

IN RE: **PETITION FOR SPECIAL HEARING**

N/S Pulaski Highway (U.S. Rte. 40),
1,299.36' SW of Middle River Road

(9300 Pulaski Highway)

15th Election District
6th Council District

BP Lubricants USA, Inc.
Petitioner

*

*

*

*

*

*

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2010-0287-SPH

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the Vice President of BP Lubricants USA, Inc., David J. Duggan, through their attorney, Sebastian A. Cross, Esquire, with Gildea & Schmidt, LLC. The Petitioner requests a special hearing to approve a modified parking plan pursuant Baltimore County Zoning Regulations (B.C.Z.R.) Section 409.12.b, or, in the alternative, to confirm that the proposed parking field satisfies the durable and dustless requirement of B.C.Z.R. Section 409.8.A.2. The subject property and requested relief are more particularly described on the site plan submitted, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Paul Johnson, P.E., site/project engineer, on behalf of the property owner, and attorney for the Petitioner, Sebastian A. Cross, Esquire, of Gildea & Schmidt, LLC. There were no Protestants or other interested parties present.

On behalf of the Petitioner, Messrs. Johnson and Cross offered testimony and evidence regarding the use of the property. As shown on the site plan prepared by the architect and engineering firm of E.I. Associates, the subject property is rectangular in shape and consists of

ORDER RECEIVED FOR FILING

Date

8-3-10

By

102

approximately 11.047 acres zoned M.L.-I.M. and M.L.-A.S. (Manufacturing Light with both an Industrial, Major and an Automotive Services District overlay). The property is located on the northwest side of U.S. 40 (Pulaski Highway), north of Martin Boulevard and east of Philadelphia Road, in the White Marsh/Middle River area of the County. The property is improved with an office and lab building and an approximately 40,000 square feet commercial/industrial manufacturing building. An aerial photograph, marked and accepted into evidence as Petitioner's Exhibit 2 characterizes the CSX Railroad tracks that border along the northwest property line and serve the manufacturing building. The southeast boundary has 1,300 feet of frontage on U.S. 40 with enhanced landscaping. The surrounding neighborhood is commercial and industrial in nature and is in keeping with Petitioner's existing blending of nonhazardous oil operation use.

The facility at 9300 Pulaski Highway has been operating since 1977 and recently received approval to confirm the existing facility is a permitted use in the ML zone and that the facility is not an oil refinery and is not considered a trucking facility. See Case No. 2010-0105-SPH decided by Deputy Zoning Commissioner Thomas H. Bostwick on December 22, 2009. To the extent applicable, the findings and conclusions set forth in his prior Order are adopted by reference and incorporated herein. The Petition currently before me is for the section of the surface parking area along the eastern portion of the site as delineated on Exhibit 1. The special hearing request was submitted due to the surface materials of this area consisting of RC 6 crushed concrete stone base material.¹ This area of the parking lot is used for long term trailer storage and, as such, a question was raised by Baltimore County when issuing the grading permit for this area (submitted as Exhibit 3) whether this surface is permitted for parking as these areas should contain a durable and dustless surface as defined in B.C.Z.R. Section 101.1 and the design standards of Section

¹ RC-6 is a term given to "recycled" aggregate base course materials. CR-6 is a similar term that stands for "crushed stone" alternative paving materials.

409.8.A.2. As such, BP Lubricants now asks for confirmation that this surface makeup is "an equivalent paving material" and a proper alternative so as to be within the spirit and intent of the zoning regulations.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Of note is a comment received from the Bureau of Development Plans Review (DPR) wherein Dennis Kennedy requests certification from a geo-technical engineer that this foundation is firm and adequate. The comment also raises concerns over the amount of dust or *fines* that would be created by this surface, as crusher run can contain up to fifteen (15) dust particles. As such, the comment goes on to state this surface should not be considered dustless and recommended committing a surface treatment periodically to retard this dust. In the meantime, Mr. Kennedy recommends the area to be limited to long term trailer parking with only occasional ingress and egress.

In response to this comment, Mr. Cross submitted follow up correspondence between himself and Mr. Kennedy as Petitioner's Exhibit Nos. 5A and 5B. This response to DPR appended a certification dated June 17, 2010 that the trailer parking lot pavement as constructed provides a durable and sustainable wearing surface for the intended use. This certificate was signed and sealed by Richard M. Hillis, P.E. of Hillis-Carnes, a geo-technical engineering firm from Annapolis. Likewise, the response also explained the characteristics of the existing surface is characterized by actually only four (4) percent dust, which was less than Mr. Kennedy's problematic levels of 8-15 percent. Rationale for this surface being employed onsite was also presented as limited pavement damage resulting from the trailer storage and providing better storm water runoff quality. Finally, this response explained this area was used for long term parking of 20-30 box trailers that store dry products with only occasional ingress and egress which meets the

preferable alternative listed in Mr. Kennedy's ZAC comment. In response to this correspondence and certification, a follow up email was received from Mr. Kennedy on June 22, 2010 (Exhibit 5B) in which he states his concerns were addressed by the aforementioned documentation and that the email could serve as his revised comment.

As explained through this correspondence and by Mr. Cross' proffer, the surface is being used for long term storage of trailers which have "landing gear" or legs that over time sink into traditional asphalt pavement resulting in greater damage and environmental impacts than the pervious surface currently onsite. Evidence was also presented that this surface was inspected and improved by the County Inspector for the work performed and falls within the limit of fines approved by the Maryland Highway Administration for RC and CR-6 stone base. The benefits for storm water runoff also were stressed as justification to find this surface as proper.

Based upon the cumulative testimony and evidence presented, I am persuaded to grant the special hearing relief. I do not believe that the existing parking surface will be detrimental and actually seems to better serve the type of trailer parking thereon. In my judgment, Petitioner has satisfied the requirements for such relief and I find the approval of RC-6 compact stone paving material as constructed, will, in this case serve for long term storage of trailers and is appropriate.

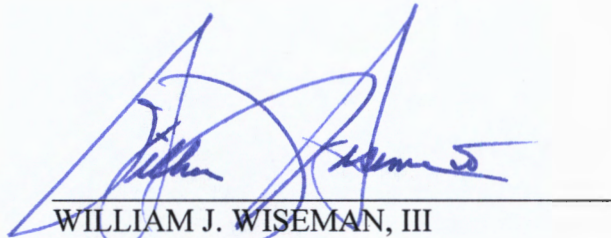
Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 3rd day of August, 2010, that the Petition for Special Hearing to approve a modified parking plan pursuant Baltimore County Zoning Regulations (B.C.Z.R.) Section 409.12.b, or, in the alternative, to confirm that the recycled aggregate base parking field satisfies the durable and dustless requirement of B.C.Z.R. Sections 101.1 and 409.8.A.2, in accordance with Petitioner's

Exhibit 1 and the Hillis-Carnes Certification Exhibit 5A, be and is hereby GRANTED, subject to the following restrictions:

1. Petitioner may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
2. Approval for this surface is limited to serve only the type of long term trailer parking currently existing at Petitioner's facility. If this area is ever altered to serve another use, it must come in full compliance with Section 409 of the Baltimore County Zoning Regulations and/or be the subject of a hearing to confirm propriety of the change.

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:pz

ORDER RECEIVED FOR FILING

Date

8-3-10

By

1003



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

August 3, 2010

Sebastian A. Cross, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

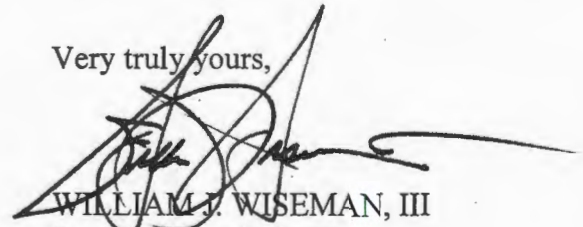
RE: **PETITION FOR SPECIAL HEARING**
N/S Pulaski Highway (U.S. Rte. 40), 1,299.36' SW of Middle River Road
(9300 Pulaski Highway)
BP Lubricants USA, Inc. - *Petitioner*
Case No. 2010-0287-SPH

Dear Mr. Cross:

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, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Paul Johnson, BP Lubricants, 9300 Pulaski Highway, Baltimore, MD 21220
People's Counsel; Bureau of Development Plans Review; File



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 9300 Pulaski Highway
which is presently zoned ML-IM & ML-AS

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

1. A modified parking plan pursuant to BCZR Section 409.12.b, or in the alternative, to confirm that the proposed parking field satisfies the durable and dustless requirement of BCZR 409.8.A.2.

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:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Sebastian A. Cross
Name - Type or Print _____ City _____
Signature _____
Gildea & Schmidt, LLC
Company _____
600 Washington Avenue, Suite 200 (410) 821-0070
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

BP Lubricants USA Inc.
Name - Type or Print _____
Signature _____
DAVID J. DUGGAN - Vice President
Name - Type or Print _____
Signature _____
1500 Valley Road 973-305-3922
Address _____ Telephone No. _____
Wayne NJ 07470
State _____ Zip Code _____

Representative to be Contacted:

Sebastian A. Cross
Name _____
600 Washington Avenue, Suite 200 (410) 821-0070
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 HR

UNAVAILABLE FOR HEARING _____

Case No. 2010 0287 SP4

REV 9/15/98

ORDER RECEIVED FOR FILING

Reviewed By JL

Date 4/20/10

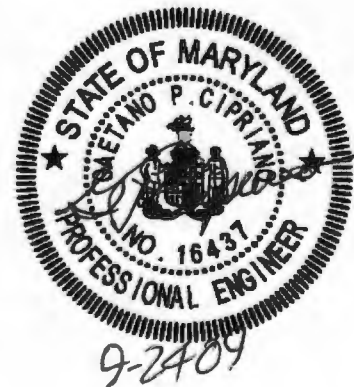
Date 8-3-10

By DW

ZONING DESCRIPTION
BP LUBRICANTS USA, INC.
(Formerly Dryden Oil Company, Inc.)

BEGINNING at a point at the north side of Pulaski Highway (U.S. Route 40) which is 150.00 feet wide at a distance of 1299.36 feet south of the centerline of the nearest improved intersecting street Middle River Road which is 60.00 feet wide. Thence the following courses and distances:

1. Running in a southwesterly direction along the northern right of way line of Pulaski Highway on a curve to the right having a radius of 11,384.16' a distance of 319.74' to a point in the northern right of way line of Pulaski Highway,
2. Thence, along the northern right of way line of Pulaski Highway S 47°-05'-57" W a distance of 201.86' to a point in the northern right of way line of Pulaski Highway,
3. Thence, along the northern right of way line of Pulaski Highway S 47°-05'-57" W a distance of 904.70' to a point in the northern right of way line of Pulaski Highway,
4. Thence, along lands now or formerly Hirshfield N 52°-51'-03" W a distance of 45.98' to a point,
5. Thence, along lands now or formerly Hirshfield N 52°-23'-05" W a distance of 291.54' to a point in the southern right of way line of CSX Railroad,
6. Thence, along lands now or formerly CSX Railroad N 47°-07'-55" E a distance of 878.43' to a point in the southern right of way line of CSX Railroad,
7. Thence, along lands now or formerly CSX Railroad N 47°-41'-23" E a distance of 253.01' to a point in the southern right of way line of CSX Railroad,
8. Thence, running in a northeasterly direction along lands now or formerly CSX Railroad on a curve to the left having a radius of 11,500.20' a distance of 342.23' to a point in the southern right of way line of CSX Railroad,
9. Thence, along land now or formerly Pulaski, LLC S 44°-23'-41" E a distance of 331.26' to the point of Beginning as recorded in Deed Book 5867, Page 133, Book 5871, Page 846, and Plat reference Book 70, Page 9, Lot 1B and all lands containing 11.047 acres.



**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/neighborhood 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 - 0287 - SPH
Petitioner: BP Lubricants USA Inc
Address or Location: 9300 Pulaski Highway

PLEASE FORWARD ADVERTISING BILL TO:

Name: F. Iden + Schmidt LLC
Address: 600 Washington Ave, Suite 200
TOWSON MD 21204
Telephone Number: 410 821-0070

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

No. _____

Date: _____

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/ Obj	Rev/ Sub Obj				

Total: _____

Rec
From: _____

For: _____

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: # 2010-0287-SPH
9300 Pulaski Highway
N/side of Pulaski Highway,
1299.36 feet s/west of Mid-
dle River Road
15th Election District
6th Councilmanic District
Legal Owner(s): BP Lubricants
USA, Inc.

Special Hearing: for a
modified parking plan or in
alternative, to confirm that
the proposed parking field
satisfies the durable and
dustless requirement.

Hearing: Thursday, June
17, 2010 at 9:00 a.m. in
Room 106, County Office
Building, 111 West Ches-
apeake 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.

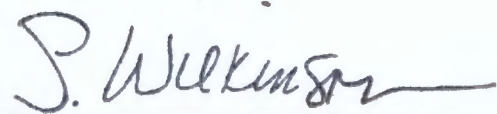
JT/6/619 June 1 242126

CERTIFICATE OF PUBLICATION

6/3/, 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 6/1/, 2010.

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



LEGAL ADVERTISING

+ - CERTIFICATE OF POSTING

2010-0287-SPH

RE: Case No.: _____

Petitioner/Developer: _____
BP Lubricants USA, Inc.

Date of Hearing/Closing: **June 17 2010**

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: _____
9300 Pulaski Highway

The sign(s) were posted on **June 2 2010**

(Month, Day, Year)

Sincerely,

Robert Black /June 4 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)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 1, 2010 Issue - Jeffersonian

Please forward billing to:
Gildea & Schmidt, LLC
600 Washington Avenue, Ste, 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

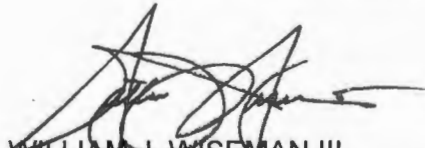
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2010-0287-SPH

9300 Pulaski Highway
N/side of Pulaski Highway, 1299.36 feet s/west of Middle River Road
15th Election District – 6th Councilmanic District
Legal Owners: BP Lubricants USA, Inc.

Special Hearing for a modified parking plan or in alternative, to confirm that the proposed parking field satisfies the durable and dustless requirement.

Hearing: Thursday, June 17, 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
May 13, 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: 2010-0287-SPH

9300 Pulaski Highway

N/side of Pulaski Highway, 1299.36 feet s/west of Middle River Road

15th Election District – 6th Councilmanic District

Legal Owners: BP Lubricants USA, Inc.

Special Hearing for a modified parking plan or in alternative, to confirm that the proposed parking field satisfies the durable and dustless requirement.

Hearing: Thursday, June 17, 2010 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204


Timothy Kotroco
Director

TK:kll

C: Sebastian Cross, 600 Washington Avenue, Ste. 200, Towson 21204
BP Lubricants USA Inc., David Duggan, 1500 Valley Road, Wayne NJ 07470

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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

June 9, 2010

Sebastian Cross
Gildea & Schmidt, LLC
600 Washington Ave. Ste. 200
Towson, MD 21204

Dear: Sebastian Cross

RE: Case Number 2010-0287-SPH, 9300 Pulaski Highway

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 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
BP Lubricants USA Inc.; 1500 Valley Rd.; Wayne, NJ 07470

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 29, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For May 10, 2010
Item No.: 2010-287

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

A layer of crusher run is not and has never been considered to be durable and dustless; however, given a firm foundation on a relatively flat grade, crusher run can be considered durable. The proposed grades are relatively flat and the developer proposes to use soil cement to provide a firm foundation. That the foundation is firm and adequate for the intended use should be certified in writing by a geotechnical engineer registered in this state.

Regarding dust, crusher run (CR-6 as specified by the SHA) can be as much as 15% dust. After compaction much of this dust is on or near the surface. Then the dust is easily kicked up by vehicles. Graded aggregate base (GAB as specified by the SHA) contains less dust (less than 8%), but still should not be considered dustless. It is recommended that if the parking field is not paved with bituminous concrete or concrete, graded aggregate base should be used and then the surface should be stabilized with a surface treatment to retard dust. The surface treatment would have to be re-applied periodically when dust becomes airborne. An alternative to using the surface treatment would be to restrict the use of the parking field to long term trailer and equipment parking with only occasional ingress and egress.

If the petitioner does not wish to, or cannot abide by the above conditions, we strongly recommend that the parking field be paved with Portland cement concrete or bituminous concrete.

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC - Comments\ZAC-ITEM NO 2010-0287-05102010.doc

BW 6/17
9AM

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 28, 2010

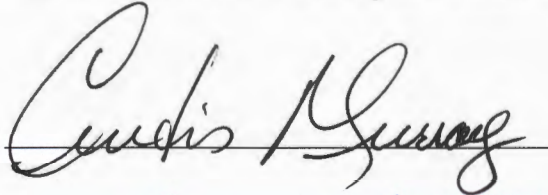
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 10-287- Special Hearing**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:
CM/LL



RECEIVED

APR 29 2010

ZONING COMMISSIONER

BW
6-17-10
9am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JUN 09 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: June 9, 2010

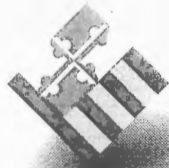
SUBJECT: Zoning Item # 10-287-SPH
Address 9300 Pulaski Highway
(BP Lubricants USA, Inc. Property)

Zoning Advisory Committee Meeting of April 26, 2010.

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

Reviewer: JWL

Date: 6/9/10



BALTIMORE COUNTY
MARYLAND

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

March 8, 2010

ATTENTION: Zoning Review Planners

Distribution Meeting Of: April 26th , 2010

Item Numbers: 0282, 0283, 0284, 0285, 0286, 0287, 0288 and 0289

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.

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

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

cc: File

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4/27/2010

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

RE: Baltimore County
Item No. 2010-0287-SPH
US 40 (PULASKI HWY.)
9300 PULASKI HWY.
BP LUBRICANTS USA, INC.
SPECIAL HEARING -

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 4/23/2010. A field inspection and internal review reveals that an entrance onto US 40 is consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for 9300 PULASKI HWY Case Number 2010-0287-SPH.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael P. Bailey" or similar, written over the typed name.

For ¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

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

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

RE: PETITION FOR SPECIAL HEARING * BEFORE THE
9300 Pulaski Highway; N/S Pulaski Highway * ZONING COMMISSIONER
1299.36' SW Middle River Road *
15th Election & 6th Councilmanic Districts *
Legal Owner(s): BP Lubricants USA Inc * FOR
Petitioner(s) * BALTIMORE COUNTY
* 10-287-SPH

* * * * *

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

APR 28 2010

*****;

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April, 2010, a copy of the foregoing Entry of Appearance was mailed to Sebastian A. Cross, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BW 7/9 9am

From: Debra Wiley
To: Lewis, Kristen
CC: Wiseman, Bill
Date: 6/25/2010 2:21 PM
Subject: 2010-0287-SPH
Attachments: MEMO-File-2010-0287-SPH.doc

Hi Kristen,

Please find attached a memo that Bill wrote to "the file" regarding the above-referenced matter. Sebastian Cross just delivered a revised comment from Dennis Kennedy and is ready to reset this in for a hearing. He may be contacting you in hopes of putting this in for a July date - just wanted to give you a "heads up".

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

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: File

DATE: June 17, 2010

FROM: William J. Wiseman, III
Zoning Commissioner



SUBJECT: **Case No. 2010-0287-SPH**
9300 Pulaski Hwy.
Location: N/Side of Pulaski Highway, 1299.36' SW of Middle River Road
15th Election District, 6th Council District
Legal Owner: BP Lubricants USA Inc.

This case was started on June 17, 2010 at 9:00 AM. No Protestants or other interested parties were in attendance even though the case involved "BP Lubricants USA, Inc.". After making a finding that the notice and posting requirements had been satisfied, Sebastian A. Cross, Esquire, on behalf of the Petitioner, moved for a continuance.

The Zoning Advisory Committee (ZAC) comment from Dennis A. Kennedy, P.E, Bureau of Development Plans Review (DPR), dated April 29, 2010, had not been received by the Petitioner or his attorney. The issues raised in that ZAC comment were not capable of being addressed without the testimony or certificate from a geotechnical engineer registered in the State of Maryland. Accordingly, a continuance was granted based on what I believe to be an extraordinary circumstance of the DPR comment not being transmitted with W. Carl Richard Jr.'s letter of June 9, 2010.

This matter does not have to be reposted or readvertised. A new hearing date will be assigned before the Zoning Commissioner once a revised comment is received from Dennis Kennedy or Petitioner has secured the services of a geotechnical engineer. This file will be retained in the Zoning Commissioner's Office.

WJW:dlw

c: Kristen Lewis, Zoning Review Office, DPDM
Dennis A. Kennedy, DPR

From: Debra Wiley
To: scross@gildeallc.com
Date: 6/11/2010 3:04 PM
Subject: 2010-0287-SPH - BP Lubricants USA, Inc.
Attachments: 20100611145859443.pdf; 07-387-SPH.doc

Hi Sebastian,

Per Bill, please find attached the ZAC comment from DPR and prior Order 07-387-SPH pertaining to durable & dustless parking surface.

Let me know if you need anything further and have a great weekend !

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

>>> "Debra Wiley" <dwiley@baltimorecountymd.gov> 6/11/2010 2:58 PM >>>
This E-mail was sent from "zoneprt1" (Aficio MP 2550).

Scan Date: 06.11.2010 14:58:59 (-0400)
Queries to: dwiley@baltimorecountymd.gov

Sebastian Cross

From: Dennis Kennedy [DKennedy@baltimorecountymd.gov] -
Sent: Tuesday, June 22, 2010 10:46 AM
To: Sebastian Cross
Cc: paul.johnson@bp.com
Subject: Re: BP Lubricants USA - 9300 Pulaski Highway - Case no. 2010-0287-SPH

Sebastian:

I have reviewed your email message and it sounds like you have addressed my concerns. I will mention, however, that the surface treatment is to control dust and has no structural purpose. If the treated surface were deformed by trailer "legs", the dust control would still be there.

You may take this email and yours back to the Zoning Commissioner for his ruling.

Dennis Kennedy

>>> "Sebastian Cross" <scross@gildeallc.com> 6/21/2010 10:00 AM >>>
 Dennis,

In response to your email I have attached an opinion/certification letter from geotechnical engineers at Hillis-Carnes who performed the work for this parking area. Also attached is summary description from the Project Engineer onsite providing details of the surface that I believe address your concerns.

As detailed in the summary, due to the extreme weight exerted on the landing gear of these trailers from a concentrated load on such a small area, standard asphalt can not stand up to these loads and over time produces a broken and damaged surface that is a less desirable and environmentally harmful than the existing soil cement and RC-6 stone covering. This surface onsite also allows for better drainage of storm water and is not damaged by the trailer storage.

Regarding dust, Mr. Johnson points out the fines of this surface are actually 4% which is less than your stated levels of 15 and 8% and he also informed me that your requested surface treatment would result in identical damage as the aforementioned asphalt. In your comment you stated an acceptable alternative would be to limit the area to long term trailer parking with limited ingress and egress and that is exactly what has, and will be, occurring in this area. The area only has a few trailer trips per day and we would be willing to have this condition of limited long term parking with only occasional ingress and egress be included in any approval decision we may receive.

Please review all of this and let us know your thoughts. We were hoping this explanation addresses your concerns in an acceptable manner and we could receive a modified comment or be able to communicate with Commissioner Wiseman that our surface is acceptable to you. If you still have concerns, obviously we would like to address those as well.

Please respond to all of this when you get a chance.

Thanks,

Sebastian A. Cross, Esq.
 Gildea & Schmidt, LLC
 600 Washington Ave., Suite 200
 Towson, MD 21204
 Phone: 410-821-0070
 Fax: 410-821-0071

This transmission contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this email in error, please notify Gildea & Schmidt, LLC by telephone immediately.

6/25/2010

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

June 25, 2010

RECEIVED

JUN 25 2010

ZONING COMMISSIONER

Via Hand Delivery

William J. Wiseman, III

Zoning Commissioner

Office of the Zoning Commissioner

Jefferson Building

105 W. Chesapeake Avenue, Suite 103

Towson MD 21204

Re: BP Lubricants, USA/ 9300 Pulaski Highway
Case No. 2010-0287-SPH

Dear Mr. Wiseman:

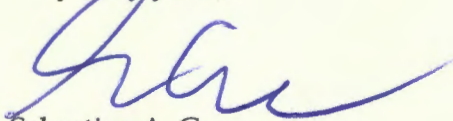
Attached please find an amended comment from Dennis Kennedy from Baltimore County Plans Review regarding the above referenced case. As noted in his amended comment, the existing conditions and explanation thereof have addressed any concerns he may have had regarding the parking surface subject to this hearing.

As such, I have provided his amended comment, along with a geotechnical engineer's certification as to the durability of the existing surface, as well as a detailed justification for this surface on site from BP Lubricants' project engineer.

As it would appear we have resolved the outstanding County concerns, we ask to submit these materials into the hearing file and request a new hearing date.

Should you have any questions or comments, please contact me. With kind regards, I am

Very truly yours,



Sebastian A. Cross

SAC: sf

CC: Ron Gizzi, Esquire, BP Lubricants
Max Medeiros, BP Lubricants
Paul Johnson, BP Lubricants
Todd Baublitz, BP Lubricants
David K. Gildea, Esquire

CHECKLISTComment
ReceivedDepartmentSupport/Oppose
No Comment4-29

DEVELOPMENT PLANS REVIEW

Comments6-9

DEPRM

No Comments3-8

FIRE DEPARTMENT

No Comments4/28

PLANNING

(if not received, date e-mail sent _____)

No Comment4-27

STATE HIGHWAY ADMINISTRATION

No objection

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. 2010-0105-SPH _____)

NEWSPAPER ADVERTISEMENT

Date: 6-1-10

SIGN POSTING

Date: 6-2-10

PEOPLE'S COUNSEL APPEARANCE

Yes

☒

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☐

Comments, if any: _____



Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search (2007 vw3.1e)

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

Account Identifier: District - 15 **Account Number -** 1800003253

Owner Information

Owner Name:	DRYDEN OIL COMPANY INCORPORATED C/O BP PRODUCTS NA INC/TAX DEPT	Use:	INDUSTRIAL
Mailing Address:	4101 WINFIELD RD P O BOX 1548 WARRENVILLE IL 60555-1548	Principal Residence:	NO
		Deed Reference:	1) / 5871/ 846 2)

Location & Structure Information

Premises Address	Legal Description
9300 PULASKI HWY	6.5479 AC WS PULASKI HWY 1854 SW MIDDLE RIVER RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
82	21	278						3	Plat Ref:

Special Tax Areas

Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1962	74,858 SF	6.55 AC	07
Stories	Basement	Type	Exterior

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2009	07/01/2010
Land	1,310,000	2,128,700		
Improvements:	2,440,000	2,436,600		
Total:	3,750,000	4,565,300	4,021,766	4,293,532
Preferential Land:	0	0	0	0

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	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:

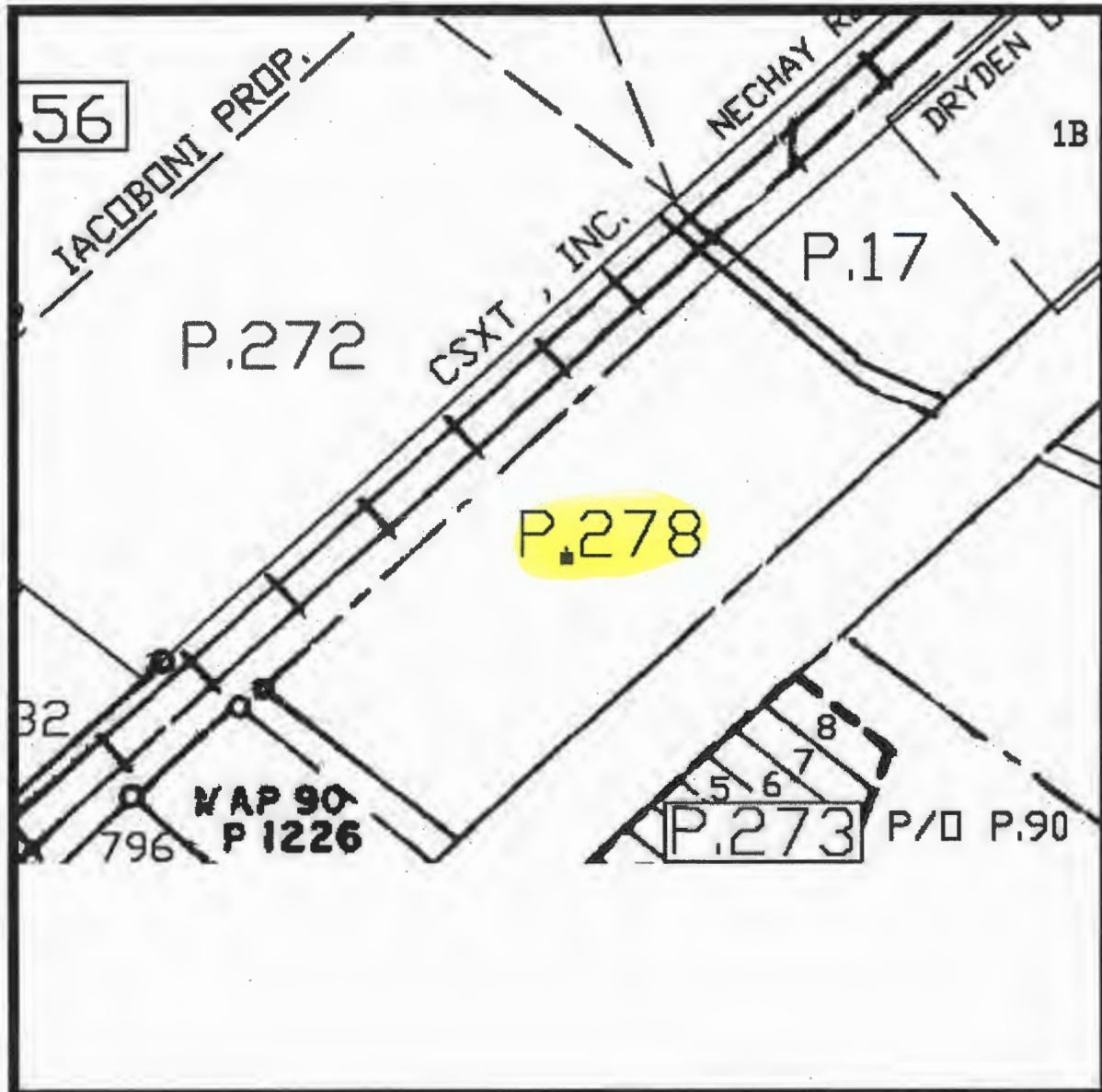
Special Tax Recapture:
 * NONE *



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

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

District - 15 Account Number - 1800003253



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

Property maps provided courtesy of the Maryland Department of Planning ©2009.
 For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml

CASE NAME BP Lubricants USA,
CASE NUMBER 2010-0287- Spec.
DATE 7-9-10 SPH

[illegible]

IN RE: PETITION FOR SPECIAL HEARING *
N side of Pulaski Highway; 1299 feet S of *
the c/l of Middle River Road *
15th Election District *
6th Council District *
(930th Pulaski Hwy.) *
Dave Duggan, Vice President of *
BP Lubricants USA, Inc. *
Legal Owner *

BEFORE THE
DEPUTY ZONING
COMMISSIONER
FOR BALTIMORE COUNTY
CASE NO. 2010-0105-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

th

respon

which

certain q

not only th

operation does

Mr. Cross

that raw materials ar

tanks. This material is t

which are heated to 140 c

shipped by bulk (rail) and also

which currently accounts for 90%

capacity for the operation while rea

Photographs depicting the current inter

Petitioner's Exhibits 5A through 5D.

One of the central issues to this case

nomenclature of the operation as an oil refinery.

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Dave Duggan, Vice President, on behalf of the legal property owner, BP Lubricants USA, Inc. Petitioner requests Special Hearing relief in accordance with Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

- To confirm that BP Lubricants' operation on site is not an oil refinery as defined by B.C.Z.R.; and
- To confirm that Lubricant Manufacture is a use permitted within the M.L. Zone;
- To confirm that BP Lubricants' operations on site does not constitute a true and lawful use.

For such other and further relief as deemed necessary.

The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request for Special Hearing were Max Medeiros, Project Leader, and Paul Johnson, Project Engineer for BP Lubricants USA, Inc. David K. Gildea, Esquire and Sebastian J. Schmidt, LLC appeared as attorneys for Petitioner. Also

Case No.: 2010-0287-SPH

9300 PULASKI HWY

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	
No. 2	Aerial Photo of Site	
No. 3	BLDG PERMIT B733081 4/6/10 - Grading for 95,040 SF for future Parking	
No. 4	ZAC COMMENT DEV. PLANS REVIEW - 4/29/10	
No. 5	5A - HILLIS - CARNES CERTIFICATION 5B - DENNIS KENNEDY, PE - RESPONSE 6-22-10	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Baltimore County - My Neighborhood



Copyright (C) 2005 Baltimore County, Maryland

9300 Pulaski Hwy

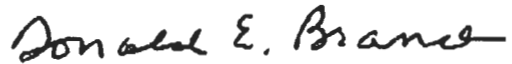
PETITIONER'S

EXHIBIT NO.

2

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

TIMOTHY M. KOTROCO, Director



DONALD E. BRAND, Buildings Engineer

BUILDING PERMIT

PERMIT #: B733081 CONTROL #: GRC- DIST: 15 PREC: 01
DATE ISSUED: 04/06/2010 TAX ACCOUNT #: 2300001627 CLASS: 07

PLANS: CONST 0 PLOT 8 R PLAT 0 DATA 0 ELEC NO PLUM NO
LOCATION: 9310 PULASKI HWY
SUBDIVISION: DRYDEN OIL CO INC

OWNERS INFORMATION

NAME: BP PRODUCTS NA INC
ADDR: 4101 WINFIELD RD. WARRENVILLE, IL 60555

TENANT:

CONTR: TO BE DETERMINED

ENGNR:

SELLR:

WORK: GRADE EX. STOCKPILE 95,040SF FOR FUTURE PARKING
PERMIT EXPIRES 2 YEARS FROM ISSUE DATE.
NO CRANES, PILE IS EXISTING, 12' HT.

BLDG. CODE:

RESIDENTIAL CATEGORY:

OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: GRADING

EXISTING USE: VACANT LOT W/ EX. STOCKPILE

TYPE OF IMPRV: OTHER

USE: OTHER - NON-RESIDENTIAL

FOUNDATION:

BASEMENT:

SEWAGE:

WATER:

LOT SIZE AND SETBACKS

SIZE: 2.630 AC

FRONT STREET:

SIDE STREET:

FRONT SETB: NC

SIDE SETB: NC/NC

SIDE STR SETB:

REAR SETB: NC

PETITIONER'S

EXHIBIT NO. 3

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: April 29, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For May 10, 2010
Item No.: 2010-287

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

A layer of crusher run is not and has never been considered to be durable and dustless; however, given a firm foundation on a relatively flat grade, crusher run can be considered durable. The proposed grades are relatively flat and the developer proposes to use soil cement to provide a firm foundation. That the foundation is firm and adequate for the intended use should be certified in writing by a geotechnical engineer registered in this state.

Regarding dust, crusher run (CR-6 as specified by the SHA) can be as much as 15% dust. After compaction much of this dust is on or near the surface. Then the dust is easily kicked up by vehicles. Graded aggregate base (GAB as specified by the SHA) contains less dust (less than 8%), but still should not be considered dustless. It is recommended that if the parking field is not paved with bituminous concrete or concrete, graded aggregate base should be used and then the surface should be stabilized with a surface treatment to retard dust. The surface treatment would have to be re-applied periodically when dust becomes airborne. An alternative to using the surface treatment would be to restrict the use of the parking field to long term trailer and equipment parking with only occasional ingress and egress.

If the petitioner does not wish to, or cannot abide by the above conditions, we strongly recommend that the parking field be paved with Portland cement concrete or bituminous concrete.

DAK:CEN:elm

cc: File

G:\DevPlanRev\ZAC - Comments\ZAC-ITEM NO 2010-0287-05102010.doc

PETITIONER' S

EXHIBIT NO. 4

HILLIS-CARNES

10975 Guilford Road, Suite A
Post Office Box 241
Annapolis Junction, MD 20701
Baltimore 410-880-4788
DC Metro 301-470-4239
Fax 410-880-4098
www.hcea.com

ENGINEERING ASSOCIATES

June 17, 2010, P.E.

Mr. Paul Highway
BP, Maryland 21220

BP Lubricant Trailer Parking Lot 1-B
9300 Pulaski Highway
Middle River, Baltimore County, Maryland
HCEA Project Number 09038-B

Gentlemen:

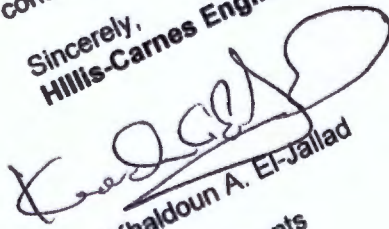
At your request, Hillis-Carnes Engineering Associates, Inc. (HCEA) has prepared the following opinion letter, regarding the trailer parking lot 1-B at the site of the referenced project. We understand that the parking lot subgrade of the referenced facility has been constructed with a section consisting of 24 inches of the former, existing, crushed-stone fill material treated with five (5) percent Portland Cement by weight, and capped with a wearing, surface layer of four (4) inches of RC-6 crushed, concrete stone base course material. The referenced, section was placed without any construction monitoring by HCEA, and with no laboratory analyses or engineering design of the section.

However, HCEA had completed a prior, geotechnical investigation and engineering report of the BP Tank Farm foundation in February, 2009 that provided test borings and engineering classifications for the site soils. The HCEA investigation showed the Tank farm surface covered with a crushed stone fill layer that ranged in thickness from 5 feet to 12 feet. Logs from the prior investigation are attached.

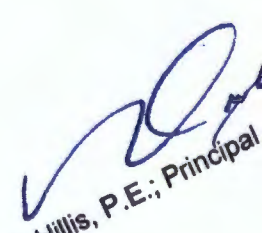
Based on our prior site investigation, and our knowledge of the BP site conditions, we professional opinion that the Trailer parking lot pavement as constructed, provided and sustainable, wearing surface for the intended use.

Should you have any questions, or require any additional information, please do contact me.

Sincerely,
Hillis-Carnes Engineering Associates, Inc.


Khalidoun A. El-Jallad

W/attachments


Richard M. Hillis, P.E.; Principal

Corporate Headquarters - Annapolis Junction, MD
Frederick, MD • Hagerstown, MD • Salisbury, MD • Waldorf, MD • Hollywood, FL
Chantilly, VA • New Castle, DE

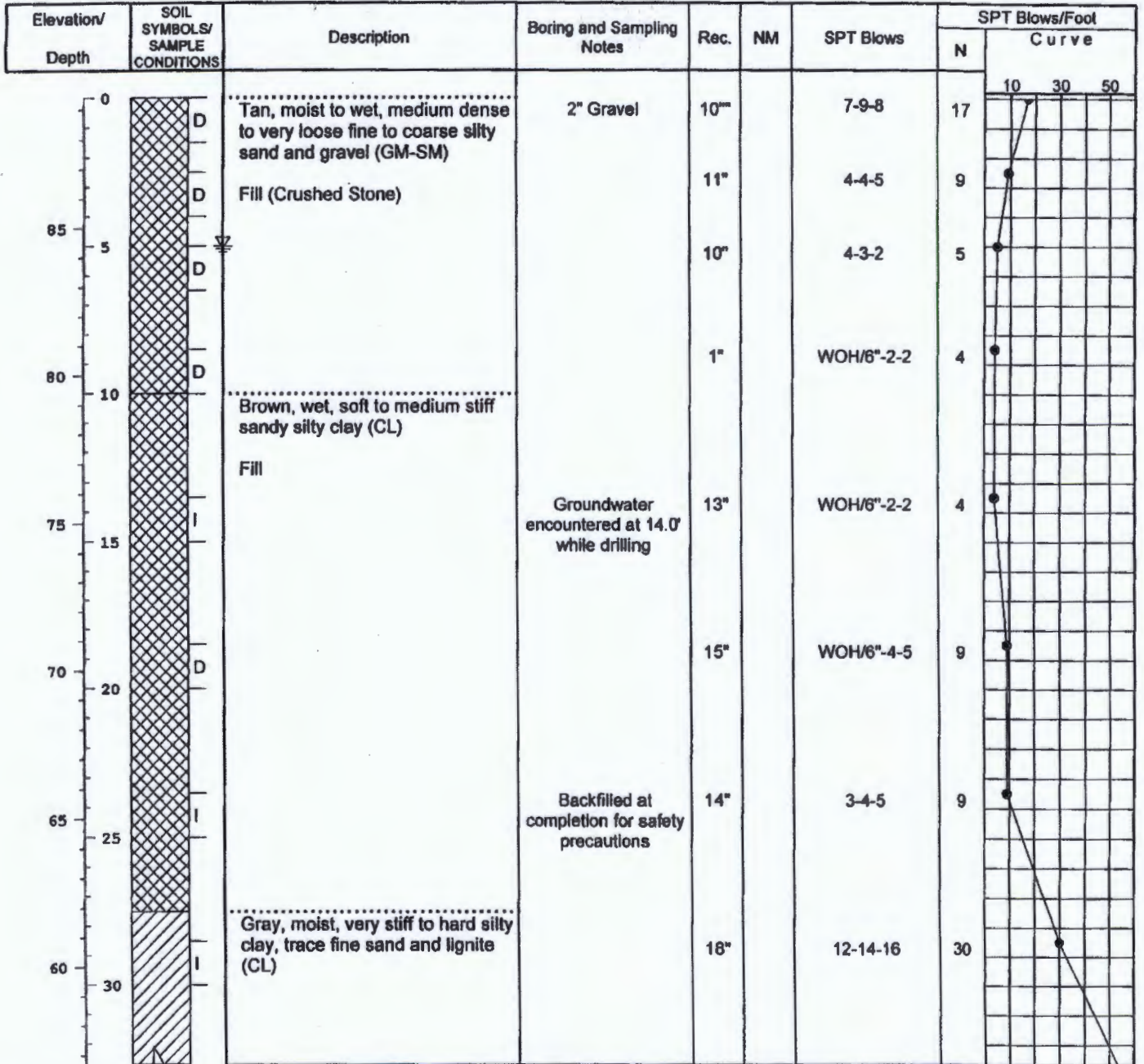
HILLIS - CARNES ENGINEERING ASSOCIATES, INC.

RECORD OF SOIL EXPLORATION

Project Name BP Lubricants Tank Farm Boring No. B-1
Location Baltimore County, Maryland Job # 09038A

SAMPLER

Datum _____ Hammer Wt. 140 lbs. Hole Diameter 6" Foreman R. Rider
Surf. Elev. 89.41 ft. Hammer Drop 30 in. Rock Core Diameter _____ Inspector _____
Date Started 2-05-09 Pipe Size 2.0 in. Boring Method HSA Date Completed 2-05-09



SAMPLER TYPE
DRIVEN SPLIT SPOON UNLESS OTHERWISE
PT - PRESSED SHELBY TUBE
CA - CONTINUOUS FLIGHT AUGER
RC - ROCK CORE

SAMPLE CONDITIONS
D - DISINTEGRATED
I - INTACT
U - UNDISTURBED
L - LOST

GROUND WATER
AT COMPLETION 5.0 ft.
AFTER 24 HRS. _____ ft.
AFTER _____ HRS. _____ ft.

CAVE IN DEPTH
13.5 ft.

BORING METHOD
HSA - HOLLOW STEM AUGERS
CFA - CONTINUOUS FLIGHT AUGERS
DC - DRIVING CASING
MD - MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" O.D. SAMPLER 1" WITH 140# HAMMER FALLING 30"; COUNT MADE AT 6" INTERVALS.

HILLIS - CARNES ENGINEERING ASSOCIATES, INC.

RECORD OF SOIL EXPLORATION

Project Name BP Lubricants Tank Farm Boring No. B-1
Location Baltimore County, Maryland Job # 09038A

SAMPLER

Datum _____ Hammer Wt. 140 lbs. Hole Diameter 6" Foreman R. Rider
Surf. Elev. 89.41 ft. Hammer Drop 30 in. Rock Core Diameter _____ Inspector _____
Date Started 2-05-09 Pipe Size 2.0 in. Boring Method HSA Date Completed 2-05-09

Elevation/ Depth	SOIL SYMBOLS/ SAMPLE CONDITIONS	Description	Boring and Sampling Notes	Rec.	NM	SPT Blows	SPT Blows/Foot Curve	
							N	
55 35	I			18"		14-25-33	58	10 30 50
50 40	I			18"		18-23-30	53	
45 45	I	Bottom of Hole at 44.8'		15"		11-39-51/3"	90/9"	90/9"
40 50								
35 55								
30 60								
25 65								

SAMPLER TYPE
DRIVEN SPLIT SPOON UNLESS OTHERWISE
PT - PRESSED SHELBY TUBE
CA - CONTINUOUS FLIGHT AUGER
RC - ROCK CORE

SAMPLE CONDITIONS
D - DISINTEGRATED
I - INTACT
U - UNDISTURBED
L - LOST

GROUND WATER
AT COMPLETION 5.0 ft.
AFTER 24 HRS. _____ ft.
AFTER _____ HRS. _____ ft.

CAVE IN DEPTH
13.5 ft.

BORING METHOD
HSA - HOLLOW STEM AUGERS
CFA - CONTINUOUS FLIGHT AUGERS
DC - DRIVING CASING
MD - MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" O.D. SAMPLER 1' WITH 140# HAMMER FALLING 30": COUNT MADE AT 6" INTERVALS.

HILLIS - CARNES ENGINEERING ASSOCIATES, INC.

RECORD OF SOIL EXPLORATION

Project Name BP Lubricants Tank Farm Boring No. B-2
Location Baltimore County, Maryland Job # O9038A

SAMPLER

Datum _____ Hammer Wt. 140 lbs. Hole Diameter 6" Foreman L. Smith
Surf. Elev. 90.51 ft. Hammer Drop 30 in. Rock Core Diameter _____ Inspector _____
Date Started 2-05-09 Pipe Size 2.0 in. Boring Method HSA Date Completed 2-05-09

Elevation/ Depth	SOIL SYMBOLS/ SAMPLE CONDITIONS	Description	Boring and Sampling Notes	Rec.	NM	SPT Blows	SPT Blows/Foot Curve	
							N	Curve
90	0	Tan, moist to wet, very loose to medium dense fine to coarse silty sand and gravel (GM-SM)	2" Gravel	10"		32-21-25	46	
				1"		48-28-32	60	
		Fill (Crushed Stone)						
85	5	Brown/Gray, very moist to wet, medium stiff to hard sandy clay (CL)		10"		11-14-16	30	
				11"		3-3-7	10	
80	10		Groundwater encountered at 10.0' while drilling	14"		WOH/6"-5-12	17	
				18"		10-13-12	25	
75	15		Backfilled at completion	18"		WOH/6"-5-28	33	
70	20			18"		18-17-21	38	
65	25	Gray, wet, hard silty clay, trace fine sand and lignite (CL)		18"		7-17-32	49	
60	30	Bottom of Hole at 30.0'						

SAMPLER TYPE
DRIVEN SPLIT SPOON UNLESS OTHERWISE
PT - PRESSED SHELBY TUBE
CA - CONTINUOUS FLIGHT AUGER
RC - ROCK CORE

SAMPLE CONDITIONS
D - DISINTEGRATED
I - INTACT
U - UNDISTURBED
L - LOST

GROUND WATER
AT COMPLETION Dry ft.
AFTER 24 HRS. _____ ft.
AFTER _____ HRS. _____ ft.

CAVE IN DEPTH
14.5 ft.
_____ ft.
_____ ft.

BORING METHOD
HSA - HOLLOW STEM AUGERS
CFA - CONTINUOUS FLIGHT AUGERS
DC - DRIVING CASING
MD - MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" O.D. SAMPLER 1' WITH 140# HAMMER FALLING 30": COUNT MADE AT 6" INTERVALS.

HILLIS - CARNES ENGINEERING ASSOCIATES, INC.

RECORD OF SOIL EXPLORATION

Project Name BP Lubricants Tank Farm Boring No. B-3
Location Baltimore County, Maryland Job # 09038A

SAMPLER

Datum _____ Hammer Wt. 140 lbs. Hole Diameter 6" Foreman L. Smith
Surf. Elev. 89.91 ft. Hammer Drop 30 in. Rock Core Diameter _____ Inspector _____
Date Started 2-06-09 Pipe Size 2.0 in. Boring Method HSA Date Completed 2-06-09

Elevation/ Depth	SOIL SYMBOLS/ SAMPLE CONDITIONS	Description	Boring and Sampling Notes	Rec.	NM	SPT Blows	SPT Blows/Foot	
							N	Curve
0								10 30 50
	D	Tan, moist to wet, very loose to medium dense fine to coarse silty sand and gravel (GM-SM)	2" Gravel	13"		43-16-14	30	
	D	Fill (Crushed Stone)		14"		7-12-11	23	
85 5	D			7"		6-4-4	8	
	D			10"		11-9-7	16	
80 10	D			3"		WOH/6"-2-3	5	
	D	Brown/Gray/Red, wet, soft to stiff sandy to silty clay, trace gravel and brick (CL) Fill		16"		1-2-2	4	
75 15	D			18"		2-5-8	13	
70 20	I			18"		7-12-15	27	
65 25	I	Gray, wet, very stiff to hard silty clay, trace fine sand and lignite (CL)		18"		20-24-23	47	
60 30	I	Bottom of Hole at 30.0'						

SAMPLER TYPE
DRIVEN SPLIT SPOON UNLESS OTHERWISE
PT - PRESSED SHELBY TUBE
CA - CONTINUOUS FLIGHT AUGER
RC - ROCK CORE

SAMPLE CONDITIONS
D - DISINTEGRATED
I - INTACT
U - UNDISTURBED
L - LOST

AT COMPLETION
AFTER 24 HRS.
AFTER ___ HRS.

GROUND WATER
5.5 ft.
CAVE IN DEPTH
11.5 ft.

BORING METHOD
HSA - HOLLOW STEM AUGERS
CFA - CONTINUOUS FLIGHT AUGERS
DC - DRIVING CASING
MD - MUD DRILLING

STANDARD PENETRATION TEST-DRIVING 2" O.D. SAMPLER 1" WITH 140# HAMMER FALLING 30": COUNT MADE AT 6" INTERVALS.

Date: May 14, 2010

Reference: Parking Lot Hard Surface

Location: 9300 Pulaski Hwy, Baltimore, MD 21220

Our facility blends non hazardous motor oils and is zoned light manufacturing; however, we use a substantial number of commercial trailers for operational purposes. These trailers all have landing gear supports when stored; over the years we have discovered that asphalt does not stand up to this concentrated loading when subjected to the heat of the sun. This results in sink holes which allows water penetration which in turn causes additional cracking in the winter months w/ the further expansion caused by water freezing. The finished surfaced is deteriorated w/ sink holes and loose debris. For this reason we needed to upgrade our facility dock spots w/ concrete pads in the area of landing gear locations to prevent this destructive condition.

The purpose of this letter is to explain the rationale for going w/ soil cement and covering surface w/ RC-6 stone for the parking of our trailers. The surface grading has been inspected and approved by the county inspector for the work performed. The added benefit of allowing the surface to drain rain water has also reduced the additional volume of entering the on site storm water ponds. Although these ponds have been designed to hold this capacity; it is far better for the environment to allow natural ground water drainage.

The surface composition aggregate was tested using ASTM D1557 Method C, the grain distribution regarding the AASHTO Specification from the stone supplier shows that we are at 4% fines at #200 sieve size. This falls within the limit approved by the Maryland Highway's Administration for RC and CR-6 stone base.

Respectfully,
Paul Johnson
Project Engineer
BP Lubricants USA

Sebastian Cross

From: Dennis Kennedy [DKennedy@baltimorecountymd.gov]
Sent: Tuesday, June 22, 2010 10:46 AM
To: Sebastian Cross
Cc: paul.johnson@bp.com
Subject: Re: BP Lubricants USA - 9300 Pulaski Highway - Case no. 2010-0287-SPH

Sebastian:

I have reviewed your email message and it sounds like you have addressed my concerns. I will mention, however, that the surface treatment is to control dust and has no structural purpose. If the treated surface were deformed by trailer "legs", the dust control would still be there.

You may take this email and yours back to the Zoning Commissioner for his ruling.

Dennis Kennedy

>>> "Sebastian Cross" <scross@gildeallc.com> 6/21/2010 10:00 AM >>>
 Dennis,

In response to your email I have attached an opinion/certification letter from geotechnical engineers at Hillis-Carnes who performed the work for this parking area. Also attached is summary description from the Project Engineer onsite providing details of the surface that I believe address your concerns.

As detailed in the summary, due to the extreme weight exerted on the landing gear of these trailers from a concentrated load on such a small area, standard asphalt can not stand up to these loads and over time produces a broken and damaged surface that is a less desirable and environmentally harmful than the existing soil cement and RC-6 stone covering. This surface onsite also allows for better drainage of storm water and is not damaged by the trailer storage.

Regarding dust, Mr. Johnson points out the fines of this surface are actually 4% which is less than your stated levels of 15 and 8% and he also informed me that your requested surface treatment would result in identical damage as the aforementioned asphalt. In your comment you stated an acceptable alternative would be to limit the area to long term trailer parking with limited ingress and egress and that is exactly what has, and will be, occurring in this area. The area only has a few trailer trips per day and we would be willing to have this condition of limited long term parking with only occasional ingress and egress be included in any approval decision we may receive.

Please review all of this and let us know your thoughts. We were hoping this explanation addresses your concerns in an acceptable manner and we could receive a modified comment or be able to communicate with Commissioner Wiseman that our surface is acceptable to you. If you still have concerns, obviously we would like to address those as well.

Please respond to all of this when you get a chance.

Thanks,

Sebastian A. Cross, Esq.
 Gildea & Schmidt, LLC
 600 Washington Ave., Suite 200
 Towson, MD 21204
 Phone: 410-821-0070
 Fax: 410-821-0071

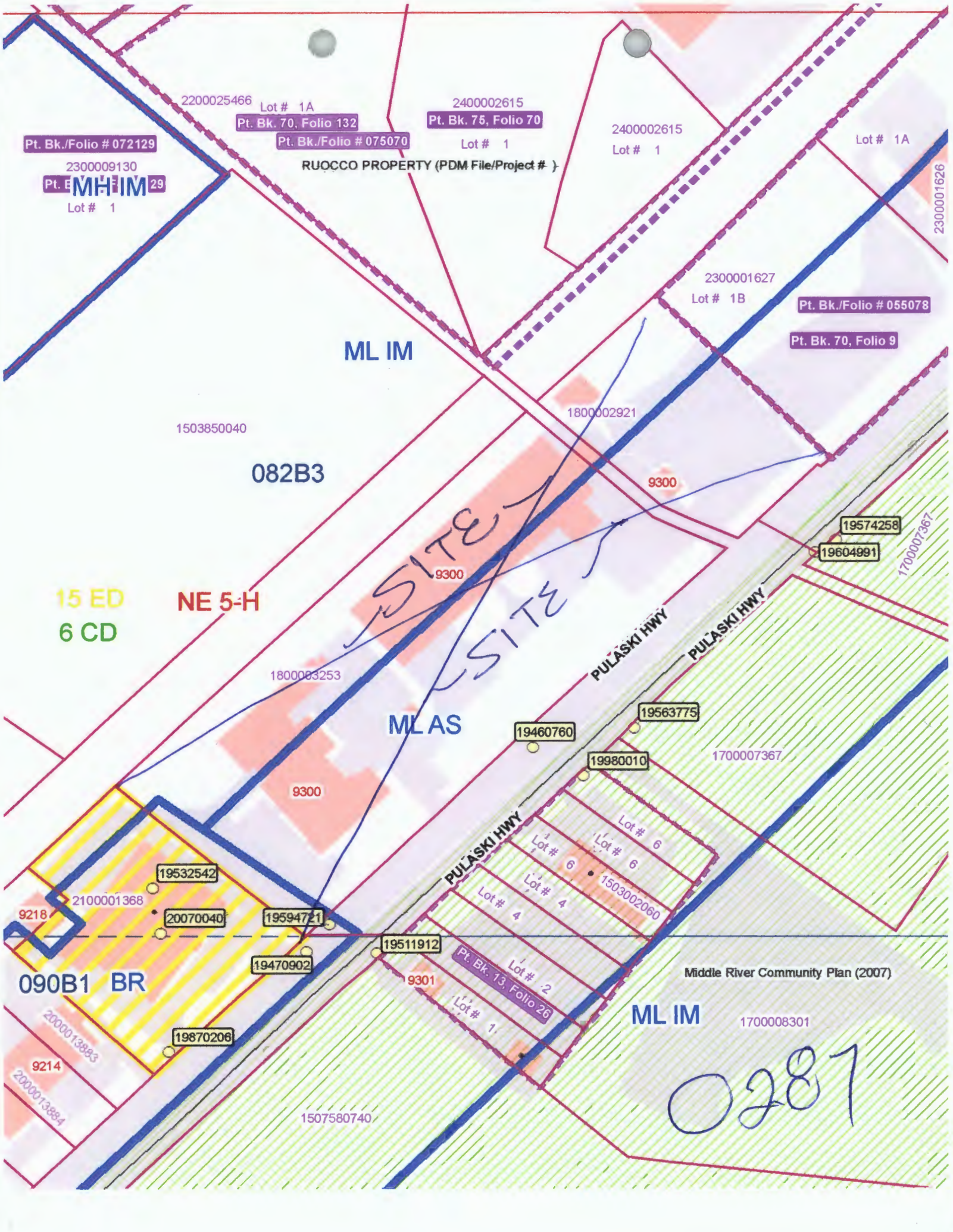
This transmission contains information from the law firm of Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this email in error, please notify Gildea & Schmidt, LLC by telephone immediately.

PETITIONER' S

EXHIBIT NO.

5B

6/25/2010



Pt. Bk./Folio # 072129

2300009130
Pt. Bk. **ML IM** 29
Lot # 1

2200025466 Lot # 1A

Pt. Bk. 70, Folio 132

Pt. Bk./Folio # 075070

2400002615
Pt. Bk. 75, Folio 70

Lot # 1

RUOCCO PROPERTY (PDM File/Project #)

2400002615
Lot # 1

Lot # 1A

2300001626

2300001627
Lot # 1B

Pt. Bk./Folio # 055078

Pt. Bk. 70, Folio 9

ML IM

1503850040

082B3

1800002921

9300

19574258

19604991

1700007367

15 ED
6 CD

NE 5-H

1800083253

ML AS

9300

PULASKI HWY

PULASKI HWY

19460760

19563775

19980010

1700007367

19532542

2100001368

9218

20070040

19594721

090B1 BR

19470902

19511912

9301

2000013883
9214
2000013884

19870206

Pt. Bk. 13, Folio 26
Lot # 1
Lot # 2
Lot # 4
Lot # 6
Lot # 6
Lot # 6

1503002060

Middle River Community Plan (2007)

ML IM

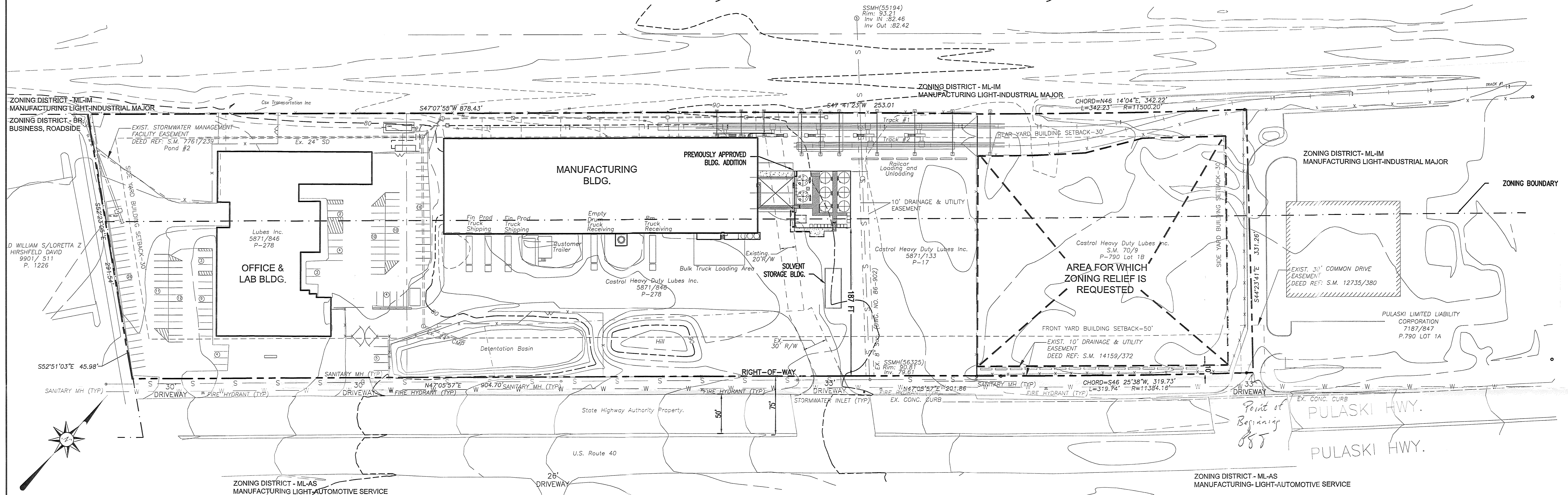
1700008301

0287

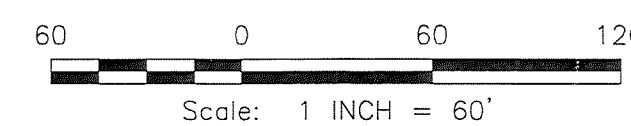
NEW TANK FARM BUILDING

CASTROL HEAVY DUTY LUBES INC.

9300 PULASKI HWY., BALTIMORE, MARYLAND 21220



OVERALL SITE PLAN



LEGEND

- PROPERTY LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- EDGE OF ROAD
- 2' CONTOUR LINE
- 10' CONTOUR LINE
- FENCE LINE

NOTES:

- ELECTION DISTRICT: 15.
- COUNCILMANIC DISTRICT: 6.
- CENSUS TRACT: 451200.
- CENSUS BLOCK GROUP: 240054512003
- LAND MANAGEMENT AREA: GROWTH AREA - WHITE MARSH
- WATERSHED: BACK RIVER
- REGIONAL PLANNING DISTRICT: 327
- WATER SERVICE AREA: FIRST ZONE
- SEWER SHED: 4
- TRANSPORTATION ZONE: 0716
- ADC MAP No. - 37.
- TAX ACCOUNT No. - 1800003253.
- STREET ADDRESS: 9300 PULASKI HWY., BALTIMORE, MARYLAND, 21220.
- ADJOINING STREET - MIDDLE RIVER ROAD, ± 1299'.
- THIS PROJECT IS NOT IN THE 100 YEAR FLOODPLAIN.
- PARKING: THIS PROJECT WILL NOT CREATE ADDITIONAL JOBS AT THE SITE SO NO ADDITIONAL PARKING IS PROPOSED. EXISTING PARKING IS 119 SPACES WHICH INCLUDES 4 HANDICAPPED SPACES. SEE PARKING SPACE CALCULATIONS.
- BALTIMORE COUNTY ZONING MAP (200' SCALE) 082B3.
- PETITION FOR SPECIAL HEARING DATED 22 DECEMBER 2009 DETERMINED THAT THE EXISTING FACILITY IS A PERMITTED USE IN THE ML ZONE, FACILITY IS NOT AN OIL REFINERY & IS NOT CONSIDERED A TRUCKING FACILITY. (CASE NO. 10-105-SPH, PDM #15-962)
- ZONING CLASSIFICATION - ML-AS, ML-IM.

ZONING RELIEF REQUEST

A MODIFIED PARKING PLAN PURSUANT TO BCZ SECTION 409.12.B, OR IN THE ALTERNATIVE, TO CONFIRM THAT THE PROPOSED PARKING FIELD SATISFIES THE DURABLE AND DUSTLESS REQUIREMENT OF BCZ 409.B.A.2.

FLOOR AREA RATIO CALCULATION:

SITE AREA = 11.047 AC, 481,207.32 S.F.
ADJACENT STREET AREA (30') = 0.98 AC, 42,725.04 S.F.
GROSS SITE AREA: 481,207.32 S.F. + 42,725.04 S.F. = 523,932.36 S.F.
EXIST. FLOOR AREA = 102,422 S.F.
EXIST. FLOOR AREA RATIO = 102,422/523,932.36 = 0.195

ZONING DATA: ML - MANUFACTURING LIGHT ZONE

ITEM	REQUIRED	EXISTING
MAXIMUM FLOOR AREA RATIO	2.0	0.195
MIN. FRONT YARD (FT)	50'	50'
MIN. REAR YARD (FT)	30'	30'
MIN. SIDE YARD (FT)	30'	30'
MAX. HEIGHT (FT)	UNLIMITED	44'

NOTES:

- ZONING DISTRICTS TAKEN FROM THE BALTIMORE COUNTY WEB SITE.
- THIS PROJECT DOES NOT PROPOSE ANY NEW SIGNS.

SITE ADDRESS:

9300 PULASKI HIGHWAY
BALTIMORE, MD 21220

APPLICANT:

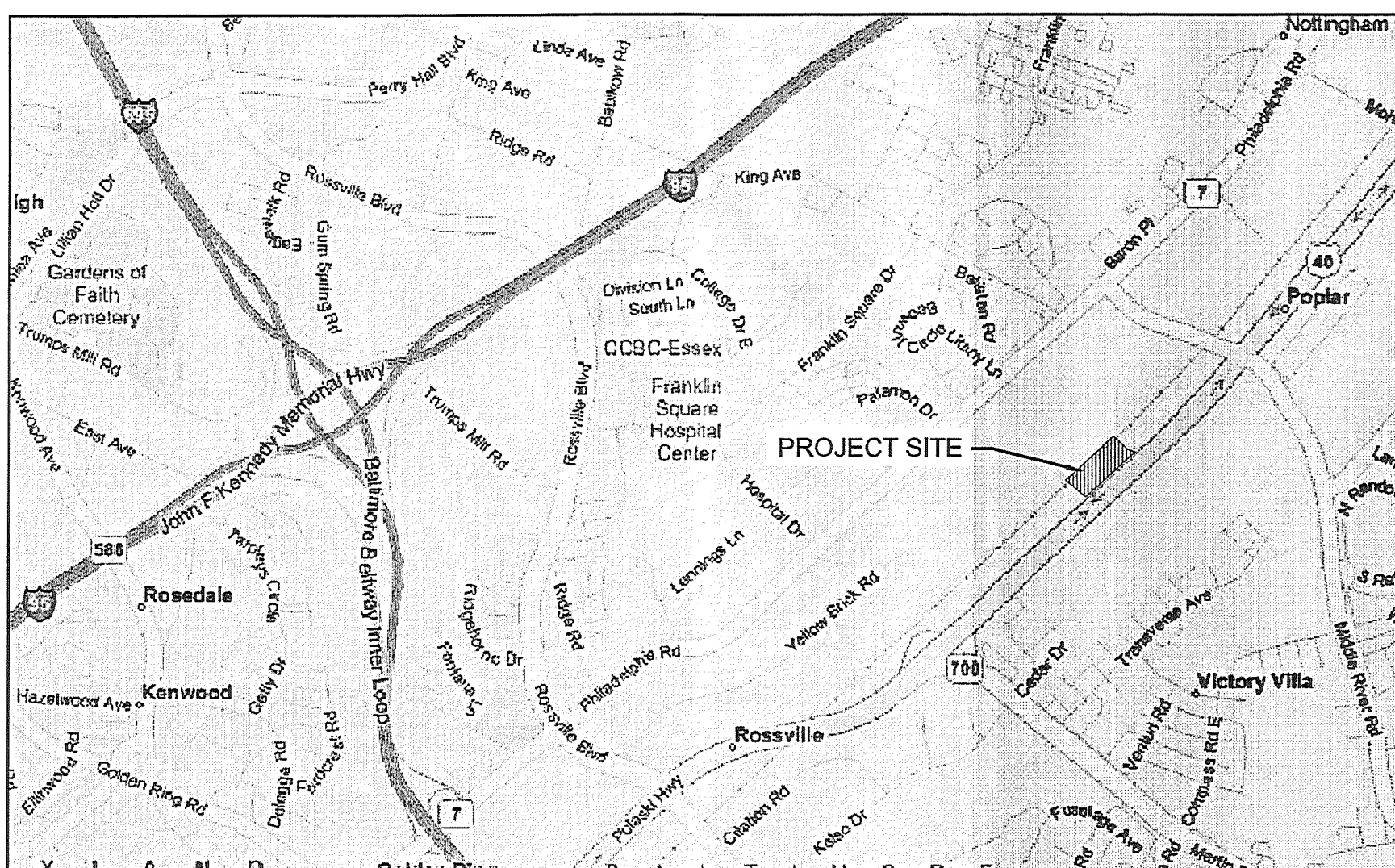
CASTROL HEAVY DUTY LUBES, INC.
9300 PULASKI HIGHWAY
BALTIMORE, MD 21220

OWNER:

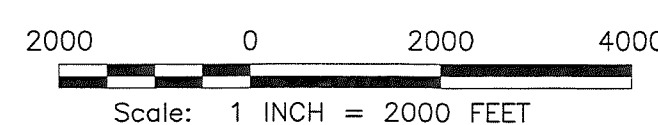
CASTROL HEAVY DUTY LUBES, INC.
9300 PULASKI HIGHWAY
BALTIMORE, MD 21220

PARKING SPACE CALCULATION:

OFFICE AREA = 13,938 SF + 31,440 = 45,378 SF
45,378/1000 = 45.378 OR 46 SPACES
MANUFACTURING AREA = 44 EMPLOYEES
44 X 1 = 44 SPACES
46 + 44 = 90 SPACES REQUIRED.

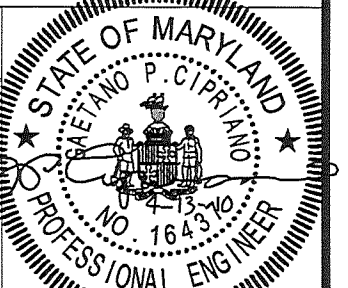


VICINITY MAP



EI ASSOCIATES
ARCHITECTS & ENGINEERS, PA
8 RIDGEDALE AVE. *CEDAR KNOLLS, NJ 07927 * (973) 775-7777

EIA PROJECT NO. EP 5526.74	DRAWN BY: TMA	DATE: 9/12/09
CIVIL	PROJECT MANAGER	DATE: 9/12/09
GAETANO P. CIPRIANO, P.E. PROFESSIONAL ENGINEER MD LICENSE 16437		



NO.	DATE	BY	REVISIONS	CKD.	APP.
B	12 APR 10	TMA	PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING	REW	GPC
A	24 SEPT 09	TMA	PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING	REW	GPC

REFERENCE DWG.	DESCRIPTION

BP Lubricants USA Inc.		DWN. BY: OEW	DATE: 23 SEPT 2009
PLAN TO ACCOMPANY PETITION FOR SPECIAL HEARING		CKD. BY: REW	DATE: 23 SEPT 2009
DRAWING TITLE SITE PLAN		ENG. TCB	DATE: 23 SEPT 2009
ZONING RELIEF REQUEST		FILE:	
LOCATION BALTIMORE, MD		SCALE: AS NOTED	
PETITIONER'S		REV. B	