSA came on the scene, neither the property owner nor any of the other many tenants claimed any need for wall-mounted signs on or near the roof of this building. While there may be circumstances where a property owner has a legitimate need of a variance in order to use a building, even for leasing purposes,, this is not one of them. There is no legal basis to grant a variance to provide a favored tenant with a branding privilege and advantage.

Zoning history of the property and the area

The site plan does not cite any previous variances for 11311 McCormick Road. Mr. Patton's review of the zoning records indicates a couple of variances sought at other nearby M.L. zone properties south of Shawan Road, but not sign variances. These are shown on the zoning map excerpt. P.C. Exh 6. Case Nos. 96-0350. and 97-0246. The CBA can take notice of the zoning office records which show that these cases both involved setback variances relating to the MTA's light rail station extension at Schilling Road. Even were there any apparent history of sign variances in the area, it would not necessarily justify sign variances here, especially under the new law enacted in 1997.

Footnote: the Bank of America building and signs

There was mention of two Bank of America signs on the towers to the north. The towers are shown in various photographs, especially Pet. Exh. 6 and P.C. Exh. 4B. On cross-examination, Nedda Evans testified they were 148 square feet in size.

There appear to be two towers at the site, connected by a one-story passageway. If the two towers are viewed as separate principal buildings, then the signs would satisfy the requirements of one per principal building with a maximum size of 150 square feet.

On the other hand, if the two towers are counted as a single building, then the signs are illegal or perhaps are nonconforming replacements. Either way, the presence of illegal or nonconforming signs would not justify a variance on another property.

In Park Shopping Center v. Lexington Park Theater Co., 216 Md.271 (1958) (P.C. Exh. 16), Chief Judge Brune summarized:

“With respect to the appellants’ first contention [regarding the absence of any showing of unwarranted hardship], it is evident from both the opinion of the Board of Zoning Appeals and the opinion of the Circuit Court that the Board used the existence of other violations or variances in the immediate area tolerated or granted by the Planning and Zoning Commission to justify the issuance of the Certificate of Use and Occupancy here in question.

“This Court has held that it is not proper to consider the existence of surrounding ill-advised or illegal variances as grounds for granting additional variances.”

Moreover, even the presence of other exceptions approved on adjoining lots does not justify another exception. Judge Henderson wrote, in Easter v. Mayor & City Council 195 Md. 395, 400 (1950):

“As was said in Potts v. Board of Adjustment ... 43 A.2d 850, 854: ‘Prior exceptions granted by the adjustment board are not in themselves controlling. Ill-advised or illegal variances do not furnish grounds for a repetition of the wrong. If that were not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified. The annulment of zoning is a legislative function which is beyond the domain of the zoning board.’ See also the cases collected in a note 168 A.L.R. 13, 40-44. The same principle was announced and applied in Heath v. Mayor & City Council of Baltimore, supra, Md., 58 A.2d 896, 898; Mayor & City Council v. Byrd Md., 62 A.2d 588, 591, and Cassel v. Mayor & City Council of Baltimore Md., 73 A.2d 486.

“The principal fact relied upon to justify an exception to the area and set-back rules adopted in the general interest under the police power, is the existence of an exception on the adjoining lot. Undoubtedly this is detrimental to the applicant, although his case is somewhat weakened by his tacit acceptance of the situation over a period of years. But we think the detriment to the applicant must be weighed against the benefit to the community in maintaining the general plan. ‘It is by these gradual encroachments, individually of relative insignificance, that the integrity of the general scheme is undermined and ultimately shattered. One departure serves as justification for another * * *’

Subsequently, in Marino v. City of Baltimore 215 Md. 206, 220 (1957), the Court added:

“Certainly a prior exception granted by the Board does not control the granting of a subsequent exception.”

The law on this subject has not changed in the last fifty years.

Argument

I. Procedure: This is a variance petition, and must be considered as such; the claim that the signs are permitted by right is not properly before the CBA

We asserted in the introduction that, having filed a petition for variance, petitioners are not in a position to assert that their proposed sign use is permitted by right and that a variance is not needed. There are several reasons for this position.

This is a matter of procedural order and regularity, ground rules, fundamental fairness and due process of law. The case must be reviewed and tried based on the stated petition and relief requested. As Judge Cathell held in People's Counsel v. Mangione 85 Md. App. 738, 747 (1991), a zoning petitioner must stick to the original petition unless modified by a proper and cognizable amendment. There has been no amendment of the petition here, much less a timely amendment. The argument of counsel does not substitute for a proper amendment.

There is a familiar avenue to raise a question of legal interpretation: the special hearing procedure under BCZR § 500.7. This was not followed in this case. There have been many special hearing cases over the years. See People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); Board of Child Care v. Harker 316 Md. 683 (1991); Marzullo v. Kahl 366 Md. 158 (2001). Judge Salmon described the procedure as comparable to a declaratory judgment. Antwerpen v. Baltimore county 163 Md. App. 194, 209 (2005).

In this context, the fundamental fairness also relates to public notice. Every zoning petition is subject to the public notice requirements of County Code § 32-3-302. These include newspaper notice and the conspicuous posting of the property. It is one thing to notify the public that a variance is being request on a particular property. It is quite another to ask for a legal interpretation that tenants in multi-tenant office buildings with common entrances are entitled to wall-mounted enterprise signs as a matter of right. The latter is a more far-reaching request, with broader implications.

It is established around the country that zoning petitioners may not change the nature of their petitions in midstream. As it is said in Anderson, American Law of Zoning 4th § 22.21 (1997),

“A notice of hearing must describe with reasonable accuracy the relief which is sought by the applicant or appellant. A notice of a hearing to consider an application for a variance will not support a decision granting a special permit.... A notice which states that a request for variance will be considered is not adequate to support a hearing on a special exception.”

The petition and related notice frame the case for the public in general and also for the reviewing agencies. A citizen who might not be concerned about a variance at this particular location may yet be concerned about the more general interpretation of the law.

In sum, a zoning petition may not change in midstream. Neither the petitioners nor the CBA are at liberty to reconstitute and transform the case.

II. Legal interpretation: the proposed signs for a tenant using common entrances do not qualify for approval as enterprise signs in a multi-tenant office building

In any event, the proposed enterprise signs do not qualify under the law. We have discussed at length the plain language of BCZR § 450.4.5(a) and (d) concerning wall-mounted signs on multi-tenant office buildings. We have identified the allowance for a wall-mounted joint identification sign in BCZR § 450.4.7(e). We have also noted the BCZR 450.5.B.7 and 9 prohibitions of wall-mounted signs on rooftop mechanical structures and on roof signs.

James Patton not only put these provisions in context, but also explained the practical experience and application of the law. He illustrated the use of signs allowed for commercial entities with separate entrances. He contrasted this with the single joint identification sign used for buildings with common entrances.

The core problem with petitioner’ position (and that of the Zoning Commissioner, echoed by the ACA) is that it conflates “separate” and “common” entrances, as if they were the same or equivalent. Nothing could be further from the linguistic truth. While the hardcopy of Webster’s Third New International Dictionary is currently unavailable at the bar library, the website of the Merriam-Webster online dictionary appears to be based on this dictionary. Here are the relevant excerpts of definitions of “separate” and “common,”

“Separate

Main Entry: ¹sep·a·rate

Pronunciation: \se-p(ə-)rāt\

Function: *verb*

Inflected Form(s): sep·a·rat·ed; sep·a·rat·ing

Etymology: Middle English, from Latin *separatus*, past participle of *separare*, from *se-* apart + *parare* to prepare, procure — more at secede, pare
Date: 15th century

transitive verb

1 a: to set or keep apart : disconnect , sever b: to make a distinction between : discriminate , distinguish <*separate* religion from magic> c: sort <*separate* mail> d: to disperse in space or time : scatter <widely *separated* homesteads>

2 *archaic* : to set aside for a special purpose : choose , dedicate

3: to part by a legal separation: a: to sever conjugal ties with b: to sever contractual relations with : discharge <was *separated* from the army>

4: to block off : segregate

5 a: to isolate from a mixture : extract <*separate* cream from milk> b: to divide into constituent parts

6: to dislocate (as a shoulder) especially in sports

intransitive verb

1: to become divided or detached

2 a: to sever an association : withdraw b: to cease to live together as a married couple

3: to go in different directions

4: to become isolated from a mixture <the crystals *separated* out>

* * *

Common

Main Entry: ¹com·mon

Pronunciation: \ˈkɑ-mən\

Function: *adjective*

Etymology: Middle English *commun*, from Anglo-French, from Latin *communis* — more at mean

Date: 13th century

1 a: of or relating to a community at large : public <work for the *common* good> b: known to the community <*common* nuisances>

2 a: belonging to or shared by two or more individuals or things or by all members of a group <a *common* friend> <buried in a *common* grave> b: belonging equally to two or more mathematical entities <triangles with a *common* base> c: having two or more branches <*common* carotid artery>

3 a: occurring or appearing frequently : familiar <a *common* sight> b: of the best known or most frequently seen kind —used especially of plants and animals <the *common* housefly> c: vernacular 2 <*common* names>

4 a: widespread , general <*common* knowledge> b: characterized by a lack of privilege or special status <*common* people> c: just satisfying accustomed criteria : elementary <*common* decency>

5 a: falling below ordinary standards : second-rate b: lacking refinement : coarse

6: denoting nominal relations by a single linguistic form that in a more highly inflected language might be denoted by two or more different forms <*common* gender> <*common* case>

7: of, relating to, or being common stock
— *commonly* *adverb*

— com·mon·ness \-mən-nəs\ *noun*”

There are occasions where the meaning of legislation is fairly debatable, but this is not one of them. Indeed, the legal system would not function well if many laws were ambiguous. Here, the plain language of BCZR § 450.4.5(a) and (d), the related provision in BCZR § 450.4.7(e), and practical experience all lead to one clear, irrefutable conclusion. The multi-tenant office building limitation of wall-mounted signs to separate commercial entities with separate entrances precludes the allowance for a tenant using a common entrance or entrances.

We have also discussed the wisdom of this limitation, and the potential adverse impact of sign proliferation if petitioners’ interpretation were adopted. But whether or not the CBA believes the law is sensible or wise, the County Council has made that judgment. If petitioners and DED believe the law is too restrictive, they may request the County Council to change the law. That would be a policy matter. for the legislature.

III. The variances: There is no eligibility for a use variance; there is, in any event, no uniqueness or resulting practical difficulty; there would also be an increase in sign clutter and an adverse effect on public welfare

We have underlined that BCZR § 450.8.A.2 does not authorize a variance “which will result in the authorization of a sign class which is not otherwise permitted for a particular zone.” Given the specific intent to limit wall-mounted enterprise signs on multi-tenant office buildings, the proposed sign variances are effectively for a sign class which is not permitted in the zone. Otherwise stated, the “separate entrance” requirement is so fundamental to the provisions for wall-mounted signs on multi-tenant office buildings that it is difficult to imagine a situation where the a variance could be consistent with the legislative intent and meet the tests of uniqueness and resulting practical difficulty. As Mr. Patton suggested, this would function as a use variance.

Even if it is assumed that petitioners are eligible to apply for a variance from the M.L. Zone separate entrance requirement, and that the petition implicitly makes such a request, there is no proof of uniqueness or practical difficulty. Similarly, if petitioner had categorized the petition as a request for variance from the M.L. Zone requirements for joint identification signs, such proof would be lacking.

The petitioners, focused more on suggesting permissibility by right, never presented a coherent explanation of uniqueness or practical difficulty. At best, there was Chip Lewis' contention that the building was hidden because of the existence of a building well over a football field away or by some trees. Of course, this contention was absurd. The building is not hidden; the site is well-located, there is no problem getting there, and there are various means of directions. If it were to be said that this building is hidden, than the rest of the office buildings in the area would have to be called "hidden" because they all have other buildings located nearby. No building in this area is an island.

So, if the presence of a nearby building constitutes uniqueness, then every office building in the Hunt Valley office area is unique. The same could be said for the office buildings in Towson, which typically adjoin each other or are much closer to adjacent buildings than those in Hunt Valley. This would just swallow up the law. As to practical difficulty, there was no real proof that sign limits unreasonably prevent the property owner's use of the building for its intended purpose.

In contrast, James Patton presented coherent expert testimony that the property is not unique and that there is no practical difficulty with respect to its use. He provided this testimony after imagining hypothetically what petitioners might have claimed if they had filed a proper variance petition with respect to the joint identification sign category. He added that the additional sign clutter would be contrary to the public welfare.

Nedda Evans and Eric Rockel provided cogent corroborative testimony with respect to the excessive number, height, and size of the signs, their detrimental impact to the area, and distracting impact on traffic. Attention should be paid to the citizens and community groups most knowledgeable about the area and affected by the proposal.

The CBA is familiar with the BCZR § 307.1 standards for variances generally, and the additional BCZR § 450.1.A.1 standards for sign variances. The rules are strict, both with respect to uniqueness and practical difficulty. Serendipitously, the most recent Court of Appeals decision on variances addressed a sign variance petition in Baltimore County. In Trinity Assembly of God v. People's Counsel 407 Md. 53 (2008), the Court affirmed this CBA's denial of a church's request for sign variances. The Court's analysis is found at 407 Md. 79-85. It is equally applicable here and is attached to this memorandum.

As a matter of law, there is lacking any substantial evidence to justify a petition for variance for these proposed signs under any category or theory. There is nothing even fairly to debate. The petition for variances must be denied.

IV. The CBA should exclude the ACA opinion

The submission of the ACA's personal opinion conflicts with the Baltimore County Charter, is irregular procedurally, and functions as an unacceptable form of advocacy to support a private party's zoning petition. For the reasons stated earlier at pages 10-14, it should not have been admitted.

The CBA should also exclude and strike it. In so doing, the CBA may provide guidance and instruction to preclude future introduction of personal opinions of assistant county attorneys which function as additional briefs for petitioners. It may also take this opportunity to note that even county law office opinions are not admissible when they are prepared to advocate the position of a particular party in a pending case.

This is not to exclude the law office from participation as a party in a proper case, with the authority of the county attorney, but rather to prevent the blurring or conflation of ACA opinions and advocacy of a private party's position.

In any event, the ACA's opinion is erroneous as a matter of law. It cannot, therefore, affect the result in this case.

As a courtesy, while the law office did not send People's Counsel a copy of the ACA opinion, we are courteously sending a copy of this memorandum to the County Attorney and Assistant County Attorney, as well as to petitioners' attorney.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
The Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of May, 2009, a copy of the foregoing People's Counsel for Baltimore County's Memorandum was mailed to Edward Gillis, Esquire, 102 W. Pennsylvania Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioners, to John Beverungen, Esquire, County Attorney, and to Adam Rosenblatt, Assistant County Attorney, 400 Washington Avenue, Towson, Maryland 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Westlaw.

962 A.2d 404
 407 Md. 53, 962 A.2d 404
 (Cite as: 407 Md. 53, 962 A.2d 404)

Page 1

H

Court of Appeals of Maryland.
 TRINITY ASSEMBLY OF GOD OF BAL-
 TIMORE CITY, INC.

v.
 PEOPLE'S COUNSEL FOR BALTIMORE
 COUNTY, et al.
 No. 27 Sept. Term, 2008.

Dec. 24, 2008.

Background: Church applied for a variance to county sign law in order to erect 250 square feet electronic changeable copy sign. County deputy zoning commissioner denied the application. Church appealed. After conducting a hearing, the county board of appeals denied church's application. Church appealed, asserting that the denial of its application violated the Religious Land Use and Institutionalized Persons Act (RLUIPA). The Circuit Court, Baltimore County, Lawrence R. Daniels, J., affirmed, and church appealed. The Court of Special Appeals, 178 Md.App. 232, 941 A.2d 560, affirmed, and church filed petition for writ of certiorari.

Holdings: After granting petition, the Court of Appeals, Harrell, J., held that:

- (1) evidence was sufficient to establish that church's use of its property was not unique and that church would not suffer practical difficulty, for purposes of determining whether church was entitled to a variance;
- (2) county board of appeals properly applied correct legal standard for determining whether church's property was unique;
- (3) county board of appeals applied correct standard for determining whether church would suffer practical difficulty; and
- (4) county board of appeals' denial of a variance did not impose a substantial burden on religious exercise in violation of RLUIPA.

Affirmed.

West Headnotes

[1] Zoning and Planning 414 ↪745.1

414 Zoning and Planning
 414X Judicial Review or Relief
 414X(E) Further Review
 414k745 Scope and Extent of Review
 414k745.1 k. In General. Most Cited Cases

When reviewing the decision of a local zoning body, the Court of Appeals evaluates directly the agency decision, and, in so doing, applies the same standards of review as the circuit court and intermediate appellate court.

[2] Zoning and Planning 414 ↪747

414 Zoning and Planning
 414X Judicial Review or Relief
 414X(E) Further Review
 414k745 Scope and Extent of Review
 414k747 k. Questions of Fact; Findings. Most Cited Cases

When reviewing the decision of a local zoning body, it is not the function of the Court of Appeals to substitute its assessment of the facts for those of the local zoning board, but merely to evaluate whether the evidence before the board was fairly debatable.

[3] Administrative Law and Procedure 15A ↪784.1

15A Administrative Law and Procedure
 15AV Judicial Review of Administrative Decisions
 15AV(E) Particular Questions, Review of
 15Ak784 Fact Questions
 15Ak784.1 k. In General. Most Cited Cases

The scope of judicial review of administrative fact-finding is a narrow and highly deferential one.

9/16/08

IN RE: **PETITION FOR VARIANCE**
S/Side McCormick Road, NE Corner
McCormick & Schilling Roads
(11311 McCormick Road)
8th Election District
3rd Council District

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BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

Case No. 2008-0582-A

Hunt Valley 75 Limited Partnership,
Legal Owner
PSA Financial, Inc., *Lessee*
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Hunt Valley 75 Limited Partnership, and PSA Financial, Inc., Lessee, by and through their attorney Edward J. Gilliss, Esquire with Royston, Mueller, McLean & Reid, LLP. The Petitioner requests a variance from Section 450.4.1.5(d) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) illuminated signs, one on the north elevation on the penthouse directly above the fifth floor wall (the space occupied by the applicant) of the multi-tenant office building with a size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants, including PSA Financial, Inc. The subject property and requested relief are more particularly described on the site plan and colorized sign and building elevation drawings, which were submitted into evidence and marked as Petitioners' Exhibits 2 through 6, respectively.

Appearing at the requisite public hearing in support of the request were Trevor "Chip" Lewis, President and CEO and Justin Hoffman, Marketing Manager in charge of advertising and

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Date 9-16-08
By [Signature]

promotion on behalf of PSA Financial; Warren Weaver of Gable Signs and Graphics, Inc., and Edward J. Gilliss, Esquire, attorney for the Petitioners. Mary Ellen Morrison, Executive Director, Hunt Valley Business Forum, appeared during the hearing as an interested citizen and expressed an opinion that the proposed signage is attractive and appropriately sized. Also present and participating during the proceedings was Richard Cobert on behalf of the County's Department of Economic Development, who presented a letter in support of the request. See Petitioners' Exhibit 1. There were no Protestants or other persons present, however, it is to be noted that letters in opposition to the request were received from Donald Gerding, of the Rogers Forge Community Association, and Nedda Evans, an officer and community leader of the Sparks-Glencoe's Community Planning Council (SGCPC).

Testimony and evidence offered disclosed that the subject property contains approximately 9.281-acres (236,460 square feet) of M.L.-I.M. zoned land in Hunt Valley. The parcel is rectangularly shaped and is located on the northeast corner of McCormick and Schilling Roads improved with a five-story office building that is surrounded by mature trees in the heart of the Hunt Valley's Business Community. Chip Lewis stated that PSA Financial has recently moved to this building and leases space comprising the entire fifth floor (over 44,000 square feet). There, PSA employs over 180 persons in white-collar jobs. PSA has over 15,000 clients (businesses and individuals) for whom it provides services and advice, including insurance, financial planning and employee benefits. On a daily basis, PSA receives guests and visitors; in fact, it has seven (7) conference rooms and two (2) training facilities used by such guests and visitors.

The subject property is owned by Hunt Valley 75 Limited Partnership and is part of the Corporate Office Properties Trust (COPT) properties. PSA's lease is for a term of 12 years. The

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Date 9-16-08
By [Signature]

property owner has expressly authorized PSA Financial to erect signage and has granted PSA Financial the right to place signage on 11311 McCormick Road during its lease term. In fact, the landlord, an affiliate of COPT, has expressed written support as a part of this proceeding. (See Petitioners' Exhibit 7).

Testimony establishes that 11311 McCormick Road sits 275 feet or so off of McCormick Road and is "behind" the Bank of America structures which are located at the corner of Shawan and McCormick. In addition, 11311 McCormick is shielded by landscaping, including trees which mask the perimeter of the five-story office building, as well as a second set of trees that almost completely obscure the bottom two floors of the building. No joint identification sign now exists which marks the structure or identify its tenants. PSA asserts that its guests and visitors have difficulty locating 11311 McCormick Road without new signage.

B.C.Z.R. Section 450 concerns signs. Prior to the County Council's passage of Bill 89-97 in 1997, signs were regulated by Section 413 of the B.C.Z.R. Signs previously regulated by Section 413 must be removed by calendar year 2012 (See Section 450.8(D)(1)). Signage at 11311 McCormick Road may be permitted pursuant to the former sign regulations (Section 413); however, neither the new property owner nor County agencies have been able to locate the original plats to determine whether "Notes" include authorization to erect signs consistent with Section 413. Nonetheless, it appears that even in such case, signs erected consistent with Section 413 would need to be removed by 2012.

B.C.Z.R. Section 450.1 confirms that signs are important. They "convey information which is essential for . . . advancing the health of [Baltimore County's] economy." (Section 450.1A.) "Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community."

BY _____
Date 9-16-08
1033
RECEIVED FOR FILING

(Section 450.1B.) However, because excessive and incompatible signage is contrary to the goals of the Master Plan, regulation of signage is appropriate.

Section 450.4 (Table of Sign Regulations) (5)(D) (hereinafter "Table") controls the use of signs at 11311 McCormick Road. That section details "enterprise" signs and "subject to its regulation, permits wall-mounted and canopy signs." Canopy signs are defined in Section 450.5(B)(3) as signs on "fixed, roof-like structure, other than an awning which projects from a wall of a building and extends along a majority of the wall's length to provide shelter over an entrance or a walkway."

The Table describes that wall-mounted and canopy signs are permitted on "multi-tenant office, retail or industrial building[s]." 11311 McCormick Road satisfied this requirement, as it is a multi-tenant office building. Again, PSA Financial leases the entirety of the top or fifth floor. The Table continues, stating that such signage is permitted where "accessory to separate commercial entity." Again, PSA Financial is a "separate commercial entity" which will benefit from signage. The Table continues by stating that such an entity must have "exterior customer entrance." Testimony was offered that there are four (4) separate entrances, one on each face of the commercial structure. It was further stated that PSA Financial leases the common area of the building, including the first floor lobby, which is accessed from the outside on three (3) sides of the building, as well as stairwells and elevators which access the fifth floor. Of course, other tenants, in common with PSA Financial, also lease the first floor lobby. The lobby area, it was explained, is available to all tenants at all times, jointly and severally.

The Table continues with IV detailing that a use permit is required from the Zoning Commissioner before signs can be installed.

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The Table, Section V, details that the maximum size of a sign shall be “two times the length of the wall containing the exterior entrance and defining the space occupied by the separate commercial entity.” Here, PSA Financial asserts that it occupies the entire fifth floor and common space. In addition, it has the contract right to place signage on the structure so that it can and should be treated as if it was the owner and/or sole tenant of the entire structure. Testimony was given that the west wall is 242 feet in length; twice that distance is 484 feet. The proposed sign on the west wall is only 194.83 square feet, slightly more than 40% of the maximum permitted sign size. It was testified that the north wall is 252 feet in length; two times that distance is 540 feet. The requested sign is 226.25 square feet, or 45% of the permitted sign size. It should also be noted that the penthouse above the fifth floor is 120 feet in length; twice that distance is 240 feet, again a size less than the requested north wall sign.

The Table continues with VI detailing the number of signs permitted. It permits one canopy and one wall-mounted sign for each “separate exterior customer entrance.” Argument was made that signs are permitted on each face since there are four (4) sides with customer entrances.

Although PSA Financial seeks variance from sign regulations, its Petition states:

“Although signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse level directly above the applicant’s leasehold space . . .”

Had this matter proceeded as a Special Hearing, this Commission would have concluded that the wall-mounted sign is permitted as of right on the west wall. It appears that the Department of Permits and Development Management (DPDM) out of an abundance of caution improvidently denied PSA’s west wall sign request. Had the penthouse sign now sought for the north wall been the subject of a Petition for placement on the west wall, the variance would have been an

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Date 9-16-08
By [signature]

appropriate vehicle for determination since the Table “permits one canopy and one wall-mounted sign,” not two (2) wall-mounted signs.

PSA Financial asserts that it satisfies the variance tests and is “unique” because there is no canopy around the commercial structure on which a canopy sign could be erected. Hence, “special circumstances” exist that are peculiar to the structure at 11311 McCormick Road when it is compared to structures with canopies. Strict compliance with the sign regulations would result in practical difficulty and the zoning would impact “disproportionately” 11311 McCormick Road if it was barred from placing a second sign while other buildings with canopies were permitted two (2) signs. Thus, I find that the elements necessary for grant of a variance are presented in this matter.

Moreover, I also agree that the Table permits “one canopy and one wall-mounted sign” for each “separate exterior customer entrance,” as stated in VI. The proposed sign on the north wall, on the penthouse, is, hence, also permitted. Again, it appears that DPDM improvidently denied the north wall sign request. Although Section 450.5B.9(b) contains language restricting wall-mounted signs above eaves or parapets, in this instance, the penthouse or mechanical room structure, is not one which “project[s] above the eaves or parapet” and, hence, is not barred by application of that subsection. The architectural integrity of 11311 McCormick Road is not compromised by the placement of a sign on the penthouse, whereas architectural integrity of a structure may be compromised where a utility mechanism sits behind an eave or parapet.

In light of the exhibits and testimony, and in light of the law, this Zoning Commissioner believes that variances are not required for the requested signs and will grant use permits for their construction. However, in order to permit this matter to proceed based upon the Petition for Variance, I shall also grant the requested variance(s) so there may be no doubt about the lawful

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Date 9-16-08
By [Signature]

nature of the proposed signs. I find that this relief can be granted within the spirit and intent of the regulations. PSA Financial is the only tenant that has authority to install signage. No other tenant enjoys this privilege.

A literal reading of *Cromwell v Ward*, 102 Md. App. 691 (1995) indicates that there must be something unique about the property before a zoning variance can be granted. The Court in *Cromwell* indicated that the subject property must be peculiar, unique or unusual when compared to other properties in the neighborhood such that the regulations impact the subject property differently than the regulation impacts other properties in the neighborhood. As examples of this situation, the Court indicated that the subject property have inherent characteristics not shared by other properties in the neighborhood, such as 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 similar restrictions (emphasis supplied). So the unusual condition does not have to be on site but rather can be on abutting properties. Obstructions, as is the case here, are specific examples of off-site circumstances or conditions, which show uniqueness.

After due consideration of the testimony and evidence presented, I am persuaded to grant the petition for the two (2) illuminated signs. Based on my review of the site plan and elevations, I find the requirements of B.C.Z.R. Section 307.1 to be satisfied. The proposed signage is appropriate, given the uniqueness of the site.

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

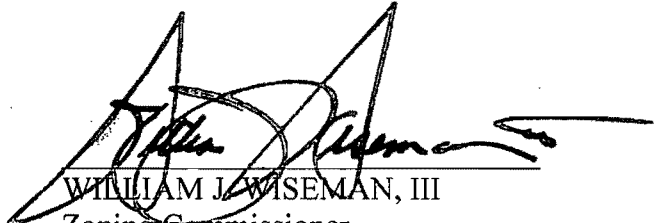
THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 16th day of September 2008, that the Petition for Variance from Section

By _____
Date 9-16-08
ORDER RECEIVED FOR FILING

450.4.I.5(d) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with a size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet, in accordance with Petitioners' Exhibits 2 through 6, respectively, 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 its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

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

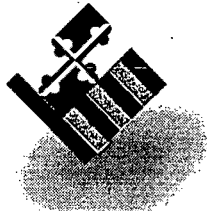


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

UNRECORDED FOR FILING
Date 9-19-08
BY [Signature]

9/16/08



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

September 16, 2008

Edward J. Gilliss, Esquire
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Avenue, Suite 600
Towson, Maryland 21204

RE: **PETITION FOR VARIANCE**
S/Side McCormick Road, NE Corner McCormick & Schilling Roads
(11311 McCormick Road)
8th Election District - 3rd Council District
Hunt Valley 75 Limited Partnership, *Legal Owner*;
PSA Financial, Inc., *Lessee* - Petitioners
Case No. 2008-0582-A

Dear Mr. Gilliss:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Trevor "Chip" Lewis, President & CEO, PSA Financial, Inc., 11311 McCormick Road,
Hunt Valley, MD 21030
Justin Hoffman, Marketing Manager, PSA Financial, Inc., 11311 McCormick Road,
Hunt Valley, MD 21030

Warren Weaver, Gable Signs and Graphics, Inc., 7440 Ft. Smallwood Road,
Baltimore, MD 21226

Mary Ellen Morrison, Executive Director, Hunt Valley Business Forum, P.O. Box 1322,
Hunt Valley, MD 21030

Donald Gerding, Rogers Forge Community Association, 335 Old Trail Road,
Baltimore, MD 21212

Nedda Evans, Sparks-Glencoe Community Planning Council, 2224 Tracey's Road,
Sparks, Md. 21152

People's Counsel; Richard Cobert, Department of Economic Development; File



TAX ACCOUNT # 10900002229

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 11311 McCormick Road 21031

which is presently zoned ML 1M

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)

BCZR Sec. 450.4(5)(d)

*See attached "A"

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

*See attached "B"

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:

PSA Financial Inc.
Name - Type or Print

Trevor C. Lewis, Jr., President
Signature by:

1447 York Road 410-821-7766
Address Telephone No.

Lutherville MD 21093
City State Zip Code

Attorney For Petitioner:

Edward J. Gilliss
Name - Type or Print

Royston, Mueller, McLean & Reid, LLP
Company

102 W. Pennsylvania Avenue, Ste. 600
Address Telephone No.

Towson MD 21204 410-823-1800
City State Zip Code

Legal Owner(s):

Hunt Valley 75 Limited Partnership
Name - Type or Print

BY: COPT Hunt Valley, GP, LLC
Signature *General Partner*

By: Karen M. Singer
Name - Type or Print

Karen M. Singer, SVP + General Counsel
Signature

6711 Columbia Gateway Drive
Address Telephone No.

Columbia MD 21046
City State Zip Code

Representative to be Contacted:

Justin Hoffman
Name

1447 York Rd 443-798-7449
Address Telephone No.

Lutherville MD 21093
City State Zip Code

OFFICE USE ONLY

Case No. 2008-0582-A RECEIVED FOR FILING ESTIMATED LENGTH OF HEARING _____

Date 9-16-08 UNAVAILABLE FOR HEARING

By [Signature] Reviewed By [Signature] OFF Date 6/20/09
CM

**ATTACHMENT TO PETITION FOR VARIANCE
FOR 11311 McCORMICK ROAD**

Petition for Variance: Exhibit "A"

BCZR § 450.4(5)(d)

To permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with a size of 194.83 sf and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 sf. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants, including the applicant.

Exhibit "B"

Reasons for the Variance (indicate hardship or practical difficulty) are:

The applicant is the tenant on the top level of the building, the fifth floor, and signage is appropriate at or near the tenant's occupancy level. Signage is necessary for consumers to know of the applicant's new Baltimore County location and to ensure the commercial viability of the applicant in its new location. Signage will lessen the hardship of the applicant's business location. Although signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse level directly above the applicant's leasehold space (obviously, no tenant occupies the penthouse/mechanical room).

ZONING DESCRIPTION FOR 11311 McCORMICK ROAD

BEGINNING at a point on the south side of McCormick Road which road is approximately 70 feet wide, the property travels north approximately 356.52 feet, then proceeds east approximately 953.57 feet, then proceeds south approximately 426.58 feet to Schilling Road, which road is approximately 70 feet wide. The property proceeds west along Schilling Road approximately 883.57 feet to a point at the intersection of McCormick and Schilling Road and closes on a northwest angle a distance of 58.99 feet.

BEING lot 75, containing approximately 9.281 acres, and recorded as Plat Two, Hunt Valley Business Community at Book 47, Folio 49, in the Eighth Election District, Third Council Manic District. Attached is a portion of the aforesaid Plat.

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 # 2008-0582-A
1331 McCormick Road
S side of McCormick Road, in east corner of McCormick & Schilling Road

8th Election District — 3rd Councilmanic District
Legal Owner(s) — Hunt Valley 75 Limited Partnership
Contract Purchaser(s) — PSA Financial, Inc.

Variance to permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants including the applicant.

Hearing: Thursday, August 28, 2008 at 9:00 a.m. in Hearing Room 1, 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/635/AUG 12 180629

CERTIFICATE OF PUBLICATION

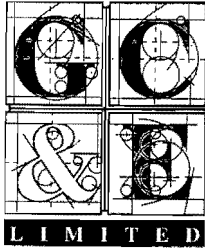
8/14, 2008

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 8/2, 2008.

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

J. Wilkinson

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CERTIFICATE OF POSTING

RE: CASE#2008-0582-A
PETITIONER/DEVELOPER:
Hunt Valley 75 Limited Partnership
DATE OF HEARING: 8/28/08

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

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

(see page 2 for full size photo)

LOCATION:

11311 McCormick Road

SIGNATURE OF SIGN POSTER

Bruce E. Doak

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320 EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

POSTED ON: 8/07/08

CASE # :2008-0582-A

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

PLACE: Hearing Room 1 Jefferson Building
105 W. Chesapeake Avenue, Towson, MD
**TIME &
DATE :** Thursday, August 28, 2008 at 9:00 a.m.

Variance: to permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants, including the applicant.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES
NECESSARY TO CONFIRM HEARING.
CALL 410-887-3391 THE DAY BEFORE THE SCHEDULED HEARING DATE.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW.
HEARINGS ARE HANDICAPPED ACCESSIBLE





ZONING NOTICE

PLANNING COMMISSION
PUBLIC HEARING WILL BE HELD BY
THE PLANNING COMMISSION
IN WILSON, MD

Monday, August 1, 2011
10:00 AM - 11:00 AM

PLACE: Wilson, Maryland

TIME & DATE: Through August 1, 2011

Notice is hereby given that the Planning Commission will hold a public hearing on the proposed rezoning of the property located at [address] in the [area] of Wilson, Maryland. The purpose of the hearing is to receive public input on the proposed rezoning. The hearing will be held on Monday, August 1, 2011, at 10:00 AM in the [location]. The hearing will be open to the public and all interested parties are invited to attend. The hearing will be held in accordance with the provisions of the Planning Commission's Rules and Regulations. For more information, please contact the Planning Commission at [phone number].

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 15998

PAID RECEIPT

Date: 10-19-08

BUSINESS ACTUAL TIME DRW
 7/03/2008 7/02/2008 10:35:38 2

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001		006		0150				325.00

REG AS05 WALKIN DDCL DMD
 >>RE CEIPT # 450244 7/02/2008 OFLN
 5 528 ZONING VERIFICATION
 CR N). 015998

Recpt Tot \$325.00
 \$325.00 CK \$.00 CA
 Baltimore County, Maryland

Total: 325.00

Rec From: ~~HOWARD~~ TSA

For: VARIANCE
 11311 McCoanick Rd

21030 7000-05RZ-A

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CHECK NO. 055236

Reference 9911
Check Date 06/10/2008
AMOUNT

325.00

SUSQUEHANNA BANK

Baltimore County

TO THE
ORDER
OF

Pay #PSA Paperwork Filing

Paul W. Heaton
AUTHORIZED SIGNATURE ONLY

MP

⑆055236⑆ ⑆055000259⑆ 60003337858⑆

C. E. PEATT
216 CLARENDON AVENUE
PIKESVILLE, MD 21208

INVOICE

DATE: 12-28-09

TO: Edward Cellis, Esq.

RE: Hunt: Wiley 75

DNV 1 224 ps.
DNV 2 200 ps
424 pages @ \$ 3.50 each = 1611.20 *

BALANCE DUE: \$ 1500.00

pd 12-28-09

Please remit to:

C.E. Peatt (ID # 220-36-4939)
216 Clarendon Avenue
Pikesville, MD 21208

1611.20
- 111.20 (waived)
1500
Balance

Thank you.

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: 2008-0582-A
Petitioner: PSA Financial, Inc.
Address or Location: 11311 McCormick Road, 21031

PLEASE FORWARD ADVERTISING BILL TO:

Name: Justin Hoffman
Address: 1447 York Road
Lutherville, MD 21093
Telephone Number: 443-798-7449

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 12, 2008 Issue - Jeffersonian

Please forward billing to:
Justin Hoffman
1447 York Road
Lutherville, MD 21093

443-798-7449

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: 2008-0582-A

11311 McCormick Road
S/side of McCormick Road, n/east corner of McCormick & Schilling Road
8th Election District – 3rd Councilmanic District
Legal Owners: Hunt Valley 75 Limited Partnership
Contract Purchaser: PSA Financial, Inc.

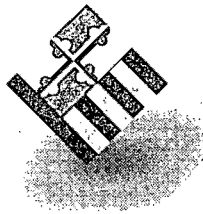
Variance to permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants, including the applicant.

Hearing: Thursday, August 28, 2008 at 9:00 a.m. Hearing Room 1, Jefferson Building,
106 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

NOTICE OF ZONING HEARING

July 15, 2008
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

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: 2008-0582-A

11311 McCormick Road

S/side of McCormick Road, n/east corner of McCormick & Schilling Road

8th Election District – 3rd Councilmanic District

Legal Owners: Hunt Valley 75 Limited Partnership

Contract Purchaser: PSA Financial, Inc.

Variance to permit two illuminated signs, one on the north elevation on the penthouse directly above the fifth floor (the space occupied by the applicant) wall of the multi-tenant office building with size of 194.83 square feet and the other on the west elevation on the fifth floor (the space occupied by the applicant) with a size of 226.25 square feet. Both the north and west sides of the building have building entrances, the common space of which is leased by all of the tenants, including the applicant.

Hearing: Thursday, August 28, 2008 at 9:00 a.m. Hearing Room 1, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

Handwritten signature of Timothy Kotroco in black ink.

Timothy Kotroco
Director

TK:klm

C: Edward Gillis, 102 W. Pennsylvania Avenue, Ste. 600, Towson 21204

Karen Singer, Hunt Valley, GP, LLC, 6711 Columbia Gateway Drive, Columbia 21046

Trevor Lewis, PSA Financial, 1447 York Road, Lutherville 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, AUGUST 13, 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.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Handwritten note: Day #1 continued to 4/1 for Day #2

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

February 3, 2009

NOTICE OF ASSIGNMENT

CASE #: 08-582-A IN THE MATTER OF: Hunt Valley 75 Limited Partnership
- LO /Petitioner
11311 McCormick Road 8th Election District; 3rd Councilmanic District

9/16/2008 - ZC Order GRANTING (w/restrictions) Petition for Variance to permit, pursuant to Sections 450.4.I.5(d) of the BCZR to permit two (2) illuminated signs; with a size of 194.83 square feet and 226.25 square feet, respectively.

ASSIGNED FOR: THURSDAY, MARCH 5, 2009, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton
Administrator

c: Counsel for Appellant /Petitioner : Edward J. Gillis, Esquire
Appellant /Petitioner : Hunt Valley 75 Limited Partnership
c/o Justin Hoffman

PSA Financial, Inc. c/o Trevor Lewis
Warren Weaver
Mary Ellen Morrison
Donald Gerding
Nedda Evans

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM

From: Rebecca Wheatley
To: Shelton, Theresa
Date: 3/6/2009 1:20 PM
Subject: Hunt Valley Day 2

According to Gillis' secretary, April 1st is the best date to scheduled Day 2 of Hunt Valley.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

**Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue**

March 9, 2009

NOTICE OF ASSIGNMENT / DAY #2

CASE #: 08-582-A

**IN THE MATTER OF: Hunt Valley 75 Limited Partnership
– LO /Petitioner**

11311 McCormick Road 8th Election District; 3rd Councilmanic District

9/16/2008 – ZC Order GRANTING (w/restrictions) Petition for Variance to permit, pursuant to Sections 450.4.I.5(d) of the BCZR to permit two (2) illuminated signs; with a size of 194.83 square feet and 226.25 square feet, respectively.

This matter having been heard on 3/5/09 for Day #1, has been continued by agreement of counsel for Day #2 for

ASSIGNED FOR: WEDNESDAY, APRIL 1, 2009, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

**Theresa R. Shelton
Administrator**

c: Counsel for Appellant /Petitioner : Edward J. Gillis, Esquire
Appellant /Petitioner : Hunt Valley 75 Limited Partnership
c/o Justin Hoffman

PSA Financial, Inc. c/o Trevor Lewis
Warren Weaver
Mary Ellen Morrison
Donald Gerding
Nedda Evans

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Amended
Notice to
Dispute

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

April 7, 2009

NOTICE OF DELIBERATION

CASE #: 08-582-A IN THE MATTER OF: Hunt Valley 75 Limited Partnership
- LO /Petitioner
11311 McCormick Road 8th Election District; 3rd Councilmanic District

This matter having been heard on March 5, 2009 for Day #1 and concluded on April 1, 2009 (Day #2); public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, MAY 20, 2009 at 9:00 a.m.

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

NOTE: Closing briefs are due on Friday, May 8, 2009, no later than 4:00 p.m.
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton, Administrator

c: Counsel for Appellant /Petitioner : Edward J. Gillis, Esquire
Appellant /Petitioner : Hunt Valley 75 Limited Partnership
c/o Justin Hoffman

PSA Financial, Inc. c/o Trevor Lewis
Warren Weaver
Mary Ellen Morrison
Donald Gerding
Nedda Evans

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Hearing Room #2, Second Floor
Jefferson Building, 105 W. Chesapeake Avenue

April 22, 2009

AMENDED NOTICE OF DELIBERATION
(AS TO HEARING START TIME ONLY FROM 9:00 TO 9:30 A.M.)

CASE #: 08-582-A IN THE MATTER OF: Hunt Valley 75 Limited Partnership
- LO /Petitioner
11311 McCormick Road 8th Election District; 3rd Councilmanic District

This matter having been heard on March 5, 2009 for Day #1 and concluded on April 1, 2009
(Day #2); public deliberation has been scheduled for the following date /time:

DATE AND TIME : WEDNESDAY, MAY 20, 2009 at 9:30 a.m.

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

NOTE: Closing briefs are due on Friday, May 8, 2009, no later than 4:00 p.m.
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER,
ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED
BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Theresa R. Shelton, Administrator

c: Counsel for Appellant /Petitioner : Edward J. Gillis, Esquire
Appellant /Petitioner : Hunt Valley 75 Limited Partnership
c/o Justin Hoffman

PSA Financial, Inc. c/o Trevor Lewis
Warren Weaver
Mary Ellen Morrison
Donald Gerding
Nedda Evans

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 1, 2009

NOTICE OF DELIBERATION **MOTION FOR RECONSIDERATION,** **CLARIFICATION, AND CORRECTION**

CASE #: 08-582-A

IN THE MATTER OF: **Hunt Valley 75 Limited Partnership**
– LO /Petitioner

11311 McCormick Road 8th Election District; 3rd Councilmanic District

Having concluded this matter on April 1, 2009 and Closing Briefs filed on May 8, 2009, a public deliberation was held on May 20, 2009. The Majority Opinion and Order was issued by the Board on August 5, 2009. A Motion for Reconsideration, Clarification and Correction was filed on August 20, 2009. The matter has been scheduled for a Deliberation on the following date /time:

DATE AND TIME: THURSDAY, OCTOBER 1, 2009 at 9:30 a.m.

LOCATION : Hearing Room #2, Jefferson Building
105 W. Chesapeake Avenue, Second Floor
(adjacent to Suite 203)

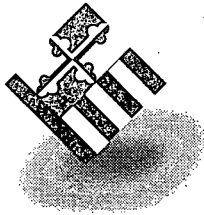
Theresa R. Shelton
Administrator

c: Counsel for Appellant /Petitioner
Appellant /Petitioner

: Edward J. Gillis, Esquire
: Hunt Valley 75 Limited Partnership
c/o Justin Hoffman

PSA Financial, Inc. c/o Trevor Lewis
Warren Weaver
Mary Ellen Morrison
Donald Gerding
Nedda Evans

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Timothy M. Kotroco, Director /PDM



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 19, 2008

Edward J. Gilliss
Royston, Mueller, McLean & Reid, LLP
102 W. Pennsylvania Ave. Ste. 600
Towson, MD 21204

Dear: Edward J. Gilliss

RE: Case Number 2008-0582-A, 11311 McCormick Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 20, 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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Hunt Valley 75 Limited Partnership, 6711 Columbia Gateway Dr., Columbia, MD 21046
Justin Hoffman, 1447 York Rd., Lutherville, MD 21093
Trevor Lewis Jr.: PSA Financial, INC., 1447 York Rd., Lutherville, MD 21093

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 18, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For June 21, 2008
Item Nos. 08-0582, 0594, 0595, 0598,
0599, 0601, 0603, 0605, and 0606

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

DAK:CEN:lrk

cc: File

ZAC-07182008-NO COMMENTS

BW 8/28
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: July 24, 2008

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

RECEIVED
JUL 28 2008

BY:

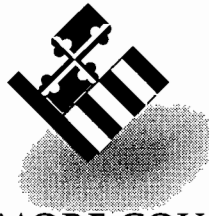
SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-582- Variance**

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 Jessie Bialek in the Office of Planning at 410-887-3480.

Prepared By: Chris Murray

Division Chief: Jessie Bialek
CM/LL



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

July 14, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: July 14, 2008

Item Number: ~~0582~~, 0594, 0595, 0596, 0597, 0598, 0599, 0601, 0602, 0605, 0607

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



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

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

Maryland Department of Transportation

Date: July 14, 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 2008-0582-A
 11311 McCORMICK RD
 PSA FINANCIAL, INC.
 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. 2008-0582-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,

A handwritten signature in black ink that reads "Michael P. Bailey".

^{Foster} Steven D. Foster, Chief
 Engineering Access Permits
 Division

SDF/MB



RE: PETITION FOR VARIANCE * BEFORE THE
 11311 McCormick Road; S/S McCormick Rd, * ZONING COMMISSIONER
 NE corner McCormick & Schilling Roads * FOR
 8th Election & 3rd Councilmanic Districts * BALTIMORE COUNTY
 Legal Owner(s): Hunt Valley 75 Ltd P-ship *
 Contract Purchaser(s): PSA Financial Inc *
 Petitioner(s) * 08-582-A
 * * * * *

ENTRY OF APPEARANCE

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

RECEIVED
 JUL 15 2008

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 15th day of July, 2008, a copy of the foregoing Entry of Appearance was mailed to Justin Robert A Hoffman, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204. 1447 York Road, Lutherville, MD 21093 and Edward Gillis, Esquire, 102 W. Pennsylvania Avenue, Suite 600, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

 PETER MAX ZIMMERMAN
 People’s Counsel for Baltimore County

CIRCUIT COURT FOR BALTIMORE COUNTY
 Richard D. Arnold, Jr.
 Clerk of the Circuit Court
 County Courts Building
 401 Bosley Avenue
 P.O. Box 6754
 Towson, MD 21285-6754
 (410)-887-2601, TTY for Deaf: (800)-735-2258
 Maryland Toll Free Number (800) 938-5802

RECEIVED

OCT - 4 2010

**BALTIMORE COUNTY
 BOARD OF APPEALS**

10/01/10

Case Number: 03-C-09-014647 AA OTH
 Date Filed: 12/04/2009
 Status: Open/Active
 Judge Assigned: To Be Assigned,
 Location :
 CTS Start : 12/04/09 Target : 06/02/11

In the Matter of P S A Financial Inc

C A S E H I S T O R Y

OTHER REFERENCE NUMBERS

Description	Number
Administrative Agency	08-582-A
Case Folder ID	C09014647V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PET 001	P S A Financial Inc			12/08/09
		Party ID: 1461500		
	Mail: 11311 McCormick Road Hunt Valley, MD 21031	12/08/09		12/08/09 KAS
	Attorney: 0013744 Gilliss, Edward J Royston, Mueller, McLean & Reid, LLP 102 West Pennsylvania Ave Suite 600 Towson, MD 21204 (410)823-1800	Appear: 12/08/2009		12/08/09
RES 001	Hunt Valley 75 Limited Parthership			12/08/09
		Party ID: 1461503		

Mail: 11311 McCormick Road 12/08/09 02/26/10 DR 12/08/09 KAS
 8th Election Disct,3rd Councilmanic Dist
 Hunt Valley, MD 21031

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
----------	----------------------------	--------------	---------------------------	---------

ADA	001 County Board Of Appeals Of Baltimore County The			12/08/09
		Party ID: 1461501		

Mail: Old Court House Room 49 12/08/09 12/08/09 KAS
 400 Washington Avenue
 Towson, MD 21204

ITP	001 Peoples Counsel For Baltimore County			01/07/10
		Party ID: 1471438		

Mail: 105 W Chesapeake Ave 02/26/10 02/26/10 DR
 Suite 204, Jefferson Bldg
 Towson, MD 21204

Attorney: 0005744 Demilio, Carole S Appear: 12/10/2009 01/07/10
 People's Counsel For Baltimore County
 105 W Chesapeake Avenue
 Room 204
 Towson, MD 21204
 (410)887-2188

0029075 Zimmerman, Peter M Appear: 12/10/2009 01/07/10
 People's Counsel For Baltimore County
 105 West Chesapeake Ave.
 Room 204
 Towson, MD 21204
 (410)887-2188

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
09/08/10	09:30A	CR16	Civil Non-Jury Trial	Y	KGC	01 /01	JMD KJR
	Held/Concluded		09/08/10 E K.Cox	Y			
Steriographer(s): Nonna Baksa							

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign	Date	Removal	RSN
TBA To Be Assigned.	J		12/08/09		

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0001000	Petition for Judicial Review	12/04/09	12/08/09	PET001	TBA		KAS KAS
0001001	Answer	12/10/09	01/07/10	ITP001	TBA		EMH EMH
0002000	Certificate of Compliance	12/10/09	01/07/10	000	TBA		NF
0003000	*Transcript of Proceedings	02/02/10	02/20/10	000	TBA	02/20/10	MRS
0004000	Notice of Transcript of Record Sent	02/26/10	02/26/10	ADA001	TBA	02/26/10	DR
0005000	Notice of Transcript of Record Sent	02/26/10	02/26/10	ITP001	TBA	02/26/10	DR
0006000	Notice of Transcript of Record Sent	02/26/10	02/26/10	PET001	TBA	02/26/10	DR
0007000	Notice of Transcript of Record Sent	02/26/10	02/26/10	RES001	TBA	02/26/10	DR
0008000	Memorandum In Support Of Petition For Judicial Review	03/15/10	03/29/10	PET001	TBA	03/29/10	NF
0009000	Memorandum	04/09/10	04/13/10	ITP001	TBA	04/13/10	SAP
0010000	Reply Memorandum in support of petition for judicial review	04/26/10	04/27/10	PET001	TBA	04/27/10	SAP
0011000	Scheduling Order	06/08/10	06/08/10	000	TBA	06/08/10	JMO
0012000	Open Court Proceeding September 8, 2010. Hon. Kathleen G. Cox. Hearing had in re: Administrative Appeal. Order to be filed.	09/29/10	09/29/10	000	KGC		KJR
0013000	Judgment Order-decisions of the Baltimore County Board of Appeals dated August 5, 2009 are AFFIRMED	10/01/10	10/01/10	000	KGC Granted	10/01/10	RLM
0014000	Memorandum Opinion and Order-decision of the Baltimore County Board of Appeals shall be affirmed	10/01/10	10/01/10	000	KGC Granted	10/01/10	RLM

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
0015000	Docket Entries sent to Board of Appeals	10/01/10	10/01/10	000	TBA		JAK

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
1ANS	1st Answer Tickle	OPEN	12/10/09	0	no	no	DANS	D	001	001
1YRT	One Year Tickle (Jud	OPEN	12/04/10	365	no	no	DAAA	D	001	000
SLTR	Set List For Trial	CANCEL	12/10/09	0	yes	no	1ANS	T	001	001

EXHIBITS

Line #	Marked	Code	Description	SpH	Sloc	NoticeDt	Disp	Dt	Dis	By
000		B	BOX 698/CBA TRANSC							B

Offered By: ADA 001 County Board Of Appeals Of Ba

DIFFERENTIATED CASE MANAGEMENT

TRACKS AND MILESTONES

Track : R1 Description: EXPEDITED APPEAL TRACK Custom: Yes
 Assign Date: 06/08/10 Order Date : 06/08/10
 Start Date : 06/08/10 Remove Date:

Milestone	Scheduled	Target	Actual	Status
Motions to Dismiss under MD. Rule 2-322C		06/23/10		OPEN
All Motions (excluding Motions in Limine		07/30/10		OPEN
TRIAL DATE is	09/08/10	09/06/10	09/08/10	REACHED

ACCOUNTING SUMMARYNON-INVOICED OBLIGATIONS AND PAYMENTS

Date	Rcpt/Initials	Acct Desc	Oblig	Payment	Total MOP	Balance

12/04/09	200900031687/MAB	1102 CF-Civil Fil	.00	80.00	-80.00 CK	-80.00
12/04/09	200900031687/MAB	1500 Appearance F	.00	10.00	-10.00 CK	-90.00
12/04/09	200900031687/MAB	1265 MLSC	.00	25.00	-25.00 CK	-115.00
12/08/09		1500 Appearance F	10.00	.00	10.00	-105.00
12/08/09		1265 MLSC	25.00	.00	25.00	-80.00
12/08/09		1102 CF-Civil Fil	80.00	.00	80.00	.00

CIRCUIT COURT FOR BALTIMORE COUNTY

Case #: 03-C-09-014647 Folder #: 01 Date Filed: 12/04/2009

Case Type: Administrative Agency Appeal

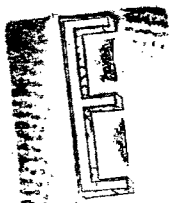
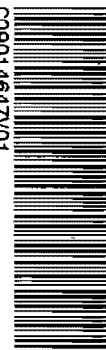


In the Matter of P S A Financial Inc

Petitioner: P S A Financial Inc Respondent: Hunt Valley 75 Limited Partnership

Petitioner's Attorney: Edward J Gilliss Esq Phone No.: (410)823-1800 Fax No.: (410)828-7859

C09014647V01



CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL / FAMILY

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in
relying*

C09 14647

CASE NUMBER

VOLUME

- 1 pl to
- 2 pl to
- 3 pl to
- 4 pl to
- 5 pl to
- 6 pl to
- 7 pl to
- 8 pl to
- 9 pl to
- 10 pl to
- 11 pl to
- 12 pl to
- 13 pl to
- 14 pl to
- 15 pl to

ADDITIONAL RECORDS ON

MICROFILM

VHS



CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

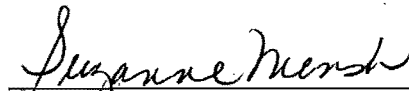
N O T I C E O F R E C O R D

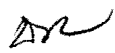
Case Number: 03-C-09-014647 AA
Administrative Agency : 08-582-A
C I V I L

In the Matter of P S A Financial Inc

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed on the 2nd day of February, 2010.



Suzanne Mensh
Clerk of the Circuit Court, per 

Date issued: 02/26/10

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Court House Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED

MAR - 2 2010

BALTIMORE COUNTY
BOARD OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY
Suzanne Mensh
Clerk of the Circuit Court
County Courts Building
401 Bosley Avenue
P.O. Box 6754
Towson, MD 21285-6754
(410)-887-2601, TTY for Deaf: (800)-735-2258
Maryland Toll Free Number (800) 938-5802

Case Number: 03-C-09-014647

TO: COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY THE
Old Court House Room 49
400 Washington Avenue
Towson, MD 21204

RECEIVED

MAR - 2 2010

BALTIMORE COUNTY
BOARD OF APPEALS

BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

Phone: 410-887-3180

Fax: 410-887-3182

To: Stuart Kelly, Code Enforcement

From: Sunny Cannington, Legal Secretary

Date: August 17, 2009

Re: Signs to be Picked up

Hunt Valley 75 Limited Partnership
Board of Appeals Case No.: 08-582-A
11311 McCormick Road

and

Ronald and Sandra Hlopak
Board of Appeals Case No.: 09-049-X
4412 North Point Boulevard

Please be advised that these cases have been completed and the signs can be picked up at your convenience.

Thank you for all your help. Please do not hesitate to contact us should you have any problems or questions.



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

October 8, 2008

Hand-delivered

Timothy Kotroco, Director
Department of Permits and
Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED

OCT 08 2008

AW

Re: PETITION FOR VARIANCE
S/S McCormick Road, NE corner McCormick & Schilling Roads
(11311 McCormick Road)
8th Election District; 3rd Council District
Hunt Valley 75 Limited Partnership, Legal Owners &
PSA Financial, Inc, Lessee - Petitioners
Case No.: 08-582-A

Dear Mr. Kotroco:

Please enter an appeal by the People's Counsel for Baltimore County to the County Board of Appeals from the Findings of Fact and Conclusions of Law dated September 16, 2008 by the Baltimore County Zoning Commissioner.

Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

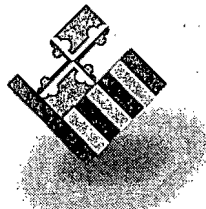
Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ /rmw

cc: Edward Gilliss, Esquire



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, Director
December 19, 2008
Department of Permits and
Development Management

Edward J. Gillis, Jr.
Royston, Mueller, McLean & Reid, LLP
102 West Pennsylvania Avenue, Ste. 600
Towson, MD 21204

Dear Mr. Gillis:

RE: Case 2008-0582-A, 11311 McCormick Road

Please be advised that an appeal of the above-referenced case was filed in this office on October 8, 2008 by People's Counsel of Baltimore County. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

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

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

Sincerely,

Timothy Kotroco
Director

RECEIVED

DEC 23 2008

**BALTIMORE COUNTY
BOARD OF APPEALS**

TK:klm

- c: William J. Wiseman III, Zoning Commissioner
- Timothy Kotroco, Director of PDM
- People's Counsel
- Trevor Lewis, PSA Financial, Inc., 11311 McCormick Road, Hunt Valley 21030
- Justin Hoffman, PSA Financial, Inc., 11311 McCormick Road, Hunt Valley 21030
- Warren Weaver, 7440 Ft. Smallwood Rd., Balto. 21226
- Mary Ellen Morrison, P.O. Box 1322, Hunt Valley 21030
- Donald Gerding, 335 Old Trail Road, Baltimore 21212
- Nedda Evans, 2224 Tracey's Road, Sparks 21152

APPEAL

Petition for Variance
11311 McCormick Road
S/side McCormick, NE corner of McCormick & Schilling Road
8th Election District – 3rd Councilmanic District
Legal Owners: Hunt Valley 75 Limited Partnership
Lessee: PSA Financial

Case No.: 2008-0582-A

- ✓ Petition for Variance (June 20, 2008)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (July 15, 2008)
- ✓ Certification of Publication (Jeffersonian – August 12, 2008)
- ✓ Certificate of Posting (August 7, 2008) by Bruce Doak
- ✓ Entry of Appearance by People's Counsel (July 15, 2008)
- ✓ Petitioner(s) Sign-In Sheet - 1
- Protestant(s) Sign-In Sheet (None)
- ✓ Citizen(s) Sign-In Sheet - 1
- ✓ COUNTY REPRESENTATIVE SIGN-IN SHEET (1)
- ✓ Zoning Advisory Committee Comments

RECEIVED
DEC 23 2008
BALTIMORE COUNTY
BOARD OF APPEALS

- ✓ Petitioners' Exhibit
 - ✓ 1. Letter of Support
 - ✓ 2. ~~92B~~ Site Plan
 - ✓ 3. Placement of Signs on Building Faces
 - ✓ 4. Proposed Dimensions
 - ✓ 5. Existing Conditions
 - ✓ 6. Roof Line Depicted
 - ✓ 7. Exclusive Signage Rights Vested in PSA Financial

Protestants' Exhibits - (None)

Miscellaneous (Not Marked as Exhibit)

- ✓ 1. Letter dated August 25, 2008 from Nedda Evans
- ✓ 2. Letter dated August 25, 2008 from Donald Gerding
- ✓ 3. Letter dated September 11, 2008 from John Hermann (COPT)
- ✓ 4. Inter-office memo from Richard Cobert (07-339-A)
- ✓ 5. BCZR – Table of Sign Regulations

- ✓ Zoning Commissioner's Order (GRANTED – September 16, 2008)
- ✓ Notice of Appeal received on October 8, 2008 from People's Counsel

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

date sent December 23, 2008, klm



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

January 15, 2009

Edward J. Gilliss, Esquire
ROYSTON, MUELLER, McLEAN & REID LLP
Suite 600
The Royston Building
102 W. Pennsylvania Avenue
Towson, MD. 21204-4575

RE: *In the Matter of: Hunt Valley 75 Limited Partnership*
- Legal Owners /Petitioners Case No. 08-582-A

Dear Mr. Gilliss:

This will acknowledge receipt of your letter dated January 9, 2009, regarding the scheduling of the subject matter for hearing.

On December 23, 2008, this file was received from the Department of Permits and Development Management at the Board of Appeals. Please be advised that consideration will be given to scheduling a hearing on the earliest date possible. At this time, the Board's docket is scheduled into March/April of 2009.

A Notice of Assignment will be forwarded to you at the time of scheduling. Please call me if I can be of any further assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Theresa R. Shelton".

Theresa R. Shelton
Administrator

c: Office of People's Counsel



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN
County Attorney
Office of Law

March 2, 2009

Ms. Theresa R. Shelton, Administrator
County Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case #: 08-582A
In the Matter of: Hunt Valley 75 Limited Partnership – LO/Petitioner
Assigned For: Thursday, March 5, 2009

TO WHOM IT MAY CONCERN:

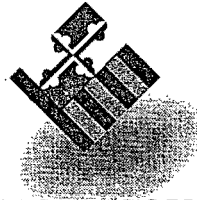
I have attached a letter expressing the Baltimore County Office of Law's views and opinions pertaining to the subject matter of the above captioned case. I ask that the attached letter be incorporated in the record of this case, which is set for Hearing on March 5, 2009 before this Honorable Board.

Sincerely,


Adam M. Rosenblatt
Assistant County Attorney

AMR: cac

RECEIVED
MAR - 2 2009
BALTIMORE COUNTY
BOARD OF APPEALS



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN
County Attorney
Office of Law

November 21, 2008

David S. Iannucci, Director
Baltimore County Dept of Economic Development
400 Washington Avenue
Towson, MD 21093

Re: Interpretation of Table of Sign Regulations
Baltimore County Zoning Regulations § 450
Zoning Case Number 08-0582-A

Dear Mr. Iannucci:

This correspondence is in response to your letter dated November 17, 2008, in which you requested a legal interpretation of § 450 of the Baltimore County Zoning Regulations (B.C.Z.R.). I understand that this regulation was the subject of case number 08-0582-A before the Zoning Commissioner, which involved a sign variance requested by PSA Financial, Inc. (PSA) for an office building located at 11311 McCormick Road. After reviewing the relevant regulations, as well as the facts specific to PSA's request, it is the opinion of the Baltimore County Office of Law that the Zoning Commissioner correctly interpreted § 450 of the B.C.Z.R., and reached the proper conclusion in granting the sign variance to PSA.

In the case before the Zoning Commissioner, PSA requested a variance from § 450.4.I.5(d) of the B.C.Z.R. to permit the construction of two illuminated signs on a multi-tenant office building, the fifth floor of which houses their offices. One of the signs would be located on the north elevation directly above the fifth floor wall of the building, and the other sign would be located on the west elevation of the fifth floor of the building. Since PSA proposed the erection of two wall-mounted signs, as opposed to one wall-mounted and one canopy sign as permitted by the regulations, the company required a variance from the Zoning Commissioner.

Initially, the Zoning Commissioner went into great detail to explain that the size of each of the proposed signs conforms to the requirements of Section V of B.C.Z.R. § 450.4, entitled Table of Sign Regulations. It appears that the Commissioner's language is self explanatory on this point, and that the only remaining legal question is whether § 450 requires an "exclusive" entrance in order to permit signage.

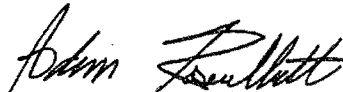
After reviewing the regulations, it is the opinion of this office that the Zoning Commissioner employed the only reasonable interpretation of § 450.4.I.5(d), in that the section permits tenants who lease common area entrance space to maintain enterprise signs in accordance with the Table of Sign Regulations. The Table specifically states that wall-mounted and canopy enterprise signs are for use on a "multi-tenant office, retail or industrial building." See § 450.4.III.5(d). The Table continues to state that each "entity with separate exterior customer entrance may erect one canopy and one wall-mounted sign." See § 450.4.VI.5(d).

In order to reconcile these sections, the Zoning Commissioner held that tenants who lease a common entrance to a multi-tenant office building possess the requisite customer entrance to erect one canopy and one wall-mounted sign. This office supports the Zoning Commissioner's interpretation, and believes it to be the only reasonable interpretation, because the Table cannot be read to limit signage to entities with *exclusively* owned exterior customer entrances. If the regulation were read in that manner, as suggested by the Office of People's Counsel on appeal, the regulation would essentially prevent any signage from ever being erected on a multi-tenant, retail or industrial building -- the type of structures specifically enumerated in § 450.4.III.5(d).

Furthermore, it is the opinion of this office that the interpretation employed by the Zoning Commissioner furthers the spirit and intent of the B.C.Z.R. Section 450.1B states that: "Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community." Indeed, any interpretation of § 450.4 that effectively prevents all tenants from erecting signs on multi-tenant buildings is contrary to the purposes expressly stated in the regulations.

I hope this satisfies your inquiry, and please do not hesitate to contact me if you have any further questions or comments. Additionally, please feel free to submit this letter to the Board of Appeals and the Attorneys involved in the upcoming proceeding.

Sincerely,



Adam M. Rosenblatt
Assistant County Attorney

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Hunt Valley 75 Limited Partnership 08-582-A

DATE: October 1, 2009

BOARD/PANEL: Lawrence Stahl
 Robert Witt
 Edward Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. People's Counsel for Baltimore County's Motion for Reconsideration, Clarification, and Correction.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board convened for public deliberation on People's Counsel's Motion for Reconsideration, Clarification, and Correction. The Board determined that People's Counsel's Motion primarily dealt with the Majority Opinion, which this Board issued, with a Dissenting Majority Opinion on August 5, 2009.
- It should be noted that People's Counsel's Motion for Reconsideration was directed on the Majority Opinion and therefore Mr. Stahl's participation was limited to the roll of panel chairman for organizational purposes, as he did not join the Majority Opinion.
- The Board discussed the facts that the deliberation process depends on the person taking the notes as well as the emphasis the Board members put on the information they discuss in the deliberation. The detail that is included in the Minutes depends on these factors. There have been times when the Minutes are not very detailed and there have been times when they Minutes are extremely detailed. The Board discussed that if the Open Meetings Act intended for the Minutes to be verbatim, a Court Reporter would be present or the deliberations would be recorded. The Minutes are instead interpreted by the person taking the notes, they are not the "be all end all". The Minutes are to indicate that an open meeting was held. There are some Board members that don't even review the Minutes upon sitting down to write the decision; they rely solely on their notes, the file, and their memory of the case. There are other Board members that incorporate the Minutes and still others who rely solely on the Minutes.
- The Board read from and discussed the Motion for Reconsideration of People's Counsel as well as the Response provided by the Petitioner's Attorney.

MINUTES OF DELIBERATION ON PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR RECONSIDERATION

- One issue in People's Counsel's Motion was that the Majority Opinion was in conflict with the deliberation Minutes. The Board determined that the Majority Opinion and Minutes of Deliberation are mirror images of each other.
- People's Counsel also raised the issue of whether the Petitioners had the right to put the signs up. The Board discussed that the Landlord provided the Petitioners with the contractual right to place a sign on the building in their lease. That does not, however, automatically grant the Petitioners the right to put any kind of sign they want anywhere they want on the building. The Petitioners are still bound by the Baltimore County Zoning Regulations and the Baltimore County Code in determining what kind of sign they are permitted to have, the location and size. The Board discussed that in this case the Petitioners originally asked for one kind of sign and over time the request evolved into a request for an enterprise sign.
- When the original deliberation took place, the Board remembers getting stuck on the idea of a canopy sign. Mr. Crizer indicated that he felt the enterprise sign statute was one of the most well written pieces of legislation that the County has made. He would have been willing to allow the Petitioners to have a sign but when applying the law the way it was written, he could not do it.
- People's Counsel also presented the subject of whether the Board discussed the issue of the parapet wall in the original deliberation. The Board specifically remembers the discussion of the parapet wall because it reminded Mr. Stahl of a case he had been involved in years ago. The Board concedes that it probably didn't make it into the Minutes at the time because it seemed irrelevant to the conversation due to the fact that the Board was not granting the sign. The discussion about the parapet wall was an offside comment at the time.
- The Board then discussed the questions at issue in this matter and determined that they are relatively simple. Mr. Witt wrote the Majority Opinion. He is comfortable with his Majority Opinion. He feels that his Majority Opinion is clear and has enough information to allow others to come to the same decision, which he came to. Mr. Crizer agrees saying that he read Mr. Witt's Majority Opinion, understood and agreed with Mr. Witt's writing before signing the Majority Opinion. Mr. Witt reviewed his Majority Opinion numerous times before this deliberation and doesn't see anywhere in the Majority Opinion where it grants the signs. Mr. Witt feels that the Majority Opinion dated August 5, 2009 clearly turns down the sign requests. The Board unanimously agrees that it does not matter if the Majority Opinion is as clear as "they" want it, whoever "they" may be. As long as the Majority Opinion is clear enough to satisfy the Board that is what matters. The Board cannot prepare for every interpretation of the Majority Opinions.
- The Board determined that the Ruling on the Motion for Reconsideration is based on three points; if the Board believes the Majority Opinion reflects the Deliberation; if the Majority Opinion clearly laid out the decision of the Board; and the Majority Opinion accomplishes the ends it intended. The Board feels that the Majority Opinion of August 5, 2009 meets these three requirements.

MINUTES OF DELIBERATION ON PEOPLE'S COUNSEL FOR BALTIMORE COUNTY'S MOTION FOR RECONSIDERATION

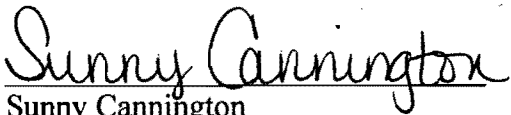
- As an aside, the Board determined that they have the right to review the entire file when writing their Opinions. The Board also has the right to rely on their notes and memories when writing their Opinions.
- The Board also determined that generally, the law requires that fraud, mistake, irregularity, new law or new evidence not known about at the original hearing, be presented in order to grant a Motion for Reconsideration. The Motion for Reconsideration is to be based on specific information. The Board determined that in this case, the Motion for Reconsideration is subjective and does not provide any of the requirements to grant the Motion for Reconsideration.

DECISION BY BOARD MEMBERS: The Board determined that the Majority Opinion dated August 5, 2009 reflected the decision they came to in the deliberation of May 20, 2009; the Majority Opinion clearly lays out the decision of the Board; and the Majority Opinion accomplishes what they intended.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the majority of the Board agreed to DENY People's Counsel for Baltimore County's Motion for Reconsideration. Again noting that Mr. Stahl did not join the Majority Opinion to which the Motion was directed and therefore did not cast a vote with regard to the Motion.

NOTE: These Minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Majority Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Hunt Valley 75 Limited Partnership 08-582-A

DATE: May 20, 2009

BOARD/PANEL: Lawrence Stahl
 Robert Witt
 Edward Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to allow 2 illuminated signs with a size of 194.83 square feet and 226.25 square feet, respectively.
2. Is the allowance of 2 illuminated, enterprise signs granted by right?
3. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
4. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Petitioners requested two illuminated, enterprise signs to be approved by right. If the illuminated signs were not granted by right, the Petitioner requested a Variance to allow the two illuminated, enterprise signs.
- The Zoning Commissioner had granted the Petition for Variance with restrictions, allowing the signs by Variance and not by right.
- The Board discussed this matter and the rights of the Petitioners. Mr. Stahl indicated that he would feel more comfortable granting the enterprise signs as a right because he didn't feel that the property fit the "Uniqueness" requirements of Cromwell.
- The Board discussed the Special Regulations Chart found in the Baltimore County Code (Petitioner's Exhibit No.1) number 5 applies to Enterprise signs as an accessory structure "which displays the identity and which may otherwise advertise the products or services associated with the individual organization." The Board determined that this matter only fits "Structural type (d)" of the Enterprise sign section of the chart, which addresses multi-tenant offices. The "Zone or Use" portion of the chart indicates that Wall-mounted or canopies are permitted "on [a] multi-tenant office, retail or industrial building,

accessory to separate commercial entity with exterior customer entrance.’ The Board discussed the meaning of this “Zone or Use.” Mr. Witt and Mr. Crizer interpreted this sentence to mean that each entity within the multi-tenant office must have an exterior entrance for their customers separate from the rest of the tenants. Mr. Stahl disagreed stating that his interpretation of the sentence was that the building must have multiple exterior entrances, and if the County Council intended for each entity in the structure to be required to have a separate entrance in order to qualify for the Enterprise sign, they would have said that.


- Mr. Witt and Mr. Crizer were concerned that by allowing the Enterprise sign, they would be opening the door to allow all of the tenants of the building to have enterprise signs placed on the building and would create a “Christmas tree effect.” Mr. Stahl suggested finding where this matter would fit in the chart, granting the signs, limiting the “Christmas tree effect” by restricting the allowance to 2 signs with no advertisement of products or services, and further, stating that only two signs would be permitted on the building at any given time. Mr. Crizer was concerned that if they made this matter fit and limited the granting of the signs that they would be “cherry picking” and didn’t feel that it was appropriate.
- The Board briefly pointed out that the Petitioners are not the owners of the building and are only tenants of the building.
- The Board then discussed the Petition for Variance. Under the standards of Cromwell, the property must be “unique” in order to obtain a Variance. In this matter, the Petitioners argued that what makes the property “unique” is that the trees on the property are very tall and limit the view of the building. The building was built in 1987 and the trees were only saplings at the time. Since then, the trees have grown very tall. The trees were on the property before the Petitioners located themselves there. The Board does not feel that the existence of trees on the property makes this property “unique” to the surrounding properties.
- With regard to practical difficulty, the Petitioners do not own the property and therefore failure to grant the variance does not create a practical difficulty for the Petitioners.

DECISION BY BOARD MEMBERS: Mr. Witt and Mr. Crizer agree that the Petitioners are not entitled to an Enterprise sign by right. Mr. Stahl dissents. All three Board members agree that the property is not “unique” and therefore do not qualify for Variance relief.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the majority of the Board agreed to DENY the allowance of two illuminated, enterprise signs on the building as a matter of right, with Mr. Stahl dissenting. The Board unanimously agreed to DENY Petition for Variance as the property does not meet the requirements of “uniqueness” under Cromwell.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

CMG
F: [unclear]
6/17/08
~

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

THE ROYSTON BUILDING

102 WEST PENNSYLVANIA AVENUE

TOWSON, MARYLAND 21204-4575

TELEPHONE 410-823-1800

FACSIMILE 410-828-7859

www.rmmlr.com

June 17, 2008

OF COUNSEL

EUGENE W. CUNNINGHAM, JR., P.A.

H. EMSLIE PARKS*

BRADFORD G.Y. CARNEY

LISA J. McGRATH

COUNSEL EMERITUS

RICHARD A. REID

CARROLL W. ROYSTON

1913-1991

H. ANTHONY MUELLER

1913-2000

* ALSO ADMITTED IN D.C.

R. TAYLOR McLEAN
E. HARRISON STONE
WILLIAM F. BLUE
THOMAS F. McDONOUGH
LAUREL PARETTA REESE*
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
JOHN W. BROWNING
TIMOTHY J. OURSLER
ROBERT G. BLUE
CRAIG P. WARD

LEANNE M. SCHRECENGOST
DAVID F. LUBY
JONATHAN M. HERBST
JAMES L. SHEA, JR.
MARTHA K. WHITE

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn.: Mr. Leonard Wasiliewski

Re: 11311 McCormick Road
Sign Variance

Dear Mr. Wasiliewski:

Enclosed with this letter please find the following, all of which regard the desired variance from existing sign regulations for the above-referenced property:

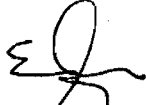
1. Three original Petition for Variance documents;
2. Twelve original Chesapeake Sign Company descriptions of the requested signs;
3. Three copies of zoning maps;
4. Twelve copies of "Plat/Site Plan;"
5. Advertising form;
6. Three copies of an Addendum containing the applicable zoning regulations; and
7. Check made payable to Baltimore County in the amount of \$325.00.

Department of Permits and Development Management
Attn.: Mr. Leonard Wasiliewski
Page 2
June 17, 2008

I thank you for your cooperation and look forward to hearing from you with respect to advertising detail and with advice as to the earliest possible date for a hearing on this matter.

I thank you for your cooperation.

Very truly yours,



Edward J. Gilliss

EJG/ges

Enclosures

cc: Mr. Justin Hoffman

G:\LITIGATIONS\EJG\Clients\PSA Financial\Lease Issues\Permits 05-29-08.doc

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

R. TAYLOR McLEAN
E. HARRISON STONE
WILLIAM F. BLUE
THOMAS F. McDONOUGH
LAUREL PARETTA REESE*
KEITH R. TRUFFER*
ROBERT S. HANDZO*
EDWARD J. GILLISS
JOHN W. BROWNING
TIMOTHY J. OURSLER
ROBERT G. BLUE
CRAIG P. WARD

SUITE 600
THE ROYSTON BUILDING
102 WEST PENNSYLVANIA AVENUE
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TELEPHONE 410-823-1800
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OF COUNSEL
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COUNSEL EMERITUS
RICHARD A. REID

CARROLL W. ROYSTON
1913-1991

H. ANTHONY MUELLER
1913-2000

* ALSO ADMITTED IN D.C.

LEANNE M. SCHRECEGOST
DAVID F. LUBY
JONATHAN M. HERBST
JAMES L. SHEA, JR.
MARTHA K. WHITE

June 30, 2008

VIA HAND DELIVERY

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn.: Mr. Craig McGraw

Re: 11311 McCormick Road

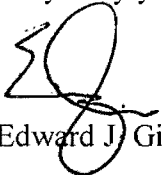
Dear Mr. McGraw:

This letter follows our Friday, June 27, 2008 conversation.

Consistent with that discussion, I attach to this letter three copies of the Zoning Description of the property which is the subject of PSA Financial's sign variance request.

Thank you for your cooperation. I look forward to hearing from you with confirmation that the request has now been docketed. I further look forward to hearing from you with the assigned number and a variance hearing date.

Very truly yours,


Edward J. Gilliss

EJG/sml
Enclosures

0562

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

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January 9, 2009

OF COUNSEL

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BRADFORD G.Y. CARNEY

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COUNSEL EMERITUS

RICHARD A. REID

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1913-2000

JOHN W. BROWNING

1963-2008

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JAMES L. SHEA, JR.
MARTHA K. WHITE
ALICE L. ARCIERI

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

Re: 11311 McCormick Road
Sign Variance

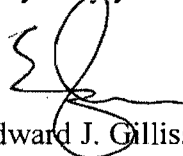
Dear Sirs:

This letter follows my January 9, 2009 receipt of notice from Baltimore County that it has forwarded the file materials in the above-captioned matter to the Board in light of People's Counsel's appeal of the Zoning Commissioner's September 16, 2008 Order in this matter.

In light of the substantial time which has passed since the Zoning Commissioner's Order (now almost four months), I request that you set this matter for hearing at the earliest possible date.

I look forward to hearing from you.

Very truly yours,



Edward J. Gilliss

EJG/ges

cc: Peter Max Zimmerman, Esquire

G:\LITIGATION\SEJG\Clients\PSA Financial\Lease Issues\Bd of Appeals 01-09-09.doc

RECEIVED

JAN 12 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

SUITE 600

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OF COUNSEL

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RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

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DAVID F. LUBY
JONATHAN M. HERBST
JAMES L. SHEA, JR.
MARTHA K. WHITE
ALICE L. ARCIERI

May 8, 2009

VIA HAND-DELIVERY

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

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MAY - 8 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

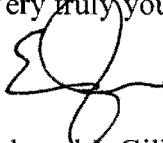
Re: 11311 McCormick Road
Sign Variance
Case No. 08-582-A

Dear Sirs:

Consistent with the Board's instruction, enclosed please find an original and three copies of PSA Financial, Inc.'s Post-Hearing Memorandum.

Thank you for your cooperation.

Very truly yours,



Edward J. Gilliss

EJG/ges

Enclosures

cc: Peter Max Zimmerman, Esquire (w/encl.)
Mr. Trevor C. Lewis, Jr. (w/encl.)
Mr. Justin Hoffman (w/encl.)

ROYSTON, MUELLER, McLEAN & REID, LLP

ATTORNEYS AT LAW

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RICHARD A. REID
1931-2008

* ALSO ADMITTED IN D.C.

DAVID F. LUBY
JONATHAN M. HERBST
JAMES L. SHEA, JR.
MARTHA K. WHITE
ALICE L. ARCIERI

September 3, 2009

VIA HAND-DELIVERY

Baltimore County Board of Appeals
Suite 203, Jefferson Building
105 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
SEP - 3 2009
BALTIMORE COUNTY
BOARD OF APPEALS


Re: 11311 McCormick Road
Sign Variance
Case No. 08-582-A

Dear Sirs:

Enclosed with this letter please find an original and three copies of Petitioner's Response to People's Counsel's Motion for Reconsideration.

Thank you for your cooperation.

Very truly yours,


Edward J. Gilliss

EJG/ges

Enclosures

cc: Peter Max Zimmerman, Esquire (w/encl.)
Mr. Trevor C. Lewis, Jr. (w/encl.)
Mr. Justin Hoffman (w/encl.)

Louis W. Miller
44 E. Timonium Rd.
Timonium, Md.
21093-3424

RECEIVED

MAR - 3 2009

BALTIMORE COUNTY
BOARD OF APPEALS

Baltimore County Board of Appeals
Jefferson Building
105 W. Chesapeake Ave.-Suite 203
Towson, Md. 21204

Re: Zoning Case 08-582-A, Appeals Case2008-582-A

Gentlemen:

Due to other personal commitments I am unable to attend the Board of Appeals hearing on the above case scheduled March 5, 2009. However, I offer this letter in opposition to the granting of this Petition.

As a citizen of Baltimore County for over 55 years, having participated in many of the business and residential activities during that time, review of the facts, evidence, opinions, and determinations leads me to offer this opinion.

I have participated in these type cases with the Greater Timonium Community Council, Inc. as Chairman of Zoning & Development Committee for over 12 years, President for the years 2000, 2001, 2004, 2005, and Chairman of the CZMP for the years 2000, 2004 and participated in the 2008 Issues. Additionally, I have been President, Vice President, and currently Treasure of Yorkshire-Haverford Community Association, Inc. in central Timonium area.

1. The building at 11311 is not "unique". There are many buildings in the Hunt Valley community who for many years served the citizens and businesses adequately without "use" and/or "variance" allowances.
2. Zoning laws specifically relate to this property which is zoned ML IM.
3. Section 7 (e) calls out what is allowed for wall-mounted signs in that zone of a joint occupied building. A 150 square foot sign is adequate. The request to place a sign on the unoccupied north Penthouse/mechanical room wall is inadequate.

The large silver location signs 11311 appear above each entrance to the lobby areas of the building.

4. PSA is well known in the Baltimore County business community. There are many other offices in the Hunt Valley community. Excessive and incompatible signage is contrary to the goals of the Master Plan and

regulations of signage are appropriate. The regulation of this Petition is clear. To clutter the environment with excess and unregulated signage is not recommended. This is evidenced by the DPDM original rejection.

Violation of the spirit and intent of these Regulations should not be condoned.

To determine the lack of a canopy sign under these regulations would allow two wall mounted signs would be excessive.

The Petition 2008-582-A should be rescinded.

Thank you for your kind attention to my comments,


Louis W. Miller, Past President GTCC

File: GTCC Sign Case 2008-582-A

BW
8-28-08

August 25, 2008

2008-0582-A

Mr. William Wiseman
Zoning Commissioner
401 Bosley Avenue, Room 405
Towson, Maryland 21204

Re: Petition for Variance
11311 McCormick Road 21031 Road

Dear Mr. Wiseman:

I am writing to express my concerns about two large and unsightly signs proposed by PSA Financial at 11311 McCormick Road. The signs will be an eyesore for a number of reasons.

Because of the proposed size of the signs---194.83 square feet for the north facing sign and 226.25 feet for the sign facing west--- they promise to dominate to the local landscape. Moreover, the proposed height of the signs, located on top of the fifth floor of the building, ensures that they will be seen from miles away.

If a variance is granted to permit large, garish signs for this business, then other businesses will seek such variances as well. Most members of the larger community who shop, work and drive in this vicinity would prefer that the area remain tasteful.

Thank you for your consideration of this matter.

Very truly yours,



Nedda P. Evans

Post-it® Fax Note 7671		Date 8-27	# of pages 2
To Ed Davis	From Bill Wiseman	Co.	
Co./Dept.	Phone # Code 2008	Phone # 0582-A	
Phone #	Fax # 8-28	Fax # @ 9AM	

Baltimore County
Department of Economic Development



400 Washington Avenue
Towson, MD 21204

(410) 887-8029
Fax (410) 887-8017

Richard A. Cobert
Business Development Associate

9-12-08

Bill:

Here is the information on the
sign variance for Capital Funding Group.

I hope this assists PSA

Financial.

Please call with any questions -

Rick

RECEIVED
SEP 15 2008

BY:.....

BW
82808
9 AM

To Zoning Commissioner: Baltimore County

Case # 2008-0582A

Hearing: 8/28/08 - 9 AM

Petition for Variance @ 11311 McCormick Rd - Hunt Valley, Md 21031

to permit 2 illuminated signs - one on the North and one on the West elevation directly above the 5th floor of the building, commonly referred to as the penthouse, not occupied - used as a mechanical room.

Request to deny: the signs sizes are larger than permitted under BCZR sec. 480.4(5)(4) and pose a visual distraction to busy vehicle traffic on I 83, Shovon Rd., Schilling Circle and McCormick Rd.

Smaller, within regulation size illuminated signs (two) will not create a hardship or present practical difficulty, since this enterprise is well known to the client base it serves and the area location is well known to the general public/consumers. If this business location presents a hardship, the applicant did not do a good job of site location for its clients and consumers to reach. This enterprise is recognized to be a solid business and this general location seems to have much commercial viability, has numerous commercial offerings of many styles i.e. retail, restaurants, shopping mall/center manufacturing, general office buildings of various sizes, shape and height plus hotel and residential offerings.

I believe that a reduced proper size per regulation sign(s) (two) will serve this company well.

Again the request to deny is made.

Thank you for your consideration to this request to deny.

Donald Gerding
335 Old Trail Road
Baltimore, Md 21212
410-825-0894

August 25, 2008

10/19/07

I await a copy of the decision

RECEIVED
AUG 26 2008

BY:.....

To: FAX 410-827-3182

County Board of Appeals
of Baltimore County
105 West Chesapeake Pkwy, Suite 203
Towson, Md 21204



J. Donald Gerding
335 Old Trail
Baltimore, Maryland 21212

Case # 08-582-A
Hunt Valley 75 Limited Partnership
11311 McCormick Road
Assigned for them March 5, 2009

Board Members: The case is Petition for Variance to permit 2 illuminated signs - one on the North and one on the West elevation directly above the 5th fl of the building commonly referred to as the penthouse, not occupied - used as a mechanical room.
Request to Deny: the signs sizes are larger than permitted under BCZR used 450.4 (5)(d) and pose a visual distraction to busy vehicle traffic on I 83, Sharon Rd, Schilling Circle, and McCormick Rd.

Smaller, within regulation size, illuminated signs (two) will not create a hardship or present practical difficulty since this enterprise is well known to the client base it serves and the area location is well known to the general public/consumers. If this business location presents a hardship, the applicant did not do a good job of site location for its clients and consumers to reach. This enterprise is recognized to be a solid business and this general location seems to have much commercial viability, has numerous commercial offerings of many styles i.e. retail, restaurants, shopping mall/center, manufacturing, general office buildings of various sizes, shape and height plus hotel and residential offerings.

I believe that a reduced proper size per regulation sign(s) (two) will serve this company well.

Again, the request to deny is made

RECEIVED

MAR - 3 2009

BALTIMORE COUNTY
BOARD OF APPEALS

Thank you for your consideration to this request.

I await a copy of the decision

March 3, 2009

cc office of People's Counsel
FAX 410-823-4236

Sincerely,
J. Donald Gerding

I am unable to attend the hearing due to a surgical review at GBAND of a very recent procedure.



**CORPORATE OFFICE
PROPERTIES TRUST**

11311 McCormick Road, Suite 180
Hunt Valley, Maryland 21031-8615
Telephone 410-771-7703
Facsimile 410-771-1960
www.copt.com
NYSE: OFC

September 11, 2008

William J. Wiseman, Esquire
Zoning Commissioner
105 Jefferson Building, Suite 103
Towson, Maryland 21204

Re: PSA Financial Center, Inc.
11311 McCormick Road, Hunt Valley, MD
Case No. 08-582-A

Dear Mr. Wiseman:

With this letter I write on behalf of Hunt Valley 75 Limited Partnership, the owner of 11311 McCormick Road, to express the landlord's support for PSA Financial's effort to obtain County approval to place signs on the north and west faces of 11311 McCormick Road.

Hunt Valley 75 Limited Partnership, an affiliate of Corporate Office Properties Trust (COPT), owns the structure at 11311 McCormick Road. I am the on-site representative of the property owner.

COPT fully supports PSA's signage effort. The Lease Agreement between the landlord and PSA Financial expressly authorizes PSA to erect the signs which are the subject of this variance proceeding. I attach to this letter a copy of the Lease's Exhibit E-1 which reflects the planned locations of the signs on the west wall and north wall of 11311 McCormick Road. (I do note that PSA has changed its official logo since the Lease was executed; hence, the sign detail has changed, although neither the sign sizes nor the sign locations have changed.)

Please know that PSA is the only tenant which has been given the authority to install signage such as that proposed. No other tenant enjoys this privilege.

COPT believes that the requested signage is appropriate. The requested signage is in good taste, of size consistent with the regulations, consistent with the mass of the structure, consistent with other area signage, and will benefit the business community.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hermann", with a horizontal line extending to the right.

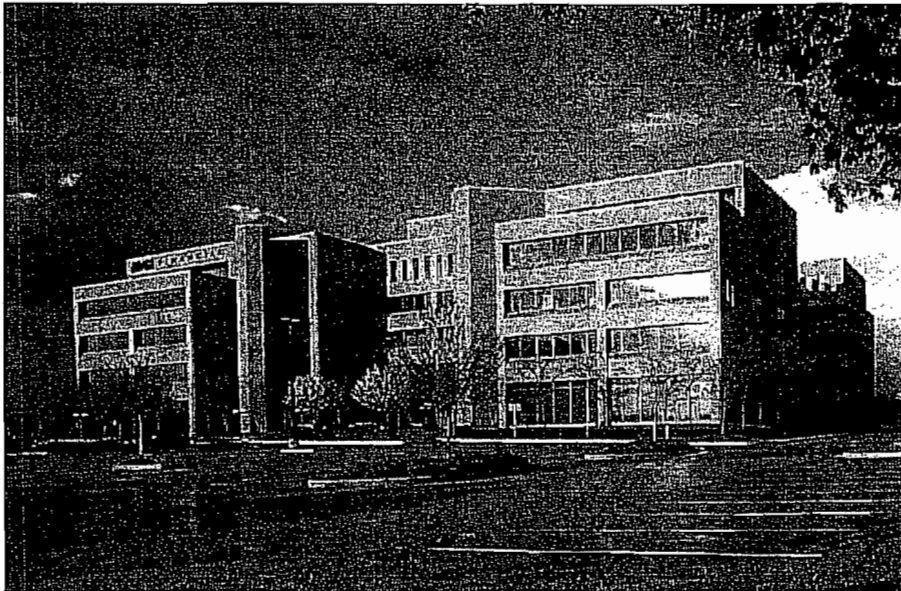
John Hermann

EXHIBIT A

EXHIBIT "E-1"
to Agreement of Lease by and between
HUNT VALLEY 75 LIMITED PARTNERSHIP, Landlord
and **P.S.A. FINANCIAL CENTER, INC., Tenant**

TENANT'S EXTERIOR BUILDING SIGNAGE

EXHIBIT E-1



SUMMARY OF AUGUST 28, 2008 HEARING TESTIMONY

On August 28, 2008, beginning at 9:00 a.m., Zoning Commissioner William J. Wiseman heard the Petition for Variance concerning 11311 McCormick Road, Case No. 2008-0582A. The petitioner, PSA Financial, was represented by Edward J. Gilliss, Esquire. Petitioner's witnesses included Trevor "Chip" Lewis, President and CEO, PSA Financial, Justin Hoffman, Marketing Manager, PSA Financial, Warren Weaver, Gable Signs, and Richard Cobert of Baltimore County's Department of Economic Development. No protestants appeared, although letters in opposition were received from Donald Gerding, 3305 Old Trail, Baltimore, Maryland 21212 and Nedda P. Evans, address unknown.

The Petition for Variance seeks to place two wall-mounted signs, one at the fifth floor of the west facing wall of 11311 McCormick Road and the other above the fifth floor (penthouse) of the north facing wall of the same structure.

Testimony was that PSA Financial has recently moved into leasehold space comprising the entire fifth floor (over 44,000 square feet) of 11311 McCormick Road. There, PSA employs over 180 persons in white collar jobs. PSA has over 15,000 clients (businesses and individuals) for whom it provides services and advice, including insurance, financial planning and employee benefits. On a daily basis, PSA receives guests and visitors; in fact, it has seven conference rooms and two training facilities used by such guests and visitors.

11311 McCormick Road is owned by Hunt Valley 75 Limited Partnership and is part of the Corporate Office Properties Trust (COPT) properties. PSA's lease is for a term of 12 years. The property owner has expressly authorized PSA Financial to erect signage and has granted PSA Financial the right to place signage on 11311 McCormick Road during its lease term. In

fact, the landlord, an affiliate of COPT, has expressed written support as a part of this proceeding. (See John Hermann's September 11, 2008 letter, attached as Exhibit "A".)

11311 McCormick Road sits 275 or so off of McCormick Road and is "behind" the Bank of America structures which are located at the corner of Shawan and McCormick. In addition, 11311 McCormick is shielded by landscaping, including trees which mask the perimeter of the five story office building, as well as a second set of trees that almost completely obscure the bottom two floors of the building. No joint identification sign now exists which marks the structure or identify its tenants. PSA asserts that its guests and visitors have difficulty locating 11311 McCormick Road without new signage.

Section 450 of the Baltimore County Zoning Regulations (BCZR) concern signs. Prior to Section 450's passage in 1997, signs were regulated by Section 413 of the BCZR. Signs previously regulated by Section 413 must be removed by calendar year 2012 (see Section 450.8(D)(1)). Signage at 11311 McCormick Road may be permitted pursuant to the former sign regulations (Section 413); however, neither the new property owner nor County agencies have been able to locate the original plats to determine whether Notes include authorization to erect signs consistent with Section 413. Nonetheless, it appears that even in such case, signs erected consistent with Section 413 would need to be removed by 2012.

BCZR Section 450.1 confirms that signs are important. They "convey information which is essential for . . . advancing the health of [Baltimore County's] economy." (Section 450.1A.) "Because signage is necessary for the success and growth of businesses in the County, the regulation of signage must reasonably accommodate the needs of the business community." (Section 450.1B.) However, because excessive and incompatible signage is contrary to the goals of the Master Plan, regulation of signage is appropriate.

Section 450.4 (Table of Sign Regulations) (5)(D) (hereinafter "Table") controls the use of signs at 11311 McCormick Road. That section details "enterprise" signs and "subject to its regulation, permits wall-mounted and canopy signs." Canopy signs are defined in Section 450.5(B)(3) as signs on "fixed, roof-like structure, other than an awning which projects from a wall of a building and extends along a majority of the wall's length to provide shelter over an entrance or a walkway."

The Table describes that wall-mounted and canopy signs are permitted on "multi-tenant office, retail or industrial building[s]." 11311 McCormick Road satisfied this requirement, as it is a multi-tenant office building. Again, PSA Financial leases the entirety of the top or fifth floor. The Table continues, stating that such signage is permitted where "accessory to separate commercial entity." Again, PSA Financial is a "separate commercial entity" which will benefit from signage. The Table continues by stating that such an entity must have "exterior customer entrance." Testimony was offered that there are four separate entrances, one on each face of the commercial structure. It was further stated that PSA Financial leases the common area of the building, including the first floor lobby, which is accessed from the outside on three sides of the building, as well as stairwells and elevators which access the fifth floor. Of course, other tenants, in common with PSA Financial, also lease the first floor lobby. The lobby area, it was explained, is available to all tenants at all times, jointly and severally.

The Table continues with IV detailing that a use permit is required from the Zoning Commissioner before signs can be installed.

The Table, Section V, details that the maximum size of a sign shall be "two times the length of the wall containing the exterior entrance and defining the space occupied by the separate commercial entity." Here, PSA Financial asserts that it occupies the entire fifth floor

and common space. In addition, it has the contract right to place signage on the structure so that it can and should be treated as if it was the owner and/or sole tenant of the entire structure.

Testimony was given that the west wall is 242 feet in length; twice that distance is 484 feet. The proposed sign on the west wall is only 194.83 square feet, slightly more than 40% of the maximum permitted sign size. It was testified that the north wall is 252 feet in length; two times that distance is 540 feet. The requested sign is 226.25 square feet, or 45% of the permitted sign size. It should also be noted that the penthouse above the fifth floor is 120 feet in length; twice that distance is 240 feet, again a size less than the requested north wall sign.

The Table continues with VI detailing the number of signs permitted. It permits one canopy and one wall-mounted sign for each “separate exterior customer entrance.” Argument was made that signs are permitted on each face since there are four sides with customer entrances.

Although PSA Financial seeks variance from sign regulations, its Petition states:

“Although signs are permitted, the grant of a variance confirms authority to place a sign on the penthouse level directly above the applicant’s leasehold space”

Had this matter proceeded as a Special Hearing, the Hearing Officer would have concluded that the wall-mounted sign is permitted as of right on the west wall. It appears that the Department of Permits and Development Management (“PDM”) improvidently denied PSA’s west wall sign request. Had the penthouse sign now sought for the north wall been the subject of a Petition for placement on the west wall, the variance would have been an appropriate vehicle for determination since the Table “permits one canopy and one wall-mounted sign,” not two wall-mounted signs.

PSA Financial asserts that it satisfies the variance tests and is “unique” because there is no canopy around the commercial structure on which a canopy sign could be erected. Hence,

“special circumstances” exist that are peculiar to 11311 McCormick Road when it is compared to structures with canopies. Strict compliance with the sign regulations would result in practical difficulty and the zoning would impact “disproportionately” 11311 McCormick Road if it was barred from placing a second sign while other buildings with canopies were permitted two signs. The Zoning Commissioner agrees that the elements necessary for grant of a variance are presented in this matter.

However, the Zoning Commissioner also agrees that the Table permits “one canopy and one wall-mounted sign” for each “separate exterior customer entrance,” as stated in VI. The proposed sign on the north wall, on the penthouse, is, hence, is also permitted as of right. Again, it appears that PDM improvidently denied the north wall sign request. Although Section 450.5(B)(9)(b) contains language restricting wall-mounted signs above eaves or parapets, in this instance, the penthouse or mechanical room structure, is not one which “project[s] above the eaves or parapet” and, hence, is not barred by application of that subsection. The architectural integrity of 11311 McCormick Road is not compromised by the placement of a sign on the penthouse, whereas architectural integrity of a structure may be compromised where a utility mechanism sits behind an eave or parapet.

In light of the exhibits and testimony, and in light of the law, the Zoning Commissioner believes that variances are not required for the requested signs and will grant use permits for their construction. However, in order to permit this matter to proceed based upon the Petition for Variance, the Zoning Commissioner also grants the requested variances so there may be no doubt about the lawful nature of the proposed signs.

BILL, HERE IS LAST SRI BILL
BUT WORKS IN BL, BM, BR NOT ML

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2008, Legislative Day No. 9

Bill No. 60-08

Mr. S. G. Samuel Moxley, Councilman

By the County Council, May 5, 2008

A BILL
ENTITLED

AN ACT concerning

Signs

FOR the purpose of permitting certain enterprise signs in business zones; and generally relating
to enterprise signs.

BY adding

Section 450.4.5(p), Enterprise Signs
Baltimore County Zoning Regulations, as amended

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 450.4.5(p) enterprise signs, be and is hereby added to the
3 Baltimore County Zoning Regulations, as amended, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BALTIMORE COUNTY ZONING REGULATIONS 1998 Edition Updated 02-25-2008, v19
THE REGULATIONS
ARTICLE 4, SPECIAL REGULATIONS
Section 450, Signs [Bill No. 89-1997]

450.4 Table of Sign Regulations. The following table specifies the allowable combinations of sign classes and sign types, along with the use, permit, area, height and other pertinent limitations. Each column in the table has a Roman numeral heading, along with a corresponding summary title. The following descriptions of each summary title are incorporated into the table:

- A. Class (I): The entries in this column identify and define the various categories of signs. Each sign must be categorized in a single class. For any sign that meets the definition of more than one class, the more restrictive class will control. [Bill No. 97-1998]
- B. Structural Type (II): The entries in this column identify the various structural types of signs, as defined in Section 450.5, which may be used to display signs in a given class, subject to the limitations in the succeeding columns.
- C. Zone or Use (III): The entries in this column establish the zone(s), e.g., B.M., B.R., etc., in which signs of the various class and structural type combinations may be displayed. In certain cases, a sign's permissibility is associated with a particular land use, e.g., farm market, in whichever zone(s) such use is otherwise permitted by the Zoning Regulations.
- D. Permit Required (IV): The entries in this column indicate whether a specific permit is required for erection or maintenance of a sign. "None" indicates that a permit is not required, provided that the sign complies with all other applicable provisions of this section. "SE" indicates that each sign is permitted only as a special exception use authorized pursuant to Section 502 of the Zoning Regulations. "Use" indicates that a use permit for each sign must be obtained pursuant to Section 500.4 of the Zoning Regulations. [Bill No. 97-98]
- E. Maximum Area/Face (V): The entries in this column establish the maximum area, in square feet, or the formula for calculating the maximum area, permitted within the face of each sign in a given class, regardless of structural type. Unless otherwise expressly stated, the maximum area is considered the limit for each sign face if more than one sign is permitted in Column VI. If double-faced signs are erected, only one face area is counted toward the maximum area allowed. For freestanding signs, the maximum area may be increased pursuant to Section 450.5.B.4.d.
- F. Maximum No./Premises (VI): The entries in this column establish the maximum number of separate signs in a given class, or the formula for determining the maximum number, which may be displayed on a single premises. Unless otherwise provided, the maximum number of signs applies to any combination of signs included in each separate lettered paragraph under Column II. A double-faced sign is considered one sign. Where a sign is permitted on the basis of a building, frontage or vehicular entrance, the sign must be erected only upon the building or frontage, or at or near the vehicular entrance, for which it is permitted.
- G. Maximum Height (VII): The entries in this column specify the maximum allowable height for freestanding signs only, subject to the additional limitation in Section 450.5.B.4.c.
- H. Illumination (VIII): The entries in this column indicate whether a sign may be illuminated, subject to the requirements of Section 450.6.B.
- I. Additional Limitations (IX): The entries in this column indicate additional limitations or identify cross-references to applicable sign provisions elsewhere in Section 450.

SPECIAL REGULATIONS

SPECIAL REGULATIONS

TABLE OF SIGN REGULATIONS
 Baltimore County
 PERMANENT SIGNS
 [Bill Nos. 97-1998; 139-2006; 3-2007; 53-2007]

I	II	III	IV	V	VI	VII	VIII	IX
Class	Structural Type	Zone or Use	Permit Required	Maximum Area/Face	Maximum No./Premises	Height	Illumination	Additional Limitations
1. CHANGEABLE COPY, meaning an on-premises sign displaying a message which may be changed periodically, manually or by electric or electronic controls	(a) Wall-mounted; freestanding	Accessory to institutional structure or community building	Use	25 square feet	One	6 feet	Yes	
	(b) Wall-mounted; freestanding canopy	Accessory to a theater, stadium or similar public entertainment use	Use	150 square feet	One; two if on canopy	25 feet	Yes	
	(c) Wall-mounted, freestanding, canopy	Accessory to a planned shopping center or to any separate commercial establishment in a Business Zone	Use	See Section 450.7.B	One	25 feet	Yes	See Section 450.7B

0582

BALTIMORE COUNTY ZONING REGULATIONS

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	Structural Type	Zone or Use	Permit Required	Maximum Area/Face	Maximum No./Premises	Height	Illumination	Additional Limitations
ENTERPRISE, (cont'd)	(d) Wall-mounted; canopy	On multi-tenant office, retail or industrial building, accessory to separate commercial entity with exterior customer entrance	Use	Two times the length of the wall containing the exterior entrance and defining the space occupied by the separate commercial entity	Entity with separate exterior customer entrance may erect one canopy and one wall-mounted sign	Not applicable	Yes, but in C.B. only when use to which sign is accessory is open	In C.B., area shall not exceed 100 square feet
	(e) Service station canopy	Fuel service station	Use	25 square feet per canopy sign	Six	Not applicable	Yes	Permanent signage under the canopy on pumps or supports shall not be counted towards the canopy, freestanding or wall-mounted signage limits. Except for windows, commercial special events signs shall not be permitted on the premises.

Timonium Shopping Center
Super fresh
Murphy - Homego + Quarry Lake

1 450.4

2 I	II	III	IV	V	VI	VII	VIII	IX
3 Class	Structural Type	Zone or Use	Permit Required	Maximum Area/Face	Maximum No./Premises	Height	Illumination	Additional Limitations

8 5. ENTERPRISE, 9 MEANING AN 10 ACCESSORY SIGN 11 WHICH DISPLAYS 12 THE IDENTITY AND 13 WHICH MAY 14 OTHERWISE 15 ADVERTISE THE 16 PRODUCTS OR 17 SERVICES 18 ASSOCIATED WITH 19 THE INDIVIDUAL 20 ORGANIZATION	21 (P) WALL- 22 MOUNTED; 23 CANOPY	24 PLAN 25 OF 26 DEVELOP- 27 MENT WITH 28 A MINIMUM 29 OF 500,000 30 SQ. FT. OF 31 RETAIL AND/OR 32 OFFICE GROSS 33 FLOOR AREA 34 IN B.L., B.M., 35 B.R.	36 USE	37 12% OF 38 THE FACE 39 OF THE WALL TO WHICH THE SIGN IS AFFIXED	NOT REGULATED	NOT APPLICABLE	YES	STRUCTURED PARKING MUST BE PROVIDED; SIGNAGE MAY BE INSTALLED ON OR ATTACHED TO ANY BUILDING WALL OR ATTACHED OR DETACHED STRUCTURED PARKING FACILITIES; SIGNAGE INSTALLED ON OR ATTACHED TO STRUCTURED PARKING FACILITIES MAY NOT ADVERTISE PRODUCTS OR SERVICES ASSOCIATED WITH INDIVIDUAL TENANTS; NO CHANGEABLE COPY IS PERMITTED
--	--	---	--------	---	------------------	-------------------	-----	--

40 SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days
41 after its enactment.

b06008.wpd

MLR

SHAW, BM CT

SHAWAN RD

NW 19-B

RAMP

Loch Raven Hydrology 100 Foot Stream Buffer

2300003062

Pl. Bk. 68 Folio 20

Pl. Bk. 70 Folio 98

RAMP

HUNT VALLEY BUSINESS COMMUNITY (PLAT ONE) (PDM File/Project # 8-018)

MC CORMICK RD

MC CORMICK RD

MC CORMICK RD

042A2

042B2

8 ED
3 CD

1600006972

2300000007
Pt. Bk. 35 Folio 92

11333

2200025172

Flood Zone X

11311

ML IM

NW 18-C

1900002229

Pt. Bk. 47 Folio 49

NW 18-B

SCHILLING RD

SCHILLING RD

SCHILLING CIR

101

PEPPER RD

11212

1600006977

101

2000008275

042A3

042B3

1900013360

1600006978

MC CORMICK RD

111

2000008366

2000008368

11200

058 Z

MLR

SHAW, BM CT

SHAWAN RD

NW 19-B

Loch Raven Hydrology 100 Foot Stream Buffer

RAMP

RAMP

HUNT VALLEY BUSINESS COMMUNITY (PLAT ONE) (PDM File/Project # 8-019)

MC CORMICK RD

MC CORMICK RD

MC CORMICK RD

SCHILLING RD

MC CORMICK RD

042A2

042B2

8 ED
3 CD

1600006972

11333
2300000007
Pt. Bk. 35 Folio 92

2300003062

Pt. Bk. 68 Folio 20

Pt. Bk. 70 Folio 98

2200025172

NW 18-C

1900002229
Pt. Bk. 47 Folio 49

NW 18-B

Flood Zone X

11311
ML IM

SCHILLING RD

SCHILLING CIR

101

PEPPER RD

11212
1600006977

111
2000008366

101
2000008275

042A3

042B3

1600006978

2000008368

11200

1900013360

0582



Account Identifier: District - 08 Account Number - 1900002229

Owner Information			
Owner Name:	HUNT VALLEY 75 LIMITED PARTNERSHIP	Use:	INDUSTRIAL
Mailing Address:	6711 COLUMBIA GATEWAY DR SUITE 300 COLUMBIA MD 21046-2383	Principal Residence:	NO
		Deed Reference:	1) / 7193/ 399 2)

Location & Structure Information	
Premises Address 11311 MCCORMICK RD HUNT VALLEY MD 21031	Legal Description 9.281 AC N5 MCCORMICK RD HUNT VALEY BUS COMM

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:	
42	15	416					75	2	2	47/ 49

Special Tax Areas	Town	Ad Valorem	Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1986	236,460 SF	9.28 AC	07

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	4,640,500	6,960,700		
Improvements:	13,245,400	9,550,400		
Total:	17,885,900	16,511,100	17,885,900	16,511,100
Preferential Land:	0	0	0	0

Transfer Information			
Seller: MARYLAND PROPERT IES INC	Date: 06/26/1986	Price: \$0	
Type: NOT ARMS-LENGTH	Deed1: / 7193/ 399	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 **Special Tax Recapture:**
Exempt Class: * NONE *

Exhibit Sheet

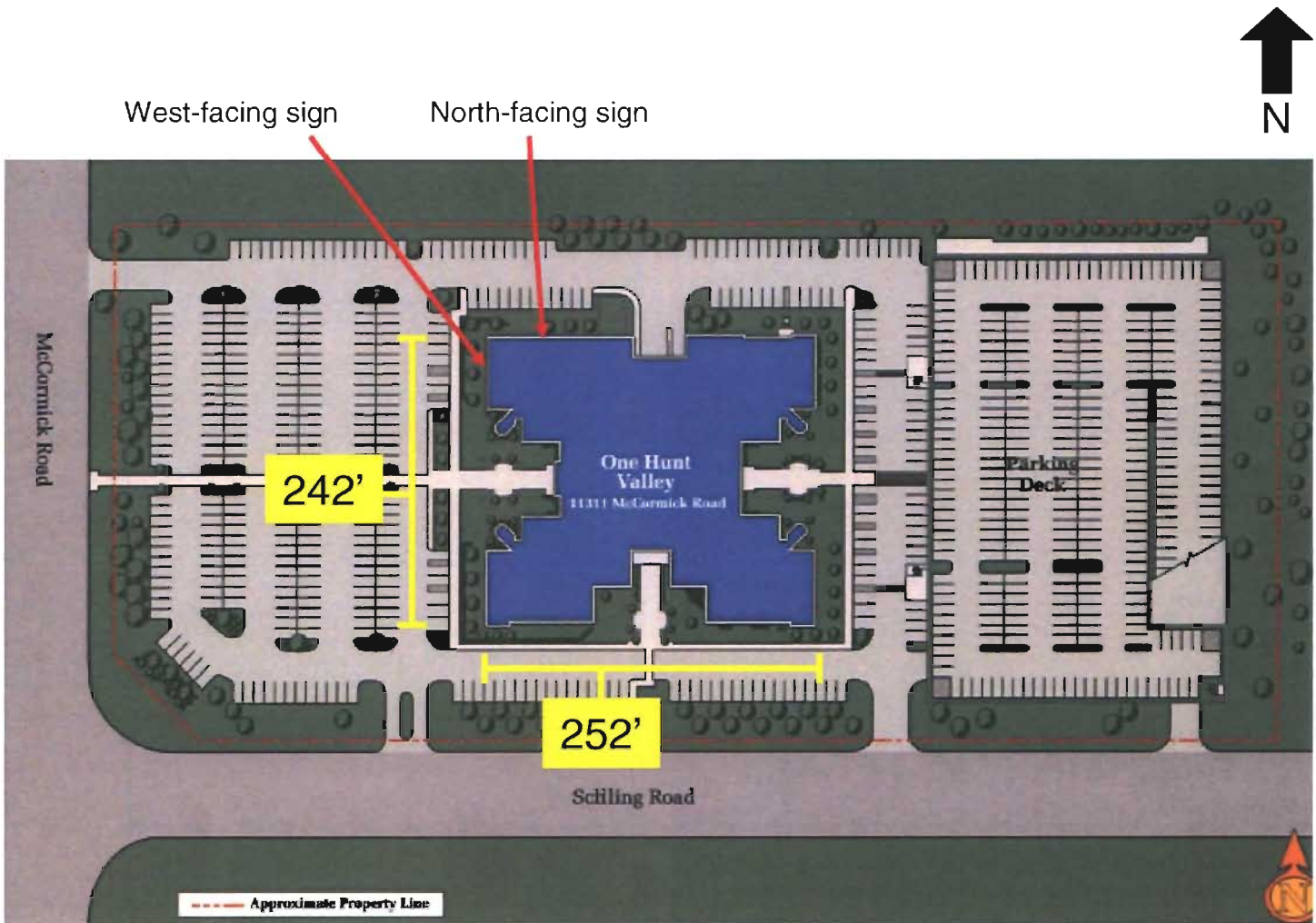
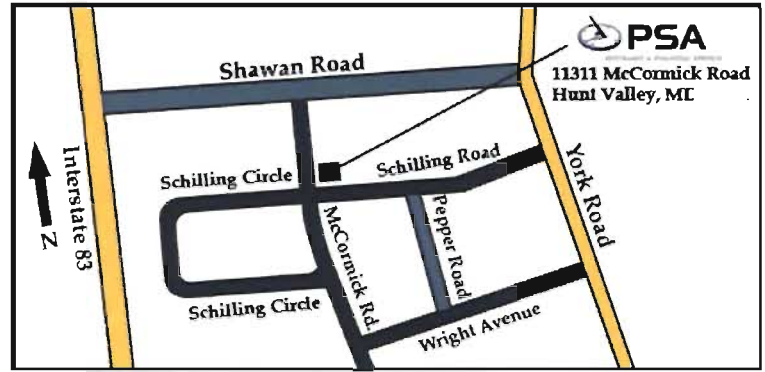
Petitioner/Developer

Protestant

No.	Petitioner/Developer	Protestant
No. 1	LETTER OF SUPPORT Economic Development	
No. 2	SITE PLAN - Measurement	
No. 3	Placement of Signs on Bldg Faces	
No. 4	Sign Elevation and Dimensions - Proposed	
No. 5	Existing Conditions.	
No. 6	ROOF LINE DEPICTED	
No. 7	EXCLUSIVE Signage Rights VESTED IN PSA FINANCIAL	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Plat/Site Plan for Variance at 11311 McCormick Rd

Vicinity Map



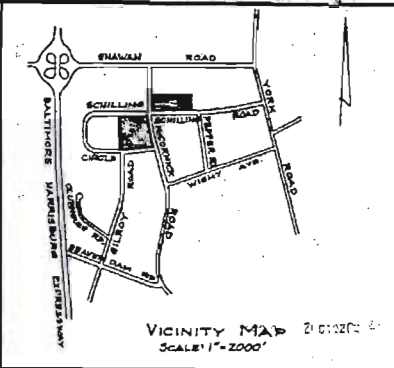
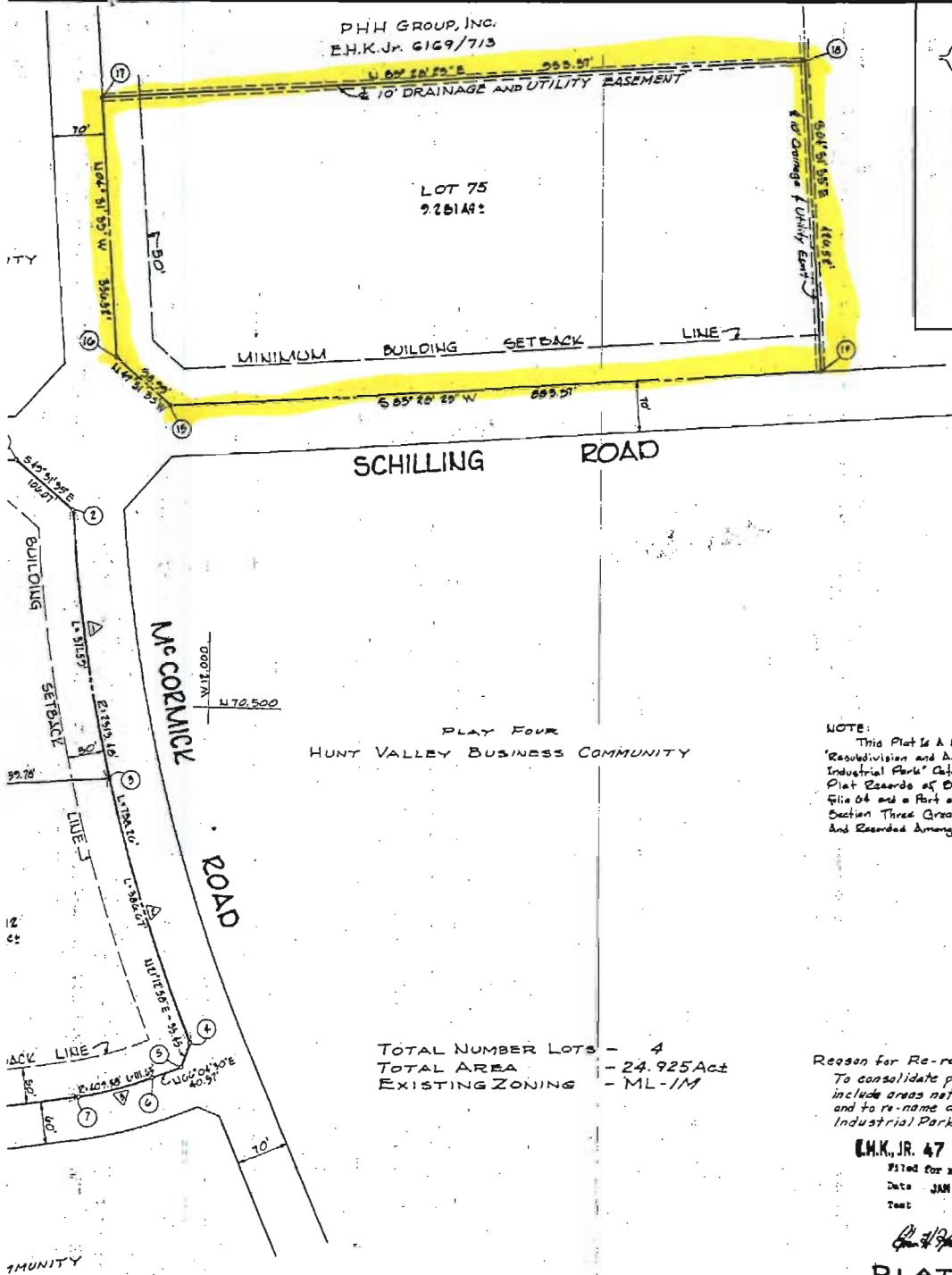
NOTES

Property Zoned: ML IM
 8th Election District, Third Councilman District
Property: 9.28 +/- acres gross area
Enclosed area of structure: 236,460 SF
Scale: 1" = 134'
Chesapeake Bay Critical Area?: No
Floodplain?: No
Historic?: No

PETITIONER' S

EXHIBIT NO. 2

PHH GROUP, INC.
E.H.K., JR. 6169/713



LEGEND

- PLAT OUTLINE -----
- BUILDING SETBACK LINE - - - - -
- EASEMENT LINE - - - - -
- CURVE REFERENCES Δ
- COORDINATE REFERENCES (3)
- BOUNDARY OF ROADS -----
- LOT LINES -----

NOTE:
This Plat is a Re-division of Part of The Plat Entitled 'Re-division and Addition to Section One, Greater Baltimore Industrial Park' Dated April 4, 1966 and Recorded Among The Plat Records of Baltimore County, Md. in Plat Book Vol. R. 28 File 04 and a Part of the Plat Entitled 'Revised Plan, Plat One, Section Three Greater Baltimore Industrial Park' Dated Aug. 28, 1964 and Recorded Among The Plat Records in Plat Book 30, File 28.

TOTAL NUMBER LOTS - 4
TOTAL AREA - 24.925 Act
EXISTING ZONING - ML-1M

Reason for Re-recording:
To consolidate previously recorded plats and to include areas not previously shown on recorded plats, and to re-name development from Greater Baltimore Industrial Park to Hunt Valley Business Community.

E.H.K., JR. 47 FOLIO 49

Filed for record
Date JAN 28 1981
Text

[Signature]

**PLAT TWO
HUNT VALLEY BUSINESS COMMUNITY**

BALTIMORE Co., Md.
SCALE: 1" = 100'

ELECTION DIST. 8
NOVEMBER 7, 1980

NOTE:
THE ROADS SHOWN HEREON HAVE BEEN DEDICATED TO BALTIMORE COUNTY BY DEED DATED FEB. 18, 1968, RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER R.E.G. 4492, FOLIO 19B.

The approval of this plat is predicated on the availability of public water and sewer prior to construction of homes.



APPROVED BY BALTIMORE COUNTY HEALTH DEPARTMENT
[Signature] 1/18/81
DIRECTOR DATE

GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

TOWSON, MARYLAND 21204 CIVIL ENGINEERS & LAND SURVEYORS BEL AIR, MARYLAND 21014

APPROVED BY BALTIMORE COUNTY PLANNING BOARD
[Signature] 12/19/80
DIRECTOR DATE

APPROVED AS TO ALIGNMENT AND LOCATION OF STREETS
[Signature] 12/19/80
BOARD ENGINEER IN CHARGE DATE

P.W.A. COMPLETED D.H.L.
FINAL PLAT CHECKED:
PLANNING [Signature]
ENGINEERING [Signature]
DATE 12-11-80

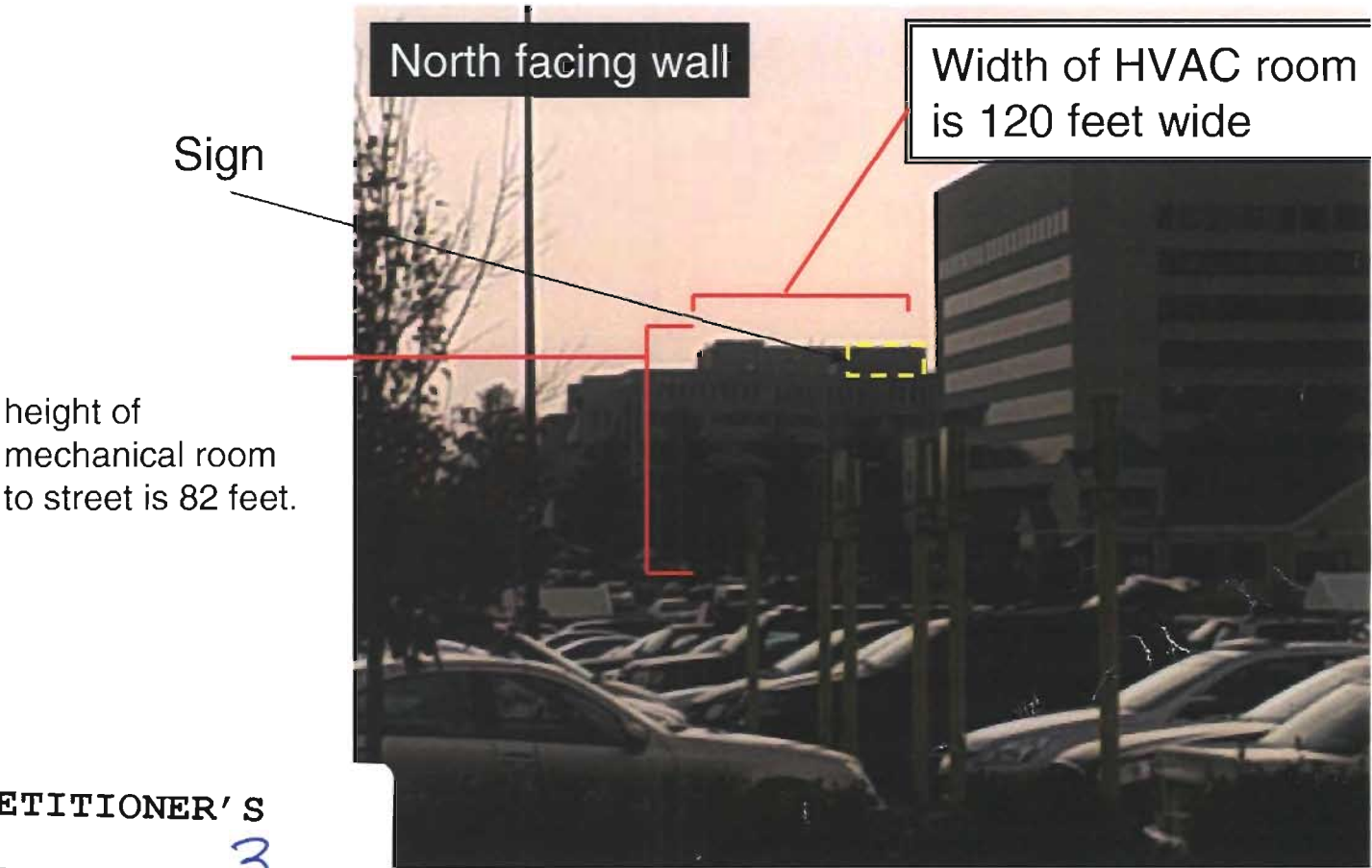
COMPUTED BY W.E., CHECKED BY H.K.
DRAWN BY D.L.C. W.O. NO. 4314

MSA 334-1234-6079-2 P 545105

[Handwritten notes]

28

**Dimensions of the building
General height of the signs on the building**



PETITIONER'S

EXHIBIT NO.

3

0582

File Name: PSA Financial Exterior Letters 01-02-08.FS

11311 McCormick Road
 Proposed sets of internally illuminated logos and channel letters

PETITIONER'S

EXHIBIT NO. 4



North Elevation
 Sundial Graphic = 84"H x 105"W; PSA = 60"H
 Overall dimensions: 84"H x 334"W (194.83 sf)



West Elevation
 Sundial Graphic = 60"H x 75"W; PSA = 48"H; INSURANCE = 16"H
 Overall dimensions: 60"H x 543"W (226.25 sf)

chesapeake
SIGN
company
 INC

10540 YORK ROAD
 SUITE E
 COCKEYSVILLE, MD 21030
 410-66-SIGNS (410-667-4467)
 FAX: 410-667-4469
 www.chesapeakesign.com

Revision: 2

Page:

1 of 1

Project: PSA Financial Exterior Letters

Location: 11311 McCormick Road, Hunt Valley, MD 210331

Owner: Hunt Valley 75 Limited Partnership

Drawn by: Sam Nitzberg - Chesapeake Sign Co.

Date: 03-13-2008

Shot standing with back to McCornick Rd.



PETITIONER'S

EXHIBIT NO. 5

Location of the PSA space



PSA will ●
occupy the
entire 5th floor

PETITIONER' S

EXHIBIT NO. 6



CORPORATE OFFICE
PROPERTIES TRUST

11311 McCormick Road, Suite 180
Hunt Valley, Maryland 21031-8615
Telephone 410-771-7703
Facsimile 410-771-1960
www.copt.com
NYSE: OFC

September 11, 2008

William J. Wiseman, Esquire
Zoning Commissioner
105 Jefferson Building, Suite 103
Towson, Maryland 21204

Re: PSA Financial Center, Inc.
11311 McCormick Road, Hunt Valley, MD
Case No. 08-582-A

Dear Mr. Wiseman:

With this letter I write on behalf of Hunt Valley 75 Limited Partnership, the owner of 11311 McCormick Road, to express the landlord's support for PSA Financial's effort to obtain County approval to place signs on the north and west faces of 11311 McCormick Road.

Hunt Valley 75 Limited Partnership, an affiliate of Corporate Office Properties Trust (COPT), owns the structure at 11311 McCormick Road. I am the on-site representative of the property owner.

COPT fully supports PSA's signage effort. The Lease Agreement between the landlord and PSA Financial expressly authorizes PSA to erect the signs which are the subject of this variance proceeding. I attach to this letter a copy of the Lease's Exhibit E-1 which reflects the planned locations of the signs on the west wall and north wall of 11311 McCormick Road. (I do note that PSA has changed its official logo since the Lease was executed; hence, the sign detail has changed, although neither the sign sizes nor the sign locations have changed.)

Please know that PSA is the only tenant which has been given the authority to install signage such as that proposed. No other tenant enjoys this privilege.

COPT believes that the requested signage is appropriate. The requested signage is in good taste, of size consistent with the regulations, consistent with the mass of the structure, consistent with other area signage, and will benefit the business community.

Very truly yours,

John Hermann

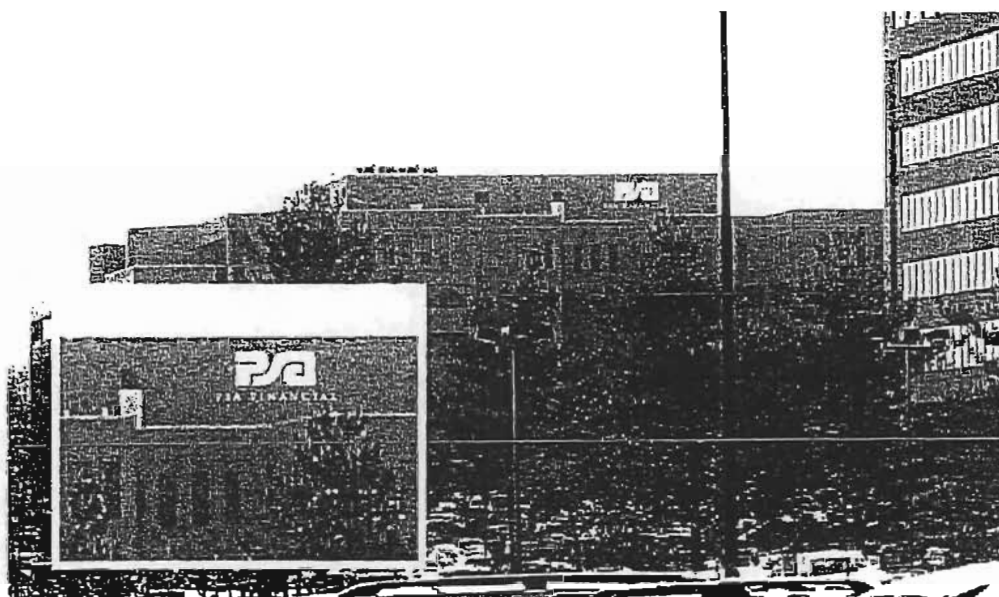
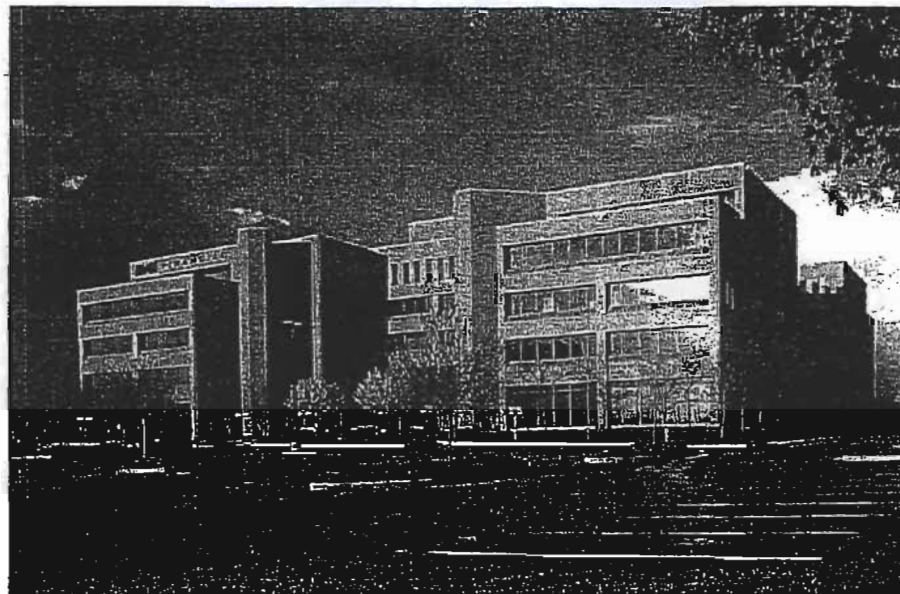
PETITIONER'S

EXHIBIT NO. 7

EXHIBIT "E-1"
to Agreement of Lease by and between
HUNT VALLEY 75 LIMITED PARTNERSHIP, Landlord
and **P.S.A. FINANCIAL CENTER, INC., Tenant**

TENANT'S EXTERIOR BUILDING SIGNAGE

EXHIBIT E-1





BALTIMORE COUNTY
MARYLAND

MEMORANDUM

TO: PSA Insurance & Financial Services
FROM: David Iannucci, Executive Director, DED
RE: PSA Financial Zoning Hearing
DATE: August 4, 2008

Royston, Mueller, McLean & Reid LLC has contacted our department on your behalf concerning the zoning special hearing for this project. The case information is:

CASE NUMBER: 2008-0582-A PSA Financial Inc. 11311 McCormick Road

We understand that PSA Financial is expanding their risk management, wealth services and employee benefits divisions in their new location at 11311 McCormick Road. The 42,000 square foot facility will add 25 new employees to their current employment of 180. PSA is currently buying existing businesses, and expects to potentially add several hundred more positions through acquisitions. These new positions pay salaries of \$95,000 and higher. The capital investment for the project exceeds \$2,200,000.

The McCormick Road corridor is undergoing redevelopment of former manufacturing buildings into office space for professional service firms. Branding this business center with signature firms like PSA Financial promotes the attraction and growth of high-wage financial, insurance, real estate, IT, and pharmaceutical operations.

Our department endorses PSA Financial's signage request. The location is zoned ML, and the immediate area includes primarily office and manufacturing businesses.

CC: Edward Gilliss, Royston, Mueller, McLean & Reid LLC

PETITIONER'S

EXHIBIT NO. 1

verified
3/5/09
to

- ✓ ✓ 1. BEER - TABLE OF SIGN REGULATIONS - verified 4/2/09 to
- ✓ ✓ 2. LEASE BETWEEN HUNT VALLEY TS LIMITED PARTNERSHIP, LANDLORD, AND P.S.A. FINANCIAL CENTER, INC. TENANT.
- ✓ ✓ 3. VICINITY MAP 11311 MCCORMICK ROAD.
- ✓ ✓ 4. AERIAL PHOTO OF BUILDING.
- ✓ ✓ 5. AERIAL VIEW OF THE HUNT VALLEY BUSINESS DISTRICT.
- ✓ ✓ 6. AERIAL PHOTO ^{FROM} ~~OF~~ BUILDING FACING NORTH.
- ✓ ✓ 7. AERIAL PHOTO ^{FROM} ~~OF~~ BUILDING FACING WEST.
- ✓ ✓ 8. PHOTO OF THE WEST SIDE OF BLDG FROM THE PARKING LOT.
- ✓ ✓ 9. PHOTO OF THE BLDG. FACING THE NORTH SIDE.
- ✓ ✓ 10. PLAT/SITE PLAN FOR VARIANCE.
- ✓ ✓ 11. TWO PHOTOS INDICATING THE LOCATION OF THE PROPOSED SIGNS.
- ✓ ✓ 12. PHOTO OF BLDG. SHOWING LOCATION OF ONE SIGN.
- ✓ ✓ 13. LETTER FROM COPT DATED 9/11/08 SUPPORTING PSA'S SIGNAGE EFFECT.
- ✓ ✓ 14. PHOTO SHOWING BANK OF AMERICA BUILDING WITH NAME.
- ✓ ✓ 15. DRAWING (2 PAGES) PREPARED BY GARLE SIGNS OF PROPOSED SIGNS.
- ✓ ✓ 16. LETTER (MEMO) TO PSA FROM DEN. (DEPARTMENT OF ECONOMIC DEVELOPMENT)

CASE NO. 08-582-A

PETITIONER'S EXHIBITS

②

✓✓ 17. LETTER DATED ~~3/2/09~~ 11/21/08 FROM ADAM ROSENBLATT, ACA
TO DAVID INNUCCI, DE BC DEPT. OF ECONOMIC DEV.

SPECIAL REGULATIONS

SPECIAL REGULATIONS

TABLE OF SIGN REGULATIONS

Baltimore County

PERMANENT SIGNS

[Bill Nos. 97-1998; 139-2006; 3-2007; 53-2007]

I	II	III	IV	V	VI	VII	VIII	IX
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I. CHANGEABLE COPY, meaning an on-premises sign displaying a message which may be changed periodically, manually or by electric or electronic controls	(a) Wall-mounted; freestanding	Accessory to institutional structure or community building	Use	25 square feet	One	6 feet	Yes	
	(b) Wall-mounted; freestanding canopy	Accessory to a theater, stadium or similar public entertainment use	Use	150 square feet	One; two if on canopy	25 feet	Yes	
	(c) Wall-mounted, freestanding, canopy	Accessory to a planned shopping center or to any separate commercial establishment in a Business Zone	Use	See Section 450.7.B	One	25 feet	Yes	See Section 450.7B

CBA PET. EX. NO. 1

AGREEMENT OF LEASE

by and between

HUNT VALLEY 75 LIMITED PARTNERSHIP
Landlord

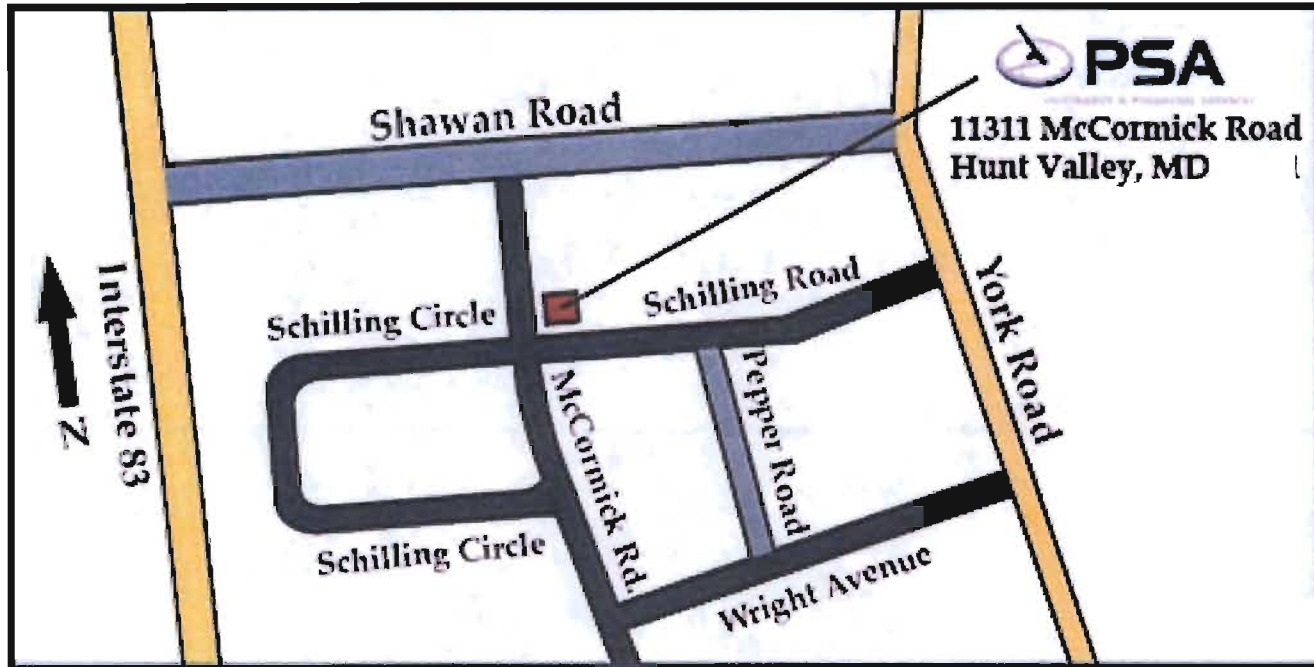
And

P.S.A. FINANCIAL CENTER, INC.
Tenant

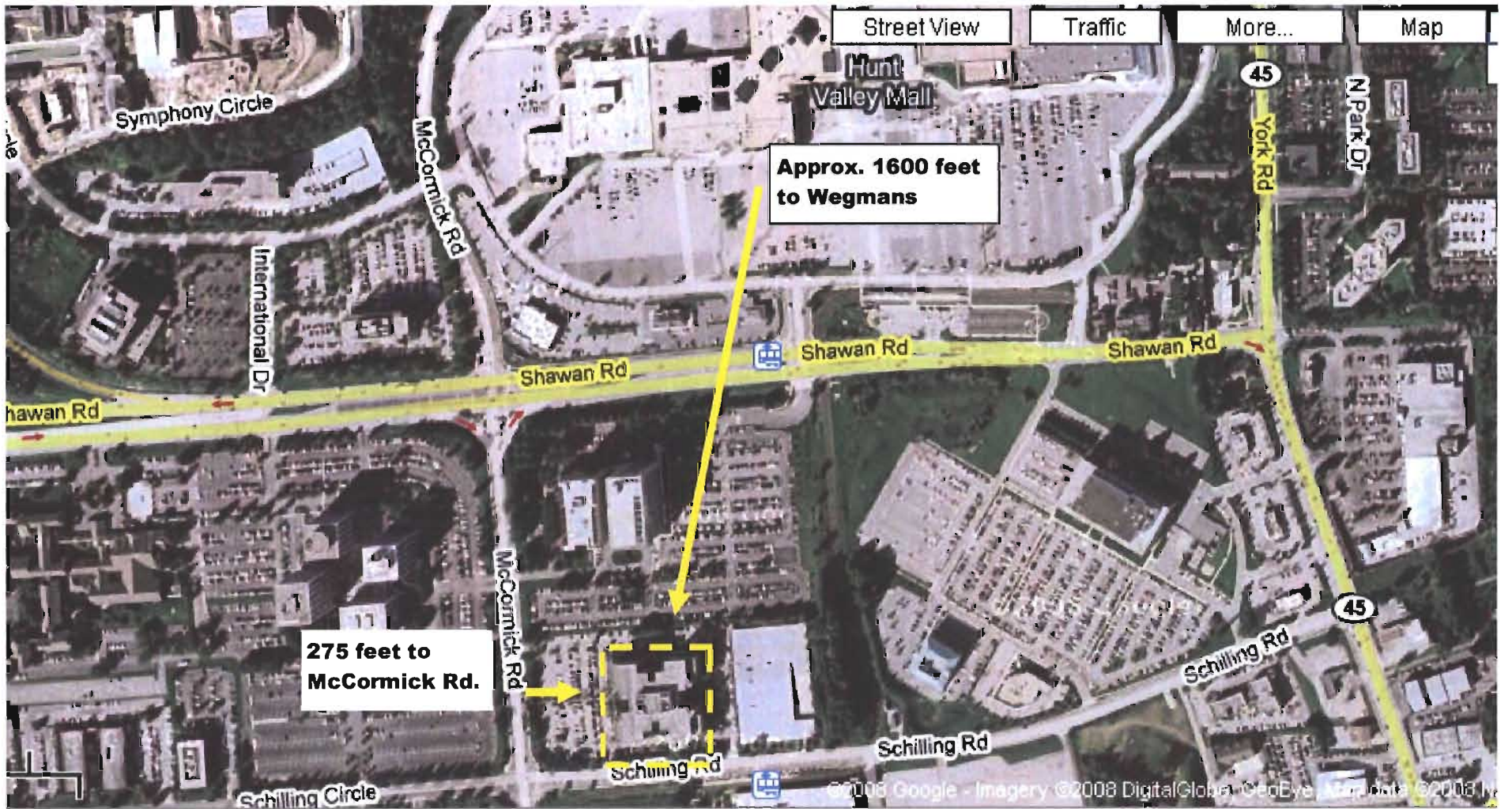
(ONE HUNT VALLEY, 5TH Floor)

CBA PET EXH. NO. 2

Vicinity map



CRA PET. EX. NO. 3



OBA PETEX. No. 4

Arial View of Hunt Valley Business District



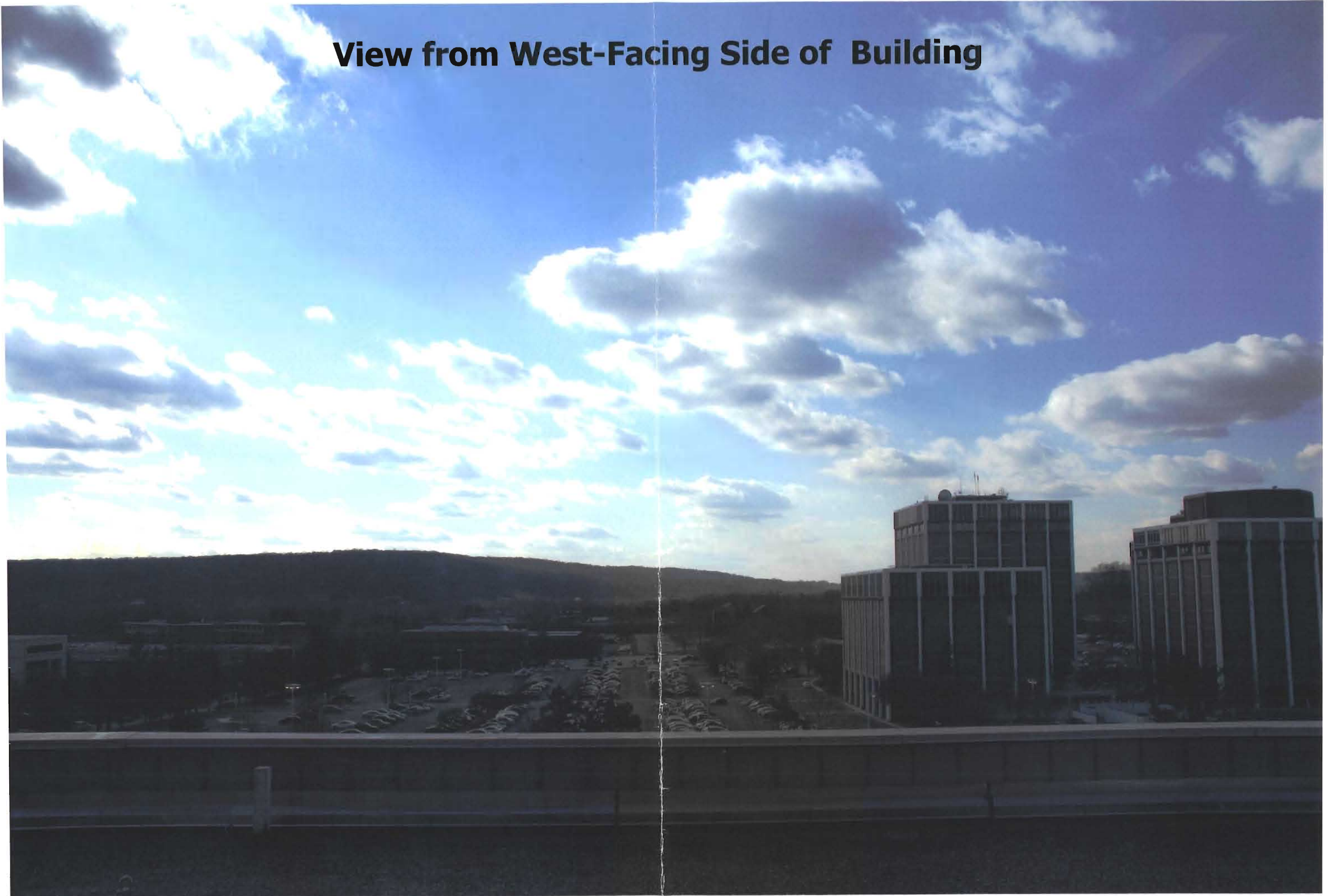
OPA PET. EX NO. 5

View from North-Facing Side of Building



CBA PET. EX No 6

View from West-Facing Side of Building



CBA PET. No. 7

**Dimensions of the building
General height of the signs on the building**

Sign

242' wide

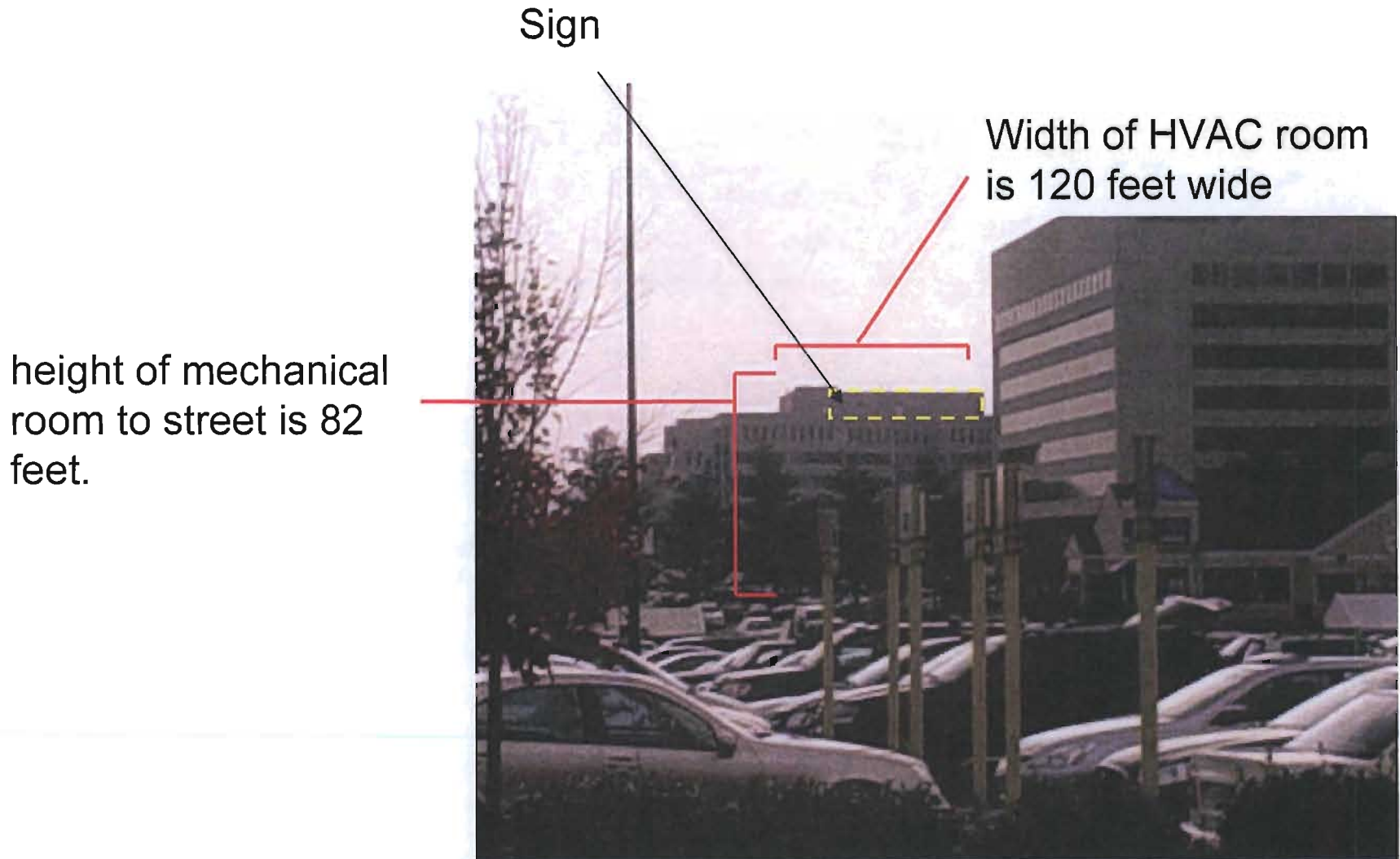
Top of
roof is
70'
high



CBA PET. EX. NO. 8



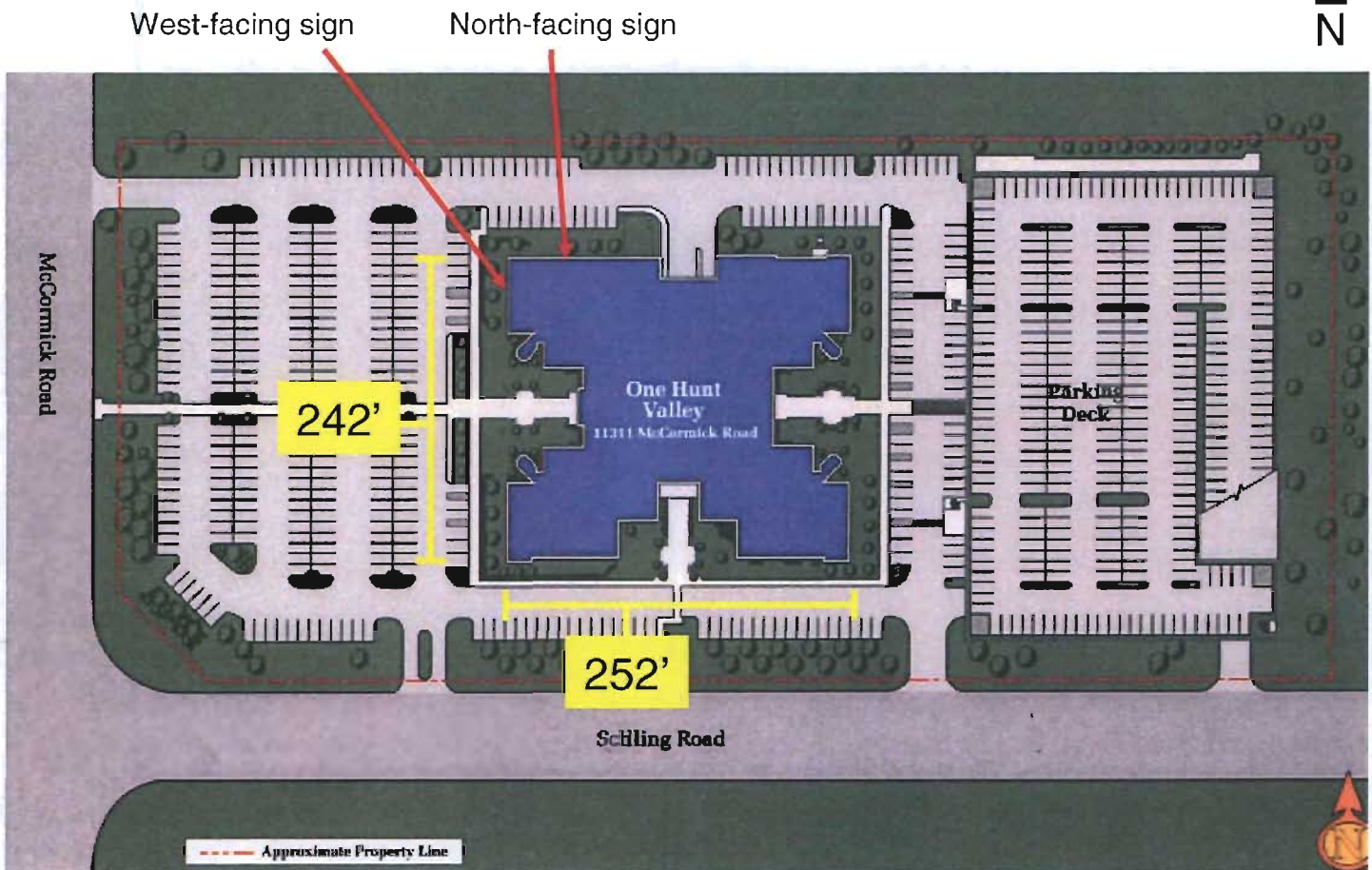
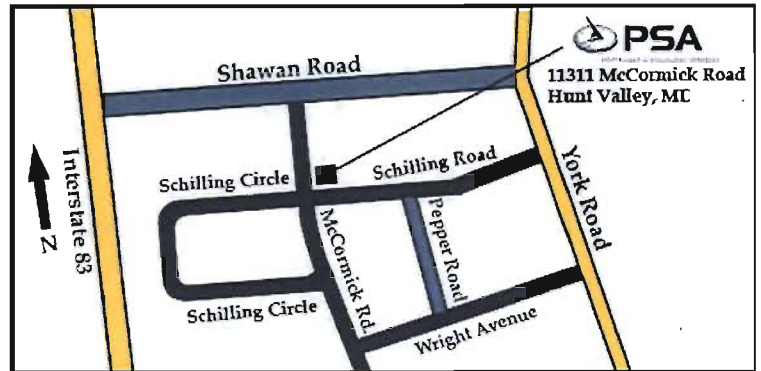
Dimensions of the building General height of the signs on the building



CBA P57. EX. NO. 9

Plat/Site Plan for Variance at 11311 McCormick Rd

Vicinity Map



NOTES

Property Zoned: ML IM
 8th Election District, Third Councilman District
Property: 9.28 +/- acres gross area
Enclosed area of structure: 236,460 SF
Scale: 1" = 134'
Chesapeake Bay Critical Area?: No
Floodplain?: No
Historic?: No

CBA PET. EX NO. 10



CBA PET. EX. NO. 11





CBA PET. EX No. 12



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PROPERTIES TRUST

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Case No. 08-582-A

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Very truly yours,

A handwritten signature in black ink, appearing to read "John Hermann", with a long horizontal flourish extending to the right.

John Hermann

CBA PET EX. NO. 13

Shot Standing in the middle of Wegman's parking lot.



CBA P57 EX No. 14

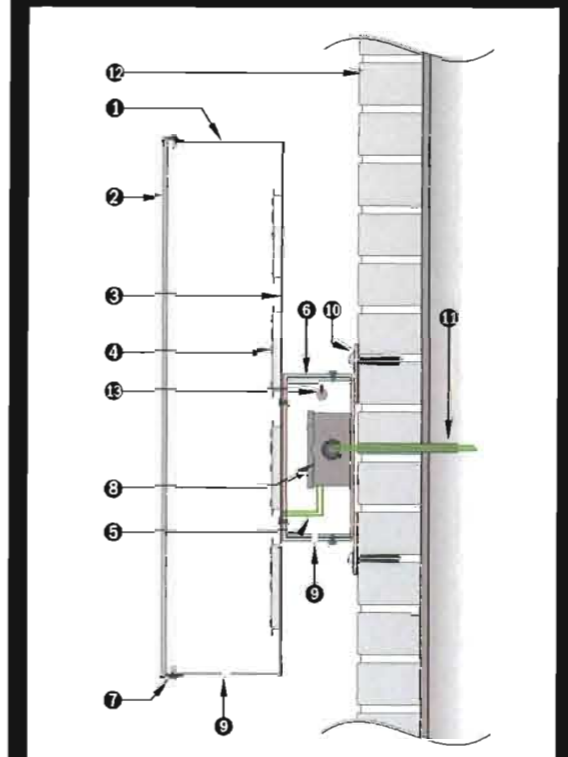


ELEVATION DETAIL
SCALE: 3/16" = 1'



ELEVATION VIEW
SCALE: NTS

**FACE ILLUMINATED L.E.D. CHANNEL LETTERS
WIREWAY MOUNTED**



- 1 Return Material: .040" aluminum (standard)
Return Finish: white coil stock
Return Depth: 5" (standard)
- 2 Face Material: 3/16" thick acrylic
Face Finish: #7328 white
Graphics: applied 3M 230- trans, blue & 3M 230- trans, grey vinyl
- 3 Letter Back Material: Logo & Large Copy- 1/8" thick aluminum
Small Copy- .040" thick aluminum
- 4 L.E.D. Color: white
L.E.D. Type: US-LED (Pinnacle)
- 5 L.E.D. Connection: Stranded, two conductor, 14 gauge wire
- 6 Wireway Material: Break formed 1/8" aluminum
Wireway Finish: Painted to match facade, TBD via survey
Size: Logo & Large Copy - 1'-0" tall x 3" deep
Tag Line - 8" tall x 3" deep
- 7 Trim Cap: 1" Blue
- 8 Power Supply: 12v power supply, w/ weather proof UL approved casing
- 9 1/4" dia. Drain Holes:
- 10 Install Method: Tap-cons / aluminum clips
- 11 Liquidite: w/ 3' pigtail
- 12 Mounting Surface: Brick
- 13 Toggle Switch Location: right end of wireway

"This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and / or other applicable local codes. This includes proper grounding and bonding of the sign"

Scale: NTS **EXTERIOR APPLICATION**

OPA PET. EX NO. 15

CUSTOMER NAME PSA Insurance	
PHONE NUMBER 443.789.7449	
SITE/STORE NAME PSA Insurance	
CITY/STATE Hunt Valley, MD.	DRAWING DATE 08/25/08
SALES REP WWW	ACCT/PROJ MGR SD
NAVIGION NUMBER 28395-001	COMPLETION DATE

REVISION HISTORY		
REV. #	DRAWING DATE	DRAWING # REPLACED

ELECTRICAL REQUIREMENTS		
SIGN TYPE	AMPS	VOLTAGE
AS SHOWN	TBD	TBD

TIME MANAGEMENT DEVICE			
PHOTO CELL	TIME CLOCK	NONE	X
X	X		X

CLIENT/LANDLORD APPROVAL	
<input type="checkbox"/> APPROVED	<input type="checkbox"/> APPROVED AS NOTED
<input type="checkbox"/> DIS-APPROVED	<input type="checkbox"/> DIS-APPROVED REVISE & RESUBMIT
CLIENT SIGNATURE	DATE
LANDLORD SIGNATURE	DATE

SIGN TYPE	QTY
-L.E.D. Face Illum. Channel Lettering	1

DRAWING NUMBER	SHEET NUMBER
9175SR	1 of 2



BALTIMORE COUNTY
MARYLAND

MEMORANDUM

TO: PSA Insurance & Financial Services
FROM: David Iannucci, Executive Director, DED
RE: PSA Financial Zoning Hearing
DATE: August 4, 2008

Royston, Mueller, McLean & Reid LLC has contacted our department on your behalf concerning the zoning special hearing for this project. The case information is:

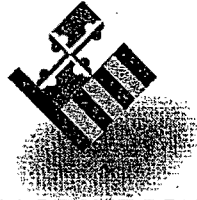
CASE NUMBER: 2008-0582-A PSA Financial Inc. 11311 McCormick Road

We understand that PSA Financial is expanding their risk management, wealth services and employee benefits divisions in their new location at 11311 McCormick Road. The 42,000 square foot facility will add 25 new employees to their current employment of 180. PSA is currently buying existing businesses, and expects to potentially add several hundred more positions through acquisitions. These new positions pay salaries of \$95,000 and higher. The capital investment for the project exceeds \$2,200,000.

The McCormick Road corridor is undergoing redevelopment of former manufacturing buildings into office space for professional service firms. Branding this business center with signature firms like PSA Financial promotes the attraction and growth of high-wage financial, insurance, real estate, IT, and pharmaceutical operations.

Our department endorses PSA Financial's signage request. The location is zoned ML, and the immediate area includes primarily office and manufacturing businesses.

CC: Edward Gilliss, Royston, Mueller, McLean & Reid LLC



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN E. BEVERUNGEN
County Attorney
Office of Law

March 2, 2009


Ms. Theresa R. Shelton, Administrator
County Board of Appeals of Baltimore County
Jefferson Building
Second Floor, Suite 203
105 West Chesapeake Avenue
Towson, Maryland 21204

Re: Case #: 08-582A
In the Matter of: Hunt Valley 75 Limited Partnership – LO/Petitioner
Assigned For: Thursday, March 5, 2009

TO WHOM IT MAY CONCERN:

I have attached a letter expressing the Baltimore County Office of Law's views and opinions pertaining to the subject matter of the above captioned case. I ask that the attached letter be incorporated in the record of this case, which is set for Hearing on March 5, 2009 before this Honorable Board.

Sincerely,


Adam M. Rosenblatt
Assistant County Attorney

AMR: cac

CBA PET. EX. NO 17

verified
3/15/09
verified
4/2/09

- ✓ ✓ 1. AERIAL PHOTO OF BUILDING OUTLINED IN YELLOW.
- ✓ ✓ 2. PHOTO SHOWING ONE HUNT VALLEY SIGN.
- ✓ ✓ 3. PACKET OF SPECIAL REGULATIONS FOR SIGNS.
- MAY 2
- ✓ 4. A-I PHOTOS
- ✓ 5. EXCERPT OF AREA MAP.
- ✓ 6. DIRECTIONAL MAP OF PROPERTY.
- ✓ 7. P/C OFFICE OF PLANNING + ZONING OFFICIAL ZONING MAP
- ✓ 8. MAP OF ASSESS + TAX SHEET
- ✓ 9. (EXHIBIT SHOWING CORP. OFF. PROP. TRUST ANNUAL REPORT)
INTERNET DISC. OF 11311 MCCORMICK RD. MARQUET
OF PROPERTY (NOTE: 101K ELIMINATION)
- ✓ 10. PSA CORPORATE DESCRIPTION.
- ✓ 11. INTERNET OF OTHER ENTITIES AT 11311 MCCORMICK RD
(1ST TWO PAGES ONLY)
- ✓ 12. RESUME OF JAMES S. PATTON, P.E.
- ✓ 13. GREATER TIMONIUM COMMUNITY COUNCIL RESOLUTION
RULE 8 FOR MR. ERIC ROCKZ
- ✓ 14. LETTER FROM LOUIS W. MILLER
- ✓ 15. LETTER FROM DONALD GARDING.
- ✓ 16. RULE 8 PAPERS FOR NENNA EVANS

CASE NO. 68-582-A

PEOPLES' COUNSEL EXHIBITS

✓ 17. A-C PHOTOS OF SUBJECT PROPERT.



OBA PC EX NO: 2

8. Prior to the issuance of building permits for bus shelters, Class B, the application for the building permit shall be referred to the Office of Planning, where the application shall be reviewed for conformance with the approved shelter site plan.

SECTION 446
Wild Animals
[Bill No. 7-2008]

§ 446.1. Definition.

In this section, the following word has the meaning indicated:

WILD ANIMAL — Has the meaning stated in Article 12 of the Baltimore County Code.

§ 446.2. Adherence to County Code provisions.

Notwithstanding any other provision of these regulations, a person may not keep or allow to be kept on the person's premises a wild animal except as provided in Article 12, Title 7 of the Baltimore County Code.

SECTION 447
(Reserved)

SECTION 448
(Reserved)

SECTION 449
(Reserved)

SECTION 450
Signs
[Bill No. 89-1997]

✓ **§ 450.1. Statement of general findings and policies.**

- A. Signs convey information which is essential for protecting the safety of Baltimore County's citizens, maintaining order within its communities and advancing the health of its economy.
- B. Businesses, small and large, established and new, contribute to Baltimore County's economic welfare by creating jobs and job opportunities, developing under-utilized and revitalizing depressed areas, and providing an expanded tax base. Because signage is

BANK OF AMERICA

**APPROXIMATE
LOCATION OF
SUBJECT**

(behind building in foreground)

1-83

SHAWAN ROAD

1-83 SOUTHBOUND OFF RAMP

PHOTO #1

CBA Pic No. 4

A



Bank of America



470891

GMC

PHOTO #2

CBA PLO NO. 4

B

SUBJECT
(north face)

BANK of AMERICA

PHOTO #3

CBA 4-1-09

4
C

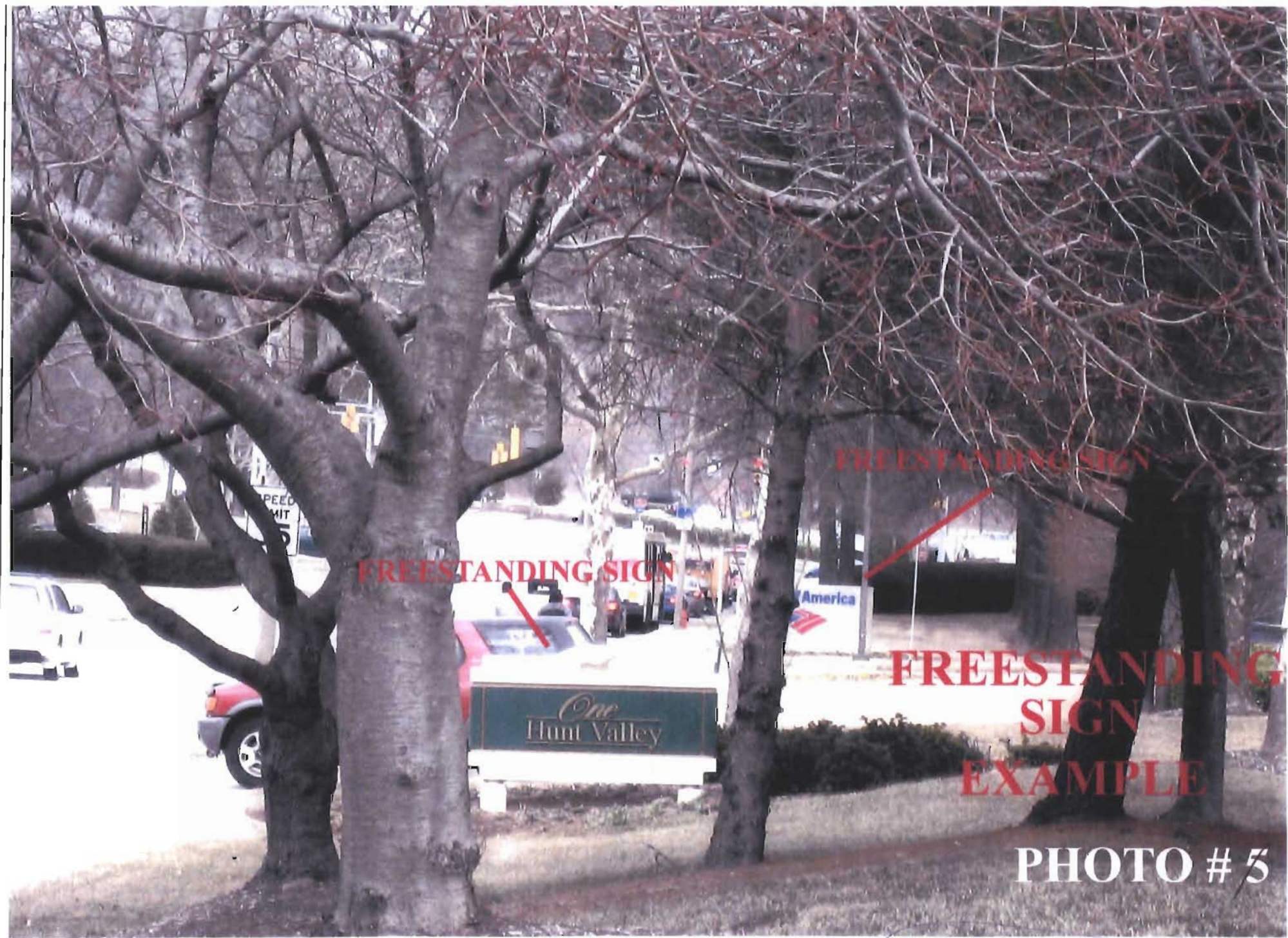
SUBJECT
(west face)



PHOTO #4

CBA P10 No. 4

4
D



FREESTANDING SIGN

FREESTANDING SIGN

FREESTANDING SIGN EXAMPLE

PHOTO # 5

AAA Plc No. 4

ψ
E

R. ENGLANDER, DENTIST

527-0303

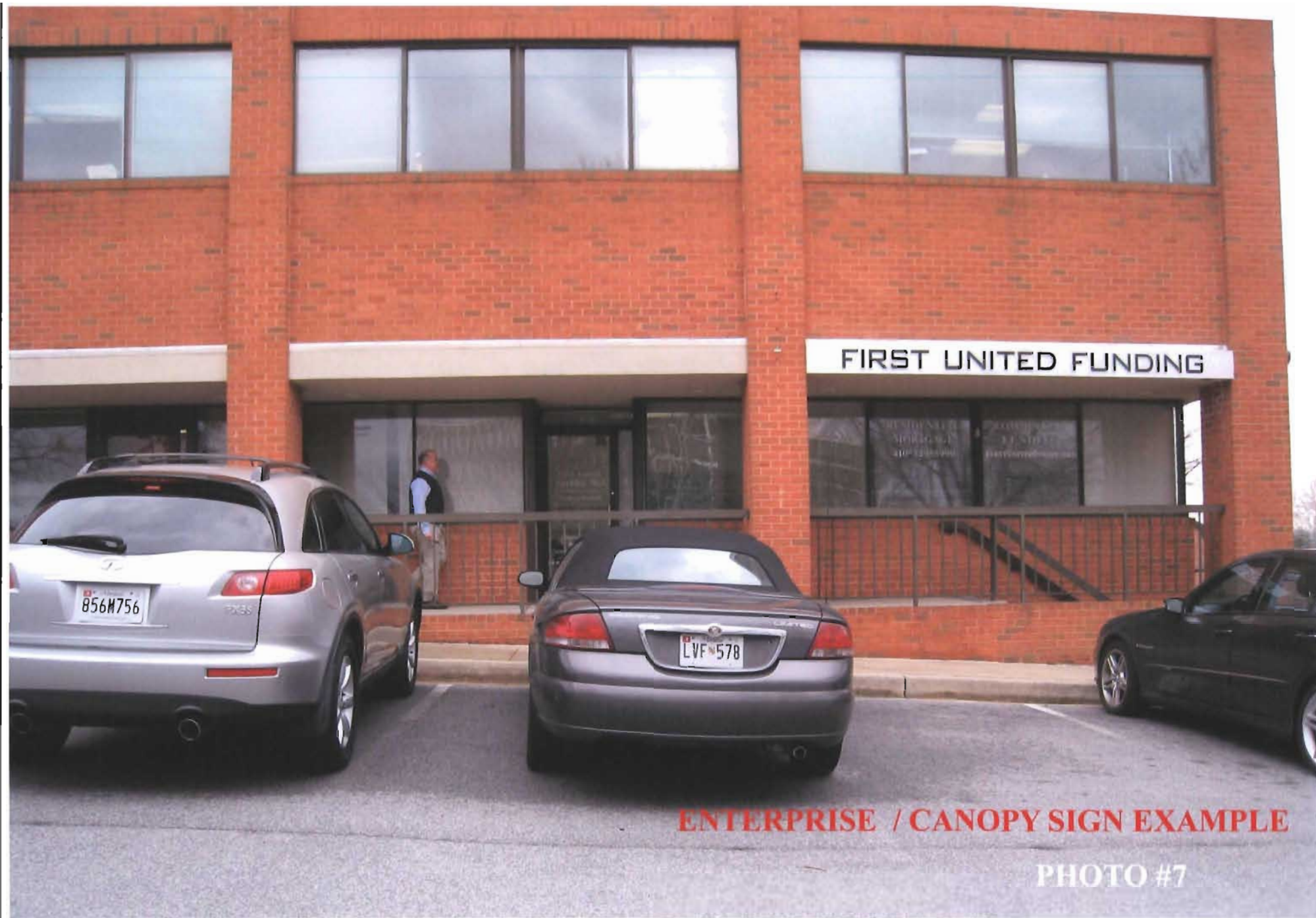
NEW PATIENTS
WELCOME

ENTERPRISE SIGN EXAMPLE

PHOTO #6

CBA PLO No. 4

4
F



FIRST UNITED FUNDING

856M756

LVF-578

ENTERPRISE / CANOPY SIGN EXAMPLE

PHOTO #7

CBA P/c No 4

4
6

SUBJECT

Mechanical / Service

MECHANICAL / SERVICE SECTION OF ST

PHOTO #8

CBA Plc No 4

4
#



Directory Sign

Joint Identification Sign

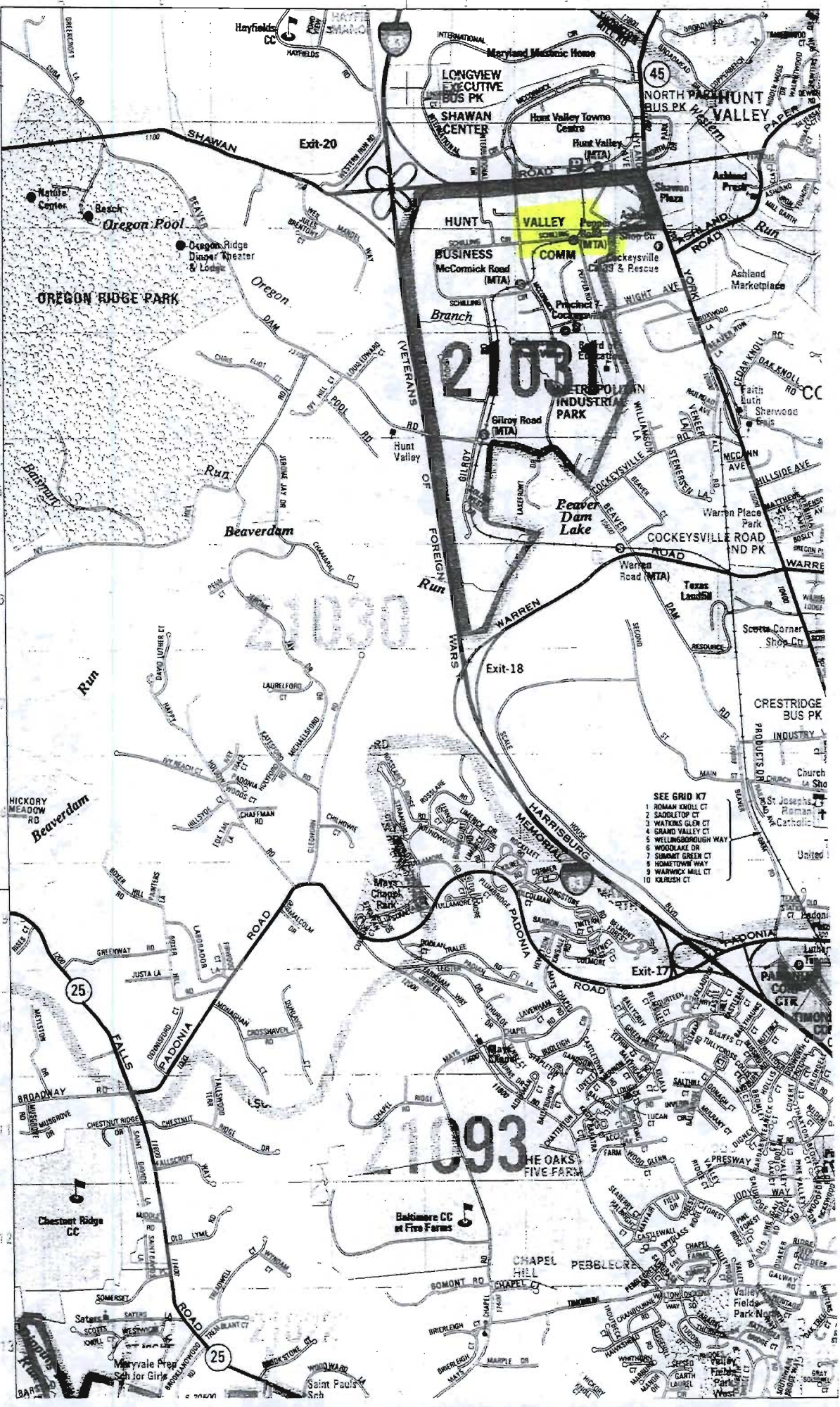
"DIRECTORY"
&
"JOINT IDENTIFICATION"
FREESTANDING SIGNS in MI
EXAMPLES

PHOTO # 9

From Table of Sign regulations - BCZR

CBA PIC NO. 4

4
I



21031

21030

21093

- SEE GRID K7
- 1 ROMAN KNOLL CT
 - 2 SADDLETOP CT
 - 3 WATKINS GLEN CT
 - 4 GRAND VALLEY CT
 - 5 WELLINGTON WAY
 - 6 WOODLAKE DR
 - 7 SUMMIT GREEN CT
 - 8 HOMETOWN WAY
 - 9 WARWICK MILL CT
 - 10 KILRUSH CT

CBA
P/C
No. 5

Pt. Bk. 35 Follo 92 2300000007

Pt. Bk. 70 Follo 98 2300003063

Loch Raven Hydrology 100 Foot Stream Buffer

2300003062

BELL ATLANTIC - SHAWAN (PDM File/Project # LIM?)

Pt. Bk. 68 Follo 20

2200025172

50

11311

Pt. Bk. 47 Follo 49

1900002229

NW 18-B

042B2

Flood Zone X

3 CD

ML IM
8 ED

HYDROLOGY AREA

19960350

19970246

SCHILLING RD

SCHILLING RD

SCHILLING RD

101

HUNT VALLEY BUSINESS COMMUNITY (PLAT FOUR) (PDM File/Project # 8-019)

Pt. Bk. 47 Follo 50

2500000711

101

PDM # 080091 2500000736

PEPPER RD

55

CBA Plc No. 6

PROPERTIES



9. Hunt Valley
11311 McCormick Road
Hunt Valley, Maryland

Location

11311 McCormick Road is located in the heart of the Hunt Valley Business Community, providing easy access to I-83 and the Baltimore Beltway (I-695). Approximately 20 minutes from downtown Baltimore and one hour from Washington D.C. Hunt Valley's strong amenity base includes hotels, day-care and abundant business services as well as close proximity to numerous shops and restaurants at the newly re-developed Hunt Valley Towne Center. Additionally, there is a Light Rail transit system that traverses the park, which provides numerous benefits for the area businesses and commuting public.

Year Built

Purchased by the Company in 2005.

Size

Five-story, Class A office building containing 211,831 square feet of rentable space.

Leasing Information:

John Hermann
Vice President - Asset
Management/Leasing
Phone: (410) 771-3554
Fax: (410) 771-1960
E-mail: john.hermann@copl.com

[Back](#)

CBA P/C NO 9



Back to Home



WEALTH MANAGEMENT

RISK MANAGEMENT

EMPLOYEE BENEFITS

CLIENT RESOURCES

ABOUT PSA

CONTACT US

PRIVACY POLICY

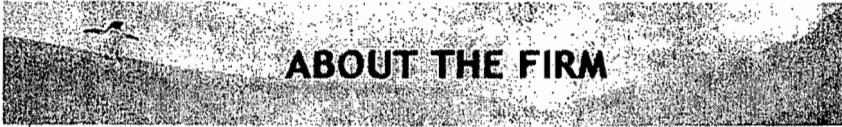
Maps and Directions to PSA Financial Center

11311 McCormick Road
Hunt Valley, Maryland 21031-8622
Phone: (410) 821-7766
Toll Free: (800) 677-7887
Fax: (410) 828-0242

[Click Here for Maps and Directions](#)

Contact an Advisor Now

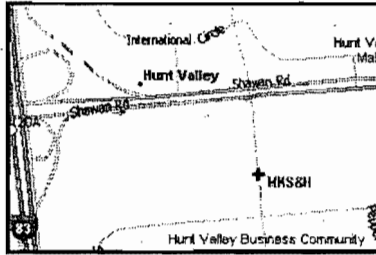
CBA P/C No. 10
10



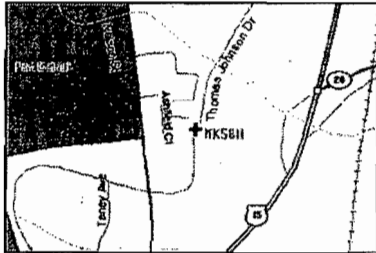
Our History MKS&H Values CPAmerica Office Locations

Our Office Locations

One Hunt Valley
 11311 McCormick Road
 Suite 100
 Hunt Valley, Maryland 21031
 410.296.6200
 Fax: 443.589.1165
[Directions To MKS&H Baltimore](#)



70 Thomas Johnson Drive
 Suite 100
 Frederick, Maryland 21702
 301.662.2400
 Fax: 301.695.7913
[Directions To MKS&H Frederick](#)



Directions To MKS&H Baltimore

From Baltimore City and points South:
 Take I-83 North toward Towson
 Get off at the Shawan Rd. East exit - number 20A toward Cockeysville
 Turn right to merge onto Shawan Rd.

Turn right onto McCormick Rd.
 The One Hunt Valley building will be on your left

From Frederick and points West:
 Take I-70 East toward Baltimore
 I-70 will end at 695 - take I-695 North toward Towson/New York
 Take exit 24 - I-83 North toward Timonium/York
 Get off at the Shawan Rd. East exit - number 20A toward Cockeysville
 Turn right to merge onto Shawan Rd.
 Turn right onto McCormick Rd.
 The One Hunt Valley building will be on your left

From White Marsh and points East:
 Take Route 43 West and merge onto I-695
 From 695 Outerloop, get off at exit 24 - I-83 North toward Timonium/York
 Get off at the Shawan Rd. East exit - number 20A toward Cockeysville
 Turn right to merge onto Shawan Rd.
 Turn right onto McCormick Rd.
 The One Hunt Valley building will be on your left

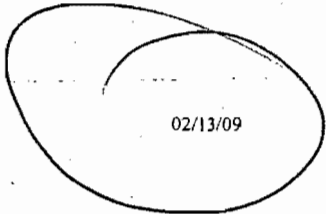
[RETURN TO TOP](#)

Directions To MKS&H Frederick

From Baltimore and points East:
 Take I-695 West to I-70.
 Take I-70 West to US-15 North.
 From US-15 North, turn left on Hayward Drive.
 Turn left on Thomas Johnson Drive.
 Turn left at the sign for the Morgan Keller Corporate Center.
 MKS&H is in the Morgan Keller Corporate Center, 70 Thomas Johnson Drive, Suite 100

From Hagerstown and points West:
 Take I-70 East to US-15 North
 From US-15 North, turn left on Hayward Drive.
 Turn left on Thomas Johnson Drive.
 Turn left at the sign for the Morgan Keller Corporate Center.
 MKS&H is in the Morgan Keller Corporate Center, 70 Thomas Johnson Drive, Suite 100

From Emmitsburg and points North:
 Take US-15 South to Hayward Drive
 Turn right on Hayward Drive



CBA P/c No. 11

RESUME

JAMES S. PATTON, P.E.,

PRESIDENT - PATTON CONSULTANTS, LTD.

Mr. Patton has over thirty five (35) years experience in site engineering and site planning, site development services, and project management for a wide variety of public and private clients. His experience in the private sector has been in residential, commercial, and industrial site development and construction. His public works experience is very broad, as he served as an officer in the U. S. Navy Civil Engineer Corps and as City Engineer for Washington, PA. In addition, he has provided site engineering and planning services to many local school boards, hospitals, colleges, and institutions in their development and construction programs, either as a consultant or as a board member.

He has been responsible for projects ranging in size and scope from a few thousand square feet to areas of more than a thousand acres. These projects have included storm water management, water distribution, sanitary sewer, streets, roads, parking areas, grading, building construction, wetlands and critical areas, and erosion control. His background includes new development, expansion, restoration, renewal and revitalization.

Plan approvals and obtaining permits for site development and construction is a major focus. The ability to overview the various elements of site development and building construction such as zoning, environmental concerns, and utilities has been and is an important function performed by Mr. Patton in obtaining approvals and expediting the development of a site or project.

EDUCATION:

SWARTHMORE COLLEGE
UNIVERSITY OF PENNSYLVANIA

Bachelor of Science, Civil Engineering
Master of City Planning

LICENSES & CERTIFICATIONS:

PROFESSIONAL ENGINEER

Pennsylvania, West Virginia (inactive)
and Maryland

EXPERT WITNESS

Baltimore County Circuit Court;
Baltimore County District Court;
Board of Appeals and Zoning
Commissioner; Anne Arundel County, MD,
Harford County, MD, and
Baltimore County, MD
Zoning Commission-City of Baltimore
Circuit Court, Washington County, PA.

CBA P/C No 12/2



**The Greater Timonium
Community Council**

9b W. Ridgely Rd., Box 276, Timonium, Maryland 21093
<http://www.gtccinc.org>

Resolved: That the Greater Timonium Community Council, as adopted by a vote of its Board of Directors, in the zoning matter known as the Petition for Variance filed by Hunt Valley 75 Limited Partnership and PSA Financial, Inc., for the property located at 11311 McCormick Road, holds that the variance for signage is an excessive variance and should be opposed by the Community Council and its duly elected officers.

AS WITNESS OUR HANDS AND SEAL, THIS *2nd* day of March, 2009.

GREATER TIMONIUM COMMUNITY COUNCIL

A handwritten signature in cursive script, appearing to read 'Katie Barone', written over a horizontal line.

Katie Barone, Secretary

A handwritten signature in cursive script, appearing to read 'Eric Rockel', written over a horizontal line.

Eric Rockel, President

CBA P/C No. 13

Louis W. Miller
44 E. Timonium Rd.
Timonium, Md.
21093-3424

Baltimore County Board of Appeals
Jefferson Building
105 W. Chesapeake Ave.-Suite 203
Towson, Md. 21204

Re: Zoning Case 08-582-A, Appeals Case2008-582-A

Gentlemen:

Due to other personal commitments I am unable to attend the Board of Appeals hearing on the above case scheduled March 5, 2009. However, I offer this letter in opposition to the granting of this Petition.

As a citizen of Baltimore County for over 55 years, having participated in many of the business and residential activities during that time, review of the facts, evidence, opinions, and determinations leads me to offer this opinion.

I have participated in these type cases with the Greater Timonium Community Council, Inc. as Chairman of Zoning & Development Committee for over 12 years, President for the years 2000, 2001, 2004, 2005, and Chairman of the CZMP for the years 2000, 2004 and participated in the 2008 Issues. Additionally, I have been President, Vice President, and currently Treasure of Yorkshire-Haverford Community Association, Inc. in central Timonium area.

1. The building at 11311 is not "unique". There are many buildings in the Hunt Valley community who for many years served the citizens and businesses adequately without "use" and/or "variance" allowances.
2. Zoning laws specifically relate to this property which is zoned ML IM.
3. Section 7 (e) calls out what is allowed for wall-mounted signs in that zone of a joint occupied building. A 150 square foot sign is adequate. The request to place a sign on the unoccupied north Penthouse/mechanical room wall is inadequate.

The large silver location signs 11311 appear above each entrance to the lobby areas of the building.

4. PSA is well known in the Baltimore County business community. There are many other offices in the Hunt Valley community. Excessive and incompatible signag is contrary to the goals of the Master Plan and

ABA P/C No. 14

To: FAX 410-887-3182

County Board of Appeals
of Baltimore County
105 West Chesapeake Blvd, Suite 203
Towson, Md 21204



J. Donald Gerding
335 Old Trail
Baltimore, Maryland 21212

Case # 08-582-A
Hunt Valley to Limited Parking
11311 McCormick Road
Assigned for them March 5, 2009

Board Members: The case is Petition for Variance to permit 2 illuminated signs - one on the North and one on the West elevation directly above the 5th fl of the building commonly referred to as the penthouse, not occupied - used as a mechanical room.
Request to Deny: the signs size are larger than permitted under BCZR section 450.4 (5)(c) and pose a visual distraction to busy vehicle traffic on I 83, Sharon Rd, Schilling Circle, and McCormick Rd.

Smaller, within regulation size, illuminated signs (two) will not create a hardship or present practical difficulty since this enterprise is well known to the client base it serves and the area location is well known to the general public/consumers. If this business location presents a hardship, the applicant did not do a good job of site location for its clients and consumers to reach. This enterprise is recognized to be a solid business and this general location seems to have much commercial viability, has numerous commercial offerings of many styles i.e. retail, restaurants, shopping mall center, manufacturing, general office buildings of various sizes, shape and height plus hotel and residential offerings.

I believe that a reduced proper size per regulation sign(s) (two) will serve this company well.

Again, the request to deny is made
Thank you for your consideration to this request.
I await a copy of the decision

Sincerely,
J. Donald Gerding

March 3, 2009
c.c. office of People's Counsel
FAX 410-823-4236

I am unable to attend the hearing due to a surgical review of GB and of a very recent procedure.

CBA P/C NO. 15

THE SPARKS GLENCOE COMMUNITY PLANNING COUNCIL, INC.

RESOLVED: That the position of the The Sparks Glencoe Community Planning Council, Inc. as adopted by the Board of Directors on the Petition for Variance known as:

Hunt Valley 75 Limited Partnership – Case # 08-582-A

The Sparks-Glencoe Community Planning Council (“Sparks-Glencoe” or “SGCPC”) is a nonprofit organization dedicated to preserving, among other things, the aesthetic quality of the viewshed of northern Baltimore County.

Sparks-Glencoe is opposed to the erection of two large electronic signs proposed by PSA Financial at 11311 McCormick Road in Hunt Valley for the following reasons:

1. The proposed size of the signs---194.83 square feet for the north facing sign and 226.25 feet for the sign facing west--- promise to dominate to the local landscape. Moreover, the height of the signs---one located on the fifth floor, the other on the rooftop---ensures that they will be seen from miles away.
2. If a variance is granted to permit large signs for this business, signs that are incompatible with the area, then other businesses will seek such variances as well and the entire area will be blighted. Currently, the office buildings in this area are sedate and dignified. The mall has been attractively developed. Our members work, shop, dine, and drive in this area.

Therefore, we urge you to maintain the aesthetic quality of the environment in the Hunt Valley business district and deny the Petition for Variance.

AS WITNESS OUR HANDS AND SEAL THIS 5th DAY OF March, 2009.

ATTEST: The Sparks Glencoe Community Planning Council, Inc.

Wendyl M. Suer
Secretary

Kristen P. Buzen
President

CBA P/C No. 16

1 IN THE MATTER OF: * BEFORE THE
 2 Hunt Valley 75 Limited * COUNTY BOARD OF APPEALS
 3 Partnership - LO/Petitioner * OF
 4 Applicant/Petitioner * BALTIMORE COUNTY
 5 11311 McCormick Road * Case No. 08-582-A
 6 8th Election District * March 5, 2009
 7 3rd Councilmanic District *

8 * * * * *

9 The above-entitled matter came on for hearing
 10 before the County Board of Appeals of Baltimore County,
 11 Hearing Room #2, Jefferson Building, 105 W. Chesapeake
 12 Avenue, Towson, Maryland 21204, at 10 a.m., March 5, 2009.

13 * * * * *

14 ORIGINAL

15 Reported by: Carolyn E. Peatt

1 IN THE MATTER OF: * BEFORE THE
 2 Hunt Valley 75 Limited * COUNTY BOARD OF APPEALS
 3 Partnership - LO/Petitioner * OF
 4 Applicant/Petitioner * BALTIMORE COUNTY
 5 11311 McCormick Road * Case No. 08-582-A
 6 8th Election District * April 1, 2009
 7 3rd Councilmanic District *

* * * * *

8
 9 The above-entitled matter came on for hearing
 0 before the County Board of Appeals of Baltimore County,
 1 Hearing Room #2, Jefferson Building, 105 W. Chesapeake
 2 Avenue, Towson, Maryland 21204, at 10 a.m., April 1, 2009.

* * * * *

ORIGINAL

Reported by: Carolyn E. Peatt

CBA PK NO 17A

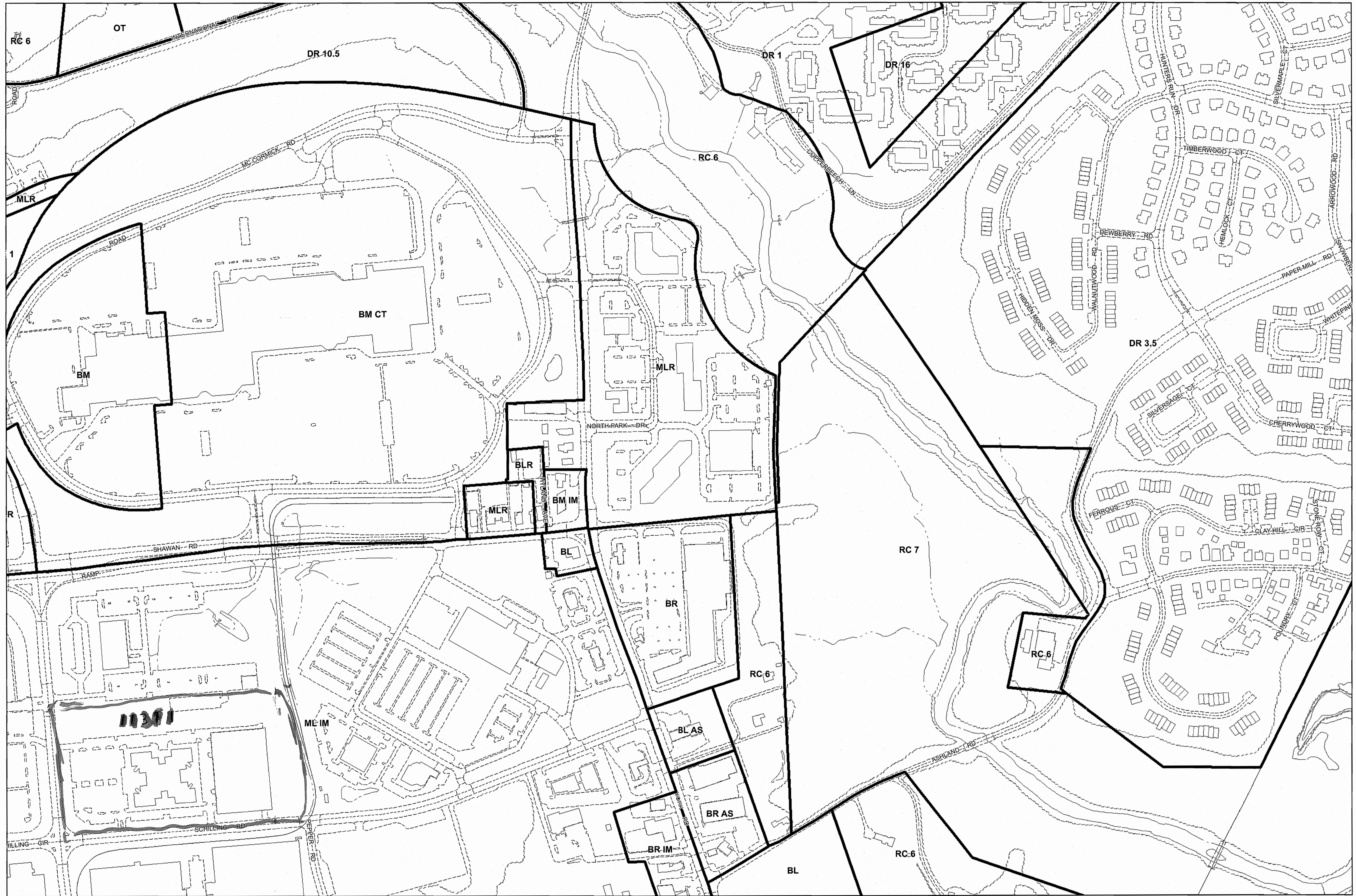




CBA @/c No 17B



CBA P/c No 17C



Plan Sheet: 042B2

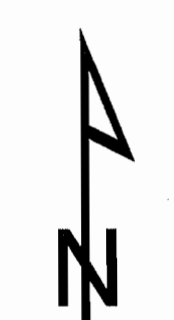
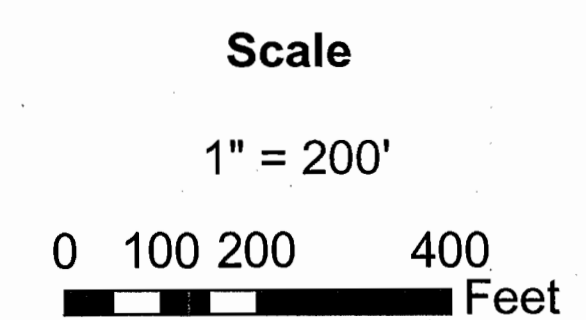
Note:
 The zoning depicted in this application incorporates the actions associated with County Council Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04 adopted by the County Council on August 31, 2004. The action associated with County Council Bill 130-04 adopted on December 6, 2004 is also depicted. In addition, County Board of Appeals actions from MC 05-01, MC 05-02, MC 05-03, and MC 05-04 on February 9, 2005 are represented in this application.

Legend

- Zoning
- Streams
- Vegetation
- Buildings
- Roads
- Rail Lines

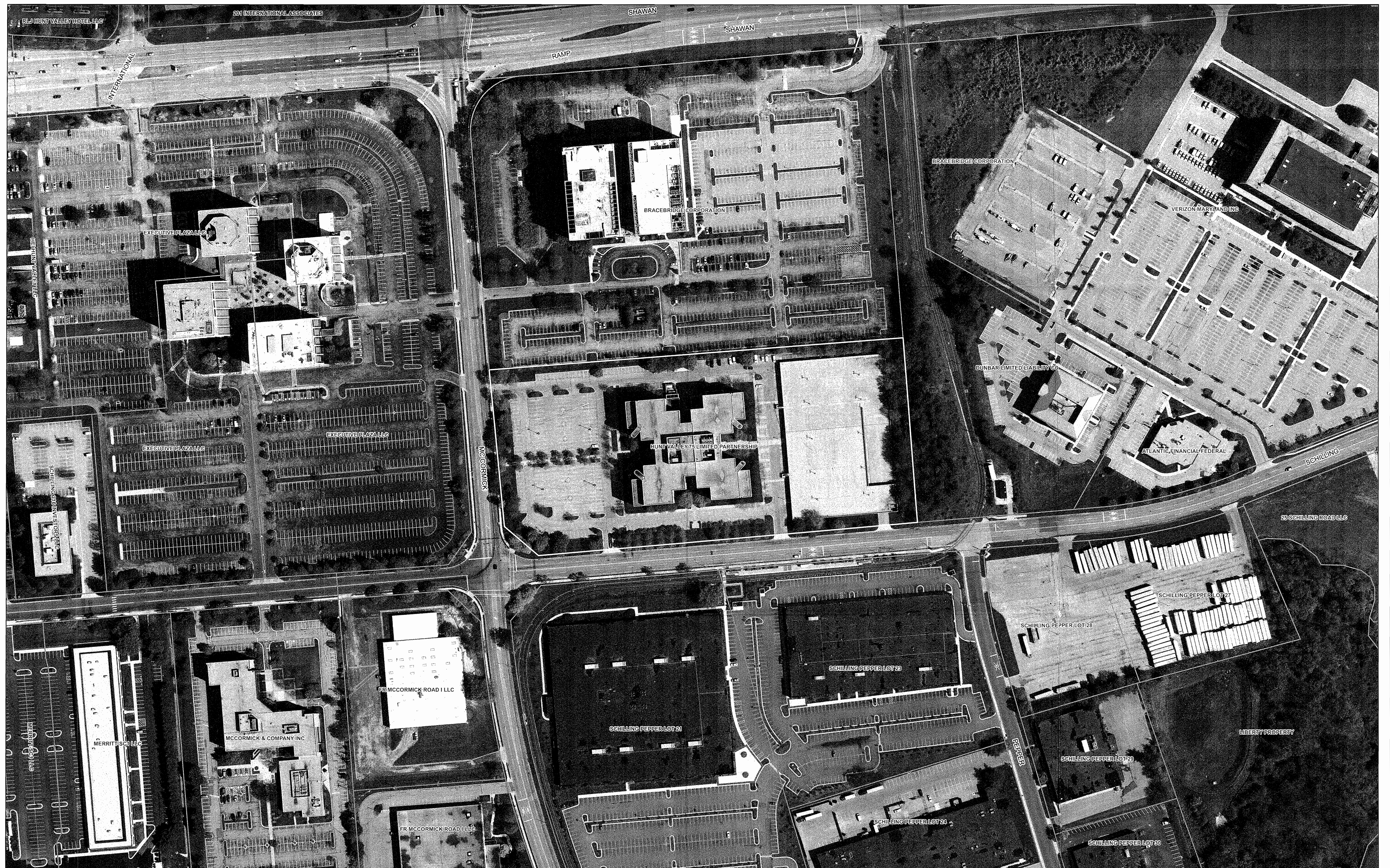
**Baltimore County
 Office of Planning and Zoning
 Official Zoning Map**

041C1	042A1	042B1	042C1	043A1
041C2	042A2	042B2	042C2	043A2
041C3	042A3	042B3	042C3	043A3



Data Sources:
 Planimetric Data - Baltimore County
 OIT/GIS Services Unit
 1:2400, from 1995/96 photography
 Zoning - Baltimore County Office of Planning
 1:2400, 2004

CBA P/C No. 7



Produced by Baltimore County GIS Services Unit
Date: July 29, 2008
Date of Imagery: 2007

1 inch equals 100 feet

The Cadastral Information on this Plot was compiled from existing deed information. This information is not to be considered authoritative. The Survey Information was not field checked and Certified by a licensed land surveyor.

08-582-A
ABA Pa No. 1

