

IN RE: **PETITION FOR SPECIAL EXCEPTION**

N/S Shawan Road, 1,382' NE of c/line

McCormick Road

(118 Shawan Road)

8th Election District

3rd Council District

Hunt Valley Towne Center, *Legal Owner*

PRISMM of Hunt Valley, LLC,

Contract Lessee

Petitioners

BEFORE THE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

Case No. 2009-0272-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by PRISMM of Hunt Valley, LLC t/a Damon's of Hunt Valley, the lessee of the subject property, legally owned by Hunt Valley Towne Center, LLC c/o Greenberg Commercial, by and through their attorney C. William Clark, Esquire. The Petitioners request a special exception for an arcade, as a use in combination with a restaurant, in a B.M.-C.T. zone, pursuant to Sections 423.1B and 422.1A(11) of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more particularly described on the site plan submitted into evidence and marked as Petitioner's Exhibit 1 and the interior layout of the restaurant marked into evidence as Petitioners' Exhibit 2.

Appearing at the requisite public hearing in support of the request were Joseph J. Stonik, appearing on behalf of Petitioner¹, Rick Richardson, a professional engineer with Richardson Engineering, LLC, the engineering consultants who prepared the site plan for the property, and C. William Clark, Esquire, of Nolan, Plumhoff & Williams, Chtd, attorney for Petitioner. Appearing as an interested citizen was Mary Ellen Morrison, a member of the Hunt Valley

¹ Mr. Stonik is the proprietor of C&J Amusements, the Petitioners arcade game vendor.

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Date 9-23-09
By [Signature]

Business Forum, to express her concerns regarding the installation of the subject arcade. There were no other interested persons or Protestants present.

Testimony and evidence offered revealed that this well known site is an irregular shaped property located on the north side of and adjacent to Shawan Road and the east side of and adjacent to McCormick Road in the Cockeysville area of northern Baltimore County. The property contains a gross area of 85 acres, more or less, and is zoned B.M. (Business Major), with a district overlay of C.T. (Towne Center). The site is improved with a Towne Center, known as the "Hunt Valley Mall," which contains a restaurant tenant, "Damon's Grill," a second floor tenant and other retail and service-related tenants including a supermarket and movie theatre. Damon's occupies approximately 11,948 square feet and is the subject of this Petition.² The Petitioner, as indicated above, requests approval for an arcade to be located within the restaurant and bar area.

"Arcade" is defined in Section 101 of the Zoning Regulations as "a building or part of a building in which five or more pinball machines, video games or other similar player-operated amusement devices are maintained." This use category is listed in the B.M. zone use regulations (See B.C.Z.R. Section 233.3) as a permitted special exception use. Section 233.3 provides that arcades are permitted "subject to the provisions of Section 423B³" of the Zoning Regulations. Section 423.1B thereof indicates that an arcade is permitted in the B.M. zone as the "sole principal use or in combination with one or more of the entertainment, leisure or recreation

² Damon's Grill is a full-service, casual dining restaurant emphasizing prime rib, steak, chicken, seafood, salad, and ribs. In addition to a dining area, Damon's provides a 'clubhouse' complete with televisions, sports programming and interactive games. Damon's has over 80 franchised locations worldwide.

³ Although Section 233.3 refers to 423B, amendments have changed former Section 423B to current Section 423.1B. Section 423.1B is the pertinent provision governing the matter before this Commission.

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Date 6-23-09
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oriented uses provided for in Section 422.A⁴". Section 422.1A provides that "amusement devices are permitted as of right in the B.L., B.M. and B.R. Zones when used in combination with...(11) restaurants...however, that no more than four amusement devices shall be permitted unless a special exception for an arcade is obtained." Petitioner, as indicated by the petition filed, requests approval for an arcade containing no more than fifteen (15) amusement devices to be located within Damon's restaurant.

Mr. Clark provided background testimony regarding the subject property and its existing site improvements. Hunt Valley Mall was described as an attractively built Towne Center and an asset to the surrounding community. *See* photographs comprising Petitioners' Exhibit 3. Mr. Clark stated that Damon's intention is to place a majority of the amusement devices in a 20' x 40' room located off a hallway in the existing restaurant with one or two machines to be placed outside of this room on top of the bar. Mr. Clark pointed to Petitioners' Exhibit 2 (floor plan) to show that there would be no exterior entrance to the arcade area and that a proposed door would serve as an interior connection, allowing access from the 20' x 40' room to an adjacent hallway within Damon's leased area. Further, Mr. Clark stated that Damon's has an employee constantly monitoring the entrance into the restaurant and that it is in the restaurant's best interest to not let people come into their restaurant only to play arcade games as the arcade serves only as an accessory use, complimentary of the main purpose of Damon's as a restaurant. Mr. Stonik added that the target audience for the arcade was children ages 6-25. Mr. Stonik entered into evidence Petitioner's Exhibit 7, an example of the type of games that would be installed in the arcade⁵.

Although this list is neither exhaustive nor final, it does provide a good example of the games

⁴ Although Section 423.1B refers to 422A, amendments have changed former Section 422A to current Section 422.1A.

⁵ These games include sports games (Foosball, Silver Strike [bowling]), driving games (Cruisin', Daytona USA), Pacman, Buck Hunter, a Mighty Mini Crane, and action games (Terminator 3, Aliens).

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Date 1-23-09
By [signature]

that would comprise the arcade. Further, tokens rather than coins would be needed in order to play any of the arcade games. Mr. Stonik and Mr. Clark stated that no video poker or other gambling games would be installed as part of the Damon's arcade area. Mr. Clark also stated that the arcade would not be advertised to the general public through the media or via a sign on the mall or restaurant façade. Although Mrs. Morrison expressed concerns that the arcade would promote a dangerous intermingling of age groups, she was assured that because of the family atmosphere of Damon's this would most likely not occur. Mr. Clark testified to his familiarity with the proposed special exception use and indicated that Petitioner would not permit the arcade to jeopardize the vitality of Hunt Valley Mall and/or its good relationship with the surrounding community.

Mr. Clark presented testimony regarding the burden of proof contained in Section 502.1 of the Zoning Regulations. Mr. Clark referred to his previous description of the site's existing conditions and surrounding uses, pointed to the site plan and restaurant floor plan, and Petitioner's Exhibits 1 and 2, to show that this arcade use will not be detrimental to the health, safety, or general welfare of the surrounding area. Mr. Clark emphasized that this arcade was contemplated by the legislature when it passed the zoning regulations and thus its establishment is within the spirit and intent of the law. Mr. Clark concluded his evidence by again reiterating for the record his clients' assurances that the proposed arcade will not have any adverse impact of the surrounding area, stores, and Hunt Valley Mall in general.

I have considered all of the testimony and evidence presented by Petitioner(s) as well as the concerns of the business leader in attendance. I do not take lightly the concern raised by Ms. Morrison who lives in the surrounding area and gave up her time to appear before me. Based upon the testimony and evidence offered, I am persuaded to grant the special exception relief

DATE: 6-23-09
BY: [Signature]

requested. In my judgment, the proposed use will not be detrimental to the health, safety, or general welfare of the surrounding locale and satisfies the requirements of Section 502.1 of the regulations. Moreover, there are no "facts or circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *See Schultz v. Pritts*, 291 Md. 1, 15 (1981). Thus, I find that the requested relief is appropriate and should, therefore, be granted. It is also to be noted that there were no adverse Zoning Advisory Committee (ZAC) comments submitted by any of the County's reviewing agencies other than those submitted by the Office of Planning which did not oppose the special exception provided that the restaurant adheres to the Hunt Valley/Timonium guidelines and that building elevations (if changes are made to the façade) are submitted to the Office of Planning for approval prior to application for a building permit.

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

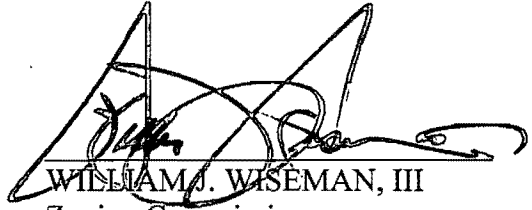
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of June 2009 that the Petition for Special Exception to approve an arcade on the subject property, pursuant to Section 423.1B of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioner may apply for its use permit and be granted same upon receipt of this Order; however, the Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
2. The arcade shall contain no more than fifteen (15) amusement devices.

ORDER RECEIVED FOR FILING
JUN 23 2009
CLERK OF COURT
BALTIMORE COUNTY

3. The hours of operation shall be limited to 11:00 AM to 12:00 AM, the same hours of operation as the restaurant.
4. Video poker or other machines that would constitute gambling devices are prohibited.
5. The restaurant must adhere to the Hunt Valley/Timonium guidelines and building elevations (if changes are to be made to the façade) and must be submitted to the Office of Planning for approval prior to application for building permit.

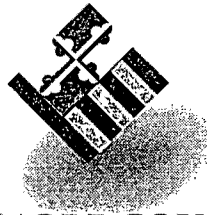
Any appeal of this decision must be entered within thirty (30) days of the date hereof.



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW/esl

ORDER RECEIVED FOR FILING
Date 6-23-09
BY [signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

June 23, 2009

WILLIAM J. WISEMAN III
Zoning Commissioner

C. William Clark, Esquire
Nolan, Plumhoff & Williams, Chtd.
502 Washington Avenue, Suite 700
Towson, Maryland 21204

RE: **PETITION FOR SPECIAL EXCEPTION**
N/S Shawan Road, 1,382' NE of c/line McCormick Road
(118 Shawan Road)
8th Election District - 3rd Council District
Hunt Valley Towne Center, *Legal Owner*;
PRISMM of Hunt Valley, LLC, *Contract Purchaser - Petitioners*
Case No. 2009-0272-X

Dear Mr. Clark:

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Wiseman III", written over a circular stamp.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Joseph R. Kurtz, Hunt Valley Towne Center, LLC, c/o Greenberg Commercial,
10096 Red Run Blvd., Suite 100, Owings Mills, MD 21117
Paul M. Rose, PRISMM of Hunt Valley, LLC, t/a Damon's of Hunt Valley,
1107 Janice Court, Joppa, MD 21085
Joseph J. Stonik, 8912 Yellow Brick Road, Baltimore, MD 21237
Rick Richardson, Richardson Engineering, LLC, 30 East Padonia Road, Suite 500,
Timonium, MD 21093
Mary Ellen Morrison, P.O. Box 1322, Hunt Valley, MD 21030
People's Counsel; Office of Planning; File



Petition for Special Exception

to the Zoning Commissioner of Baltimore County for the property
located at Hunt Valley Towne Center, 118 Shawan Road

which is presently zoned BM - CT

Deed Reference: 14415 / 411 Tax Account # 1800014925

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for an arcade pursuant to Section 423.B and Section 422.A of the BCZR, in combination with the existing use as a restaurant.

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

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

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

XContract Purchaser/Lessee:

PRISMM of Hunt Valley, LLC
t/a Damon's of Hunt Valley

Name - Type or Print

Signature Paul M. Rose (410) 527-0086

1107 Janice Court

Address Joppa, MD 21085 Telephone No.

City State Zip Code

Attorney For Petitioner:

C. William Clark

Name - Type or Print

Signature

Nolan, Plumbhoff & Williams, Chtd.

Company

502 Washington Ave., Ste. 700

Address Telephone No.

Towson, MD 21204 (410) 823-7800

City State Zip Code

Case No. 2009-0272-X

REV 07/27/2007

Legal Owner(s):

Hunt Valley Towne Center, LLC
c/o Greenberg Commercial

Name - Type or Print

Signature

Joseph R. Kuntz
JOSEPH KUNTZ

Name - Type or Print

Signature

10096 Red Run Blvd, Ste.100

Address Telephone No.

Owings Mills, MD 21117 410 559-2500

City State Zip Code

Representative to be Contacted:

Rick Richardson

Name

30 E. Padonia Road (410) 561-1502

Address Telephone No.

Timonium, MD 21093

City State Zip Code

OFFICE USE ONLY:

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By Bh Date 4/13/09

UNDER RECEIVED FOR FILING

Date 6-23-09

By WV

**ZONING DESCRIPTION
HUNT VALLEY TOWNE CENTER
DAMON'S RESTAURANT
8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

SPECIAL EXCEPTION AREA "A"

BEGINNING FOR THE SAME at a point on the North side of Shawn Road, 100 feet wide; at a distance of 1,382 feet, more or less, as measured northeasterly along said north side of Shawn Road from its intersection with the center line of McCormick Road; and running the following courses and distances, North 04 degrees 58 minutes 17 seconds West 839 feet, more or less, to the point of beginning of special exception area "A", thence (1) North 85 degrees 01 minutes 43 seconds East 106.00 feet, (2) North 04 degrees 58 minutes 17 seconds West 100.58 feet, (3) South 85 degrees 01 minutes 43 seconds West 23.50 feet, (4) North 04 degrees 58 minutes 17 seconds West 12.00 feet, (5) South 85 degrees 01 minutes 43 seconds West 45.50 feet, (6) North 04 degrees 58 minutes 17 seconds West 8.00 feet, (7) South 85 degrees 01 minutes 43 seconds West 37.00 feet to a point, said point also being the point of beginning for the description of special exception area "B" thence (8) South 04 degrees 58 minutes 17 seconds East 120.58 feet to the point of beginning containing an area of 0.27 acres of land, more or less.

SPECIAL EXCEPTION AREA "B"

BEGINNING FOR THE SAME at a point at the end of the 7th course for the description of special exception area "A" and running the following courses and distances, North 04 degrees 58 minutes 17 seconds West 248.00 feet to the point of beginning of special exception area "B", thence (1) South 85 degrees 01 minutes 43 seconds West 232.0 feet, (2) North 04 degrees 58 minutes 17 seconds West 56.00 feet, (3) North 85 degrees 01 minutes 43 seconds East 293.00 feet, (4) South 04 degrees 58 minutes 17 seconds East 56.00 feet, thence (5) South 85 degrees 01 minutes 43 seconds West 61.00 feet to the point of beginning containing an area of 0.377 acres of land, more or less.



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

No. **37531**

Date: **4/12/09**

PAID RECEIPT

BUSINESS ADDRESS TIME ORN
 4/14/2009 4/14/2009 10:04:30 2
 6000 BALTIMORE JCOA DE
 RECEIPT # 631157 4/13/2009 OFIN
 5 528 20000 IDENTIFICATION
 NO. 037031
 Receipt for \$300.00
 \$300.00 OK \$3.00 CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
	806	0000		6150					\$300.00

Total: \$ **300.00**

Rec From: **Amusement IS LLC**
 For: **Special Permits**

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

FL - 0272

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: # 2009-0272-X

118 Shawan Road

N/side of Shawan Road, 1,382 feet n/east of the centerline of McCormick Road

8th Election District — 3rd Councilmanic District

Legal Owner(s): Hunt Valley Towne Center, LLC

Lessee: Prism of Hunt Valley, LLC t/a Damon's of Hunt Valley

Special Exception: to permit an arcade pursuant to section 423.B and section 422.A of the BCZR, in combination with the existing use as a restaurant.

Hearing: Wednesday, June 17, 2009 at 2:00 p.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 6/641 June 2

202701

CERTIFICATE OF PUBLICATION

6/4/2009

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 6/2/2009.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE2009-0272-X

Petitioner/Developer: _____

Prism of Hunt Valley, LLC Damon's of Hunt Valley

Date of Hearing/Closing June 17, 2009

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

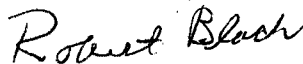
Attn: Kristin Matthews

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, _____
118 Shawan Road N/side of Shawan Road 1,383 feet n/east of the centerline of McCormic Road

The sign(s) were posted on _____ June 2, 2009
(Month, Day, Year)

Sincerely,


(Signature of Sign Poster)

June 3 2009
(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 # 2009-0272-X

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

Room 104, JEFFERSON BUILDING 21204
PLACE: 105 W. CHESAPEAKE AVE. Towson

DATE AND TIME: Wednesday, June 19, 2009 at 2:00 PM

REQUEST: SPECIAL EXCEPTION TO PERMIT AN ARCADE
PURSUANT TO SECTION 423-B AND SECTION 422-A OF THE
BCZR, IN COMBINATION WITH THE EXISTING USE AS A
RESTAURANT.

POSTPONEMENTS DUE TO WEATHER OR OTHER CIRCUMSTANCES ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 847-3192

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

**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:

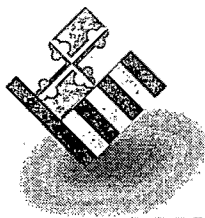
Item Number or Case Number: 2009-0272-X
Petitioner: PRISMM of Hunt Valley, LLC t/a Damon's of Hunt Valley
Address or Location: Hunt Valley Towne Center, Shawan Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: C. William Clark
Address: 502 Washington Ave., Ste. 700
Towson, MD 21204

Telephone Number: (410) 823-7800

Revised 2/20/98 - SCJ



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

May 28, 2009
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

NOTICE OF ZONING HEARING

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CASE NUMBER: 2009-0272-X

118 Shawan Road

N/side of Shawan Road, 1,382 feet n/east of the centerline of McCormick Road

8th Election District – 3rd Councilmanic District

Legal Owners: Hunt Valley Towne Center, LLC

Lessee: Prismm of Hunt Valley, LLC t/a Damon's of Hunt Valley

Special Exception to permit an arcade pursuant to section 423.B and section 422.A of the BCZR, in combination with the existing use as a restaurant.

Hearing: Wednesday, June 17, 2009 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: C. William Clark, Nolan, Plumhoff & Williams, 502 Washington Ave., Ste. 700, Towson 21204
Joseph Kurtz, Greenberg Commercial, 10096 Red Run Blvd, Ste. 100, Owings Mills 21117
Paul Rose, Prismm of Hunt Valley, LLC, 1107 Janice Court, Joppa 21085
Rick Richardson, 30 E. Padonia Road, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 2, 2009.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 2, 2009 Issue - Jeffersonian

Please forward billing to:

C. William Clark
502 Washington Avenue, Ste. 700
Towson, MD 21204

410-561-1502

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: 2009-0272-X

118 Shawan Road

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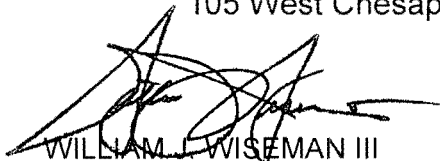
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Legal Owners: Hunt Valley Towne Center, LLC

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Special Exception to permit an arcade pursuant to section 423.B and section 422.A of the BCZR, in combination with the existing use as a restaurant.

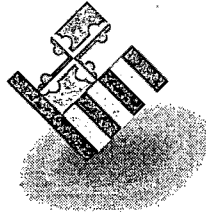
Hearing: Wednesday, June 17, 2009 at 2:00 p.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



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

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

C. William Clark
Nolan, Plumhoff & Williams, Ctd.
502 Washington Ave. Ste. 700
Towson, MD 21204

Dear: C. William Clark

RE: Case Number 2009-0272-X, 118 Shawan Road.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 13, 2009. 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.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Joseph Kurtz, Greenberg Commercial; 10096 Red Run Blvd.; Ste. 100; Owings Mill, MD 21117
Paul Rose; Prism Of Hunt Valley, LLC; 1107 Janice Ct.; Joppa, MD 21085
Rick Richardson; 30 E. Padonia Rd.; Timonium, MD 21093

BW 6/17
2pm

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

MAY 13 2009

ZONING COMMISSIONER

TO: Timothy M. Kotroco

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

DATE: May 13, 2009

SUBJECT: Zoning Item # 09-272-X
Address 118 Shawan Road
(Hunt Valley Towne Center, LLC)

Zoning Advisory Committee Meeting of April 20, 2009.

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

Reviewer: JWL

Date: 5/13/09

BW 6/17
2pm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: May 13, 2009

RECEIVED

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

MAY 15 2009

SUBJECT: 118 Shawan Road

ZONING COMMISSIONER

INFORMATION:

Item Number: 9-272

Petitioner: Hunt Valley Towne Center, LLC c/o Greenberg Commercial

Zoning: BM-CT

Requested Action: Special Exception

The petitioner requests a special exception to permit an arcade pursuant to Section 423.B and Section 422.A of the BCZR, in combination with the existing use as a restaurant.

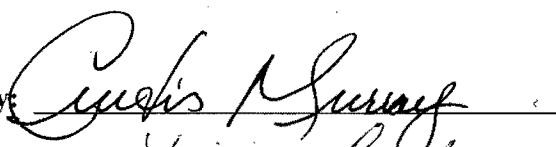
SUMMARY OF RECOMMENDATIONS:

The Office of Planning does not oppose the special exception to permit an arcade, provided that the arcade is in accordance with the current definition of an arcade in the BCZR, which is defined as a building or part of a building in which five or more pinball machines, video games or other similar player-operated amusement devices are maintained. Also that the restaurant adheres to the Hunt Valley/Timonium guidelines and that building elevations (if changes are to be made to the façade) are submitted to the Office of Planning for approval prior to application for building permit.

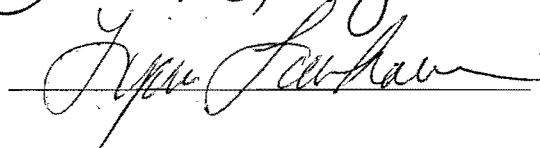
This area is already an established commercial corridor and town center. Therefore this Office believes that this request will not be detrimental to the health, safety, or general welfare of the surrounding community.

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

Prepared by:



Division Chief:
AFK/LL: CM



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For April 27, 2009
Item Nos. 2009-261, 265, 266, 267,
268 and 272

DATE: April 24, 2009

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

DAK:CEN:cab
cc: File
ZAC-04272009 -NO COMMENTS



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: APRIL 23, 2009

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

RE: Baltimore County
Item No 2009-0272
DAMON'S RESTAURANT
HUNT VALLEY TOWNE CENTER
118 SHAWAN ROAD
SPECIAL EXCEPTION

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2009-0272.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

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

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



RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
118 Shawan Road; N/S Shawan Road, 1,382' *
NE of c/line McCormick Road * ZONING COMMISSIONER
8th Election & 3rd Councilmanic Districts *
Legal Owner(s): Hunt Valley Towne Center * FOR
Contract Purchaser(s): Prismm of Hunt Valley *
Petitioner(s) * BALTIMORE COUNTY
* 09-272-X

* * * * *

ENTRY OF APPEARANCE

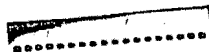
Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and documentation filed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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio

RECEIVED

MAY 10 2009



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 1st day of May, 2009, a copy of the foregoing Entry of Appearance was mailed to Richard Richadson, 30 E. Padonia Road, Timonium, MD 21093 and C. William Clark, Esquire, Nolan, Plumhoff & Williams, Chtd., 502 Washington Avenue, Suite 700, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

HUNT VALLEY TOWNE CENTER
DAMONS

CASE NUMBER 11

DATE 6/17/09

NAME _____

ADDRESS

CITY, STATE, ZIP

E-MAIL

[illegible]

Hunt Valley Town
CASE NAME Damon's Car. -
CASE NUMBER 2009-0272-4
DATE 6-17-09

[illegible]



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw6.3)

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

Account Identifier: District - 08 Account Number - 1800014925

Owner Information

Owner Name: HUNT VALLEY TOWNE CENTRE LLC **Use:** COMMERCIAL
Mailing Address: C/O GREENBERG COMMERCIAL **Principal Residence:** NO
 10096 RED RUN BLVD STE 100 **Deed Reference:** 1) /27629/ 149
 OWINGS MILLS MD 21117-4827 2)

Location & Structure Information

Premises Address **Legal Description**
 SHAWAN RD PT LT 1B 59.615 AC
 COCKEYSVILLE MD 21030 HUNT VALLEY MALL

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
42	9	31					1B	2	Plat Ref: 46/ 27

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000	489,143 SF	59.62 AC	14

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2008	07/01/2008	07/01/2009
Land	32,336,600	56,011,600		
Improvements:	46,541,000	48,515,800		
Total:	78,877,600	104,527,400	87,427,533	95,977,466
Preferential Land:	0	0	0	0

Transfer Information

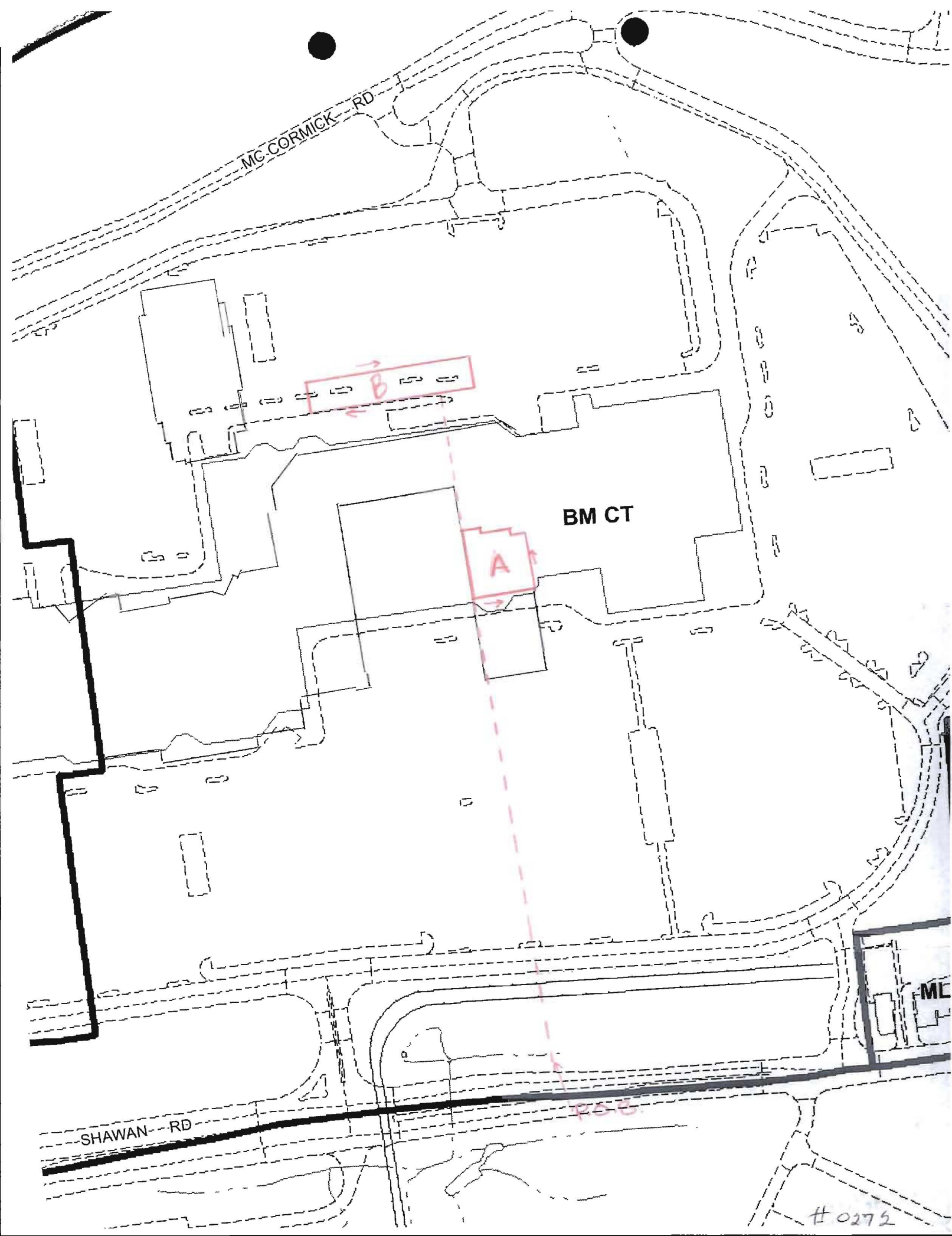
Seller: STARWOOD CERUZZI	Date: 08/27/2004	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: /27629/ 149	Deed2:
Seller: HUNTMAR ASSOCIATES	Date: 04/18/2000	Price: \$7,850,000
Type: NOT ARMS-LENGTH	Deed1: /14415/ 411	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2008	07/01/2009
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

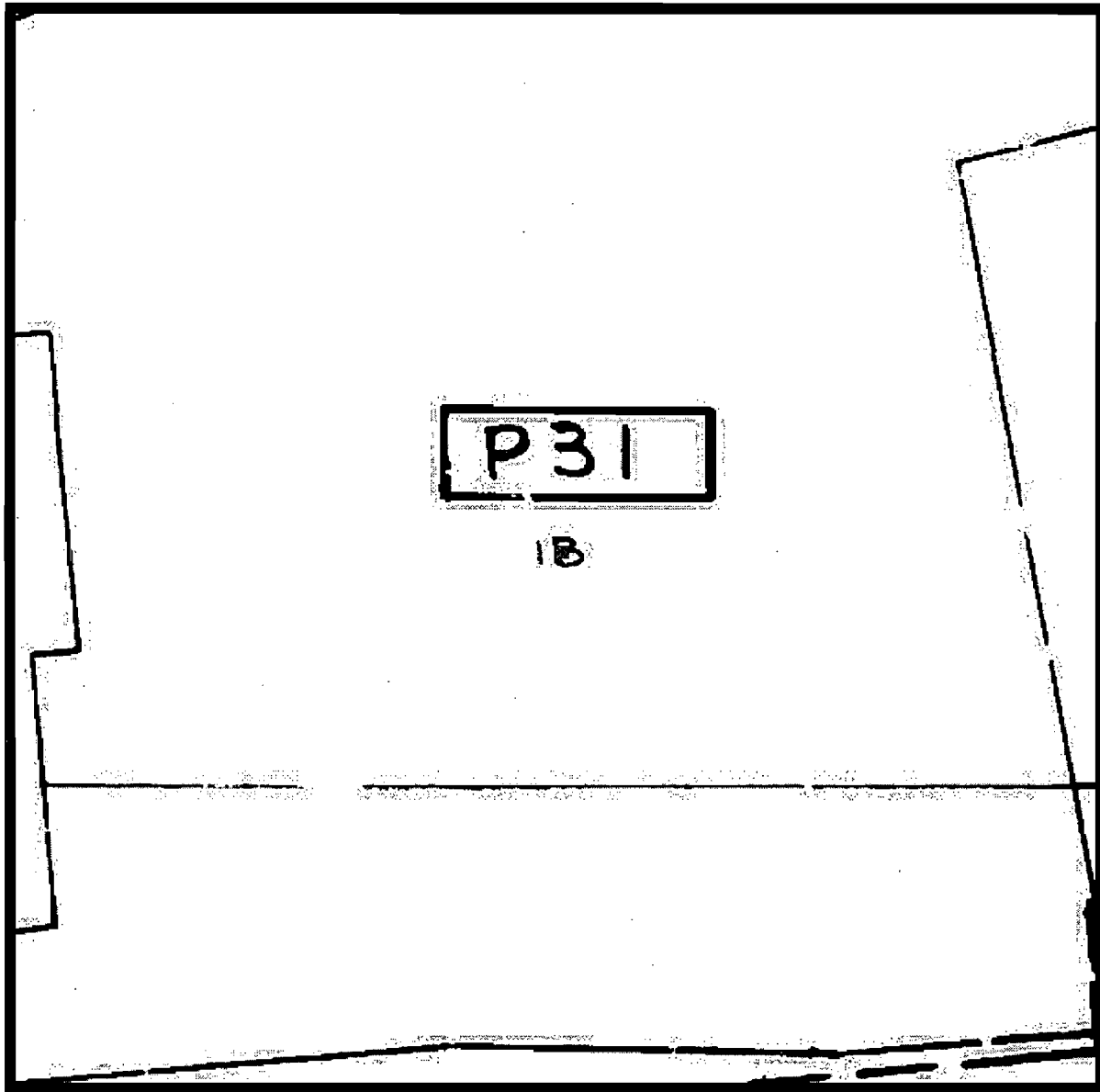




**Maryland Department of Assessments
and Taxation
BALTIMORE COUNTY
Real Property Data Search**

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[Search](#)

District - 08 Account Number - 1800014925



Property maps provided courtesy of the Maryland Department of Planning ©2008.
For more information on electronic mapping applications, visit the Maryland Department
of Planning web site at www.mdp.state.md.us/webcom/index.html

Case No.: 2009-0272-X Hunt Valley Towne Center

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2	Diamonds Floor Plan	
No. 3	photographs	
No. 4	422.1	
No. 5	423.1	
No. 6	Restaurant Definition	
No. 7	Game Types	
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



§ 421.7. Effect of animal grooming facilities on residential uses. [Bill No. 93-2006]

An animal grooming facility may not be noxious, offensive or otherwise objectionable to surrounding residential uses.

SECTION 422**Amusement Devices****[Bill Nos. 29-1982; 66-1983]****§ 422.1. Permitted zones; conditions.**

- A. Amusement devices are permitted as of right in the B.L., B.M. and B.R. Zones when used in combination with (1) a tavern; (2) a bowling alley; (3) a hotel or motel; (4) billiard or pool rooms; (5) skating rink; (6) airport; (7) boatyard/marina; (8) bus, train, boat terminal; (9) community building; (10) racetrack; (11) restaurant; (12) miniature golf; (13) truck stop; (14) swimming pool; (15) social, fraternal or veteran clubs; (16) indoor tennis and racquet clubs; (17) public bathing beaches; or (18) other uses which the Zoning Commissioner finds, after public hearing, to be entertainment, leisure or recreation oriented; and provided, however, that no more than four amusement devices shall be permitted unless a special exception for an arcade is obtained.
- B. One amusement device, or two such devices if the net floor area of the location's interior space actually devoted to the principal use exceeds 1,500 square feet, is permitted as a matter of right in the B.L., B.M., B.R and M.L. Zones when in combination with uses which are not entertainment, leisure or recreation oriented. The square footage required by this subsection need not be devoted exclusively to the amusement device or devices.
[Bill No. 96-2005]
- C. Amusement devices are permitted as of right in the Manufacturing, Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office and Office Zones when used in combination with, and accessory to, any entertainment, leisure or recreation oriented principal use provided for in Section 422.A, provided that:
1. The amusement devices are located on the same lot as the principal use.
 2. The amusement devices are located within a building which houses the principal use or which houses facilities that are incidental to the principal use.
 3. No more than four amusement devices are used in combination with the principal use.
 4. In the Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office, and Office Zones, the principal use is operated as a private club for the benefit of persons who are bona fide members paying dues for the principal use, and the use of the amusement devices is restricted to such members and their guests and is not available for use by the general public or to lessees of said private club.

PETITIONER' S**EXHIBIT NO.**4

SECTION 423

Arcades

[Bill Nos. 29-1982; 29-1983; 66-1983]

§ 423.1. Permitted zones; conditions.

- A. An arcade is permitted as of right in the B.L., B.M. and B.R. Zones when located in (1) a bowling alley; (2) a hotel or motel; or (3) billiard or pool rooms, or when located in an enclosed mall, provided that public access to the arcade (except for emergency use) may only be via the enclosed concourse. Any number of amusement devices is permitted in an arcade, except that in a billiard or pool room, a maximum of 2 1/2 amusement devices is permitted for each regulation-size billiard or pool table in the room unless a special exception is obtained for a greater number of amusement devices. (As used herein, a "regulation-size billiard or pool table" is a table which requires for its use a minimum floor area of 192 square feet.)
- B. An arcade is permitted by special exception in the B.L., B.M. and B.R. Zones as the sole principal use or in combination with one or more of the entertainment, leisure or recreation oriented uses provided for in Section 422.A.
- C. An arcade is permitted by special exception in the Manufacturing, Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office and Office Zones when used in combination with, and accessory to, any entertainment, leisure or recreation oriented principal use provided for in Section 422.A, provided that:
1. The arcade is located on the same lot as the principal use.
 2. The arcade is located within a building which houses the principal use or which houses facilities that are incidental to the principal use or, notwithstanding the definition of the term "arcade," the arcade is located under an unenclosed permanent roofed structure which is attached to such a building.
 3. The arcade is clearly subordinate in area, extent and purpose to the principal use.
 4. The Zoning Commissioner specifies the maximum number of amusement devices to be maintained in the arcade.
 5. In the Resource Conservation, Density Residential, Elevator-Apartment Residence, Residential-Office and Office Zones, the principal use is operated as a private club for the benefit of persons who are bona fide members paying dues for the principal use and the use of the arcade is restricted to such members and their guests and is not open to the general public or to lessees of said private club.

PETITIONER'SEXHIBIT NO. 5

from a walk-up window on the outside of the building or within a vestibule. Orders are primarily consumed off the premises, but restaurants may provide seating at tables outside the building on the premises. [Bill No. 110-1993]

RESTAURANT, STANDARD — A facility or part of a facility used primarily for serving meals and beverages to persons seated at tables on the premises of the establishment. The term includes cafes, cafeterias, tearooms and outdoor cafes. The term does not include a catering hall. A standard restaurant may offer a carry-out service, provided that such service is accessory to the principal restaurant operations. A standard restaurant may include a Class 6 brewery as an accessory use. [Bill Nos. 110-1993; 185-1995]

RESTRICTED PARKING SPACE — A parking space in any parking facility which is designated by the owner or operator of the parking facility as being reserved or restricted for the exclusive use of any person or class of persons at all times or during any designated time periods and is clearly identified by a sign, located on an immediately adjacent wall or post, or by painting on the immediately adjacent wall or on the pavement within the parking space. [Bill No. 26-1988]

RIDESHARING — A form of transportation wherein shared rides are prearranged for people traveling at similar times from approximately the same origin to approximately the same destination. This term includes carpools, vanpools or similar arrangements where more than one person occupies a vehicle for the length of a trip. [Bill No. 26-1988]

RIDING STABLE — A building where riding horses are boarded or kept for hire.³¹

RUBBLE — Building demolition debris, tree stumps and other land clearing debris, solidified road paving debris and other similar wastes authorized by the approving authority. Rubble does not include garbage, friable asbestos, refractory brick, liquid petroleum products, hazardous materials (as defined in § 7-101 of the Environment Article of the Annotated Code of Maryland) or free liquid. [Bill Nos. 97-1987; 137-2004]

RUBBLE LANDFILL — Rubble landfill means a system of rubble disposal or land reclamation for public or private use for which a permit has been issued if required. [Bill No. 97-1987]

RURAL CLUSTER DEVELOPMENT — A form of residential subdivision for use in an R.C.4 Zone in which the permitted density for an entire tract is located only on a designated portion of the tract in order to preserve significant natural, scenic or historic features. [Bill No. 113-1992]

SANITARY LANDFILL — A planned and systematic method of disposal for garbage and other wastes whereby such waste material is placed so that it is thoroughly compacted and covered at the end of each day's operation with such depth and consisting of such types of materials as are acceptable to the Baltimore County Departments of

31. Editor's Note: The former definition of "rooming house" which followed this definition was repealed by Bill No. 124-1993.

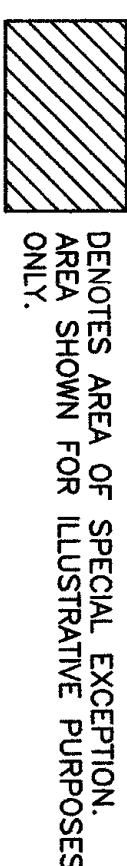
Rek about zoning

DATE: _____

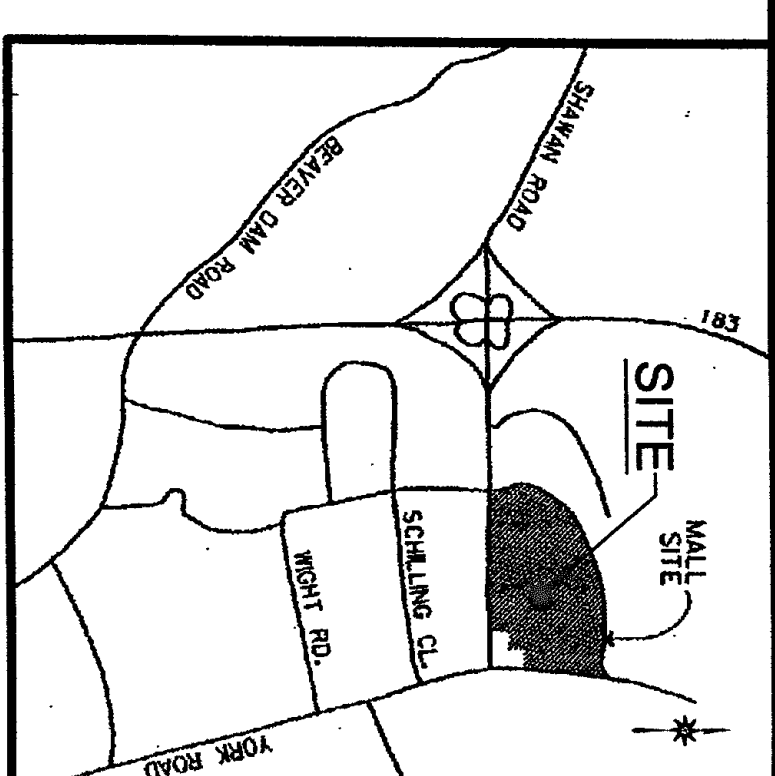
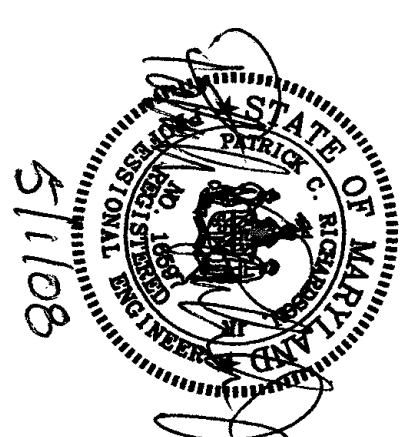
DAMON'S TOWSON	NAME OF GAME	SERIAL NOS.
	MEGATOUCH FORCE 2K7	1-CR7-015-35
	FOOSBALL	P-V4-010-62
	BUCK HUNTER.	V-CR5-002-49
	MIGHTY MINI CRANE	R-CQ2-001-79
	ZING KING	
	MS PAC MAN/GALAGA	U-CF5-002-12
	DAYTONA USA	V-BT8-014-23
	SILVER STRIKE	V-CP2-002-67
	STACKER	R-CQ3-001-45
	CRUSIN	V-BV0-001-16
	ALIENS-	V-CR9-001-80
	TERMINATOR 3	F-CNO-001-24

PETITIONER'S

EXHIBIT NO. 7



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



GENERAL NOTES:

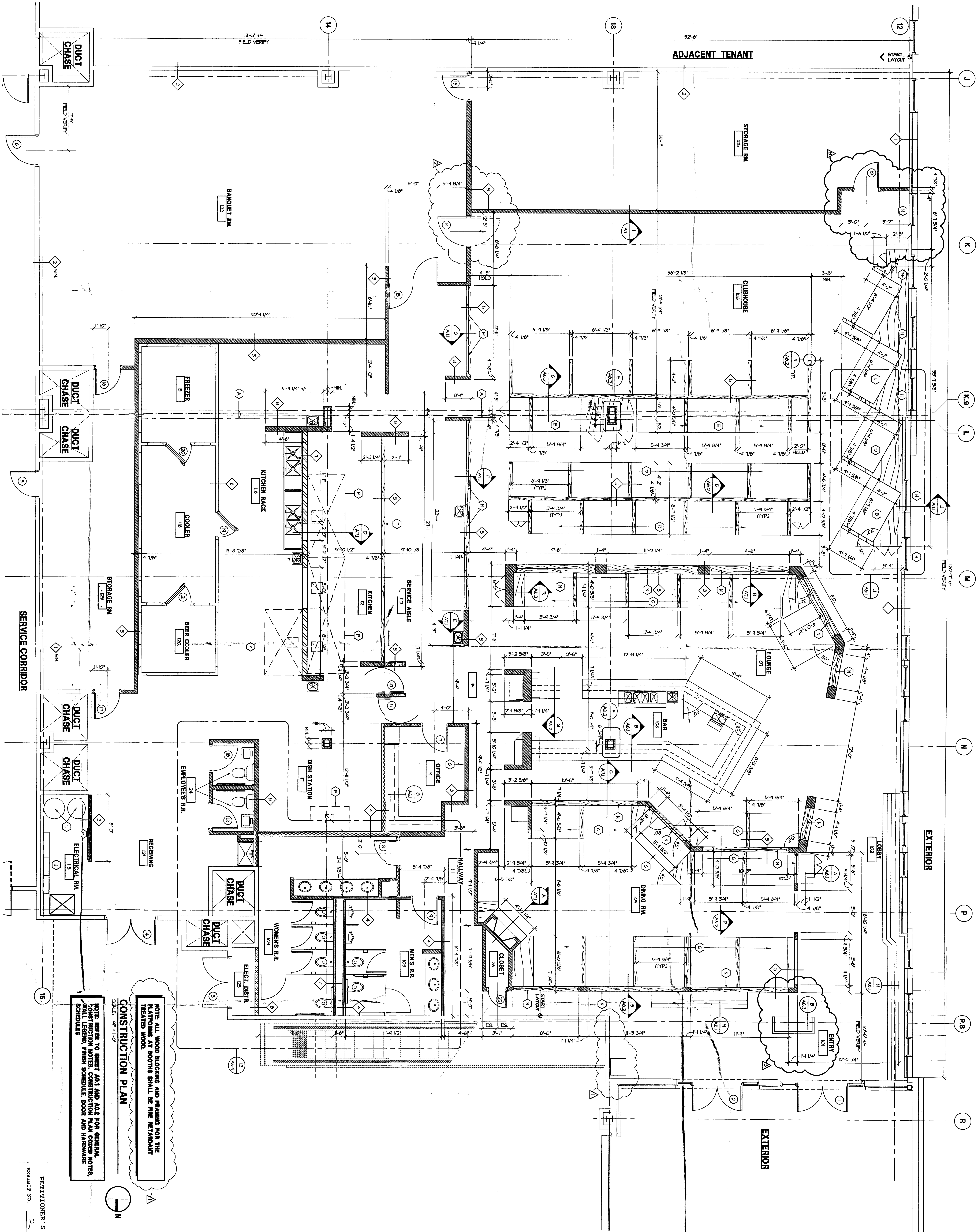
- [illegible]

Richardson Engineering, LLC

PLAN TO ACCOMPANY
SPECIAL EXCEPTION FOR

DAMON'S RESTAURANT
HUNT VALLEY TOWNE CENTER
SHAWAN ROAD

8TH ELECTION DISTRICT		BALTIMORE COUNTY, MARYLAND	
PETITIONER'S		SCALE:	
EXHIBIT NO. <u>1</u>	DATE: 05-01-08	DRAWN BY: CND	JOB NO.: 08032
		DESIGNED BY: PCR	SHEET NO.: 1 OF 1
			1" = 100'



PETITIONER'S
EXHIBIT NO. 2

A1.1

DAMON'S RESTAURANT

HUNT VALLEY TOWNE CENTRE
118 SHAWAN ROAD, SUITE NO. JJ
COCKEYSVILLE HUNT VALLEY, MD 21030

DAMON'S
INTERNATIONAL INC.
430 E. ALTON ROAD
SUITE 200
COCKEYSVILLE, MD 21030
PHONE: (410) 426-4000
FAX: (410) 426-4003
E-MAIL: info@damons.com
WEBSITE: www.damons.com

ARCHITECT OF RECORD:
JAMES E. HARRIS
430 E. ALTON ROAD
SUITE 200
COCKEYSVILLE, MD 21030
PHONE: (410) 426-4000
FAX: (410) 426-4003
E-MAIL: info@jeharris.com
WEBSITE: www.jeharris.com

ENGINEERING SUPPORT SERVICES:
JAMES E. HARRIS
430 E. ALTON ROAD
SUITE 200
COCKEYSVILLE, MD 21030
PHONE: (410) 426-4000
FAX: (410) 426-4003
E-MAIL: info@jeharris.com
WEBSITE: www.jeharris.com