

**IN RE: PETITION FOR SPECIAL
EXCEPTION**
S side of New Bengies Road,
1940 feet SW of the c/l of Earls Road
15th Election District
6th Councilmanic District
(New Bengies Road)

Ewings Enterprise, LLC
Legal Owner
Ka-Boom Industries
Contract Lessee

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY

*
*
* **Case No. 2011-0083-X**
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Exception filed by Dorothea S. Harrison-Ewing, Resident Agent, on behalf of the legal property owner, Ewing Enterprises, LLC, and Timothy M. Fitch, Member, on behalf of the contract lessee, Ka-Boom Industries. Petitioner is requesting a Special Exception pursuant to Section 256.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow for storage and sale of explosive materials to be placed on the subject property, to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, and complying with Federal Explosive Law and Regulations. The subject property and requested relief are more fully described on the two page site plan which was marked and accepted into evidence as Petitioner's Exhibits 1A and 1B.

Appearing at the requisite public hearing in support of the requested special exception use were Petitioners Timothy and Lori Fitch on behalf of Ka-Boom Industries and their daughter Jennifer Maggio, who will also be involved in the business, their attorney, Lawrence E. Schmidt, Esquire with Gildea & Schmidt, LLC, and Dorothea S. Harrison-Ewing on behalf of Ewing

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Date 11-30-16

By PM

Enterprises, LLC. Also appearing in support of the requested relief was Kenneth Wells with kjWells, Inc., the registered property line surveyor who prepared the site plan. Also appearing as interested citizens were Allen Robertson of 1608 Holly Tree Road, Ron Walper of 1123 Chester Road, and Joyce Pekarek of 129 Bengies Road.

Testimony and evidence was presented in the case by way of a proffer from Petitioner's attorney, Mr. Schmidt, and testimony provided where necessary by Mr. Fitch and Mr. Wells and revealed that the subject property is irregular shaped and contains approximately 13.125 acres, more or less, zoned MH-IM M43, which allows for the heaviest and intense manufacturing uses. The property is a largely unimproved, heavily wooded parcel located at the southeast corner of New Bengies Road, northwest of Eastern Avenue and east of Earls Road, in the Middle River area of eastern Baltimore County. The property has no prior zoning history, is not within the Chesapeake Bay Critical Area, and has had no prior permits or other previous activity.

Petitioner Timothy Fitch is a production mechanic (machinist) by profession, performing preventative and corrective maintenance support to production lines and facilitating change-overs and production line set ups. He worked for 16 years for Pepsi-Cola as a truck and trailer mechanic and is currently with Diageo Global Supply – North America as a production mechanic. Petitioner's wife, Lori Fitch, is an auditor with Care First Blue Cross/Blue Shield, and their daughter, Jennifer Maggio, works for the University of Maryland Hospital. At this juncture, Petitioners desire to enter into the explosives business and have already completed the rigorous process of becoming a licensed explosives dealer as Ka-Boom Industries under the auspices of the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (also known as "ATF").

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By [Signature]

In looking for an appropriate site for the business, Petitioners identified the subject property as being an ideal site and now desire to locate the required facility there. Mr. Schmidt explained that Section 256.2 of the B.C.Z.R. permits "explosives" in the M.H. Zone by special exception. The Zoning Regulations do not specifically define the term "explosives" in Section 101. Therefore, the term is defined according to the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. Webster's defines "explosives" as "a solid chemical compound or mixture of compounds that is used to release energy for performing work (as in blasting or propelling projectiles)." These are essentially the types of explosive materials commonly sold to construction companies for taking down buildings or blasting rock for roads, sewers or high-rise construction that Petitioners will store and distribute from the proposed facility at the subject property.

Mr. Schmidt stated that the explosives industry is an industry that -- especially in post-9/11 -- is heavily and stringently regulated by the Federal Government, which has also effectively pre-empted any kind of State regulation in the arena. The required license to sell explosives involves strict background checks, fingerprinting, and continued monitoring, and the facility in which the explosives are stored, transmitted, and sold also must meet certain criteria, including a location set back a significant distance from residential areas, rail lines, airports, and other potentially vulnerable areas. Although the subject site meets the Federal criteria, it must still ultimately be approved as a special exception use.

As shown on page 2 of the site plan, the area to be used for the storage and sale of explosives materials is relatively small -- consisting of an approximately 22,000 square foot (0.50 acre) area of disturbance -- as compared with the size of the overall property (13.125 acres). A gravel access road is proposed from New Bengies Road to the site, with a locked

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Date

11-30-10

By

jm

barbed wire fence at the entrance. This access road would lead to a storage container that resembles a sea container, but with much more reinforcement. As also depicted on the site plan, there would be a certain amount of "berming" in order to provide an "earth barricade" as required by the ATF. The size of the container would be approximately 19 feet long by 8 feet wide. The explosive materials would be manufactured elsewhere and purchased by Petitioner for storage and sale from the container.¹ The specific requirements mandated by the ATF are found at Title 18 of the United States Code ("U.S.C.") and Subtitle 27 of the Code of Federal Regulations ("C.F.R."), as well as the ATF&E Federal Explosives Law and Regulations (2007). Among other things, these regulations require a valid license and user permit, an artificial barricade with effective screening of the magazine, and stringent records of the storage history and transactions.

Mr. Wells was called upon to provide testimony regarding the special exception criteria set forth in Section 502.1 of the B.C.Z.R. He was offered and accepted as an expert in land use, zoning, and interpretation of the Zoning Regulations. Mr. Wells indicated that he had visited the site on multiple occasions, had prepared the site plan, was familiar with the federal requirements regarding storage and sale of explosives materials, and had discussions with Petitioners regarding their proposed business operation. Based on these considerations, he offered his expert opinion that the proposed use would not have any adverse effects on the 502.1 criteria above and beyond those inherently associated with such a special exception use irrespective of its location within the Zone. More particularly, he indicated that the proposed sale and storage of explosives materials in the manner described at the subject location would not: be detrimental to the health, safety or general welfare of the locality involved; tend to create congestion in roads,

¹ ATF also limits the type and amount of explosive materials that Petitioner can store and sell and regulates the size of containers and the degree of berming that is necessary. Petitioners are also subject to regular inspections by ATF.

streets or alleys therein; create a potential hazard from fire, panic or other danger; tend to overcrowd land and cause undue concentration of population; interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements; interfere with adequate light and air; be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; or be inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations.

Mr. Wells based this opinion in part on the fact that the proposed site is very isolated, as shown on the aerial photographs that were marked and accepted into evidence as Petitioner's Exhibits 2A through 2D, and the fact that there would be very little traffic generated from the site. He also based this opinion on the security proposed for the site. As required by the ATF, there will be three different types of locking mechanisms for the container door and bullet-resistant locks, there will be bars across the door at the top and bottom, and the facility will be surrounded by a barbed wire fence. Petitioner and his wife and/or daughter will visit the site at least once per week as required by ATF, and more likely two to three times per week.

Testifying as an interested citizen was Allen Robertson. Mr. Robertson is with the Essex-Middle River Civic Council and the Bowleys Quarters Community Association. He understands that the subject site may be an appropriate location for Petitioner's business at the present time, but he is very concerned about the future based on the proposed 2020 Master Plan, which has identified the area as an intensely developable area, and that this should be taken into consideration in the present case. He also believes there should be more communication between County agencies as to the inconsistencies between proposed/permitted uses in the Regulations and the proposed Master Plan when it comes to matters that truly could impact the

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By [Signature]

health, safety, and welfare of the area such as Petitioner's proposed use. Ms. Pekarek also expressed concern because she and her family live relatively close to the subject site and she is worried for times when her kids might be riding their bicycles along Bengies Road and just the general uncertainty, whether real or perceived, of living in proximity to an explosives storage facility.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated September 27, 2010 which indicates that they defer to the Bureau of Alcohol, Tobacco, Firearms and Explosives as the regulating agency responsible for a recommendation regarding the appropriateness of this site for this use and compliance with all applicable Federal regulations. Comments were received from the Department of Environmental Protection and Resource Management dated October 12, 2010 which indicates the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains, and must comply with the Forest Conservation Regulations. Comments were received from the Fire Marshal's Office dated September 9, 2010 which indicates that the Petitioner must comply with all applicable parts of the Baltimore County Fire Prevention Code, Council Bill 48-10 prior to occupancy or the beginning of operation.

In considering the special exception, I am governed by the criteria set forth in Section 502.1 of the B.C.Z.R. and the relevant case law. The appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its

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Date

11-30-10

jm

By

location within the zone. *See, Schultz v. Pritts*, 291 Md. 1 (1981) and *People's Counsel v. Loyola College in Maryland*, 406 Md. 54 (2008).

Based on the testimony and evidence presented, I am persuaded to grant the requested special exception. First, as a threshold matter, I believe Petitioner's proposed use of a portion of the property for the sale and storage of explosive materials falls within the term "explosives" as a use permitted in the M.H. Zone by special exception pursuant to Section 256.2 of the B.C.Z.R. Further, I am persuaded that Petitioner has met the burden of proof required to demonstrate that the proposed use meets the special exception criteria set forth in Section 502.1 of the B.C.Z.R. Petitioner presented in-depth and expert testimony concerning the property, Petitioner's proposed business and use, the requirements mandated by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and Petitioner's compliance, the safety and security measures that will be implemented, and the potential impact that the proposed use would have on the health, safety and general welfare of the locale. After considering this testimony, I am persuaded that the proposed use, while certainly raising questions and concerns based on its perceived -- if not actual -- danger, can exist at the subject site with proper regulation and monitoring by the ATF. Thus, while I can appreciate the concerns of nearby civic associations and those living in the general vicinity of the subject property, I am compelled to grant the requested special exception to use the portion of the property delineated on the site plan for storage and sales of explosive materials, as regulated and limited by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives. It is also important to note that in response to an email inquiry dated September 29, 2010 from People's Counsel to the Baltimore County Police Department, Chief James W. Johnson indicated in his email reply dated October 6, 2010 that his staff had reviewed

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By pm

Petitioner's request and that Petitioner "... appears to be a legitimate firm that intends to meet and exceed all regulations and restrictions governing such a business and storage of materials."

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 30th day of November, 2010 that Petitioner's request for a Special Exception pursuant to Section 256.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow for storage and sale of explosive materials to be placed on the subject property, to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, and complying with Federal Explosive Law and Regulations, be and is hereby **GRANTED** in accordance with the site plan accepted into evidence as Petitioner's Exhibit 1, and subject to the following which are conditions precedent to the relief granted herein:

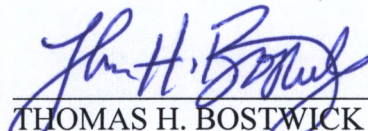
1. Petitioner may apply for his necessary building or use permits, as applicable, and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).
3. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
4. Petitioner must comply with all applicable parts of the Baltimore County Fire Prevention Code, Council Bill 48-10 prior to occupancy or the beginning of operation.
5. Petitioner shall continuously maintain and be in compliance with any and all licensing and regulatory requirements of the local, State and Federal Government in the

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By PZ

storage, distribution, and sale of explosives materials, including the requirements mandated by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and set forth in Title 18 of the United States Code and Subtitle 27 of the Code of Federal Regulations, as well as the ATF&E Federal Explosives Law and Regulations (2007), and shall make the premises available for inspections as necessary to fulfill and demonstrate compliance with those requirements.

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING

Date 11-30-10

By 



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

November 30, 2010

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Special Exception
Case No. 2011-0083-X
Property: New Bengies Road

Dear Mr. Schmidt:

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

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

Sincerely,

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

Enclosure

c: Kenneth Wells, KJ Wells Inc., 7403 New Cut Road, Kingsville MD 21087
Timothy and Lori Fitch, KaBoom Industries, 1138 Greenway Road, Cockeysville MD 21030
Dorthea S. Harrison-Ewing, Ewings Enterprises LLC, 151 Bengies Road, Baltimore MD 21220
Mike Eney, 714 Old Home Road, Baltimore MD 21206
Jennifer Maggio, 517 Carrollwood Road, Baltimore MD 21220
Allen Robertson, 1608 Holly Tree Road, Middle River MD 21220
Ron Walper, 1123 Chester Road, Middle River MD 21220
Joyce Pekarek, 129 Bengies Road, Middle River 21220



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at New Bengics Road

which is presently zoned MH-IM M43

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

1. Per BCZR Section 256.2 to allow for storage and sale of explosive materials to be placed on the subject property to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives complying with Federal Explosive Law and Regulations.

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

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

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

Contract Purchaser/Lessee:

Ka-Boom Industries, Timothy M. Fitch, Member

Name - Type or Print

Signature

1138 Greenway Road

Address

Telephone No.

Cockeysville,

City

MD
State

21030
Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

Signature

Gildea & Schmidt, LLC

Company

600 Washington Avenue, Suite 200

Address

410-821-0070

Telephone No.

Towson,

City

MD
State

21204
Zip Code

Legal Owner(s):

Ewings Enterprises, LLC

Name - Type or Print

Signature

Dorothea S. Harrison-Ewing, Resident Agent

Name - Type or Print

Signature

151 Bengics Road

Address

Telephone No.

Baltimore,

City

MD
State

21220-2103
Zip Code

Representative to be Contacted:

Sebastian A. Cross

Name

600 Washington Avenue, Suite 200

Address

410-821-0070

Telephone No.

Towson,

City

MD
State

21204
Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By ru

Date

8/26/10

Case No. 2011-0083-X

REV 09/15/98

ORDER RECEIVED FOR FILING

Date

11-30-10

By

ps

kjWellsInc
Land Surveying and Site Planning

Telephone: (410) 592-8800
Fax: (410) 817-4055
Email: kwells@kjwellsinc.com

7403 New Cut Road
Kingsville, Md. 21087-1132

Zoning Description
Part of Portion of First Parcel of Plat Two
Baltimore Crossroads @ 95
15th Election District 6th Councilmanic District

August 17, 2010

Beginning at a point on the south side of New Bengies Road which is 80 feet wide at a distance of approximately 1,940 feet southwest from the centerline of Earl's Road which has a variable width.

Being a part of that parcel of land described as "Portion of First Parcel" as shown on a plat entitled "Plat 2 Baltimore Crossroads @ 95" as recorded among the Land Records of Baltimore County in Plat Book 71 folio 114 containing 571,725 square feet or 13.125 acres of land more or less.



**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: 2011-083-X
Petitioner: Ewings Enterprises
Address or Location: New Benges Road

PLEASE FORWARD ADVERTISING BILL TO:

Name: Gildea + 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. 59589

Date: 8/26/10

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				380.00

Total: 380.00

Rec From: Gilbert Schardt

For: Ensigns
New Bedford Rd

2011-0083-X

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No.: 2011-0083-X

Petitioner/Developer: KA-Boom Industries

Crown Castle, USA

Date of Hearing/Closing: Nov. 4 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: New Bengies Road

The sign(s) were posted on October 20 2010
(Month, Day, Year)

Sincerely,

Robert Black October 21 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 #2011-0083-X

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

Room 106, County Office Building
PLACE: 111 WEST CHESAPEAKE AVENUE, Towson 21204

DATE AND TIME: THURSDAY, NOVEMBER 4, 2010 AT 10:00 A.M.

REQUEST: SPECIAL EXCEPTION TO ALLOW FOR STORAGE AND
SALE OF EXPLOSIVE MATERIALS TO BE PLACED ON THE SUBJECT
PROPERTY TO BE APPROVED BY THE U.S. DEPARTMENT OF JUSTICE,
BUREAU OF ALCOHOL, TOBACCO & FIREARMS AND EXPLOSIVE COMPLEX,
AND WITH FEDERAL EXPLOSIVE LAW AND REGULATIONS

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

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: # 2011-0083-X

New Bengles Road

S/side of New Bengles Road, 1940 +/- feet s/west of the centerline of Earls Road

15th Election District - 6th Councilmanic District

Legal Owner(s): Ewings Enterprises, LLC

Contract Purchaser: Ka-Boom Industries

Special Exception: to allow for storage and sale of explosive materials to be placed on the subject property to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco & Firearms and explosive complying with Federal Explosive Law and Regulations.

Hearing: Thursday, November 4, 2010 at 10:00 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.

JT/10/718 Oct. 19

258323

CERTIFICATE OF PUBLICATION

10/21/, 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 10/19/, 2010.

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

J. Wilkinson

LEGAL ADVERTISING



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

October 26, 2010

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

Dear: Sebastian Cross

RE: Case Number 2011-0083-X, New Bengies Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 26, 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
Dorothea S. Harrison: Ewings Enterprises, LLC; 151 Bengies Rd.; Baltimore, MD 21220
Timothy M. Fitch: Ka-Boom Industries; 1138 Greenway Rd.; Cockeysville, MD 21030

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: September 13, 2010

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

SUBJECT: Zoning Advisory Committee Meeting
For September 20, 2010
Item No.: 2011-083

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

We have no objection to granting the requested exception; however, it should be noted on the plan if the magazine will be fenced. And if so, the type, size and location of the fence should be shown.

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC - Comments\ZAC-ITEM NO 2011-083-09202010.doc

TB 11-4 10Am

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: September 27, 2010

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

SUBJECT: New Bengies Road

RECEIVED

INFORMATION:

SEP 27 2010

Item Number: 11-083

Petitioner: Ewings Enterprises, LLC

ZONING COMMISSIONER

Zoning: MH-IM and M43

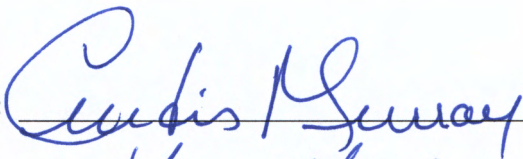
Requested Action: Special Exception

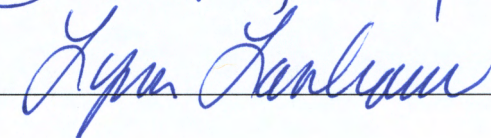
SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request for Special Exception from Section 256.2 of the BCZR to allow for storage and sale of explosive materials to be placed on the subject property.

The Office of Planning defers to the Bureau of Alcohol, Tobacco, Firearms and Explosives as the regulating agency responsible for a recommendation regarding the appropriateness of this site for this use and compliance with all applicable federal regulations.

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

Prepared by: 

Division Chief: 
AFK/LL: CM

TB 11-4 10Am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

OCT 12 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination

DATE: October 12, 2010

SUBJECT: Zoning Item # 11-083-X
Address New Bengies Road
(Ewings Enterprise, LLC Property)

Zoning Advisory Committee Meeting of September 6, 2010.

- X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
- X Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).
- X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: Regina Esslinger

Date: October 6, 2010



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

September 9 , 2010

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

ATTENTION: Zoning Review

Distribution Meeting of: **September 6, 2010**

Item No.:

Special Exception: 2011-0083X

Special Hearing: 2011-0088SPH

Comments:

The above case numbers shall comply with all applicable parts of the **Baltimore County Fire Prevention Code, Council Bill 48-10** prior to occupancy or the beginning of operation.

Don W. Muddiman, Acting Lieutenant
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
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: SEPT. 8, 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. 2011-0083-XX
EWINGS ENTERPRISE, LLC
NEW BENGLES RD
SPECIAL EXCEPTION

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0083-XX.

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 "Steven D. Foster".

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 SPECIAL EXCEPTION * BEFORE THE
New Bengies Road; S/S New Bengies Road, * ZONING COMMISSIONER
1940' SW of c/line of Earls Road *
15th Election & 6th Councilmanic Districts *
Legal Owner(s): Ewings Enterprise, LLC * FOR
Contract Purchaser(s): Ka-Boom Enterprises *
Petitioner(s) * BALTIMORE COUNTY
* 2011-083-X

* * * * *

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

SEP 17 2010

KL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 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

Maryland Department of Assessments and Taxation
Real Property Data Search (vw5.1)
BALTIMORE COUNTY

Account Identifier:

District - 15 Account Number - 2400011173

Owner Information

Owner Name: EWINGS ENTERPRISES LLC

Use:

Principal Residence:

Mailing Address: 151 BENGIES RD
BALTIMORE MD 21220-2103

Deed Reference:

Location & Structure Information

Premises Address

NEW BENGIES RD

Legal Description

13.125 PORTN 1ST PAR
NEW BENGIES RD SS
BALTIMORE CROSSROADS

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area
83	14	147						3

Special Tax Areas

Town
Ad Valorem
Tax ClassPrimary Structure Built
0000

Enclosed Area

Property Land Area
13.13 AC

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	328,200	310,100		
Improvements:	0	0		
Total:	328,200	310,100	310,100	310,100
Preferential Land:	0	0	0	0

Transfer Information

Seller: MIDDLE RIVER BUSINESS

Date: 08/08/2006

Price

Type: NOT ARMS-LENGTH

Deed1: /24273/ 597

Deed

Seller:

Date:

Price

Type:

Deed1:

Deed

Seller:

Date:

Price

Type:

Deed1:

Deed

Exemption Information

Partial Exempt Assessments	Class	07/01/2010	0
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO

Special Tax Re

Exempt Class:

* NONE

CASE NAME KA-Boom
CASE NUMBER 2011-0003-X
DATE

CASE NAME KA-Boom
CASE NUMBER 2011-0003-X
DATE

[illegible]

CASE NAME KA BOOM
CASE NUMBER 2011-0083-X
DATE _____

[illegible]

Case No.: 2011-0083-X

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan	
No. 2 A-D	photography (aerial) of subject property	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

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

October 1, 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: 2011-0083-X

New Bengies Road

S/side of New Bengies Road, 1940 +/- feet s/west of the centerline of Earls Road

15th Election District – 6th Councilmanic District

Legal Owners: Ewings Enterprises, LLC

Contract Purchaser: Ka-Boom Industries

Special Exception to allow for storage and sale of explosive materials to be placed on the subject property to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco & Firearms and explosive complying with Federal Explosive Law and Regulations.

Hearing: Thursday, November 4, 2010 at 10:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: Sebastian Cross, 600 Washington Avenue, Ste. 200, Towson 21204
Dorothea Harrison, Ewings Enterprise, 151 Bengies Road, Baltimore 21220
Timothy Fitch, Ka-Boom, 1138 Greenway Road, Cockeysville 21030

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, OCTOBER 20, 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
Tuesday, October 19, 2010 Issue - Jeffersonian

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

410-821-0070

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2011-0083-X

New Bengies Road

S/side of New Bengies Road, 1940 +/- feet s/west of the centerline of Earls Road

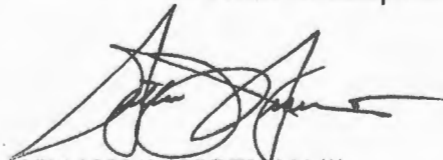
15th Election District – 6th Councilmanic District

Legal Owners: Ewings Enterprises, LLC

Contract Purchaser: Ka-Boom Industries

Special Exception to allow for storage and sale of explosive materials to be placed on the subject property to be approved by the U.S. Department of Justice, Bureau of Alcohol, Tobacco & Firearms and explosive complying with Federal Explosive Law and Regulations.

Hearing: Thursday, November 4, 2010 at 10:00 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.

Thomas Bostwick - Re: Zoning petition for storage and sale of explosive materials

From: James Johnson
To: Zimmerman, Peter
Date: 10/06/10 1:16 PM
Subject: Re: Zoning petition for storage and sale of explosive materials

Mr. Zimmerman,

My staff has reviewed this petition for special exemption. The applicant appears to be a legitimate firm that intends to meet and exceed all regulations and restrictions governing such a business and storage of materials.

If I can be of any further assistance, please don't hesitate to contact me.

Sincerely,

Chief James W. Johnson

Chief James W. Johnson
Office of the Chief
Baltimore County Police Department
700 East Joppa Road
Towson, Maryland 21286-5501
410-887-2200, Fax: 410-887-4958
E-mail: jwjohnson@baltimorecountymd.gov

>>> Peter Zimmerman 9/29/10 2:35 PM >>>

Dear Chief Johnson,

As you know, our office of People's Counsel monitors and reviews zoning petitions.

There was recently filed a petition for special exception to allow storage and sale of explosive materials -- to be approved by the US Justice Department ATF division. The location is New Bengies Road, southwest of Earls Road. The Case Number is 11-83-X. The lessee or contract purchaser is "Ka-Boom Enterprises."

A copy of the petition is attached. There is no hearing date yet set before the Zoning Commissioner.

It occurred to me that your department might be interested in reviewing this proposal. We would welcome any comment if you feel it is appropriate.

Sincerely,

Peter Max Zimmerman
People's Counsel for Baltimore County



815

NE 6-J

NE 6-K

Lot # 5

Pt. Bk./Folio # 078484

Pt. Bk. 78, Folio 484

2500006093

BALTIMORE CROSSROADS @ 95 (PDM File/Project # LIM 02076)

PDM # 150788

Pt. Bk./Folio # 078053

Pt. Bk. 78, Folio 53

2500000180
11505 Lot # 2

083B3

BENGIES RD

2400011177 Pt. Bk. 77, Folio 114

Pt. Bk./Folio # 077114

2400011173

1519480153

6 CD

MH IM.M43

15 ED

NE 5-J

NE 5-K

Pt. Bk./Folio # MP98143

150729275 PDM # 150729

151

1505930090

ROAD

1515640111

DR 5.5

131

1503230180

1518101740

1600003778

1502653260

1600003779

129

1518101730

125

1518472350

1502653680

1504000850

Lot # 1

Pt. Bk. 78, Folio 54

2500000182

091B1

Pt. Bk./Folio # 078054

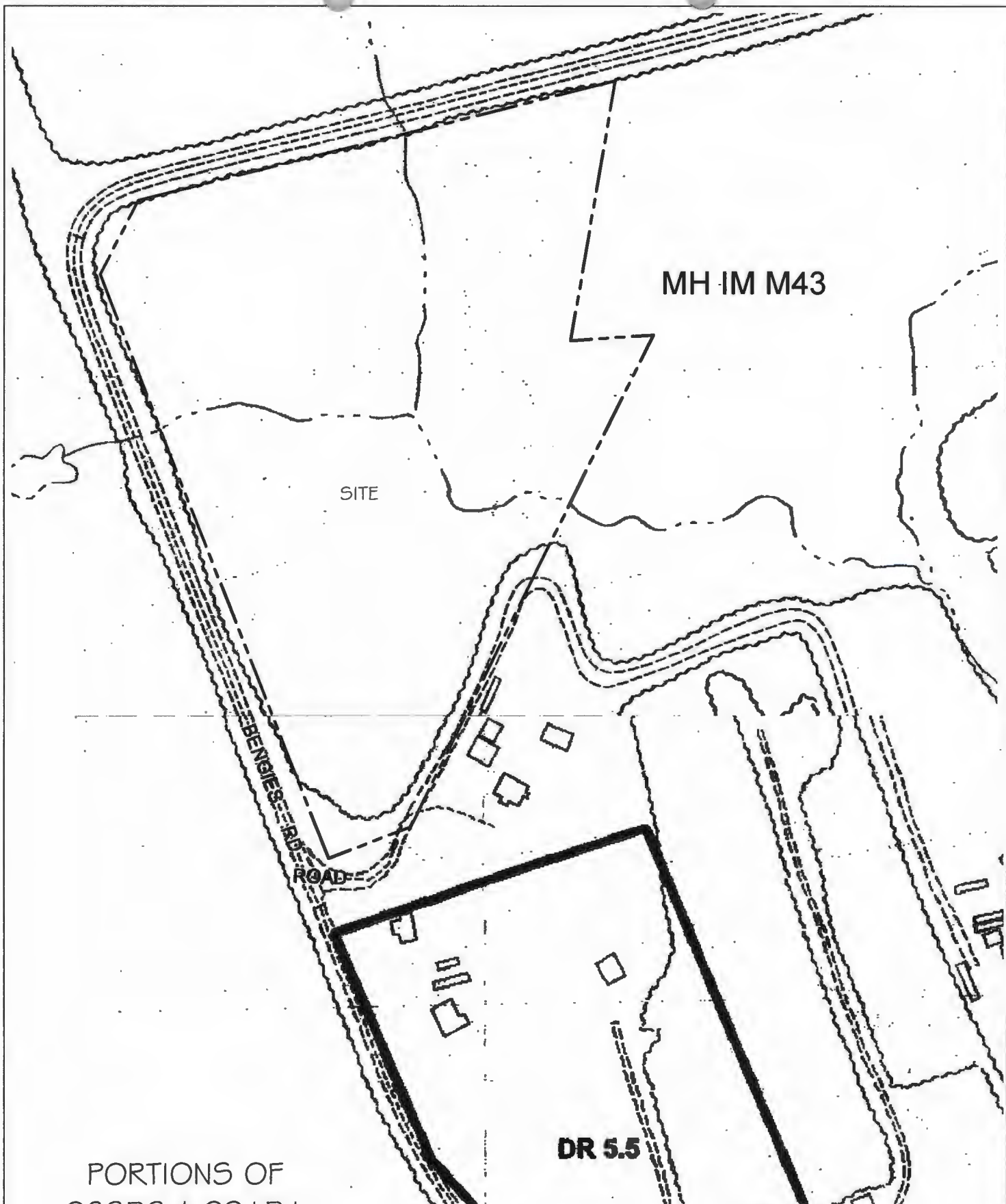
Map #
083B3
+
091B1

19880083

DR 5.5

ML²IM
11606

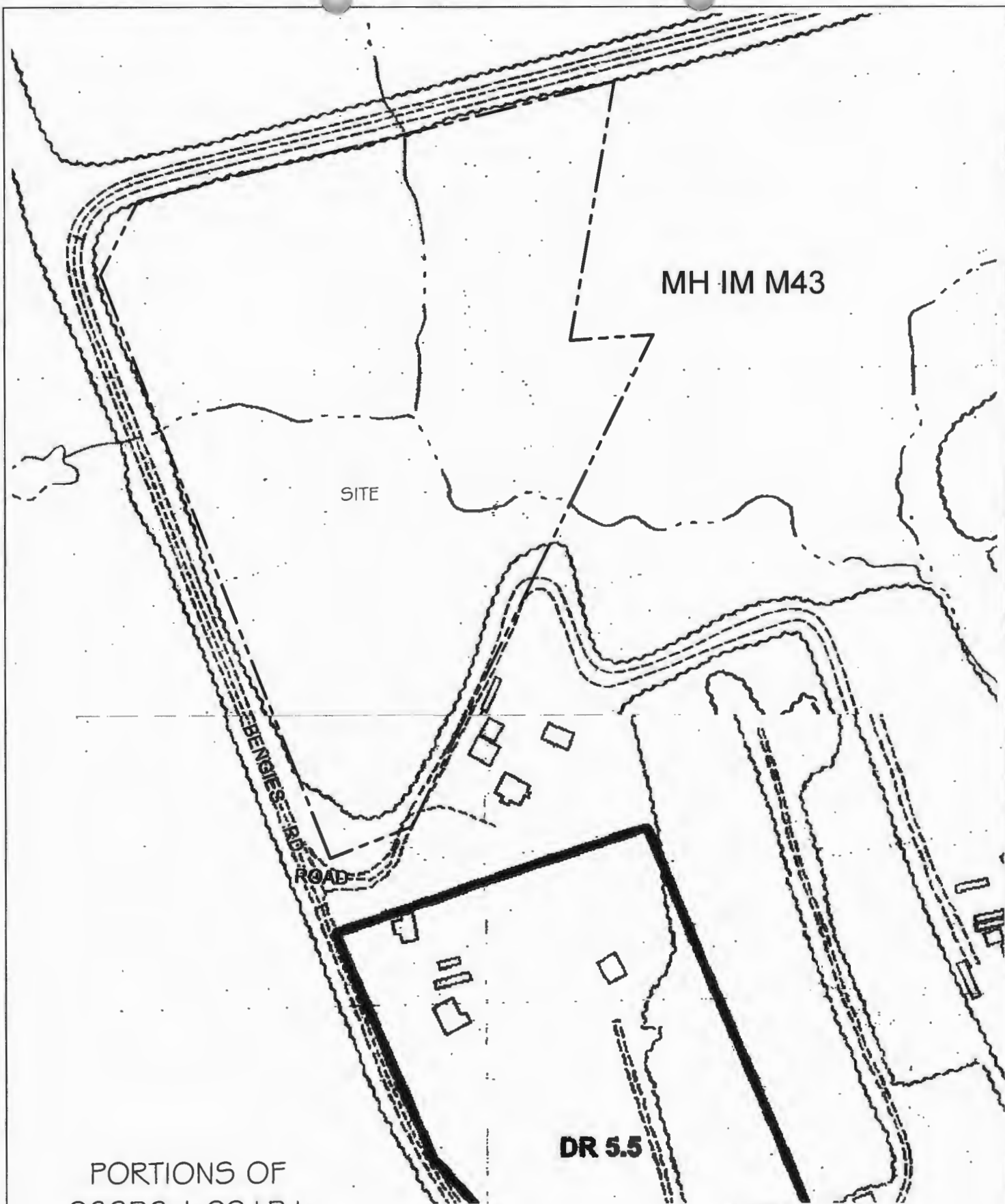
2011-0083-X



PORTIONS OF
083B3 & 091B1
200 SCALE
ZONING MAP

kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

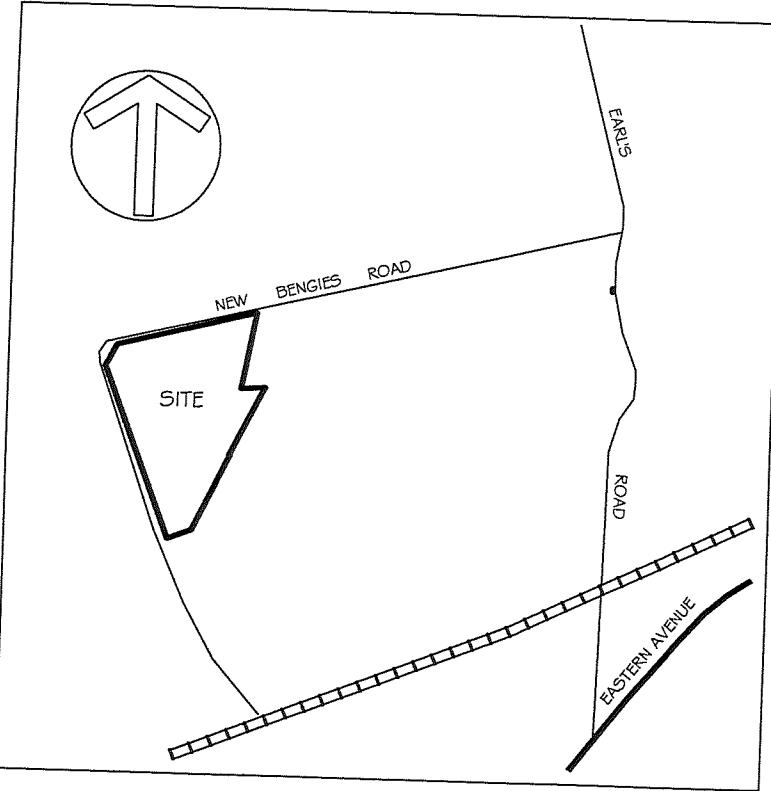
2011-0083-X



PORTIONS OF
083B3 & 091B1
200 SCALE
ZONING MAP

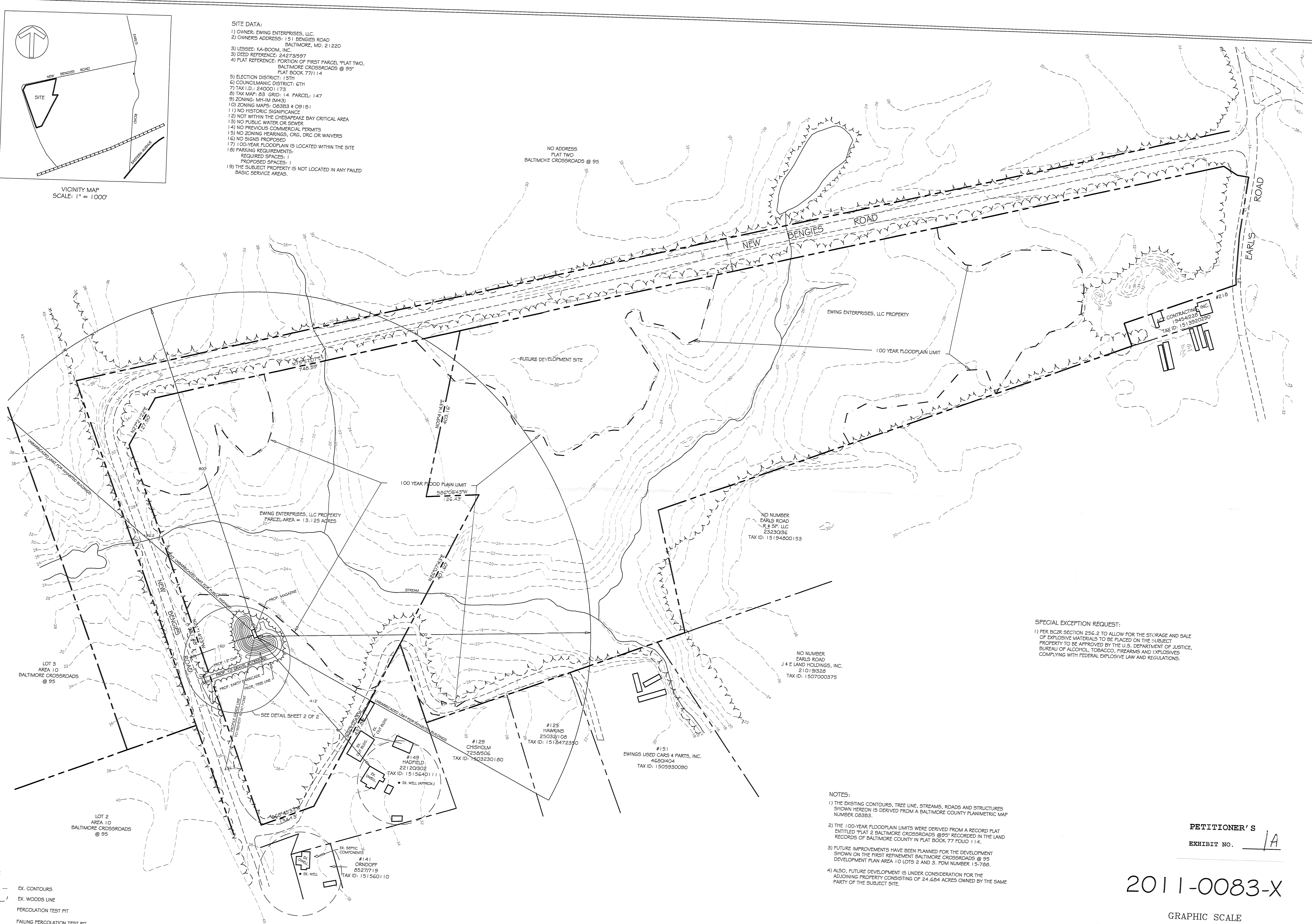
kjWellsInc
Land Surveyors & Site Planners
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

2011-0083-X



VICINITY MAP
SCALE: 1" = 1000'

- SITE DATA:
- 1) OWNER: EWING ENTERPRISES, LLC.
 - 2) OWNER'S ADDRESS: 151 BENGIES ROAD, BALTIMORE, MD. 21220
 - 3) LESSEE: KA-BOOM, INC.
 - 3) DEED REFERENCE: 24273/597
 - 4) PLAT REFERENCE: PORTION OF FIRST PARCEL 'PLAT TWO, BALTIMORE CROSSROADS @ 95' PLAT BOOK 77/114
 - 5) ELECTION DISTRICT: 15TH
 - 6) COUNCILMANIC DISTRICT: 6TH
 - 7) TAX I.D.: 240001173
 - 8) TAX MAP: 83 GRID: 14 PARCEL: 147
 - 9) ZONING: MH-M (M43)
 - 10) ZONING MAPS: O83B3 & O91B1
 - 11) NO HISTORIC SIGNIFICANCE
 - 12) NOT WITHIN THE CHESAPEAKE BAY CRITICAL AREA
 - 13) NO PUBLIC WATER OR SEWER
 - 14) NO PREVIOUS COMMERCIAL PERMITS
 - 15) NO ZONING HEARINGS, CRG, DRC OR WAIVERS
 - 16) NO SIGNS PROPOSED
 - 17) 100-YEAR FLOODPLAIN IS LOCATED WITHIN THE SITE
 - 18) PARKING REQUIREMENTS:
REQUIRED SPACES: 1
PROPOSED SPACES: 1
 - 19) THE SUBJECT PROPERTY IS NOT LOCATED IN ANY FAILED BASIC SERVICE AREAS.

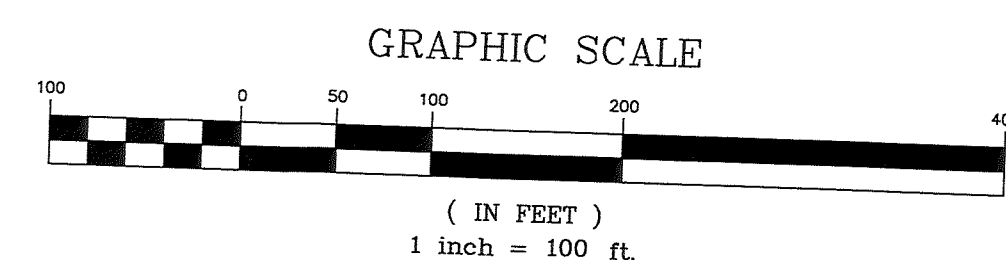


SPECIAL EXCEPTION REQUEST:
1) PER BC2R SECTION 25G.2 TO ALLOW FOR THE STORAGE AND SALE OF EXPLOSIVE MATERIALS TO BE PLACED ON THE SUBJECT PROPERTY TO BE APPROVED BY THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES COMPLYING WITH FEDERAL EXPLOSIVE LAW AND REGULATIONS.

- NOTES:
- 1) THE EXISTING CONTOURS, TREE LINE, STREAMS, ROADS AND STRUCTURES SHOWN HEREON IS DERIVED FROM A BALTIMORE COUNTY PLANIMETRIC MAP NUMBER O83B3.
 - 2) THE 100-YEAR FLOODPLAIN LIMITS WERE DERIVED FROM A RECORD PLAT ENTITLED 'PLAT 2 BALTIMORE CROSSROADS @ 95' RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK 77 FOLIO 114.
 - 3) FUTURE IMPROVEMENTS HAVE BEEN PLANNED FOR THE DEVELOPMENT SHOWN ON THE FIRST REFINEMENT BALTIMORE CROSSROADS @ 95 DEVELOPMENT PLAN AREA 10 LOTS 2 AND 3. FDM NUMBER 15-788.
 - 4) ALSO, FUTURE DEVELOPMENT IS UNDER CONSIDERATION FOR THE ADJOINING PROPERTY CONSISTING OF 24.684 ACRES OWNED BY THE SAME PARTY OF THE SUBJECT SITE.

PETITIONER'S
EXHIBIT NO. 1A

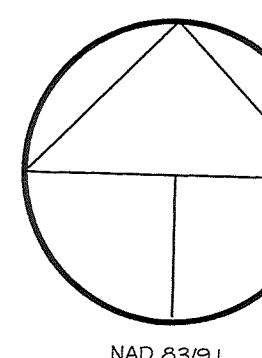
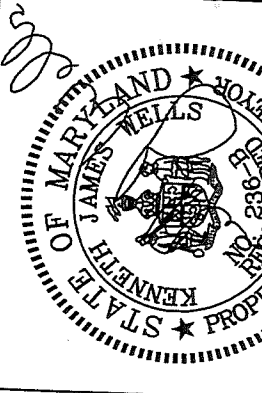
2011-0083-X



END:

- EX. CONTOURS
EX. WOODS LINE
PERCOLATION TEST PIT
FAILING PERCOLATION TEST PIT

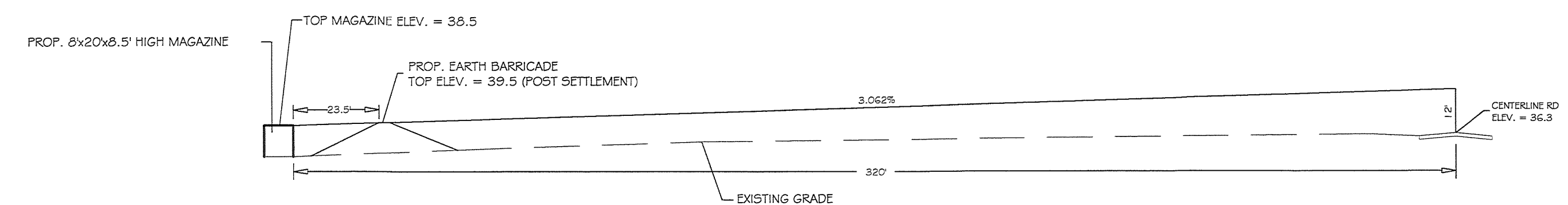
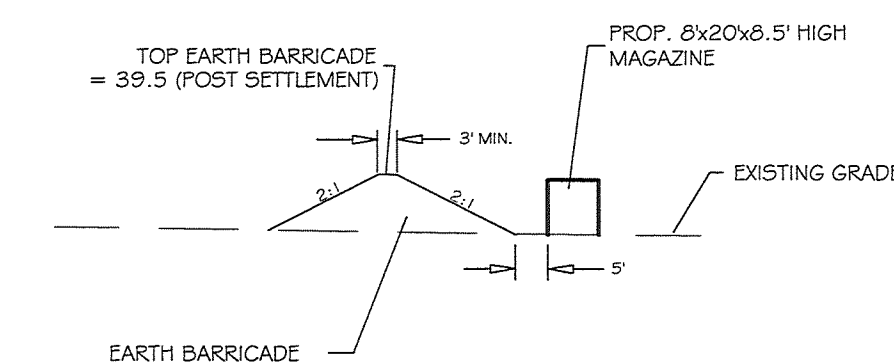
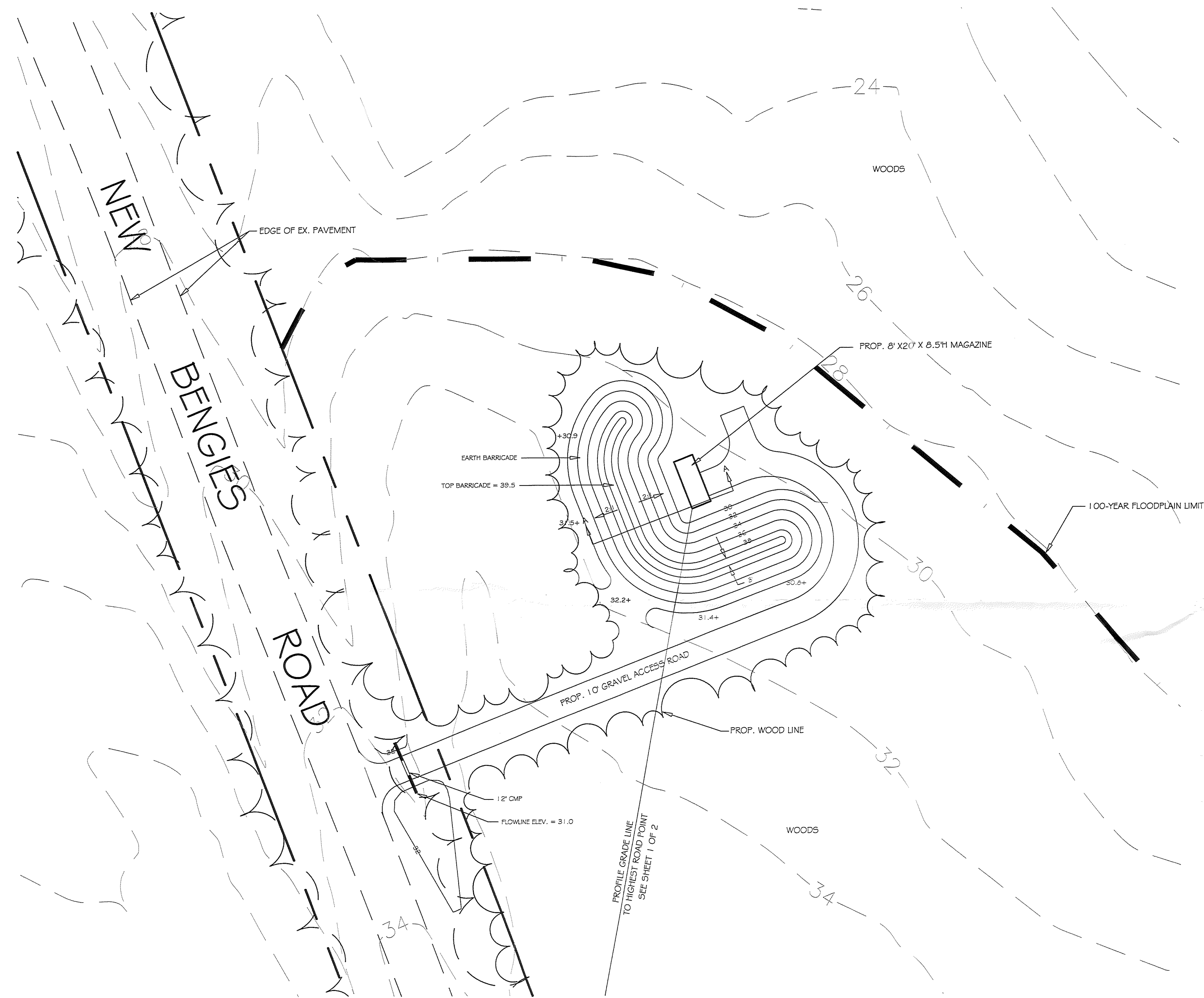
kjwellsinc
7403 NEW CUT ROAD
KINGSTOWN, MARYLAND 21087
(410) 592-8800



REVISIONS:
NO. DATE

PLAN TO ACCOMPANY A PETITION
FOR A SPECIAL EXCEPTION
EWING ENTERPRISES, LLC PROPERTY
NEW BENGIES ROAD
BALTIMORE COUNTY
MARYLAND
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 7/21/2010
PROJECT NO.:
2010-016
SHEET 1 OF 2



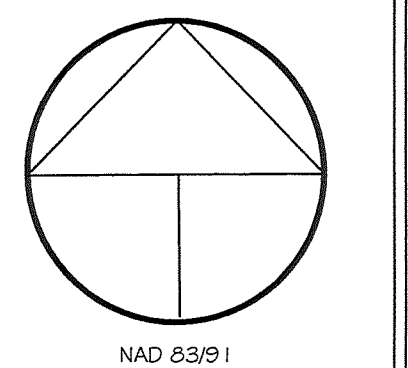
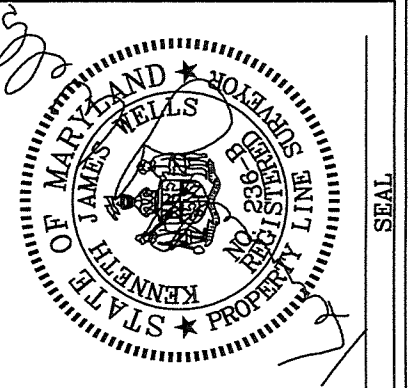
2011-0083-X

PETITIONER'S

EXHIBIT NO. 1B

kjWellsInc
7403 NEW CUT ROAD
KINGSVILLE, MARYLAND 21087
(410) 592-8800

Land Surveying & Site Planning



REVISIONS:	
NO.	DATE

PLAN TO ACCOMPANY A PETITION
FOR A SPECIAL EXCEPTION
EWINGS ENTERPRISES, LLC PROPERTY
NEW BENGIES ROAD
BALTIMORE COUNTY
MARTLAND
5TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 7/21/2010
PROJECT NO.: 2010-016
SHEET 2 OF 2