

IN RE: PETITION FOR VARIANCE

Corner NW side of Belair Road and
NE side of Schroeder Avenue
11th Election District
5th Councilmanic District
**(9810 and 9820 Belair Road and
4040 Schroeder Avenue)**

Tarragon, Inc.
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
*
* **CASE NO. 2009-0048-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, Tarragon, Inc., by Kevin Havens, its authorized representative. Variance relief is requested from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 156 parking spaces in lieu of the required 172 parking spaces. The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was D. Dusky Holman, Esquire, attorney for Petitioner Tarragon, Inc. Also appearing in support of the requested relief was James V. Hermann with Morris & Ritchie Associates, Inc., the registered landscape architect who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped property consisting of approximately 7.138 acres, more or less, zoned D.R.2 (0.540 acre) and B.L.R. (6.588 acres). The property is located on the northwest side of Belair Road and is situated between Schroeder Avenue and Gunview Road in the Perry Hall area of Baltimore

County. The property was recently developed and is presently improved with several one-story structures and parking areas, including a bank, a pharmacy, and a 12,000 square foot building that will have the capacity to house several mixed use tenants. It is that building which is the subject of the instant variance request.

As shown on the aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 5, as one travels north on Belair Road, the area becomes less dense and developed. The subject property is somewhat uniquely located because it is where the area transitions from a more densely populated area with residential neighborhoods surrounding commercial development along Belair Road, to the less developed areas with more open space further north. Development of the subject property was proposed during the 2000 Comprehensive Zoning Map Process ("CZMP"). During that time, the Developer, Honeygo Junction, LLC, was working with various nearby property owners and attempting to alleviate their concerns over the potential impact of the development, including specifically the Perry Hall Improvement Association, Inc. (the "Association") led by David Marks. One of the Association's main concerns was that there be adequate landscape buffers between the property and the adjoining roads that are in proximity to residential neighborhoods. Although the Baltimore County Landscape Manual required a 10 foot landscape buffer for this property along Belair Road and 20 feet along Schroeder Avenue and Gunview Road, the Association requested that the landscape buffer be substantially wider. As a condition of the Association's support of the project during the 2000 CZMP, the Developer agreed to a landscape buffer of 30 feet wide on Belair Road, 40 feet wide adjacent to the southernmost right-of-way line of Gunview Road (if that road is extended to Belair Road as shown on the site plan), and the required 20 feet wide along Schroeder Avenue. This agreement was memorialized in the "Declaration of Covenants,

Conditions and Restrictions” dated October 6, 2000, a copy of which was marked and accepted into evidence as Petitioner’s Exhibit 2. The proposed landscape buffer is also shown on a site plan that delineates what would normally be required by the landscape manual and the additional buffer areas agreed to by the Developer and the Association. This site plan was marked and accepted into evidence as Petitioner’s Exhibit 4. A green shaded area on the site plan represents the landscape buffer area.

At this juncture, as part of the development of the 12,000 square foot building and as depicted on the site plan, Petitioner plans to divide 3,000 square feet of the building for restaurant use and the remaining 9,000 for retail use. Photographs of the property and the existing improvements were marked and accepted into evidence as Petitioner’s Exhibits 3A and 3B. The parking requirement for the restaurant use is what necessitates the instant variance request. In particular, Petitioner is currently under lease with a tenant to open a new authentic Italian café/eatery. This restaurant would not have table service and would not have a liquor license, and hence would not serve alcohol. Patrons would order their menu items and beverages to carry out or eat in the restaurant.

The parking calculations are detailed on the site plan at Note 15. The total amount of parking spaces proposed for the site is 156 spaces. The pharmacy and retail uses each require 5 parking spaces per 1,000 square feet of gross floor area, and the bank requires 3.3 spaces per 1,000 square feet, for a total of 124 spaces. However, the restaurant use requires significantly more parking according to the Zoning Regulations. This use requires 16 spaces per 1,000 square feet for a total of 48 spaces, and a grand total of 172 spaces required for the entire site -- 16 more than the proposed 156.

In support of the parking variance request, Petitioner's attorney, Mr. Holman, discussed a number of unusual characteristics of the property that reduce the available space for parking and drive the need for the variance. First, Mr. Holman pointed to the wider landscape buffers that were agreed to between the original Developer, Honeygo Junction, LLC, and the Perry Hall Improvement Association, Inc., as outlined in Petitioner's Exhibit 2 and depicted on the shaded site plan that was accepted into evidence as Petitioner's Exhibit 4. This agreement was made in part to further the Association's goals of preserving and protecting the value and desirability of the surrounding residential properties for the benefit of those homeowners. In providing significantly wider landscape buffers, Mr. Holman indicated that the parking layout and configuration had to be altered as well, ultimately resulting in fewer spaces.

Also noteworthy is that according to Mr. Holman and Petitioner's landscape architect, Mr. Hermann, Gunview Road, although a future public road, actually lies within the boundary of the subject property. Part of Petitioner's plan for completing the development of the property is to extend Gunview Road from Belair Road to provide an entrance from Gunview Road. This is depicted on another site plan with shading of the proposed road and right-of-way area that was marked and accepted into evidence as Petitioner's Exhibit 7. However, as shown on this site plan, the road will take up at least 25,000 square feet of otherwise buildable area, once again lessening the space available for parking. Another characteristic that impacts the subject property in terms of available space for parking is the forest buffer and forest conservation easement that lies to the rear of the property. This area consists of approximately 0.70 acre and again limits the space available to provide the full complement of required parking.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments received from the Office of Planning dated September 24,

2008 indicate that they have reviewed Petitioner's application package, and require only that Petitioner submit building elevations of all sides of the proposed building for review and approval prior to issuance of any building permits.¹

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. In particular, the widening of the required landscape buffers along the road frontages, as well as the right-of-way area for Gunview Road and the forest buffer and forest conservation easement on the property, limit the available space for parking. One could argue that the loss of space due to the widened landscape buffer is self-imposed as a result of the agreement entered into between the Developer, Honeygo Junction, LLC, and the Perry Hall Improvement Association, Inc. However, because the widening of the buffer area satisfies the Association's concerns over the potential impact of the development and furthers their goal of preserving the nearby residential communities, I will not hold this against Petitioner. In short, I will not penalize Petitioner for working with the community, and yielding to an extent in favor of the community's concerns. As such, based on the above circumstances, I find that the property is unique in a zoning sense.

I further find that Petitioner would suffer undue prejudice and unreasonable hardship if the requested zoning relief were not granted. The leasing of space to the Italian restaurant is essentially what drives the need for the variance. The parking requirements for the other commercial uses can be met without zoning relief; however, a restaurant requires significantly more parking than the other uses. On the other hand, a restaurant is a desirable tenant because most retail shopping centers are anchored by some kind of food service or restaurant. If the

¹ It should be noted that it appears from the photographs of the subject property submitted by Petitioner that the building improvements, and in particular the 12,000 square foot building that would house the proposed restaurant, have already been constructed.

variance relief were not granted, then Petitioner would be unable to rent to an otherwise permissible and popular tenant. I also believe that the parking configuration as shown on the site plan will be self regulating, and that there will be overlapping parking availability between the existing bank and the proposed restaurant. In my view, the peak hours for the bank will be during the day and the peak hours for the restaurant will be in the evenings. Any competition for parking spaces during the day will be minimal and, again, will be self-regulating. If a customer of the restaurant is not able to find a parking space during the day, they will tend to go somewhere else nearby, such as Damon's Restaurant a few blocks south.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. Thus, I find that this 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).

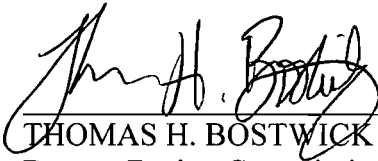
Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 30th day of November, 2008 by this Deputy Zoning Commissioner, that Petitioner's request for Variance relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 156 parking spaces in lieu of the required 172 parking spaces, be and is hereby GRANTED. The relief granted herein shall be 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,

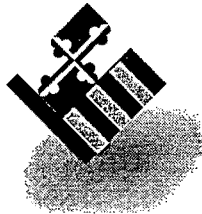
for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

November 20, 2008

D. Dusky Holman, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

Re: PETITION FOR VARIANCE

Corner NW side of Belair Road and NE side of Schroeder Avenue
11th Election District - 5th Councilmanic District
(9810 and 9820 Belair Road and 4040 Schroeder Avenue)
Tarragon, Inc. - *Petitioner*
CASE NO. 2009-0048-A

Dear Mr. Holman:

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 dark ink, appearing to read "John H. Bostwick", written over a horizontal line.

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:dlw
Enclosure

c: Kevin Havens, Tarragon, Inc., 2903 North Charles Street, Baltimore, MD 21218
James V. Hermann, Morris & Ritchie Associates, Inc., 1895 Eden Mill Road,
Pylesville, MD 21132
People's Counsel; Office of Planning; File



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at: 9810 Belair Road, 9820 Belair Road, 4040 Schroeder Ave.

which is presently zoned: D.R. 2 and B.L.R.

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):

1. 409.6.A.2 of the BCZR to permit 156 parking spaces in lieu of the required 172 parking spaces; and
2. For such other and further relief as may be deemed necessary by the Zoning Commissioner

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 PRESENTED 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:

D. Dusky Holman

Name - Type or Print

D. Dusky Holman

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Legal Owner(s):

Tarragon, Inc.

Name - Type or Print

Kevin Havens

Signature By: Kevin Havens, Authorized Representative

Name - Type or Print

Signature

2903 North Charles Street

(410) 336-2100

Address

Telephone No.

Baltimore

MD

21218

State

Zip Code

Representative to be Contacted:

D. Dusky Holman, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

Case No. 2009-0048-A

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING

Reviewed By *[Signature]*

Date 8/15/08

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



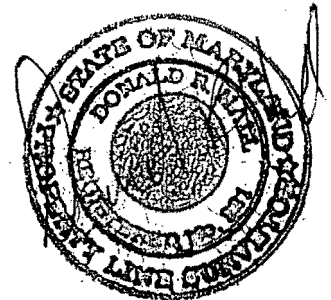
June 27, 2008

ZONING DESCRIPTION

BEGINNING for the same at a point on the northwest side of U.S. Route 1, Belair Road, a variable width right of way, lying 51 feet from the center of said road, and also lying 46 feet northeasterly from the center of Schroeder Avenue, a variable width right of way, said point being the southerly most corner of Lot 2 at point numbered 89 as shown on a Plat entitled "Final Plat, Honeygo Crossing" and recorded among the Land Records of Baltimore County, Maryland in Plat Book S.M. 78, Folio 24, running thence the following courses, viz:

By a curve to the right with a radius of 25.00 feet and an arc length of 38.40 feet, said curve being subtended by a chord bearing North 89°39'50" West 34.73 feet, to a point of tangency; North 45°39'48" West 184.77 feet; North 44°20'12" East 175.00 feet; North 45°39'48" West 240.00 feet; North 44°20'12" East 493.45 feet; By a non-tangent curve to the right with a radius of 1789.20 feet and an arc length of 291.71 feet, said curve being subtended by a chord bearing South 40°27'09" East 291.38 feet, to a point of tangency; South 35°46'54" East 144.05 feet; South 04°07'45" West 46.04 feet; By a non-tangent curve to the right with a radius of 7730.00 feet and an arc length of 311.46 feet, said curve being subtended by a chord bearing South 45°02'16" West 311.43 feet, to a point of tangency; South 46°11'32" West 141.57 feet, and South 46°20'08" West 105.13 feet, to the point of beginning hereof, having an address of 9810 and 9820 Belair Road and lying on the northwesterly side of Belair Road.

CONTAINING an area of 253,830 square feet or 5.827 acres of land, more or less, and being located in the Eleventh Election District, Fifth Councilmanic District, of Baltimore County, Maryland.



C/27/08

2009-0048-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. **18578**

Date: 8/15/08

PAID RECEIPT

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	806			6150				325.00

Total: 325.00

Rec

From: Gilcher + Schmidt LLC

For: 9810 Belair Rd

2009-0048-A

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: #2009-0048-A
9810 & 9820 Belair Road,
4040 Schroeder Avenue
Corner n/west side of Belair
Road and N/east side of
Schroeder Avenue
11th Election District
5th Councilmanic District
Legal Owner(s): Tarragon, Inc.
Variance: to permit 156 parking
spaces in lieu of the re-
quired 172 parking spaces and
for such other and further relief
as may be deemed necessary
by the Zoning Commissioner.
Hearing: Friday, October 3,
2008 at 11:00 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 concern-
ing the File and/or Hearing,
Contact the Zoning Review Of-
fice at (410) 887-3391.

9/254 September 18 183802

CERTIFICATE OF PUBLICATION

9/18/2008

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 9/18/2008.

- ☒ 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.: 2009-0048-A

Petitioner/Developer: _____

Tarragon, LLC

Date of Hearing/Closing: Oct, 3, 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: _____

9810 & 9820 Belair rd 4040 Schroeder Avenue

The sign(s) were posted on sept 18 2008
(Month, Day, Year)

Sincerely,

Robert Black Sept 21 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 # 2009-0048-A

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

Room 104, JEFFERSON BUILDING
PLACE 105 WEST CHESAPEAKE AVE, TOWSON 21204

DATE AND TIME: FRIDAY, OCTOBER 3, 2009 AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT 156 PARKING SPACES IN LIEU
OF THE REQUIRED 172 PARKING SPACES AND FOR SUCH OTHER AND
FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ZONING
COMMISSIONER.

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

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

TO: PATUXENT PUBLISHING COMPANY
Thursday, September 18, 2008 Issue - Jeffersonian

Please forward billing to:

D. Dusky Holman
Gildea & Schmidt
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

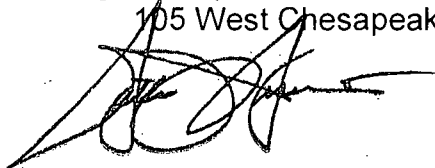
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2009-0048-A

9810 & 9820 Belair Road, 4040 Schroeder Avenue
Corner n/west side of Belair Road and N/east side of Schroeder Avenue
11th Election District – 5th Councilmanic District
Legal Owners: Tarragon, Inc.

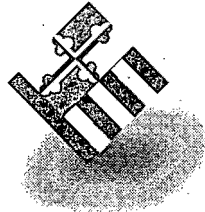
Variance to permit 156 parking spaces in lieu of the required 172 parking spaces and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Friday, October 3, 2008 at 11:00 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 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

September 18, 2008
TIMOTHY KOTROCO, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2009-0048-A

9810 & 9820 Belair Road, 4040 Schroeder Avenue
Corner n/west side of Belair Road and N/east side of Schroeder Avenue
11th Election District – 5th Councilmanic District
Legal Owners: Tarragon, Inc.

Variance to permit 156 parking spaces in lieu of the required 172 parking spaces and for such other and further relief as may be deemed necessary by the Zoning Commissioner.

Hearing: Friday, October 3, 2008 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Timothy Kotroco
Director

TK:klm

C: D. Dusky Holman, 600 Washington Avenue, Ste. 200, Towson 21204
Kevin Havens, Tarrogon, Inc., 2903 N. Charles Street, Baltimore 21218

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, SEPT. 18, 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: 2009-0048-A

Petitioner: Tarragon, Inc.

Address or Location: 9810 Belair Road, 9820 Belair Road, 4040 Schroeder Avenue

PLEASE FORWARD ADVERTISING BILL TO:

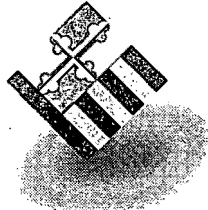
Name: D. Dasky Holman

Address: Gildea & Schmidt, LLC

600 Washington Avenue, Suite 200

Towson, MD 21204

Telephone Number: 410-821-0070



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

September 23, 2008

D. Dusky Holman
Gildea & Schmidt, LLC
600 Washington Ave. Ste. 200
Towson, MD 21204

Dear: D. Dusky Holman

RE: Case Number 2009-0048-A, 9810 & 9820 Belair Rd., 4040 Schroeder Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 15, 2008. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

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
Tarragon Inc., 2903 N. Charles St., Baltimore, MD 21218

TB 10/3
11 AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 24, 2008

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

SUBJECT: 9810, 9829 Bel Air Road

INFORMATION:

Item Number: 9-048

Petitioner: Tarragon, Inc.

Zoning: BLR, DR 2

Requested Action: Variance

RECEIVED
OCT 15 2008

BY:

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's application package. Submit building elevations of all sides of the proposed building for review and approval prior to the issuance of any building permits.

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

Reviewed by:

Curtis Murray

Division Chief:
AFK/LL: CM

Lynne Larkhan

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 24, 2008

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

RECEIVED
OCT 02 2008

SUBJECT: 9810, 9829 Bel Air Road

INFORMATION:

BY:

Item Number: 9-048

Petitioner: Tarragon, Inc.

Zoning: BLR, DR 2

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the petitioner's application package. Submit building elevations of all side of the proposed building for review and approval prior to the issuance of any building permits.

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

INTEROFFICE CORRESPONDENCE

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

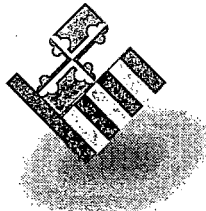
DATE: August 26, 2008

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

SUBJECT: Zoning Advisory Committee Meeting
For September 2, 2008
Item Nos. 09-0037, 0039, 0046, 0047, 0048, 0049 and 0050

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

DAK:CEN:lrk
cc: File
ZAC- 08262008-NO COMMENTS



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

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

August 28, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: August 25, 2008

Item Number: 0033, 0037, 0039, 0047, 0048, 0049, 0050

1The Fire Marshal's Office has no comments at this time.

Pursuant to your request, this Bureau has reviewed the referenced plan(s) and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

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

State Highway
Administration

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

Maryland Department of Transportation

Date: AUGUST 26, 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. 2009-0048-A
US 1
9810-9820 BELAIR ROAD
TARRAGON, INC.
VARIANCE

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 08/26. A field inspection and internal review reveals that the existing entrance onto is consistent with current State Highway Administration requirements. Therefore, this office has no objection to 2009-0048-A, Case Number approval.

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

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

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

My telephone number/toll-free number is _____

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

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



RE: PETITION FOR VARIANCE * BEFORE THE
9810, 9820 Belair Road; Corner NW/S *
Belair Rd, & NE/S Schroeder Avenue * ZONING COMMISSIONER
11th Election & 5th Councilmanic Districts *
Legal Owner(s): Tarragon, Inc * FOR
Petitioner(s) * BALTIMORE COUNTY
* 09-048-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 28 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 28th day of August, 2008, a copy of the foregoing Entry of Appearance was mailed to D. Dusky Holman, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CASE NAME 9810 Belair Rd.
CASE NUMBER 2009-0048-A
DATE 10-03-2008

CASE NAME 9810 Belair Rd.
CASE NUMBER 2009-0048-A
DATE 10-03-2008

[illegible]

Case No.: 2009-0048-A

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Declaration of Covenants Conditions + Restrictions	
No. 3 A+B	Photos of Property + Improvements	
No. 4	Site Plan showing area of proposed landscape buffer (green)	
No. 5	Aerial Photograph	
No. 6 A-C	Photos of proposed buffer area (A-B) and buffer of nearby property (B-C)	
No. 7	Site Plan w/ depiction of Gumwood Rd that is completely within subject property	
No. 8	CV of James Hermann	
No. 9		
No. 10		
No. 11		
No. 12		

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as this "Declaration"), made this 28th day of October, 2000, by and between HONEYGO JUNCTION, LLC, a Maryland limited liability company, its successors and assigns, (hereinafter referred to as the "Declarant") and PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland corporation (hereinafter referred to as the "Association") (Declarant and Association may sometimes hereinafter be collectively referred to as the "Parties").

INTRODUCTORY STATEMENT:

1. The Declarant is the owner in fee simple of two contiguous parcels of land located on the west side of Belair Road north of Schroeder Avenue situate and lying in the 11th Election District of Baltimore County, Maryland as described in a Deed from George J. Huber, Surviving Trustee dated April 28, 2000 and recorded among the Land Records of Baltimore County, Maryland in Liber 14440, folio 107 and more particularly described in Exhibit A attached hereto (hereinafter the "Property"). The term "Property" as used herein shall be construed to refer to the parcels as being merged into one parcel of 7.6 acres, more or less.

2. The Declarant has agreed to subject the Property to this Declaration as a condition to obtaining the support of the Association to a change in the zoning classification before the County Council of Baltimore County from the current mixed zoning classification namely, BL as to 1.7 acres, more or less, and DR2 as to 5.9 acres, more or less, to BLR zone classification.

3. The Association desires to preserve and protect the value and desirability of the surrounding residential properties for the benefit of its members. In furtherance of the Association's goals, the Association has agreed to support the re-zoning of the Property subject to this Declaration.

4. The Declarant hereby declares that the Property shall be subject to the Declarations set forth herein which shall run with the land and be binding upon all parties having any right, title or interest in the Property, or any part thereof, their respective personal representatives, successors and assigns.

NOW THEREFORE in consideration of the premises and covenants stated herein by the Declarant, its successors and assigns, and the performance of the covenants, conditions and restrictions hereinafter set forth, Declarant grants, covenants and agrees as follows:

1. Introductory Statement. The Introductory Statement shall be incorporated as if fully set forth herein.



PETITIONER' S

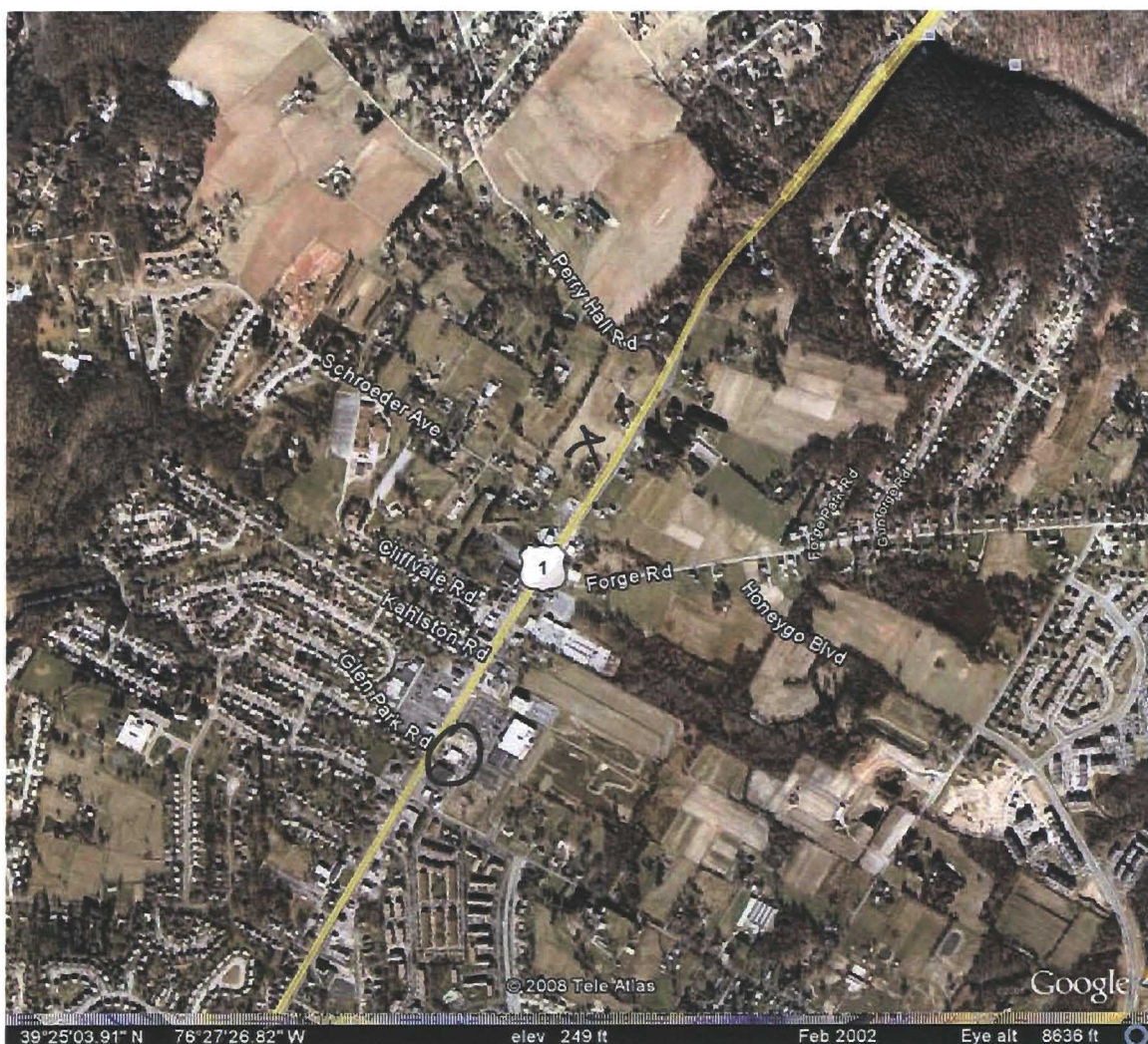
EXHIBIT NO. 3A



PETITIONER'S

EXHIBIT NO.

3B



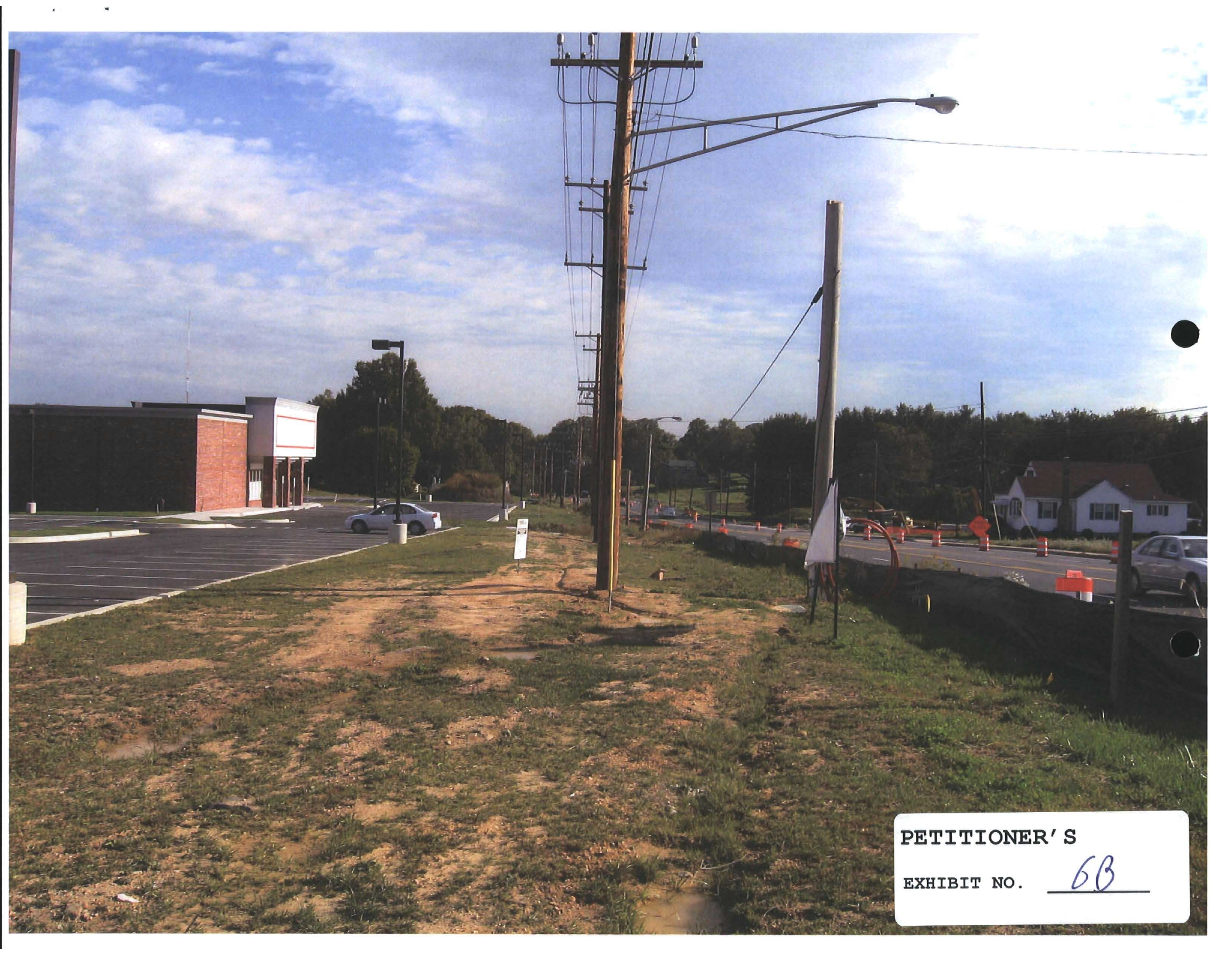
X - over into

O - Person's depicted in photograph 6C

PETITIONER'S

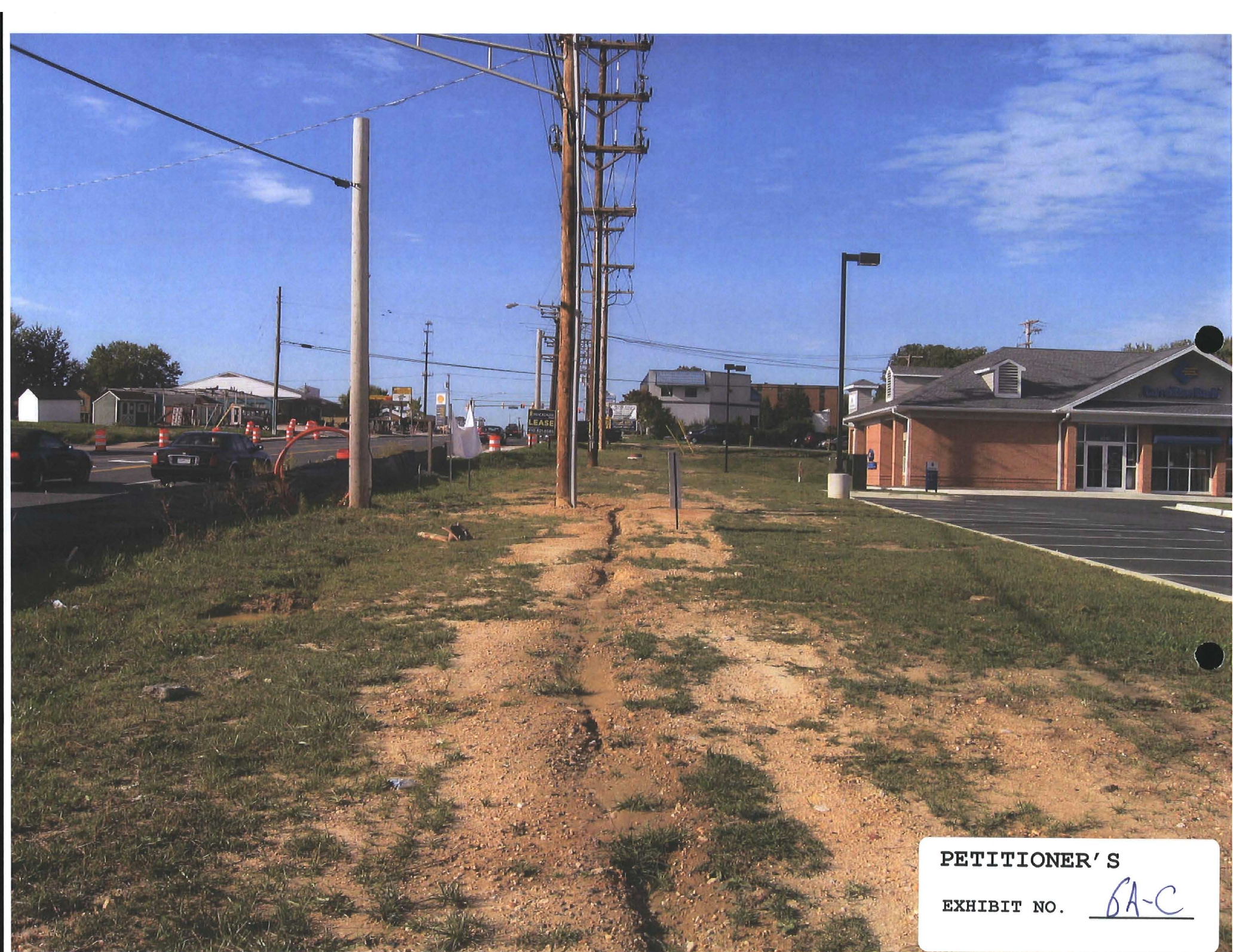
EXHIBIT NO.

5



PETITIONER'S

EXHIBIT NO. 6B



PETITIONER'S

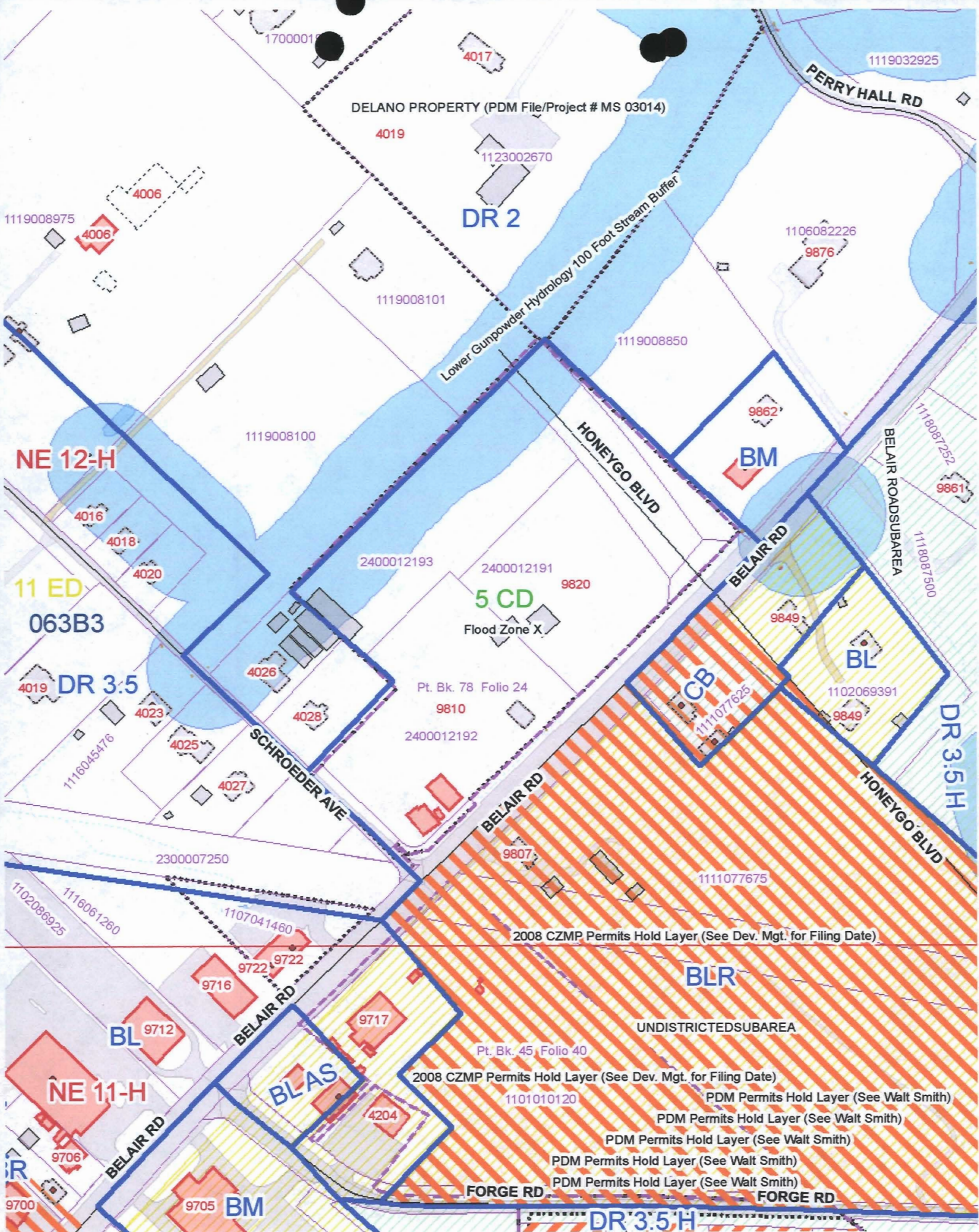
EXHIBIT NO.

BA-C



PETITIONER'S

EXHIBIT NO. 6C



2009-0048-A

JAMES V. HERMANN, RLA
Associate

Project Assignment:

Landscape Architect / Planner

Years of Experience:

MRA: 15
Other Firms: 2

Education:

B.L.A., Landscape Architecture,
Kansas State University, 1989

Masters of Science in Real Estate
Johns Hopkins University, 2006

Active Registration:

Maryland, Landscape Architect,
1992, #1044

Qualifications:

Mr. Hermann has 17 years of professional experience in land planning, landscape architecture, and concept planning. His work has included a wide variety of projects ranging in scale from site specific to regional planning including streetscape, neighborhood parks, and recreation area planning. Mr. Hermann's project involvement includes interaction with various government agencies, private interest groups, and project related consultants (traffic engineers, SHA engineers, and State and County environmental agencies, architects, etc.); site analysis through conceptual development; graphic renderings; roadway access and realignment studies; grading, design, and cost estimating.

Mr. Hermann is an Associate and a Landscape Architect at MRA with experience in project management and design of residential, commercial, industrial, and park projects. His responsibilities encompass preparation of site feasibility studies, site planning and design, site grading, forest stand delineation, forest conservation, landscape design, technical supervision of plans and construction documents, quality control, proposal preparation, and coordination with clients, consultants, and government agencies.

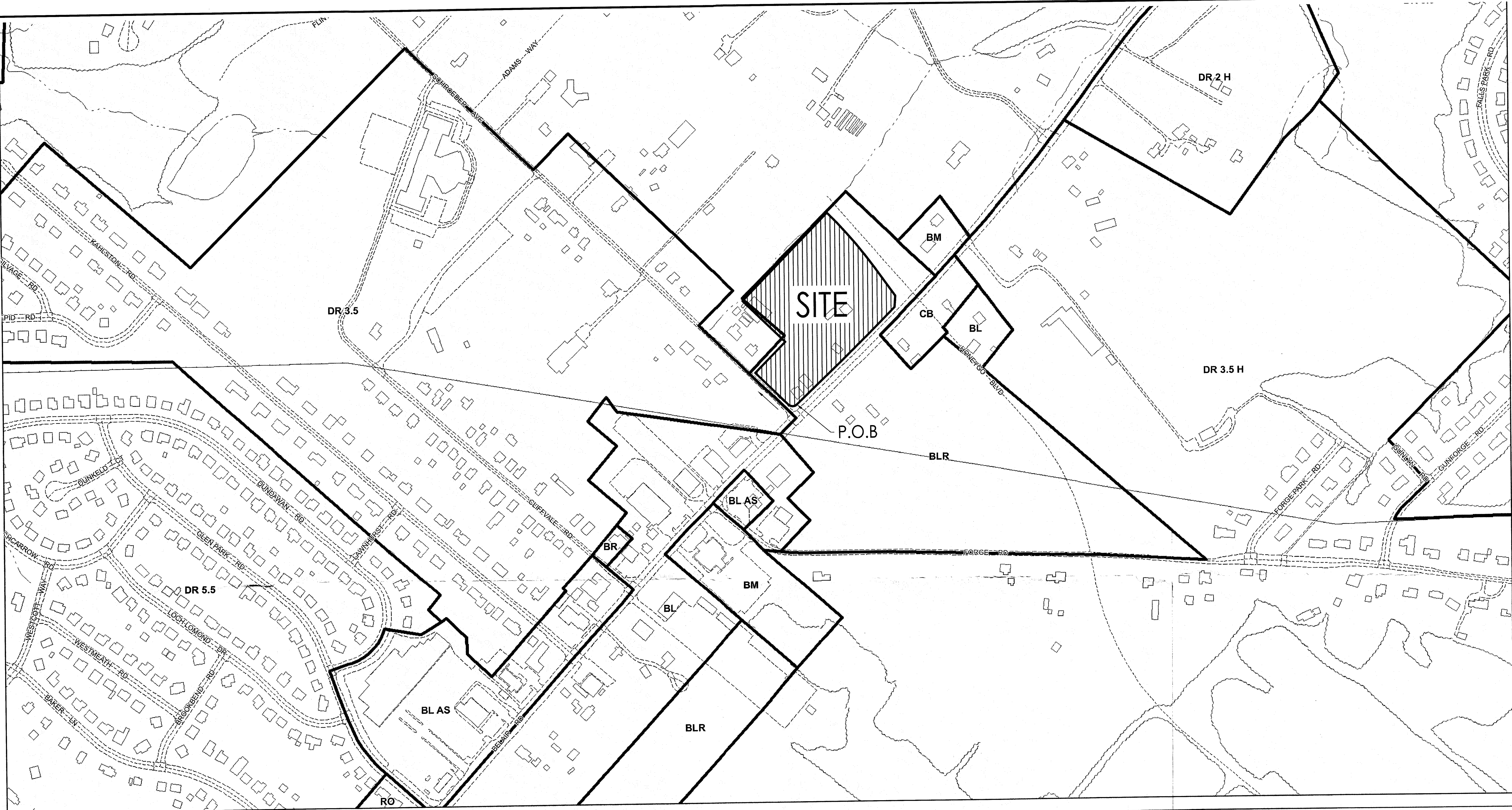
Mr. Hermann has successfully designed and managed the following representative projects:



MORRIS & RITCHIE

PETITIONER' S

EXHIBIT NO. 8



Plan Sheet: 063B3

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
 - Buildings
 - Streams
 - Roads
 - Vegetation
 - Rail Lines

**Baltimore County
Office of Planning and Zoning
Official Zoning Map**

062C2	063A2	063B2	063C2	064A2
062C3	063A3	063B3	063C3	064A3
071C1	072A1	072B1	072C1	073A1

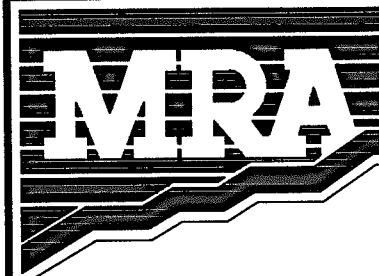
Scale

1" = 200'

0 100 200 400 Feet

1 2009-0048-A

Data Sources:
Planometric Data - Baltimore County
CIT/GIS Services Unit
1:2400, from 1995/98 photography
Zoning - Baltimore County Office of Planning
1:2400, 2004



MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX: (410) 821-1748
MIRAGTA.COM

OFFICIAL ZONING MAP
9810 BELAIR ROAD
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	JOB NO.:	16135
		SCALE:	1"=200'
		DATE:	07/08/08
		DRAWN BY:	TH
		DESIGN BY:	-
		REVIEW BY:	WM
		SHEET:	1 OF 1

GENERAL NOTES

- OWNER: TARRAGON INC.
C/O KEVIN HAVENS
2903 NORTH CHARLES STREET
BALTIMORE, MD 21218
- TAX ACCOUNT NUMBERS: 2400012191, 2400012192, 2400012193
- TAX MAP 63, GRID 22, PARCELS 339 & 340
- ADC MAP: 29, GRID: E-3
- WATERSHED 5; SUBWERSHED 5
- SITE DATA:
EXISTING LAND USE: RESIDENTIAL
ELECTION DISTRICT 11; COUNCILMANIC DISTRICT 5; CENSUS TRACT 4114.03; ZIP CODE 21128
PROPOSED LAND USE: BANK, PHARMACY, RETAIL / STANDARD RESTAURANT
DEED REFERENCE: 14440/107, 14440/101
CURRENT ZONING AND ACREAGE: (ZONING MAP: NE 12H, 063B3)
GROSS AREA: PARCEL 339: 2.658 AC +/-
PARCEL 340: 2.673 AC +/-
TOTAL: 7.138 AC +/-
- ZONING: DR2 - 0.540 AC.
BLR - 6.588 AC.
- SITE ADDRESSES
BANK - 4040 SCHROEDER AVE.
PHARMACY - 9810 BELAIR RD.
RETAIL/STANDARD RESTAURANT BUILDING - 9810 BELAIR RD.
- FAR CALCULATIONS:
TOTAL AREA OF BUILDINGS ON SITE: 28,757 S.F. - 0.660 AC.
FAR (TOTAL SITE) = $\frac{28,757 \text{ S.F.}}{167,368 \text{ S.F.}} = 0.17$

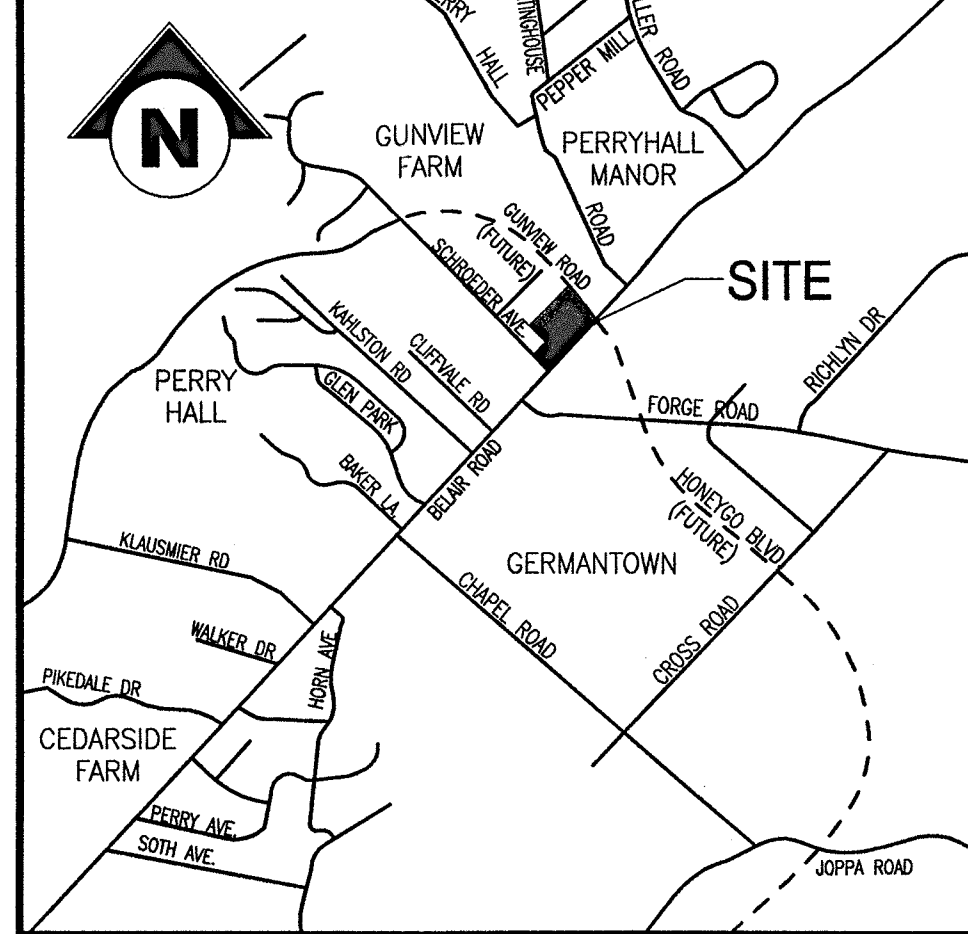
- BUREAU OF TRAFFIC ENGINEERING AND TRANSPORTATION PLANNING HAS CONFIRMED THAT THE SUBJECT SITE IS NOT WITHIN A TRAFFIC DEFICIENT AREA.
- THERE ARE NO OPEN SPACE REQUIREMENTS FOR THIS PROPOSED DEVELOPMENT.
- ALL PROPOSED SIGNAGE WILL COMPLY WITH SECTION 450 BC2R.
- ZONING HISTORY: BASED UPON THE 1971 1"-200" BALTO. COUNTY ZONING MAPS, THE FOLLOWING ZONING HEARINGS TOOK PLACE ON THE PROPERTY:
1. CASE #83-21-XA - SPECIAL EXCEPTION FOR AN OUTDOOR ADVERTISING SIGN DENIED JANUARY 28, 1983.
- PER DRC # 111703D, A LIMITED EXEMPTION (B-9) FROM SECTION 26-171 OF THE BALTIMORE COUNTY DEVELOPMENT REGULATIONS WAS GRANTED TO PERMIT THE CONSTRUCTION A MINOR DEVELOPMENT, AS DEFINED IN SECTION 26-168, NOT TO EXCEED A TOTAL OF THREE (3) LOTS. THE DEVELOPMENT PLAN WAS APPROVED ON 2/3/05
- PARKING: TYPICAL SPACES 8.5'x18' STALLS:
A. PHARMACY (13,057 SF) - 66 SPACES
REQUIRED - 5/1000 SF = 13 SPACES
B. BANK (3,700 SF)
REQUIRED - 5/1000 SF = 13 SPACES
C. RETAIL (9,000 SF)
REQUIRED - 5/1000 SF = 45 SPACES
D. STANDARD RESTAURANT (3,000 SF)
REQUIRED - 16/1000 SF = 48 SPACES
TOTAL REQUIRED = 172 SPACES
TOTAL PROPOSED = 156 SPACES
- PROPOSED BUILDINGS WILL COMPLY WITH BUILDING CODE AND FIRE CODE.
- ANY FIXTURE USED TO ILLUMINATE AN OFF-STREET PARKING AREA SHALL BE SO ARRANGED AS REFLECT LIGHT AWAY FROM ADJACENT RESIDENTIAL SITES AND PUBLIC STREETS.
- LANDSCAPING SHALL CONFORM TO BALTIMORE COUNTY'S LANDSCAPE MANUAL.
- ALL PARKING LOTS AND ROADS WILL BE BITUMINOUS CONCRETE PAVING OR EQUAL DURABLE, DUSTLESS SURFACE.
- ALL LOADING ZONES MUST COMPLY WITH BC2R, SECTION 409.11.
- HANDICAPPED PARKING SPACES WILL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED CONTAINED IN THE CODE OF MARYLAND REGULATIONS 05.01.07.
- THE SITE IS NOT A DESIGNATED AREA OF CRITICAL STATE AND NOT IN THE CHESAPEAKE BAY CRITICAL AREA.
- THERE ARE NO KNOWN UNDERGROUND STORAGE TANKS, WELLS, SEPTIC SYSTEMS, OR HAZARDOUS MATERIALS ON SITE.
- THERE ARE NO KNOWN SIGNIFICANT REGULATED PLANT OR WILDLIFE COMMUNITIES USING DEPRM OR MARYLAND DEPARTMENT OF NATURAL
- THERE ARE NO KNOWN DESIGNATED HISTORIC STRUCTURES OR SITES AS PER THE LANDMARKS PRESERVATION COMMISSION OR THE MARYLAND HISTORIC TRUST INVENTORY.
- FOREST BUFFER AND 100 YEAR FLOOD PLAIN ARE SHOWN ON THE PLAN.
- THERE ARE NO PREVIOUS COMMERCIAL PERMITS FOR THIS PROPERTY.

NORTH



SCALE: 1"=50'

DESIGN AND DRAWING BASED ON
MARYLAND COORDINATE SYSTEM
HORIZONTAL - NAD 83/91
VERTICAL - NAD 88



VICINITY MAP

SCALE: 1" = 2000'

SITE LEGEND

- EX. PROPERTY LINE
- EX. R/W
- PROPOSED R/W
- EX. LOT LINE
- PROP. LOT LINE
- FB/ECE
- FOREST BUFFER/FOREST CONSERVATION ESMT.
- PROPOSED EASEMENT
- LIMIT OF DISTURBANCE
- EX. 2' CONTOUR
- EX. 10' CONTOUR
- PROP. CONTOUR
- EX. CURB & GUTTER
- PROP. CURB & GUTTER
- FUT. CURB & GUTTER
- EX. SAN
- PROP. SAN
- EX. SD
- PROP. SD
- EX. WAT
- PROP. WAT
- EX. GAS
- EX. WOODS LINE / VEGETATION
- 100 YEAR FLOODPLAIN
- PROP. CHAIN LINK SAFETY FENCE
- PROP. BOARD-ON-BOARD FENCE
- PROP. LIGHT

ZONING RELIEF REQUESTED:

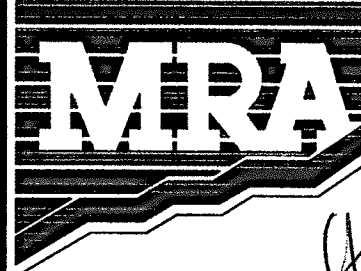
- TO PERMIT 156 SPACES IN LIEU OF THE REQUIRED 172 SPACES. PER SECTION 409.6.A.2

CASE #: 2009-0048-A

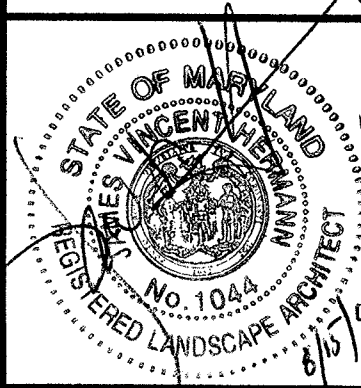
PETITIONER'S

DRC#: 111703D

EXHIBIT NO.



MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
1220-C EAST JOPPA ROAD, SUITE 505
TOWSON, MARYLAND 21286
(410) 821-1690
FAX: (410) 821-1748
MRAGTA.COM



PLAN TO ACCOMPANY ZONING VARIANCE APPLICATION

9810 BELAIR ROAD
BALTIMORE COUNTY, MARYLAND

DATE	REVISIONS	JOB NO.:
	GREEN = LANDSCAPE BUFFER	16135
		SCALE: 1" = 50'
		DATE: 08/08/08
		DRAWN BY: TH
		DESIGN BY: -
		REVIEW BY: WM
		SHEET: 1 OF 1

THE CORRECTNESS OR COMPLETENESS OF EXISTING INFORMATION SHOWN ON THE DRAWINGS IS NOT WARRANTED OR GUARANTEED. THE CONTRACTOR SHALL VERIFY THE LOCATION OF UTILITIES AND UNDERGROUND FACILITIES, BY TEST PITS OR OTHER METHODS APPROVED BY THE OWNER'S REPRESENTATIVE, AS REQUIRED TO VERIFY EXACT LOCATIONS AND DEPTHS WITHIN THE LIMIT OF DISTURBANCE. ALL INSPERANCIES BETWEEN INFORMATION SHOWN ON THE DRAWINGS AND THAT VERIFIED IN THE FIELD SHALL BE REPORTED TO THE OWNER'S REPRESENTATIVE PRIOR TO BEGINNING WORK.