

IN RE: PETITION FOR VARIANCE

SE side of Pulaski Highway, 30 feet W
from c/l of Ebenezer Road
11th Election District
5th Councilmanic District
(10741 Pulaski Highway)

Ioannis Korologos, Tyro1 LLC
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* CASE NO. 2009-0026-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, Tyro1 LLC. Petitioner is requesting variance relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 82 parking spaces in lieu of the required 98. The subject property and requested relief are more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request on behalf of the Petitioner were Steve Warfield with Matis Warfield, Inc., the professional engineer who prepared the site plan, George Perdikakis, consulting engineer, and Arnold Jablon, Esquire, Petitioner's attorney. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property (actually consisting of two lots of record, but which shall be referred to herein in the singular unless otherwise noted) is a corner lot, located on the east side of Pulaski Highway (U.S. Route 40) at the southwest corner of Ebenezer Road. The subject property is improved with the Double T Diner and its accessory parking. Access to the subject property is directly off of Pulaski Highway, right turn in and right turn out only, and from Ebenezer Road to the rear and east of the restaurant. The property

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Date 10-19-08
By 193

contains approximately 1.75 net acres, more or less. Petitioner submitted an aerial photograph of the property and the surrounding area that was marked and accepted into evidence as Petitioner's Exhibit 2. As the aerial photo and site plan demonstrate, the property is located just to the north of the exit ramp from White Marsh Boulevard onto Pulaski Highway, which is a four lane highway, (two lanes in each direction) with a median strip. The subject property is on the right side as one exits the ramp. The area is heavily commercial and industrial. To the rear of the subject property and immediately adjacent therewith on Ebenezer Road is a Baltimore County pumping station. On the opposite corner, across from the subject property at Pulaski Highway and Ebenezer Road, is a fuel service station. The property is split zoned B.R.-A.S. (0.8 acre) on which the restaurant building is located and M.L.-A.S. (1.28 acre) and M.L. (0.05 acre) on which parking is provided. The rear portion of the subject property, southeast of the diner and to the rear of the parking areas and the contiguous property, are wetlands which are subject to Baltimore County Greenway reservations and proposed Forest Conservation and Forest Buffer easements and, as such, this area of the property cannot be improved.

As stated above, the property consists of two separate lots of record. One lot of record, on which the restaurant is located, is approximately 0.55 acre. The Diner has been located on this site for approximately 12 years, having replaced a previous bar and restaurant. Subsequently, about five or six years ago in approximately 2002, Petitioner purchased the adjacent lot from Nottingham Properties, Inc., which is approximately 1.2 net acres. The reason for the purchase was to provide additional parking for its customers. There are currently 103 parking spaces provided.

Petitioner proposes to construct a 1,320 square foot addition with 705 square feet of basement storage adjoining the existing structure. The existing structure is 4,800 square feet with a 2,120 square foot storage basement. The existing basement and the proposed basement

are for storage only and, therefore, no parking is required. The restaurant, existing and proposed, will be a total of 6,120 square feet and requires 98 parking spaces pursuant to Section 409.6A.2 of the B.C.Z.R.

Mr. Warfield, Petitioner's expert engineer who prepared the site plan, explained that while there are 103 parking spaces provided, 16 of these spaces partially encroach into County property on which the pumping station is located. These spaces encroach approximately three to four feet each. There are also five spaces located adjacent to Pulaski Highway at the corner of Ebenezer Road, encroaching into the State Highway right-of-way. He explained that there are 82 parking spaces provided entirely within the subject property. The purpose of this variance request is to bring the subject property into conformity with Section 409.6 of the B.C.Z.R., especially in light of the planned addition. While as a practical matter there are in fact sufficient parking spaces, the deficiency is caused by the 21 spaces not entirely within the parameters of the subject property. The testimony presented indicates that these spaces have existed for many years, and neither the State nor the County have previously objected to their use. However, if Petitioner would be required to move the spaces out of the respective rights-of-way by either the State or the County, Petitioner would still be in compliance with the parking regulations if the variance were granted. Indeed, the State Highway Administration (SHA) in its comments for this hearing calls for the removal of the five spaces in its right-of-way; there is no such comment from the County.

As a predicate to the variance request, Mr. Jablon indicated that customer growth -- especially on weekends -- and the small waiting area within the existing building for use by customers awaiting seating make the existing restaurant building too small to support its customer base. The existing building has a very small vestibule in front, through which customers enter the restaurant. There is really no waiting area provided due to the limited space.

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Date 10-9-08
By [signature]

Indeed, on weekends, the numbers of customers awaiting seating overflow into the restaurant itself interfere with the flow of wait staff serving customers, and the enjoyment of customers seated at their tables. People do not want to wait; they want to be seated and comfortable. The number of available parking spaces has never been an issue. The proposed expansion is what brings Petitioner to this hearing. Marked and accepted into evidence as Petitioner's Exhibits 4 through 7 were photographs of the property and in particular the restaurant and existing parking areas.

The testimony and evidence presented underscores the fact there is no further area to provide additional parking. The only place to expand the restaurant is as proposed -- to the Pulaski Highway side of the existing restaurant building, where there is sufficient space to expand and to provide unimpeded circulation around the building and ready access to either Pulaski Highway or Ebenezer Road. The addition cannot go on the opposite side, adjacent to Ebenezer Road, because it would eliminate the 20 foot wide traffic lane providing interior lot circulation. The restaurant cannot be expanded in the front to Pulaski Highway, or to the rear toward the County pumping station, for the same reason, and expansion in these directions would also eliminate existing parking spaces. Mr. Warfield testified there is no available land on which to expand parking. He testified that the subject property and the surrounding properties have a low elevation, which is the reason for the pumping station being at the location as it is. Mr. Warfield also testified that a floodplain and the wetlands exist to the rear of the parking lot on the property owned by Petitioner and on the adjacent properties, and while relatively flat, this area has a very low elevation. The existence of the floodplain and the wetlands, and the other environmental constraints, restrict and prohibit any additional expansion of the parking lot. In short, there is no other area to add parking spaces.

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Date 10-9-08

By [Signature]

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments in addition to those from the Office of Planning and the SHA were received from Development Plans Review on behalf of the Department of Public Works (DPW), which offered no comment, and from the Department of Environmental Protection and Resource Management (DEPRM), which stated that it will not approve any further plans or permits until outstanding forest buffer mitigation and forest conservation requirements are met. The Office of Planning also noted that it did not oppose the requested variance.

The location of the subject property, at the intersection of Pulaski Highway and Ebenezer Road, the proximity of Interstate 95 and White Marsh Boulevard, the exit ramp that makes the site conveniently available to traffic, the floodplain, wetlands, elevation, and its shape confirm that the site is unique in a zoning sense. There is no other area on the property available for expansion and none to provide for additional parking. Mr. Warfield testified that Petitioner had to obtain approval from DEPRM to permit the parking area on the property purchased in or about 2002 and was specifically limited because of the existing environmental issues. He testified that more parking simply cannot be provided.

Considering of all the testimony and evidence presented, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The uniqueness of the subject property is in the combination of its location, the uses in the surrounding area, the wetlands, the pumping station and the road network, and specifically its proximity and availability to traffic off of Interstate 95 and White Marsh Boulevard. The practical difficulty is the impossibility of providing more parking, exacerbated by the probable removal of the offending spaces referred to above in State and County right-of-ways. In short, there is no land on which to relocate them.

CASE FILED FOR FILING
Date 10-9-08
By [Signature]

I conclude that the subject property is unique in a zoning sense and that Petitioner would suffer a practical difficulty if the variance were to be denied. I further find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

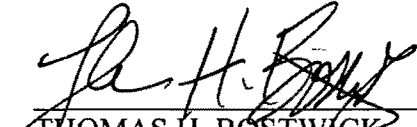
Thus, I find that the variance can be granted in such a manner as to meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App 691 (1995).

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

THEREFORE, IT IS ORDERED this 9th day of October 2008 by this Deputy Zoning Commissioner, that Petitioner's variance relief request from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 82 parking spaces in lieu of the required 98 be and is hereby GRANTED, subject to the following:

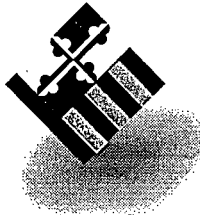
1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is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

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING
Date 10-9-08
By [Signature]



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

October 9, 2008

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

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

Re: **PETITION FOR VARIANCE**
SE side of Pulaski Highway, 30 feet W from c/l of Ebenezer Road
11th Election District - 5th Councilmanic District
(10741 Pulaski Highway)
Ioannis Korologos, Tyrol LLC – *Petitioner*
Case No. 2009-0026-A

Dear Mr. Jablon:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Th. H. Bostwick", written over the printed name.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:dlw
Enclosure

c: Ioannis Korologos, Member, TYRO1, LLC, 10741 Pulaski Highway,
White Marsh, MD 21162
Steve Warfield, Matis Warfield, Inc., 10540 York Road, Cockeysville, MD 21030
Steven D. Foster, Chief, Engineering Access Permits Division, State Highway
Administration (SHA), 707 North Calvert Street, Baltimore, MD 21202
Chesapeake Bay Critical Area Commission, 1804 West Street, Suite 100,
Annapolis, MD 21401

People's Counsel, DEPRM, Office of Planning, File



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 10741 Pulaski Highway

which is presently zoned BR-AS, ML-AS, ML

Deed Reference: 26485 / 578 Tax Account # 1104035975

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)

to permit 82 parking spaces in lieu of the required 98, pursuant to section 409.6A2, BCZR

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

to be determined at hearing

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

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 Allegheny Ave 410 494 6298

Address

Telephone No.

Towson, Md 21204

City

State

Zip Code

Legal Owner(s):

TYRO1 LLC

Name - Type or Print

Signature

Ioannis Korologos, Member

Name - Type or Print

Signature

10741 Pulaski Hwy

Address

Telephone No.

White Marsh, Md 21162

City

State

Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 Allegheny Ave 410 494 6298

Address

Telephone No.

Towson, Maryland 21204

City

State

Zip Code

Case No. 2009-0026-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by

D.T.

Date

1/28/08

Date

10-9-08

By

lw

DROP OFF

ZONING DESCRIPTION to Accompany Petition For Special Hearing

DOUBLE T DINER PROPERTY: 10741 Pulaski Highway

Beginning at a point on the southeast side of Pulaski Highway; Maryland Route 40, right-of-way as shown on SRC Plat 1671, at a distance of 30-feet from the centerline of Ebenezer Road. Thence the following courses and distances:

↙ ↗
R=5654.58', L=380.83', CHD=S 40° 28'03" W 380.76';

S 51° 10' 01" E 166.74';

N 63° 56' 07" E 251.50';

N 58° 24' 40" W 90.00';

N 31° 43' 10" E 184.78';

N 58° 24' 50" W 151.75';

To the point of beginning,

Containing 2.13 acres +/- (2 lots) and comprised of Parcels 102 & 926, as shown on Baltimore County Tax Map 82. Also known as 10741 Pulaski Highway and located in the 11th Election District and 5th Councilmanic District.

THIS DESCRIPTION COMPILED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCES OR AGREEMENTS



No. 17560

Date: 7/28/08

DATE RECEIVED

BUSINESS ACTUAL TIME
01/100 8/10/2006 10:34:37

THE AMERICAN

REF ID: A61302

4. FOR OTHER VERIFICATION

0749

Page 10 of 10

674-01-01 1-07-60

Baltimore County, Maryland

[illegible]

Total: 325.00

Rec

From:

VENABLE LLP

For

2009-0026-A

10741 POLASKI Hwy

D. THOMPSON

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

CASHIER'S VALIDATION

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: # 2009-0026-A

10741 Pulaski Highway
S/east side of Pulaski Highway,
30 feet west from centerline of
Ebenezer Road

11th Election District

5th Councilmanic District

Legal Owner(s): Tyro1, LLC

Variance: to permit 82 parking spaces in lieu of the required 98.

Hearing: Wednesday, September 17, 2008 at 10:00 a.m. in Room 104, 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.

JT 9/18 Sept. 2 182710

CERTIFICATE OF PUBLICATION

9/4/2008

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 9/2/2008.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 2009-0026-A
2008-0026-A

Petitioner/Developer: _____

Tyrol, LLC. _____

Date of Hearing/Closing: Sept 17, 08

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

ATTN: 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: _____

10741 Pulaski Highway

The sign(s) were posted on Sept. 1, 2008
(Month, Day, Year)

Sincerely,

Robert Black Sept. 2, 08
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

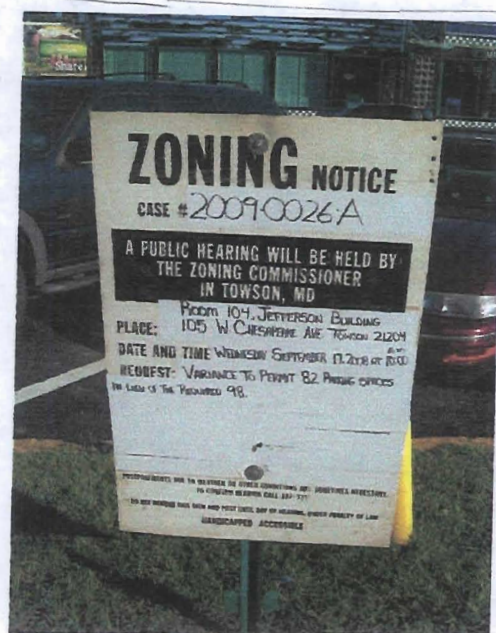
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



ZONING NOTICE

CASE # 2009-0026-A

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

PLACE: Room 104, JEFFERSON BUILDING
105 W. CHESAPEAKE AVE. TOWSON 21204
DATE AND TIME WEDNESDAY, SEPTEMBER 17, 2008 AT 10:00 ^{A.M.}
REQUEST: VARIANCE TO PERMIT 82 PARKING SPACES
IN LIEU OF THE REQUIRED 98.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 2, 2008 Issue - Jeffersonian

Please forward billing to:
Arnold Jablon
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

410-494-6298

NOTICE OF ZONING HEARING

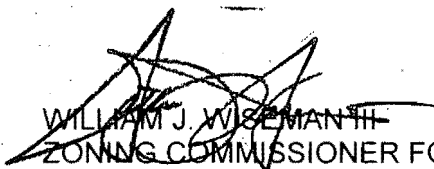
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CASE NUMBER: 2009-0026-A

10741 Pulaski Highway
S/east side of Pulaski Highway, 30 feet west from centerline of Ebenezer Road
11th Election District – 5th Councilmanic District
Legal Owners: Tyro1, LLC

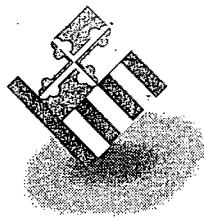
Variance to permit 82 parking spaces in lieu of the required 98.

Hearing: Wednesday, September 17, 2008 at 10:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY MA ~~August 20, 2008~~
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2009-0026-A

10741 Pulaski Highway

S/east side of Pulaski Highway, 30 feet west from centerline of Ebenezer Road

11th Election District – 5th Councilmanic District

Legal Owners: Tyro1, LLC

Variance to permit 82 parking spaces in lieu of the required 98.

Hearing: Wednesday, September 17, 2008 at 10:00 a.m. in Room 104, Jefferson Building,
105 W. Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, Venable, 210 Allegheny Avenue, Towson 21204
Ioannis Korologos, 10741 Pulaski Highway, White Marsh 21162

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, SEPTEMBER 2, 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.

**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: 2009-0026-A

Petitioner: TYRO I LLC

Address or Location: 10741 PULASKI Hwy

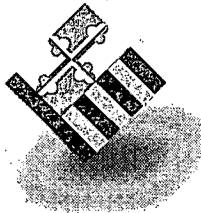
PLEASE FORWARD ADVERTISING BILL TO:

Name: ARNOLD JABLON

Address: 210 ALLEGHENY AVE.

TOWSON, MD 21204

Telephone Number: 410 494 6298



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

September 11, 2008

Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, MD 21204

Dear: Arnold Jablon

RE: Case Number 2009-0026-A, 10741 Pulaski Hwy

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 28, 2008. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Tyrol LLC, 10741 Pulaski Hwy, White Marsh, MD 21162

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: August 14, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For August 18, 2008
Item Nos. ~~2009-0026~~, 0027, 0028, 0029,
0030, 0031, 0035, and 0036

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

DAK:CEN:lrk

cc: File

ZAC-ITEM NO. 2009-0028-08142008



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

State Highway
Administration

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

Maryland Department of Transportation

August 12, 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. 2009-0026-A
US 40 (Pulaski Highway)
10741 Pulaski Highway
Tyro, LLC Property
Variance –
Mile Post 21.50

Dear Ms. Matthews:

Thank you for the opportunity to review ZAC Agenda Plan 2009-0026-A on the subject of the above captioned, which was received on August 11, 2008. The plan illustrates proposal for variance to permit 82 parking spaces in lieu of 98 parking spaces. Also, we, note that the plan reflects a proposed 1,320 square feet for restaurant addition and 705 square feet for basement storage.

We have completed a cursory review of the site plan as well as existing field conditions. The following comments are offered for your consideration:

- The subject property is located on the southeast side of US 40(Pulaski Highway) and Ebenezer Road intersection. Our State Highway Location Reference indicates that US 40 (Pulaski Highway) is a principle arterial divided highway. The Annual Average Daily Traffic volume on this section of US 40 is 36,825 vehicle trips per day. Ebenezer Road is identified as a local County Road. Improvements to the entrance at this location are subject to Baltimore County rules and regulations.
- Based on the proposed use the entrance shown on the plan are inconsistent with State Highway Access Manual Guidelines. The access way needs to be reconstructed to full depth commercial entrance with 25' curbs radii, sidewalk, and ADA Handicap Ramps.
- According to State Highway Administration Guidelines for Access to Highways, off road parking such as the parking spaces shown on the plan is not permitted within the State right-of-way. The proposed five (5) parking spaces located along the property fronting US 40 EBR need to be removed.
- Other improvements associated with this site such as pavement widening, handicap accessibility and storm drain upgrades maybe required.

In conclusion- We request that the above comments be a condition of Tyro1, LLC 10741 Pulaski Highway Item No. 2209-0026-A approval. Please include our remarks in your staff report to the Zoning Hearing Examiner.

My telephone number/toll-free number is _____

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

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



Ms. Kristen Matthews
August 12, 2008
Item No. 2009-0026-A

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

Very truly yours,



for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Cc: Mr. Donald Distance, Traffic Manager, SHA
Mr. Dennis A. Kennedy, Development Plans Review, Baltimore County
Ms. Erin Kuhn, ADE-Traffic, SHA
Mr. David Malkowski, District Engineer, SHA
Mr. Stephen A. Warfield, Engineer, Matis Warfield, Inc.
Tyrol LLC, Applicant

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 3, 2008

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

SUBJECT: 10741 Pulaski Highway

INFORMATION:

Item Number: 9-026

Petitioner: TYRO1 LLC

Zoning: BR-AS, ML-AS and ML

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. This office does not oppose the petitioner's request. However, it should be shown how pedestrian circulation would occur on the subject site. Additionally, a landscape plan shall be provided that included proposed lighting. Lastly, provide building elevations for Office of Planning review and approval.

For further information concerning the matters stated here in, please contact Donnell Zeigler at 410-887-3480.

Reviewed by: _____

Division Chief: _____
AFK/LL: CM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 17, 2008

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

SUBJECT: 10741 Pulaski Highway

INFORMATION:

Item Number: 9-026

Petitioner: TYRO1 LLC

Zoning: BR-AS, ML-AS and ML

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's request and accompanying site plan. This office does not oppose the petitioner's request. However, it should be shown how pedestrian circulation would occur on the subject site. Additionally, a landscape plan shall be provided that includes proposed lighting. Building elevations should be submitted to the Office of Planning review and approval.

It should be noted the submitted plan shows an encroachment on Baltimore County property on the southern edge of the property. This encroachment must be resolved with the Office of Law before any permits are issued for the development of this project.

For further information concerning the matters stated here in, please contact Donnell Zeigler at 410-887-3480.

Reviewed by: _____

Division Chief:
AFK/LL: CM

TB

9-17-08

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
SEP 30 2008

BY:

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: September 30, 2008

SUBJECT: Zoning Item # 09-026-A
Address 10741 Pulaski Highway
(Tyrol, LLC Property)

Zoning Advisory Committee Meeting of August 11, 2008

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

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

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

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

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

1. DEPRM will not approve any further plans or permits for this site until outstanding forest buffer mitigation and forest conservation requirements are met.
2. An administrative variance to allow reduced buffer and/or 35' setback was

Zoning Petition #09-026-A
10741 Pulaski Highway
August 29, 2008
Page 2

disapproved as submitted in May of 2007. A complete, revised variance request addressing DEPRM's May 4, 2007 letter would have to be resubmitted and granted by the DEPRM director before the work shown on the plan accompanying the zoning petition could be permitted.

Reviewer: Glenn Shaffer

Date: August 29, 2008

ZAC 09-026-A.doc/Devcoord/Deshared

RE: PETITION FOR VARIANCE	*	BEFORE THE
10741 Pulaski Highway; SE/S Pulaski	*	
Highway, 30' W c/line Ebenezer Road	*	ZONING COMMISSIONER
11 th Election & 5 th Councilmanic Districts	*	
Legal Owner(s): Tyrol LLC	*	FOR
Petitioner(s)	*	BALTIMORE COUNTY
	*	09-026-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
AUG 20 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 20th day of August, 2008, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Patricia Zook - Re: Case 2009-0026-A - hearing Wed. Sept 17 - Planning comments needed

From: Patricia Zook
To: Murray, Curtis
Date: 9/12/2008 2:53 PM
Subject: Re: Case 2009-0026-A - hearing Wed. Sept 17 - Planning comments needed

I checked our transmittal sheets dating to July 25 don't see this case listed nor were comments in the file.

Thanks.

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

410-887-3868

pzook@baltimorecountymd.gov

>>> Curtis Murray 9/12/2008 2:46 PM >>>
You should have this one in your files. Attached is a copy.

Curtis J. Murray
Development Planner
Baltimore County Office of Planning
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204
Phone (410) 887-3480
Fax (410) 887-5862
(!"#\$%&'()*+,-./0123456789:;<=>?@ABCDEFGHIJKLMN OPQRSTUVWXYZ)cjmurray@baltimorecountymd.gov

>>> Patricia Zook 09/12/08 2:42 PM >>>
Curtis -

The following case is scheduled for a hearing on Wednesday, Sept. 17 and we need Planning comments.

CASE NUMBER: 2009-0026-A10741 Pulaski Hwy Location: SE side of Pulaski Highway, 30 feet W from c/l of Ebenezer Road. 11th Election District, 5th Councilmanic District Legal Owner: Ioannis Korologos: Tyro1 LLC VARIANCE to permit 82 parking spaces in lieu of the required 98 Hearing: Wednesday, 9/17/2008 at 10:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanks for your help.

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

410-887-3868

pzook@baltimorecountymd.gov

From: Curtis Murray
To: Zook, Patricia
Date: 9/12/2008 2:46:31 PM
Subject: Re: Case 2009-0026-A - hearing Wed. Sept 17 - Planning comments needed

You should have this one in your files. Attached is a copy.

Curtis J. Murray
Development Planner
Baltimore County Office of Planning
105 W. Chesapeake Avenue, Suite 101
Towson, MD 21204
Phone (410) 887-3480
Fax (410) 887-5862
(!"#\$%&'()*+,-./0123456789;:<=>?@ABCDEFGHIJKLMN OPQRSTUVWXYZ
)cjmmurray@baltimorecountymd.gov

>>> Patricia Zook 09/12/08 2:42 PM >>>
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9/17/2008 at 10:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanks for your help.

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

410-887-3868

pzook@baltimorecountymd.gov

Patricia Zook - Case 2009-0026-A - hearing Wed. Sept 17 - Planning comments needed

From: Patricia Zook
To: Murray, Curtis
Date: 9/12/2008 2:42 PM
Subject: Case 2009-0026-A - hearing Wed. Sept 17 - Planning comments needed

Curtis -

The following case is scheduled for a hearing on Wednesday, Sept. 17 and we need Planning comments.

CASE NUMBER: 2009-0026-A

10741 Pulaski Hwy
Location: SE side of Pulaski Highway, 30 feet W from c/l of Ebenezer Road.
11th Election District, 5th Councilmanic District
Legal Owner: Ioannis Korologos: Tyro1 LLC

VARIANCE to permit 82 parking spaces in lieu of the required 98

Hearing: **Wednesday, 9/17/2008 at 10:00:00 AM** Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson

Thanks for your help.

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

410-887-3868

pzook@baltimorecountymd.gov

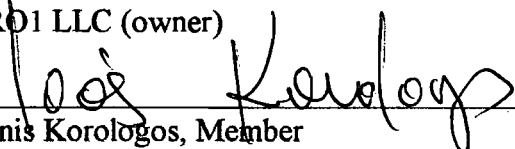
Zoning Office
Department of Permits and Development Management
111 West Chesapeake Ave
Towson, Maryland 21204

Zoning Office:

Please be advised that we, the undersigned, have authorized Arnold Jablon, Esq., Venable, LLP, 210 Allegheny Ave., Towson, Maryland 21204, to be our attorney-in-fact and attorney-at-law and on our behalf file the attached petitions for zoning relief. We hereby understand that the relief requested is for property we own and we hereby and herewith acknowledge our express permission for said petitions to be filed on our behalf. The petition(s) filed are for property located at 10741 Pulaski Hwy property we own.

TYRO1 LLC (owner)

By:


Ioannis Korologos, Member

Title:

7/16/08 (Date)

10741 Pulaski Hwy, White Marsh, Maryland
address

July 22, 2008

HAND DELIVERED

Mr. W. Carl Richards, Jr., Supervisor
Zoning Review Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance
Petitioner: TYRO1, LLC
Location: 10741 Pulaski Highway

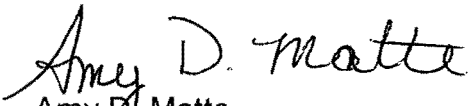
Dear Mr. Richards:

I am drop filing the enclosed Petition for Variance for the above-referenced property. This property is not in violation of any zoning laws. With this letter, I have enclosed the following documents:

1. Petition for Variance (3)
2. Zoning Descriptions (3)
3. Site Plans (12)
4. 200' Scale Zoning Map (1)
5. Newspaper advertising form (1)
6. Signature Authorization Form (1)
7. Check in the amount of \$325.00

If you have any questions or concerns regarding this filing, please give me a call.

Very truly yours,


Amy D. Matte
Paralegal

cc: Arnold Jablon, Esquire
Enclosures

TO1DOCS1/#261421v1

CASE NAME TYROIC
CASE NUMBER _____
DATE 09-026 A
ET 9-17-08

9-17-08

[illegible]

Case No.: 2009-26-A

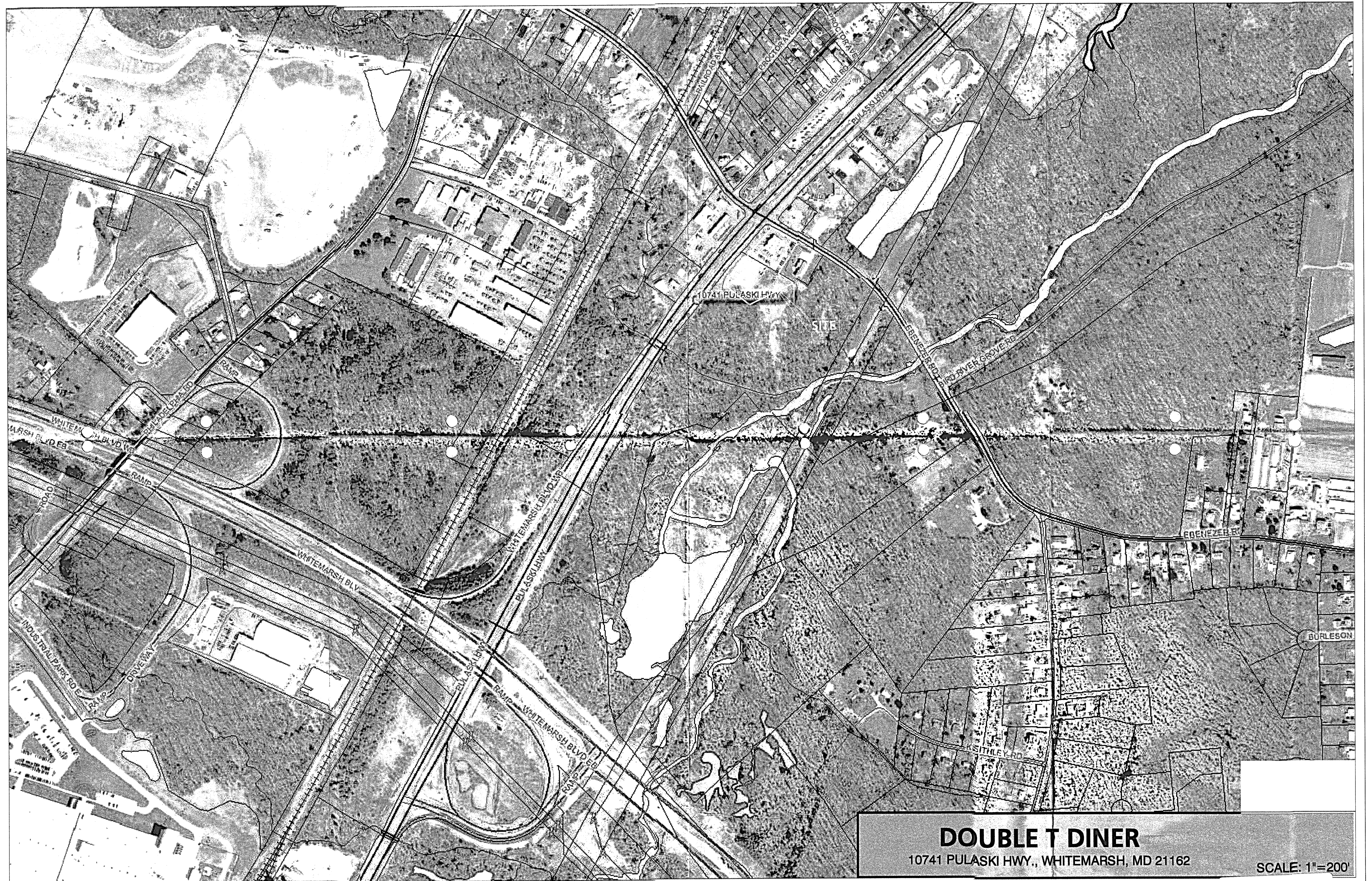
Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Aerial Photo	
No. 3	zoning Map	
No. 4	Photo	
No. 5	Photo	
No. 6	Photo	
No. 7	Photo	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		





DOUBLE T DINER

10741 PULASKI HWY., WHITEMARSH, MD 21162

SCALE: 1"=200'



Plan Sheet: 082C1

Note:
Section 32-3-202 of the Baltimore County, 2003 Code establishes the zoning geodatabase. This map represents the actions of the Baltimore County Council on August 31, 2004 (Bills 82-04, 83-04, 84-04, 85-04, 86-04, 87-04, 88-04, and 89-04) effective September 3, 2004.

Legend

- Zoning
- Streams
- Vegetation
- Buildings
- Roads

Baltimore County Office of Planning and Zoning Official Zoning Map

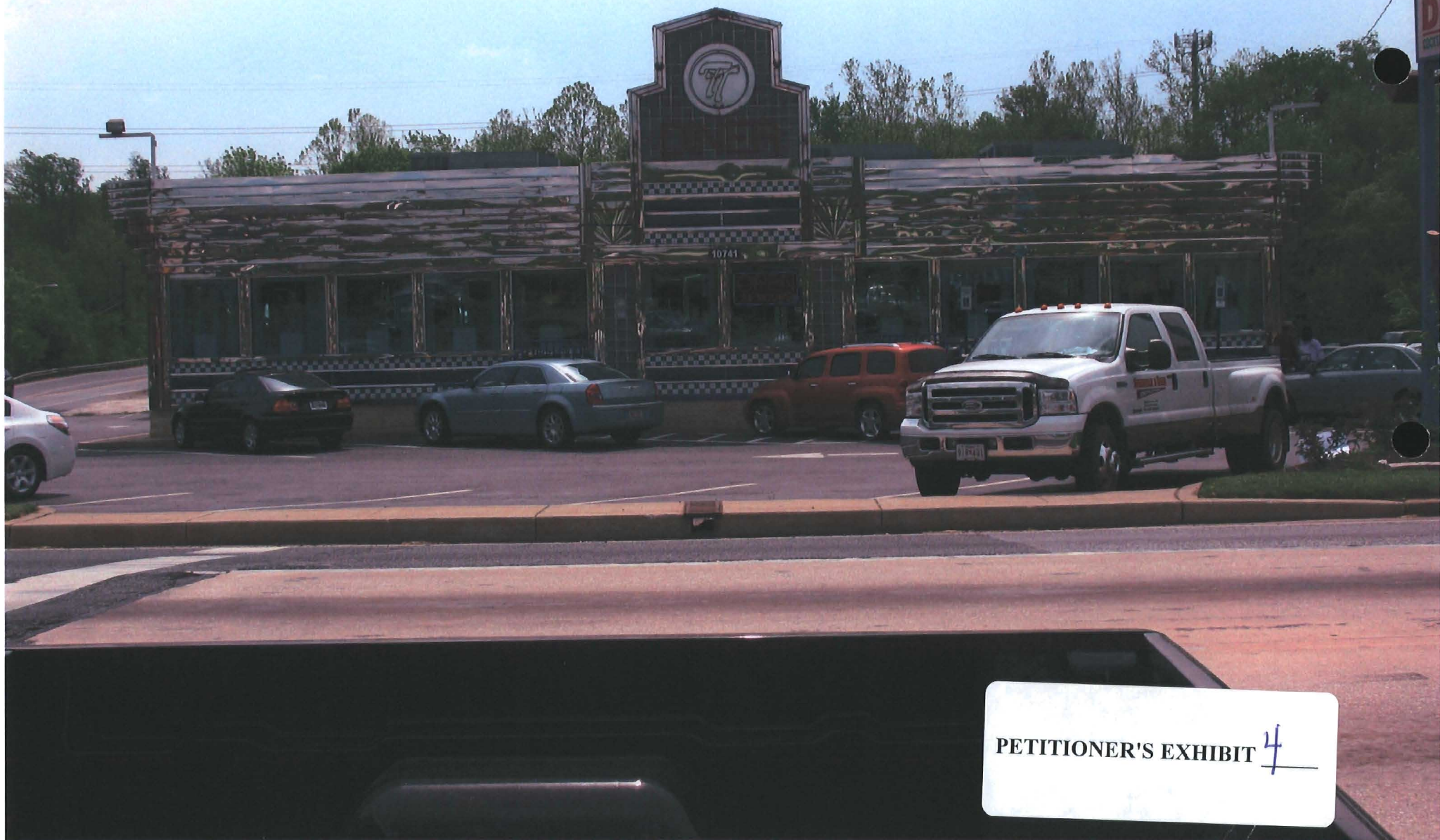
072A3	072B3	072C3	073A3	073B3
082A1	082B1	082C1	083A1	083B1
082A2	082B2	082C2	083A2	083B2

Scale
1" = 200'

0 100 200 400
Feet

1

Data Sources:
Planimetric Data - Baltimore County
OT/GIS Services Unit
1:2400, from 1995/96 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004





PETITIONER'S EXHIBIT 5



PETITIONER'S EXHIBIT 6



PETITIONER'S EXHIBIT 7