

2/a/11

IN THE MATTER OF
BEAR CREEK PROPERTIES, L.L.C.

Legal Owner/Petitioner

601 Wise Avenue
Baltimore, MD 21222
SW Corner of Wise
15th Election District
7th Council District

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
*
* Case No. CBA-10-158-SPHA
*

RE: Petition for Parking Variance

* * * * *

OPINION

This case comes to the Board on appeal of the final decision of the Zoning Commissioner of Baltimore County in which the Zoning Commissioner granted a Petition for Variance seeking relief from Section 409.6 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to allow 60 parking spaces in lieu of the required 88 spaces. A public hearing was held before this Board on October 27, 2010. The Petitioner, Bear Creek Properties, L.L.C. (the “Petitioner”) was represented by Arnold E. Jablon, Esquire and Venable, L.L.P. The Protestants, Willard McJilton, William Lambdin, George McClelland, Mike Pennington, Anne Tempera, and Marlene Cox were *pro se*. A public deliberation before this Board was held on January 6, 2011.

At the time of the public hearing, Board Member Lawrence Stahl served as Chairman of the Board Panel. After the hearing but before the public deliberation, Chairman Stahl was appointed to another position in Baltimore County government and resigned from the Board. The Parties agreed to have the remaining Board Members who also heard the case decide the matter.

Factual Background

The Petitioner is the legal owner of the property located at 601 Wise Avenue, Baltimore, MD 21222 located in Eastern Baltimore County (the “Property”). The Property is zoned

commercially as “BL” and sits on the south side of Wise Avenue. The Property is surrounded on two (2) sides by Bear Creek and is approximately 0.83 acres +/- (36,360 sq. ft.). It is improved with a restaurant and has historically been used as either a restaurant or bar.

The zoning maps and aerial photographs which were admitted into evidence confirm that the Property has had a commercial use since 1955. (Pet. Ex. 8, 9, 10A, 10B, 10C and 11). The restaurant/bar is a use permitted as of right and not by special exception in the BL zone. To the East of the Property along Wise Avenue toward North Point Blvd are properties zoned commercial and which have commercial uses. (Pet. Ex. 1). To the East of the Property along Bear Creek are residential properties zoned D.R. 5 (Pet. Ex. 1). To the North of the Property is a draw bridge that crosses into Wise Avenue and hangs over the parking lot for the Property.

Within the Property’s boundary lines, there is a beach area to the west side of the restaurant, adjacent to Bear Creek. In its original Petition for Variance, the Petitioner included this beach area in its parking calculations because it had been used for dining and/or as an area for bar customers. However, the Petitioner has since removed all tables and chairs to eliminate all food and drink being served on the beach.

In or about 2000, the Petitioner added a bulk head along Bear Creek when it became clear that the Property was in danger of sliding into Bear Creek. Also installed at that time was a floating pier with 16 boat slips for customers who come to the restaurant by boat. In addition to the floating pier, there are 9 pier slips for boat customers to use.

The restaurant is 3490 sq. ft; the bar area is 450 sq. ft; and the wooden deck is 1400 sq. ft. Based on these measurements, BCZR §409.6 requires that the bar area have 9 parking spaces; the restaurant area have 55.8 parking spaces; and the deck area have 22.4 parking spaces. The total number of spaces required is 88 spaces (87.2 spaces exactly).

David Billingsley, President of Central Drafting and Design, Inc., was accepted by the Board (without objection from the Protestants), as an expert in site plans as well as in the application of the BCZR to site plans. In this case, Mr. Billingsley prepared the Site Plan (Pet. Ex. 1) which proposes 60 parking spaces as follows: 51 spaces can be provided on site and 9 additional spaces can be provided at 692 Wise Avenue (another property owned by Steven Goff who is a member of the Petitioner). Of the 51 spaces located on site, 19 spaces are fixed along Wise Avenue, 16 spaces are fixed along the restaurant and the remaining 16 spaces would be provided by valet service. According to Mr. Billingsley, valet parking satisfies BCZR, §409.6.

Mr. Billingsley testified that the Petitioner has made substantial renovations to the interior of the restaurant which included a reduction of the bar area and expansion of the restaurant area. However, the total square footage of the building has not changed. The Petitioner removed the circular bar inside as well as the dance floor and band area. Goff also testified on the issue of the renovations made to the building and explained that they were necessary to change the nature of the Property from a bar to a restaurant. Mr. Goff acknowledged that the past reputation of the bar was a continuous problem for the neighborhood. Previously, the bar became a nightclub and was popular location for a younger crowd. The crowd often parked their vehicles along Waterview Road in the residential neighborhood. However, the new restaurant will not have any live bands. It is now traditional table dining with only 12 to 15 bar stools. As a result of the renovations to the Property and change from a bar to restaurant, Mr. Billingsley provided his opinion that if the request for variance was granted, there will be no adverse impact on the neighborhood. Indeed, he suggested that the renovations will be better for the neighborhood.

As to the “uniqueness” of the Property, Mr. Billingsley testified that it is unique because it is a commercial property which is bound on two (2) sides by water, along with a bulk head

which was added by the Petitioner to prevent the restaurant from sliding into Bear Creek. The location of the Property on Bear Creek subjects it to the Chesapeake Bay Critical Area regulations which limits building or disturbance of land. The Property is unique as to its shape being neither a true rectangle or true triangle but rather an odd shape.

Mr. Billingsley noted that there is a property across Wise Avenue that should be comparable to this Property. That other property is zoned BL. However, because it has a residential use, it is not actually comparable. This fact adds to the uniqueness of the subject property. While there are other commercial properties in the area on the water, he testified that this is the only property with water on 2 sides. This is the only site in a BL zone on the south side of Wise Avenue.

Because it is a water front restaurant, he explained that many of its patrons come to the Property by boat. There are 25 boat slips available. Therefore, many patrons will not use the parking lot. This restaurant has seasonal use and the deck is not open unless the weather is warm outside. On the north side of the property where the parking spaces are located, the draw bridge which extends from Merritt Blvd. to Wise Avenue, hangs overtop of the Property. In Mr. Billingsley's opinion, this fact also makes the Property unique.

The Petitioner, through photographs, presented evidence that the restaurant does not support the need for the required 88 parking spaces. (Pet. Ex. 13A – G; 14A-H; 15A –H; 16A-I). These photographs were taken on June 25, 2010, July 3, 2010, October 25, 2010 and September 19, 2010 respectively. The Petitioner added that because the parking lot is never full even during its busiest months, no cars have actually used the valet service.

Other factors which add to the uniqueness are the size of the lot which is less than 1 acre and the topography of the land which slopes from the parking lot toward the water's edge. This later fact makes the bulk head even more important for the stability of this Property.

As to practical difficulty, Mr. Billingsley emphasized that since the Property has historically operated as a restaurant/bar since 1981 and has had a commercial use since 1955, if the parking variance is not granted, the business will close. As a result, the BCZR disproportionately impacts the longevity of this business because there are no other viable alternatives available to the Petitioner. Mr. Billingsley opined that only 5 residences at most could be developed on the site. However, given the proximity of the draw bridge to the Property, it is not a desirable location for a residence and therefore, is not feasible.

In reviewing other possible options for uses in a BL zone, Mr. Billingsley stated that any other commercial use will have the same parking issue and will require a variance. Because parking is based on the type of use, he added that another type of commercial use may require even more parking.

On cross examination, Mr. Billingsley stated that he did not believe that the area underneath the deck should be included in calculating the area for the required number of parking spaces. Of the 1,400 sq. ft. assigned to the deck, 300 sq. ft. was attributed to the bar area. He confirmed that the steps inside the building on first floor need not be included in the calculations. On redirect, he explained that the addition could not be removed in order to create more parking spaces because the Property is subject to the Chesapeake Bay Critical Area regulations which prevents disturbance of the Property.

Mr. Goff testified that he is a member of the Petitioner. To prevent patrons from parking in the neighborhood, he placed a "No Parking" sign near the entrance to the Property. Since March of 2010, the Property has operated as a family restaurant. They have eliminated all live bands and the bar area is similar to a lounge where people wait to be seated for dinner. The interior renovations cost more than \$100,000.00. When he purchased the Property in 1998, the addition was already present. He confirmed that the parking lot has never been full. Since the

opening of this new restaurant in March of 2010, there have been no complaints filed with the police department.

Mr. Goff indicated that the restaurant has 15 to 20 employees and they park at 692 Wise Avenue. Without a parking variance in this case, Mr. Goff confirmed that there are no viable alternatives for the site and the business will have to close.

In opposition to the request for parking were Protestants William Lambdin and Willard McJilton. Mr. Lambdin, a former employee of Baltimore County Public Works who now works for Maryland Capital Planning, submitted aerial photographs from 1953, 1972 and 1992 to show that a parking lot was once located in the area of the addition and the beach. They also submitted an overlay of the Petitioner's site plan superimposing where parking could be made available. The Protestants testified that the hardship was self inflicted by either the Petitioner or by the Petitioner's predecessors in title because the addition and beach area removed the available parking spaces.

Mr. Lambdin was greatly concerned with parking that will occur on Waterview Road in the future. Waterview Road is only 17 to 20 feet wide. There are no sidewalks. With parking from the restaurant on the sides of Waterview, there is no room for emergency vehicles to pass. The Protestants also focused much of their testimony on past problems associated with the nightclub.

Off Street Parking Regulations – BCZR

The BCZR, §409.6 requires the following off-street parking for a restaurant and bar facility

Fast-food and standard restaurants: general rule	16 per 1,000 square feet of gross floor area with at least 10 spaces required in all cases, except that no parking spaces are required for restaurants in the C.T. District of Towson or for buildings contributing
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	to the historic character of an area, if such buildings have been designated on the National Register of Historic Places and are located within a C.T. or B.L.-C.C.C. District and if such buildings will be adapted for reuse for a restaurant. [Bill No. 110-1993; 3-2003]
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Nightclub, tavern, striptease business, catering hall or drive-in restaurant	20 per 1,000 square feet of gross floor area with at least 10 spaces required in all cases, except no spaces required for nightclubs or taverns in the C.T. District of Towson or for buildings contributing to the historic character of an area, if such buildings have been designated on The National Register of Historic Places and are located within a C.T. or B.L.-C.C.C. District and if such buildings will be adapted for reuse for a nightclub, tavern or striptease business.
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Law on Variances

In order for a parking variance to be granted, this Board must be convinced that the Petitioner has met its burden of proof as to both “uniqueness” and “hardship”. Section 307.1 of the BCZR states, in pertinent part, as follows:

“...(T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area...regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare....”

This Board is guided by the holding provided by the Court of Special Appeals in *Cromwell v. Ward*, 102 Md. App. 691, 698 (1995), wherein the Court writes:

...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...."

In requiring a finding of "uniqueness", the Court of Special Appeals in *Cromwell* referred to the definition of "uniqueness" provided in *North v. St. Mary's County*, 99 Md. App. 502, 514 (1993):

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects in bearing or parting walls....

Id. at 710.

If the Property is determined to be "unique," then the issue is whether practical difficulties also exist. Toward this end, the Board acknowledges that a variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973).

However, the law is clear that self-inflicted hardship cannot form the basis for a claim of practical difficulty. Speaking for the Court in *Cromwell*, *supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that

practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Id., at 722.

Decision

After reviewing all of the testimony and evidence presented, the Board has determined that the Petitioner has met its burden of proving that the Property is unique and that the Petitioner will suffer practical difficulty and unreasonable hardship if the variance is not granted.

As to uniqueness, the Board finds that this Property has inherent characteristics which are not shared by other properties in the neighborhood. These features include: the location of the site; its odd shape; the topography of the site sloping from the parking lot to the water which encouraged the installation of a bulkhead; the location of the water on 2 sides of the Property as opposed to other commercial properties which are bound by the water on only 1 side; the location of the draw bridge hanging over some of the parking spaces along Wise Avenue; as well the fact the use of this Property is a seasonal restaurant which caters to boaters who dock their boats along the floating pier and along the west side of the restaurant. Thus, this Property's access to navigable waters and its historic use as a restaurant or bar for 50 years makes it dependent upon boat traffic more than motor vehicle traffic for its business. These facts add to the uniqueness of the Property under *Cromwell, supra*.

The Board further finds significant that there are no other commercial properties like this one along the south side of Wise Avenue and for that matter, no other properties in the neighborhood which are comparable to this one. The one BL property on the other side of Wise Avenue which should be similar, is used for residential purposes. *Id.* The *Google Map* submitted by the Protestants (Prot. Ex. 6) gives a snapshot of the Property located on a point, with a draw bridge to the north, residences to the east and water to the south and west.

Contrary to the Protestants' suggestion, the Board does not find that the Petitioner's case was based solely on the size and configuration of the building. Without repeating the same factors set forth above here, the evidence presented addressed the uniqueness of the site location, its topographic conditions and access to navigable waters. The testimony about the interior renovations to the building went to the parking calculations and to rebut Protestants' arguments about the restaurant's history of disrupting the neighborhood. As a result, *North v. St. Mary's County, supra*, is not dispositive here.

As to the issue of practical difficulty, the Board finds, based on the evidence presented, that strict compliance with the 88 parking space requirement in BCZR §409.6 would result in both practical difficulty and unreasonable hardship because this Property has always had a commercial use as a restaurant and, given the factors above which make it unique, there are no other viable uses for the Property. There was no evidence presented by the Protestants by way of expert testimony as to any feasibility study or other evidence which would suggest another viable use for the Property.

The Protestants did testify that the request for variance was a self imposed hardship because either the Petitioner or the Petitioner's predecessors in title added onto the building without proper permits and filled in areas on site which had been used for parking cars. Their argument was that the Petitioners imposed this hardship of lack of parking on themselves by their actions and therefore, the law should not now provide them a way around the parking requirements.

To support their position, the Protestants created an overlay to show that if the addition and deck areas were removed, 29 additional parking spaces would be available to the Petitioner. The overlay shows that a total of 64 spaces could be provided on site. The Board finds several problems on this point. First, the overlay was created by the Protestants (Prot. Ex. 5), not by a

professional land surveyor nor was it drawn to scale. The Board can neither verify the measurements of the widths or lengths of the parking spaces nor the property boundary measurements which are referenced on the overlay. Therefore, this piece of evidence was not given significant weight.

Second, the Property is subject to the Chesapeake Bay Critical Area requirements which would prohibit the disturbance of the land to create parking spaces between the building and the water. In addition, there was no evidence presented by the Protestants that the weight of additional vehicles in the proposed parking spaces between the building and the water, would not negatively impact the bulkhead or the already sloping topography. Because of the environmental factors, the Board has a concern about the stability of land with the weight of vehicles in the areas suggested by the Protestants.

Finally, if it were accepted that 64 spaces could be found on site as the Protestants suggest on their overlay (Prot. Ex. 5), they are still short 24 spaces and a variance would still be required.

The testimony of Mr. Goff was that the Petitioner purchased the Property in 1998. In or around 2000, the Petitioner obtained building permits to rebuild the bulkhead and to construct the floating pier. The addition was built prior to the purchase by the Petitioner. The aerial photo (Pet. Ex. 10C) from 1952-53 shows the site with the existing building, the addition and deck superimposed on the photo. There was no sufficient evidence presented by the Protestants, other than speculation, as to when the addition was built.

BCZR §409.6 disproportionately impacts this Property over other commercial sites in the area. Because of the unique features of the Property, the evidence supports the Petitioner's request for 60 parking spaces in lieu of the required 88 spaces, subject to the following conditions which the testimony articulated were already being followed by the Petitioner:

1. Petitioner/owner may apply for any required building permits and be granted same upon receipt of this Order; however, Bear Creek Properties, LLC 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. All outdoor lighting shall be directed towards the interior of the subject site and away from adjacent properties. The outside beach area as designated on the site plan shall not be used for tables, lounge chairs, serving of food or alcoholic beverages.

3. There shall be no bands, dancing or other live entertainment permitted. All recorded music in the deck area of the restaurant shall terminate at 11:00 PM Monday through Friday, and at 12:00 AM Saturdays and Sundays.

4. Petitioner shall employ an attendant to park customer vehicles and attend to the valet parking areas as required by B.C.Z.R. Section 409.4.B.1.

5. Petitioner shall post no parking signs at the entrance to the residential community and encourage patrons, employees and subcontractors not to park on Waterview Road.

6. The variance relief granted herein is personal to Bear Creek Properties, LLC and its current managing members, Steven R. Goff and Randy R. Holofcener. In the event of the sale, lease or transfer of the business, the new owner/operator shall petition for special hearing relief to amend this restriction and the parking approval granted.

7. The legal owner, its successors and assigns shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management reasonable access to the property and restaurant/tavern to insure compliance with this Order.

ORDER

THEREFORE, IT IS THIS 9th day of February, 2011, by the
County Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from §409.6 of the Baltimore County Zoning Regulations for 60 parking spaces in lieu of the required 88 spaces be, and the same is hereby **GRANTED**; subject to the following conditions:

1. Petitioner/owner may apply for any required building permits and be granted same upon receipt of this Order; however, Bear Creek Properties, LLC 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. All outdoor lighting shall be directed towards the interior of the subject site and away from adjacent properties. The outside beach area as designated on the site plan shall not be used for tables, lounge chairs, serving of food or alcoholic beverages.

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5. Petitioner shall post no parking signs at the entrance to the residential community and encourage patrons, employees and subcontractors not to park on Waterview Road.

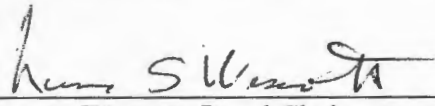
6. The variance relief granted herein is personal to Bear Creek Properties, LLC and its current managing members, Steven R. Goff and Randy R. Holofcener. In the event of the sale,

lease or transfer of the business, the new owner/operator shall petition for special hearing relief to amend this restriction and the parking approval granted.

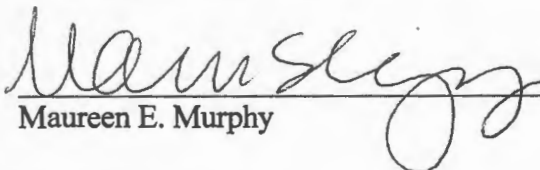
7. The legal owner, its successors and assigns shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management reasonable access to the property and restaurant/tavern to insure compliance with this Order.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence Wescott, Panel Chairman



Maureen E. Murphy



County Board of Appeals of Baltimore County

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February 9, 2011

David Karceski, Esquire
Venable, LLP
210 W. Pennsylvania Ave, Ste 500
Towson, MD 21204

Willard McJilton
23 Waterview Road
Baltimore, MD 21222

RE: *In the Matter of: Bear Creek Properties, LLC – Legal Owner/Petitioner*
Case No.: 10-158-SPHA

Dear Mr. Karceski and Mr. McJilton:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c:	Bear Creek Properties, LLC/Steven Goff, Member	Wise Services, Inc./Robert O'Connor, Jr., President
	William Lambdin	Mike Pennington
	George McClelland	David Billingsley/Central Drafting & Design, Inc
	Ann Tempera	Rod Barrett
	Marlene Cox	Frank Taggart and Barbara Crannell
	Eva Poliszczik	Renee and Chad Hoover
	Tammy Preston	Len Burnham
	Steve Barr	Doris Graeme
	Francis Hurd	Michael Mohler, Administrator/Board of Liquor License Commissioners
	Jim Poynter	Office of People's Counsel
	William Pribyl	Arnold Jablon, Director/PAI
	Bonnie Simons	Nancy West, Assistant County Attorney
	Clarence Raynor, Code Enforcement Inspector	
	Lawrence M. Stahl, Managing Administrative Judge	
	Jeff Mayhew, Acting Director/Office of Planning	
	Michael Field, County Attorney, Office of Law	

2/2/10

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DEC - 2 2010

BALTIMORE COUNTY
BOARD OF APPEALS

IN MATTER OF:

Bear Creek Properties, LLC
Legal Owner
601 Wise Ave, SW corner of Wise

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

7th Councilmanic District
15th Election District

* Case No.: 10-158 A
*

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PETITIONERS' POST-HEARING MEMORANDUM

Petitioner Bear Creek Properties, LLC, by Arnold Jablon with Venable, LLP, its attorney, hereby submits this Hearing Memorandum for consideration by the County Board of Appeals.

INTRODUCTION

In the *de novo* hearing before the Board of Appeals, as described below, Petitioner presented strong and substantial evidence for the Board of Appeals to conclude that sufficient evidence exists to approve a variances of 60 parking spaces in lieu of the required 88 spaces, pursuant to §409.6, of the Baltimore County Zoning Regulations (BCZR).

FACTUAL BACKGROUND

Pogo once said that he met the enemy, and the enemy was "us". The facts are not complicated. We have complicated them.

The subject property is located on the south side of Wise Ave, surrounded on two sides by water (Bear Creed) and is opposite at the nexus with the Wise Ave Bridge. The property is zoned BL and is improved with a restaurant and is approximately 0.83 acres+/- . See site plan, **Petitioner's Exhibit 2**. The subject property has been zoned commercial for over 50 years, as shown by the various zoning maps introduced into evidence. **Petitioner's Exhibits 4, 5 and 6**. Evidence shows that the site has been used

historically as a restaurant and bar. **Petitioner's Exhibit 12.** Aerial photographs from the early 1950's to the present confirm the commercial use of this property. See **Petitioner's Exhibits 7, 8, and 9.** Coming east, across the Bridge, toward North Point Blvd, properties contiguous to Wise Ave are all zoned commercial and used commercially. While there is a single family dwelling across Wise Ave, directly opposite and northeast of the subject property, this property is also zoned BL. South of Wise Ave is Waterview Road, which runs somewhat parallel to Wise. Between Waterview and Wise, the properties are zoned BL. To the south of Waterview, closest to Bear Creek, the properties are zoned DR 5.5, as more particularly shown on the site plan, **Petitioner's Exhibit 2.**

Originally, petitions for variance and special hearing were filed with the Zoning Commissioner by Bear Creek Properties, LLC, the owner of the property, and its then tenant, 3 B's, Inc.. They requested a variance to provide 53 parking spaces in lieu of 178, and requested a determination that the provision of live music in the restaurant/tavern did not constitute a nightclub. Subsequent to the filing of the petitions, after the hearing had begun but before the hearing was completed, Bear Creek and 3 B's terminated the lease agreement and 3 B's vacated the restaurant. Bear Creek thereupon dismissed the petition for special hearing and reduced the request for a parking variance to 60 parking spaces in lieu of the required 88. The Zoning Commissioner thereafter granted the variance, with conditions. See **Findings of Fact and Conclusions of Law, dated 30 March 2010.**

The site plan, **Petitioner's Exhibit 2**, presented by Bear Creek, shows a beach area on the western side of the existing building, adjacent to Bear Creek and existing boat slips and pier. This beach area, as shown on **Petitioner's Exhibit 2**, was originally included in the calculations to determine the number of parking spaces required and was included in the original request for a variance to the Zoning Commissioner. However, the beach area was excluded from the calculations during the course of the hearing before the Zoning Commissioner, which as a result reduced the number of spaces required and requested. The beach area has not been used for tables, lounge chairs, serving of food or alcoholic beverages, and is not included within the overall calculations presented to the

Board, as indicated in **Petitioner's Exhibit 2**, the site plan. The beach area is not used for restaurant use and its area is not included within the calculations to determine the requisite parking. The building on the site, which evidence and testimony confirm has been on the site since the 1950's, has been used commercially. The property has never been used for residential purposes.

Further, the testimony presented indicates the original building was expanded during the 1990's, prior to the Petitioner buying the property. Based on the calculations by David Billingsley (hereinafter referred to as "Billingsley"), the expert land planner presented by the Petitioner, the original building was approximately 2920 square feet. The building when expanded was increased to approximately 3940 square feet, by approximately 35%. **Petitioner's Exhibit 11**. The Protestants testified that the expansion of the building was done without permits, although they admitted and agreed not by the Petitioner. While there is no evidence presented that the site has ever been cited for expanding without permits (indeed, testimony and evidence shows that liquor licenses have been issued, the most recent in June of 2010 [**Petitioner's Exhibit 20**], all of which are reviewed and approved by the zoning office). There is also an open deck area located on west side of the building, of approximately 1400 square feet. Pursuant to the requirements of section 409.6, of the Baltimore County Zoning Regulations, 88 parking spaces are required. See **Petitioner's Exhibit 2**. Due to the configuration of the site and building, the natural boundaries of Bear Creek, and historical size limitation of the site (from the exhibits, it is clear that its size has never changed), Petitioner can provide a maximum of 51 parking spaces on site. The Petitioner provides nine (9) additional parking spaces off site, pursuant to a lease agreement with a property owner across Wise Ave. The Petitioner's request for variance is to provide 60 in lieu of the required 88 parking spaces.

As more particularly shown on the site plan, **Petitioner's Exhibit 2**, the property is bounded by Bear Creek on two sides, with a bulkhead, boat slips and floating pier. The Petitioner purchased the property in or about 1998. **T. p. 138, lines 9-10**. Due to the failing and deteriorating condition of the then existing bulkhead and to prevent the land

from sliding into Bear Creek, the Petitioner had it strengthened and rebuilt in about 2000. **T. p. 160, lines 16-21; p. 161, lines 1-3.** The Petitioner also in about 2000 constructed the floating pier. **T. p. 160, lines 8-13.** The Protestants later testified the bulkhead and piers were constructed with permits by the Petitioner. See their exhibits, **Protestants' Exhibit 8**, which shows such permits were approved by the zoning office.

Slips for 25 boats are provided by the piers. See **Petitioner's Exhibit 2.**

Steven Goff, a member of the Petitioner, testified at length about the operation of the business. He testified that he made no changes to the building, other than internal, since he purchased it. **T. p. 145, lines 4-6.** He is operating a restaurant. There is no dance floor, a small lounge area, with a wall between the lounge and restaurant. The Petitioner has expended in excess of \$100,000 in renovating the interior of the building. **T. p. 145, lines 7-21; p. 146, lines 1-18.** The Petitioner did not build the addition. **T. p. 146, lines 16-19.** He further testified the restaurant has been operating under the terms and conditions imposed by the Zoning Commissioner since Memorial Day, 2010. **T. p. 148, line 12.** He testified that since the restaurant was opened, there has never been a time when the parking lot has been filled with cars. **T. p. 148, lines 17-20.** The parking spaces across Wise Ave have only been used for employee parking. **T. p. 149, lines 2-3.** There have been no complaints about parking in the adjacent residential neighborhood, Waterview Road. See **Petitioner's Exhibit 17, Baltimore County Police Department complaint log.** Indeed, Goff presented 2 exhibits, **Petitioner's Exhibit 18 (a letter from an adjacent residential neighbor)**, in which the neighbor registers his support for the variance, and **Petitioner's Exhibit 19**, a petition signed by approximately 13 neighbors also in support of the requested variance. All of these neighbors live on Waterview Road.

Goff testified that he applied for permits not only for the bulk head but the piers, a liquor license and for a food service permit. **Petitioner's Exhibit 21.** For all of these permits, Mr. Goff personally secured zoning office approvals. **T. p. 158, lines 9-21; p. 159, lines 1-7.** No objections were raised.

Goff further testified that the business is "relatively" seasonal. **T. p. 159, lines 15-16.** He explained that the Petitioner's customers were drawn to the restaurant by it being on the water. **T., p. 159, lines 19-21.** Its location on the water is what makes this property and its use as a restaurant unique. **T. p. 160, lines 1-7.**

He testified that the floating pier and the dock, which provide immediate and easy access to the restaurant by boat, allow customers to arrive by boat, tie up, eat, and leave. It is Goff's opinion, based on his experience, of operating from 1998-2004 (when he leased it) and from June of 2010 to the present, that 88 parking spaces are not necessary. **T. p. 162, lines 13-15.** He believes that the 51 parking spaces on site, with the additional 9 across Wise Ave, are more than sufficient. **T. p. 162, lines 16-19.**

He testified the Petitioner has complied with all of the conditions decreed in the Zoning Commissioner's decision of 30 March 2010. **T. p. 140, lines 3-21; p. 141, lines 5-18; p. 142, lines 4-16.** He testified that he understood that the Zoning Commissioner's decision was specific as to Bear Creek Properties, LLC. In the event of the sale, lease or transfer of the business, the new owner/operator would have to petition for special hearing relief to amend the order. He further testified there was no way for additional parking to be provided other than what has been shown on the site plan, and that there was no way for the addition referred to by the Protestants to be removed. It is part of the fabric of the building.

He testified that his primary business during the peak months of summer result from boat traffic. He presented photos showing that the existing parking lot is seldom, if ever, full. The photos reflect a panoramic view of business for a day during the summer. See **Petitioner's Exhibits 13, 14, 15, and 16.** The photos illustrate there is no need for the 88 parking spaces required by the zoning regulations. The pier and boat slips provide the attraction to his customers who can tie up, after a day on the water, walk to the restaurant, have a meal overlooking Bear Creek, and then depart by boat. Walk-in and vehicle traffic themselves do not support the restaurant. He testified that 88 parking spaces are not needed.

If he loses the variance, he cannot operate the business and the restaurant will close. "That's it in nutshell". **T. p. 164, lines 2-5.**

Significantly, even if the deck is not used for the serving of food, a parking variance will still be needed. And, without the deck, "nobody is going to get on a boat and come to a restaurant in June so they can sit inside in an enclosed building." **T. p. 164, lines 6-12.** Without the deck, 66 parking spaces would be required, still more than could be provided on site. See **Billingsley, T. p. 67, line 3.**

Goff further testified that he had looked at redeveloping the property should the variance be denied. He testified that the only possible use would be for townhouses, at most five, but the cost to do that would be economically infeasible. **T. p. 165, lines 3-7.**

As indicated above, the Petitioner presented Billingsley, who was accepted by the Board as an expert in land use and zoning in Baltimore County, who testified extensively about the location of the subject site, its history, and the proposed variance to permit 60 parking spaces in lieu of the required 88. In particular, a summary of his testimony is as follows:

- 1955 zoning map shows the site, same size as it is today, zoned BL (**Petitioner's Exhibit 4**);
- 1972 zoning map shows the site, same size as it is today, with building envelope, zoned BL (**Petitioner's Exhibit 5**);
- 2008 zoning map showing property zoned BL (**Petitioner's Exhibit 6**);
- 1952-53 US ASCS aerial photo showing site with existing bldg (**Petitioner's Exhibit 10B**);
- 1952-53 US ASCS aerial photo showing site with existing bldg, and addition and deck superimposed (**Petitioner's Exhibit 10C**);
- Permits issued for bulkhead, slip and piers;
- Permits issued for food service;
- Liquor licenses have been issued, most recently to the Petitioner in 2010, all of which required zoning office review and approval (uncontradicted testimony of Goff).
- Without the variance, the restaurant would have to close.
- There is no availability for additional parking.

Billingsley testified that the restaurant area of the building requires 16 parking spaces per 1000 SF, 55.8 spaces. The bar area of the building at 20 spaces per 1000 SF,

requires 9 spaces. The deck area, at 16 spaces per 1000 SF, requires 22.4 spaces. The total required is 88. See **Petitioner's Exhibit 2**.

Using the site plan, **Petitioner's Exhibit 2**, aerials, and photos of the site, **Petitioner's Exhibits 13, 14, 15 and 16**, Billingsley painted a picture of the uniqueness, in zoning terms, of the property and portrayed the practical difficulty incurred should the variance be denied. The property is oddly rectangular in shape, almost triangular, and is less than an acre in size. It is bounded on two sides by Bear Creek, one side by the bridge and Wise Ave, and the fourth by residential properties. The site has always been zoned commercial and used commercially. It has never been used for residential purposes. **T. p. 94, lines 6-11**. The building is located in the same place as it was originally constructed. The paved area, as shown on the site plan, between the building and Wise Ave., is the only area legally capable of being used for parking. Local and State environmental laws and regulations would prohibit further impervious area on site. **T. p. 93, lines 11-21; p. 94, lines 1**. Simply, there is nowhere else to provide parking on site other than where presently provided. As the aerials presented by the Petitioner and the Protestants show, there was never any other impervious area. Certainly none between the building and Bear Creek.

Billingsley testified, in his opinion, the subject site is indeed unique and has special circumstances and conditions peculiar to this particular neighborhood. For all the reasons previously described: lot size, a corner property surrounded on two sides by Bear Creek, the piers and slips and the restaurant's economic dependence on boat traffic, all

contribute to the uniqueness. He testified there are no other properties in the area similar to the subject property.

While the Protestants pointed out that the property on the northeast side of Wise Ave, opposite the subject property, is also bounded by Bear Creek and zoned commercial, Billingsley, on cross examination, disagreed with the Protestants' assertion that the subject property is therefore not unique. **T. p. 121, lines 4-17; p. 122, lines 3-21; p. 123, lines 1-10.** The property to which they refer, however, is used as a dwelling and does not have the access to water or Wise Ave that the instant site has. If location in real estate jargon is the single most important factor in value, then the subject property is absolutely unique!

Billingsley testified that, in his opinion, there would be a practical difficulty confronting the Petitioner should the variance be denied. Notwithstanding the addition to the building, which may or may not have been added with a permit, the fact is, based on current parking calculations, there is not sufficient parking area on site to comply with the zoning requirements. He testified that, without a parking variance, "the business is gone". **T. P. 89, lines 4-7.** He testified while townhouses could be built, the number needed to make them economically viable, would make any such attempt impractical. In his opinion, Billingsley stated without the variance, the restaurant would have to close and there is no alternative use that would be economically feasible. **T. p. 93, line 21; p. 94, line 1.** Without the variance, the restaurant would not be a valid use. **T. p. 92, lines 4-6.**

Billingsley testified that 51 spaces could be provided on site, using 16 parking spaces for valley parking. **T. p. 30, lines 15-21; p. 31, lines 17-19; p. 32, lines 1-6.** He testified the Petitioner could lease an additional 9 spaces across Wise Ave, on property across Wise Ave. **T, p. 32, lines 10-14.** The total provided would be 60. The 9 spaces would be within 500 of the front of the building, as permitted by §409.7B.1., BCZR. In order to provide the 51 spaces, however, the parking spaces had to be back-to back, as more particularly shown on **Petitioner's Exhibit 2.** This parking arrangement, referred to as "stadium parking", is allowed where vehicles are parked by an attendant. The parking configuration may be approved where up to "50% of all parking spaces do not adjoin and have direct access to an aisle." §4094B.1, BCZR. There is no other area on site where additional parking may be provided. This site is within the Chesapeake Critical Area, which, in Billingsley's opinion, would prohibit additional paved surfaces. The Petitioner, in Billingsley's opinion, has made every effort to provide parking, but is limited by size and space.

Further, it is Billingsley's opinion that 88 parking spaces are not needed. During the summer, customers come by boat, and the parking provided on site is not used. These customers utilize the deck area. During the winter, the deck area is not used. No boat traffic during the winter. Experience is that the existing number of parking spaces is more than adequate to service the vehicular traffic. **T. p. 64, lines 5-17.** Due to its location, the restaurant caters to boat traffic. **T. p. 86, line 13.**

The neighborhood, defined for zoning purposes surrounding the property includes the Wise Ave bridge, Wise Ave. and Waterview Road, not limited to just the site and adjacent properties, but includes the commercial and residential uses surrounding it. The

subject property, identified on **Petitioner's Exhibit 2** is, however, the hub around which all of these other uses exist. See **Petitioner's Exhibit 3**, the Plat of Perry Point. The location of the property at a point where Bear Creek winds around it on two sides emphasizes its uniqueness.

On direct examination, Billingsley opined should the current use of this site as a restaurant/tavern, in context with its history, be prohibited, there would be a practical difficulty for the owner. He reemphasized this on cross examination. The site cannot support any other type of use. Any use for houses would have to be townhouses and would inherently be out of character with the residential neighborhood. No one would buy them. **T. p. 92, lines 17-21; p. 93, lines 1-6.**

Billingsley further testified that, without the parking variance, the restaurant would be forced to close. There is no way to provide with 28 additional parking spaces. **T. p. 91, lines 16-21.**

Two Protestants testified, in essence that they were concerned that in the future, there would not be compliance with the Zoning Commissioner's restrictions and conditions. While they agreed that the current use of the property complies with those conditions, they felt the variance should be denied nonetheless.

Mr. Lambdin testified that in his opinion more spaces could be provided if the addition and the deck were removed. **T. p. 191, lines 8-9.** To summarize Mr. Lamdin's testimony, it would be that he objected to what existed prior to the Petitioner's use of the property and what could happen in the future. **T. p. 204, lines 5-8.** His concern is that the conditions imposed by the Zoning Commissioner apply only to the Petitioner, and, while any change in ownership would require a new public hearing, it would be up to the community to monitor any compliance. Mr. McJilton testimony centered on an addition to the building, which was done prior to 1998. He concluded that the addition was constructed without a permit. He admits that the addition was built around 1992 and was not built by Mr. Goff. **T. p. 226, lines 7-10.** He admits that he saw the petition presented by Mr. Goff, signed by neighbors not now in opposition to the requested variance. He also proffered that some of the signatories were in support below and some who "have

joined his side at the time and in the variance.” T. p. 229, lines 3-9. There are those who were opposed originally but in support now. T. p. 229, lines 10-12.

QUESTION PRESENTED

Does the proposed variance for 60 parking spaces in lieu of the required 88 comply with the provisions of Section 307.1, BCZR?

ARGUMENT

The Zoning Commissioner properly granted the requested variance.

A. The Short Answer:

The Zoning Commissioner found that the instant property is unique in a zoning sense and that the Petitioner would suffer practical difficulty if the variance were to be denied. There is sufficient testimony and evidence presented to the Board to substantiate both findings. The variance should be granted.

B. The Long Answer:

The Protestants’ main argument against the requested variance centered on an addition to the building, of approximately 400 square feet. They argue but for the addition there would be no need for the variance. Indeed, a parking variance would still be required. The Protestants argue the addition was built without a permit, and, therefore, the Petitioner should not be allowed to benefit from its existence.

I. This argument is misplaced and incongruous. Whether an addition to the building was constructed with or without a permit, it is immaterial to the issue of the request for the parking variance.

First and foremost, the addition was not done by the Petitioner. The appellate courts of this State have stated the issue is whether the cause of the variance was “self-

created". It was not the Petitioner who built the addition, with or without a permit. The simple answer is the need for the variance was and is not "self-created".

Second, while the square footage of the addition is included within the overall calculations to determine the number of parking spaces required, a variance would still be needed even if the addition did not exist. Again, the simple answer is look at the math. The debated addition is approximately 1000 SF. **T. p. 51, lines 15-21.** A restaurant use requires 16 parking spaces per 1000 SF. Thus, without the addition, less the 16 parking spaces, a variance to the number of parking spaces would still be required: 60 in lieu of 72!

II. The Protestants argue if the addition and deck were removed, additional parking could be provided. The Protestants' assertions are problematic. Billingsley answers are in the pragmatic. Even if the deck were to be removed, and/or if the building itself could somehow be reduced, current environmental regulations would prevent additional impervious area to be created, i.e., parking, especially as the property is subject to the Chesapeake Bay Critical Area requirements. In other words, the current state of the law and the property's topography would prevent additional parking to be provided elsewhere on the property other than where presently located. **T, p. 133, lines 20-21; p. 134, lines 1-21; p. 135, lines 1-7.**

III. The testimony and evidence presented in this case satisfy the burden of proof required for the variance to be granted.

(A) The subject property is "unique".

"The deck is strictly...the outside use---is strictly weather-determined.

If you have a beautiful day and people are out on their boats, people come in and sit on the deck.

Sometimes people even drive in and they want to sit outside.

That's what makes this restaurant different than all the other restaurants up and down North Point, you know, Merritt Boulevard, anywhere.

There's a lot of restaurants, but there are only a couple where you have that ability to go and sit on the water."

T. p. 161, lines 9-20.

The evidence and testimony presented by the Petitioner is sufficient for the requested variance of 60 parking spaces in lieu of required 88 to be granted.

The property at issue here is indeed "unique" and satisfies the criteria established in Cromwell v. Ward, 102 Md App 691 (1995) and North v. St. Mary's County, 99 Md App 502 (1994).

The subject property is on the water and is zoned BL. A review of the testimony presented by all of the witnesses, including the Protestants, and the exhibits presented confirm the subject property is unique in a zoning sense.

"Uniqueness" as used in Cromwell is in reality a "special circumstances or conditions" requirement. The use of the term "uniqueness" within the context of zoning law must be defined differently and much narrower than when otherwise used. It carries a "specialized meaning" in zoning law. See Umerley v. People's Counsel for Baltimore County, 108 Md. App. at 506.

...the zoning authority must determine whether the subject property is unique and unusual in a manner different from the nature of the surrounding properties such that the uniqueness or peculiarity of the property causes the zoning provision to have a disproportionate impact on the property.

Umerley, 108 Md. App. at 506.

Cromwell's thrust is to determine where, by reason of the property's shape, or by the other special circumstance as cited as examples by the Court, the literal enforcement of the zoning regulation at issue would make it "exceptionally difficult" for the applicant for the variance to comply with the regulation. North v. St. Mary's County, 99 Md. App. 502, 514—15 (1994).

The Court of Special Appeals in Cromwell stated:

"...The Baltimore County ordinance requires 'conditions'...peculiar to the land...practical difficulty...Both must exist...However, as is clear from the language of the...ordinance, the initial factor that must be established before the practical difficulties, if any are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties..."

The Court then went on to state its interpretation of the "uniqueness" factor.

"In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of the improvements upon the property, or upon the neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historic significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions..."

The property is

"...peculiar, unusual, or unique when compared to other properties in the neighborhood such that the ordinance's ...restriction's impact upon the subject property would be different that the restriction's impact upon neighboring properties."

For all of the reasons described by Billingsley and Goff, the test as set forth in Cromwell is satisfied. The shape of the Petitioner's property, when compared to other

properties in the neighborhood, its topography (sloping down from the roadside to the water), and its location as more particularly described above, confirm compliance with Cromwell's uniqueness test.

Billingsley testified at length about the property's uniqueness, pointing to amongst other factors the subject property's location. Further, Cromwell's standard of "uniqueness" is measured by whatever environmental factors impact the property. Here, access to and from Bear Creek on two sides and access by the Wise Ave. Bridge on a third side, and the practical restrictions it imposes, satisfy the strictures set in Cromwell. The "uniqueness" intended by Cromwell is evident. The property cannot be expanded; there can be no building or impervious area closer to the water; the existence of the natural topography, the environmental factors, and the location of Bear Creek meet the criteria imposed by Cromwell. Additional parking on site beyond what is provided, at best theoretical, is not practical if not legal. **T. p 55, lines 6-21; p. 56, lines 1-7.**

If 88 parking spaces were required, if the variance were to be denied, the use of the property would be unduly restricted, due to the special conditions unique to this particular site at this particular location. The testimony of Billingsley and Goff as summarized and quoted above are unequivocal that there is no alternate feasible use of the property. Every use requires parking; parking calculations are determined by the use. There are myriad uses permitted as of right and by special exception in the BL zone, for each the parking required is as dictated by §409.6, BCZR. Many of the uses could require more parking than does a restaurant, pursuant to the B.C.Z.R. **T. p. 95, lines 2-21; p. 96, lines 1-7.** Billingsley's testimony is clear and unambiguous—without a variance, this particular site, no matter the use, is not economically useable. **T. p. 93, lines 11-21; p. 94, line 1.**

Therein lies the practical difficulty for the Petitioner. McLean v. Soley, 270 Md 208 (1973).

While it is not size of the lot that makes the property it unique, it is its shape and location that do. When compared to other properties in the neighborhood, it's "uniqueness" is obvious. If the Board were to deny the requested variance, thereby requiring conformity with the strictures of §409.6, BCZR, the impact upon the "subject property would be different than the restriction's impact upon neighboring properties."

There is no viable alternative use of the property. Any use of this particular property would severely be restricted by zoning and financial constrictions.

The Petitioner did not cause the unique circumstances it confronts. See Cromwell, at 719.

The addition is not the issue; the issue is the imposition of a subsequent zoning regulation to a pre existing use. It is the use, not the size of the use. The commercial use of the subject property, and the long standing documented use of the property as a restaurant/bar, predates the parking regulation now applied. The parking regulation, §409.6, requires the need for the variance. "Strict implementation" would "impede" the proposed use. While certainly the size of the disputed addition requires additional parking spaces, if there were no addition, a variance to the requisite parking spaces would still be required.

The subject property is indeed unique in a zoning sense, as defined by Cromwell, supra.

Most importantly, and as recognized by the Zoning Commissioner, the regulation as applied here impacts the Petitioner's property disproportionately from other properties within the neighborhood.

Billingsley testified that, in his opinion, the property meets the criteria set out in Cromwell.

(B) Practical Difficulty exists.

Regarding practical difficulty, we look to McLean v. Soley, 270 Md 208 (1973), where the Court of Appeals confirmed the variance granted below and approved the test in regard to practical difficulty as follows

- 1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

The location and number of parking spaces is not simply a "matter of convenience." Montgomery County v. Rotwein, 169 Md App 716 (2006) at 730.

The need for the variance as proposed by the Petitioner is not self-created. The need for the requested variance is not the direct result of the Petitioner's own action. Rotwein, at 728. The addition is a "red herring" raised by the Protestants. The Petitioner did not cause the need for the variance.

The granting of variances requires a two prong approach. The first is for the applicant to prove that the subject property is "unique", as required by §307.1, BCZR, (*which we previously address*). The second, if the first is satisfied, is to prove that a "practical difficulty" exists. It is not sufficient for the applicant to satisfy either of the prongs; both must be satisfied for a variance to be approved. Regarding practical difficulty, we look to McLean v. Soley, supra

Considering the evidence and testimony presented to the Board, the tenets set out in McLean were obviously established. The variance if granted would be in strict harmony with the spirit and intent of the regulations, and there certainly would be no injury to the public, health, safety and general welfare. See the cumulative testimony of the Protestants themselves. The requested variance is not for the convenience of the Petitioner, but is a necessity, and, if denied, would prevent the Petitioner from using its property in a reasonable manner.

The testimony of Goff and by his expert Billingsley, demonstrates strict compliance with the requisite number of parking spaces would cause "peculiar or unusual practical difficulties" justifying the variance requested. Rotwein, supra, citing Cromwell, 102 Md App at 706.

The expression "practical difficulties or unnecessary hardships" means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant....

Carney v. City of Baltimore, 201 Md 130, 136-37 (1952).

Considering the evidence and testimony presented to the Board, the tenets set out in McLean are certainly established. The variance if granted would be in strict harmony with the spirit and intent of the regulations. The Petitioner's proposed variance does comply with the zoning regulation's intent and does satisfy the strictures required for approval.

The Protestants did not present any evidence, at all, to show that they would suffer an unreasonable burden or the public safety and welfare compromised if the variance were to be granted. Their testimony underscores not only the need for the variance but also the lack of impact on their community. The cumulative testimony of the Petitioner and of the Protestants, confirm that the Zoning Commissioner's decision to grant the variance has had no negative impact on the community. Cromwell, supra.

[t]he need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant.

Rotwein, at 732 (quoting from Carney, at 137).

The Protestants are all about what was and what could be, not will be. They focus of the past and predict the future. Their problem is that there is no evidence the proposed reduction in parking spaces will cause any negative impact in their community. Indeed, all of their neighbors are content with the variance, the conditions imposed by the Zoning Commissioner, and how the restaurant is being run pursuant thereto.

All of the problems advanced by Goff do in fact "rise to the level" of "peculiar or unusual practical difficulties." Rotwein, at 732.

As stated throughout, this is not for the convenience of the Petitioner; it is for the necessity of being able to operate its business. If denied, the restaurant would have to

close. This is not merely a platitude; it is a reality. There is no alternate, reasonable expectation of any use for the site. Compliance with the strict letter of the parking regulation would unreasonably prevent the Petitioner from using this property for a restaurant, which is a permitted use, and, as stated by Billingsley, would therefore render the use of the property problematic at best and economically infeasible at worst.

The variance if granted would be in strict harmony with the spirit and intent of the regulations, and there certainly would not be any injury to the public, health, safety and general welfare. Not even the Protestants argue that the requested variance by this Petitioner has or would cause a problem. They only object to the variance because of what might occur, not what is. There is no record of any police action and all of the immediate residential neighbors are in support of the request.

Should the Board, as did the Zoning Commissioner, grant the variance with the conditions imposed by the Zoning Commissioner, to which the Petitioner does not object, the grant of the variance would do "substantial justice" to the Petitioner as well as to the other properties in the neighborhood, as indicated by the acknowledgement of the adjacent property owners, with the exception of the two protestants herein.

With the application of the conditions imposed by the Zoning Commissioner, the variance relief can be granted in such a fashion that the spirit of the parking regulation will be observed and public safety and welfare secured.

The testimony of the Petitioner's land use expert demonstrated that strict compliance with the requisite zoning parking space requirement to the unique characteristics of the subject property would cause "peculiar or unusual practical

difficulties” justifying the variances requested. Rotwein, at 716, citing Cromwell, 102 Md App at 706.

Billingsley testified there is no practical or realistic way to place a smaller commercial use or residential dwellings on the subject property.

The expression “practical difficulties or unnecessary hardships” means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant....

Carney v. City of Baltimore, 201 Md 130, 136-37 (1952)

Rotwein, at 733, states equally forcefully that it is important to recognize that “financial concerns are not entirely irrelevant.”

The Court of Special Appeals said the pertinent inquiry is whether “**it is impossible to secure reasonable return from or to make a reasonable use of such property.**” Emp add. Rotwein, at 733, citing Marino v. City of Baltimore, 215 Md. 206, 218 (1957). Billingsley and Goff were absolutely clear in describing the ramifications should the variance be denied. This property has always been commercial, and with the adoption of broader and stricter environmental standards since the original use of the property began, it would be most difficult if not impossible to re-adapt or re-develop the subject property with any use much less without the need for a parking variance.

It is not the number of parking spaces that determines and limits the size and use of a building; it is, of course, the size and use of a building that determines the number of parking spaces. In determining the size and use, one

must consider the "...reasonable return from or to make reasonable use of..."

The Petitioner must consider the reasonable use, and financial return, of the subject property, based on its historical and current use, and the limitations of its size, its location, and of the governmental restrictions that mitigate in favor of the requested variance.

Considering the evidence and testimony presented to the Board, the tenets set out in McLean are certainly established. The variance if granted would be in strict harmony with the spirit and intent of the regulations.

"It is not whether the Appellant's property is subject to any reasonable and significant use without being granted a variance, but is a question of whether the requested variance is reasonable..." Lewis v. Dept of Natural Resources, 377 Md. 382 (2003). In the instant case, both are present. The subject property would be denied any reasonable, and significant, use without a parking variance. The variance requested by the Petitioner is reasonable.

In Alviani v. Dixon, 365 Md. 95 (2001), the Court of Appeals affirmed area variances for a fuel service station in Anne Arundel County. The variances granted were specific for the particular use proposed, i.e., canopies over pump islands. See Alviani, at pp 105-06. Other uses certainly were permitted on the subject property, but the variances were needed for the gas station. The Court did not look at other uses; it looked at the specific use, the property on which the use was proposed, and the "uniqueness" of the property in conjunction with the likelihood of the property owner to locate the use on the property. Becker v. Anne Arundel County, 174 Md App 114 (2007).

This is important. Even if other uses are permitted, and they are, the variance requested here is needed for the restaurant use. This Board should not look at other uses; it must look at the specific use, in context with the subject property, and its definite uniqueness. Then, look at these in conjunction with the likelihood the Petitioner to operate the restaurant without the requested variance.

The testimony of the Petitioner's expert, Mr. Billingsley, demonstrated strict compliance with the requisite zoning parking space requirement to the unique characteristics of the property would cause "peculiar or unusual practical difficulties" justifying the variance requested and that there would no injury to the public, health, safety and general welfare. Rotwein, supra, citing Cromwell, 102 Md App at 706.

The Petitioner's proposal complies with the regulations' intent and satisfies the strictures required for approval of the requested variances.

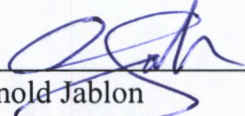
The subject site is unique in a zoning sense and the Petitioner would further suffer a practical difficulty if the requested variance was to be denied.

CONCLUSION

For the above stated reasons, the Petitioner respectfully requests the Board of Appeals of Baltimore County find that:

The Petitioner has complied with §409.6 and §307.1, BCZR, and the variance for 60 parking spaces in lieu of the required 88 be granted.

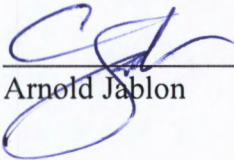
Respectfully submitted,



Arnold Jablon
Venable, LLP
210 Allegheny Ave.
Towson, Maryland 21285-5517
(410) 494-6298

Certification of Service

IT IS HEREBY CERTIFIED that a copy of the foregoing Petitioner's Hearing Memorandum was mailed by first class delivery, postage prepaid, on this 2nd day of December 2010 to Mr. William Lambdin, Sr., 33 Waterview Road, Baltimore, Maryland 21221, and to Mr. Willard McJilton, 23 Waterview Road, Baltimore, Maryland 21221.



Arnold Jablon

December 3, 2010

Sent via hand Delivery

Ms. Theresa R. Shelton

County Board of Appeals of
Baltimore County 105 W.
Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Petition for Variance 601 Wise Avenue

Case No: 2010-0158-SPHA

Dear Ms. Shelton:

Enclosed please find an original and three (3) copies the Protestant's' Post Hearing Memorandum.

Thank you,

The Protestant's

RECEIVED
DEC - 3 2010
BALTIMORE COUNTY
BOARD OF APPEALS

12/3/10

RECEIVED

DEC - 3 2010

IN RE: PETITION FOR VARIANCE
TO PERMIT 60 PARKING SPACES
IN LIEU OF 88 REQUIRED SPACES
SW Corner of Wise Avenue and

Waterview Road
(601 Wise Avenue)

15th Election District
7th Council District

Bear Creek Properties, LLC, *Legal Owner*

BEFORE THE BALTIMORE COUNTY
BOARD OF APPEALS

COUNTY

BOARD OF APPEALS

FOR

BALTIMORE COUNTY

Case No. 2010-0158-SPHA

* * * * *

PROTESTANT'S MEMORANDUM
IN LIEU OF FINAL ARGUMENT

The individual neighbors of Waterview Road Baltimore, Maryland 21222 Willard McJilton, William Lambdin, George McClelland, Mike Pennington, Anne Tempera, and Marlene Cox, Protestant's, submit this Memorandum in Lieu of Final Argument and say:

BACKGROUND & PROCEDURAL HISTORY

This matter comes before the County Board of Appeals of Baltimore County (hereinafter "Board") by the Protestant's appeal of the Zoning Commissioner's Decision in consideration of the Petitions for Special Hearing and Variance filed by Petitioner, 3 B's, Inc., through its President, Robert O'Connor, Jr., and its attorney, Arnold E. Jablon, Esquire with Venable, LLP. The Petition was also signed by Steven R. Goff on behalf of the property owner, Bear Creek Properties, LLC. As filed, Petitioner, in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), requested a special hearing for a determination as to whether the present use of the B.L. zoned property at 601 Wise Avenue is that of a *restaurant/tavern* and not a *nightclub* as defined in B.C.Z.R. Sections 101, 102.1 and 230. In addition, Petitioner requested variance relief to permit 53 parking spaces in lieu of the 178 spaces required pursuant to B.C.Z.R. Section 409.6. However, during the course of the hearing held for this case the Petition for Special Hearing was withdrawn and the number of requisite parking spaces

modified. Specifically, the Petitioner and managing members of Bear Creek Properties gave assurances that no entertainment by live band or disc jockey would be performed on the premises, and no recorded music would be generated above-normal sound levels. As amended, the subject property and the requested relief are more particularly described on the red lined site plan which was accepted into evidence. The hearing proceeded on the remaining revised variance request to allow 53 parking spaces instead of 93. As a result of these concerns and pledges made at the hearing that the deficiencies would be corrected, the record of this case was held open for several weeks to allow negotiations to commence between the owner of the property and the relevant community members. The negotiations with the relevant community members proved unsuccessful. The petitioners further modified the site plan and submitted a new site plan bearing a revision date of March 8, 2010, along with a set of what Mr. Wiseman refers to as "salient points". None of the relevant community leaders, or the community at large, were provided with or agreed in spirit with, any of the "salient points" or documentation provided to Zoning Commissioner Wiseman after the hearing date of February 19, 2010.

On March 30, 2010 Zoning Commissioner Wiseman ordered that the Petition for Variance, to permit 60 parking spaces in lieu of the 88 spaces required for the bar and restaurant use pursuant to B.C.Z.R. Section 409.6, in accordance with Petitioner's Exhibit 16, be and is hereby GRANTED; subject to the following conditions, which are restrictions precedent to the approval granted herein:

1. Petitioner/owner may apply for any required building permits and be granted same upon receipt of this Order; however, Bear Creek Properties, LLC 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. All outdoor lighting shall be directed towards the interior of the subject site and away from adjacent properties. The outside beach area as designated on the site plan shall not be used for tables, lounge chairs, serving of food or alcoholic beverages.
3. There shall be no bands, dancing or other live entertainment permitted. All recorded music in the deck area of the restaurant shall terminate at 11:00 PM Monday through Friday, and at 12:00 AM Saturdays and Sundays.

4. Petitioner shall employ an attendant to park customer vehicles and attend to the valet parking areas as required by B.C.Z.R. Section 409.4.B.1.
5. Petitioner shall post no parking signs at the entrance to the residential community and encourage patrons, employees and subcontractors not to park on Waterview Road.
6. The variance relief granted herein is personal to Bear Creek Properties, LLC and its current managing members, Steven R. Goff and Randy R. Holofcener. In the event of the sale, lease or transfer of the business, the new owner/operator shall petition for special hearing relief to amend this restriction and the parking approval granted.
7. The legal owner, its successors and assigns shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management reasonable access to the property and restaurant/tavern to insure compliance with this Order.

STATEMENT OF FACTS

According to the Maryland Department of Assessments and Taxation – Real Property Data records, the principal structure was built in 1950 and had an enclosed area of 3,398 square feet. The location operated at first as a family run tavern known as Dishrams. In the mid 1960's, a class "D" liquor license was issued by Baltimore County and the tavern name was changed to the Bear Creek Inn. During this time the land area was expanded by the installation of bulkheads and hauling backfill materials in order to create a larger parking lot area. Aerial photographs from 1953 through 1992 support this conclusion. Following in order, and as evidenced by liquor license transfers, the business was renamed Bahama Mamas in the mid 1980's. The building footprint was expanded in the late 80's or early 90's to 3,940 square feet by erecting a two-story addition without permits that presently operates as the main floor dining area with the lower level referred to as the "tiki bar". The present owners, Steven Goff and Randy Holofcener, formed a corporation – the Bear Creek Inn, Inc. – and purchased the property in 1999. They operated the business, under the name of The Mariner's Landing. At that time, a floating pier was extended into the Bear Creek off of the existing pier and bulkhead at the southwest corner of the property and the parking area on the west side of the building was removed and replaced with beach sand to create an outside beach dining area of 5,280 square feet. The liquor license changed from a Class "D"(tavern) to

Class "B" (49% bar – 51% restaurant). Wood decking (1400 square feet) with canopy cover was erected without permits at the buildings west and south sides in 2006. In late 2006 - early 2007, the property and improvements were leased to Wise Services, Inc. who changed the name to Dick's Dock Bar. A review of the records maintained by the Department of Assessments and Taxation disclose Wise Services filed Articles of Dissolution in October, 2008. The name was then again changed to the "Beach House" following 3 B's, Inc. rental of the property from Bear Creek Properties. Further improvements were made in April 2009 without benefit of permits, enclosing the wood deck area discussed above with a metal canopy and installing a heating system. During the heavy February 2010 snow storms, this metal canopy area collapsed.

PROTESTANTS CASE

The variance request is due to the property owner and previous owners expanding the property without the benefit of building permits or required site plans which would have addressed the need for the parking variance. This action by the property owner and previous owners created the need for the requested variance.

William Lambdin provided aerial photographs of the site from the Baltimore County Archives dated 12/8/1952, 1972 and another aerial dated 1992. These photos document the expansion of the site's parking area between 1952–1972, and the unpermitted addition erected prior to 1992. Mr. Lambdin further testified that the previous and present owners of this property had eliminated historical parking areas by the erection of the 1020sf 2 story addition, the installation of the wooden dining deck, the lower level "Tiki Bar", and the importation of beach sand consuming the entire southwest corner of the site as verified by the exhibits and testimonies of the Petitioner's witnesses. Mr. Lambdin also provided an overlay drawing (Petitioner's Exhibit #5) using the amended site plan which provides a view of the parking available prior to the unpermitted addition and the expanded dining and bar areas. According to this plan the site would support a total of at least 64 parking spaces which would accommodate the parking requirements for a 2398sf bar area (20 parking spaces /1000sf =48 spaces) a 1000sf restaurant (16 parking spaces/1000sf= 16 spaces) or 3398sf of business area which is the original building square footage listed on the Maryland State Property Tax Records (Protestant's Exhibit #1)

Mr. Lambdin also presented information and photographs of the surrounding community describing the parking options available in the vicinity. He provided descriptions of Waterview Road., Wise Avenue, Bayside Drive, and Oakliegh Beach Road, providing road widths, distances from 601 Wise Avenue, and descriptions of each neighborhood. He explained that Waterview Road was the closest option for patrons. When the patrons of this business use Waterview Road for parking on both sides of the road, the vehicles create a single lane thoroughfare on a 2-way street, which is not wide enough to allow emergency vehicles into the neighborhood thereby affecting the Public Safety, and General Welfare of the community.

Mr. Lambdin also relayed concerns about the terms and conditions of the variance such as granting the variance specifically to Mr. Goff and the recurring variance hearings which would be required each time the business ownership changes (4 times since 2006). He also stated he has reservations and concerns about "Valet Parking". Since there are no specific rules or regulations addressing the hours of operation, signage to inform patrons that the site utilizes valet parking, drop-off and pick-up locations, or where do they park the cars when the lot reaches full capacity considering the variance only addresses 68% of the required parking.

The second witness for the protestants Willard McJilton provided testimony and exhibits produced from extensive research of the records available from the permits section of Baltimore County. Mr. McJilton could only research the records back to 1988. The records exposed that no permit was granted for the 1020sf 2 story addition on the southwest corner of the building (as Verified by Mr. Billingsleys research) and as such no site plan was provided for review which would have addressed the need for a parking variance. Mr. McJilton and the Board Members reviewed the permits on file for this location including the permit recently issued for the renovation work performed in the spring of 2010 which stated the cost of the renovations to be \$1,000.00 although Mr. Goff testified he spent over \$100,000.00 for the renovations work.

Mr. McJilton further testified the modifications to the building and the expansion of the additional outside business areas were never approved by the Baltimore County Liquor Board as required in the rules and regulations for all licensees. Rule 15 states all alterations or changes in the physical design of licensed establishments must be first approved by the Board of Liquor License Commissioners for Baltimore County and the Building Engineer of Baltimore County.

PETITIONER'S CASE

David Billingsley with Central Drafting and Design, Inc., the consultant who prepared the site plan, was presented as an expert witness and accepted by the board members due to his years of experience and previous presentations before the zoning board and the board of appeals. Mr. Billingsley provided a description of the revised site plan. During his narrative, he stated in his opinion that the property in question qualifies for a variance due to the facts that the property is bounded on 2 sides by water, by Wise Avenue and Bear Creek Bridge to the north, and residential property to the east. During his questioning, he also presented a narrative description of the interior of the property prior to the work completed in June 2010 in which he stated that it looked like a night club complete with a large bar, dance floor, DJ booth and a stage area for bands. This affirmed previous citations written by Baltimore County Code Enforcement. When questioned about discrepancies pertaining to several areas on the site plan not accounted for in the total calculations (i.e. the tiki bar area see Petitioner's exhibit # 14 d located on the lower level of the 2040sf unpermitted two story addition and the 470sf area located under the main level of the original building structure). Mr. Billingsley stated that these areas were either "OMITTED" or "DISCOUNTED" from the cumulative total. Obviously, these areas should be taken in to consideration when calculating the total square footage of the property as it pertains to determining the necessary parking needed to fulfill zoning requirements. Mr. Billingsley also stated that through his research the location had operated continuously as a Tavern/Restaurant since 1950. He further testified that his research did not produce any evidence of permits for the expansion of the original structure or outdoor accommodations.

The petitioner's second witness, Mr. Goff, the managing partner of Bear Creek LLC, and the new restaurant business, known as the Seasoned Mariner, testified that since the Zoning Commissioner's hearing, he has removed the former night club operations, the large bar, the stage, the DJ booth, the dance floor, the disco and stage lighting. He further testified that he spent over \$100,000 in demolition and renovation expenses; although the renovations permit he acquired through Baltimore County states the cost of this work to be less than \$1,000 (Protestants Exhibit 18). Mr. Goff also testified that he expanded the business operations area by installing the wooden dining deck and imported beach sand, creating the large beach-dining area in 2006 without regulatory approvals. These actions eliminated parking on the southwest corner of the property, which had historically been used for parking and delivery truck access, as verified by Mr. Goff.

Mr. Goff submitted a petition (petitioner's exhibit 17) which he presented to the residents of Waterview Road, 9 residences of the 32 homes on Waterview Road signed in support Mr. Goff's petition.

Mr. Goff explained the building renovations and provided a narrative of the business operations on the site since the removal of the night club which had been operating for the past 3+ years. Mr. Goff presented photo's showing 4 specific days of the new business operation with the highest capacity on 9/19/2010 being 49 people at the service areas, 14 vehicles in the parking lot, and 5 boats at the pier which is far below the business capacity.

Mr. Goff testified if he were not granted the variance requested, the property would become worthless. He reviewed several options for the property, but viewed the requested variance as his only option.

LEGAL ARGUMENT

It is well established in Maryland law that any practical difficulty must relate to the land, and not to the personal convenience of the particular owner of the land. *Cromwell*, id. While it may be desirable for the Petitioner to be able use the building construct without permits on his Property of a size and configuration to his liking, it must be accomplished within the restrictions of the Zoning Regulations.

The first criterion for a variance is that there must be some unique physical condition of the property, e.g., irregularity of shape, narrowness, shallowness, or peculiar topography that results in a practical difficulty in complying with the particular bulk zoning regulation. This test involves a two-step process. First, there must be a finding that the property is unusual or different from the nature of the surrounding properties. Secondly, this unique condition must disproportionately impact the property such that a practical difficulty arises in complying with the bulk regulations. See *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995). A "practical difficulty" is shown when the strict letter of the zoning regulation would "unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974).

With respect to the first prong of the variance test, the Maryland courts have defined “uniqueness” thusly:

“In the zoning context, the ‘unique’ aspect of a variance requirement *does not refer to the extent of improvements upon the property*, or upon neighboring property. ‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to characteristics as unusual architectural aspects and bearing or party walls.”

North v. St. Mary's County, 99 Md. App. 502, 514, 638 A.2d 1175 (1994)(italics added).

The Petitioner argues that, due to the size of the building and the configuration there is not enough space left to provide the required parking. The gist of the problem, then, is not the unique condition of the land, but the size and layout of the building. Clearly, the Petitioner’s building and business area are not reasonably sized. The Petitioner’s own evidence shows that it is too large for the site.

The site plan indicates that there was parking available and replaced by the unpermitted 2 story addition, the deck and beach area. Clearly, then, it is not the shape or other physical condition of the Property that gives rise to the Petitioner’s difficulty in complying with the parking requirement. Rather, the need for the variance arises only from the size of the building, business area and configuration on the lot. Any practical difficulty must relate to the uniqueness of the land itself, and not to the improvements upon it.

The reason for this rule is to prevent a property owner from creating a need for a variance. Zoning Regulations requires that any practical difficulty in complying with the requirements may not have been created by the owner or that of a predecessor in title. Most often, this “self-created hardship” rule comes into play when the owner or a predecessor in title has already constructed something on the property that violates the applicable zoning regulations, then requests relief from the regulation in order to avoid the hardship of removing the structure. See, e.g., *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424

(1995); *Evans v. Shore Communications*, 112 Md. App. 284, 685 A.2d 4554 (1996); and *Ad+Soil, Inc. v. County Commissioners of Queen Annes' County*, 307 Md. 307, 513 A.2d 893 (1986).

Because the practical difficulty in this case arose from actions of the landowner and that of a predecessor in title and not as a result of the disproportionate impact of the zoning regulations on the particular property, this case fails the test for a variance.

The Maryland courts have made it clear that whether the hardship was inflicted intentionally or unintentionally is irrelevant; if it was the result of the owner's action or that of a predecessor in title, the variance must be denied.

Salisbury Board of Zoning Appeals v. Bounds, 240 Md. 547, 214 A.2d 810 (1965); *Cromwell*, 651 A.2d at 441.

"Hardship is not demonstrated by economic loss alone. It must be tied to the special circumstances [of the land], none of which have been proven here. Every person requesting a variance can indicate some economic loss.

To allow a variance anytime any economic loss is alleged would make a mockery of the zoning program." *Cromwell v. Ward*, 102 Md. App. 691, 715, 651 A.2d 424 (1995), *quoting* *Xanthos v. Board of Adjustment*, 685 P.2d 1032, 1036-37 (Utah 1984).

The courts have consistently held that any hardship must relate to the land, and not to the personal circumstances of the owner. See 3 Robert M. Anderson, *American Law of Zoning*, Section 18.30 (2d ed.). In this case, the practical difficulty in complying with the Parking requirement is personal to the Petitioner and does not relate to the land itself. Consequently, the petition does not meet the requirements of BCZR.

It is not the role of zoning, nor should it be, to accommodate the personal wants or circumstances of each property owner. Rather, the purpose of zoning is to promote the orderly development of land through the imposition of uniform regulations and standards. Variances to these standards are therefore to be sparingly granted, and only under exceptional circumstances. *Cromwell*, 651 A.2d at 430.

It is not the purpose of variance procedures to effect a legalization of a Property owner's intentional or unintentional violations of zoning requirements. When Administrative entities such as zoning authorities take it upon themselves to ignore the provisions of the statutes enacted by the legislative branch of government, they substitute their policies for those of the policymakers. That is improper." Id. at 441.

Simply put, to grant a variance to this Petitioner to accommodate his personal desires and circumstances, then you must do so for every property owner who is similarly situated. Once granted, a variance is permanent and irreversible. Under such a system, variances would become the rule, and the Zoning Regulations would be rendered meaningless.

CONCERNS

In the final analysis of this case the truth is: The Unique Characteristic alluded to by the Petitioners, "The Location" does not inhibit the ability of this owner to comply with the parking requirement of the BCZR, "IT IS THE SIZE OF THE BUILDING & BUSINESS OPERATIONS AREA". Granted the location is unique, that's why we live there, but this quality is not the mitigating factor.

In Mr. Billingsley's testimony he stated the reasons he felt the property should be granted a variance was due to the facts that the waterfront property was bounded on 2 sides (the south and the west) by water, on the north by Wise Avenue and the Bear Creek Bridge and on the east by residential properties, and zoned BL (commercial). Obviously the zoning is not the problem. In this case the problem created by the boundaries is they (the property lines) define a certain finite amount of area. It's the responsibility of the property owner to comply with the zoning regulations and contain their business operations, including patron parking, within the confines of this finite amount of area, THEIR PROPERTY. In this case the evidence clearly demonstrates that the present and previous owners have expanded the building and business operations without benefit of permits, and other regulatory approvals and created the hardship for which they seek relief.

The variance as granted by Zoning Commissioner Wiseman creates an open ended instrument which:

- The manner of enforcement of the imposed restrictions/conditions, end up with the burden being placed on the community to enforce the limitations imposed.
- Disregards the public health, safety, and general welfare of the community.
- Grants relief to the property owner for a large portion of the required parking and projects the patrons vehicles into the community, when the business is operating above 60% of capacity.

- Assures the residents of the community that they will have to participate in all future variance hearings each time the business changes owners.
- Grants special privilege personal to the property owner, Bear Creek, LLC and its current managing members, Steven R. Goff and Randy R. Holofcener

Mr. Goff, has expanded the business operations without the regulatory approvals well beyond the sites capacity. He entered into lucrative lease agreements with business operators for the past 3+ years with the full knowledge that the night clubs they were operating across the street from his personal residence were not in compliance with the BL zoning classification and other County Zoning and Liquor Board regulations as cited by these agencies.

Mr. Goff, by his own actions has clearly shown disregard to the rights of the residents of the community and the rules and regulations of Baltimore County. This historical pattern of expansion, disregard, and non-compliance to the rules and regulations of Baltimore County defines the business ethics of Mr. Goff which creates a lack of credibility and fear history will repeat itself within the community.

In the files of Baltimore County entered into evidence are several letters pertaining to this case.

- Letter #1 From: James Thompson Baltimore County Code Enforcement dated 7-24- 2007
to: Bear Creek Properties LLC, details the options for resolving the parking issue
 1. Remove all outdoor seating from premises
 2. Obtain off-site commercially zoned parking according to conditions set forth in section 409.7 b.1 of the BCZR.
 3. Obtain a non-conforming use via a special hearing.

This letter presents other options including off-site commercial parking as a solution.

- Letter #2 From: Arnold F. Keller III Director, Office of Planning dated 12-18-2009
To: Timothy Kotroco, Director Dept of Permits and Development
Subject: Zoning Advisory Comment for 601 Wise Avenue

Mr. Keller comments "It (the waterfront restaurant/bar) has grown in customers use areas over the years, apparently without proper permits or inspection to the point at which it is now far larger than the sites capacity to contain it"

- Letter # 3 From: Stephen Weber Chief Division of Traffic Engineering dated 1-19-2010

To: People's Council (Mr. Peter Max Zimmerman)

Subject: Bear Creek Properties Case No 10-158-A 601 Wise Avenue

Mr. Weber comments, "This particular restaurant/bar has been generating significant parking and traffic complaints for some time. We have correspondence from the residents going back to 2000 where they are seeking assistance to address the parking problems from the restaurant patrons who are parking in the community". He further states, " we strongly oppose the granting of the requested variance and find that the historical parking problems generated by the Petitioner (over 10 years) have been causing parking impacts into the adjacent community which should not be occurring".

This 10 year period coincides with the time period under Bear Creek Properties, LLC's ownership.

- Letter # 4 From: Peter Max Zimmerman, People's Council dated 12-15-2010

To: Lawrence M. Stahl Esquire Chairman County Board of Appeals

Re: Bear Creek Properties LLC, - Petitioners

601 Wise Avenue

Case No: 2010-158-A

Mr. Zimmerman states "At this preliminary stage, we ask the CBA, based on the evidence presented,

1. To evaluate and verify the use areas and computation pertinent to the extent of the parking variance required for the amended plan
2. To determine whether Petitioners can satisfy the applicable variance tests and criteria under BCZR Section 307.1"

Since the variance is located in the Chesapeake Bay Critical Area and modifications are necessary for the off-street parking at 692 Wise Avenue including increase impervious surface installation. BCZR 500.14 states " No decision may be rendered by the Zoning Commissioner on

any petition for special exception, variance or special hearing unless the Zoning Commissioner has received from the Director of the Department of Environmental Protection and Resource Management, or his designated representative, written recommendations describing how the proposed request would..." As of this date no letter has been submitted into evidence.

Conclusion

The Petitioner in this case has not presented sufficient evidence to show that exceptional circumstances exist to warrant the grant of a variance to requirements.

Respectfully submitted,

Willard McJilton 410-477-9049
23 Waterview Road 21222

William Lambdin 410-477-4565
33 Waterview Road 21222

George Mc Clelland 410-477-9136
25 Waterview Road 21222

Mike Pennington 410-477-0577
10 Waterview Road 21222

Anne Tempera 410-477-3511
39 Waterview Road 21222

Marlene Cox 410-477-9017
12 Waterview Road 21222



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

August 20, 2010

Arnold Jablon
Venable, LLP
210 West Pennsylvania Avenue, Ste. 500
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 2010-0158-SPHA, 601 Wise Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on April 29, 2010 by multiple parties/residents on Waterview Road. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

TK:kl

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
See attached sheet

Date : April 26,2010

Timothy Kotroco, Director Department of Permits and
Development Management 111 West Chesapeake
Avenue Towson, MD 21204

Re: PETITION FOR APPEAL OF ZONING ORDER
Property Address 601 WISE AVENUE
15th Election District & 7th Councilmanic Districts
Petitioner's Name : Willard McJilton, William Lambdin,
George Mc Clelland, Mike Pennington,
Ann Tempera, Marlene Cox
Case No.: 2010-0158-SPHA

Dear Mr. Kotroco:

Please enter an appeal by Willard McJilton, William Lambdin, George Mc Clelland, Mike Pennington, Ann Tempera, Marlene Cox to the County Board of Appeals from the Findings of Fact and Conclusions of Law of the Baltimore County Zoning Commissioner dated MARCH 30, 2010 in the above-entitled case.

Enclosed is our check in the amount of \$ 400.00 for the filing fee. Please forward copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

*Willard McJilton 410-477-9049
23 Waterview Road 21222

William Lambdin 410-477-4565
33 Waterview Road 21222

George Mc Clelland 410-477-9136
25 Waterview Road 21222

Mike Pennington 410-477-0577
10 Waterview Road 21222

Ann Tempera 410-477-3511
39 Waterview Road 21222

Marlene Cox 410-477-9017
12 Waterview Road 21222

RECEIVED

APR 29 2010

cc: People's Counsel for Baltimore County,
The Jefferson Building, 105 W. Chesapeake Avenue, Suite 204, Towson, MD 21204.

3/30/10
IN RE: PETITIONS FOR SPECIAL HEARING *
AND VARIANCE

SW Corner of Wise Avenue and *
Waterview Road *
(601 Wise Avenue) *

15th Election District *
7th Council District *

Bear Creek Properties, LLC, *Legal Owner* *
3 B's, Inc., *Lessee* *
Petitioner

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

Case No. 2010-0158-SPHA

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Petitioner, 3 B's, Inc., through its President, Robert O'Connor, Jr., and its attorney, Arnold E. Jablon, Esquire with Venable, LLP. The Petition was also signed by Steven R. Goff on behalf of the property owner, Bear Creek Properties, LLC. As filed, Petitioner, in accordance with Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), requests a special hearing for a determination as to whether the present use of the B.L. zoned property at 601 Wise Avenue is that of a *restaurant/tavern* and not a *nightclub* as defined in B.C.Z.R. Sections 101, 102.1 and 230.¹ In addition, Petitioner requests variance relief to permit 53 parking spaces in lieu of the 178 spaces required pursuant to B.C.Z.R. Section 409.6. However, during the course of the hearing held for this case the Petition for Special Hearing was withdrawn and the number of requisite parking spaces modified. Specifically, the Petitioner and managing members of Bear Creek Properties gave assurances that no entertainment by live band or disc jockey would be performed on the premises and no recorded

¹ Allegations of a nightclub enterprise were made by neighbors. An investigation as authorized by the Department of Permits and Development Management (DPDM) was conducted and correction notices issued. See Division of Code Inspections and Enforcement Violation Case No. FA0105438/CO-0034625 (07-7793).

music would be generated above-normal sound levels. As amended, the subject property and requested relief are more particularly described on the redlined site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 2. The hearing proceeded on the remaining revised variance request to allow 53 parking spaces instead of 93 spaces.²

Numerous individuals appeared at the requisite public hearing either in support, as interested citizens or in opposition to the request. Due to limitations of time and space, a complete listing of all those individuals cannot be set out here; however, the sign-in sheets circulated at the hearing reflect their names and are contained in the case file as part of the record along with letters, e-mails and petitions received from many of the residents affected by the business operations. It needs to be noted that Arnold Jablon, Esquire appeared on behalf of 3B's, Inc.³, and its officers Robert and Bobbi O'Connor, and produced as witnesses: David Billingsley with Central Drafting and Design, Inc., the consultant who prepared the site plan(s); Steven Goff, Bob O'Connor, Rodney Barrett, Steve Barr, Martin Meyer (charter boat captain), Frank Taggart, Joe Fisher, Jim Poynter and Beech House employees – Kelly Emala, Eva Poliszczik and Chad Silvinsky. Testifying in strong opposition were several residents in the area namely: William Lambdin, William Pribyl, Bonnie Simons and Willard McJilton.

An appreciation of the waterfront restaurant-bar's past history and use is relevant and is briefly outlined. According to the Maryland Department of Assessments and Taxation – Real Property Data records, the principal structure was built in 1950 and had an enclosed area of

² The redlined plan (Exhibit 2) was to provide a "General Notes" section designating in pertinent part that the property would operate as a restaurant, provide no live entertainment, no outside speakers and that the seasonal outside beach area adjacent to Bear Creek (5,280 square feet) would no longer be used for serving food and alcoholic beverages, lounge chairs, dancing, etc.

³ Subsequent to the hearing's conclusion on Friday, February 19, 2010 but prior to issuing this Order, the Zoning Commissioner was informed and therefore believes that the Petitioner, 3B's, Inc., has terminated its lease of the subject property and "closed its doors for the last time". Public interest, however, dictates that the issues before this Commission should be decided since they may recur. See, *In Carroll County Ethics Commission v. Lennon*, 199 Md. App. 49, @ 61 (1998).

3,398 square feet. The location operated at first as a family run tavern known as Dishrams. In the mid 1960's, a class "D" liquor license was issued by Baltimore County and the tavern name was changed to the Bear Creek Inn. During this time the land area was expanded by the installation of bulkheads and hauling backfill materials in order to create a larger parking lot area. Aerial photographs from 1953 through 1992 support this conclusion. Following in order, and as evidenced by liquor license transfers (Petitioner's Exhibits 11 and 12), the business was renamed Bahama Mamas in the mid 1980's. The building footprint was expanded in the late 80's or early 90's and the enclosed area was increased to 3,940 square feet by erecting a two-story addition that presently operates as the main floor dining area with the lower level referred to as the "tiki bar". The present owners, Steven Goff and Randy Holofcener, formed a corporation - the Bear Creek Inn, Inc. - and purchased the property in the late 1990's. They operated the business, under the name of The Mariner's Landing. At that time, a floating pier was extended into the Bear Creek off of the existing pier and bulkhead at the southwest corner of the property and the parking area on the west side of the building was removed and replaced with beach sand to create an outside beach dining area of 5,280 square feet. The liquor license changed from a Class "D" to Class "B" (49% bar - 51% restaurant). Wood decking (1400 square feet) with canopy cover was erected at the buildings west and south sides in 2006. In late 2006 - early 2007, the property and improvements were leased to Wise Services, Inc. who changed the name to Dick's Dock Bar. A review of the records maintained by the Department of Assessments and Taxation disclose Wise Services filed Articles of Dissolution in October, 2008. The name was then again changed to the "Beach House" following 3 B's, Inc. rental of the property from Bear Creek Properties. Further improvements were made in April by enclosing the wood deck area discussed above with a metal canopy and installing a heating system. During the heavy February 2010 snow storms, this metal canopy area collapsed.

Testimony was offered describing the subject property and the nature of operations conducted at the Beach House by Bob O'Connor and David Billingsley. An examination of the amended site plan shows that the property is a combination of two (2) parcels identified as Lots 1 and 2 on the Plat of Perry Point surrounded on two (2) sides (south and west) by the Bear Creek. Wise Avenue and Waterview Road intersect at and form the property's northern boundary. The site contains an area of 0.83 acres (36,360 square feet), is zoned B.L. and provides on-site parking for 38 vehicles. Off-site parking is provided on the opposite side of Wise Avenue for 15 vehicles, nine (9) at 692 Wise Avenue and an additional six (6) spaces at 700 Wise Avenue for a total of 53 spaces⁴. Mr. Billingsley testified to the site's uniqueness. It is bounded by water on two (2) sides. Residential uses exist to the east. The bulkhead, pier and new floating pier provide boat slips for 25 boats that travel to and from the restaurant mitigating, in Mr. O'Connor's opinion, the requirement for the substantial number of on-site parking spaces. Mr. Billingsley states that the restaurant and bar have operated since 1950 with 38 parking spaces. Mr. O'Connor began operations of the bar/restaurant in April 2008. He states he was unable at first to reverse many of the seasonal activities that had been put in place by the prior lessee, Dick's Dock Bar. He and his wife, Bobbi, leased the property with the intent of converting it back to a restaurant that featured views of Bear Creek as opposed to the bar and nightclub activities – with their negative impacts on neighboring families. He spent a great deal of money making upgrades to the main structure, pier and bulkheads to promote boat traffic that is described as substantial between April and October. By eliminating 200 seats from the beach area, as shown on the amended plan and reducing the number of tables on the wrap-around deck to 18, Mr. O'Connor believes congestion on the site will be reduced but would still require a

⁴ B.C.Z.R. Section 409.7B.1 allows off-site parking spaces if located within 500 feet walking distance of a building entrance.

variance to operate a viable business. He stated that he has already made \$80,000 in improvements and anticipates an additional \$60,000 will be spent updating the restaurant's seating and restaurant areas with a new Bose system, etc.

Testifying in strong opposition to the considerable parking variance were Messrs. Lambdin, Pribyl, McJilton and Ms. Simons. These witnesses each provided their own individual testimony and offered extensive exhibits, but the clear tenor and theme of their remarks relate to parking and traffic impacts affecting Waterview Road, safety concerns and the likelihood of accidents (pedestrians crossing Wise Avenue) and continued crime and disturbances caused by bar patrons. See Protestants Exhibit 2 for accident statistics and documented calls for police service. They noted that two (2) County departments recommended disapproval. The County's Traffic Engineering Division Chief, Stephen E. Weber, at the request of People's Counsel for Baltimore County, provided a lengthy (over ten year) historical evaluation of parking impacts generated in the adjacent community which Weber states should not be occurring. Likewise, the Office of Planning recommended a denial on the basis that the restaurant-bar "has grown in customer use areas over the years ... to a point at which it is now far larger than the site's capacity to contain it". Indeed, I find this to be the most troubling aspect of this proposal as it generated the significant parking and traffic complaints voiced by the residents of Waterview Road.

The property's past history and expanding use has been outlined above. It is the position of this Commission that a property owner is bound by the actions of his or its predecessor in title. See, *Salisbury Board of Zoning Appeals v. Bounds*, 240 Md. 547 (1965) which states at Page 554:

"The restrictions of the ordinance, taken in conjunction with the unique circumstances affecting the property must be the proximate cause of the hardship. If the peculiar circumstances which render the property incapable of being used in accordance with the restrictions contained in the ordinance have been themselves

caused or created by *the property owner or his predecessor in title*, the essential basis of a variance, i.e., that the hardship be caused *solely* through the manor of operation of the ordinance upon the particular property, is lacking. In such case, a variance will not be granted; the hardship, arising as a result of the act of the owner or his predecessor will be regarded as having been self-created, barring relief".

Indeed, I find the building's square footage has increased during the past decade from 3,398 square feet in 1950 to its present day size of 5,340 square feet without benefit of building permits or site plans that would have addressed the need for parking variances.

As stated at the conclusion of the hearing, this is a difficult case. From a practical standpoint, I am appreciative of the owners desire to continue the expanded restaurant/tavern use. Mr. Goff's pronounced willingness to accept the imposition of restrictions and conditions and his assurances that the bands and live music that created the past problems would be eliminated are convincing. On the other hand, the residents of this isolated Perry Point waterfront enclave have invested significant sums for their property and have long endured loud and unruly behavior from patrons leaving this bar/restaurant. I am also cognizant that the manner of enforcement of imposed restrictions/conditions, if approval is granted and these conditions are attached, ultimately ends up with the burden being placed on the community to enforce the limitations imposed. As a result of these concerns and pledges made at the hearing that deficiencies would be corrected, the record of this case was held open for several weeks to allow negotiations to be commenced between the owner of the property and the relevant community members. As a result of these negotiations, a further modified site plan was prepared that has been agreed to in spirit by Bear Creek Properties, LLC – the owner – and a number of residents on Waterview Road. Submitted now as Petitioner's Exhibit 16 is the new site plan bearing a revision date of March 8, 2010 reflecting these initiatives. Essentially, Bear Creek Properties now comes with a new approach to resolve its needs to accommodate customers at its establishment and also address parking issues. The salient points are summarized as follows:

- Bear Creek Properties will take over business operations and return the "Beach House" to the "Mariner's Landing" restaurant. The building will be restructured inside reducing the bar area from 1,850 square feet to 450 square feet and increasing the restaurant area to 3,490 square feet.
- There will be no bands or loud music on the premises thereby eliminating objectionable music outside the building.
- Valet parking, by an attendant, in accordance with B.C.Z.R. Section 409.4.B.1, will be implemented. This will allow approval of up to 50% of all parking spaces that do not adjoin and have direct access to a drive aisle. The redlined plan shows 16 spaces which do not have access to an aisle which is less than 50% of the 60 spaces provided. Valet parking, therefore, allows for a stacked parking method and 13 additional on-site spaces.
- The nine (9) off-site parking spaces furnished at 692 Wise Avenue will be available principally for employee parking with some overflow.
- These changes coupled with no further use of the beach area, limited use of the outside deck area and the utilization of the 25 boat slips for summertime business patrons will reduce parking demands.

Messrs. Lambdin, McJilton and Pribyl, who spoke in opposition to a parking variance at the hearing and attended the subsequent meetings with the owner's managing members (Steven Goff and Randy Holofcener), are skeptical and fear history will repeat itself. They prefer a long-term solution and want Goff to tear down an apartment building he owns at 696 Wise Avenue and convert that as an accessory parking lot as opposed to a variance and valet parking. They appreciate, however, the action of terminating the activities associated with the Beach House,

promises to return the business to a family style restaurant, not to use the beach area for gatherings, not to play live music, or have a DJ booth, etc. Five (5) weeks have now passed since the public hearing and no one has informed the undersigned that a "final" agreement has been reached. While appreciative of the parties' time and efforts in attempting to achieve an amicable resolution, a decision is now overdue and will be stated as follows.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if relief for existing and proposed parking were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to special conditions unique to this particular parcel.⁵ The difficulty, as delineated, is how to grant a variance that will not lead to detrimental impacts to the public health, safety, and general welfare of the area. Perhaps the signature phrase of Ronald Reagan – "doverlyai, no proveryai" – *Trust, but verify* – is appropriate here.

Rather than applying a "singleness of use" calculation method in determining the site's parking needs, Central Drafting and Design, Inc. has shown the required number of parking spaces on its amended site plan, Petitioner's Exhibit 16, to reflect: the Bar area (450 sq. ft. @ 20 sp./1,000 sq. ft. = 9), Restaurant Area (3,490 sq. ft. @ 16 sp./1,000 sq. ft. = 55.8), and the Deck area (1,400 sq. ft. @ 16 sp./1,000 sq. ft. = 22.4) in arriving at the required parking total of 88 spaces. Bear Creek Properties cannot meet the regulations under any circumstances. The amended plan as illustrated provides for 51 spaces on-site and 9 spaces off-site (692 Wise Avenue) for a total of 60 parking spaces. The Petitioner is requesting approval of 60 spaces in lieu of the required 88 spaces in order to continue the tavern/restaurant business that has existed

⁵ By way of example, the required number of parking spaces for a "tavern" – the subject property's primary use from 1950 through 1980 – would require 20 spaces per 1,000 feet of gross floor area. See B.C.Z.R. 409.6. The building's enclosed area over those three (3) decades was 3,398 square feet requiring 68 spaces. The tavern use does not meet nor has it ever met the applicable criteria set forth in the B.C.Z.R.

at this location for over 60 years. In my judgment, the Petitioner has established that the property is unique and that the modified variance relief is justified to mitigate the practical difficulty which strict adherence to the regulations would inevitably create. I am satisfied that the Petitioner has complied with the standards set forth in Section 307 of the B.C.Z.R. By imposing conditions that must be adhered to, relief can be granted in such a way that the spirit of the B.C.Z.R. will be observed and public safety and welfare secured.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the revised parking relief requested shall be Granted.

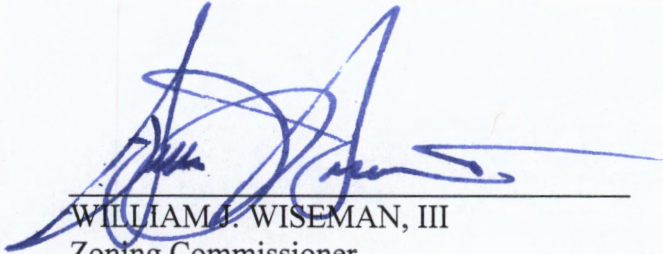
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of March 2010 that the Petition for Special Hearing, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), requesting a determination as to whether the present use of the B.L. zoned property at 601 Wise Avenue is a *restaurant/tavern* and not a *nightclub* as defined in B.C.Z.R. Sections 101, 102.1 and 230, being withdrawn prior to the start of the hearing is rendered MOOT; and

IT IS FURTHER ORDERED that the Petition for Variance, to permit 60 parking spaces in lieu of the 88 spaces required for the bar and restaurant use pursuant to B.C.Z.R. Section 409.6, in accordance with Petitioner's Exhibit 16, be and is hereby GRANTED; subject to the following conditions, which are restrictions precedent to the approval granted herein:

1. Petitioner/owner may apply for any required building permits and be granted same upon receipt of this Order; however, Bear Creek Properties, LLC 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. All outdoor lighting shall be directed towards the interior of the subject site and away from adjacent properties. The outside beach area as designated on the site plan shall not be used for tables, lounge chairs, serving of food or alcoholic beverages.

3. There shall be no bands, dancing or other live entertainment permitted. All recorded music in the deck area of the restaurant shall terminate at 11:00 PM Monday through Friday, and at 12:00 AM Saturdays and Sundays.
4. Petitioner shall employ an attendant to park customer vehicles and attend to the valet parking areas as required by B.C.Z.R. Section 409.4.B.1.
5. Petitioner shall post no parking signs at the entrance to the residential community and encourage patrons, employees and subcontractors not to park on Waterview Road.
6. The variance relief granted herein is personal to Bear Creek Properties, LLC and its current managing members, Steven R. Goff and Randy R. Holofcener. In the event of the sale, lease or transfer of the business, the new owner/operator shall petition for special hearing relief to amend this restriction and the parking approval granted.
7. The legal owner, its successors and assigns shall permit a representative of the Code Enforcement Division of the Department of Permits and Development Management reasonable access to the property and restaurant/tavern to insure compliance with this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the Baltimore County Code.


WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

ORDER RECEIVED FOR FILING

Date

3-30-10

By

103



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 30, 2010

Arnold E. Jablon, Esquire
Venable, LLP
210 West Pennsylvania Avenue
Suite 500
Towson, MD 21204

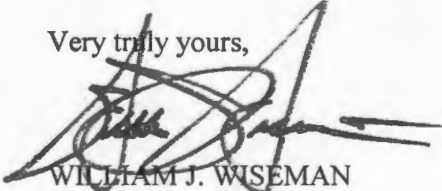
RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE
SW Corner of Wise Avenue and Waterview Road
(601 Wise Avenue)
15th Election District - 7th Council District
Bear Creek Properties, LLC, *Legal Owner*; 3 B's, Inc., *Lessee* – Petitioner
Case No. 2010-0158-SPHA

Dear Mr. Jablon:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

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

Very truly yours,


WILLIAM J. WISEMAN
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Robert J. O'Connor, Jr., President, 3 B's, Inc., 944 Homberg Avenue, Essex, MD 21221
Steven R. Goff, Bear Creek Properties, LLC, 694 Wise Avenue, Baltimore, MD 21222
David Billingsley, Central Drafting & Design, Inc., 601 Charwood Court,
Edgewood, Maryland 21040
Gladys "Randy" Holofcener, 206 Big Holly Court, Stevensville, MD 21666
Eva Poliszczuk, 308 Elrino Street, Baltimore, MD 21224
Rod Barrett, 15 Waterview Road, Baltimore, MD 21222
Tammy Preston, 603 Goodman Avenue, Baltimore, MD 21222
Steve Barr, 1 Waterview Road, Dundalk, MD 21222
Frank Taggart, 539 Bayside Drive, Dundalk, MD 21222
Barbara Crannell, 539 Bayside Drive, Dundalk, MD 21222

Arnold E. Jablon, Esquire
March 30, 2010
Page 2

Kelly Emala, 1953 Inverton Road, Dundalk, MD 21222
Francis S. Hurd, 11 Waterview Road, Baltimore, MD 21222
Renee and Chad Hoover, 302 Bayside Drive, Dundalk, MD 21222
Joe and Robin Fisher, 2A Bayside Drive, Dundalk, MD 21222
Jim Poynter, 2A Bayside Drive, Dundalk, MD 21222
Len Burnham, 702 Wise Avenue, Apt. D, Dundalk, MD 21222
Martin Meyer, 5719 Courtney Drive, Lothian, MD 20711
George A. Abendschoen, Administrator, Baltimore County Board of Liquor License Commissioners
Edward W. Crizer, Jr., Board of Appeals of Baltimore County
Michael Mohler, Deputy Director, DPDM
Meghan Ferguson, Chief, Division of Code Inspections & Enforcement, DPDM
Chip Raynor, Code Enforcement Inspector, DPDM
People's Counsel; File

Kelly Emala, 1953 Inverton Road, Dundalk, MD 21222
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Michael Mohler, Deputy Director, DPDM
Meghan Ferguson, Chief, Division of Code Inspections & Enforcement, DPDM
Chip Raynor, Code Enforcement Inspector, DPDM
People's Counsel; File

**** Protestants Inadvertently Omitted - Added 4/5/10 ****

William Pribyl, 7538 Battle Grove Circle, Baltimore, MD 21222
Doris Graeme, 5 Waterview Road, Baltimore, MD 21222
Bonnie Simons, 7 Waterview Road, Baltimore, MD 21222
Marlene Cox, 12 Waterview Road, Baltimore, MD 21222
Willard McJilton, 23 Waterview Road, Baltimore, MD 21222
William Lambdin, 33 Waterview Road, Baltimore, MD 21222

ARNOLD JABLON
(410) 494-6298

aejablon@venable.com

19 January 2010

Timothy M. Kotroco, Director
Attn: Kristin Matthews
Department of Permits and Development Management
County Office Building
111 West Chesapeake Ave
Towson, Maryland 21204

Re: Case # 10-158A
Hearing Date: 1/26/10@ 9:00 a.m.

Dear Ms. Matthews:

This matter is presently scheduled as indicated above. However, within the past week, Code Enforcement has issued a correction notice in which my client is accused of operating a nightclub. A copy of which is attached.

I believe that my client is not operating a nightclub, but, rather, a restaurant or tavern, both of which are permitted uses in the BL zone. As a result, I am filing this day a new petition for special hearing, by which I am requesting confirmation of the use.

For the purposes of judicial economy, I am requesting that the current petition requesting a parking variance be merged with that of the special hearing inasmuch as both involve the same property.

Thus, I am requesting that Case # 10-158A be continued and set at the same time the petition for special hearing is scheduled.

January 19, 2010
Page 2

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Arnold Jablon', is written over the printed name.

Arnold Jablon
AEJ/aj



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 601 Wise Ave
which is presently zoned BL

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

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

confirm the present use as a restaurant/tavern and not a nightclub

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

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

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

Contract Purchaser/Lessee:

Wise Services, Inc.

Name - Type or Print

Signature

Robert O'Connor, Jr. President

Address Telephone No.

601 Wise Ave., Baltimore, Maryland 21222

City State Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 West Pennsylvania Ave 410-494-6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

Legal Owner(s):

Bear Creek Properties, LLC

Name - Type or Print

Signature

Steven Goff, Member

Name - Type or Print

Signature

694 Wise Ave

Address Telephone No.

Baltimore, Maryland 21222

City State Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 West Pennsylvania Ave. 410 494 6298

Address Telephone No.

Towson, Maryland 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. **2010-0158-SPHA**

UNAVAILABLE FOR HEARING

ORDER RECEIVED FOR FILING

Reviewed By **D.T.**

Date **1/20/10**

DROP OFF

Date **3-30-10**

By **(signature)**



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property
located at 601 Wise Ave
which is presently zoned BL

Deed Reference: 13504 / 335 Tax Account # 1502203800

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

to permit 53 parking spaces in lieu of the required 178 as required by section 409.6, BCZR, if applicable

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

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:

Wise Services, Inc.

Name - Type or Print

Signature

Robert O'Connor, Jr. President

Address

Telephone No.

601 Wise Ave, Baltimore, Maryland 21222

City

State

Zip Code

Attorney For Petitioner:

Arnold Jablon

Name - Type or Print

Signature

Venable, LLP

Company

210 West Pennsylvania Ave 410 494 6298

Address

Telephone No.

Towson, Maryland 21204

City

State

Zip Code

Legal Owner(s):

Bear Creek Properties, LLC

Name - Type or Print

Signature

Steven Goff, Member

Name - Type or Print

Signature

694 Wise Ave

Address

Telephone No.

Baltimore, Maryland 21222

City

State

Zip Code

Representative to be Contacted:

Arnold Jablon

Name

210 West Pennsylvania Ave. 410 494 6298

Address

Telephone No.

Towson, Maryland 21204

City

State

Zip Code

Case No. 2010-0158-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by D.T. Date 11/20/09

ORDER RECEIVED FOR FILING

REV 8/20/07

Date 3-30-10

DROP-OFF

By [Signature]

CENTRAL DRAFTING AND DESIGN, INC.

601 CHARWOOD COURT
EDGEWOOD, MARYLAND 21040
(410) 679-8719 FAX (410) 679-1298

ZONING DESCRIPTION

601 WISE AVENUE

Beginning at the point formed by the intersection of the south side of Wise Avenue (40 feet wide) with the west side of Waterview Road (variable width), thence being all of Lots 1 and 2 as shown on the plat entitled Perry Point recorded among the plat records of Baltimore County in Plat Book 8 Folio 16.

Containing 36,360 square feet or 0.83 acre of land, more or less.

Being known as 601 Wise Avenue. Located in the 15TH Election District, 7TH Councilmanic District of Baltimore County, Maryland.

2010-0158-SPHA

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

No. 47077

Date: 11/23/04

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
001	006	0000		150					495.00

Total: 495.00

Rec

From: 1511-0000

For: 1511-0000

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**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: # 2010-0158-A

601 Wise Avenue
S/west corner of Wise Avenue
and Waterview Road
15th Election District
7th Councilmanic District
Legal Owner(s): Bear Creek
Properties, LLC, Steven
Goff, Member

Contract Purchaser: Wise
Services, Inc., Robert
O'Connor, Pres.

Variance: to permit 53
parking spaces in lieu of the
required 178 as required by
Section 409.6, BCZR, if ap-
plicable.

Hearing: Tuesday, Janu-
ary 26, 2010 at 9:00 a.m.
in Room 104, Jefferson
Building, 105 West Chesa-
peake Avenue, Towson
21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible;
for special accommoda-
tions Please Contact the
Zoning Commissioner's Of-
fice at (410) 887-4386.

(2) For Information con-
cerning the File and/or
Hearing, Contact the Zoning
Review Office at (410) 887-
3391.

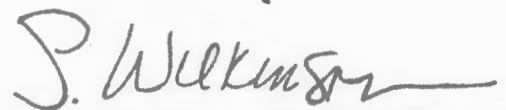
JT/1/719 Jan 12 226434

CERTIFICATE OF PUBLICATION

1/14/, 2010

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 1/12/, 2010.

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



LEGAL ADVERTISING

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: # 2010-0158-A

601 Wise Avenue

S/west corner of Wise Avenue and Waterview Road

15th Election District — 7th Councilmanic District

Legal Owner(s): Bear Creek Properties, LLC, Steve Goff,

Member

Contract Purchaser: Wise Services, Inc., Rober O'Connor, Pres.

Variance: To permit 53 parking spaces in lieu of the required 178 as required by Section 409.6, BCZR, if applicable. **Special Hearing** to confirm the present use as restaurant/tavern and not a nightclub.

Hearing: Friday, February 19, 2010 at 9:00 a.m. in Room 106, County Office Building, 111 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.
02/078 February 4 228903

CERTIFICATE OF PUBLICATION

2/4/, 2010

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 2/4/, 2010.

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

S. Wilkins

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2010-0158-A

RE: Case No.: _____

Petitioner/Developer: _____
Wise Services, Inc. Robert O'Connor, President

January 26 2010

Date of Hearing/Closing: _____

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: _____

601 Wise Avenue

January 11 2010,

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

Sincerely,

Robert Black

Jan 15 2010

(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 # 2010-0158-A

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

PLACE: Room 104 JEFFERSON BUILDING
103 WEST CHESAPEAKE AVE. TOWSON 21204

DATE AND TIME TUESDAY, JANUARY 26, 2010 AT 9:00 ^{A.M.}

REQUEST VARIANCE TO PERMIT 53 PARKING SPACES IN LIEU
OF THE REQUIRED 178 AS REQUIRED BY SECTION 409.6 BCZR, IF
APPLICABLE.

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

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

HANDICAPPED ACCESSIBLE

CERTIFICATE OF POSTING

2010-0158-A

RE: Case No.: _____

Petitioner/Developer: _____
Wise Services, Inc. Robert O'Connor, President

February 19, 2010
Date of Hearing/Closing: _____

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: _____

601 Wise Avenue / Changed hearing date to Feb 19, 2010 From Jan 26, 2010 and hearing place from Room 104 to room 106 county courts building and additional information " in addition to the variance, a special hearing to confirm a restaurant/tavern as opposed to a nightclub"

January 22 2010,
The sign(s) were posted on _____
(Month, Day, Year)

Sincerely,

Robert Black Jan 28, 2010
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

ZONING NOTICE

POSTPONED (SEE NEW DATE)

2010-0158-A

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

PLACE Room 106 County Office Building
111 WEST CHESAPEAKE AVE. TOWSON 21204

DATE AND TIME FRIDAY, FEBRUARY 19, 2010 AT 9:00 A.M.

REQUEST VARIANCE TO PERMIT 53 PARKING SPACES IN LIEU OF
THE REQUIRED 178 AS REQUIRED BY SECTION 409.6 BCZR IF APPLICABLE.
IN ADDITION TO THE VARIANCE, A SPECIAL HEARING TO CONFIRM
A RESTAURANT/TAVERN AS OPPOSED TO A NIGHTCLUB

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

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

HANDICAPPED ACCESSIBLE

**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: 2010-0158-SPHA

Petitioner: WISE SERVICES, INC

Address or Location: 601 WISE AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name: ARNOLD LABON

Address: 210 WEST PENNSYLVANIA AVE
TOWSON 21204

Telephone Number: 410 494 6298

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 12, 2010 Issue - Jeffersonian

Please forward billing to:

Arnold Jablon
Venable, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204

410-494-6298

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: 2010-0158-A

601 Wise Avenue

S/west corner of Wise Avenue and Waterview Road

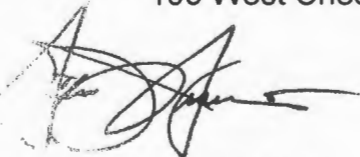
15th Election District – 7th Councilmanic District

Legal Owners: Bear Creek Properties, LLC, Steven Goff, Member

Contract Purchaser: Wise Services, Inc., Robert O'Connor, Pres.

Variance to permit 53 parking spaces in lieu of the required 178 as required by Section 409.6, BCZR, if applicable.

• Hearing: Tuesday, January 26, 2010 at 9:00 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
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

December 21, 2009

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: 2010-0158-A

601 Wise Avenue

S/west corner of Wise Avenue and Waterview Road

15th Election District – 7th Councilmanic District

Legal Owners: Bear Creek Properties, LLC, Steven Goff, Member

Contract Purchaser: Wise Services, Inc., Robert O'Connor, Pres.

Variance to permit 53 parking spaces in lieu of the required 178 as required by Section 409.6, BCZR, if applicable.

Hearing: Tuesday, January 26, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 West Pennsylvania Ave., Towson 21204
Robert O'Connor, Wise Services, Inc., 601 Wise Avenue, Baltimore 21222
Steven Goff, 694 Wise Avenue, Baltimore 21222

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANUARY 11, 2010.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 4, 2010 Issue - Jeffersonian

Please forward billing to:

Arnold Jablon
Venable, LLP
210 W. Pennsylvania Avenue
Towson, MD 21204

410-494-6298

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: 2010-0158-A

601 Wise Avenue

S/west corner of Wise Avenue and Waterview Road

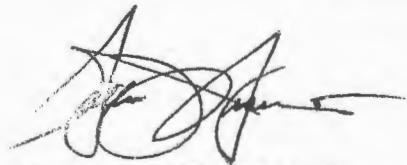
15th Election District – 7th Councilmanic District

Legal Owners: Bear Creek Properties, LLC, Steven Goff, Member

Contract Purchaser: Wise Services, Inc., Robert O'Connor, Pres.

Variance to permit 53 parking spaces in lieu of the required 178 as required by Section 409.6, BCZR, if applicable. Special Hearing to confirm the present use as restaurant/tavern and not a nightclub.

Hearing: Friday, February 19, 2010 at 9:00 a.m. in Room 106, County Office Building,
111 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

MARYLAND

JAMES T. SMITH, JR.
County Executive

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

January 28, 2010

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: 2010-0158-A

601 Wise Avenue

S/west corner of Wise Avenue and Waterview Road

15th Election District – 7th Councilmanic District

Legal Owners: Bear Creek Properties, LLC, Steven Goff, Member

Contract Purchaser: Wise Services, Inc., Robert O'Connor, Pres.

Variance to permit 53 parking spaces in lieu of the required 178 as required by Section 409.6, BCZR, if applicable. Special Hearing to confirm the present use as restaurant/tavern and not a nightclub.

Hearing: Friday, February 19, 2010 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: Arnold Jablon, 210 West Pennsylvania Ave., Towson 21204
Robert O'Connor, Wise Services, Inc., 601 Wise Avenue, Baltimore 21222
Steven Goff, 694 Wise Avenue, Baltimore 21222

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 4, 2010.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



County Board of Appeals of Baltimore County

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

June 17, 2009

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 10-158-SPHA **IN THE MATTER OF:** Bear Creek Properties, LLC; – Legal Owner
3 B's, Inc., Lessee / 601 Wise Avenue / 15th E; 7th C

Re: Petition for Special Hearing to confirm present use as a restaurant/tavern and not a nightclub
Petition for Variance to permit 53 parking spaces in lieu of the require 178, if applicable.

3/30/10 Findings of Fact and Conclusions of Law issued by Zoning Commissioner wherein the requested Petition for Special hearing was withdrawn prior to the hearing and therefore rendered moot; and the Petition for Variance to permit 60 parking spaces in lieu of the required 88 for the bar and restaurant use was GRANTED with conditions.

which had been assigned to October 20 – 21, 2010 has been postponed due to several conflicts; the matter has been re-assigned as follows:

RE-ASSIGNED FOR: WEDNESDAY, OCTOBER 27, 2010 at 10:00 a.m. Day #1 &
THURSDAY, OCTOBER 28, 2010 at 10:00 a.m. Day #2 (IF NEEDED)

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

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

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

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

Theresa R. Shelton
Administrator

c:	Appellants/Protestants	: Willard McJilton/William Lambdin/George McClelland
		: Mike Pennington/Ann Tempera/Marlene Cox
	Legal Owner	: Bear Creek Properties, LLC / Steven R. Goff
	Counsel for Petitioner	: Arnold E. Jablon, Esquire
	Petitioner/Lessee	: 3 B's, Inc. / Robert J. O'Connor, Jr.

David Billingsley/ Central Drafting & Design, Inc	Gladys Holofcener	Eva Poliszczik		
Tammy Preston	Steve Barr	Frank Taggart/Barbara Crannell	Kelly Emala	
Francis Hurd	Renee and Chad Hoover	Joe and Robin Fisher	Jim Poynter	Len Burnham
Martin Meyer	William Pribyl	Doris Graeme	Bonnie Simons	

George A. Abendschoen, Administrator/Liquor Board
Margaret Ferguson, Code Enforcement Hearing Officer
Timothy Kotroco, Director/PDM
William J. Wiseman, III, Zoning Commissioner
John E. Beverungen, County Attorney

Michael Mohler, Deputy Director/PDM
Clarence Raynor, Code Enforcement Inspector
Arnold F. "Pat" Keller, III, Director/Planning
Nancy C. West, Assistant County Attorney
Office of People's Counsel



County Board of Appeals of Baltimore County

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

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

September 17, 2010

NOTICE OF ASSIGNMENT

CASE #: 10-158-SPHA

IN THE MATTER OF: Bear Creek Properties, LLC; – Legal Owner
3 B's, Inc., Lessee / 601 Wise Avenue / 15th E; 7th C

Re: Petition for Special Hearing to confirm present use as a restaurant/tavern and not a nightclub
Petition for Variance to permit 53 parking spaces in lieu of the require 178, if applicable.

3/30/10 Findings of Fact and Conclusions of Law issued by Zoning Commissioner wherein the requested Petition for Special hearing was withdrawn prior to the hearing and therefore rendered moot; and the Petition for Variance to permit 60 parking spaces in lieu of the required 88 for the bar and restaurant use was GRANTED with conditions.

ASSIGNED FOR: **WEDNESDAY, OCTOBER 20, 2010 at 10:00 a.m. Day #1 &**
THURSDAY, OCTOBER 21, 2010 at 10:00 a.m. Day #2 (IF NEEDED)

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

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

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

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

Theresa R. Shelton
Administrator

c: Appellants/Protestants

Legal Owner
Counsel for Petitioner
Petitioner/Lessee

: Willard McJilton/William Lambdin/George McClelland
: Mike Pennington/Ann Tempera/Marlene Cox
: Bear Creek Properties, LLC / Steven R. Goff
: Arnold E. Jablon, Esquire
: 3 B's, Inc. / Robert J. O'Connor, Jr.

David Billingsley/ Central Drafting & Design, Inc
Tammy Preston Steve Barr
Francis Hurd Renee and Chad Hoover
Martin Meyer William Pribyl

Gladys Holofcener Eva Poliszczuk
Frank Taggart/Barbara Crannell Kelly Emala
Joe and Robin Fisher Jim Poynter Len Burnham
Doris Graeme Bonnie Simons

George A. Abendschoen, Administrator/Liquor Board
Margaret Ferguson, Code Enforcement Hearing Officer
Timothy Kotroco, Director/PDM
William J. Wiseman, III, Zoning Commissioner
John E. Beverungen, County Attorney

Michael Mohler, Deputy Director/PDM
Clarence Raynor, Code Enforcement Inspector
Arnold F. "Pat" Keller, III, Director/Planning
Nancy C. West, Assistant County Attorney
Office of People's Counsel



County Board of Appeals of Baltimore County

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

October 28, 2010

NOTICE OF DELIBERATION

CASE #: 10-158-SPHA

IN THE MATTER OF: Bear Creek Properties, LLC; – Legal Owner
3 B's, Inc., Lessee / 601 Wise Avenue / 15th E; 7th C

Re: Petition for Special Hearing to confirm present use as a restaurant/tavern and not a nightclub
Petition for Variance to permit 53 parking spaces in lieu of the require 178, if applicable.

3/30/10 Findings of Fact and Conclusions of Law issued by Zoning Commissioner wherein the requested Petition for Special hearing was withdrawn prior to the hearing and therefore rendered moot; and the Petition for Variance to permit 60 parking spaces in lieu of the required 88 for the bar and restaurant use was GRANTED with conditions.

Having concluded this matter on 10/27/10 a public deliberation has been scheduled for the following:

DATE AND TIME : THURSDAY, JANUARY 6, 2011 at 10:00 a.m.

LOCATION : Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

NOTE: Closing briefs are due on Friday, December 3, 2010, no later than 4:30 p.m.
(Original and three [3] copies)

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

Theresa R. Shelton
Administrator

c: Appellants/Protestants : Willard McJilton/William Lambdin/George McClelland
Legal Owner : Mike Pennington/Ann Tempera/Marlene Cox
Counsel for Petitioner : Bear Creek Properties, LLC / Steven R. Goff
Petitioner/Lessee : Arnold E. Jablon, Esquire
: 3 B's, Inc. / Robert J. O'Connor, Jr.

David Billingsley/ Central Drafting & Design, Inc	Gladys Holofcener	Eva Poliszczik		
Tammy Preston	Steve Barr	Frank Taggart/Barbara Crannell	Kelly Emala	
Francis Hurd	Renee and Chad Hoover	Joe and Robin Fisher	Jim Poynter	Len Burnham
Martin Meyer	William Pribyl	Doris Graeme	Bonnie Simons	

George A. Abendschoen, Administrator/Liquor Board
Margaret Ferguson, Code Enforcement Hearing Officer
Timothy Kotroco, Director/PDM
William J. Wiseman, III, Zoning Commissioner
John E. Beverungen, County Attorney

Michael Mohler, Deputy Director/PDM
Clarence Raynor, Code Enforcement Inspector
Arnold F. "Pat" Keller, III, Director/Planning
Nancy C. West, Assistant County Attorney
Office of People's Counsel



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

February 17, 2010

Arnold Jablon
Venable, LLP
210 West Pennsylvania Ave.
Towson, MD 21204

Dear: Arnold Jablon

RE: Case Number 2010-0158-A, 601 Wise Ave.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 20, 2010. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel
Robert O' Connor; Wise Service Inc; 601 Wise Ave.; Baltimore, MD 21222
Steven Golf; Bear Creek Properties, LLC; 694 Wise Ave; Baltimore, MD 21222

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 5, 2010

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

SUBJECT: 601 Wise Avenue

Item Number: 10-158

Petitioner: Bear Creek Properties, LLC

Zoning: BL

Requested Action: Variance

RECEIVED

JAN 19 2010

ZONING COMMISSIONER

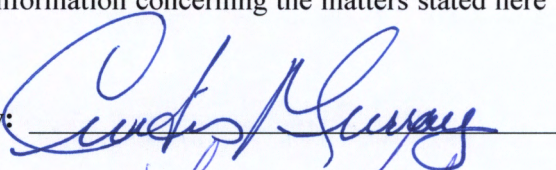
SUMMARY OF RECOMMENDATIONS:

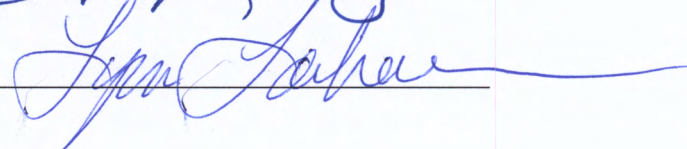
The existing waterfront restaurant-bar is situated at the edge of a small neighborhood commercial area, and immediately adjacent to a residential community, as well across Bear Creek from another residential neighborhood. It has grown in customers use areas over the years, apparently without proper permits or inspection to the point at which it is now far larger than the sites capacity to contain it. The parking is limited. Parking at this business is also a problem for the neighboring community. The neighbors often find cars parked in their driveways and lawns. They have filed complaints repeatedly.

On occasions when live music is played, the crowds are large, often boisterous and not fully contained by the business or its facilities. It is a business that has simply outgrown its site. The beach area could be restricted from use by patrons, accessory storage structures could be removed from the premises, the deck area could be 'un-weatherized', that is open to the elements and the tables, chairs and picnic tables removed. All of these things might reduce the capacity, but permitting the parking variance would ignore the real problem which is that the music scene business model has brought to a local facility, a regional clientele that the site and the community is unable to, and should not be required to accommodate.

Therefore this office strongly recommends against granting this variance due to incompatibility with the surrounding community, inadequate facilities, and noise and general disturbance of the peace by the customers.

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

Prepared by: 

Division Chief: 
AFK/LL: CM

BW
1-26-10

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JAN 22 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: January 22, 2010
SUBJECT: Zoning Item # 10-158-A
Address 601 Wise Avenue
(Bear Creek Properties, LLC)

Zoning Advisory Committee Meeting of December 6, 2009.

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

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

Additional Comments:

The property is located in a Limited Development Area (LDA) and a Buffer Management Area (BMA) of the Chesapeake Bay Critical Area. All applicable LDA and BMA regulations will apply to development on this property.

Reviewer: Adriene Metzbower

Date: 12/23/2009

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: January 26, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For February 1, 2010
Item No.: 2010-158

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

The base flood elevation for this site is 9.4 feet Baltimore County Datum.

The flood protection elevation for this site is 10.4 feet.

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC - Comments\ZAC-ITEM NO 2010-0158-020820\0.cloc



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

February 10, 2010

ATTENTION: Zoning Review Planners

Distribution Meeting Of: January 25, 2010

Item Numbers: 0158

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

3. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For December 21, 2009
Item Nos. 2010-0150, 152, 156, 157,
158, 159, 160, 161, 163, 164 and 165

DATE: December 10, 2009

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

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-12212009 -NO COMMENTS.doc



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

Beverley K. Swaim-Staley, Secretary
Nell J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: DEC. 11, 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. 2010-0158-A
601 WISE AVENUE
BEAR CREEK PROPERTIES LLC
VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2010-0158-A.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael P. Bailey", is written over the typed name of Steven D. Foster.

Foster Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/mb

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



Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: FEBRUARY 2, 2010

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

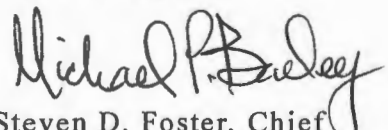
RE: Baltimore County
Item No. 2010-0158-SPHA
601 WISE AVENUE
BEAR CREEK PROPERTIES, LLC
VARIANCE/SPECIAL HEARING -

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. 2010-0158-SPHA.

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

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.sha.maryland.gov

RE: PETITION FOR VARIANCE * BEFORE THE
601 Wise Avenue, SW corner of Wise *
Avenue and Waterview Road * ZONING COMMISSIONER
15th Election & 7th Councilmanic Districts
Legal Owner(s): Bear Creek Properties, LLC* FOR
Contract Purchaser(s): Wise Services, Inc
Petitioner(s) * BALTIMORE COUNTY
* 10-158-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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.

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

RECEIVED

DEC 08 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2009, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 West Pennsylvania Avenue, Suite 500, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT
ACTIVE VIOLATION CASE DOCUMENTS

CO-0034625 (07-7793
601 Wise Avenue

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: March 30, 2009

TO: W. Carl Richards, Jr.

FROM: Meghan Ferguson, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No: 2010-0158-A
Legal Owner/Petitioner: Bear Creek Properties, LLC
Contract Purchaser:
Property Address: 601 Wise Ave
Location Description: South west corner of Wise Avenue and Waterview Road

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Case No: CO-0034625 (07-7793)

Photographs
Correction Notice
Citations
Final Order

This is an extensive file and therefore has much more information included (correspondence with attorneys, site plans, etc). The Code Enforcement Hearing Officer, Margaret Ferguson, currently has the file for review in order to make a decision from a recent hearing.

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Christina Moscati in Room 213 in order that the appropriate action may be taken relative to the violation case.

MF/cm
C: Paul Cohen, Code Enforcement Officer



CODE ENFORCEMENT & INSPECTIONS CITATION

CASE NUMBER 34625	PROPERTY TAX ID 15-02-203800	ZONE Com.
NAME(S): Bear Creek Properties LLC.		
MAILING ADDRESS: C94 Wise Ave.		
CITY Balto.	STATE MD	ZIP CODE 21222
VIOLATION ADDRESS: 601 Wise Ave.		
CITY Balto	STATE MARYLAND	ZIP CODE 21222
VIOLATION DATES: 3/4/09 - 11/4/09		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BEZR 101, 102.1 ; BEC 32-3-102, 500.9 BEZR
2c pm

**- Failure to comply with Final order
& Revised site plan & approved
parking for this property**

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated:

\$ 5000.00

A quasi-judicial hearing has been pre-scheduled in room 116, 111 W. Chesapeake Ave, Towson, Maryland, 21204, for:

DATE: **11, 4, 09**

TIME: **9:00** **(A.M.)** / P.M.

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Printed Name: **C. Raynor**

INSPECTOR SIGNATURE: **C. Raynor** Date: **10, 6, 09**
PRINT NAME AGENCY





from across bridge



next door





CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

CASE NUMBER 07-7793	PROPERTY TAX ID 13-02-203800	DATE ISSUED 6/20/17
-------------------------------	--	-------------------------------

NAME(S): Bear Creek Properties, LLC; Wise Services, Inc
TA Dick's Back Bar

MAILING ADDRESS		
CITY	STATE	ZIP CODE

VIOLATION ADDRESS 601 Wise Av.		
CITY BALTIMORE	STATE MARYLAND	ZIP CODE 21222

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

RESIDENTIAL ZONE CLASSIFICATION

- ☐ DR1 ☐ DR2 ☐ DR3.5 ☐ DR5.5 ☐ DR10.5 ☐ DR16
☐ RC2(1A01) ☐ RC4(1A03) ☐ RC20 & 50 (1A05) ☐ RC6(1A07)
☐ RC3(1A02) ☐ RC5(1A04) ☐ RCC (1A06) ☐ RC7 (1A08)
☐ OTHER: _____

NON-RESIDENTIAL CLASSIFICATION

- ☒ BL (230) ☐ BR (236) ☐ BM (233)
☐ MR (240) ☐ ML (253) ☐ MH (256)
☐ OTHER: _____

BALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)

AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114

- | | |
|--|--|
| ☒ 101; 102.1: Definitions; general use | ☐ 415A: License/ remove untagged recreation vehicle |
| ☒ 1B01.1: DR Zones-use regulations | ☐ 415A: Improperly parked recreation vehicle |
| ☒ 428: License/ Remove all untagged/ inoperative or damaged/ disabled motor vehicle(s) | ☐ 415A: One recreational vehicle per property |
| ☐ 1B01.1D: Remove open dump/ junk yard | ☐ 410: Illegal Class II trucking facility |
| ☐ 431: Remove commercial vehicle(s) | ☐ 400: Illegal accessory structure placement. |
| ☐ 101; 102.1: Remove contractors equip. storage yard | ☐ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs |
| ☐ 101; 102.1; ZCPM: Cease service garage activities | ☐ 102.5: Residential site line violation /obstruction |
| ☐ 402: Illegal conversion of dwelling | ☐ 408B: Illegal rooming/ boarding house |
| ☐ 101; 102.1; ZCPM: Illegal home occupation | ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM:
Violation of commercial site plan and/or zoning order |

BALTIMORE COUNTY CODE (B.C.C.)

- | | |
|--|--|
| ☐ 13-7-112: Cease all nuisance activity | ☐ 35-2-301: Obtain building/ fence/ sign permit |
| ☐ 13-7-115: County to abate nuisance & lien costs | ☐ 18-2-601: Remove all obstruction(s) at street, alley, road |
| ☐ 13-7-310: Remove all trash & debris from property | ☐ 13-7-310(2): Remove bird seed / other food for rats |
| ☐ 13-7-312: Remove accumulations of debris, materials, etc | ☐ 32-3-102: Violation of development plan/ site plan |
| ☐ 13-7-201(2): Cease stagnant pool water | ☐ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise |
| ☐ 12-3-106: Remove animal feces daily | ☐ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tall grass and weeds to three (3) inches in height |
| ☐ 35-5-208(a)(c): Seal exterior openings from rodents & pests | |
| ☐ 13-4-201(b)(d): Store garbage in containers w/tight lids | |

OWNER OCCUPIED HOUSING (B.C.C.)

- | | |
|---|--|
| ☐ 35-5-302(a)(1): Unsanitary conditions. | ☐ 35-5-302(a)(2): Store all garbage in trash cans |
| ☐ 35-5-302(a)(3): Cease _____ infestation from prop. | ☐ 35-5-302(b)(1): Repair exterior structure |
| ☐ 35-5-302(b)(1)(2): Repair decorative trim, cornices, etc | ☐ 35-5-302(b)(1)(3): Repair exterior extensions |
| ☐ 35-5-302(b)(1)(4): Repair chimney & similar extensions | ☐ 35-5-302(b)(1)(5): Repair metal/wood surfaces |
| ☐ 35-5-302(b)(1)(6): Repair defective door(s) / window(s) | ☐ 35-5-302(b)(1)(7): Repair defective fence |

INVESTMENT PROPERTY (B.C.C.)

- | | |
|--|---|
| ☐ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition | ☐ 35-2-404(a)(1)(ii): Repair ext. walls / vertical members |
| ☐ 35-2-404(a)(1)(iii): Repair roof or horizontal members | ☐ 35-2-404(a)(1)(iv): Repair exterior chimney |
| ☐ 35-2-404(a)(1)(v): Repair ext. plaster or masonry | ☐ 35-2-404(a)(1)(vi): Waterproof walls/ roof /foundations |
| ☐ 35-2-404(a)(1)(vii): Repair exterior construction (see below) | ☐ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris |
| ☐ 35-2-404(a)(1)(3): Repair /remove defective exterior sign(s) | ☐ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match building color of structure |

OTHER VIOLATIONS OR REMARKS:

Operation as a "Night Club" is prohibited
(NO LIVE ENTERTAINMENT)

Note: An approved site plan must be on file with Balto. Co., with designated and marked parking

☐ NOTICE POSTED AND MAILED

POTENTIAL FINE: ☒ \$200 ☐ \$500 ☐ \$1000 per day, per violation and to be placed as a lien upon your tax bill.

COMPLIANCE DATE: **6/21/17** INSPECTOR NAME: **R Moorefield**

PRINT NAME (Rev 9/05)

AGENCY



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

In the Matter of

Civil Citation No. 07-7793

Bear Creek Properties LLC
694 Wise Avenue
Baltimore, MD 21222

601 Wise Avenue

Respondent

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on April 3, 2008, for a hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) § 500.9; failure to submit site plan for property zoned BL known as 601 Wise Avenue, 21222.

The citation also cited BCZR §101, 102.1, 1B01.1; Baltimore County Code (BCC) § 32-3-102 as sections violated however they appear to not be relevant therefore are dismissed.

On March 2, 2008, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was legally served on the Respondents.

The citation proposed a civil penalty of \$33,000.00 (thirty three thousand dollars).

- The Respondent appeared for the Hearing represented by J. Carroll Holzer, Esquire. -
- Arnold E. Jablon appeared as counsel for the present tenant.
- Clarence Raynor, Code Enforcement Officer presented the case for Baltimore County.

Testimony and evidence submitted shows the property was at one time used as a restaurant with outside seating and food service. This use caused Mr. James Thompson, Supervisor of Code Enforcement to craft the letter of July 24, 2007 informing Bear Creek Properties, LLC to:

1. Remove all outdoor seating, or
2. Obtain off-site commercially zoned parking
3. Obtain a non-conforming use via Special Hearing.

Obviously by inference, one must conclude that a site plan is required however, Mr. Thompson's letter fails to actually require one. Section 500.9 of the BCZR states "The Zoning Commissioner shall have the power to require the production of plats of development or subdivisions of land, or any land in connection with which application for building or use permits or petition for special exception, a reclassification or a temporary use shall be made"... The alleged use or violation precipitating Mr. Thompson's letter has since ceased. The owner has removed the offending tenant. The present tenant as proffered by Mr. Jablon will operate within the confines of the existing restaurant and as such does not need a site plan. Further, that should his client feel the need to expand, then they will file the appropriate site plan for the use as required.

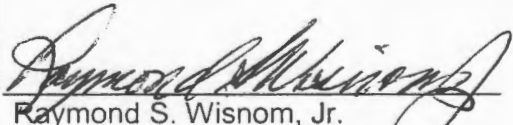
A site plan was submitted according to file records on November 1, 2007 (see Holzer letter to Chip Raynor). Baltimore County failed to either approve or officially deny the plan. I assume the plan remains under review. In the interim, evidence and testimony indicate the property use has reverted to the original use with the offending party having vacated the property.

Code Enforcement cited Bear Creek Properties LLC T/A Dick's Dock Bar with no documentation to show this to be true. Testimony and evidence submitted by Mr. Holzer shows Bear Creek Properties LLC leased the property to Wise Services, d/b/a Dick's Dock Bar.

A finding of violation most certainly will not withstand review given the testimony and evidence submitted.

IT IS ORDERED by the Code Enforcement Hearing Officer this 4th day of April 2008 that case #07-7793 is hereby dismissed.

Signed:


Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of \$150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf



7 by



06/20/2007



06/20/2007



RM 6/26/17





Across street



Across street



Looking toward next door





Across Street





← along street next door →



↕ Next door





Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Code Enforcement: 410-887-3351
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION
SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No. 07-7793	Property No. 15-02-203800	Zoning: BL
Name(s):	Bear Creek Properties	
	Wise Service; TA Dick's Dock BAR	
Address:	601 Wise Ave, 21222	
Violation Location:	601 Wise Ave, 21222	
Violation Dates:	8/27/07 - 4/3/08	

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID
UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

BCZR: 101, 102.1, 1B01.1
BCC: 32-3-102, 500.9, BCZR: 2Cpm
- Violation of Commercial site plan
- Failure to Submit Approved site plan
- operation as a Night Club is prohibited

Pursuant to Section 1-8, Baltimore County Code, a civil penalty
has been assessed, as a result of the violation cited herein, in
the amount indicated:

\$ 33,000

A quasi-judicial hearing has been pre-scheduled in Room 116,
111 West Chesapeake Avenue, Towson, Maryland, for:

Date: **4/3/08**

Time: **9:00**

Citation must be served by:

Date: **Served**

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true
and correct to the best of my knowledge, information, and belief.

Print Name: **C. Raynor**

Date: **3/2/08** Inspector's Signature: **[Signature]**

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name: _____ Citation/Case No.: _____

Address: _____

Date: _____ Defendant's Signature: _____

AGENCY



CODE ENFORCEMENT & INSPECTIONS CITATION

CASE NUMBER 07-7793	PROPERTY TAX ID 15-02-203800	ZONE BL
NAME(S): Bear Creek Properties; Wise Services Inc T/A Dick's Dock Bar		
MAILING ADDRESS: 601 Wise Ave		
CITY Balto	STATE MD	ZIP CODE 21222
VIOLATION ADDRESS: 601 Wise Ave		
CITY Balto	STATE MARYLAND	ZIP CODE 21228
VIOLATION DATES:		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCZR: 101, 102.1, 1B01.1

BCE: 32-3-102; 500.9 BCZR: 2c pm

- Violation of Commercial Site Plan and/or zoning order
- Failure to Submit An Approved site plan w/Balto. Co, All off-site parking plans must be engineered
- operation as a "Night Club" is prohibited
"NO Live Entertainment"

Pursuant to Section 1-2-217, Baltimore County Code, civil penalty has been assessed, as a result of the violation(s) cited herein, in the amount indicated:

\$ **3000.00**

A quasi-judicial hearing has been pre-scheduled in room 116, 111 W. Chesapeake Ave, Towson, Maryland, 21204, for:

DATE: **9/27/07**

TIME: **9:00** **(AM)** / P.M.

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Inspector Printed Name: **Chy Raynor**

INSPECTOR SIGNATURE:

PRINT NAME

AGENCY

Date: **8/27/07**



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

August 20, 2010

Arnold Jablon
Venable, LLP
210 West Pennsylvania Avenue, Ste. 500
Towson, MD 21204

Dear Mr. Jablon:

RE: Case: 2010-0158-SPHA, 601 Wise Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on April 29, 2010 by multiple parties/residents on Waterview Road. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

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

Timothy Kotroco
Director

TK:kl

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
See attached sheet

Kelly Emala, 1953 Inverton Road, Dundalk, MD 21222
Francis S. Hurd, 11 Waterview Road, Baltimore, MD 21222
Renee and Chad Hoover, 302 Bayside Drive, Dundalk, MD 21222
Joe and Robin Fisher, 2A Bayside Drive, Dundalk, MD 21222
Jim Poynter, 2A Bayside Drive, Dundalk, MD 21222
Len Burnham, 702 Wise Avenue, Apt. D, Dundalk, MD 21222
Martin Meyer, 5719 Courtney Drive, Lothian, MD 20711
George A. Abendschoen, Administrator, Baltimore County Board of Liquor License Commissioners
Edward W. Crizer, Jr., Board of Appeals of Baltimore County
Michael Mohler, Deputy Director, DPDM
Meghan Ferguson, Chief, Division of Code Inspections & Enforcement, DPDM
Chip Raynor, Code Enforcement Inspector, DPDM
People's Counsel; File
**** Protestants Inadvertently Omitted - Added 4/5/10 ****
William Pribyl, 7538 Battle Grove Circle, Baltimore, MD 21222
Doris Graeme, 5 Waterview Road, Baltimore, MD 21222
Bonnie Simons, 7 Waterview Road, Baltimore, MD 21222
Marlene Cox, 12 Waterview Road, Baltimore, MD 21222
Willard McJilton, 23 Waterview Road, Baltimore, MD 21222
William Lambdin, 33 Waterview Road, Baltimore, MD 21222

APPEAL

Petition for Special Hearing and Variance
601 Wise Avenue
SW corner of Wise Avenue and Waterview Road
15th Election District – 7th Councilmanic District
Bear Creek Properties, LLC – Legal Owners
Case No.: 2010-0158-SPHA

Petition for Special Hearing & Variance (November 20, 2009)

Zoning Description of Property

Notice of Zoning Hearing (January 28, 2010)

Certification of Publication (The Jeffersonian – February 4, 2010)

Certificate of Posting (January 22, 2010) by Robert Black

Entry of Appearance by People's Counsel (December 8, 2009)

Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – One Sheet

Zoning Advisory Committee Comments

Active Violation Case Documents

Petitioners' Exhibit – See attached Exhibit Sheet

Protestants' Exhibits – See attached Exhibit Sheet

Miscellaneous (Not Marked as Exhibit)

1. CD-R Disks 1-6
2. Letter dated January 21, 2010 from People's Counsel
3. Corporations and Associations Article of MD Code – February 18, 2010, Joyce Stroupe
4. Letter from Bill Pribly dated March 2, 2010
5. Letter from Bear Creek Properties, March 2, 2010
6. Email correspondence between Mr. Wiseman and Bill Pribyl
7. Letter dated March 18, 2010 from Bear Creek Properties
8. Email dated March 23, 2010 from Bill Lambdin

Deputy Zoning Commissioner's/Zoning Commissioner's Order (GRANTED – March 30, 2010)

Notice of Appeal received on April 29, 2010 from multiple residents of Waterview Road

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
See Attached

date sent August 23, 2010, kll

Address List

Petitioners:

Arnold Jablon, Esquire
Venable, LLP
210 W. Pennsylvania Ave, Ste
500
Towson, MD 21204

Bear Creek Properties, LLC
Steven Goff, Member
694 Wise Avenue
Baltimore, MD 21222

Wise Services, Inc.
Robert O'Connor, Jr., President
601 Wise Avenue
Baltimore, MD 21222

Protestants:

Willard McJilton
23 Waterview Road
Baltimore, MD 21222

William Lambdin
33 Waterview Road
Baltimore, MD 21222

George McClelland
25 Waterview Road
Baltimore, MD 21222

Mike Pennington
10 Waterview Road
Baltimore, MD 21222

Ann Tempera
39 Waterview Road
Baltimore, MD 21222

Interoffice:

George A. Abendschoen, Administrator/Liquor Board
Michael Mohler, Deputy Director/PDM
Margaret Ferguson, Code Enforcement Hearing Officer
Clarence Raynor, Code Enforcement Inspector
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, III, Director/Planning
William J. Wiseman, III, Zoning Commissioner
Nancy C. West, Assistant County Attorney
John E. Beverungen, County Attorney
Office of People's Counsel

Marlene Cox
12 Waterview Road
Baltimore, MD 21222

Interested Persons:

David Billingsley
Central Drafting & Design, Inc
601 Charwood Court
Edgewood, MD 21040

Gladys Holofcener
206 Big Holly Court
Stevensville, MD 21666

Eva Poliszczik
308 Elrino Street
Baltimore, MD 21224

Rod Barrett
15 Waterview Road
Baltimore, MD 21222

Tammy Preston
603 Goodman Avenue
Baltimore, MD 21222

Steve Barr
1 Waterview Road
Baltimore, MD 21222

Frank Taggart
Barbara Crannell
539 Bayside Drive
Baltimore, MD 21222

Kelly Emala
1953 Inverton Road
Baltimore, MD 21222

Francis Hurd
11 Waterview Road
Baltimore, MD 21222

Renee and Chad Hoover
302 Bayside Drive
Baltimore, MD 21222

Joe and Robin Fisher
2A Bayside Drive
Baltimore, MD 21222

Jim Poynter
2A Bayside Drive
Baltimore, MD 21222

Len Burnham
702 Wise Avenue, Apt D
Baltimore, MD 21222

Martin Meyer
5719 Courtney Drive
Lothian, MD 20711

William Pribyl
7538 Battle Grove Circle
Baltimore, MD 21222

Doris Graeme
5 Waterview Road
Baltimore, MD 21222

Bonnie Simons
7 Waterview Road
Baltimore, MD 21222

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Bear Creek Properties, LLC 10-158-SPHA

DATE: January 6, 2011

BOARD/PANEL: Lawrence S. Wescott, Panel Chairman
Maureen E. Murphy

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing to confirm the use of the subject property as a restaurant and/or tavern and not a nightclub.
2. Petition for Variance to allow 60 parking spaces in lieu of the required 88.
3. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
4. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board discussed that the original panel contained the customary three Board members. Panel member, Lawrence Stahl, has left the Board to assume another position within the County. The parties in this matter have agreed to continuing this matter with the remaining two Board members and not having Mr. Stahl replaced.
- The Board reviewed the history of this matter and the subject property. This matter involves a property which is bound on two sides by water, one side with the Wise Avenue bridge, and one side has residences. This property has been used as a restaurant/tavern since the 1950's, prior to the Zoning Regulations and prior to the conditions of the Chesapeake Bay Critical Area standards. The Petitioner purchased the property in 1998. Several additions have been made to the property prior to the Petitioner's purchase, without permits from Baltimore County. There has never been the intent to use the property as a nightclub.
- The Protestants were concerned about the use of the property as a nightclub which is not permitted in a BL zone.

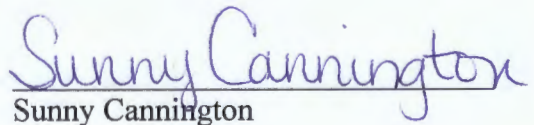
- The Board reviewed that the main issue is with regard to the parking on the property.
- The Board reviewed that the Protestants did not argue about the uniqueness of the property.
- The Board determined that pursuant to the conditions of Cromwell, the property is unique as it is the only property in the surrounding area that is bound by water and a bridge.
- The Board discussed the practical difficulty and hardship that the Petitioners would have if they were required to comply strictly with the Zoning Regulations. The subject property is zoned BL, Business Light. Even without the additions to the existing building, because of the configuration and environmental features of the property, the Petitioners would still be required to have a variance to allow for parking. If the Petitioners were to run any other business or turn the building into a dwelling, the parking issues would remain. The Board determined that if a variance for the parking were not granted, the property would not be capable of being used for any BL use.
- The Board discussed that much of the testimony provided by the Protestants was from memory because they've lived in the area since the 1950's. The Protestants provided drawings, which were not created by a professional, with ideas about how to extend the parking by using the beach. The Board determined that using the beach areas for parking could bring concerns about the environment and isn't a viable solution.

DECISION BY BOARD MEMBERS: The Board determined that the subject property is unique pursuant to the conditions set forth in Cromwell. The Board also determined that if the Variance were not granted, it would cause a practical difficulty for the Petitioner/property owner.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the Petition for Variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

BW 1/26
9AM



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 21, 2010

HAND DELIVERED

William J. Wiseman, III, Zoning Commissioner
County Courts Building
401 Bosley Avenue, Suite 405
Towson, Maryland 21204

RECEIVED

JAN 21 2010

Re: PETITION FOR VARIANCE
Bear Creek Properties – Legal Owners
601 Wise Avenue
Case No: 10-158-A

ZONING COMMISSIONER

Dear Mr. Wiseman,

We asked Stephen E. Weber, Chief of Traffic Engineering, to review the petition and site plan in this case because they present traffic/parking issues. As a result, we submit for your review and consideration the enclosed e-mail dated January 20, 2010, along with an aerial photo. The hearing is currently set for January 26, 2010.

Mr. Weber's report details a history, investigation, and analysis of major problems relating to the proposed request for a large parking variance. For the reasons stated in his report, his office strongly opposes the granting of the variance. The report concludes with a finding "... that the historical parking problems generated by the petitioner (over 10 years) have been causing parking impacts into the adjacent community which should not be occurring."

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw

cc: Arnold Jablon, Esquire
Stephen Weber, Traffic Engineering

From: Stephen Weber
To: People's Counsel
CC: County Council District 7; Dennis Kennedy
Date: 1/19/2010 2:30 PM
Subject: Fwd: Bear Creek Properties Case No. 10-158-A, 601 Wise Ave
Attachments: 10-158-A Petition.pdf; 601WiseAve.bmp

Dear Mr. Zimmerman:

Please be advised that we have very significant problems with the subject request for a large variance in required parking from the required 178 spaces to the provided 53 spaces. This particular restaurant/bar has been generating significant parking and traffic complaints from the residents of Waterview Rd for some time. We have correspondence from the residents going back to 2000 where they are seeking assistance to address the parking problems from the restaurant patrons who are parking within the community. At that time, parking issues seemed to be exacerbated by events like Monday Night Football games and crowds that came on the weekends for bands. The problem has seemed to worsen more recently. In 2009 we had to respond to a few different requests for assistance. The residents indicated that patrons from the restaurant/bar were parking significantly into the community, and they were seeking legal means of keeping the patrons out of their residential community. Most of the complaints have dealt with the fact that residents can't find parking when they return to their homes and issues like trash and noise generated by restaurant/bar patrons coming back for their cars when leaving for the night.

We made an investigation into these complaints around last September. Attached is an aerial photo of the area with the restaurant located in the upper left-hand corner of the photo and Waterview Rd located to the east and south off of Wise Ave. We checked this location on Friday/Saturday evenings and found that heavy parking was taking place in the areas highlighted in yellow, which extended about 450 feet into the community. Based on the density of housing in this area and checking the location on other occasions, it was clear that the parking was due to overflow from the restaurant at 601 Wise Ave. The residents had installed signs themselves along Waterview Rd to indicate that parking on Waterview Rd was for residents only and others would be towed and ticketed. Our office had to get involved in this matter because the signs were illegal and since the road is a public street they could not restrict parking in that manner. The only relief open to the residents at this time would be to petition for residential permit parking, but at this time they have not submitted an application to pursue that option.

When we made our investigation several months ago and found parking taking place into the community, the areas highlighted in yellow were holding approximately 35 vehicles, most of them appearing to be non-residents. While the residents might like to have Residential Permit Parking, part of their reluctance may be due to the fact that they would have to pay the yearly permit fees for their vehicles if they want to park on-street. It also generates additional problems and logistic issues when they would have guests over to their homes in the evenings and on the weekends.

From the issues to which our office has had to listen over the past decade from the residents of Waterview Rd, and the visual observations that we made a few months ago, it is clear that the subject site is regularly causing an overflow of its patrons into the adjoining residential community. The fact that the requested parking variance is so large (providing less than one-third of the required parking) is also a testament to what appears to be the applicant's disregard for containing their business operations on their own property and not adversely impacting their residential neighbors. The County does have legislation in place to allow for Residential Permit Parking when such businesses impinge on adjoining residential neighborhoods and the County recognizes that the impacts from commercial parking intrusion into residential neighborhoods does adversely affect the residential integrity of such communities. Commercial parking in residential areas makes such areas less attractive as residential property and oftentimes serves to cause arguments for rezoning such areas to commercial use. It also adversely affects one's ability to use their own property in a manner that would normally be expected (such as being able to come home in the evening and expecting they can park reasonably close to their home in a single family neighborhood).

If the community did submit an application for Residential Permit Parking, based on our previous examinations of the area it does appear that they would qualify. If the County Council then granted the establishment of a Residential Permit Parking area for this community, all the sudden there would be at least 30 restaurant/bar patron's vehicles that would have to be parked elsewhere. Unfortunately, the petitioner has not only not made any allowance for the 30 vehicles or so that are being parked into the community, there is no demonstration of any ability of coming anywhere close to accommodating the demands this business is already generating. If anything, it appears something should be done to the existing use to contain the number of business patrons to the limited parking, 53 spaces, that they can provide. Even then, 15 of these spaces are on the other side of a busy street, certainly not a desirable issue from a pedestrian safety standpoint.

As such, we would strongly oppose the granting of the requested variance and find that the historical parking problems generated by the petitioner (over 10 years) have been causing parking impacts into the adjacent community which should not be occurring. Should you have any questions or wish to discuss the matter further, please feel free to give me a call.

Stephen E. Weber, Chief
Div. of Traffic Engineering
Baltimore County, Maryland
111 W. Chesapeake Avenue, Rm. 326

Towson, MD 21204
(410) 887-3554

>>> People's Counsel 12/15/09 1:45 PM >>>
Mr. Weber,

Attached you will find the Petition for Variance in the above case. Please review and let our office know if there are any traffic concerns.

Thank you in advance.
Peter Max Zimmerman

Rebecca M. Wheatley
Legal Secretary
Office of the People's Counsel for Baltimore County
410-887-2188 Phone
410-823-4236 Fax





Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

October 15, 2010

Lawrence M. Stahl, Esquire, Chairman
County Board of Appeals
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: Bear Creek Properties, LLC - Petitioners
601 Wise Avenue
Case No.: 2010-158-A

RECEIVED
OCT 15 2010
BALTIMORE COUNTY
BOARD OF APPEALS

Dear Chairman Stahl,

This case is scheduled for a *de novo* hearing October 27-28, 2010 upon the appeal to the County Board of Appeals (CBA) of Zoning Commissioner (ZC) William Wiseman's March 30, 2010 Order. The Appellants are William McJilton, William Lambdin, George McClelland and other Waterview Road neighborhood residents. The Petitioners did not appeal.

The .83 acre property is zoned B.L. (Business-Local) and is on Wise Avenue in the Dundalk area. It backs up to Bear Creek. There is an extensive controversial history, referred to in ZC Wiseman's opinion. As a result, there is substantial citizen interest and participation. There have also been significant concerns expressed by the Office of Planning and the Division of Traffic Engineering, with particular objections to the nightclub use.

Owner Bear Creek Properties' and Lessee 3B's, Inc.'s Petitions for Special Hearing and Variance began with:

1. a special hearing request to determine if the use of the property fit as a permitted restaurant or crossed over into the impermissible nightclub category; and
2. a parking variance for 53 parking spaces instead of the 178 spaces required.

ZC Wiseman's opinion recites, however, that Petitioners withdrew the Petition for Special Hearing and accordingly modified the number of parking spaces. Petitioners "gave assurances that no entertainment by live band or disc jockey would be performed on the premises and no recorded music would be generated above-normal sound levels." ZC Wiseman's Order confirmed the withdrawal of the special hearing.

ZC Wiseman granted a modified parking variance for 60 spaces instead of 88 spaces, subject to several conditions, which we summarize:

- that outdoor lighting shall be directed to the interior of the property;
- that the outside beach area shall not be used for tables, lounge chairs, serving of food or alcoholic beverages;
- that there shall be no bands, dancing or other live entertainment, and that recorded music shall cease at 11:00 P.M Monday through Friday and 12:00 A.M. Saturdays and Sundays;
- that there shall be employed a parking attendant to park customer vehicles and attend to valet parking;
- that there shall be No Parking signs posted at the entrance of the residential community and on Waterview Road;
- that the variance is personal to Bear Creek Properties and its current managing members Steven R. Goff and Randy Holofcener; and
- that county enforcement staff shall have reasonable access to the property.

Here are our office's observations and position.

The withdrawal of the special hearing and request for live entertainment, disc jockey, and dancing disposed of a major objection. This type of use fits the nightclub use category, which is not permitted in the B.L. Zone. The CBA majority resolved this point in the case of the Dock of the Bay nightclub on Millers Island. The Court of Special Appeals affirmed and finalized the CBA decision in its July 9, 2010 opinion in Fifth Street v. Ciarpella, No. 810, September Term, 2009, (mandate issued August 9, 2010). Therefore, we were prepared to oppose a nightclub here.

A controversy persists about the restaurant use and parking variance. The CBA is familiar with variance standards. The Court of Appeals addressed BCZR Section 307.1 in detail in Trinity Assembly of God v. People's Counsel for Baltimore County 407 Md. 53 (2008). Judge Harrell there discussed and updated the tests of uniqueness, practical difficulty, and the relationship between them. He also noted the public safety, health, and welfare standard, but did not need to reach it because the uniqueness test was not met.

The initial site plan shows four distinct areas of use: the bar area, 1850 square feet; the restaurant, 2,090 square feet; the deck, 1,400 square feet; and the seasonal beach, 5,280 square feet. Based on BCZR Section 409.6 standards (16 per 1000 square feet of gross floor area for the restaurant and 20 per 1000 square for the bar), the initial site plan showed 178 parking spaces required. The amended February 16, 2010 site plan eliminates the beach area and thereby reduces the computation to 93 spaces required. A key question concerns the realistic use of the beach area and whether it should still be counted.

At this preliminary stage, we ask the CBA, based on the evidence presented,

- 1) To evaluate and verify the use areas and computation pertinent to the extent of the parking variance required for the amended plan; and
- 2) To determine whether Petitioners can satisfy the applicable variance tests and criteria under BCZR Section 307.1.

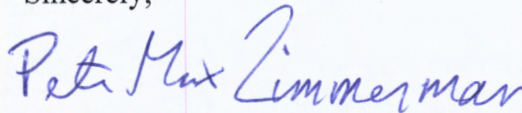
If the CBA decides to deny the variance, the question of conditions does not arise. However, if the CBA determines that a variance is warranted, our position is that the conditions imposed by Zoning Commissioner Wiseman should, at a minimum, be imposed once again, with minor alterations discussed in the next paragraph.

In reviewing ZC Wiseman's decision with Stephen Weber, Chief, Division of Traffic Engineering, we were reminded that the County controls the location of no-parking signs. There can certainly be signs to encourage patrons and employees not to park in the residential areas, and management can take steps to control that to the extent feasible. So, if the CBA grants the parking variance, that condition should be clarified. Consideration also should be given to adding to the valet parking condition a proviso that it be free valet parking.

The discussion of the above conditions should not be misconstrued as an implication or signal that the variance should be granted. That will depend on the evidence at the *de novo* hearing, the validity of the arguments of the parties, and the sufficiency of the CBA's findings of fact and conclusions of law. We are just saying that from a public safety, health, and welfare point of view, we believe that the conditions imposed by ZC Wiseman are baseline essential minimum conditions of any approval.

Thank you for your attention to this matter.

Sincerely,



Peter Max Zimmerman, Esquire
People's Counsel for Baltimore County

PMZ/rmw
Enclosure

cc: Arnold Jablon, Esquire, attorney for Petitioners
Appellants: William Lambdin, William McJilton, George McClelland, Mike Pennington,
Ann Tempera, Marlene Cox
Stephen Weber, Chief, Division of Traffic Engineering
John Alexander, Area Planner



County Board of Appeals of Baltimore County

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

December 8, 2010

William Lambdin, Sr.
33 Waterview Road
Baltimore, MD 21221

Arnold Jablon, Esquire
Venable, Baetjer & Howard, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Bear Creek Properties*
Case No. 10-158-SPHA

Dear Messrs. Jablon and Lambdin, Sr.:

In accordance with the telephone conversations this date, this letter is being sent as confirmation, that the parties in the above referenced case have agreed to stipulate to the following: That two (2) of the three (3) Board Members will convene for the Public Deliberation that is currently scheduled for Thursday, January 6, 2011 at 10:00 a.m.; due to the reassignment of one of the Panel Members.

Please do not hesitate to contact me if you wish to discuss this matter further. I remain,

Very truly yours,

A handwritten signature in cursive script, reading "Theresa R. Shelton".

Theresa R. Shelton
Administrator

Duplicate Original

c: Willard McJilton
David Karceski, Esquire

8 December 2010

Arnold Jablon

T 410.494.6298
F 410.821.0147
AEJablon@Venable.com

Lawrence Stahl, Esq.
Chairman
County Board of Appeals
Baltimore County
105 Jefferson Bldg
Towson, Maryland 22104

Re: Case No. 2010-158 SPHA
601 Wise Ave.

Dear Chairman Stahl:

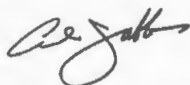
I am in receipt of the Protestants' Post Hearing Memorandum.

In reviewing the memorandum, I notice that there are four signatories who are unknown to me and to the Board of Appeals. None of these signatories are appellants and none appeared before the Board as witnesses.

In addition, I note in the content of the memorandum the Protestants point to documents not in evidence, indeed, documents specifically excluded by the Board. See pp. 11 and 12.

Therefore please note my objections to both.

Sincerely,



Arnold Jablon
AEJ/aj

c: Willard McJilton
William Lambdin

From: Theresa Shelton
To: Murphy, Maureen
Date: 9/21/2010 2:39 PM
Subject: Re: Oct 20 Bear Creek Properties

Maureen:

No worries.
I have a feeling that a PP request will be coming in shortly.
If not, I will replace you on those 2 days (10/20 & 10/21).
Good Luck with your hearing before Judge Sweeney.

T

>>> "Maureen Murphy" <maureen@murphyslaw.bz> 9/21/2010 12:55 PM >>>
I just got this notice. I have a specially set hearing before Judge Sweeney
in Howard County at 9:00. he won't let me out of this. Otherwise I would
move it. Can we move the Bear Creek hearing?

Maureen E. Murphy, Esquire
Murphy & Murphy, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228
T:(410) 744-4967
F: (410)744-8936
www.murphyslaw.bz

Bill Wiseman - Beach House 601 Wise Ave Hearing 2.19.10

From: w pribyl <wepribyl@yahoo.com>
To: <wwiseman@baltimorecountymd.gov>
Date: 2/25/2010 7:10 PM
Subject: Beach House 601 Wise Ave Hearing 2.19.10

Your Honor,

This is Bill Pribyl I am one of the residents that spoke in opposition of the variance for parking at the hearing for the Beach House 2.19.10

Two items;

1. I do not have Mr Steve Goff email address or contact phone number. I have not received any **forwarded** information from the property owner Steve Goff regarding redrawing the land doc. Could you please forward to me any contact information regarding Steve G. email or phone number. I just want to make sure I am involved with attempting to come up with an agreement involving the 601 Wise Ave property.
2. See below info regarding the Beach House closing this weekend 2.28.10. If they close down I do not know how this would effect our discussions with Steve?

Thank You for Your Time,

Bill Pribyl

See below ref Beach House closing.

I just received an email from a friend stating the Beach House Bar 601 Wise Ave will be closing its doors this Sunday 2/28/10. See attached message from Bobbie one of the owners.

Sent: Thursday, February 25, 2010 1:37 PM
To:
Subject: FW: The Beach House-Dundalk

Friends of ours own "The Beach House" on Wise Avenue. Unfortunately they will be closing after this weekend. See Bobbie's message below. If you need a night out this weekend, stop on by for some great deals (too bad they are coming at the expense of the business closing).

From Bobbi:

The Beach House is holding a blow out weekend starting Thursday at 9pm through Sunday closing time.

Everything in the house will be 2 for 1 all weekend long, that's right want top shelf, 2 for 1, want dinner buy one get one equal or lesser value. You get the picture! Everything must go, why you ask, well and get this it's a first in my life too. Baltimore County and a few others have concluded that we at the Beach House have expanded our business beyond the point the building was intended so effective 2-28-2010 the beach house will close it's doors for the last time!! Yep I didn't quite get that one either and for the first time in my life I've gone out of business for doing to much business. Guess it should be taken as a compliment but in all honesty it really doesn't feel that way. We do want to thank everyone for their support over the past few years and we will continue to stay in touch and get together with all of you as often as we can. I hope we can see everyone for one last time this weekend and come on out and get a great deal as always, just even better now, this weekend. Hope to see you.

Hope you can make it!

Bill Wiseman - Beach House 601 Wise Ave Hearing Update

From: w pribyl <wepribyl@yahoo.com>
To: William J Wiseman <wwiseman@baltimorecountymd.gov>
Date: 3/2/2010 12:48 PM
Subject: Beach House 601 Wise Ave Hearing Update

Your Honor,

REF: 601 Wise Ave Beach House Hearing 2.19.10

I just want to let you know (the 3 Bill's) we had a meeting with the property owners Steve & Randy last night at the Northpoint Library.

- The meeting I thought was productive.
- Steve & Randy gave us a written proposal for us to review.

- Steve & Randy stated in the proposal 'we have decided to terminate the lease' for Bobbi & Bob O'Connor the Beach House bar owners.
- Steve & Randy stated in the proposal 'Steve Goff will be taking over the operation'

I think the 2 statement above are positive steps that the community opinion does count & does have an impact.

We now go forward to see if a solution between us can be ironed out in the time frame we have. I will do what I can to achieve this goal.

Thank You again for your help!

Bill Pribyl

Bear Creek Properties
694 Wise Ave
Baltimore MD 21222

March 2, 2010

Dear Neighbor,

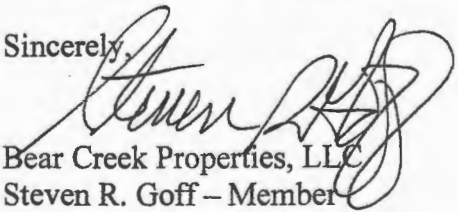
We wanted to update you on the status of the "Beach House" situation. We have decided to take drastic steps to correct the issues that you have experienced over the past couple years. We are terminating the lease with the current tenants. Steve Goff will be taking over the business and returning the "Mariner's Landing" style family restaurant to the location. We are going to restructure the inside of the building by reducing the size of the bar area, removing all of the music related equipment and adding new booths and tables. The business will be closed until these changes are completed, hopefully by mid April. We intend to make this a family friendly restaurant like we ran here previously.

We will not be having any bands or live music. This is what created the problems with the previous business and by eliminating the music from the building, the problems will be eliminated.

We are proposing valet parking for the restaurant. This will allow us to have 51 parking spaces on the parking lot plus approximately 15 spaces on my lots across Wise Ave. Additionally we are applying for permits to install a car lift system that will allow us to park approximately an additional 19 cars for a total of 70 cars on the lot plus the spaces across Wise Ave. This will provide approximately 85 total spaces. We believe that this, along with the use of the boat slips for the summer business will provide more than enough parking for the restaurant especially since we have agreed to limit the use of the outside to the deck area and to close that area no later than 12:00 am.

As you are aware, we have applied for a parking variance to allow us to operate without the legally required number of parking places (92 spaces are required to use the building and deck area). We are asking for neighborhood input on the changes and the parking plan that we are proposing. If you support these proposals, we ask that you sign the copy of this letter, which will be submitted to the Zoning Commissioner for his consideration in the final ruling. We look forward to working with you in the future as we build a business that will be a valuable part of our community. If you have any questions, feel free to contact me at 443-398-4081.

Sincerely,



Bear Creek Properties, LLC
Steven R. Goff - Member

Bill Wiseman - Fw: Beach House Email From Steve Goff 601 Wise Ave Update

From: w pribyl <wepribyl@yahoo.com>
To: William J Wiseman <wwiseman@baltimorecountymd.gov>
Date: 3/5/2010 9:29 AM
Subject: Fw: Beach House Email From Steve Goff 601 Wise Ave Update

Mr Wiseman,

Hello, I wanted to keep you posted below I forwarded an email to Bill Mcjilton & I asked Bill to forward on to Mr Bill L.

Below is a forwarded email from Steve Goff with a proposal to the 601 Wise Ave property. The proposal has merit.

I stated to Steve in order to meet we should have a revised site plan with revised interior area shown.

I am willing to meet this weekend with the above effort on Mr Goff's part.

My real concern if we reach an agreement that it is clearly defined & enforceable.

History will repeat itself if you do not learn from our mistakes & the consent decree with Sparrows Point Beth Steel in 1997 was a real big mistake I was involved with the decree has not been enforced due to the language in the decree had not teeth & the community has suffered. Please see my comment regarding enforceable below.

I feel by meeting one my time we can try to reach an agreement if we do not; remove ourselves from the matter and turn it over to you to rule.

Thank You Mr Wiseman,

Bill Pribyl

--- On Fri, 3/5/10, w pribyl <wepribyl@yahoo.com> wrote:

From: w pribyl <wepribyl@yahoo.com>
 Subject: Fw: Beach House Email From Steve Goff
 To: "wemcjilton@juno.com" <wemcjilton@juno.com>
 Date: Friday, March 5, 2010, 8:55 AM

Hi Bill,

I was at a funeral parlor last night.
 I have a wedding reception dinner tonight Friday night
 I have a evening wedding Saturday
 I have a fund raiser event for the MD Irish Parade group on Sunday afternoon A wonderful schedule!

I spoke with Steve Goff yesterday until my phone shut down.

Below, is an email from Steve Goff ref the Beach House, below he is describing his parking solution. I think the proposal has merit.

I ask Steve for new site plans to be reviewed by us the community listing:

- New parking proposal solution
- Deck modification, reduction in size
- Proposed interior drawing with proposed bar/restaurant layout, decreasing the bar

I am willing to meet as a group (this weekend) with this above information to review.

- At this time I have not seen any modified site plans for 601 Wise Ave since the hearing 2.19.10.
- I feel in order to meet I need revised site plans to review, not just words.

I think this can be worked out but we need to see a real effort.

Any agreement needs:

- Metrics
- Needs to be measurable
- Needs specific time-lines
- Specific details
- Easily verifiable by independent body
- And is enforceable without spending a lot of money
- Maybe enforceable by an independent arbitration board or by the Hearing Commissioner ???

Could you pls forward this to Bill L. I do not have his email address.

What I do not want is an agreement that is not enforceable; my example is the Bethlehem Steel 1997 Consent Decree worked out by EPA, Justice Department, MDE and the Community. The consent decree has not been enforced due to the language of the decree not teeth, no metrics, no enforceable time-line, no enforceable dollar penalty on the co for missing the assigned dates. Very sad situation for the community. I have learned from my mistakes.

Bill I will call you later today.

Thank You,

Bill Pribyl

--- On Thu, 3/4/10, stevergoff@aim.com <stevergoff@aim.com> wrote:

From: stevergo@aim.com <stevergo@aim.com>

Subject:

To: wepribyl@yahoo.com

Date: Thursday, March 4, 2010, 4:33 PM

Bill,

We got cut off so give me a call back when you can. I am having the engineer work on a new concept for the parking that I think will resolve the problems. I hope that he will have a new site plan tomorrow...he is supposed to let me know tonight. If not tomorrow, by Sat at the latest. Since we are doing a restaurant, we are going to propose valet parking. This is not uncommon for restaurants, especially more upscale ones. This changes the site layout and will allow at least 50 spaces on the lot plus the 15 spaces across the street. Since they will be valet parking, the safety issues of crossing Wise Ave are eliminated. Also, this is a solution with immediate results rather than long term like trying to acquire property or tear down buildings and convert them to parking. This will require us to hire (a good thing in this economy) a full time valet which we are fine with.

Also, we are looking at a racking system that allows us to double stack a row of cars. We have addressed this with the county and they are familiar with the system (which is in use in Baltimore city and I am told at least at one location in the county) and said that it should be approved subject to proper permitting. I have asked the engineer to move forward with this. This will create an addition 19+/- spaces for a total of approximately 70 spaces on the lot plus the 15 spaces across the street.

This concept does two things. First, it provides an immediate solution by creating an additional 15 or so parking spaces (exact number when Mr. Billingsley is done) immediately and secondly, it adds an 19 or so spaces over the year or so that it takes to get permits and have the system installed.

Without the music, seasonal usage of the deck with time limitations as discussed and approximately 85 parking spaces plus all of the boat slips, I think that this may be the best solution for everyone. If, as we hope, the restaurant takes off and we still need additional space, I am certainly willing to convert one or more of my other properties into parking. However, this is not financially feasible until we get the restaurant up and running. In the mean time, the number of spaces provided under this plan along with the new business model will certainly resolve the issues that we all have endured over the past couple years.

Let me know your thoughts. I do not have an email for the other Bills so feel free to forward this to them if you can. I am waiting for Bill L. to call me. I understand that his father-in-law is rather bad off in the hospital so I do not want to bother him. I will let you know once I get the new plan from Dave Billingsley and we can get together to review it. I have asked the attorney to let the Commissioner know that we are working on a resolution and to allow us a little more time to accomplish that. He said that that will not be a problem.

Talk to you soon.

Steve

Bill Wiseman - 601 Wise Ave

From: "Lambdin, Bill" <Bill.Lambdin@mncppc-mc.org>
To: <wwiseman@baltimorecountymd.gov>
Date: 3/23/2010 10:39 AM
Subject: 601 Wise Ave

Mr. Wiseman,

Hope you enjoyed your vacation. No problems to report on my end. I guess it's time to get back to the salt mines. I have not had any further conversation with the property owners and have not received a copy on the site plan. I have had several conversations with different neighbors, concerning whether there was ever a building permit issued for the 2 story addition (1,000 sf. On each floor) built @ 1990 and if it was issued why a site plan and parking variance were not addressed prior to issuing the permit. In reviewing the aerial photos and the site plan it would appear the building square footage up until that addition is approximately 2900 sf. If this is true than the parking area that was removed by the addition and the beach dining area would accommodate the parking needs for this facility. Contact me if you need anything.

Bill Lambdin
301-370-0103

Bill Wiseman - Re: 601 Wise Ave Beach House Hearing 2.19.10 Case Number: 2010-0158--A

From: w pribyl <wepribyl@yahoo.com>
To: Bill Wiseman <wwiseman@baltimorecountymd.gov>
Date: 3/25/2010 8:48 AM
Subject: Re: 601 Wise Ave Beach House Hearing 2.19.10 Case Number: 2010-0158--A

Mr Wiseman,

Thanks for your reply;

My mailling information;

William Pribyl
7538 Battle Grove Circle
Baltimore, MD 21222

Thank you,

Bill

--- On Wed, 3/24/10, Bill Wiseman <wwiseman@baltimorecountymd.gov> wrote:

From: Bill Wiseman <wwiseman@baltimorecountymd.gov>
Subject: Re: 601 Wise Ave Beach House Hearing 2.19.10 Case Number: 2010-0158--A
To: "w pribyl" <wepribyl@yahoo.com>
Date: Wednesday, March 24, 2010, 10:03 AM

Bill-

Just got back from a short vacation. No Order has been issued to date. I'll probably work on it over the weekend. You will receive a copy by mail once its signed. Anyone who feels aggrieve with my decision will have 30 days from the date of the Order to file an appeal.

Trust this answers your questions.

Bill

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

Ph: 410-887-3868 Fax: 410-887-3468
wwiseman@baltimorecountymd.gov

>>> w pribyl <wepribyl@yahoo.com> 3/24/2010 9:05 AM >>>

Bill Wiseman - 601 Wise Ave

From: w pribyl <wepribyl@yahoo.com>
To: William J Wiseman <wwiseman@baltimorecountymd.gov>
Date: 4/7/2010 8:49 AM
Subject: 601 Wise Ave

Hello Mr Wiseman,

I want to thank you for your decision on 601 Wise Ave. I have read the decision several times & each time I read it I see something else that I missed. It is a well thought out decision.

Your decision took a complicated situation and boiled it down to the main issues. I think the decision is fair it allows the business to operate and make a profit and you listened very carefully to the community's problems with the business and you address the community's issues in the decision.

Thank you again for helping the community come back to the quality of life they deserve.

Take Care,

William Pribyl

Bill Wiseman - Re: 601 Wise Ave Beach House Hearing 2.19.10 Case Number: 2010-0158--A

From: Bill Wiseman
To: pribyl, w
Subject: Re: 601 Wise Ave Beach House Hearing 2.19.10 Case Number: 2010-0158--A

Bill-

Just got back from a short vacation. No Order has been issued to date. I'll probably work on it over the weekend. You will receive a copy by mail once its signed. Anyone who feels aggrieve with my decision will have 30 days from the date of the Order to file an appeal.

Trust this answers your questions.

Bill

>>> w pribyl <wepribyl@yahoo.com> 3/24/2010 9:05 AM >>>
Hello Mr Wiseman,

I am asking if a decession has been made regarding the Beach House 601 Wise Ave, case # 2010-0158-a. I have looked on the Baltimore county web site but parts have not been working with updated information.

Questions;

- When we have a decission how do I get a copy ?
- Is there a way I can been on a notification list regarding this property for any appeals or new hearings ?

Thank you for your time, patience, and your listening skills, especially listening to the community input.

Thank You,

Bill Pribyl

From: Debra Wiley
To: wepribyl@yahoo.com
Date: 2/26/2010 10:35 AM
Subject: 601 Wise Avenue

Mr. Pribyl,

Commissioner Wiseman wanted me to thank you for sending the info. in your previous email to him. He also wanted me to advise you that he has no contact info. (either email or phone nos.) for either Steve Goff or his partner, Randy Holofeener.

Bill has not received a new site plan that was promised but he knows that some discussion will take place because of contact that Bill Lambdin made. He suggests that perhaps you may want to contact either Mr. Lambdin or Mr. McJilton for the current status. If you need their numbers, let me know and we'll try to get them for you.

Thanks and have a great day!

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

From: Debra Wiley
To: bbsimons01@comcast.net; dgraemg@mrisc.com; wemcjlton@gmail.com; wepri...
Date: 4/5/2010 10:32 AM
Subject: 2010-0158-SPHA.doc - 601 Wise Ave. - Bear Creek Prop., LLC
Attachments: 2010-0158-SPHA.doc

Good Morning,

It has been brought to our office's attention that some attendees did not receive copies of their Order(s). In reviewing the case file, it appears that no one who signed the "*Citizen's Sign-In Sheet*" was forwarded a copy. This was an inadvertent oversight on my part and I apologize greatly. Therefore, Please find attached a copy of the above-referenced Order that was signed and dated on March 30th. I will also be putting a "hard" copy in the mail today to all parties.

Once again, I apologize for any inconvenience this may have caused and please contact me if you have any concerns or questions. Thanks.

Debbie Wiley
Legal Administrative Secretary
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Corporations and Associations Article of MD Code

From: Joyce Stroupe

To: Wiseman, Bill

CC: Gerke, Elaine

Date: Thursday - February 18, 2010 3:02 PM

Bill,

I asked Elaine to send you the SDAT information. As you can see, the Articles of Dissolution were filed 10/31/08 and stated the resident agent, J. Michael Per CPA, shall serve as resident agent of the corporation for 1 year (until 10/31/09). The only director noted is Carl Yungmann per the Articles of Dissolution.

See Section 3-407, 408 and 3-410 of the Corporations and Associations Article regarding dissolution.

It appears the corporation was dissolved when the articles of dissolution were filed with SDAT and that, while the board of directors may carry out the contracts of the corporation and sue or be sued in the name of the corporation, they are to do so only to satisfy and discharge existing obligations and to liquidate and wind up the affairs of the corporation per 3-408(b).

I don't have the lease to see when it was executed etc. but it appears the corporation is attempting to do much more than discharge obligations and wind up its affairs. It would be the obligation and responsibility of Wise Services or its legal counsel to establish authority for their present attempted action.

Also, per Parkside Terrace Apt., Inc. v. Lindner, 252 Md. 271, 249 A.2d 717 (1969) after a corporation is effectively dissolved, its power to sue or be sued, either in actions in personam or in rem, in its corporate name is extinguished.

Hope this helps . . . take care,
Joyce

(7) All other provisions which the corporation considers necessary to dissolve; and

(8) A statement that the corporation is dissolved.

(b) *Execution of articles.* — (1) If the dissolution is authorized under § 3-402 of this subtitle, a majority of the incorporators or a majority of the entire board of directors, as the case may be, shall execute articles of dissolution for the corporation in the manner required by Title 1 of this article.

(2) In all other cases, articles of dissolution shall be executed by the persons and in the manner required by Title 1 of this article. (An. Code 1957, art. 23, § 77; 1975, ch. 311, § 2.)

University of Baltimore Law Review. — For article, "The ABC's of Redemptions and Liquidations," see 4 U. Balt. L. Rev. 317 (1975).

§ 3-407. Filing articles with Department; payment of taxes.

(a) *Time for filing.* — The corporation shall file articles of dissolution for record with the Department:

(1) If there are any known creditors of the corporation, after the 19th day following the mailing of notice to them; or

(2) If there are no known creditors, at any time.

(b) *List of assessments of personal property taxable.* — On written request of the corporation, the Department shall furnish without charge a list of all collectors of taxes of counties and municipalities to which the Department has certified an assessment of personal property taxable to the corporation within the preceding four years.

(c) *Required reports.* — The Department may not accept articles of dissolution of a corporation for record unless the reports required by Title 11 of the Tax - Property Article have been filed. (An. Code 1957, art. 23, §§ 76, 77; 1975, ch. 311, § 2; 1991, ch. 8, § 3; 1995, ch. 120, § 5; 1999, ch. 58.)

University of Baltimore Law Review. — For article, "The ABC's of Redemptions and Liquidations," see 4 U. Balt. L. Rev. 317 (1975).

§ 3-408. Time voluntary dissolution effective.

(a) *Effective on acceptance of articles.* — Except as provided in subsection (b) of this section, the corporation is dissolved when the Department accepts its articles of dissolution for record.

(b) *Winding up.* — The corporation continues to exist for the purpose of paying, satisfying, and discharging any existing debts or obligations, collecting and distributing its assets, and doing all other acts required to liquidate and wind up its business and affairs. (An. Code 1957, art. 23, § 76; 1975, ch. 311, § 2.)

Maryland Law Review. — For case note concerning continuing corporate liability for federal crime after State dissolution of corporation, see 20 Md. L. Rev. 69 (1960).

Bear Creek Properties
694 Wise Ave
Baltimore MD 21222

March 18, 2010

Arnold,

I want to give you a chronology of what has occurred since the hearing. Randy & I meet after the hearing and then called Bill Lambdin on Mon 2/22 to tell him that we were working on some proposals and that we would get back with him no later than Thursday 3/25. We called on Thursday but did not get a return call. I spoke to you on Friday when you gave me Bill Prybl's email. I wrote to him and Bill Lambdin called Randy shortly thereafter. We agreed to set up a meeting and asked that all of the neighbors be invited. Bill Lambdin refused to ask other neighbors stating "this will not be decided by consensus". We had a meeting in the library on Mon 3/1 with the 3 Bills to discuss the idea of me taking over the building and running a restaurant similar to what we did before. We agreed to no music, limiting the outside to the deck area and closing the outside no later than 12am. There seemed to be a good response and the Bill's wanted to think about the idea and get back with us. On Tuesday, Bill Lambdin called me with his idea to resolve the issues. He told me that if I would tear down the apartment building that I own at 696 Wise Ave. and make that parking, he would agree with the use of the outside deck. He said that I should tear the building down because he felt that the tenants were not the "Dundalk's best people" and that I certainly could not be making much money from the building. He also stated that he felt that the building was an "eyesore". Incidentally, one of my "terrible" tenants is Baltimore County construction inspectors that rent an office space from me. This conversation made it very clear that Bill Lambdin has a much larger agenda than resolving the problems that the tenants created at this property.

I spoke to Dave Billingsley about the idea of Valet Parking and installing the lift system to increase the amount of parking available. After his input, I called Bill Lambdin on Thursday 3/4 to set up another meeting to discuss this plan. He said he was in a meeting at the time and would get back to me. I have tried several times since then but he will not return my calls. I sent the attached email explaining the new parking plan to Bill Pribyl and he forwarded it to Bill Mcjilton. I spoke to Bill Mcjilton on Sat March 6, 2010 to try to set up a meeting to discuss the plan. He said that he did not want to meet and that I should send my plan to the Commissioner and let him make the decision. I met with Bill Pribyl and his Father on Sunday March 7, 2010 and gave him a copy of the revised parking plan that Dave prepared. We met for about 2 hours and he wanted to "digest" the plan and said he would get back to me on Monday the 8th. I have not heard from him since.

In the meantime, I have gone to many of the neighbors and given them a copy of the attached letter and discussed my plans for a restaurant operation. The reception has been very good with several of the residents that live closest to the building signing the letter in support of the change.

Mr. Wiseman asked us to meet and work out a solution. I have tried to do that and am continuing to do that. We have dedicated \$80,000 to change the facility from a bar to a family restaurant. In addition we are moving forward with the rack system to resolve the long term parking issue. This is a very expensive solution but I am committed to making a real change. I feel that Mr. Wiseman should be aware of what has occurred in response to his direction at the hearing. The opposition has been conveying their views to the Commissioner and I would like to have the same opportunity.

Steve

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street W Baltimore, MD 21201 (2007 vw5.1)

[Main Menu](#) | [Security Interest Filings \(UCC\)](#) | [Business Entity Information](#)
([Charter/Personal Property](#)) [New Search](#) | [Rate Stabilization Notices](#) | [Get Forms](#) | [Certificate of Status](#) | [SDAT Home](#)

Taxpayer Services Division

Entity Name: WISE SERVICES, INC.
Dept ID #: D11667177

General Information Amendments Personal Property Certificate of Status

Principal Office (Current): 601 WISE AVE
BALTIMORE, MD 21222

Resident Agent (Current): J. MICHAEL PER
11717A REISTERSTOWN RD
REISTERSTOWN, MD 21136

Status: **DISSOLVED**

Good Standing: No

Business Code: Ordinary Business - Stock

Date of Formation or Registration: 12/21/2006

State of Formation: MD

Stock/Nonstock: Stock

Close/Not Close: Close

Link Definition

General Information	General information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street ■ Baltimore, MD 21201 (2007 vw2.3)

[Main Menu](#) | [Security Interest Filings \(UCC\)](#) | [Business Entity Information \(Charter/Personal Property\)](#)
[New Search](#) | [Rate Stabilization Notices](#) | [Get Forms](#) | [Certificate of Status](#) | [SDAT Home](#)

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Certificate of Status	Get a Certificate of Good Standing for this entity

CORPORATE CHARTER APPROVAL SHEET

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 19 BUSINESS CODE _____

D11667177

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____



1000361597392703

ID # D11667177 ACK # 1000361997392703
PAGES: 0003
WISE SERVICES, INC.

10/31/2008 AT 02:36 P NO # 0001644758

New Name _____

FEES REMITTED

Base Fee: 100
Org. & Cap. Fee: _____
Expedite Fee: _____
Penalty: _____
State Recordation Tax: _____
State Transfer Tax: _____
Certified Copies _____
Copy Fee: _____
Certificates _____
Certificate of Status Fee: _____
Personal Property Filings: _____
Mail Processing Fee: _____
Other: _____

TOTAL FEES: 100

Credit Card _____ Check ☒ Cash _____

_____ Documents on _____ Checks

Approved By: 10

Keyed By: _____

COMMENT(S):

_____ Change of Name
_____ Change of Principal Office
_____ Change of Resident Agent
_____ Change of Resident Agent Address
_____ Resignation of Resident Agent
_____ Designation of Resident Agent
and Resident Agent's Address
_____ Change of Business Code

_____ Adoption of Assumed Name

_____ Other Change(s)

Code _____

Attention: _____

Mail: Name and Address

WISE SERVICES, INC.
601 WISE AVE
BALTIMORE MD 21222-5026

CUST ID: 0002201728
WORK ORDER: 0001644758
DATE: 11-03-2008 09:41 AM
AMT. PAID: \$100.00

Articles of Dissolution
(A CLOSE CORPORATION)

FIRST: The name of the corporation is

Wise Services, Inc.

SECOND: The address of the principal office of the corporation is

601 Wise Avenue Baltimore, Maryland 21222

(NOTE: Address cannot be a post office box, include a street name and number.
The address must be within Maryland.)

THIRD: The resident agent of the corporation who shall serve for
one year after dissolution and until the affairs of the
corporation are wound up is J. Michael Per, CPA

whose address is 11717A Reisterstown Road Reisterstown, MD 21136

FOURTH: The name and address of each of the directors is as
follows:

Carl Yungmann

3115 White Ave Balto, MD 21214

FIFTH: The name, title and street address of each of the
officers is as follows:

Carl Yungmann

Carl Yungmann

President

Treasurer

3115 White Ave Balto, MD 21214

3115 White Ave Balto, MD 21214

Carl Yungmann

Secretary

3115 White Ave Balto, MD 21214

Other

RECEIVED
DEPARTMENT OF
REVENUE & TAXATION
OCT 31 PM 2 36

SIXTH: The dissolution of the corporation was approved in the manner and by the vote required by law and by the charter of the corporation. The dissolution of the corporation was duly authorized by the board of directors and stockholders of the corporation.

(NOTE: For the specific procedures for approval by directors and stockholders, the charter and by-laws of the corporation the Corporations and Associations Article of the Annotated Code of Maryland should be consulted.)

SEVENTH: Notice of approved dissolution was mailed to all known creditors of the corporation on 10-21-08. OR The corporation has no known creditors.

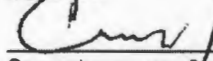
(NOTE: Use only one of the two statements in Article Seventh. If notice was mailed to creditors, Articles of Dissolution cannot be filed until after the 19th day following the mailing of the notice.)

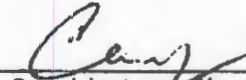
EIGHTH: The corporation is dissolved.

NINTH: (OPTIONAL) Insert here all other provisions which the corporation considers necessary to dissolve.

The undersigned (president, vice president, secretary or assistant secretary) certify under the penalties of perjury that to the best of my knowledge, information and belief, the matters and facts set forth in these Articles of Dissolution with respect to the approval thereof are true in all material respects.

ATTEST:

 10-28-08
Secretary or Assistant
Secretary of Corporation

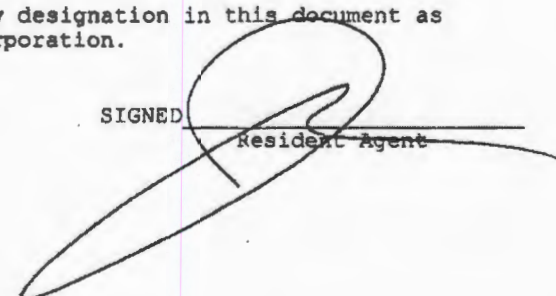
 10-28-08
President or Vice President
of Corporation

(NOTE: The officer attesting and the officer signing cannot be the same individual unless the corporation is a close or a professional service corporation.)

I hereby consent to my designation in this document as resident agent for this corporation.

CUST ID:0002201720
WORK ORDER:0001544758
DATE:11-03-2008 09:41 AM
AMT. PAID:\$100.00

SIGNED


Resident Agent

CORPORATE CHARTER APPROVAL SHEET

****EXPEDITED SERVICE****

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 09 BUSINESS CODE _____

D11667177

Close _____ Stock _____ Nonstock _____

P.A. _____ Religious _____

Merging (Transferor) _____

Surviving (Transferee) _____

Actual Record Label Here



1000361995087339

ID # D11667177 ACK # 1000361995087339
 LIBER: 801144 FOLIO: 0512 PAGES: 0002
 WISE SERVICES, INC.

07/25/2007 AT 02:15 P MO # 0001443313

New Name _____

FEES REMITTED

Base Fee: 100
 Org. & Cap. Fee: _____
 Expedite Fee: 50
 Penalty: _____
 State Recordation Tax: _____
 State Transfer Tax: _____
 Certified Copies _____
 Copy Fee: _____
 Certificates _____
 Certificate of Status Fee: _____
 Personal Property Filings: _____
 Mail Processing Fee: _____
 Other: _____

TOTAL FEES: 150

Credit Card / Check _____ Cash _____

_____ Documents on _____ Checks

Approved By: 14

Keyed By: _____

COMMENT(S):

_____ Change of Name
 _____ Change of Principal Office
 _____ Change of Resident Agent
 _____ Change of Resident Agent Address
 _____ Resignation of Resident Agent
 _____ Designation of Resident Agent
 and Resident Agent's Address
 _____ Change of Business Code
 _____ Adoption of Assumed Name
 _____ Other Change(s)

Code _____

Attention: _____

J. MICHAEL PER, CPA
 11717A REISTERSTOWN RD
 REISTERSTOWN

MD 21136-3320

CUST ID: 0002000275
 WORK ORDER: 0001443313
 DATE: 07-30-2007 03:47 PM
 AMT. PAID: \$150.00

ARTICLES OF AMENDMENT

A CLOSE CORP

(1)

(2) Wise Services, Inc.

a Maryland corporation hereby certifies to the State Department of Assessments and Taxation of Maryland that:

(3) The charter of the corporation is hereby amended as follows:

Third: The purpose for which the corporation is formed is:

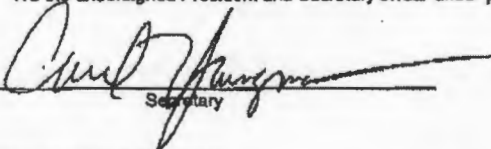
- (1) To conduct the business of operating a full service restaurant and anything else allowed by Maryland law, including but not limited to, and any and all subsidiary businesses convenient or necessary to the above;

This amendment of the charter of the corporation has been approved by

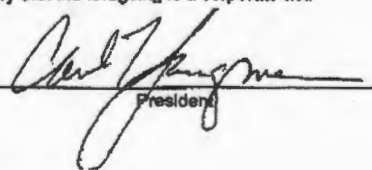
(4) The directors and shareholders

We the undersigned President and Secretary swear under penalties of perjury that the foregoing is a corporate act.

(5)


Secretary

(5)


President

(6) Return address of filing party:

J. Michael Per, CPA

11717A Reisterstown Road

Reisterstown, Maryland 21136

CUST ID:0002000271J

WORK ORDER:0001443313

DATE:07-30-2007 03:47 PM

AMT. PAID:\$150.00

CORPORATE CHARTER APPROVAL SHEET

****EXPEDITED SERVICE****

**** KEEP WITH DOCUMENT ****

DOCUMENT CODE 02

BUSINESS CODE 03

Affix Barcode Label Here



1000361094103426

#

Close ☒

Stock ☒

Nonstock ☐

P.A. ☐

Religious ☐

Merging (Transferor) _____

Surviving (Transferee) _____

ID # D11667177 ACK # 1000361094103426
LIBER: 001052 FOLIO: 0051 PAGES: 0005
WISE SERVICES, INC.

12/21/2006 AT 11:08 A MO # 0001337355

New Name _____

FEES REMITTED

Base Fee: 100

Org. & Cap. Fee: 25

Expedite Fee: 30

Penalty: _____

State Recordation Tax: _____

State Transfer Tax: _____

Certified Copies _____

Copy Fee: _____

Certificates _____

Certificate of Status Fee: _____

Personal Property Filings: _____

Mail Processing Fee: _____

Other: _____

TOTAL FEES: 120

Change of Name _____

Change of Principal Office _____

Change of Resident Agent _____

Change of Resident Agent Address _____

Resignation of Resident Agent _____

Designation of Resident Agent _____

and Resident Agent's Address _____

Change of Business Code _____

Adoption of Assumed Name _____

Other Change(s) _____

Credit Card ☐

Check ☒

Cash ☐

Code _____

Attention: _____

Mail: Name and Address _____

Approved By: [Signature]

Keyed By: [Signature]

COMMENT(S): Exp Mail

WISE SERVICES INC
ATTN J MICHAEL PIER CPA
11717A REISTERSTOWN RD
REISTERSTOWN

MO 21136

Startup Work: Order and Customer Number HERE

CUST ID: 0001094317
WORK ORDER: 0001337355
DATE: 12-20-2006 11:36 AM
AMT. PAID: 6178.00

ARTICLES OF INCORPORATION
OF
Wise Services, Inc.
A MARYLAND CLOSE CORPORATION

RECEIVED
DEPARTMENT OF
ASSESSMENTS & TAXATION
2008 DEC 21 A 11:08

First: I, J. Michael Per, whose address is, 11717A Reisterstown Road, Reisterstown, Maryland 21136, being at least eighteen (18) years of age, under and by virtue of the General Laws of the State of Maryland, does hereby form a corporation by the execution and filing of these articles.

Second: That the name of the Corporation (which is hereinafter called the "Corporation") is Wise Services, Inc. The Corporation shall be a close corporation as authorized by Title Four of the Corporations and Associations Volume of the Annotated Code of Maryland, as amended.

Third: The purpose for which the corporation is formed is:

- (1) To conduct the business of operating a bar/night club and anything else allowed by Maryland law, including but not limited to; and any and all subsidiary businesses convenient or necessary to the above;
- (2) To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Maryland.

Fourth: The post office address of the principal office of the Corporation is: 601 Wise Avenue, Baltimore, Maryland 21222. The name and post office address of the Resident Agent of the Corporation in this state is: J. Michael Per, 11717A Reisterstown Road, Reisterstown, Maryland 21136.

Said Resident Agent is an individual actually residing in this state.

Fifth: The total number of shares of capital stock that the Corporation has authority to issue is Five Thousand (5000) shares of common stock without par value.

Sixth: The number of directors of the Corporation shall be one (1), which number may increase or decrease pursuant to the By-Laws of the Corporation. The name of the director who shall act until the first annual meeting or until their successor is duly elected and has qualified is: Carl Yungmann.

Seventh: The following provisions are hereby adopted for the purpose of defining, limiting a regulating the powers of the Corporation and of the directors and stockholders;

(a) The Board of Directors of the Corporation is hereby empowered to authorize the issuance, from time to time, of shares of its stock, with or without par value, of any class, for such considerations as said Board of Directors may deem advisable, irrespective of the value or amount of such considerations, but subject to such limitations and restrictions, if any, as may be set forth in the By-Laws of the Corporation.

(b) The Board of Directors shall have power, from time to time, to fix and determine and to vary the amount of working capital of the Corporation; to determine whether any, and, if any, what part, of the surplus of the Corporation or of the net profits arising from its business shall be declared in dividends and paid to the stockholders, subject, however, to the provisions of the charter, and to direct and determine the use and disposition of any of such surplus or net profits. The Board of Directors may in its discretion use and apply any of such surplus or net profits in purchasing or acquiring any of the shares of stock of the Corporation, or any of

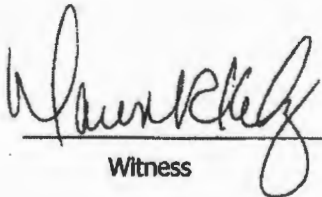
its bonds or other evidences of indebtedness, to such extent, in such manner and upon such lawful terms as the Board of Directors shall deem expedient.

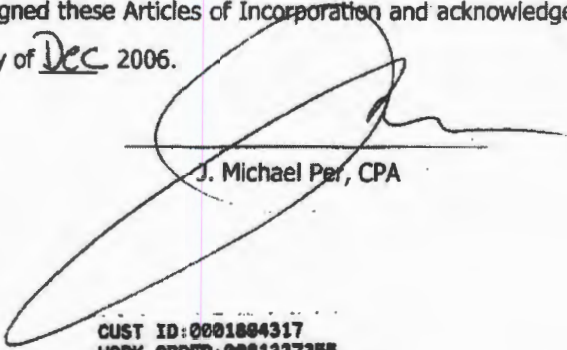
- (c) The Corporation reserves the right to make from time to time any amendments of its charter which may now or hereafter be authorized by law, including any amendments changing the terms of any class of its stock by classification, reclassification or otherwise.
- (d) No holder of stock of the Corporation, of whatever class, shall have any preferential right of subscription to any shares of any class or to any securities convertible into shares of stock of the Corporation, nor any right of subscription to any thereof other than such, if any, as the Board of Directors, in its discretion, may determine, and at such price as the Board of Directors, in its discretion, may fix; and any shares or convertible securities which the Board of Directors may determine to offer for subscription to the holders of stock may, as said Board of Directors shall determine, be offered to holders of any class or classes of stock at the time existing to the exclusion of holders of any or all other classes at the time existing.
- (e) Notwithstanding any provision of law requiring any action to be taken or authorized by the affirmative vote of the holders of a designated proportion of the shares of stock of the Corporation, or to be otherwise taken or authorized by vote of the stockholders, such action shall be effective and valid if taken or authorized by the affirmative vote of a majority of the total number of votes entitled to be cast thereon, except as otherwise provided in this charter and by Section 4~504 of the Corporations and Associations Article of

the Annotated Code of Maryland.

- (f) The Board of Directors shall have power, subject to any limitations or restrictions herein set forth or imposed by law, to classify or reclassify any Unicode shares of stock, whether now or hereafter authorized, by fixing or altering in any one or more respects, from time to time before issuance of such shares, the preferences, rights, voting powers, restrictions and qualifications of, the dividends on, the times and prices of redemption of such shares.
- (g) The Board of Directors shall have power to declare and authorize the payment of stock dividends, whether or not payable in stock of one class to holders of stock of another class or classes: and shall have authority to exercise, without a vote of stockholders, all powers of the Corporation, whether conferred by law or by these article, to purchase, lease or otherwise acquire the business, assets or franchise, in whole or in part, of other corporations or unincorporated business entities.

IN WITNESS WHEREOF, I have signed these Articles of Incorporation and acknowledge same to be my act, this 19th day of Dec 2006.


Witness


J. Michael Per, CPA

CUST ID:0001884317
WORK ORDER:0001337355
DATE:12-28-2006 11:36 AM
AMT. PAID:\$170.00

**Maryland Department of Assessments and Taxation****Taxpayer Services Division**

301 West Preston Street Baltimore, MD 21201 (2007 vw5.1)

[Main Menu](#) | [Security Interest Filings \(UCC\)](#) | [Business Entity Information \(Charter/Personal Property\)](#)
[New Search](#) | [Rate Stabilization Notices](#) | [Get Forms](#) | [Certificate of Status](#) | [SDAT Home](#)

Taxpayer Services Division**Entity Name: BEAR CREEK PROPERTIES, LLC****Dept ID #: W05071584****General Information Amendments Personal Property Certificate of Status**

Principal Office
(Current): 8224 RIVERSIDE DRIVE
PASADENA, MD 21122

Resident Agent
(Current): J. MITCHELL KEARNEY ESQUIRE
22 WEST PENNSYLVANIA AVE. STE 300
TOWSON, MD 21204

Status: ACTIVE

Good Standing: Yes

Business Code: Other

Date of
Formation or
Registration: 08/25/1998

State of
Formation: MD

Stock/Nonstock: N/A

Close/Not Close: Unknown

Link Definition

General Information	General Information about this entity
Amendments	Original and subsequent documents filed
Personal Property	Personal Property Return Filing Information and Property Assessments
Certificate of Status	Get a Certificate of Good Standing for this entity



Maryland Department of Assessments and Taxation
QUEEN ANNE'S COUNTY
Real Property Data Search (2007 vw6.3d)

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

Account Identifier: District - 04 Account Number - 018850

Owner Information

Owner Name: HOLOFCENER, RANDY **Use:** RESIDENTIAL
Mailing Address: 206 BIG HOLLY CT **Principal Residence:** YES
 STEVENSVILLE MD 21666-3336 **Deed Reference:** 1) SM / 486/ 546
 2)

Location & Structure Information

Premises Address **Legal Description**
 206 BIG HOLLY CT LOT 24, BLK J
 STEVENSVILLE 21666 QUEEN ANNE COLONY
 WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
70		68		4013		J	24	3	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class 09

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1977	2,503 SF	21,054.00 SF	

Stories	Basement	Type	Exterior
2	NO	STANDARD UNIT	SIDING

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2009	07/01/2010
Land	513,210	606,220		
Improvements:	258,720	165,490		
Total:	771,930	771,710	771,710	771,710
Preferential Land:	0	0	0	0

Transfer Information

Seller: SMITH, FRANCIS M, JR	Date: 02/06/1995	Price: \$265,000
Type: IMPROVED ARMS-LENGTH	Deed1: SM / 486/ 546	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

WhitePages

Or search:

- Last name only
- | Metro area

Randy R Holofcener Is this you? Edit

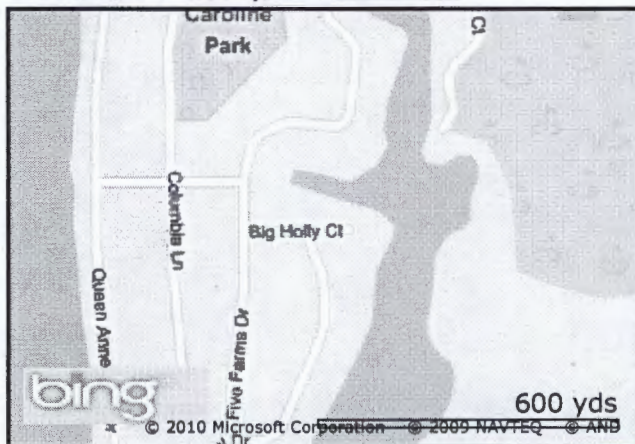
H

206 Big Holly Ct
Stevensville, MD 21666-3336

(410) 643-2397

Age: 60-64

Household: Gladys R Holofcener



Listing date: Nov. 2009

This Page Cannot Be Displayed

Debbie -
We might want to provide
copies - maybe
e-mails to this guy
Lionel - on Bd of Appeals
and Mike Mohler who
attended.
Go with as
Chip Raynor ✓
Zong informant



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw3.1d)

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

Account Identifier: District - 15 **Account Number - 1502203800**

Owner Information

Owner Name: BEAR CREEK PROPERTIES LLC **Use:** COMMERCIAL
Mailing Address: 694 WISE AVE **Principal Residence:** NO
 BALTIMORE MD 21222-5025 **Deed Reference:** 1) /13504/ 335
 2)

Location & Structure Information

Premises Address **Legal Description**
 601 WISE AVE LT 2 PT 1
 601 WISE AVE
 WATERFRONT PERRY POINT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	14	269					2	3	Plat Ref: 8/ 16

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1950	3,398 SF	15,681.00 SF	30

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2009	As Of 07/01/2010
Land	268,100	543,800		
Improvements:	361,700	219,900		
Total:	629,800	763,700	674,433	719,066
Preferential Land:	0	0	0	0

Transfer Information

Seller: BEAR CREEK INN INC	Date: 02/04/1999	Price: \$425,000
Type: IMPROVED ARMS-LENGTH	Deed 1: /13504/ 335	Deed 2:
Seller:	Date:	Price:
Type:	Deed 1:	Deed 2:
Seller:	Date:	Price:
Type:	Deed 1:	Deed 2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2009	07/01/2010
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

Gladie R "Randy" HoloFc ENER

PLEASE PRINT CLEARLY

CASE NAME 601 WISE AVE
CASE NUMBER 2010-0158 SPHX
DATE 2/19/10

PETITIONER'S SIGN-IN SHEET

Support

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
DAVID BILLINGSLEY	601 CHARWOOD CT	EDGEWOOD, MD 21040	dwb0209@yahoo.com
ARNOLD JABLON	210 ALDERMAN AVE	TOWSON	
BOB O'CONNOR	601 WISE AVE	BALTO 21221	
STEVE GOTT	694 WISE AVE	BALTO MD 21222	
Randy HoloFcener	206 Brightly Ct	Stevensville Md. 21666	
Eva Poliszczuk	308 Elrino St.	Balto MD 21224	rockers7@verizon.net
ROD BARRETT	15 WATERVIEW RD	BALTO MD 21222	YOUSTINK@aol.com
Tammy Preston	603 Goodman Ave	Balto Md 21221	tampre330@comcast.net
STEVE BARR	PO BOX 7 1 WATERVIEW RD	CAD PA 17527 DUNDALK MD. 21222	Steve@barrl.com
FRANK TAGGART	539 BAYSIDE DRIVE	DUNDALK MD 21222	FTAGGART@COMCAST.NET
Barbara Crannell	539 Bayside Dr.	Dundalk MD 21222	
Kelly Emala	1953 INVERTON Rd	Dundalk MD 21222	
FRANCIS S HORD	11 WATERVIEW RD	BALT MD 21222	
Rence Hoover	302 Bayside Dr	Dundalk MD 21222	
CHAD	302 Bay side	" " "	
JOC FISHER	2A BAYSIDE DR	DUNDALK, MD 21222	
Robin Fisher	2A Bayside DR	" " "	
Jim Poynter	2A Bayside DR	" " "	Jim.Poynter@yahoo.com
LEN BURNHAM	702 WISE AVE APT D	" "	
MARTIN MEYER	5719 Courtney Drive	Lothian MD 20711	Blueyed Captain@aol.com

*eastern shore
Queen Anne's County*

443-414-2333

CASE NAME GOI WISEAVE
CASE NUMBER 2010-0158 SPHM
DATE 2/19/10

NAME _____

ADDRESS

CITY, STATE, ZIP

E-MAIL

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
William Pribyl	7538 Battle Brook Circle	Baltimore, Md 21222	wepribrl@yahoo.com
DORIS GRAEME	5 WATERVIEW RD	BALTO, MD 21222	DGRAEME@MRS.COM
Bernie Simons	7 Waterman Rd.	Balto, Md. 21222	bbsimons@comcast.net
Marlene Cox *	12 Waterview Rd	Balto. Md. 21222	
William McJilton	23 WATERVIEW RD	BALTO MD 21222	WJMCJILTON@GMAIL.COM
William LAMBOIN	33 WATERVIEW RD.	BALTO. MD. 21222	WLAMBOIN1@VERIZON.NET
EVAN BATES	308 E. Main St.	BALTO MD 21222	evanbates@verizon.net
* SEAN BARR	1 Waterview Rd	BALTO MD 21222	sbarr@barr.com

410-477-9049

Randy Holacenter

IN THE MATTER OF: * BEFORE THE
 BEAR CREEK PROPERTIES, LLC; - * COUNTY BOARD OF APPEALS
 Legal Owner * OF
 3 B's, Inc., Lessee/ * BALTIMORE COUNTY
 601 Wise Avenue * Case No. 10-158-SPHA
 15th Election District * October 27, 2010
 7th Councilmanic District *

* * * * *

The above-entitled matter came on for hearing
 before the County Board of Appeals of Baltimore County,
 Hearing Room #2, Jefferson Building, 105 W. Chesapeake
 Avenue, Towson, Maryland 21204, at 10 o'clock, October 27,
 2010.

* * * * *

Reported by: Carolyn E. Peatt

BOARD MEMBERS:

LAWRENCE STAHL, Panel Chairman
 LAWRENCE WESCOTT
 MARUEEN MURPHY

APPEARANCES:

ARNOLD E. JABLON, Esquire
 On behalf of Legal Owner/Petitioner

WILLARD MCJILTON, Pro Se

WILLIAM LAMBDIN, Pro Se

PROCEEDINGS

* * * * *

THE CHAIRMAN: Good morning, everyone. We're
 here in the regular meeting of the Baltimore of the County
 Board of Appeals.

Today is October 27, 2010. We're meeting in Case
 10-158-SPHA, in the matter of Bear Creek Properties, LLC,
 legal owner, 3 B's, Inc., Lessee, 601 Wise Avenue, in the
 15th Election and the 7th Councilmanic District.

We're here regarding a petition for special
 hearing -- I understand there's some history -- but
 originally, a petition for variance to permit fifty-three
 parking spaces.

There was a Finding of Facts and Conclusions of
 Law issued by the Zoning Commissioner on March 10, 2010,
 where the petition for special hearing was withdrawn prior
 to the hearing, rendered moot, and the petition for
 variance to permit sixty per parking spaces in lieu of the
 required eighty-eight with the bar and restaurant was
 granted, with conditions.

There was also a reassigning of the matter and

several postponements, bringing us to today.

Counsel, if you would, for the record, please.

MR. JABLON: Yes. Arnold Jablon, representing
 the petitioner. Venable LLP.

MR. MCJILTON: Willard McJilton, representing
 myself.

THE CHAIRMAN: All right.

Mr. Lambdin: William Lambdin, representing
 myself.

THE CHAIRMAN: Are either of you gentleman
 attorneys?

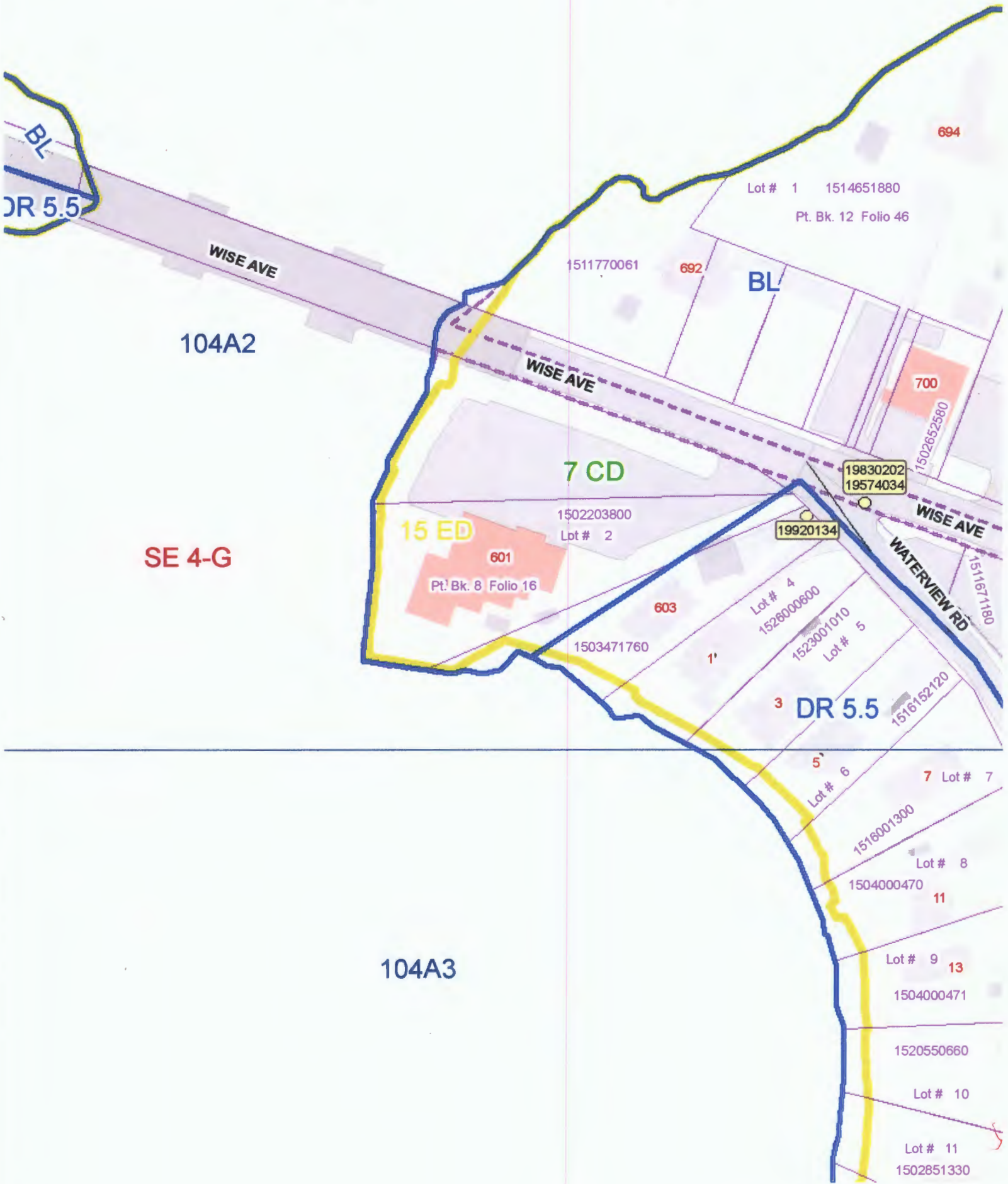
MR. MCJILTON: I am not.

Mr. Lambdin: No, sir.

THE CHAIRMAN: All right. I have a basic rule
 when we don't have lawyers, if you don't understand what's
 going other procedurally, whether you're allowed to do
 something, you're not allowed to do something, simply get
 my attention taken and we'll try to help your way along,
 from a procedural point.

(Discussion held off the record.)

THE CHAIRMAN: I'm sure counsel has received a



2010-0158-A



Case No.: 2010-0158 SP/A 601 WISE AVE

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN FILED WITH PETITION	MR LAMBDAIN'S Exhibit Book
No. 2	AMENDED SITE PLAN	MR. MCJILTON SAFETY CONCERNS
No. 3	OFF SITE PARKING AT 692 WISE AVE	PHOTO'S TAKEN at Subject Location
No. 4	OFF SITE PARKING AT 700 WISE AVE	INTERNET SITE DATA CONCERNING MUSIC PLAYING
No. 5	PLAT SUBDIVISION OF PERRY POINT	WILLIAM PRIBYL'S PHOTO'S AND SUGGESTIONS
No. 6 A → B → C	OVER HEAD AERIAL OF COMMUNITY & SITE	
No. 7	Ord Dept of assessment + taxation Real Property Data	
No. 8	1955 ZONING MAP ZONED COMMERCIAL THEN	
No. 9	1970 ZONING B/L	
No. 10	CURRENT ZONING B/L	
No. 11	LIQUOR LICENSE (1991) TRANSFER History to Present	
No. 12	LIQUOR LICENSE TRANSFER History FROM 1960 TO 1991	

Case No.: 2010-0158 - SPHA

601 WISE AVE.

Exhibit Sheet - Continued

Petitioner/Developer

Protestant

No. 13	PHOTO'S OF SLIPS AND PIER	
No. 14	LETTERS OF SUPPORT KATLY GENEL	
No. 15	LETTER OF SUPPORT WAYNE ROBERTSON	
No. 16	NEW SITE PLAN	
No. 17		
No. 18		
No. 19		
No. 20		
No. 21		
No. 22		
No. 23		
No. 24		

Baltimore County - My Neighborhood



PETITIONER'S EXHIBIT 6 c



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 v02.3)

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

Account Identifier: District - 15 Account Number - 1502203800

Owner Information

Owner Name: BEAR CREEK PROPERTIES LLC **Use:** COMMERCIAL
Principal Residence: NO
Mailing Address: 694 WISE AVE **Deed Reference:** 1) /13504/ 335
 BALTIMORE MD 21222-5025 2)

Location & Structure Information

Premises Address **Legal Description**
 601 WISE AVE LT 2 PT 1
 601 WISE AVE
 PERRY POINT
 WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	14	269					2	3	Plat Ref: 8/ 16

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

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1950	3,398 SF	15,681.00 SF	30

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of	Phase-in Assessments	
		01/01/2006	07/01/2007	07/01/2008
Land	164,000	268,100		
Improvements:	298,100	361,700		
Total:	462,100	629,800	573,900	629,800
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
BEAR CREEK INN INC	02/04/1999	\$425,000
Type: IMPROVED ARMS-LENGTH	Deed1: /13504/ 335	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

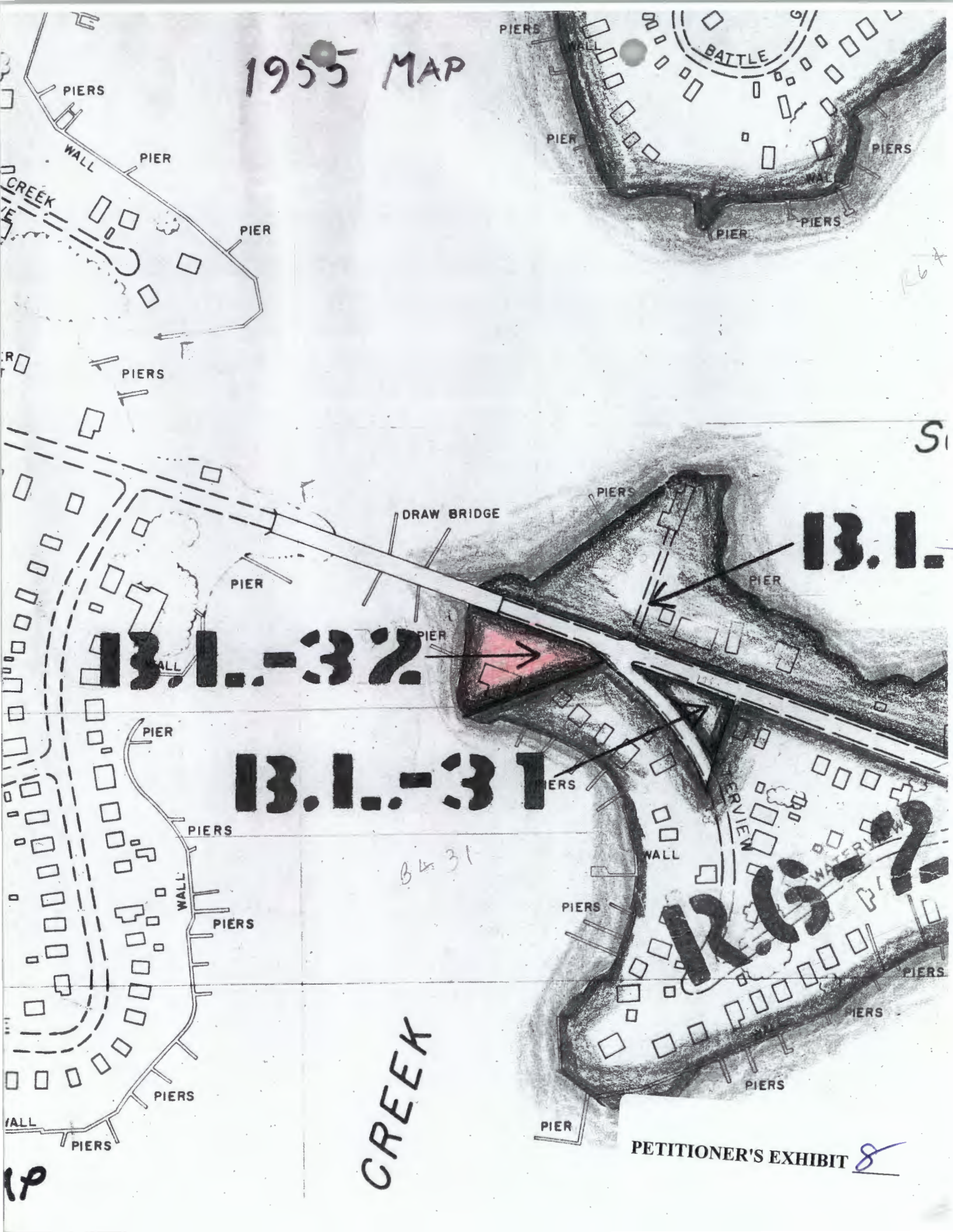
Partial Exempt Assessments	Class	07/01/2007	07/01/2008
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
 * NONE *

PETITIONER'S
 EXHIBIT NO. 7

1955 MAP



PIERS

WALL

PIER

PIER

PIERS

DRAW BRIDGE

PIER

PIER

PIERS

PIER

PIER

PIERS

PIERS

PIERS

PIERS

CREEK

PIERS

PIER

PIERS

PIER

PIERS

PIER

PIERS

WALL

PIERS

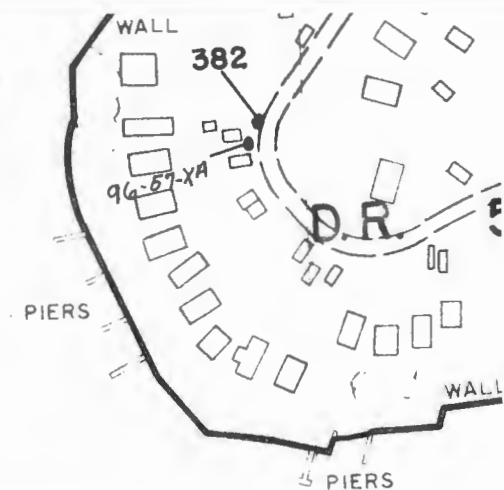
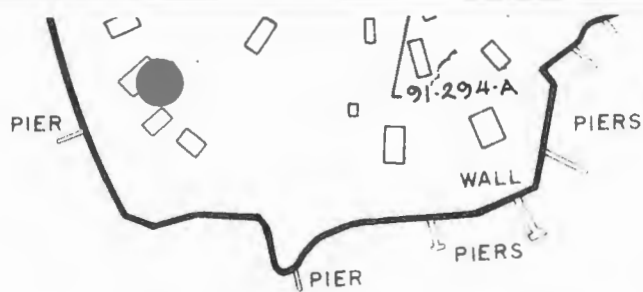
PIERS

PIERS

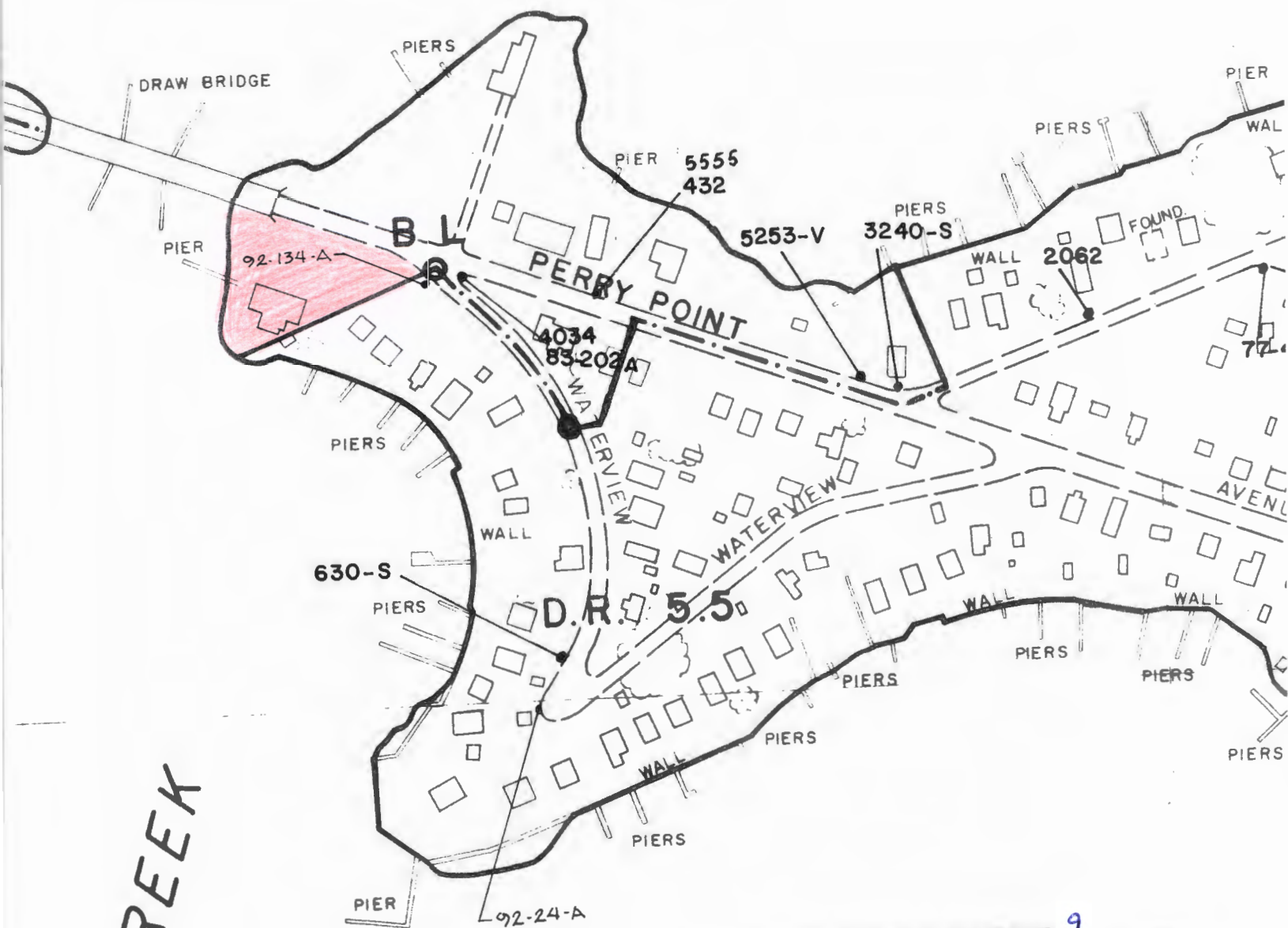
PETITIONER'S EXHIBIT 8

972

1972 MAP



SCHOOLHOUSE



PETITIONER'S EXHIBIT 9

MAP



Transferred to Rinbro Hospitality Management, Inc. 5/25/04

Transferred from 601 Wise Ave. Corp. 10/30/98

Steven Goff
Linda S. Hemingway
Gladys Holofcener

HGH, INC. D(BWL) 15
t/a Bahama Mamas
601 Wise Avenue
Baltimore, Md. 21222
CR# 03-09031858

WISE SERVICES, INC.
t/a Dick's Dock Bar
601 Wise Avenue
Dundalk, MD 21222

B(BWL) 15

CR# 03-12699144

Carl H. Yungmann, III
Jill A. Kadron
Edris Evans - removed from license 7/9/07

Transferred from Rinbro Hospitality Management, Inc.
4/20/07

Change of Trade Name to The Beach House 5/21/08

Transferred to 3 B's, Inc. 11/20/08

Transferred to HGH, Inc. 10/30/98

Kathleen Koerner Emerson
t-fer from Martz, Inc. 7/2/91
Baltimore, MD 21222

1 WISE AVE. CORP. D(BWL) 15
t/a Bahama Mamas
601 Wise Ave.

RINBRO HOSPITALITY MANAGEMENT, INC.
t/a The Mariner's Landing
601 Wise Avenue
Baltimore, Md. 21222

B(BWL) 15

CR# 03-11500944

Salvatore Rincione
William B. Bromley

Transferred from HGH, Inc. 5/25/04

Transferred to Wise Services, Inc. 4/20/07

PETITIONER'S EXHIBIT 11

~~TIAL, INC.~~ D(BWL)
t/a Beer Creek Inn
601 Wise Avenue
Dundalk, MD 21222

15

Michael S. Gregory TR. OFF 12/29/81
Loretta F. Neumyer
Genevieve Loveland

frmlly t/a Gale's Inc.

477-9781

~~Gilento, Don ma 10/28/81~~

Frank Moran

MARTZ, INC. D(BWL)
T/A The Bear Creek Inn
601 Wise Avenue
Baltimore, MD 21222

15

Elizabeth Lee Soltynski
Lawrence Walter Soltynski
John Warren Noonan

t-fer from TIAL, INC. 3/27/87

Closed 7/2/91

T/a To 601 WISE AVE CORP

Moran

Mill

T- 5/1/80 - INCORPORATED - NOW T/A GALE'S, INC.
BEAR CREEK INN, INC. D(BWL)
601 Wise Ave. (22) 1966

15

MARY B. Adlam T- 9/20/61

Dorothy N. Palcher ANNA Shumard } T- 8/31/60

Gerald L. Robb } T- 8/3/62 for partnership to single

Dorothy L. Robb } T- 8/3/62 for partnership to single

Thomas D. Gale } T- 8/3/62 for partnership to single

Virginia M. Gale } T- 8/3/62 for partnership to single

477-3355

477-9781

Feeley

Miller

F. Disney

T- 9/22/81 - NOW T/A TIAH, INC.

GALE'S, INC. D(BWL)

15

601 Wise Avenue, 22 T- 5/1/80 - INCORPORATED, FORMERLY T/A BEAR CREEK INN

Thomas D. Gale

Virginia M. Gale

477-3355

Feeley



To Whom it may concern
Baltimore, Co. Zoning dept.

My name is Kathy Lencel. I live
at 703 Wise Ave. Dundalk, Md 21222.
Due to surgical needs of my mother, I am
unable to attend the hearing for a zoning
variance for the property located at 601 Wise Ave,
Dundalk, Md 21222. I do want to provide
my support by writing this letter and
making it known I am in full support
of the variance for parking requested by
the Beach House and Bear Creek properties.
Any questions can be direct to me at 410-812-7993

Thank you Sincerely
Kathy Lencel

PETITIONER'S

EXHIBIT NO.

14

TO WHOM IT MAY CONCERN
PATO. CO. ZONING.

I'M WAYNE ROBERTSON, I RESIDE AT
703 WISE AVE.

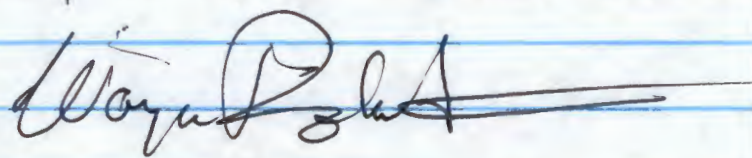
I AM WRITING IN REGARDS TO
TO THE VARIANCES FOR PARKING TO
THE BEACH HOUSE INN ON WISE AVE.

I'M IN FULL SUPPORT OF THIS.

THE OWNERS OF THIS ESTABLISHMENT
HAVE DONE EVERYTHING GOOD THATS POSSIBLE
TO APPEASE THE COMMUNITY/. THEY HAVE
MY RESPECT AND SUPPORT TOTALLY.

IF YOU WOULD LIKE TO SPEAK TO ME
PLEASE CALL ME AT 443-275-8103

THANK YOU, WAYNE ROBERTSON



PETITIONER'S

EXHIBIT NO.

15

Case No: 10-158 SPHA Case Name: BEAR CREEK PROPERTIES LLC

Exhibit List

Party: Petitioner Date: 10/27/10.

Exhibit No:	Description:
✓ 1	PLAT OF AREA.
✓ 2.	REVISED SITE PLAN.
✓ 3.	REDUCED PLAT OF PERRY POINT 5/18/29
✓ 4.	1955 BALTO Co. ZONING Map.
✓ 5.	1972 BALTO Co. MAP.
✓ 6.	200% Zoning Map. SHOWING SITE
✓ 7	AERIAL MAP. for 601 WISE AVE
✓ 8	" " " " " "
✓ 9	Aerial Map. showing zoning of properties
✓ 10A	Photo of site
✓ 10B.	Photo enlarged showing building additions
✓ 10C.	" enlarged showing more additions.
✓ 11	Aerial photo of int bldgs of 1452-53 + additions
	VERIFIED BY <u>AW</u> DATE: <u>10/28/10</u>

Bear Creek Properties LLC

Exhibit List

Date: 10/27/10

Exhibit No:	Description:
12 A.	Copy of liquor license receipt 1981.
12 B.	" " subsequent liquor license up to 2008
13 A.	Photo - flat tires 6/25/10
13 B.	Photo - deck. - No car on beach 6/20/10
13 C.	" " " " " 6/25/10
13 D.	" " partly lot - 4 cars slung rd to 6/25/10
13 E.	" " partly lot - Tail rent. 3 vehicles
13 F.	" " " " " side view 6/25/10
13 G.	" " " " " on W side Ave 6/25/10
14 A.	Photo 7/3/2010 - Partly lot
B.	" " " "
C.	" " " "
D.	Photo " Deck
E.	" " "
VERIFIED BY <u>trw</u> DATE: <u>10/28/10</u>	

Case No: 10-158-SPHA Case Name: Beaver Creek Properties LLC

Exhibit List

Party: Petitioners Date: 10/27/10

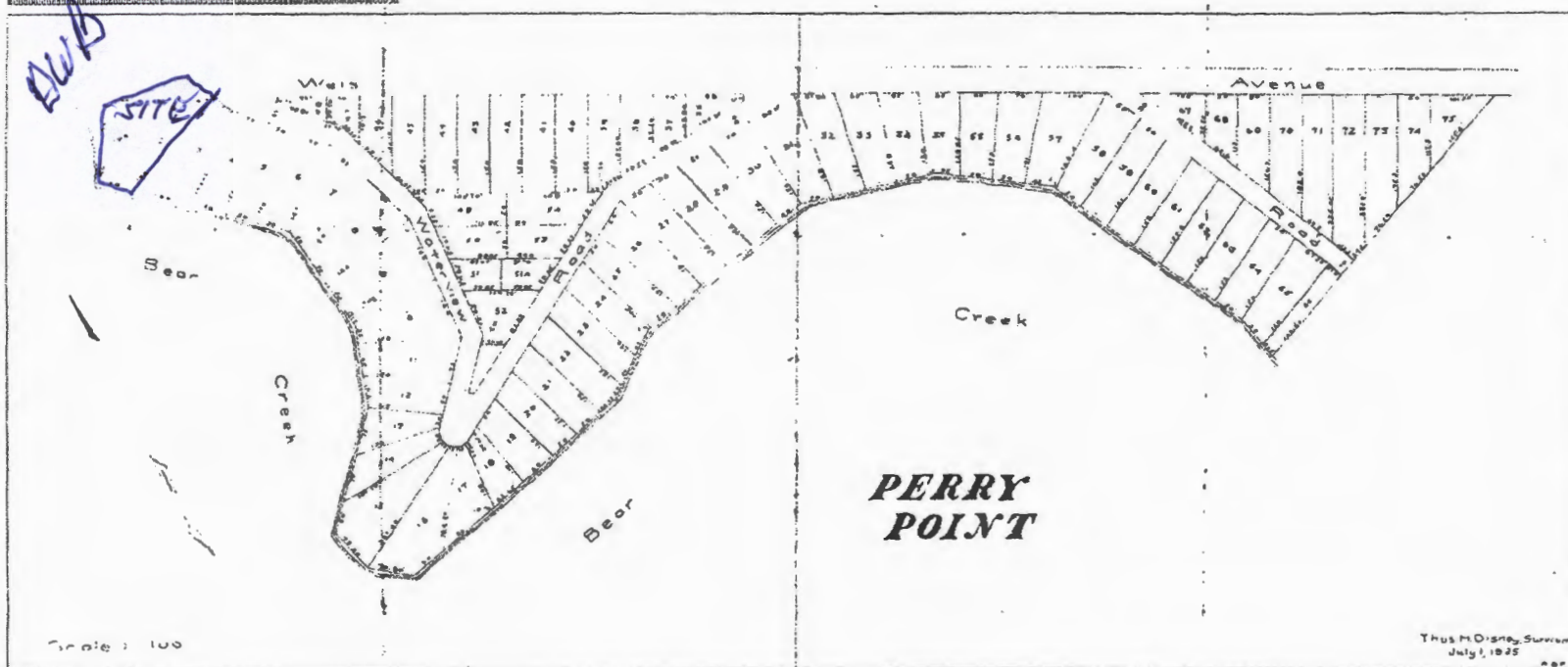
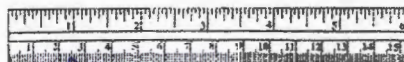
Exhibit No:	Description:
✓ 14 F	Photo - Deck
✓ G	" "
✓ H.	Photo - Deck
✓ 15 A	Photo - 10/25/2010 - Backyard.
✓ B	" " " "
✓ C	" " for walls
✓ D	" " " "
✓ E	" " Party list
✓ F	" " Signs
✓ G	" " party list
✓ H.	" " for beach
✓ 16 A.	" 9/19/10 - boats
✓ B	" " boats
✓ C	" " Deck over
VERIFIED BY <u>th</u> DATE: <u>10/28/10</u>	

Case No: 16-158-SHA Case Name: Bears Creek Properties LLC

Exhibit List

Party: Petitions Date: 10/27/10

Exhibit No:	Description:
✓ 16 D	Photo 9/19/10 - from restaurant
✓ E	" " " "
✓ F	" " " " bar area
✓ G.	" " " "
✓ H.	" " in restaurant.
✓ I	" " Party area.
✓ 17 (2)	Police Report
✓ 18	Letter from Stephen Bears.
✓ 19.	Petition signed by neighbors in support of protest
✓ 20.	liquor license
✓ 21	Food service permit
	VERIFIED BY <u>tro</u> DATE: <u>10/28/10</u>

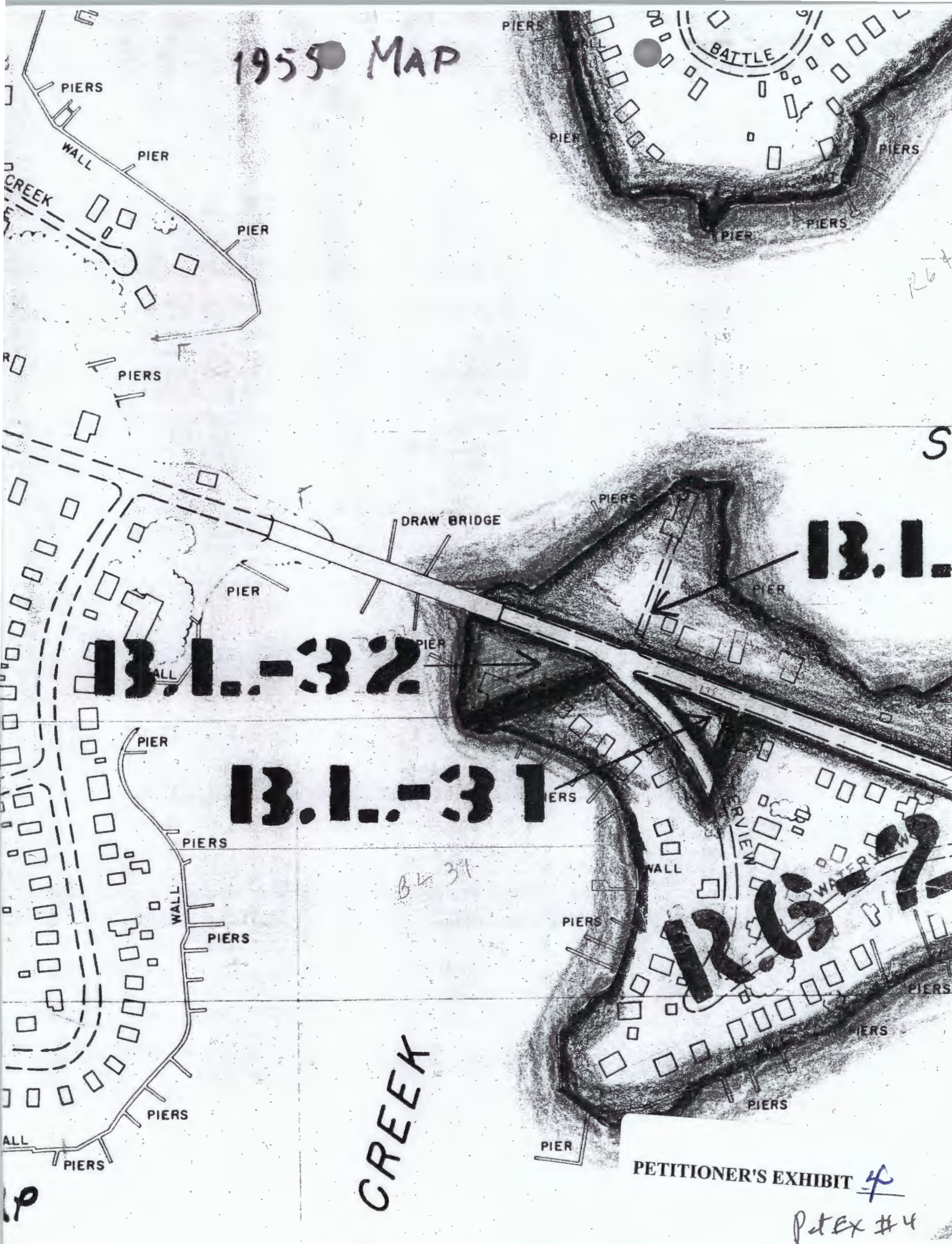


PETITIONER'S EXHIBIT 3

P.B. 3 F. 16
5/18/29

PET FY
#3

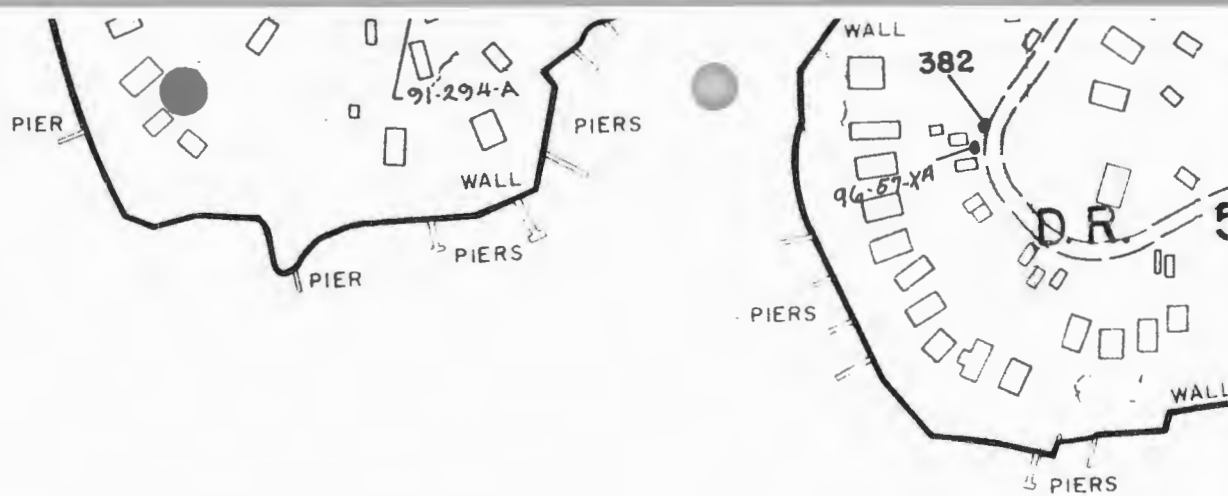
1955 MAP



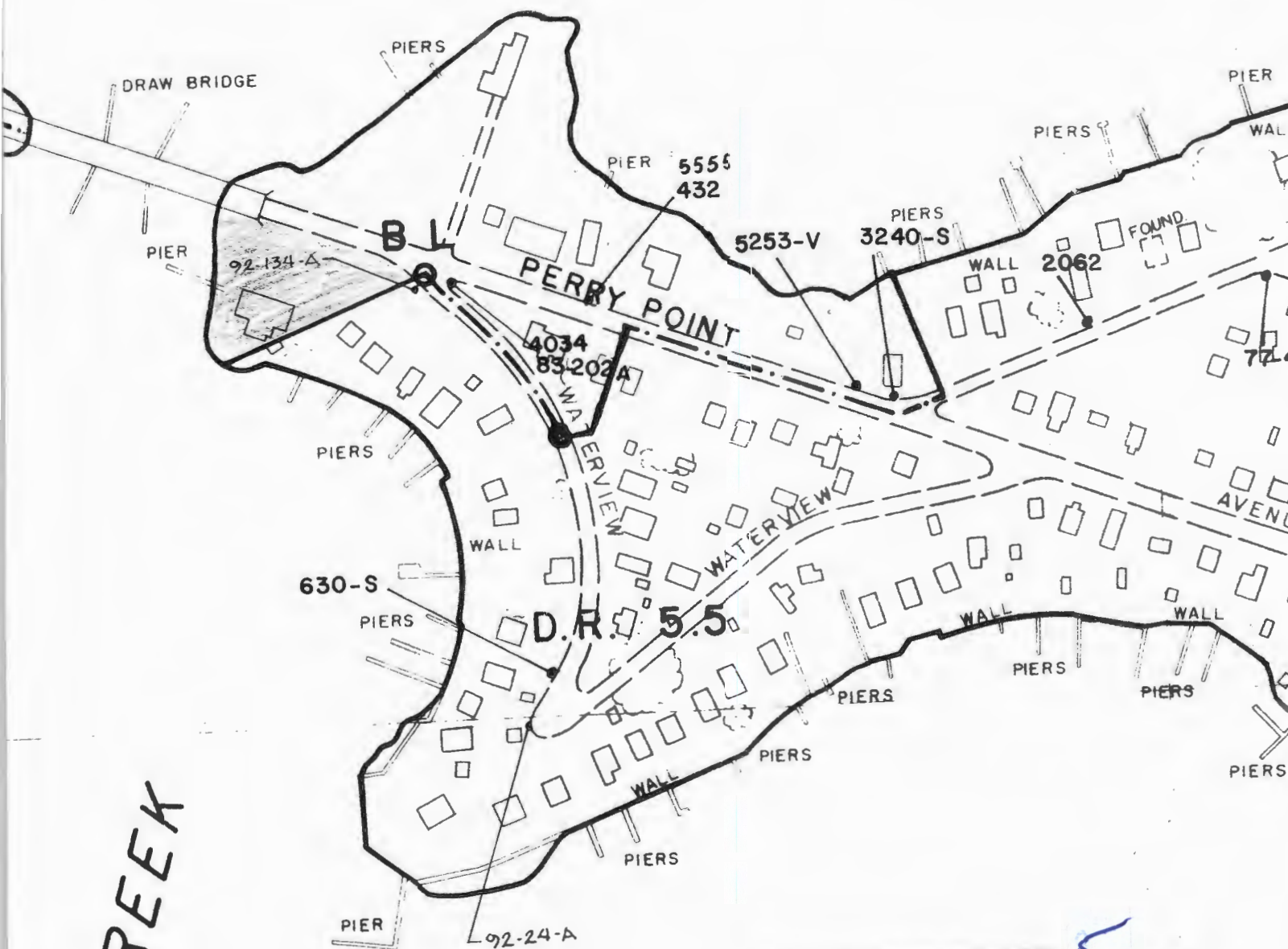
PETITIONER'S EXHIBIT 4

Pet Ex #4

1972
MAP



SCHOOLHOUSE



PETITIONER'S EXHIBIT

5

CREEK

MAP

Pet Ex 5

0731

BL
R 5.5

WISE AVE

104A2

SE 4-G

WISE AVE

X SITE
QWB

19920134

19830202
19574034

WISE AVE

WATERVIEW RD

DR 5.5

104A3

PETITIONER'S EXHIBIT 6

pt ex #6

Baltimore County - My Neighborhood



PRT EXN 9 p. 2 EX #9



12-8-1953 AERIAL PHOTO

PET EXH 10





B

PRESIDENT
BULKHEAD

EX. BLDG. 1852-53
ADDITION
DECK

WISE AVE.

9

100 H 5 + 1 1/2 X 1/2 H 100

1952-53 U.S. ASCS AERIAL PHOTO

APPROX. SHORELINE

5

ORIGINAL BLDG = 2920 S.F.
ADDITION = 1020 S.F. (35%)
TOTAL = 3940 S.F.

PET EXN II

2007

PK

EX. BUILDING
PER 1952-53
AERIAL

ADDITION
SINCE
1952-53

PET EX
#11

WISE SERVICES, INC.
t/a Dick's Dock Bar
601 Wise Avenue
Dundalk, MD 21222

B(BWL) 15
CR# 03-12699144

Carl H. Yungmann, III
Jill A. Kadron
Edris Evans - removed from license 7/9/07

Transferred from Rinbro Hospitality Management, Inc.
4/20/07

Change of Trade Name to The Beach House 5/21/08

Transferred to 3 B's, Inc. 11/20/08

RINBRO HOSPITALITY MANAGEMENT, INC. B(BWL) 15
t/a The Mariner's Landing
601 Wise Avenue
Baltimore, Md. 21222 CR# 03-11500944

Salvatore Rincione
William B. Bromley

Transferred from HGH, Inc. 5/25/04

Transferred to Wise Services, Inc. 4/20/07

PETITIONER'S EXHIBIT 12a

~~TIAL, INC.~~ D(BWL)
t/a Beer Creek Inn
601 Wise Avenue
Dundalk, MD 21222

15

~~Michael S. Gregory~~ TR. off 12/27/81
Loretta F. Neumyer
Genevieve Loveland

frmly t/a Gale's Inc.

477-9781

~~Gilento, Don~~ Ma 10/28/81

Frank Moran

~~TIAL, INC.~~
t/a Beer Creek Inn
601 Wise Avenue
Dundalk, MD 21222

Elizabeth Lee Sołkowski
Lawrence Nalson Sullivan
John Warren Jordan

t-fer from TIAL, INC. 3/27/87

Closed 1/2/91

Trf to 601 WISE AVE CORP

Moran

Miller

~~Gale's Inc.~~
t/a Beer Creek Inn
601 Wise Avenue
Dundalk, MD 21222

Thomas J. Gale

Virginia D. Gale

477-3355

Feeley

PETITIONER'S EXHIBIT 12(b)

9-19-10 3:07 PM

6



9-19-10 3:10 PM

C



9-19-10 3:16 PM d





PETITIONER'S EXHIBIT

NO. 13 A







PETITIONER'S EXHIBIT

NO. 14

A









PETITIONER'S EXHIBIT

NO. 15 A







9-19-10 3:07 PM

port KM 16
a



9-19-10 3:10PM
e



9-19-10 3:05 PM
f



9-19-10 3:10 PM (9)



9/19/10

h



9-19-10 3:06 PM



File Settings Programs Options Search Reports Utilities Help Window

Event ID/CFS #

From To

Date Received

Quick Fill Last 24 Hrs Yesterday Today Last Week This Week

Situation Found Type

District Disposition

Reporting Area Call Code 1

Begin Block End Block Street Community

Event ID/CFS #

6070

500 Records to Retrieve

Append % Automatically to Event ID/CFS # ☒

Do Not Append % to Event ID/CFS # ☐

Wild Cards

Percent Sign (%) - Any Number of Characters

Underscore (_) - One Character

Cross Streets - Defined by comma (,)

CFS Num	Call Received	Disposition	Situation Found	Type	District	Event Location	Reporting Area	X-Street	Y-Street

Search Time: 12.83s

Records: 0

PJ EX #17

File
Settings
Programs
Options
Search
Reports
Utilities
Help

Event ID/CFS #

From

To

Date Received
04/01/2010 00:00
10/25/2010 00:00

Quick Fill
Last 24 Hrs
Yesterday
Today
Last Week
This Week

Situation Found

Type

District

Disposition

Reporting Area

Call Code 1

Begin Block
601

End Block
601

Street
WISE AVE

Community

Event ID/CFS #

Append % Automatically to Event ID/CFS #

Wild Cards

6010

Do Not Append % to Event ID/CFS #

Percent Sign [%] - Any Number of Characters

500

Records to Retrieve

Underscore [_] - One Character

Cross Streets

Delimited by comma [,]

CFS Num	Call Received	Disposition	Situation Found	Type	District	Event Location	Reporting Area	X-Street	Y-Street

Search Time: 12.83s

Records: 0

Search

OK

Cancel

Pet EXN 17

October 26, 2010

To Whom it May Concern:

This letter is in regard to an appeal for a variance that was previously granted to permit 60 parking spaces in lieu of the required 88 parking spaces for the Seasoned Mariner Restaurant, a/k/a Bear Creek Properties, LLC, located at 601 Wise Avenue, Dundalk MD 21222.

Since this new restaurant opened they have been as asset to our neighborhood and have not created any parking issues, none at all. My property is within 50' off their parking lot and within 80' of their restaurant. I have not witnessed one time since they opened any cars parked in front of my house or along my street as a result of their business.

I support the original variance that was granted and hope that the appeal filed by distant neighbors is ruled without mefit.

Thank you very much and if you have any questions, don't hesitate to contact me.

Yours truly,



Stephen J. Barr
1 Waterview Road
Dundalk MD 21222
Cell: 717-587-4396

PRT EXM 18

Petition in favor of granting the requested parking variance for The Seasoned Mariner Restaurant

We, the undersigned, residents Waterview Road, strongly support granting the parking variance requested by Steven Goff and The Seasoned Mariner Restaurant. We understand that the restaurant will continue to operate under the same terms as it has since opening in June 2010 and will continue to comply with the terms of the variance granted by the Zoning Commissioner on March 30, 2010.

Name

Signature

Address

John, Gary & Nancy Barrett 15 Waterview Rd.

Milton Noras 3 Waterview Rd

Anne Noras 3 Waterview Rd

Francis S. Hurd FRANCIS S. HURD 11 WATerview RD ^{APT 1}

Roberto R. Lugo 11 WATerview RD ^{APT 2}

Frank Gadow FRANK GADOW 16 WATerview RD.

Richard H. Kurth RICHARD H. KURTH 16 WATerview RD

Michael Kurant MICHAEL KURANT 17 WATerview RD

Ron Hall Ron Hall 19 WATerview Rd

90 County

State of Maryland License

03375335

03375335



JUGS LLC
THE SEASONED MARINER
601 WISE AVE
BALTIMORE MD 21222

JUGS LLC
THE SEASONED MARINER
601 WISE AVE
BALTIMORE MD 21222

10

CODE	UNIT	TYPE OF LICENSE	NO OF LIC	COST
87	799	RESTAURANT	1	10.00
71	6.0	TRADER'S LICENSE	1	30.00

DATE OF ISSUE
MO DAY YR
05/24/2010

MONTHS PAID
12

ISSUING FEES	4.00
TOTAL	44.00
AMOUNT PAID	44.00

THIS LICENSE MUST BE PUBLICLY DISPLAYED
AND EXPIRES ON **APRIL 30, 2011**

ISSUED BY
SUZANNE MENSCH, CLERK OF CIRCUIT COURT
401 BOSLEY AVENUE
TOWSON, MARYLAND 21204-6754 (410)887-2607

DHS

pet EXN 20

pet EXN IF
20

Food Service Facility Permit
Baltimore County Government
Department of Environmental Protection and Resource Management
Jefferson Building, 105 W. Chesapeake Avenue, Suite 400
Towson, Maryland 21204



Permit Number: PT0002598 - PT0001578

410-887-4065

Catering Id No.: _____

Record Information

OW0005033-FA0001568-PR0101489

Date Permit Issued: 05/28/2010

7001-Food-High Priority Facility

Permit Valid From Date: 05/28/2010

Annual Expiration Date: 03/31/2011

Type of Facility: Restaurant

Mailing Name and Address of Owner/Operator

Steven R Goff
601 Wise Ave
Dundalk, MD 21222

Facility Name and Address

The Seasoned Mariner
601 Wise Ave
Dundalk, MD 21222

Certified Food Manager? Yes

Approval Authority



This hereby certifies that the above Food Service Facility is granted permission to operate in Baltimore County in accordance with the laws and regulations of Baltimore County.

Jonas A. Jacobson

Jonas A. Jacobson, Director
Department of Environmental Protection and Resource Management

**PERMIT IS NON-TRANSFERABLE AND
SHALL BE POSTED IN A CONSPICUOUS PLACE**

PRT EXH 21

PRT EXH #21

Case No.: 2010-0158 SPHA 601 WISE AVE

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN FILED WITH PETITION	MR LAMBDIN'S EXHIBIT BOOK
No. 2	AMENDED SITE PLAN	MR. MCJILTON SAFETY CONCERNS
No. 3	OFF SITE PARKING AT 692 WISE AVE	PHOTO'S TAKEN AT SUBJECT LOCATION
No. 4	OFF SITE PARKING AT 700 WISE AVE	INTERNET SITE DATA CONCERNING MUSIC PLAYING
No. 5	PLAT SUBDIVISION OF PERRY POINT	WILLIAM PRIBYL'S PHOTO'S AND SUGGESTIONS
No. 6 A → B → C	OVER HEAD AERIAL OF COMMUNITY & SITE	
No. 7	MD DEPT OF ASSESSMENTS + TAXATION REAL PROPERTY DATA	
No. 8	1955 ZONING MAP ZONED COMMERCIAL THEN	
No. 9	1970 ZONING B/L	
No. 10	CURRENT ZONING B/L	
No. 11	LIQUOR LICENSE (1991) TRANSFER HISTORY TO PRESENT	
No. 12	LIQUOR LICENSE TRANSFER HISTORY FROM 1960 TO 1991	

PROTESTANTS AND PETITIONERS

- Letter to Timothy Kotroco Director, Dept. of Permits and Development Management from Arnold F. Keller, III Director, Office of Planning Dated 12-18-09 Subject: Zoning Advisory Comments for 601 Wise Ave. Quotes: (1) "It has grown in customers use over the years, apparently without proper permits or inspection to the point at which it is now far larger than the sites capacity to contain it." (2) "It is a business that has simply outgrown its site" (3) "Permitting the parking variance would ignore the real problem which is that the music scene business model has brought to a local facility, a regional clientele that the site and the community is unable to, and should not be required to accommodate" (4) "This Office strongly recommends against granting this variance due to the incompatibility with the surrounding community, inadequate facilities, and noise and general disturbance of the peace by the customers."
- E-Mail from Stephen Weber, Chief, Division of Traffic Engineering to Mr. Zimmerman Office of the People's Counsel for Baltimore County concerning Case No 10-158A 601 Wise Ave. Dated 1/19/2010. Quote: " We strongly oppose the granting of the requested variance and find that the historical parking problems generated by the petitioner (over 10 years) have been causing parking impacts into the adjacent community which should not be occurring"
- Petition protesting granting of zoning variance
- Complaints :Letters and emails

MR LAMBDIN'S
EXHIBIT BOOK

SITE PLANS COMMENTS FOR VARIANCE HEARING

CASE # 2010-0158A

- Plan does not show the existing storm drain inlet structure located at entrance to proposed parking area located at #'s 692-694 Wise Ave residential driveway easement /Right of Way
- Plan does not describe the size or exact location of easement/ ROW or reference to deed description. Can the proposed commercial parking and the existing residential driveway be combined?
- Proposed widening of parking lot entrance to the required 24 Ft. would involve replacement of the existing storm drain inlet structure, curb lines and sidewalk, and a new traffic bearing structure or relocation of the structure which would involve changing the profile of Wise Ave. Is there an estimate for this work? Have permits been applied for or approved?
- According to Balto. Co. off-street parking requirements "All entrances should be located 7-1/2 ft to a side property line." Where is the reference property line?
- The site plan does not dimension the existing paving or the size of the proposed paving area. Has the proposed impervious paving area been addressed by Balto. Co. DEPRM.? Has an estimate of costs been developed? Permits?
- Since the proposed parking area is at the intersection of Waterview Rd. and Wise Ave. has Balto.Co. Traffic Engineering approved the intersection modification and are there any other requirements such as crosswalks necessary.
- There is no indication of any signage, the amount , size , locations or content.
- Is lighting required for this proposed site?
- There are NO accommodations for handicapped parking (required 2 (13'x18') handicapped spaces for a 26-50 parking space lot) per COMAR 13B.07.05.04
- NO designated area for the facilities 2 dumpsters.
- Balto. Co. requires that all parking spaces must be clearly defined (painted) and must have wheel stops. (not shown)
- Since all properties involved in this variance are located in the Chesapeake Bay Critical Area has an impact statement concerning water quality issues and letter concerning the proposed work and variance been generated by the Maryland State Dept. of Environmental Protection and Resource Management Director's Office with their written recommendations as per section 500.14 of the BCZR. (NO LETTER/ COMMISSIONER CANNOT GRANT ANY VARIANCE)

PROPERTIES DATA FOR 601, 692, 694, 696, & 700 WISE AVE.

- Due to the extensive changes of the property boundaries shown on the original sub-division plans in the subject area and the inconsistent data between the Maryland State Real Property Tax Assessment records, we ask that the Commissioner enforce section 500.9 BCZR and require the plats for all properties associated with this hearing and verify that all property line changes have been approved by the proper authorities and correctly recorded.
- 601 Wise Ave. /Operating as a Nightclub/Bar/Restaurant : According to Md. Tax Assessment records the taxed land area is 15,681 sf. ,on the site plan submitted the subject land area is 36,360 sf. a difference of 20,679 sf. or 56.8% less than the amount being taxed. Also the enclosed area is listed as 3,398 sf. and the site plan shows the existing building as 3,940 sf. not including the enclosed 1,400 sf. area of the heated, wood deck, metal canopy area. Resulting in 5,340 sf. of enclosed area or a difference of 1,942 sf. or 57.1% less than what is being taxed. The improvements base value was listed as \$361,700 but decreased to \$ 219,900 as of 01/01/2009 for a difference of \$141,800 or 39.2% of its base value. HOW and WHY? Property has also been operating as a nightclub in BL zoned property and given a correction notice.
- 692 Wise Ave. /Private Residence: Are the lease agreements signed and been made available to Baltimore Co. and somehow land value has decreased by \$14,000. Why because of the nightclub?
- 694 Wise Ave. /Private Residence (Owner of 601 696 and 700 Wise Ave): Can the commercial parking spots be incorporated with the driveway easement to this residence and land value has also decreased by \$14,000. Enclosed area (See aerial photo/ 4 or 5 enclosed buildings) appears to be much greater than the 1678 sf. listed on the state real property tax data records.
- 696 Wise Ave. /Operating as Residential Apartments: According to MD. Tax Data Land Area is listed as 3,638 sf. and enclosed area is listed as 3,520 sf. or a difference of 118 sf. since one parking space is 18'x8.5' or 153 sf. where are the 17 required parking spaces for this commercial building which present use is listed as commercial.
- 700 Wise Ave. /Operating as a Convenience store and a Bait/Tackle shop: The enclosed area appears to be correctly listed on tax data as 3,670 sf., as per county guidelines for general retail (5 parking spaces /1000 sf.) this building would require all 18 of the parking spaces shown on the submitted site plan. Baltimore Co. needs to verify the necessary amount of parking for this establishment, the distance to the entrance (500 ft. to building entrance) of 601 Wise Ave., the 24 hour availability for the 6 spaces proposed and copies of the lease agreements with all tenants located at this location. This property has also decreased the improvements value from a base value of \$212,200 to \$158,500 as of 01/01/2009 or a difference of \$53,700 a 25.3% decrease in value. WHY?

601 WISE AVENUE HISTORICAL INFORMATION

- According to tax data information the main building structure was erected in 1950
- The location operated as a local tavern known as "Bear Creek Inn" with a Class "D" liquor license (commonly known as a Tavern License)
- Aerial Photo from Baltimore County Archives Dated 12/8/1953. Notice the location of the shoreline and pier in relation to building structure.
- In the late 1960's the land area of the property location was expanded by installation of bulkheads approximately 50 ft. into Bear Creek along the length of their shoreline, hauling in backfill material thus creating a larger parking lot.
- Aerial Photo taken in 1992, notice the expansion along the shoreline used for parking
- In the 1990's the building footprint was expanded by the erection of the 2 story area which presently operates as the main floor dining area and the lower level "Tiki Bar" at the southwest corner of the existing structure
- In August of 2000 Permit No. B423961 was filed for the installation of the floating pier and failed to show any outdoor seating as stated in the July 24, 2007 letter written by James Thompson.
- Around 2000 the lower level "Tiki Bar" was created, then sometime later the parking area on the west side of the building was removed, beach sand was imported in and tables were placed outside creating the "Beach Dining Area"
- In 2004 the business operations known as "Mariners Landing" changed the liquor license from a Class "D" license to a Class "B" license (49% Bar-51% Restaurant)
- In 2006 installed decking along west side of building and canopy cover structure no record of site modifications to Liquor Board
- In 2007 Changed name to "Dick's Dock Bar". Original citation issued by Baltimore County Code Enforcement June 20, 2007
- In 2008 Changed name to "Beach House" and modified ownership group and liquor license
- April 2009 enclosed Metal Canopy area installed heating system no record by the Liquor Board of site modifications or approval
- February 7-8, 2010 metal canopy area collapsed under weight of heavy snows, walls and demo removed 2/9/2010

ON STREET PUBLIC PARKING OPTIONS CASE # 2010-0158A

Waterview Rd

- Approximately 1300 lf. , West Entrance at Wise Ave. intersection shared with parking lot entrance to 601 Wise Ave. (Beach House Nightclub), 603 Wise Ave. (Residential Driveway), 1 Waterview Rd. (Residential Driveway), 692 & 694 Wise Ave. (Residential Driveway Shared Easement & Proposed 9 Commercial Parking Spaces), 696 Wise Ave. (Commercial Bldg Parking Area Entrance) East Entrance is approximately 850 lf. East on Wise Ave. from entrance Intersection at Beach House Parking lot.
- Two-Way Secondary Residential Street
- NO Continuous Sidewalks or Curb Lines on either side of street
- Bituminous Paving section varies in width from 17' to 20' in width
- Services 35 residential properties
- Most properties have chain link fencing or some type of fence along roadside property boundary

Oakleigh Beach Rd.

- Approximately 700 lf. East on Wise Ave. from parking lot entrance to Beach House Nightclub
- Two-Way Secondary Residential Street
- NO Continuous Sidewalks or Curb Lines on either side of street
- Bituminous paving section varies from 18' to 20' in width
- Services residential properties
- Most properties have some type of fence along roadside boundary

Bayside Drive

- Approximately 900 lf. West of parking lot entrance to Beach House Nightclub across Bear Creek Draw Bridge
- Two-Way Secondary Residential Street
- Continuous Sidewalks and curb lines
- 22' Bituminous paving section
- Services Residential Properties

Wise Avenue

- High Volume County Thoroughfare
- Services about 11,000 vehicles per day
- 8 Commercial business entrances & 7 residential driveway entrances with-in 700 lf. of entrance to Beach House Nightclub, east of Bear Creek Draw Bridge
- NO Continuous Sidewalks or Curb Lines from subject location East on Wise Ave.
- NO PARKING LANE AVAILABLE ON EITHER SIDE OF WISE AVE.

BALTIMORE COUNTY CODE ENFORCEMENT

- Original Code Enforcement Citation Dated June 20, 2007 Case No.07-7793
Note: Operating as a "Night Club" is Prohibited
- Letter from James Thompson of Balto. Co. Code Enforcement Dated July 24, 2007: Options for solving violations; 1)Remove all outdoor seating from premises, 2)Obtain off-site commercially zoned parking, 3)Obtain a non-conforming use via a special hearing use approval to establish the existence if restaurant seating prior to 1955
- Second Code Enforcement Citation Dated 8/27/2007
Note: Operating as a "Night Club" is Prohibited "No Live Entertainment"
- Third Code Enforcement Citation Dated 4/3/2008
Note: Operation as a "Night Club" is prohibited
- Findings of Facts and Conclusions of Law Final Order of the Code Enforcement Officer/ Dated April 4, 2008. This document has placed the public safety of the residents of Waterview Rd. in jeopardy for the past 2 years. As one of the complainants concerning the issues at 601 Wise Ave. I take exception to the manner in which the hearing was scheduled for this case. With total disregard to section 500.6 BCZR, the Code Enforcement Hearing Officer allowed this hearing to be placed on the docket at 3:00 PM on April 2, 2008 for a hearing to be held at 9:00 AM April 3, 2008 (18 hours prior to hearing) . No notification of any type was provided to the persons of interest or the general public. Although myself and several other members of my community were listed as persons of interest and had been notified and appeared at the previous scheduled hearings in September and November of 2007 (Which were canceled at the last moments by Mr. Holzer, counsel for the defendants). I was only comprised of the hearing and results @ 10:30 AM on April 3, 2008 by Code Enforcement Officer Raynor when he telephoned me at work and stated "We had the hearing this morning all fines were dismissed, there is a new ownership group and as such the business operations can continue". I relayed my displeasure with the way the hearing was scheduled and conducted and he informed me that I had no recourse and could not appeal because I was not the defendant in this case. The appearances of impropriety and collusion between the County Officials and the Lawyers (J. Carroll Holzer, and Arnold E. Jablon) in this case are reflected in the statement of Facts and Conclusions of Law written by Hearing Officer Raymond S. Wisnom Jr. (Confirmation of collusion via phone conversation with Code Enforcement Officer Raynor on 2/3/2010 when he stated he had a discussion with Commissioner Wiseman concerning the case. When questioned by Mr. Wiseman concerning the scheduling of the hearing on 4/3/2008 Mr. Raynor stated," the hearing was held as a favor to Arnold (Jablon)"
- Fourth Code Enforcement Citation Dated 10/6/2009 & Photos
- Letter from Meghan Ferguson (Chief of Division of Code Inspections & Code Enforcement) to W. Carl Richards, Jr. verifying an active violation case for 601 Wise Ave. and the extensive files were under review in order to make a decision from a recent hearing. On November 4, 2009 another Code Enforcement Hearing (which we were notified) was held. At this hearing Mr. Jablon asked that the case be dismissed citing improper description of code violations and other issues. Hearing Officer Ferguson stated she would review the information with the possibility of

correcting the citation or issuing another citation as allowed by county code. Ms. Ferguson then allowed me and Balto. Co Police Officer Benjamin to present testimony. Mr. Jablon produced a site plan for 601 Wise Ave. and stated he would follow-up with the written application and copies of materials necessary for a Zoning Variance or Special Exception. As of this time no statement of facts or conclusions has been generated for this hearing.

- Letter from Arnold Jablon (Attorney) asking to postpone the variance hearing and combine a Special Hearing for confirmation of present use and reschedule the combined hearing. Due to seven day correction notice issued by code enforcement, as per Mike Mohler phone conversation with me on 1/12/2010

BALTIMORE COUNTY LIQUOR BOARD

- Letter from 601 Wise Ave. "Dick's Dock Bar" (Business Ownership group from 2007-2008) offering open buffet to residents and discounts for food and drinks indefinitely; for a meeting to discuss parking issues, noise, trash and inconveniences created on Waterview Road. This ownership group moored an old House Boat to the southern bulkhead and used the upper deck as an outside stage area conducting "WET T-SHIRT" contests, installed a flag pole on the top deck for the "POLE DANCERS", set-up an outdoor PA system and allowed DJ's to broadcast obscenities into the community, used shuttle buses (due to lack of parking) to transport patrons from a parking lot located next to "MEMORIES" topless dancer bar on North Point Blvd., employed 12-15 security personnel (BOUNCERS), generated crowds in excess of 500 people and live music. Otherwise known as the "THE SUMMER FROM HELL" Note: Liquor Board addressed some issues
- Liquor Board Hearing Results for Tuesday, July 21, 2009 Witnesses included 6 Police Officers (including Captain Wilson) stated this location requires 1/3 of his night shift personnel to be dedicated due to problems; Owners stated they have 8 trained security personnel on site Orders:
 - 1) Increase pier security
 - 2) Increase patrol on Waterview Rd. (Note: this is crazy we don't want their bouncers patrolling)
 - 3) Meet with community and police liaison for continuing discussion and resolution of issues
 - 4) Increase parking lot monitoring
 - 5) Prepare flier for distribution to patrons
 - 6) TAM training for all employees
 - 7) Cease "All you can drink night" promotions. (See "\$12 & \$7 Open Bar" on January website)See: Violation/ Rule 3 :\$1000 for NOISE AND MUSIC
- Dundalk Eagle Newspaper Advertisement due to Liquor Board Orders
- Flier generated by Beach House Nightclub and distributed to patrons as per Liquor Board Orders Note: Waterview Road is as you know a public street and parking is lawful (Cavalier statement) The Beach House is working on other parking arrangements to alleviate the demand such as a valet parking service in front of the building. Offering parking at the old Richmans Auto Parts lot without permission and offering parking at lot next to apartments at 696 Wise Ave which is not an approved commercial parking lot and has a sign describing the area as private property with associated towing fees.
- Print-outs of Beach House Website LIVE MUSIC, SCHEDULED BANDS, DJ's, KARAOKE, OPEN MIC NITE AUDITIONS FOR FUTURE GIGS AT BEACH HOUSE !!!

SAFETY CONCERNS

1. TRAFFIC VOLUME ON WISE AVENUE

Major Two-Lane roadway connecting North Point Blvd to Merritt Blvd

Dundalk bridge closing ; Wise Avenue span repairs to last nine months
[FINAL Edition]

The Sun - Baltimore, Md.
Author: NICK SHIELDS
Date: Jul 27, 2006
Start Page: 4.B
Section: LOCAL
Text Word Count: 485

Abstract (Document Summary)

It is estimated that **more than 11,000 vehicles a day cross the bridge**, said David Fidler, a spokesman for the Baltimore County Department of Public Works. **By 2016, he said, about 21,000 vehicles** are expected to cross the bridge each day.

The closure will force drivers on Merritt Boulevard, north of Wise Avenue, to be detoured to German Hill Road, to North Point Road and then to North Point Boulevard to get to areas east of the closed bridge, county officials said. Trucks will be detoured from Merritt Boulevard to North Point Road to North Point Boulevard, officials said.

On the day of the bridge's closure, the North Point police precinct will add a patrol car to be sure that the closed bridge does not hinder response times and officers' backing one another up for safety, said Capt. Don R. Roby, the precinct commander.

2. Speed Limit 35 Miles Per Hour

3. Business Density

(Eight Businesses within Three Blocks)



PROTESTANT' S

EXHIBIT NO. 3



Write a comment...

The Beach House Lots of great events at the Beach House this week. Ladies night is back on Thursday nights with \$7.00 open bar for the ladies. Live entertainment this week for the kick off. Sat. join us for a Toys For Tots party, with 6 bands performing to entertain you along with DJ JL. Toys for tots event starts at 3pm, and Rob Fah...

See More

December 9, 2009 at 11:18am · Comment · Like

The Beach House Lords of Rosedale at the Beach House tonight !!!!! Dont miss this great local band !!! You will be sorry if you do!!!!

November 6, 2009 at 10:31am · Comment · Like

Lord Rosedale Thanks for having us! We had loads of fun! Can't wait to do it again!!

November 10, 2009 at 3:14pm · Report

Write a comment...



601 Wise Ave ?

[Web](#) [Images](#) [Videos](#) [Maps](#) [News](#) [Shopping](#) [Gmail](#) [more ▼](#)
[Web History](#) | [Search settings](#) | [Sign in](#)
Google the beach house md

 [Advanced Search](#)
Web [Show options...](#) Results 1 - 10 of about 2,190,000 for the beach house md with Safesearch on. (0.27 seconds)

Beach House The
www.beachhousemd.com

601 Wise Avenue
Dundalk, MD 21222-5026
(410) 388-0630
[Get directions](#) - [Is this accurate?](#)

[More information »](#)
The Beach House - Waterfront Dining, Live Music, Steamed Crabs ...

The Beach House, live performance bands, steamed crabs, and waterfront seating, Bear Creek, Dundalk, Baltimore County, Maryland, MD.

www.beachhousemd.com/ - [Cached](#) - [Similar](#)
The Beach House - Waterfront Dining, Live Music, Steamed Crabs ...

Jan 22, 2010 ... The Beach House - Bear Creek, Dundalk, Baltimore County, MD. The Beach House - Superbowl Bull and Oyster Roast! Feb. 7th, 5pm, ...

www.beachhousemd.com/pbp.php - [Cached](#)
[Show more results from www.beachhousemd.com](#)
The Beach House - Dundalk, MD 21222 | Find Local Baltimore

Reviews, pictures and directions for The Beach House in Dundalk, MD 21222. Who knew Dundalk and Key West had so much in common?

findlocal.baltimoresun.com/.../the-beach-house-dundalk-restaurant - [Cached](#)
Ocean City Rentals — Long & Foster

Open House Search | Classic Search ... Ocean City Maryland Vacation Rentals. Search for vacation rental homes in Ocean City Beach, Maryland. ...

homes.longandfoster.com › Vacation - [Cached](#) - [Similar](#)
Town of North Beach, MD - North Beach House and Garden Club

The North Beach House and Garden Club was formed in 1985 for the purpose of organizing the North Beach House and Garden Tour, the first of which was also ...

www.ci.north-beach.md.us/Pages/NorthBeachMD_Garden/index - [Cached](#)
Ocean City Vacation Rentals, Ocean City Maryland Vacation Rental ...

Why Ocean City, MD Rentals? By renting an Ocean City beach front house, ocean activities like boating, fishing, and of course swimming all await you! ...

www.vacationrentals.com › ... › United States › Maryland - [Cached](#) - [Similar](#)
Vacation rentals in Ocean City, MD, Bethany Beach, DE, Ocean Pines ...

We represent thousands of unique vacation rental properties in Ocean City, MD, Ocean Pines, MD, Fenwick Island, DE and Bethany Beach, DE. ...

www.cbvacations.com/ - [Cached](#) - [Similar](#)
The Beach House | Facebook

The Beach House is on Facebook Sign up for Facebook to connect with The Beach ... Dundalk, MD, 21222; Phone: 410-388-0360; Mon - Sun: 11:30 am - 2:00 am ...

www.facebook.com/pages/...MD/The-Beach-House/43904234502 - [Cached](#)
Ocean City Maryland Rentals, Beach Vacation Rentals in Ocean City MD

Luxury OC MD Oceanfront Condo Reduced (January 21 - April 30). compare compare ... House, 2 Bathrooms, beach, near the ocean, air-conditioning ...

www.homeaway.com/vacation-rentals/.../ocean.../r5874 - 10 hours ago - [Cached](#)
AT THE BEACH city and vacation guides with on line hotel ...

Ocean City MD Beach Weather Weather guide and updates for Coastal Maryland, ... Hotels -

PROTESTANT'S

EXHIBIT NO.

Bill Wiseman - Emailing: about.html

From: Patricia Zook
To: Wiseman, Bill
Date: 1/25/2010 12:11 PM
Subject: Emailing: about.html



SPECIAL EVENTS

Monday
MONDAY MUSICIAN
MADNESS

Tuesdays
Sing For The Hungry Food
Drive

Wednesdays
Stars & Bars Texas Hold 'Em
Poker

Thursdays
Lucky Ladies Night

Fridays
TGIF!! 2 for 1 Happy Hour

ABOUT US



We are open 7 days a week serving lunch, dinner & happy hour. The Beach House is a waterfront dining establishment located in Bear Creek, in the heart of Dundalk, Maryland. Be sure to check out our waterfront dining & happy hour. We have all your favorite beverages, parking and 25 boat slips.

Come enjoy a fun filled beach under our 30 ft palm trees or inside for all the fun, live entertainment. Remember... Summer Never Ends at The Beach House.

PROTESTANT' S

**Beach House 601 Wise Ave Suggestions**

Tuesday, March 9, 2010 10:32 AM

From: "w pribyl" <wepribyl@yahoo.com>

To: "William J Wiseman" <wwiseman@baltimorecountymd.gov>

5 Files (17MB)



CIMG123...



CIMG124...



CIMG125...



CIMG125...



CIMG125...

PROTESTANT'S
EXHIBIT NO. 5

Hello Mr Wiseman,

Please see my attached comments thoughts on 601 Wise Ave the Beach House.

HEARING SUGGESTIONS / COMMENTS**PROPERTY OWNER ACTIONS**

- I applaud owners for filling Eviction paperwork on Beach House tenants Bob & Bobbie
- I applaud owners statement ,no live music, no use of beach area, no DJ booth.

*****BUT I want to be clear, the above actions are based on the hearing dated 2.19.10, I believe the above action would not have happened in a timely manner without the hearing. These comments came from my Dad a 86 year old Hopkins Grad who is still sharp& I agree with my Dad's perception.*****

PRIORITY

- Insert in Land Records; No Live Music, no use of Beach Sand area, no Dj or Dj booth, "Perpetually forever" As agreed to by owner in hearing
- Do not allow : 4 weddings planned for seasonal beach area, then 2 under contract
- Want changes to property to be filed with the property perpetually, no matter what happens to changes to current laws or new laws written
- Require current condition pictures to be put into the record for inside & outside of property.
- Require permit for interior remodel or changes to deck area (per owner he has already working on the inside of building removing the DJ booth)
- I want to make sure the Beach House owners are really out: Bob & Bobbie
- Tiki bar area closes with Deck area at Sunset
- No one outside after sunset including on docked boats

Case No: 10-158-SPHA Case Name: Bear Creek Properties LLC

Exhibit List

Party: PROTESTANTS Date: 10/27/10

Exhibit No:	Description:
✓ 1	TAX Record: for property in question.
✓ 2.	Aerial photo 12/8/53
✓ 3	" " 1972
✓ 4.	" "
✓ 5	Overlay of plat.
✓ 6.	On Street parking options Google Map
✓ 7.A	Photo entrance to parking lot at 601.
✓ 7.B	photo Northern Waterman Rd
✓ C	Photo SE on Waterman
✓ D	" NW " "
✓ E	" S on Waterman Rd at dog leg
✓ F	" Waterman Rd looking NE
✓ G	" " R " "
✓ H	" " " " "
VERIFIED BY <u>tr</u> DATE: <u>10/28/10</u>	

Case No: 10-158-SHA Case Name: Bear Creek Properties LLC

Exhibit List

Party: Protestants Date: 10/27/70

Exhibit No:	Description:
7 I	Photo Oakley's Bank Rd looking towards bridge
" J	" East End. View across at Waterman
" K	" Other side of Bear Creek bridge
" L	" " " " " " "
8.	Ex - 20 Pages from Butler Co. permits for construction on property. Enclosed worksheet
VERIFIED BY	trr DATE: 10/28/10

Maryland Department of Assessments and Taxation
Real Property Data Search (v3.1)
BALTIMORE COUNTY

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

Account Identifier:

District - 15 Account Number - 1502203800

Owner Information

Owner Name: BEAR CREEK PROPERTIES LLC Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 694 WISE AVE Deed Reference: 1) /13504/ 335
BALTIMORE MD 21222-5025 2)

Location & Structure Information

Premises Address: 601 WISE AVE
Legal Description: LT 2 PT 1
601 WISE AVE
WATERFRONT PERRY POINT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
104	14	269					2	3	Plat Ref: 8/16

Special Tax Areas: Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1950	3,398 SF	15,681.00 SF	30

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2009	Phase-in Assessments As Of 07/01/2010	As Of 07/01/2011
Land	268,100	543,800		
Improvements:	361,700	219,900		
Total:	629,800	763,700	719,066	763,700
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
BEAR CREEK INN INC	02/04/1999	\$425,000
Type:	Deed1:	Deed2:
IMPROVED ARMS-LENGTH	/13504/ 335	
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2010	07/01/2011
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *

PROT EX
#1

An aerial photograph of a city, likely Hiroshima, showing extensive destruction. The city is a dense grid of buildings, many of which are reduced to rubble. A large, dark, irregular shape in the lower right corner suggests a large body of water or a heavily damaged area. The date '12/8/1953' is printed in the upper right quadrant of the image.

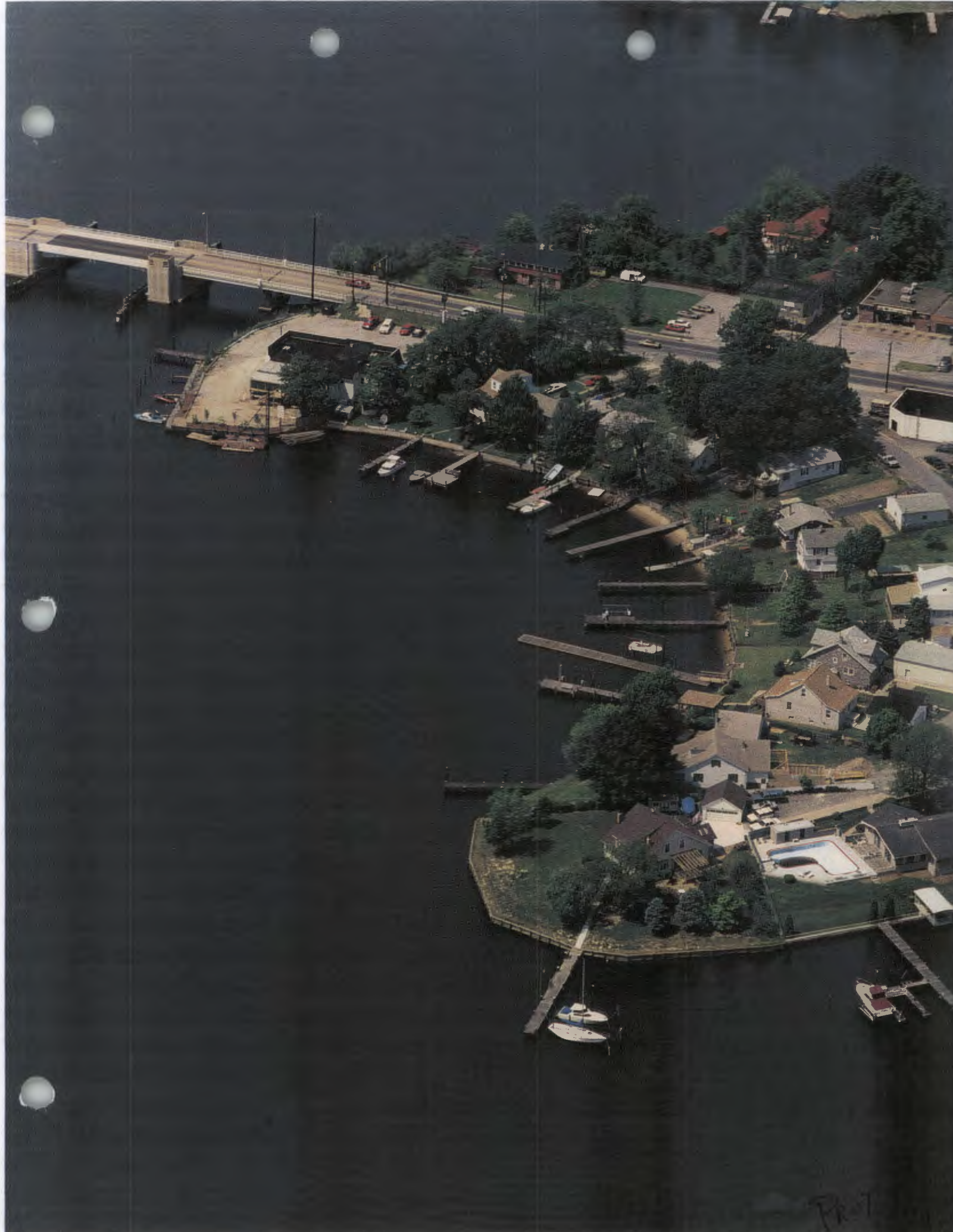
12/8/1953

Prot. EX
#2



BUILDING
STRUCTURE
PRIOR to
ADDITION
CIRCA 1972

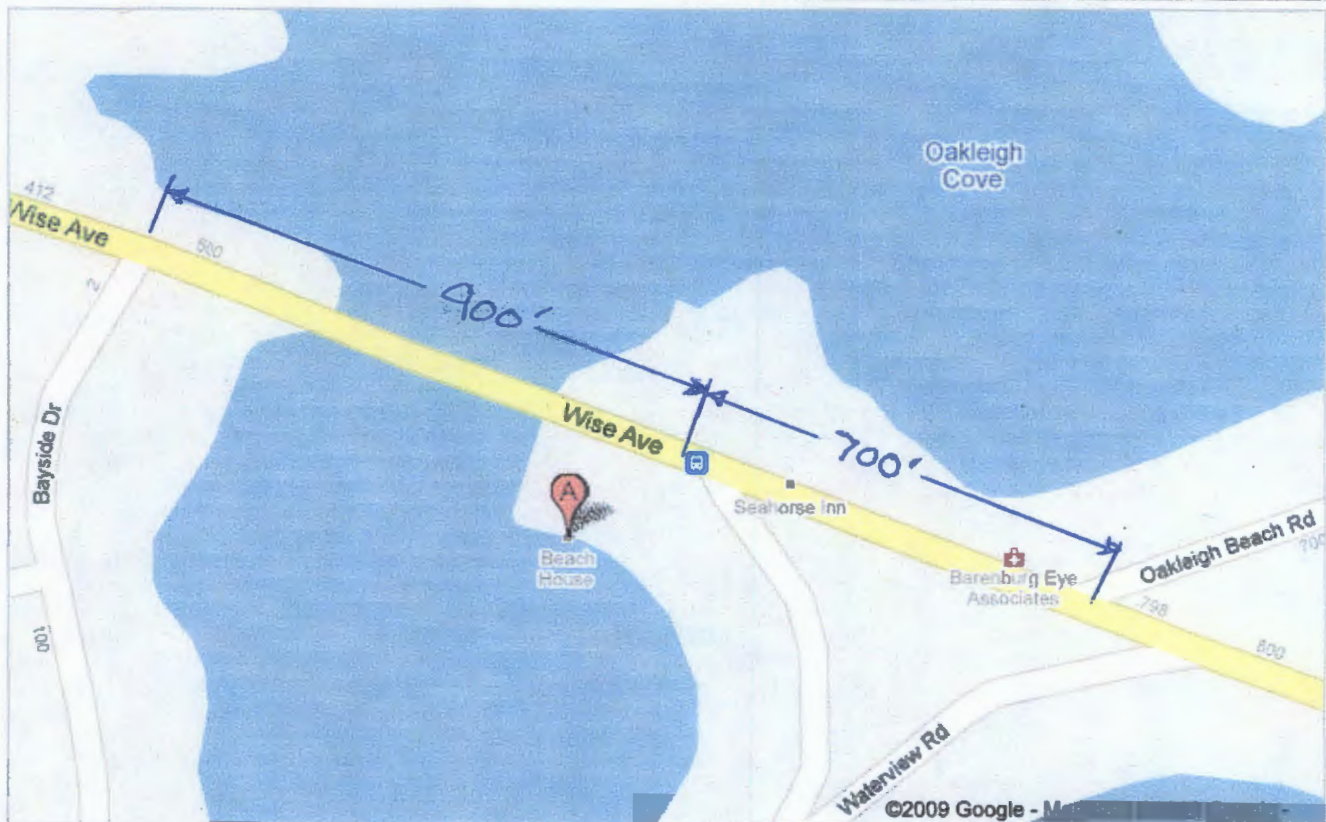
Prot Ex 3



Pr-7

Google maps Address

To see all the details that are visible on the screen, use the "Print" link next to the map.

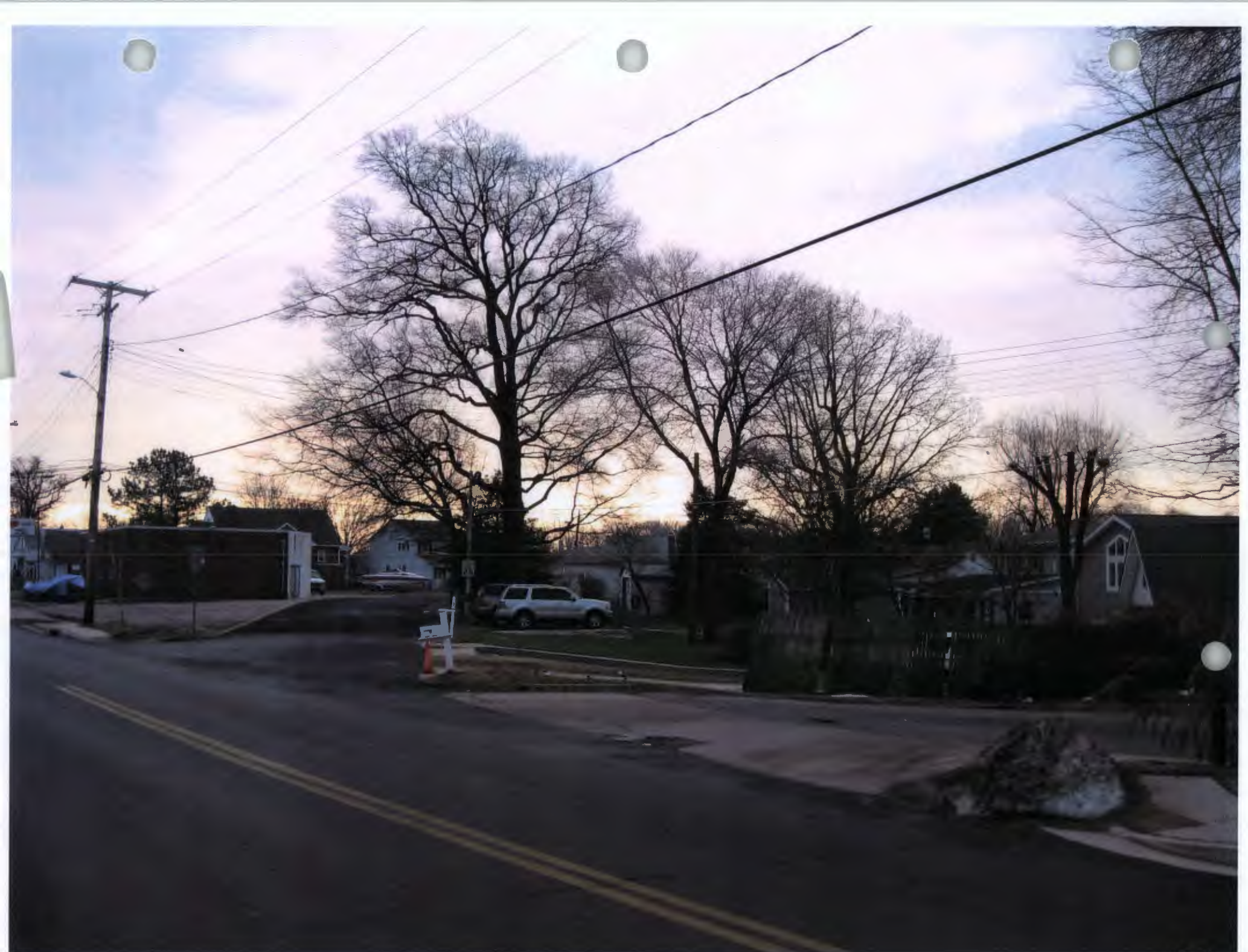


Delaware

ALTERNATIVE PUBLIC PARKING (RESIDENTIAL STREET PARKING)

- ① 900 ft from BEACH HOUSE PKG Lot ENTRANCE to intersection west on Wise Ave across DRAW BRIDGE to BAYSIDE DR.
- ② 700 ft from BEACH HOUSE PKG Lot ENTRANCE to intersection EAST on Wise Ave. to OAKLEIGH BEACH RD

Prot Ex 6



ENTRANCE to 601 PARKING LOT ⊥ at WATERVIEW & WISE

1-16-2010 VNT #7A



Pmt Ex 7B



Part EX 76



Int 8+70



Part EX7E



Pat Ex 7F



PROT. EX 76.

DATE	PERMIT NUMBER	OWNER	COMPLETE DATE	TYPE	DISCRPTION
5/14/2010	B739124	BCPLLC			INT ALT CREATE 2 NEW WALLS
4/2/2002	B480481	BCPLLC	4/3/2002	PCOMP	INSTLL PARTION FOR FISH TANK
8/1/2000	B423961	BCPLLC	8/1/2002	PCOMP	CONSTRUCT 200 X8 PIER
7/19/2000	B422002	BCPLLC	12/20/2001	PCOMP	REPLACE BULKHEAD
7/19/2000	B422003	BCPLLC	12/20/2001	PCOMP	REPLACE CATWALK PIER
8/16/1994	B209139	BUTTS	8/19/1994	COMP	INSTALL NEW DOOR PER BALTO CNTY FIRE DEPT
12/24/1992	B151589	BRCKINN	6/23/1995	CANCELLED	CONST 200' FLOATING PIER
12/24/1992	B151588	BRCKINN	10/11/1999	CANCELLED	CONST 34X12X120 = 419 SF AADITION
7/28/1989	B025598	BRCKINN	1/11/1990	BLD INSP	ADD MANSFORD ROOF & NEW STUCCO

PROT EX 8

APPLICATION FOR BUILDING PERMIT

PERMIT #: B739124 CONTROL #: C-

DIST: 15 PREC: 01

LOCATION: 601 WISE AVE
SUBDIVISION: PERRY POINT
TAX ASSESSMENT #: 1502203800

OWNERS INFORMATION

NAME: BEAR CREEK PROPERTIES LLC
ADDR: 694 WISE AVE.21222

APPLICANT INFORMATION

NAME: STEVEN GOFF
COMPANY: BEAR CREEK PROPERTIES LLC
ADDR1: 694 WISE AVE
ADDR2: BALTO.MD.21222
PHONE #: 443-398-4081 LICENSE #:

NOTES

CPC/MR

DRC#

PLANS: CONST 0 PLOT 0 R PLAT 0 DATA 0 ELEC NO PLUM NO

TENANT:

CONTR: OWNER

ENGR:

SELLR:

WORK: INT.ALT.TO INCLUDE: DRYWALL, PARTITIONS, WOOD
STUDS AND FINISHES. CREATE 2 NEW WALLS IN BAR
AREA, 10LF, OVERALL, SEPARATE PERMIT REQUIRED FOR
ADD'L WORK. KEEP SET OF SIGNED+SEALED CONST.
PLANS ON SITE, PLANS WAIVED-SLW.

PROPOSED USE: RESTAURANT AND ALT

EXISTING USE: RESTAURANT

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

ESTIMATED COST OF MATERIAL AND LABOR: 1,000.00

TYPE OF IMPRV: ALTERATION

USE: STORE, MERCANTILE, RESTAURANT

FOUNDATION:

SEWAGE: PUBLIC EXIST

CONSTRUCTION:

CENTRAL AIR:

BASEMENT:

WATER: PUBLIC EXIST

FUEL:

SINGLE FAMILY UNITS

TOTAL 1 FAMILY BEDROOMS

MULTI FAMILY UNITS

EFFICIENCY (NO SEPARATE BEDROOMS): NO. OF 1 BEDROOM:

NO. OF 2 BEDROOMS: NO. OF 3 BEDROOMS OR MORE:

TOTAL NO. OF BEDROOMS: TOTAL NO. OF APARTMENTS:

AERIAL MAP FOR 601 WISE AVENUE



7.7 NAVD88

Coordinate System:
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 2005
Scale of Date Capture: 1" = 100'

Date of Aerial Photography: March 2007

The utility (sanitary sewer and/or storm drain) location information shown is not guaranteed correct and should only be used as a reference. Locations of appurtenances should be verified using construction drawings, which are available in room 206 of the Baltimore County Office Building, or, through actual field investigations.

Note:
Floodplain elevation data from FEMA Flood Insurance Rate Map 2400100440F is based on NAVD 88.


BALTIMORE COUNTY
MARYLAND

Baltimore County, MD
Department of Public Works
GIS Services

For internal use only.
The cadastral information on this plot was compiled from existing deed information. This information is not to be considered authoritative. This survey is by a

PETITIONER'S EXHIBIT 6a

Prepared By:
Robin Hurley, EA III
DPW Directors Office
January 22, 2010


100 50 0 100
Feet



PETITIONER'S EXHIBIT 6 b

AERIAL MAP FOR 601 WISE AVENUE



7.7 NAVD88

Coordinate System:
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 2005
Scale of Date Capture: 1" = 100'

Date of Aerial Photography: March 2007

The utility (sanitary sewer and/or storm drain) location information shown is not guaranteed correct and should only be used as a reference. Locations of appurtenances should be verified using construction drawings, which are available in room 206 of the Baltimore County Office Building, or, through actual field investigations.

Note:
Floodplain elevation data from FEMA Flood Insurance Rate Map 2400100440F is based on NAVD 88.



Baltimore County, MD
Department of Public Works
GIS Services

For internal use only.
The cadastral information on this plot was compiled by a survey conducted by a

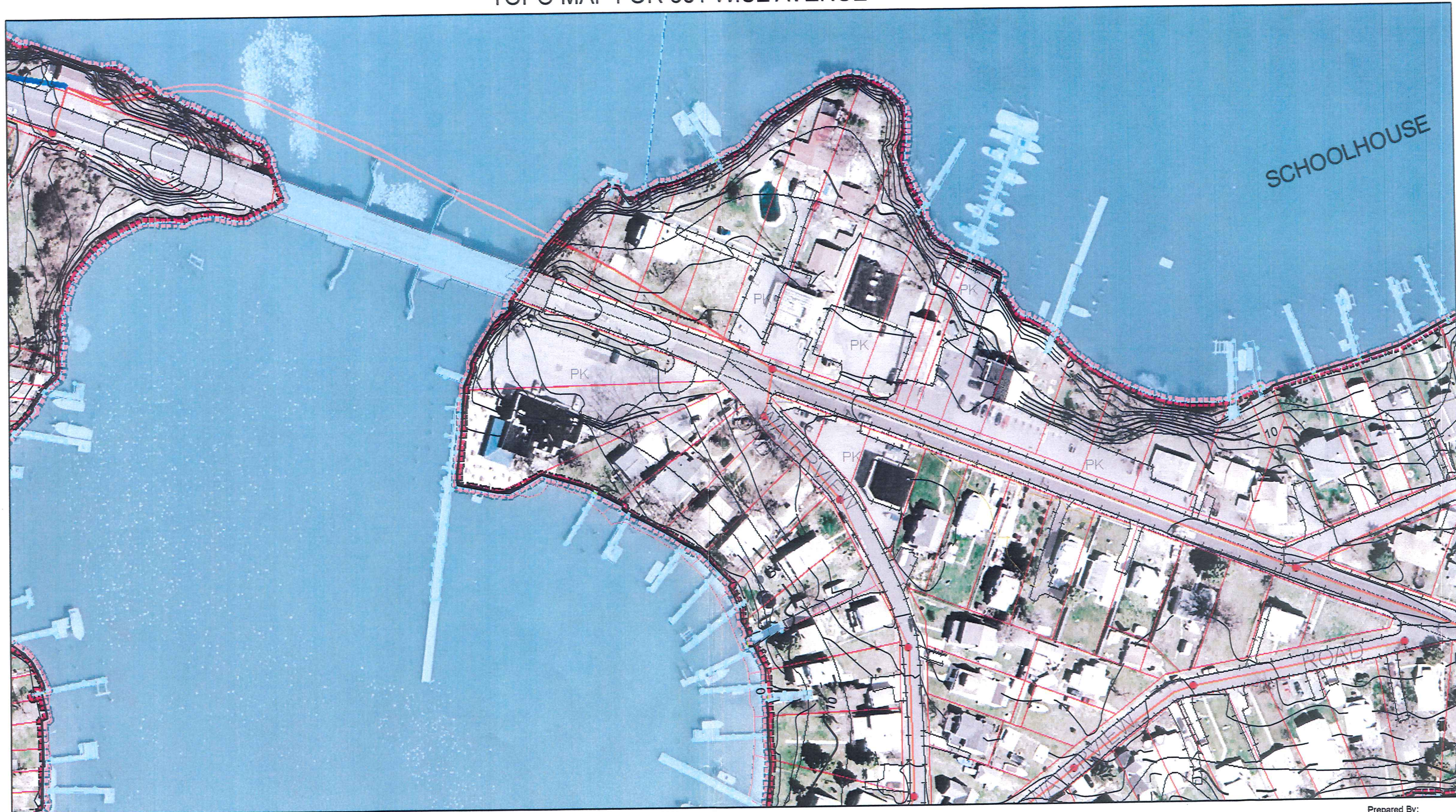
PETITIONER'S EXHIBIT **7**

100 50 0 100
Feet



Prepared By:
Robin Hurley, EA III
DPW Directors Office
January 22, 2010

TOPO MAP FOR 601 WISE AVENUE



Coordinate System:
Maryland State Plane: NAD83/91 Horizontal Datum
Elevations in Feet: NAVD88 Vertical Datum

Date of Data Capture: March 1995
Scale of Date Capture: 1" = 100'

Date of Aerial Photography: March 2005

The utility (sanitary sewer and/or storm drain) location information shown is not guaranteed correct and should only be used as a reference. Locations of appurtenances should be verified using construction drawings, which are available in room 206 of the Baltimore County Office Building, or, through actual field investigations.



Baltimore County, MD
Department of Public Work
GIS Services

For internal use only.

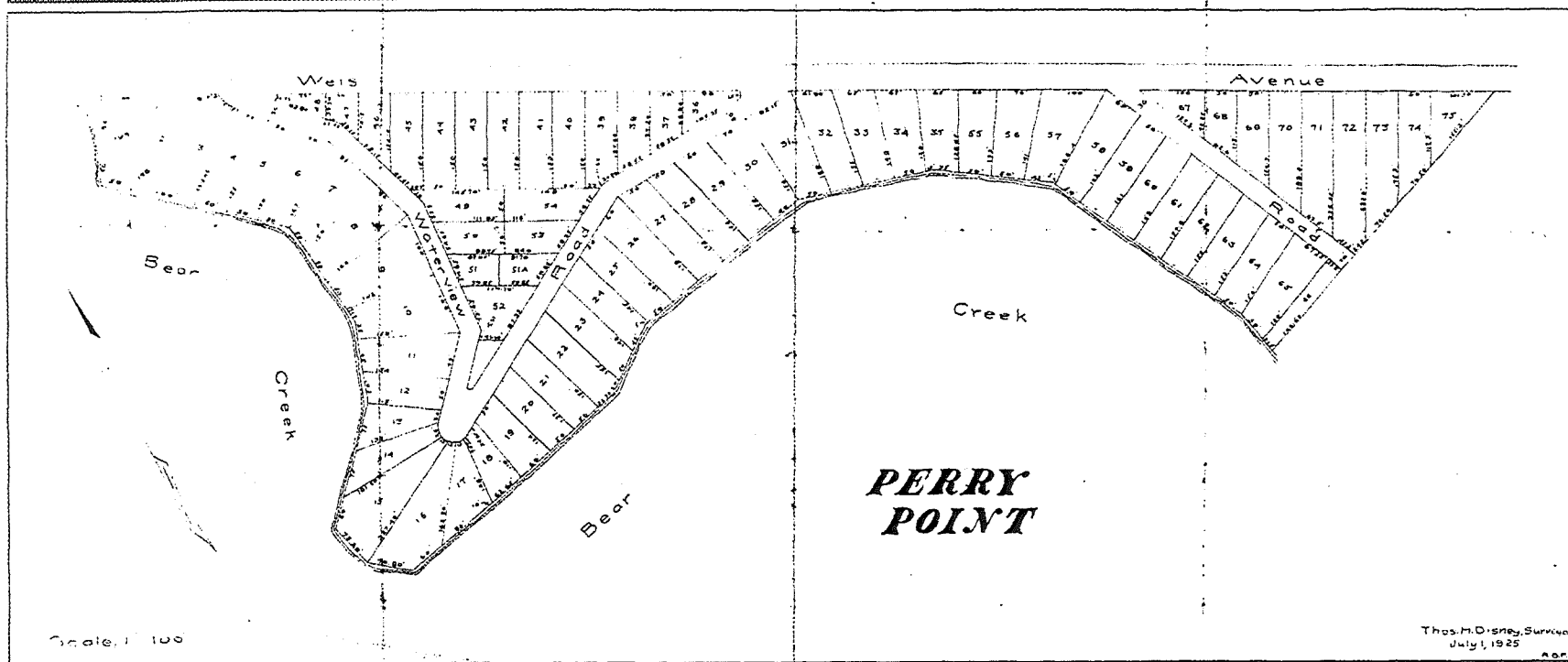
PETITIONER'S EXHIBIT

Compiled
ration is
survey
ied by a

100 50 0 100
Feet

Prepared By:
Robin Hurley, EA III
DPW Directors Office
May 5, 2008

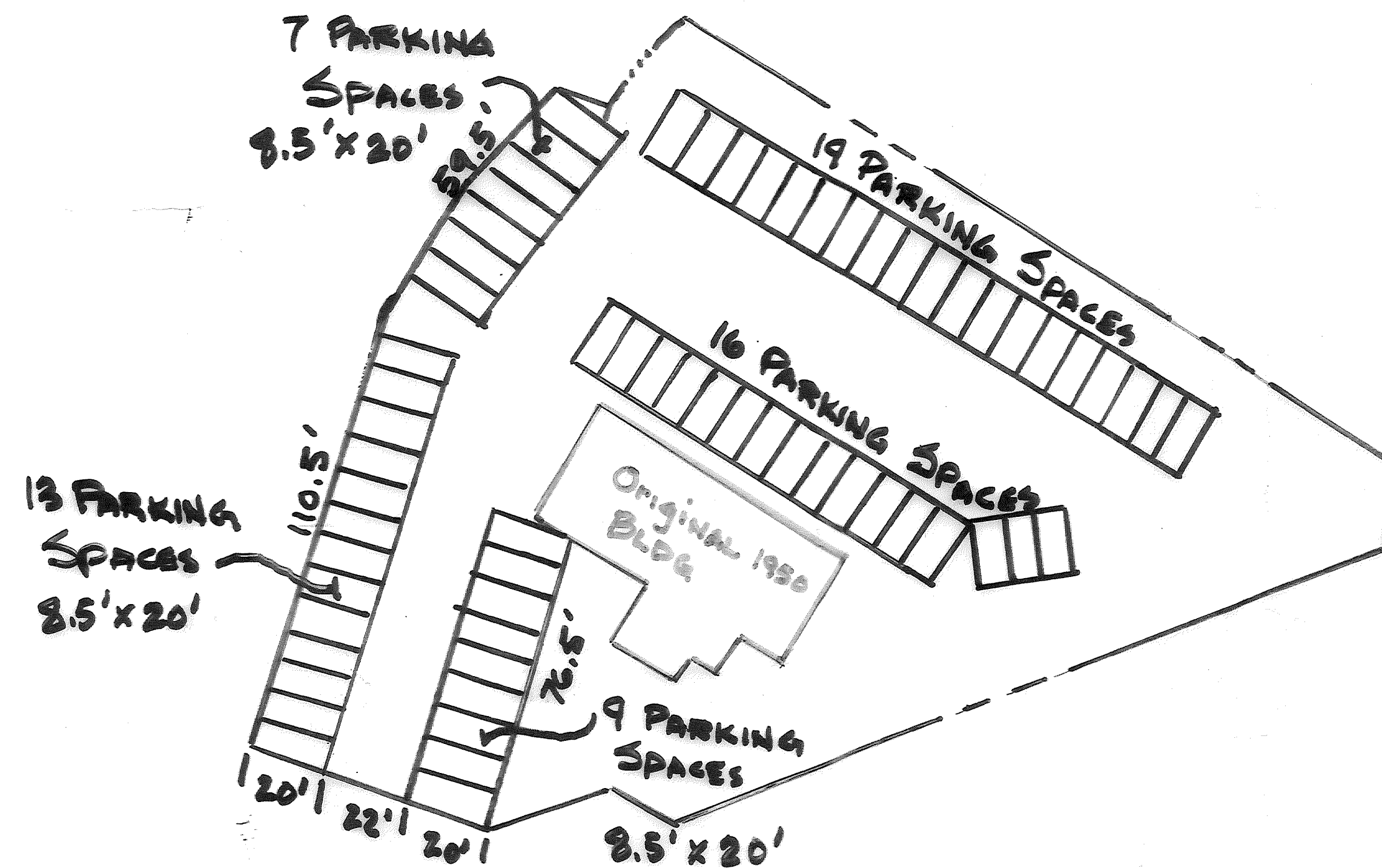




PETITIONER'S EXHIBIT 5

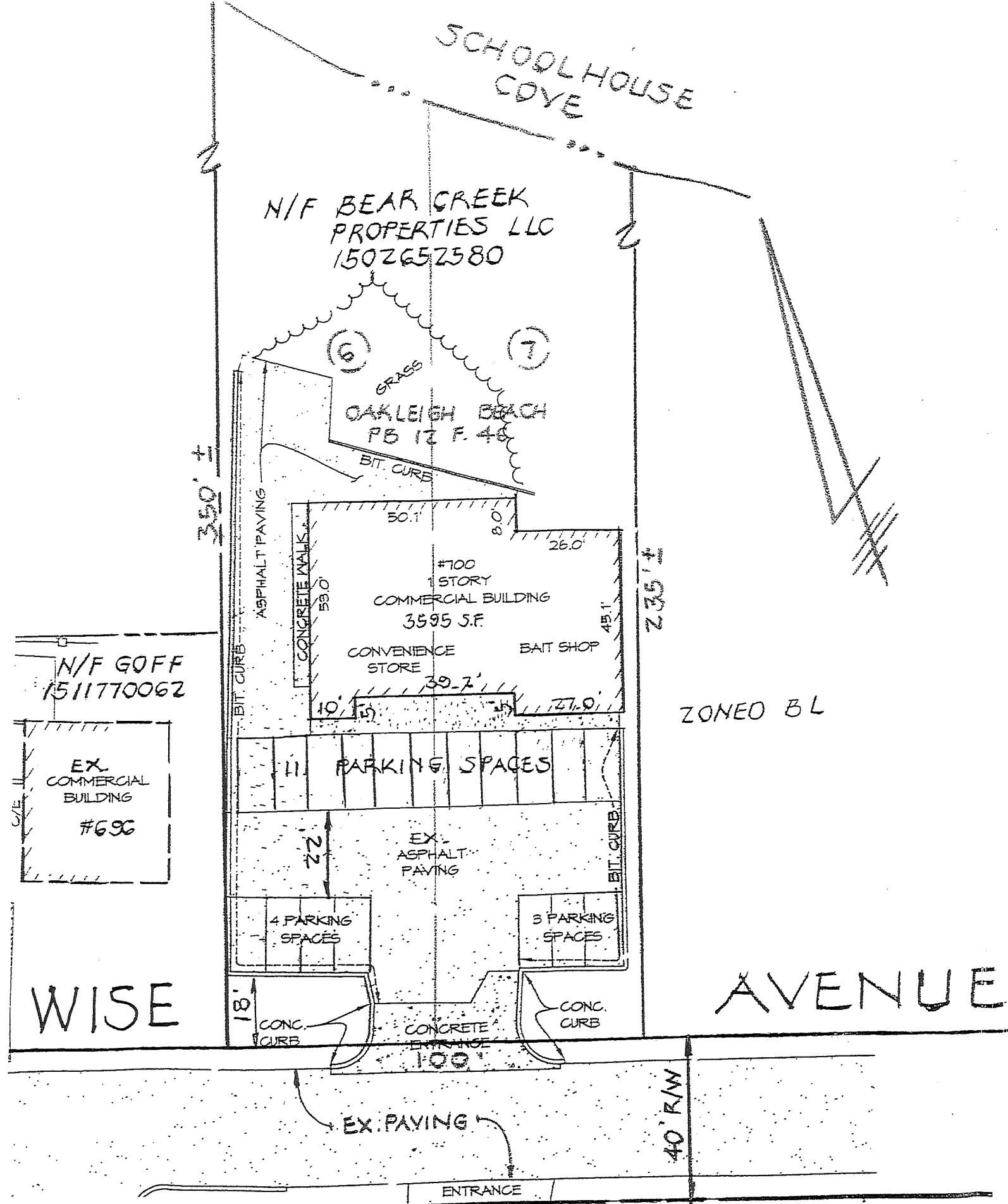
P.B. 8 F. 16
5/18/29

1802 E



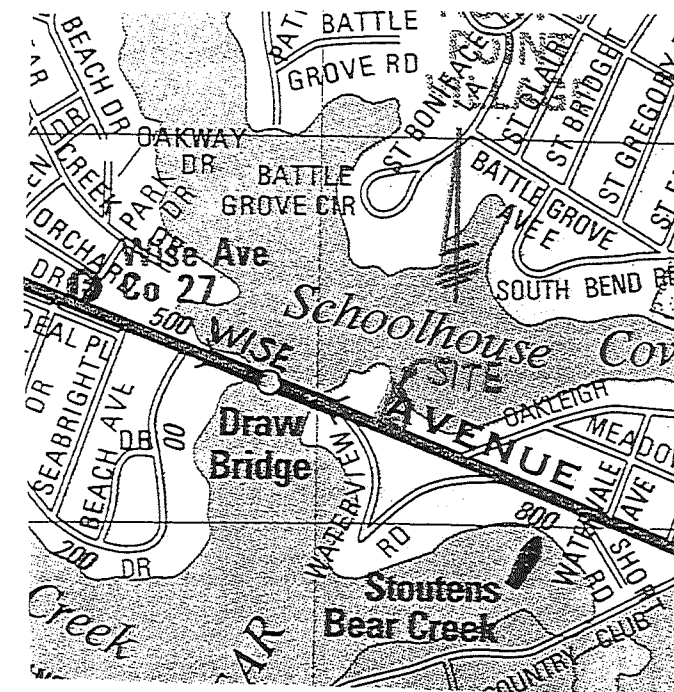
64 TOTAL
PARKING SPACES AVAILABLE
PRIOR TO UN-PERMITTED ADDITION
& INSTALLATION OF WOOD DECK
 $64 - 38 = 26$ REMOVED

Prot Ex 5



CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222



VICINITY MAP
SCALE: 1"=1000'

PARKING REQUIREMENTS

1. BUILDING USE.....RETAIL
2. BUILDING AREA.....3595 S.F.
3. SPACES REQUIRED.....3595 S.F @ 1 SP / 300 S.F. = 12
4. SPACES PROVIDED.....18

PETITIONER'S EXHIBIT 4

PARKING PLAN 700 WISE AVENUE LOTS 6 & 7

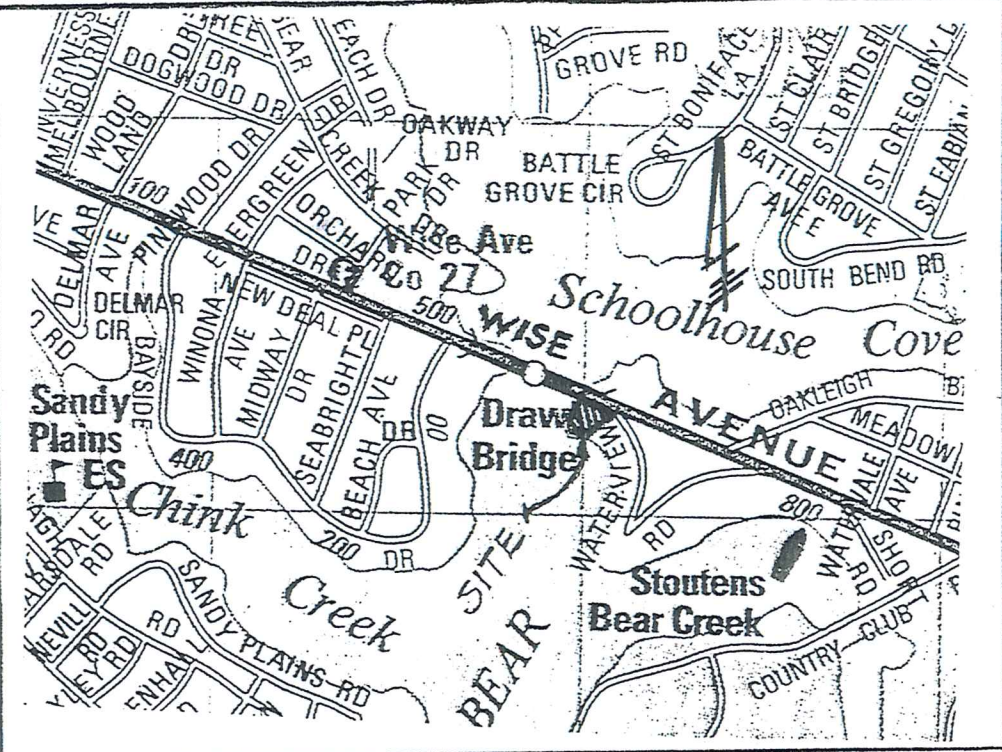
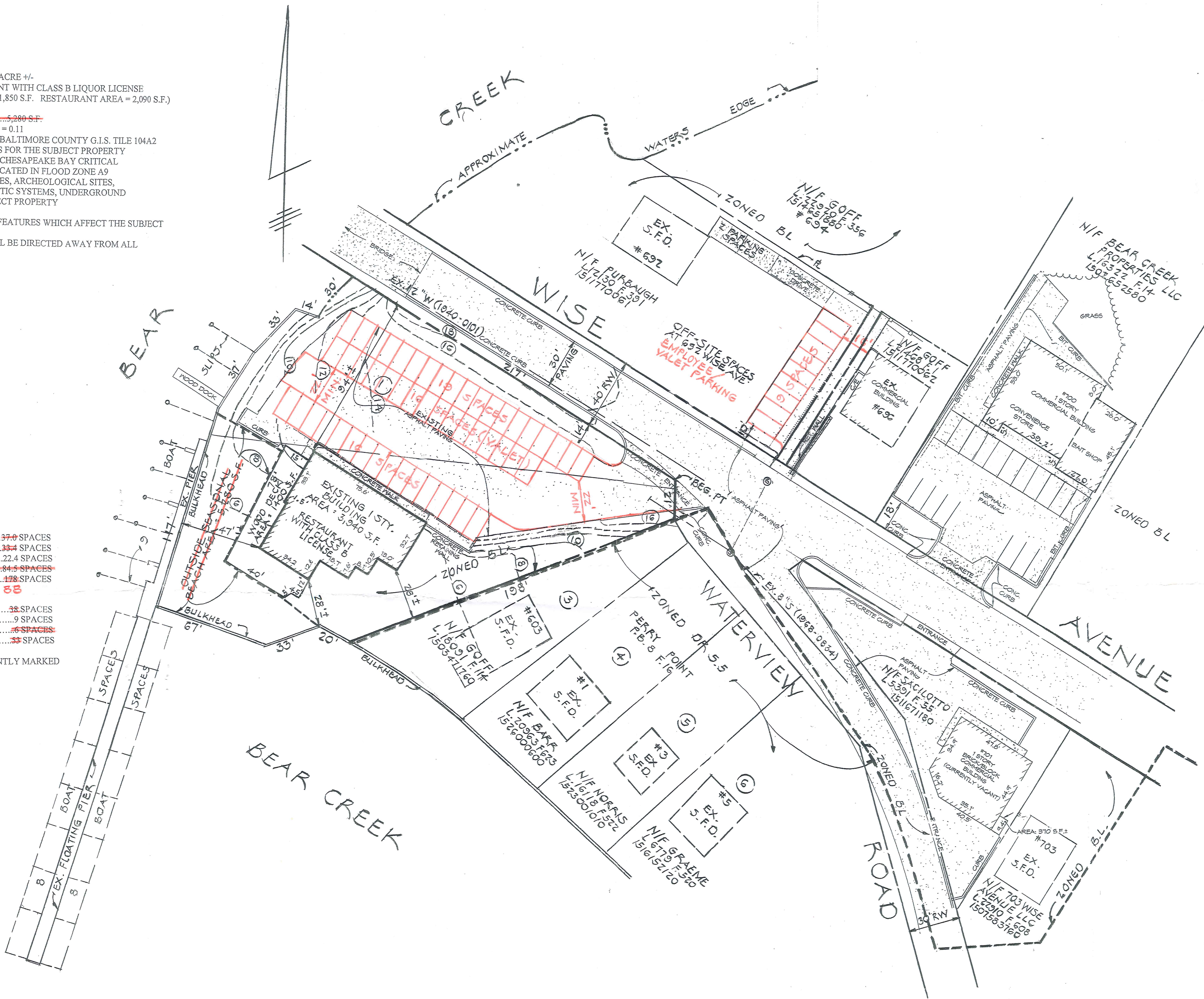
OAKLEIGH BEACH P.B. 12 F. 46
ELECTION DISTRICT 15C7
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET OCTOBER 26, 2007

NOTES

1. EXISTING ZONING....BL (MAP NO. 104A2)
2. AREA OF SITE.....36,360 SQUARE FEET = 0.83 ACRE +/-
3. EXISTING AND PROPOSED USE.....RESTAURANT WITH CLASS B LIQUOR LICENSE
4. AREA OF BUILDING.....3,940 S.F. (BAR AREA = 1,850 S.F. RESTAURANT AREA = 2,090 S.F.)
AREA OF DECK.....1,400 S.F.
~~AREA OF OUTSIDE SEASONAL BEACH AREA.....5,280 S.F.~~
FLOOR AREA RATIO.....3,940 S.F. / 36,360 S.F. = 0.11
5. TOPOGRAPHY SHOWN HEREON IS BASED ON BALTIMORE COUNTY G.I.S. TILE 104A2
6. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE SUBJECT PROPERTY
7. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL
8. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE A9
9. THERE ARE NO KNOWN HISTORIC STRUCTURES, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, WELLS, SEPTIC SYSTEMS, UNDERGROUND STORAGE TANKS OR STREAMS ON THE SUBJECT PROPERTY
10. PUBLIC WATER AND SEWER IS EXISTING
11. THERE ARE NO SIGNIFICANT VIEWS OR SITE FEATURES WHICH AFFECT THE SUBJECT PROPERTY
12. ALL EXISTING OR PROPOSED LIGHTING SHALL BE DIRECTED AWAY FROM ALL RESIDENTIAL USES

OFFSTREET PARKING DATA

PARKING REQUIRED	
BAR AREA.....1,850 S.F. @ 20 SP. / 1000 S.F.	9.25 SPACES
RESTAURANT AREA.....2,090 S.F. @ 16 SP. / 1000 S.F.	5.55 SPACES
DECK AREA.....1,400 S.F. @ 16 SP. / 1000 S.F.	2.24 SPACES
SEASONAL BEACH AREA.....5,280 S.F. @ 16 SP. / 1000 S.F.	8.45 SPACES
TOTAL REQUIRED.....	17.04 SPACES
PARKING PROVIDED	
ON-SITE.....	51.32 SPACES
OFF-SITE AT 692 WISE AVENUE.....	9 SPACES
OFF-SITE AT 700 WISE AVENUE.....	16 SPACES
TOTAL PROVIDED.....	60.32 SPACES
ALL SPACES TO BE 8.5 FEET X 18 FEET MINIMUM	
ALL SPACES AND ACCESS DRIVES TO BE PAVED AND PERMANENTLY MARKED	



VICINITY MAP
SCALE 1"=1000'

PETITIONER'S
EXHIBIT NO. 16

PLAT TO ACCOMPANY PETITION FOR
VARIANCE ~~AND SPECIAL HEARING~~
601 WISE AVENUE
LOTS 1 AND 2
PERRY POINT P.B. 8 F. 16
ELECTION DISTRICT 15C7
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET
OCTOBER 30, 2009

OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222
DEED REF. L.13504 F.335
PROPERTY NO. 1502203800

FEBRUARY 16, 2010 REV: 3-8-10

CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

NOTES

- 1. EXISTING ZONING....BL (MAP NO. 104A2)
- 2. AREA OF SITE.....36,360 SQUARE FEET = 0.83 ACRE +/-
- 3. EXISTING AND PROPOSED USE.....RESTAURANT WITH CLASS B LIQUOR LICENSE
- 4. AREA OF BUILDING.....3,940 S.F. (BAR AREA = 1,850 S.F. RESTAURANT AREA = 2,090 S.F.)
AREA OF DECK.....1,400 S.F.
AREA OF OUTSIDE SEASONAL BEACH AREA.....5,280 S.F.
FLOOR AREA RATIO.....3,940 S.F. / 36,360 S.F. = 0.11
- 5. TOPOGRAPHY SHOWN HEREON IS BASED ON BALTIMORE COUNTY G.I.S. TILE 104A2
- 6. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE SUBJECT PROPERTY
- 7. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL
- 8. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE A9
- 9. THERE ARE NO KNOWN HISTORIC STRUCTURES, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, WELLS, SEPTIC SYSTEMS, UNDERGROUND STORAGE TANKS OR STREAMS ON THE SUBJECT PROPERTY
- 10. PUBLIC WATER AND SEWER IS EXISTING
- 11. THERE ARE NO SIGNIFICANT VIEWS OR SITE FEATURES WHICH AFFECT THE SUBJECT PROPERTY
- 12. ALL EXISTING OR PROPOSED LIGHTING SHALL BE DIRECTED AWAY FROM ALL RESIDENTIAL USES

OFFSTREET PARKING DATA

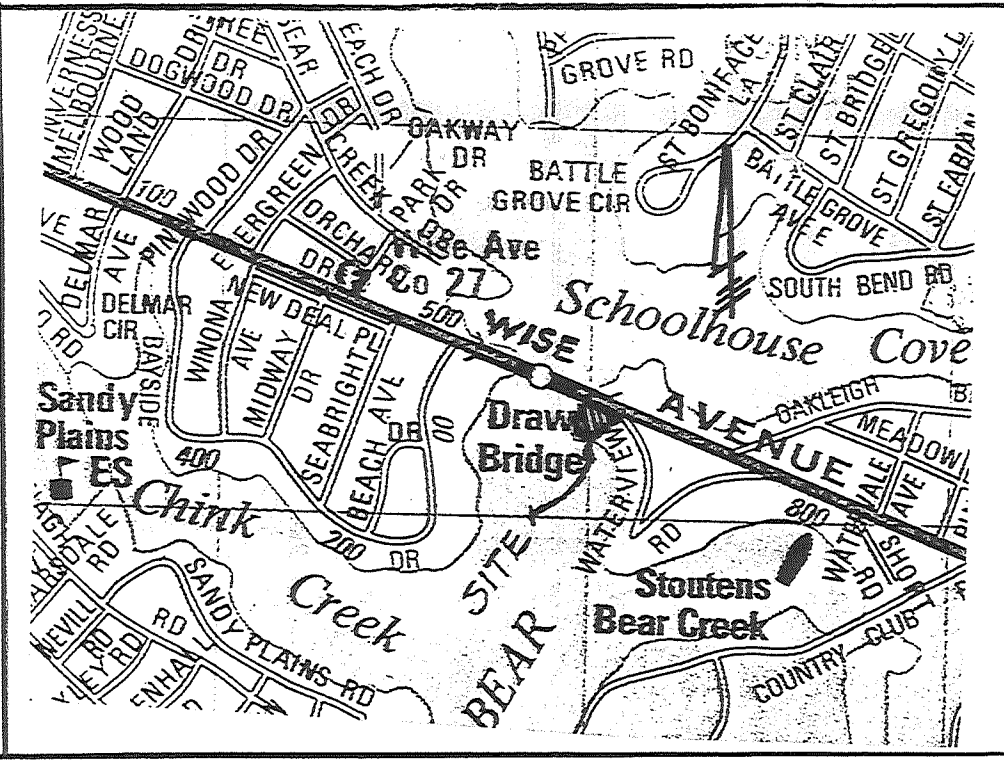
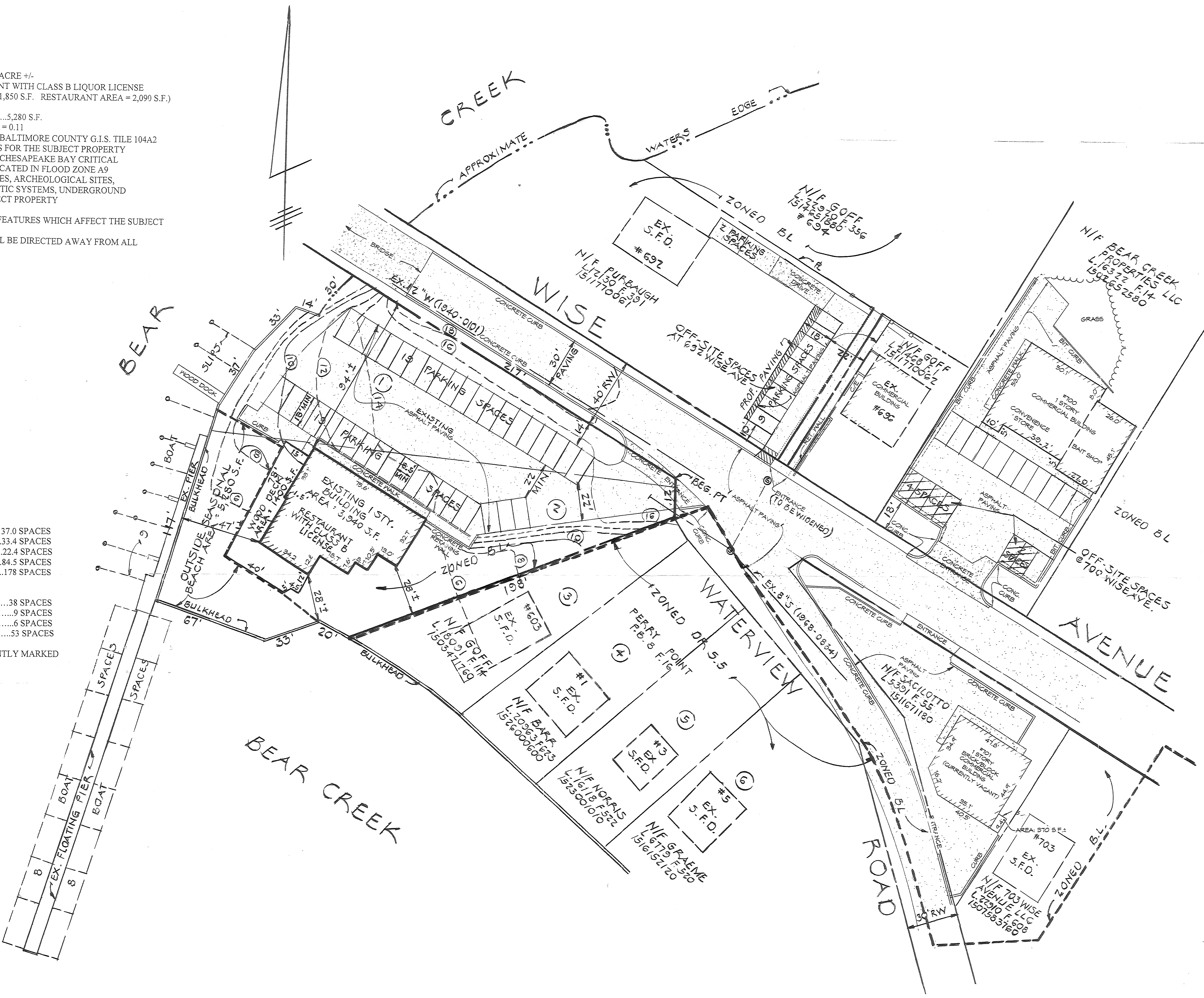
PARKING REQUIRED

BAR AREA.....1,850 S.F. @ 20 SP. / 1000 S.F.	37.0 SPACES
RESTAURANT AREA.....2,090 S.F. @ 16 SP. / 1000 S.F.	33.4 SPACES
DECK AREA.....1,400 S.F. @ 16 SP. / 1000 S.F.	22.4 SPACES
SEASONAL BEACH AREA.....5,280 S.F. @ 16 SP. / 1000 S.F.	84.5 SPACES
TOTAL REQUIRED.....	178 SPACES

PARKING PROVIDED

ON-SITE.....	38 SPACES
OFF-SITE AT 692 WISE AVENUE.....	9 SPACES
OFF-SITE AT 700 WISE AVENUE.....	6 SPACES
TOTAL PROVIDED.....	53 SPACES

ALL SPACES TO BE 8.5 FEET X 18 FEET MINIMUM
ALL SPACES AND ACCESS DRIVES TO BE PAVED AND PERMANENTLY MARKED



VICINITY MAP
SCALE 1" = 1000'

CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

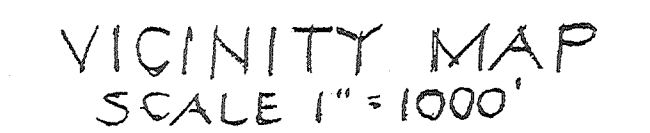
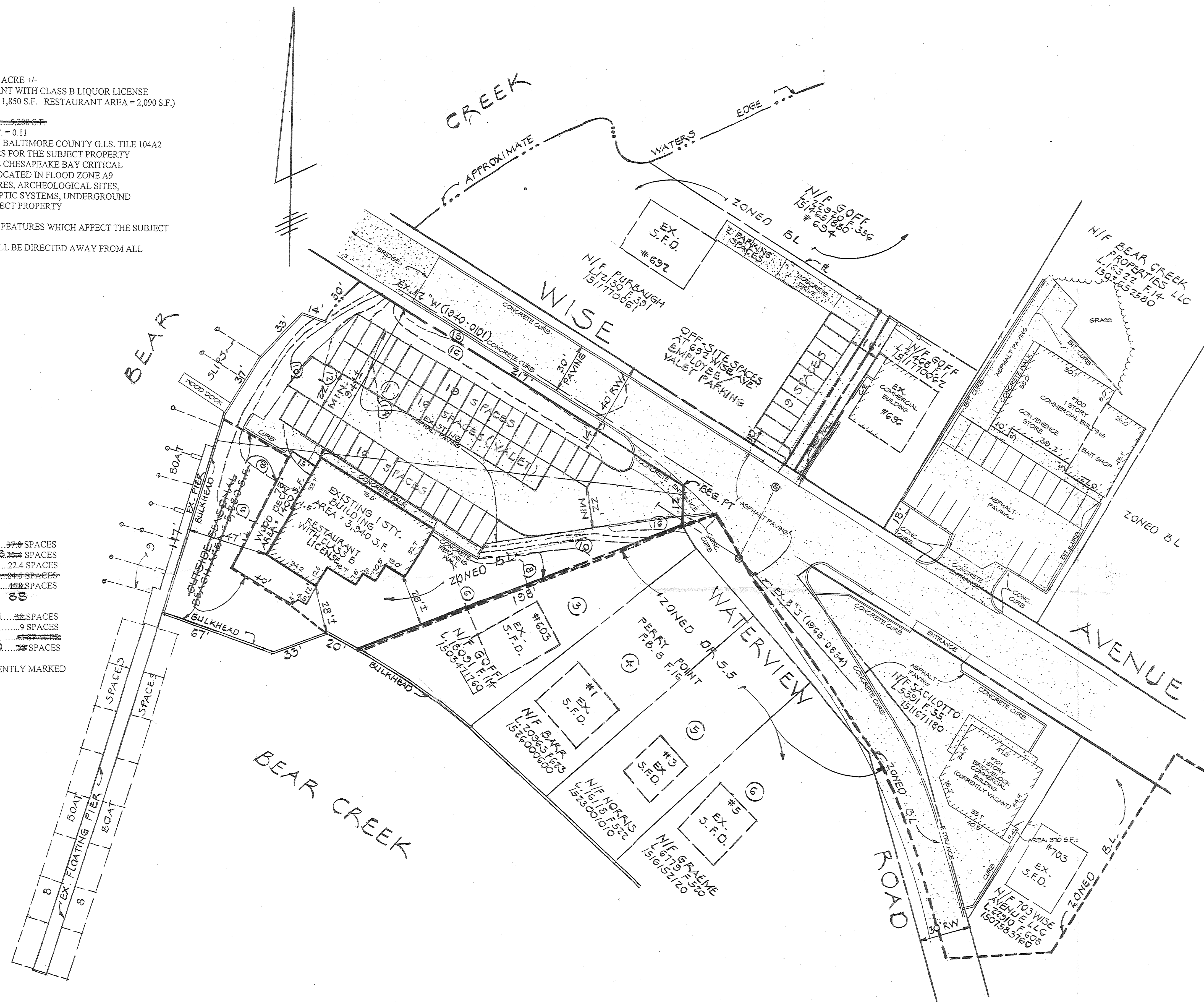
OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222
DEED REF. L.13504 F.335
PROPERTY NO. 1502203800

PLAT TO ACCOMPANY PETITION FOR
VARIANCE AND SPECIAL HEARING
601 WISE AVENUE
LOTS 1 AND 2
PERRY POINT P.B. 8 F. 16
ELECTION DISTRICT 15C7
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET
OCTOBER 30, 2009

PETITIONER'S EXHIBIT

1. EXISTING ZONING.....BL (MAP NO. 104A2)
2. AREA OF SITE.....36,360 SQUARE FEET = 0.83 ACRE +/-
3. EXISTING AND PROPOSED USE.....RESTAURANT WITH CLASS B LIQUOR LICENSE
4. AREA OF BUILDING.....3,940 S.F. (BAR AREA = 1,850 S.F. RESTAURANT AREA = 2,090 S.F.)
AREA OF DECK.....1,400 S.F.
- ~~5. AREA OF OUTSIDE SEASONAL BEACH AREA.....280 S.F.~~
6. FLOOR AREA RATIO.....3,940 S.F. / 36,360 S.F. = 0.11
7. TOPOGRAPHY SHOWN HEREON IS BASED ON BALTIMORE COUNTY G.I.S. TILE 104A2
8. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE SUBJECT PROPERTY
9. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL
10. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE A9
11. THERE ARE NO KNOWN HISTORIC STRUCTURES, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, WELLS, SEPTIC SYSTEMS, UNDERGROUND STORAGE TANKS OR STREAMS ON THE SUBJECT PROPERTY
12. PUBLIC WATER AND SEWER IS EXISTING
13. THERE ARE NO SIGNIFICANT VIEWS OR SITE FEATURES WHICH AFFECT THE SUBJECT PROPERTY
14. ALL EXISTING OR PROPOSED LIGHTING SHALL BE DIRECTED AWAY FROM ALL RESIDENTIAL USES

<u>PARKING REQUIRED</u>	
BAR AREA..... 1,000 S.F. @ 20 SP. / 1000 S.F.....	50 ⁹ 370 SPACES
RESTAURANT AREA..... 2,000 S.F. @ 16 SP. / 1000 S.F.....	55 ⁵ 830 SPACES
DECK AREA.....1,400 S.F. @ 16 SP. / 1000 S.F.....	22.4 SPACES
SEASONAL BEACH AREA.....5,280 S.F. @ 16 SP. / 1000 S.F.....	84 ⁸ 5 SPACES
TOTAL REQUIRED.....	128 ⁸ 2 SPACES
	88
<u>PARKING PROVIDED</u>	
ON-SITE.....	51 ⁵ 1 SPACES
OFF-SITE AT 692 WISE AVENUE.....	9 SPACES
OFF-SITE AT 700 WISE AVENUE.....	50 ⁵ 0 SPACES
TOTAL PROVIDED.....	50 ⁵ 0 SPACES
ALL SPACES TO BE 8.5 FEET X 18 FEET MINIMUM	
ALL SPACES AND ACCESS DRIVES TO BE PAVED AND PERMANENTLY MARKED	



$P \notin \Sigma_1$

FEBRUARY 16, 2010 REY: 3-8-10

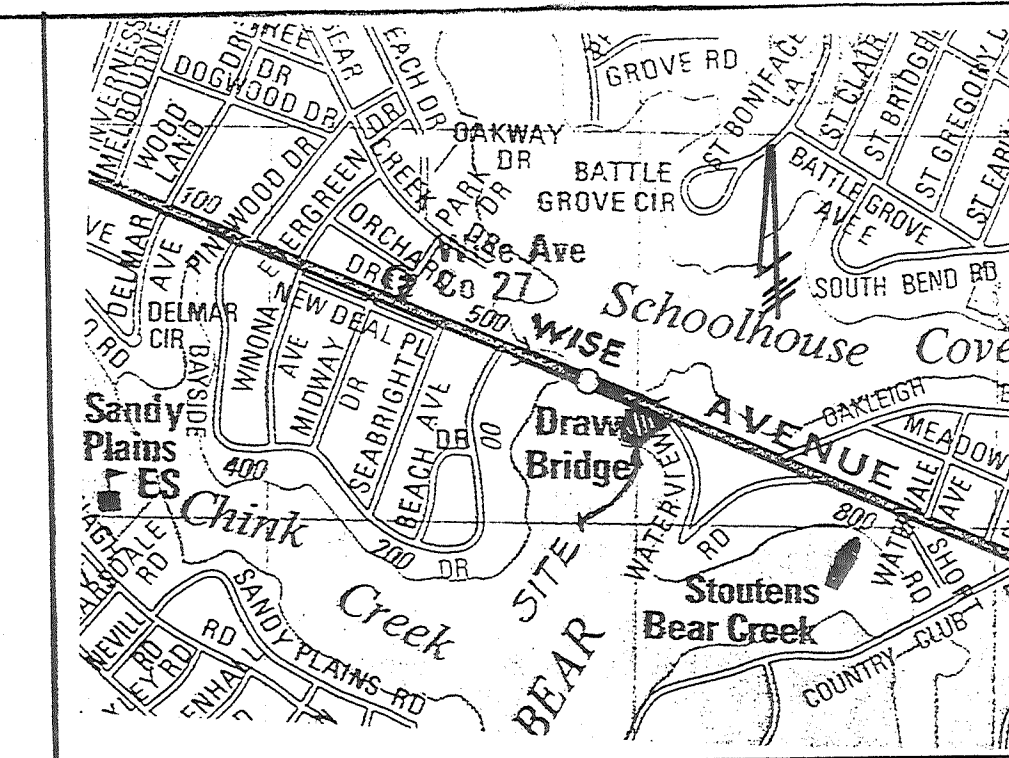
OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222
DEED REF. L.13504 F.335
PROPERTY NO. 1502203800

NOTES

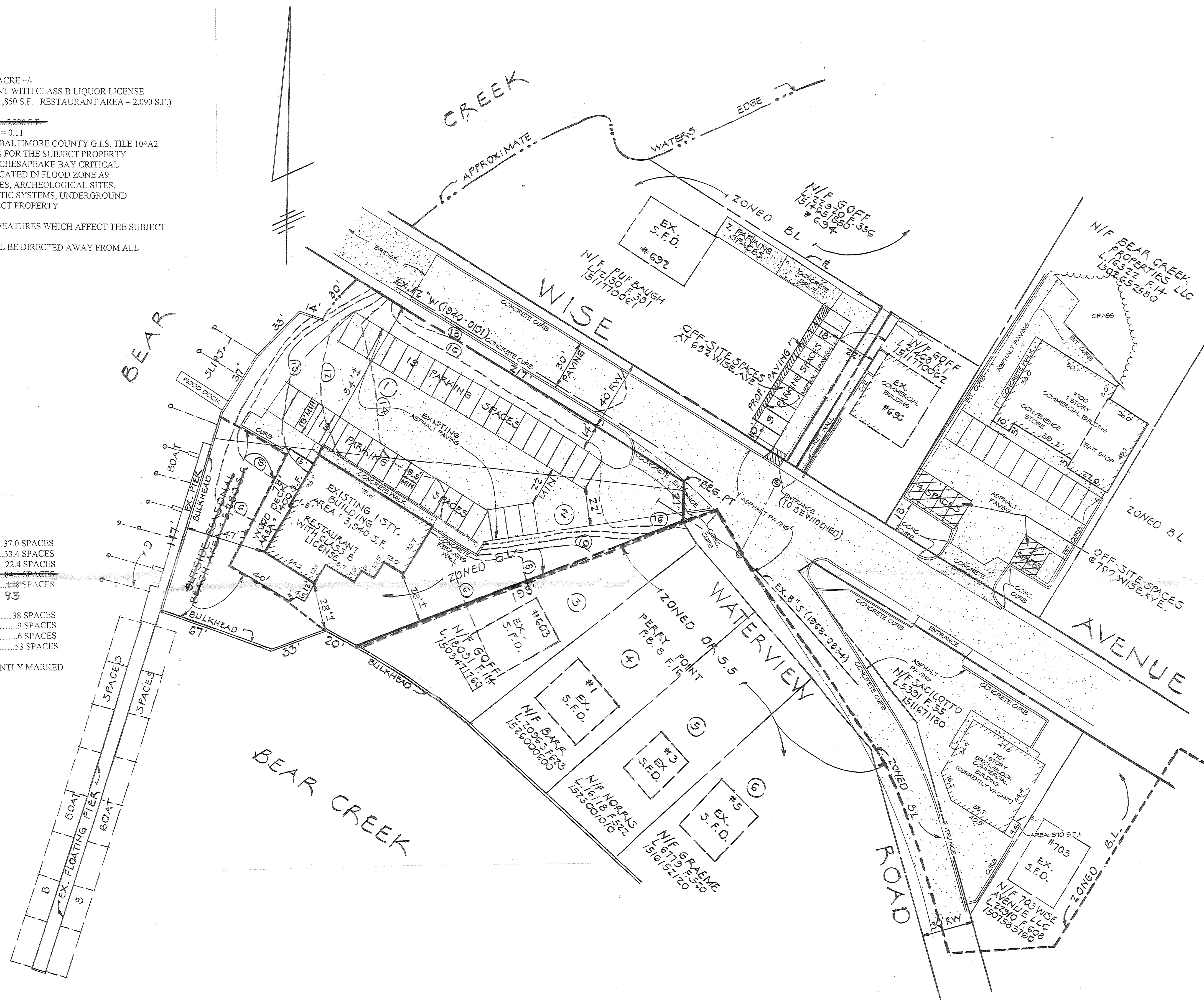
1. EXISTING ZONING...BL (MAP NO. 104A2)
2. AREA OF SITE.....36,360 SQUARE FEET = 0.83 ACRE +/-
3. EXISTING AND PROPOSED USE.....RESTAURANT WITH CLASS B LIQUOR LICENSE
4. AREA OF BUILDING.....3,940 S.F. (BAR AREA = 1,850 S.F. RESTAURANT AREA = 2,090 S.F.)
- AREA OF DECK.....1,400 S.F.
- AREA OF OUTSIDE SEASONAL BEACH AREA.....5,280 S.F.
- FLOOR AREA RATIO.....3,940 S.F. / 36,360 S.F. = 0.11
5. TOPOGRAPHY SHOWN HEREON IS BASED ON BALTIMORE COUNTY G.I.S. TILE 104A2
6. THERE ARE NO KNOWN PRIOR ZONING CASES FOR THE SUBJECT PROPERTY
7. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL
8. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE A9
9. THERE ARE NO KNOWN HISTORIC STRUCTURES, ARCHEOLOGICAL SITES, ENDANGERED SPECIES HABITAT, WELLS, SEPTIC SYSTEMS, UNDERGROUND STORAGE TANKS OR STREAMS ON THE SUBJECT PROPERTY
10. PUBLIC WATER AND SEWER IS EXISTING
11. THERE ARE NO SIGNIFICANT VIEWS OR SITE FEATURES WHICH AFFECT THE SUBJECT PROPERTY
12. ALL EXISTING OR PROPOSED LIGHTING SHALL BE DIRECTED AWAY FROM ALL RESIDENTIAL USES

OFFSTREET PARKING DATA

PARKING REQUIRED	
BAR AREA.....1,850 S.F. @ 20 SP. / 1000 S.F.	37.0 SPACES
RESTAURANT AREA.....2,090 S.F. @ 16 SP. / 1000 S.F.	33.4 SPACES
DECK AREA.....1,400 S.F. @ 16 SP. / 1000 S.F.	22.4 SPACES
SEASONAL BEACH AREA.....5,280 S.F. @ 16 SP. / 1000 S.F.	84.5 SPACES
TOTAL REQUIRED.....	125 SPACES
	93
PARKING PROVIDED	
ON-SITE.....	38 SPACES
OFF-SITE AT 692 WISE AVENUE.....	9 SPACES
OFF-SITE AT 700 WISE AVENUE.....	6 SPACES
TOTAL PROVIDED.....	53 SPACES
ALL SPACES TO BE 8.5 FEET X 18 FEET MINIMUM	
ALL SPACES AND ACCESS DRIVES TO BE PAVED AND PERMANENTLY MARKED	



VICINITY MAP
SCALE 1" = 1000'



PETITIONER'S
EXHIBIT NO. 2

PLAT TO ACCOMPANY PETITION FOR VARIANCE AND SPECIAL HEARING

601 WISE AVENUE
LOTS 1 AND 2
PERRY POINT P.B. 8 F. 16
ELECTION DISTRICT 15C7
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET
OCTOBER 30, 2009

FEBRUARY 16, 2010

OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222
DEED REF. L.13504 F.335
PROPERTY NO. 1502203800



CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

NOTES

1. EXISTING ZONING.....BL (MAP NO. 104A2)
2. AREA OF SITE.....36,360 SQUARE FEET = 0.83 ACRE +/-
3. EXISTING AND PROPOSED USE.....RESTAURANT WITH CLASS B LIQUOR LICENSE
4. AREA OF BUILDING.....3,940 S.F. (BAR AREA = 1,850 S.F. RESTAURANT AREA = 2,090 S.F.)
AREA OF DECK.....1,400 S.F.
5. FLOOR AREA RATIO.....3,940 S.F. / 36,360 S.F. = 0.11
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8. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL
9. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE A9
10. THERE ARE NO KNOWN HISTORIC STRUCTURES, ARCHEOLOGICAL SITES,
ENDANGERED SPECIES HABITAT, WELLS, SEPTIC SYSTEMS, UNDERGROUND
STORAGE TANKS OR STREAMS ON THE SUBJECT PROPERTY
11. PUBLIC WATER AND SEWER IS EXISTING
12. THERE ARE NO SIGNIFICANT VIEWS OR SITE FEATURES WHICH AFFECT THE SUBJECT
PROPERTY
13. ALL EXISTING OR PROPOSED LIGHTING SHALL BE DIRECTED AWAY FROM ALL
RESIDENTIAL USES

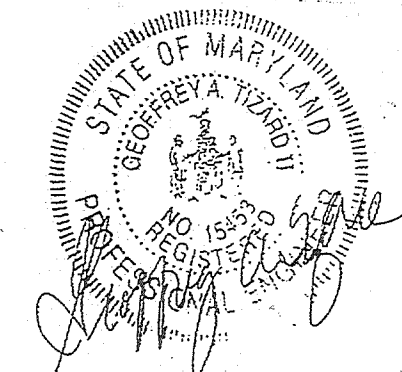
OFFSTREET PARKING DATA

PARKING REQUIRED

BAR AREA.....450 S.F. @ 20 SP. / 1000 S.F.....9 SPACES
RESTAURANT AREA.....3490 S.F. @ 16 SP. / 1000 S.F.....55.8 SPACES
DECK AREA.....1400 S.F. @ 16 SP. / 1000 S.F.....22.4 SPACES
TOTAL REQUIRED.....88 SPACES

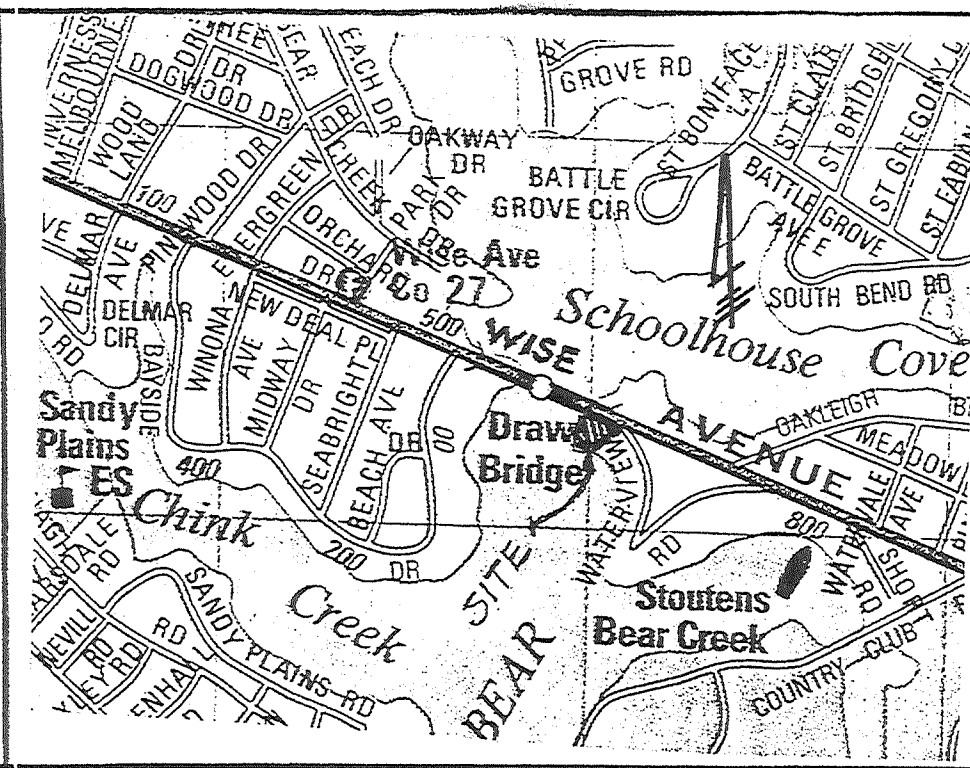
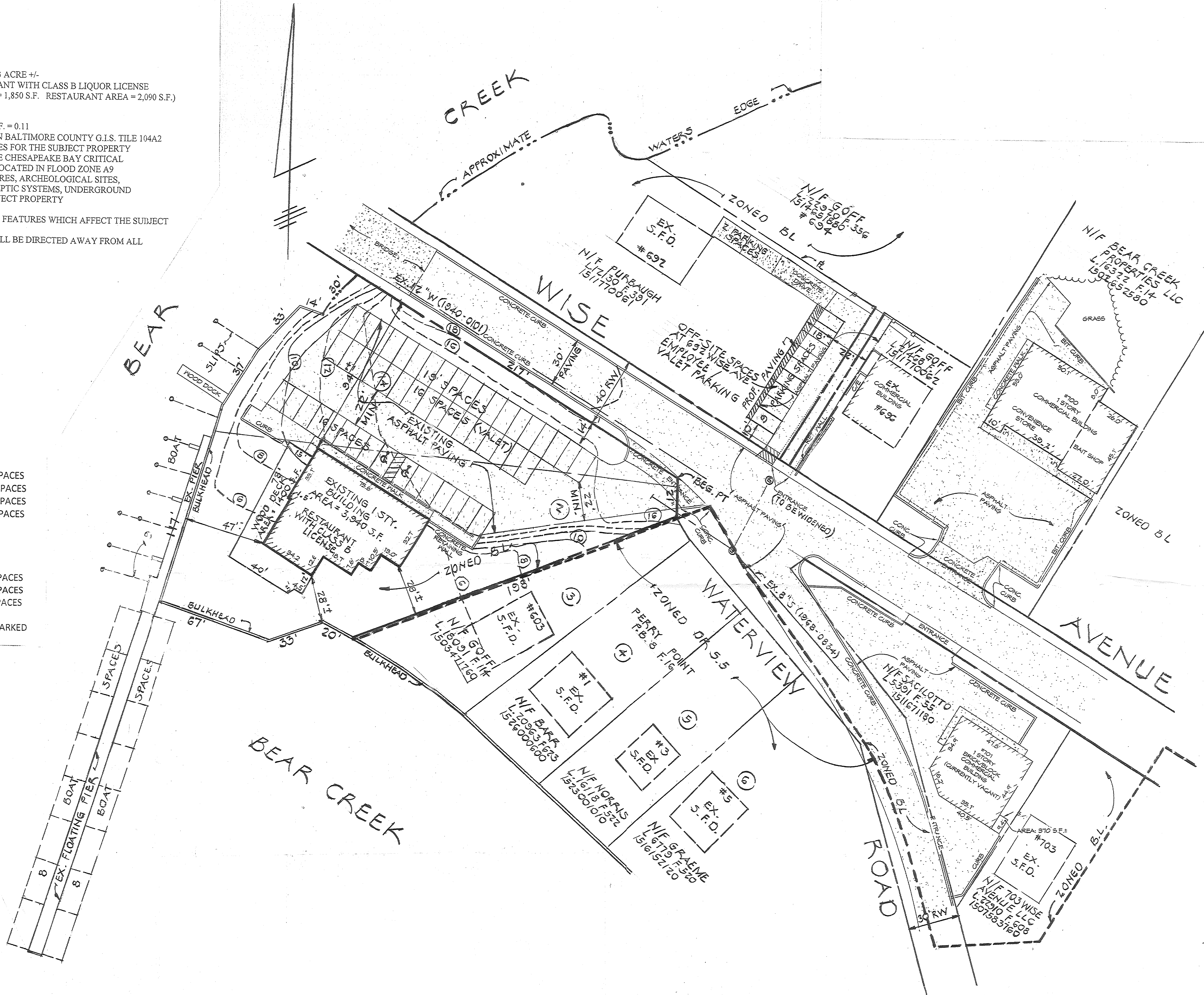
PARKING PROVIDED

ON-SITE AT 601 WISE AVENUE.....51 SPACES
OFF-SITE AT 692 WISE AVENUE.....9 SPACES
TOTAL PROVIDED.....60 SPACES
ALL SPACES TO BE 8.5 FEET X 18 FEET MINIMUM
ALL SPACES AND ACCESS DRIVES TO BE PAVED AND PERMANENTLY MARKED



CENTRAL DRAFTING & DESIGN, INC.
601 CHARWOOD COURT
EDGEWOOD, MD 21040
(410) 679-8719

PET EXH 2



VICINITY MAP
SCALE 1" = 1000'

ZONING COMMISSIONER'S ORDER
CASE NO. 2010-0158-SPHA

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this
30th day of March 2010 that the Petition for Special Hearing, pursuant to Section
500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), requesting a determination as to
whether the present use of the B.L. zoned property at 601 Wise Avenue is a restaurant/tavern
and not a nightclub as defined in B.C.Z.R. Sections 101, 102.1 and 230, being withdrawn prior to
the start of the hearing is rendered MOOT; and

IT IS FURTHER ORDERED that the Petition for Variance, to permit 60 parking spaces
in lieu of the 88 spaces required for the bar and restaurant use pursuant to B.C.Z.R. Section
409.6, in accordance with Petitioner's Exhibit 16, be and is hereby GRANTED; subject to the
following conditions, which are restrictions precedent to the approval granted herein:

1. Petitioner/owner may apply for any required building permits and be granted same
upon receipt of this Order; however, Bear Creek Properties, LLC 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. All outdoor lighting shall be directed towards the interior of the subject site and
away from adjacent properties. The outside beach area as designated on the site
plan shall not be used for tables, lounge chairs, serving of food or alcoholic
beverages.
3. There shall be no bands, dancing or other live entertainment permitted. All
recorded music in the deck area of the restaurant shall terminate at 11:00 PM
Monday through Friday, and at 12:00 AM Saturdays and Sundays.
4. Petitioner shall employ an attendant to park customer vehicles and attend to the
valet parking areas as required by B.C.Z.R. Section 409.4.B.1.
5. Petitioner shall post no parking signs at the entrance to the residential community
and encourage patrons, employees and subcontractors not to park on Waterview
Road.
6. The variance relief granted herein is personal to Bear Creek Properties, LLC and its
current managing members, Steven R. Goff and Randy R. Holofcener. In the event
of the sale, lease or transfer of the business, the new owner/operator shall petition
for special hearing relief to amend this restriction and the parking approval granted.
7. The legal owner, its successors and assigns shall permit a representative of the Code
Enforcement Division of the Department of Permits and Development Management
reasonable access to the property and restaurant/tavern to insure compliance with
this Order.

Any appeal of this decision must be taken in accordance with Section 32-3-401 of the
Baltimore County Code.

SPENCER WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dhw

PLAT TO ACCOMPANY PETITION
FOR VARIANCE
601 WISE AVENUE
LOTS 1 AND 2
PERRY POINT P.B. 8 F. 16
ELECTION DISTRICT 15C7
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET
OCTOBER 30, 2009

REVISIONS

- FEBRUARY 16, 2010 - ELIMINATE BEACH AREA
MARCH 8, 2010 - ADD VALET PARKING, REDUCE BAR AREA
MARCH 30, 2010 - ADD ZONING COMMISSIONER'S ORDER

OWNER
BEAR CREEK PROPERTIES LLC
694 WISE AVENUE
BALTIMORE, MD. 21222
DEED REF. L.13504 F.335
PROPERTY NO. 1502203800