

IN RE: PETITION FOR SPECIAL EXCEPTION *

SE/S of Pulaski Highway, 150' SW of the
C/line of Rossville Boulevard

(8733 Pulaski Highway)

15th Election District

7th Council District

TD Bank, NA, *Legal Owners*

Entourage Ventures, LLC,

Contract Purchasers

Petitioners

BEFORE THE

ZONING COMMISSIONER

OF

BALTIMORE COUNTY

Case No. 2011-0149-X

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by Petitioner/Contract Purchaser, Entourage Ventures, LLC, through its attorney, Gildea and Schmidt, LLC. The Petition was also executed by the property owner, TD Bank, NA. Petitioner requested a special exception to approve a drive-in restaurant, pursuant to Section 236.2 of the Baltimore County Zoning Regulations (B.C.Z.R.). The subject property and requested relief are more fully described on the site plan and colorized plan, which were marked and accepted into evidence as Petitioners' Exhibits 1 and 2.

Appearing at the requisite public hearing in support of the request was Thom Behrle, authorized representative for Entourage Ventures, LLC. The Petitioner was represented by Jason T. Vettori, Esquire, with Gildea & Schmidt, LLC. Also present at the hearing was Joseph J. Ucciferro, P.E., with Bohler Engineering, Inc., the civil engineers/land development consultants who prepared the plan. David K. Gildea, Esquire and Sara Behrle were also present. The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Melissa R. Sadowski, Business Development Representative, from the Baltimore County

ORDER RECEIVED FOR FILING

Date

12-15-10

By

123

Department of Economic Development, also appeared and participated in support of the project. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the 1.017 acre (44,300.52 square feet) property is split-zoned B.R.-A.S. and B.M.-I.M. and located in the Rosedale area of eastern Baltimore County, on the south side of Pulaski Highway, west of Rossville Boulevard, and known as 8733 Pulaski Highway. The surrounding area is made up of predominantly industrial and commercial uses. Petitioners' Exhibit 4 is an aerial zoning map which identifies the subject property and surrounding zoning classifications.

The prior use of the property was a motel, known as the "Christlen Motel." This use, which dates back to the 1950's, was previously identified as dilapidated and in need of replacement by a higher and better use along this employment corridor. Commerce Bank proposed the construction of a bank on the subject property. However, zoning relief was required. A Petition for Special Hearing, Case No. 08-321-SPH, was filed. The undersigned granted a waiver of floodplain regulations in order to construct the bank, conditioned upon the Department of Public Works' comments as outlined in the Order, dated March 4, 2008. See Petitioners' Exhibit 10. While the property was razed for construction of the bank, it was never built. As such, the parcel is currently vacant.

Petitioner now seeks to improve the property and make an investment in the Rosedale area. Entourage Ventures, LLC proposes to improve the site with a Sonic drive-in restaurant. The petition before me is for an approximate 1,728 square foot enclosed retail space. As the development is classified as a "drive-in restaurant," it requires a special exception. It should be noted that this special exception would not be necessary if the Sonic was predominantly a "drive-through" restaurant (per B.C.Z.R. Sections 230.1.A.4 and 236.1.A).

B.C.Z.R. Section 101.1 defines "drive-in restaurant" as "[a] retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles." The codification of the definition of "drive-in restaurant" and the inclusion of this use is one necessitating special exception approval first and occurred in Bill No. 40-1967 – Petitioners' Exhibit 5. The drive-in restaurant use again appeared in Bill No. 85-1967 – Petitioners' Exhibit 6.

The drive-in restaurant is not a common use. It conjures up images from an era long gone (i.e., the famed movie "Grease"). Sonic was formed in the Midwest. It currently has approximately 3,544 facilities in the United States. The instant development marks an investment of approximately \$2.5 million and the creation of approximately 110 jobs upon completion. Sonic is classified as a drive-in restaurant because food and beverages are sold to a substantial extent for consumption by customers in parked motor vehicles. As demonstrated by Petitioners' Exhibits 2 and 3, a rendered site plan and elevations, respectively, food is ordered from canopy covered parking spaces and delivered to parked cars by individuals. The individuals who deliver the food and beverages have the option of wearing roller skates. The proposed operation is substantially the same as other fast-food operations in Baltimore County and Rosedale. Again, fast-food restaurants are permitted by right in the underlying zone. Furthermore, the proposed use meets all bulk regulations including setbacks and drive aisles. The Director of the Department of Economic Development submitted a letter of support for the proposed use. See Petitioners' Exhibit 9. This capital investment and improvement to an aged commercial corridor is the type of revitalization desired by Baltimore County.

The Office of Planning and the Department of Public Works provided ZAC comments with substantive issues which bear addressing. See Petitioners' Exhibits 8 & 11, respectively.

Planning noted and Mr. Ucciferro confirmed that the proposed use meets the criteria listed in Section 502.1 of the B.C.Z.R. as interpreted by the Court of Appeals in *People's Counsel for Baltimore County vs. Loyola College* 406 Md. 54. However, Planning recommended three (3) conditions for approval. First, Planning requested that the Petitioners provide an additional means of ingress/egress. Second, Planning requested that a landscape plan be submitted. Third, Planning requested that the Petitioners provide sidewalks and a pedestrian connection to the main entrance of the building if no sidewalk exists on Pulaski Highway. The Petitioners agreed to satisfy conditions 2 & 3. However, the Petitioner indicated that it was not feasible to provide a second means of access. There does not appear to be a development regulation whereby two (2) means of ingress/egress are required. Additionally, there is a retaining wall which runs along much of the southwestern property boundary, the location Planning suggested for the second means of access. The property also lies in a 100-year floodplain as more fully discussed below. Even if Petitioners were able to overcome the practical difficulty in providing a second means of access, the Petitioners outlined the efforts which were made to obtain a second means of access to the site, and I am satisfied that it is not feasible. It is also instructive that Planning did not request that Commerce Bank provide a second means of access in the most recent zoning case for the subject site, Case No. 08-321-SPH. Based upon the foregoing, it does not appear feasible to impose a condition requiring a second means of ingress/egress, so condition 1 of Planning's ZAC comment will not be imposed.

Interoffice correspondence, dated November 9, 2010, from Edward C. Adams, Jr., Director, Department of Public Works (DPW) to Timothy Kotroco, Director, Department of Permits & Development Management (DPDM), provides that the waiver of floodplain regulations which was granted by the Zoning Commissioner in Case No. 08-321-SPH "is

applicable to the present development with respect to floodplain issues." See Petitioners' Exhibit 10. As indicated in Mr. Adams' interoffice correspondence, this project must not create any negative impact offsite to the floodplain water surface elevation. Mr. Adams further indicated that condition 3 had been satisfied. Therefore, I find that, provided the development meets the applicable conditions listed by the Director of DPW, the prior floodplain waiver is applicable to the instant use.

Pursuant to the advertisement, posting of the property and public hearing on the Petition held, and for the reasons set forth above, the relief requested shall be granted. I find the use is consistent with the property's zoning classifications and within the spirit and intent of the B.C.Z.R.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of December, 2010, that the Petition for Special Exception to permit the use of the described property for a drive-in restaurant, pursuant to Section 236.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED; subject to the following restrictions:

1. The Petitioners shall prepare and submit a landscape plan for review and approval by Avery Harden, Baltimore County Landscape Architect, with particular emphasis on the Pulaski Highway and Rossville Boulevard landscape buffer areas.
2. The Petitioners shall provide sidewalks and a pedestrian connection to the main entrance of the building, if no sidewalk exists on Pulaski Highway.
3. The Petitioners should provide a certification on the plan by a licensed Professional Engineer that the grading and other development requested for this site and for this project does not create any negative impact offsite to the floodplain water surface elevation. The intention of this is to prevent any liability against the County due to losses incurred by other properties in the vicinity during a 100-year flood event.

ORDER RECEIVED FOR FILING

Date

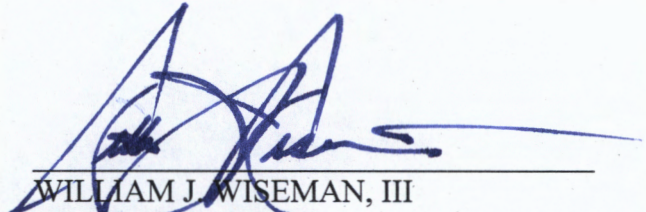
12-15-10

By

123

4. The Petitioners engineer shall provide full documentation supporting condition 1. The Petitioners are responsible to apply to the Federal Emergency Management Agency to amend the FIRM map to remove the floodplain designation from the site based on this documentation.
5. The Petitioners may apply for its permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at its 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.

Any appeal of this decision must be taken within thirty (30) days in accordance with Section 32-3-401 of the Baltimore County Code (B.C.C.).



WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date

12-15-10

By

123

BALTIMORE COUNTY, MARYLAND

INTER OFFICE CORRESPONDENCE

TO: Timothy Kotroco, Director,
Permits & Development Management

ATTN: Kristen Matthews
MS 1105

FROM: Edward Adams, Director,
Public Works



DATE: February 19, 2008

SUBJECT: Case No. 08-321-SPH
8733 Pulaski Highway
Commerce Bank

Section 32-8-303 (c) of the Baltimore County Code concerning waivers to the floodplain regulations says, "In considering a waiver action, comments from the state coordinating office and the County Department of Public Works shall be taken into account and maintained with the permit file." This memo is the comment from the Department of Public Works for the subject waiver.

Case No. 08-321-SPH involves a waiver to floodplain regulations (specifically Section 32-4-414 BCC concerning development in the riverine floodplain). The subject project was found to be in the riverine floodplain as mapped on the Federal Flood Insurance Rate Map (FIRM), Panel 240010-0430B dated March 2, 1981, and as also shown on plate 28 of the Report on Stemmers Run Flood Plain Study by Baker-Wibberly & Associates dated June 1975 as prepared for Baltimore County Department of Public Works.

The applicant had received a building permit (B681872) by relying on a later flood plain study prepared by another engineer to support nearby commercial development by grading and filling in the floodplain area. There were no records found of an approved waiver for the grading and construction in the floodplain for those projects. The reason for the present waiver request is to allow the subject site to be developed in areas presently mapped as 100-year floodplain.

Conditions for approval recommendation:

1. The petitioner should provide a certification on the plan by a licensed Professional Engineer that the grading and other development requested for this site and for this project does not create any negative impact offsite to the floodplain water surface elevation. The intention of this is to prevent any liability against the County due to losses incurred by other properties in the vicinity during a 100-year flood event.

RECEIVED
Date 3-4-08
By 3

2. The petitioner's engineer shall provide full documentation supporting Condition 1. The petitioner is responsible to apply to the Federal Emergency Management Agency to amend the FIRM map to remove the floodplain designation from the site based on this documentation.
3. Baltimore County Bureau of Engineering & Construction, Storm Drain Design Section, has identified a project in its budget to restudy the Stemmers Run floodplain. Since the development of this site will change the topography as compared to the 2005 Aerial Photography used in the County's planimetric topography maps, additional field survey work and floodplain modeling will be required as a result of this specific project. The petitioner is requested to submit a nonrefundable fixed deposit of \$15,000 to compensate the County for the increased cost of this floodplain study, to be deposited prior to issuance of Use & Occupancy Permit.

This department recommends approval of the waiver as requested, subject to the conditions noted above, and requests that the conditions be included in the Zoning Commissioner's order.

ECA/DLT/s

CC: Kevin Wagner, State Coordinating Office, Maryland Department of Natural Resources; Bill Wiseman, Zoning Commissioner; Peter Zimmerman, Peoples Counsel; Dennis Kennedy, Chief, Development Plan Review Bureau; David Karceski, Venable; Dan Blevins, Patton, Harris Rust & Associates

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Date 3-4-08
By 103



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

December 15, 2010

Jason T. Vettori, Esquire
David K. Gildea, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

RE: PETITION FOR SPECIAL EXCEPTION

SE/S of Pulaski Highway, 150' SW of the c/line of Rossville Boulevard

(8733 Pulaski Highway)

15th Election District - 7th Council District

TD Bank, NA, *Legal Owners*; Entourage Ventures, LLC, *Contract Purchasers* - Petitioners

Case No. 2011-0149-X

Dear Counsel:

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,

A handwritten signature in black ink, appearing to read "William J. Wiseman III", written over a horizontal line.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

c: Thom Behrle, President, Entourage Ventures, LLC, 39 Brett Manor Court,
Hunt Valley, MD 21030
Richard Sahakian, Vice President, TD Bank, NA, 305 Second Avenue, Waltham, MA 02451
Joseph J. Ucciferro, P.E., Bohler Engineering, Inc., 901 Dulaney Valley Road, Suite 801,
Towson, MD 21204
People's Counsel; Office of Planning; Department of Public Works; DEPRM; Avery Harden,
Baltimore County Landscape Architect, DPDM; Melissa R. Sadowski,
Business Development Representative, Department of Economic Development; File



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 8733 Pulaski Highway
which is presently zoned RS-1S

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

PLEASE SEE ATTACHED

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:

Entourage Ventures, LLC by: Thom Behrle, President

Name - Type or Print

Signature

39 Brett Manor Court

Address

Telephone No.

Hunt Valley

MD

21030

City

State

Zip Code

Attorney For Petitioner:

Sebastian A. Cross

Name - Type or Print

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):

TD Bank, NA, by: Richard Sahakian, Vice President

Name - Type or Print

Signature

Name - Type or Print

Signature

305 Second Avenue

781-487-4111

Address

Telephone No.

Waltham

MA

02451

State

Zip Code

Representative to be Contacted:

Sebastian A. Cross, Gildea & Schmidt, LLC

Name

600 Washington Avenue, Suite 200

(410) 821-0070

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By BSA

Date 10/31/10

REV 09/15/98

ORDER RECEIVED FOR FILING

Date 12-15-10

By BSA

ATTACHMENT TO PETITION FOR SPECIAL EXCEPTION

8733 Pulaski Highway
15th Election District
7th Councilmanic District

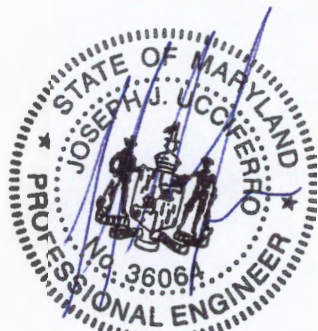
1. To approve a drive-in restaurant in accordance with B.C.Z.R. Section 2303.2 ✓
2. For such other and further relief as may be required by the Zoning Commissioner.

PROPERTY DESCRIPTION

BEGINNING AT A POINT ON THE SOUTHEASTERLY SIDE OF PULASKI HIGHWAY (U.S. ROUTE 40), EXISTING 150 FEET RIGHT OF WAY, 150 FEET SOUTHWEST FROM THE CENTERLINE OF ROSSVILLE BOULEVARD AND RUNNING:

- 1) SOUTH $35^{\circ}26'38''$ EAST, 30.00 FEET TO A POINT, AND;
- 2) SOUTH $86^{\circ}03'38''$ EAST, 146.28 FEET TO A POINT, AND;
- 3) SOUTH $44^{\circ}01'33''$ EAST, 10.00 FEET TO A POINT, AND;
- 4) SOUTH $45^{\circ}58'17''$ WEST, 115.86 FEET TO A REBAR AND CAP FOUND AND HELD, AND;
- 5) SOUTH $35^{\circ}26'38''$ EAST, 100.00 FEET TO A REBAR AND CAP FOUND AND HELD, AND;
- 6) SOUTH $44^{\circ}36'22''$ WEST, 150.00 FEET TO A REBAR AND CAP FOUND AND HELD, AND;
- 7) NORTH $35^{\circ}26'38''$ WEST, 250.00 FEET TO A POINT, AND;
- 8) NORTH $44^{\circ}36'22''$ EAST, 150.00 FEET TO THE POINT OF BEGINNING.

THE AREA OF LAND CONTAINED BY THE FOREGOING AMOUNTS TO 44,299 SQUARE FEET OR 1.0170 ACRES OF LAND, TOGETHER WITH AND SUBJECT TO APPURTENANCES AND ENCUMBRANCES OF RECORD OR USE.



10/14/10

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

No. **61003**

Date: 10/21/10

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 10/21/2010 10/21/2010 14:11:42 1

REC WSO1 WALKIN JRIC JHR
 >>RECEIPT # 476298 10/21/2010 OFLP

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Sub Obj	Dept	Obj	BS Acct	Amount
101	306	0000		6150					\$ 380.00

Dept 5 528 ZONING VERIFICATION
 NO. 061003

Recpt Tot \$380.00
 \$380.00 CK \$1.00 CA
 Baltimore County, Maryland

Total: \$ 380.00

Rec

From: Gildner & Schmidt, LLC

For: Special Exception

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

Item # 0149

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: # 2011-0149-X

8733 Pulaski Highway

S/eastside of Pulaski Highway, 150 feet s/west of the centerline of Rossville Boulevard

15th Election District - 7th Councilmanic District

Legal Owner(s): TD Bank, NA, Richard Sahakia, V.P.

Contract Purchaser: Entourage Ventures, LLC,

Thom Behrle, President

Special Exception: to approve a drive in restaurant in accordance with BCZR section 230.3; for such other and further relief as may be required by the Zoning Commissioner.

Hearing: Monday, December 6, 2010 at 9:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special 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.

11/15/2010 Nov. 18

260998

CERTIFICATE OF PUBLICATION

11/18/2010

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 11/18/, 2010.

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

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2011-0149-X

RE: Case No.: _____

Petitioner/Developer: _____

Entourage Ventures, LLC, Thom Behrle,
President

Dec 6 2010

Date of Hearing/Closing: _____

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

Attn: Kristin Matthews:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were
posted conspicuously
8733 Pulaski Highway

November 20 2010

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

Sincerely,

Robert Black November 23 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 # 2011-0149-X

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

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

PLACE

DATE AND TIME MONDAY, DECEMBER 6, 2010 AT 9:00 A.M.

REQUEST: SPECIAL EXCEPTION TO APPROVE A DRIVE-IN
RESTAURANT IN ACCORDANCE WITH BCZR SECTION 230.3,
FOR SUCH OTHER AND FURTHER RELIEF AS MAY BE REQUIRED BY
THE ZONING COMMISSIONER.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-1391

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

TO: PATUXENT PUBLISHING COMPANY
Thursday, November 18, 2010 Issue - Jeffersonian

Please forward billing to:
Gildea & Schmidt
600 Washington Avenue
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: 2011-0149-X

8733 Pulaski Highway

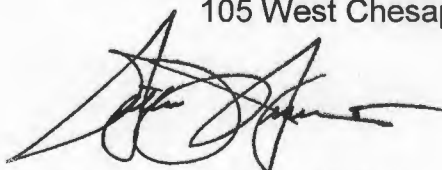
S/east side of Pulaski Highway, 150 feet s/west of the centerline of Rossville Boulevard
15th Election District – 7th Councilmanic District

Legal Owners: TD Bank, NA, Richard Sahakia, V.P.

Contract Purchaser: Entourage Ventures, LLC, Thom Behrle, President

Special Exception to approve a drive in restaurant in accordance with BCZR section 230.3; for such other and further relief as may be required by the Zoning Commissioner.

Hearing: Monday, December 6, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
November 4, 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: 2011-0149-X

8733 Pulaski Highway

S/east side of Pulaski Highway, 150 feet s/west of the centerline of Rossville Boulevard

15th Election District – 7th Councilmanic District

Legal Owners: TD Bank, NA, Richard Sahakia, V.P.

Contract Purchaser: Entourage Ventures, LLC, Thom Behrle, President

Special Exception to approve a drive in restaurant in accordance with BCZR section 230.3; for such other and further relief as may be required by the Zoning Commissioner.

Hearing: Monday, December 6, 2010 at 9:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

Timothy Kotroco
Director

TK:kl

C: Sebastian Cross, Gildea & Schmidt, 600 Washington Ave., Ste. 200, Towson 21204
Thom Behrle, Entourage Ventures, 39 Brett Manor Ct., Hunt Valley 21030
Richard Sahakian, TD Bank, 305 Second Avenue, Waltham MA 02451

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

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 2011-0149-X
Petitioner: Entourage Ventures LLC
Address or Location: 8733 Palasti Hwy

PLEASE FORWARD ADVERTISING BILL TO

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



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

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

December 1, 2010

Sebastian A. Cross
Gildea & Schmidt LLC
600 Virginia Avenue Ste 200
Towson, Maryland 21204

Dear Mr. Cross:

RE: 2011-01494-X 8733 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 October 21, 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:rjc
Enclosures

c: People's Counsel
Entourage Ventures LLC Thom Behrle, President 39 Brett Manor Court Hunt Valley Md. 21030
TD Bank, NA Richard Sahakian Vice President 305 Second Avenue Waltham MA 02451

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: Oct. 28, 2010

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

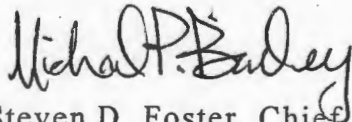
RE: Baltimore County
Item No. 2011-0149-X
US 40 (PULASKI HWY.)
8733 PULASKI HWY.
TD BANK, NA PROPERTY
SPECIAL EXCEPTION -

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 10-25-2010. A field inspection and internal review reveals that an entrance onto US 40 consistent with current State Highway Administration guidelines is required. As a condition of approval for 8733 PULASKI HWY, Case Number 2011-0149-X the applicant must contact the State Highway Administration to obtain an entrance permit.

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

Very truly yours,


for Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

Cc: Mr. David Malkowski, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA
My telephone number/toll-free number is _____

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

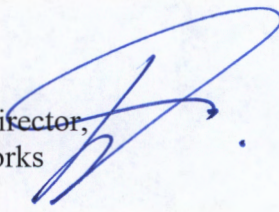
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

ATTN: Kristen Matthews
MS 1105

FROM: Edward C. Adams, Jr., Director,
Department of Public Works 

DATE: November 9, 2010

SUBJECT: Case No. 2011-0149-X
8733 Pulaski Highway
TD Bank, NA
Sonic Drive-In Restaurant

This is to confirm that my comments stated in the memo of February 19, 2008 are still valid and I concur that the Zoning Commissioner's order of March 4, 2008 (Case No. 08-321-SPH) concerning a waiver of floodplain regulations is applicable to the present development with respect to floodplain issues.

The condition involving payment of a \$15,000 nonrefundable fixed deposit has been met. The remaining conditions are still applicable.

ECA/DLT/s

Attachment: Memo of February 19, 2008

CC: Kevin Wagner, MDE; Bill Wiseman, Zoning Commissioner; Peter Zimmerman, Peoples Counsel; Dennis Kennedy, Chief, Development Plan Review Bureau; Sebastian Cross, Gildea & Schmidt; LLC; Joe Ucciferro, Bohler Engineering

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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DEC 01 2010

ZONING COMMISSIONER

TO: Timothy M. Kotroco
FROM: Dave Lykens, DEPRM - Development Coordination
DATE: December 1, 2010
SUBJECT: Zoning Item # 11-149-X
Address 8733 Pulaski Highway
(TD Bank, NA Property)

Zoning Advisory Committee Meeting of October 25, 2010.

- X The Department of Environmental Protection and Resource Management (DEPRM) 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).

Additional Comments: A variance from Baltimore County Code Article 33. Environmental Protection And Resource Management, Title 3. Protection Of Water Quality, Streams, Wetlands, And Floodplains is required for any proposed development on this property. Application for this variance must be made at DEPRM. There are no guarantees of variance approvals. Applications must meet all requirements pursuant to the law.

Reviewer: Paul Dennis

Date: November 18, 2010

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 1, 2010

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

SIGNED: Dennis A. Kennedy

SUBJECT: Zoning Advisory Committee Meeting
For November 8, 2010
Item No. 2011-149

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

The Director of Public Works will comment on this item.

DAK:CEN:cab
cc: File
ZAC-ITEM NO 11-149-11082010.doc

BALTIMORE COUNTY, MARYLAND

INTER OFFICE CORRESPONDENCE

TO: Timothy Kotroco, Director,
Permits & Development Management

ATTN: Kristen Matthews
MS 1105

FROM: Edward Adams, Director,
Public Works

DATE: February 19, 2008

SUBJECT: Case No. 08-321-SPH
8733 Pulaski Highway
Commerce Bank

Section 32-8-303 (c) of the Baltimore County Code concerning waivers to the floodplain regulations says, "In considering a waiver action, comments from the state coordinating office and the County Department of Public Works shall be taken into account and maintained with the permit file." This memo is the comment from the Department of Public Works for the subject waiver.

Case No. 08-321-SPH involves a waiver to floodplain regulations (specifically Section 32-4-414 BCC concerning development in the riverine floodplain). The subject project was found to be in the riverine floodplain as mapped on the Federal Flood Insurance Rate Map (FIRM), Panel 240010-0430B dated March 2, 1981, and as also shown on plate 28 of the Report on Stemmers Run Flood Plain Study by Baker-Wibberly & Associates dated June 1975 as prepared for Baltimore County Department of Public Works.

The applicant had received a building permit (B681872) by relying on a later flood plain study prepared by another engineer to support nearby commercial development by grading and filling in the floodplain area. There were no records found of an approved waiver for the grading and construction in the floodplain for those projects. The reason for the present waiver request is to allow the subject site to be developed in areas presently mapped as 100-year floodplain.

Conditions for approval recommendation:

1. The petitioner should provide a certification on the plan by a licensed Professional Engineer that the grading and other development requested for this site and for this project does not create any negative impact offsite to the floodplain water surface elevation. The intention of this is to prevent any liability against the County due to losses incurred by other properties in the vicinity during a 100-year flood event.

RECEIVED
Date 3-4-08
By [signature]

2. The petitioner's engineer shall provide full documentation supporting Condition 1. The petitioner is responsible to apply to the Federal Emergency Management Agency to amend the FIRM map to remove the floodplain designation from the site based on this documentation.
3. Baltimore County Bureau of Engineering & Construction, Storm Drain Design Section, has identified a project in its budget to restudy the Stemmers Run floodplain. Since the development of this site will change the topography as compared to the 2005 Aerial Photography used in the County's planimetric topography maps, additional field survey work and floodplain modeling will be required as a result of this specific project. The petitioner is requested to submit a nonrefundable fixed deposit of \$15,000 to compensate the County for the increased cost of this floodplain study, to be deposited prior to issuance of Use & Occupancy Permit.

This department recommends approval of the waiver as requested, subject to the conditions noted above, and requests that the conditions be included in the Zoning Commissioner's order.

ECA/DLT/s

CC: Kevin Wagner, State Coordinating Office, Maryland Department of Natural Resources; Bill Wiseman, Zoning Commissioner; Peter Zimmerman, Peoples Counsel; Dennis Kennedy, Chief, Development Plan Review Bureau; David Karceski, Venable; Dan Blevins, Patton, Harris Rust & Associates

RECEIVED FOR FILING

Date 3-1-08

By [Signature]

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 22, 2010

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

SUBJECT: 8733 Pulaski Highway

Item Number: 11-149

Petitioner: Entourage Ventures LLC

Zoning: BR-AS and BM-IM

Requested Action: Special Exception

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NOV 30 2010

ZONING COMMISSIONER

SUMMARY OF RECOMMENDATIONS:

Before a Special Exception may be granted, it must meet certain conditions listed in Section 502.1 of the Baltimore County Zoning Regulations. The proposed use does not appear to be detrimental to the health, safety, or general welfare of the locality. It does not overcrowd the land or otherwise create conditions inconsistent with the spirit and intent of the zoning regulations, other State and County laws, and regulations, and their purposes. However, the Office of Planning has concerns with the proposed ingress/egress to the subject site.

As proposed, access to the site is limited to one point and from only the outside north-eastbound lane of Pulaski Highway (precipitating a right in right out condition). So although visibility at the intersection is good, access is a concern. Patrons trying to access the site from the opposite side of Pulaski Highway or Rossville Boulevard are faced with an unfavorable situation.

The petitioner shall provide the following:

1. Additional means of ingress/egress. Consider an entrance at the southern end of the property that does not cross the stream. It appears from the site plan this can be achieved.
2. Prepare and submit a landscape plan for review and approval by Avery Harden, Baltimore County Landscape Architect. Emphasis should be placed on the Pulaski Highway and Rossville Boulevard landscape buffer areas.
3. If no sidewalk exists on Pulaski Highway, provide sidewalks and a pedestrian connection to the main entrance of the building.

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

Prepared by:

Division Chief:

AFK/LL: CM

Pat Keller - Ext. 8

RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
8733 Pulaski Highway; SE/S Pulaski Highway *
150' SW c/line of Rossville Boulevard * ZONING COMMISSIONER
15th Election & 7th Councilmanic Districts *
Legal Owner(s): TD Bank, NA * FOR
Contract Purchasers: Entourage Ventures, LLC *
Petitioner(s) * BALTIMORE COUNTY
* 2011-149-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

OCT 26 2010

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of October, 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



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

DAVID S. IANNUCCI
Executive Director
Department of Economic Development

December 2, 2010

RECEIVED

DEC 03 2010

ZONING COMMISSIONER

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

Dear Mr. Wiseman:

Entourage Development LLC would like to construct a drive-in restaurant at 8733 Pulaski Highway in accordance with the Baltimore County Zoning Regulations (Case No. 11-149-X).

They are planning to invest \$2.6 million into the new facility and employ 120 people throughout the surrounding communities. This 1,720 square foot facility would be unique to eastern Baltimore County and would likely spur redevelopment of other underutilized commercial properties in the area.

Baltimore County Economic Development is in full support of Entourage Development's proposed project at 8733 Pulaski Highway. I recommend approval of the drive-in restaurant to accommodate the proposed project.

Sincerely,

David S. Iannucci
Executive Director

KEEP IN Zoning FILE 2011-0149-X

BALTIMORE COUNTY, MARYLAND

SUBJECT: DEVELOPMENT PLAN COMMENTS (Limited Exemption)

FROM: PAI - ZONING REVIEW Date: 8/17/11

PROJECT NAME: SONIC RESTAURANT PULASKI HIGHWAY

PROJECT #: 10-057

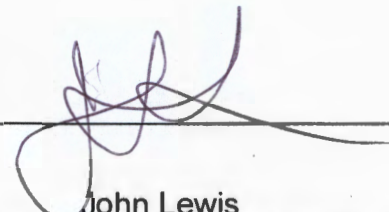
Plan Date: Received 8/15/11

PAI # 15-968 Review # 3

THE DEVELOPERS ENGINEER MUST SEND ALL REVISIONS IN THROUGH DEVELOPMENT MANAGEMENT RM# 123, ATTENTION: LINDA BLACKMON

1. Based on your meeting with Mr. Richards of this Office, State at the building floor area dimensions "There are 3 exterior tables and 12 chairs allowed for customers as shown on this plan. Any increase in these numbers will require support with additional off-street parking for the drive in restaurant use".

2. Resubmit revised plans with a copy of these comments flagged to the plan revisions through Rm. 123 for further review.



John Lewis
Planner II, Zoning Review

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

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

Account Identifier: District - 15 Account Number - 2500003245 ✓

Owner Information

Owner Name: COMMERCE BANK N A Use: COMMERCIAL
Principal Residence: NO
Mailing Address: 380 WELLINGTON ST 12TH FLR
LONDON ONTARIO Deed Reference: 1) /26274/ 307
CANADA N6A454 FC 00000 2)

Location & Structure Information

Premises Address Legal Description
8733 PULASKI HWY 1.017AC
BALTIMORE MD 21237-3009 SES PULASKI HWY
COR OF ROSSVILLE BLVD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
90	7	5						3	Plat Ref:

Special Tax Areas
Town Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
0000		44,300.00 SF	21

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	505,000	850,100		
Improvements:	0	0		
Total:	505,000	850,100	735,066	850,100
Preferential Land:	0	0	0	0

Transfer Information

Seller:	PATEL AMRUTLAL C/BHARTI A	Date:	10/15/2007	Price:	\$3,015,692
Type:	IMPROVED ARMS-LENGTH	Deed1:	/26274/ 307	Deed2:	

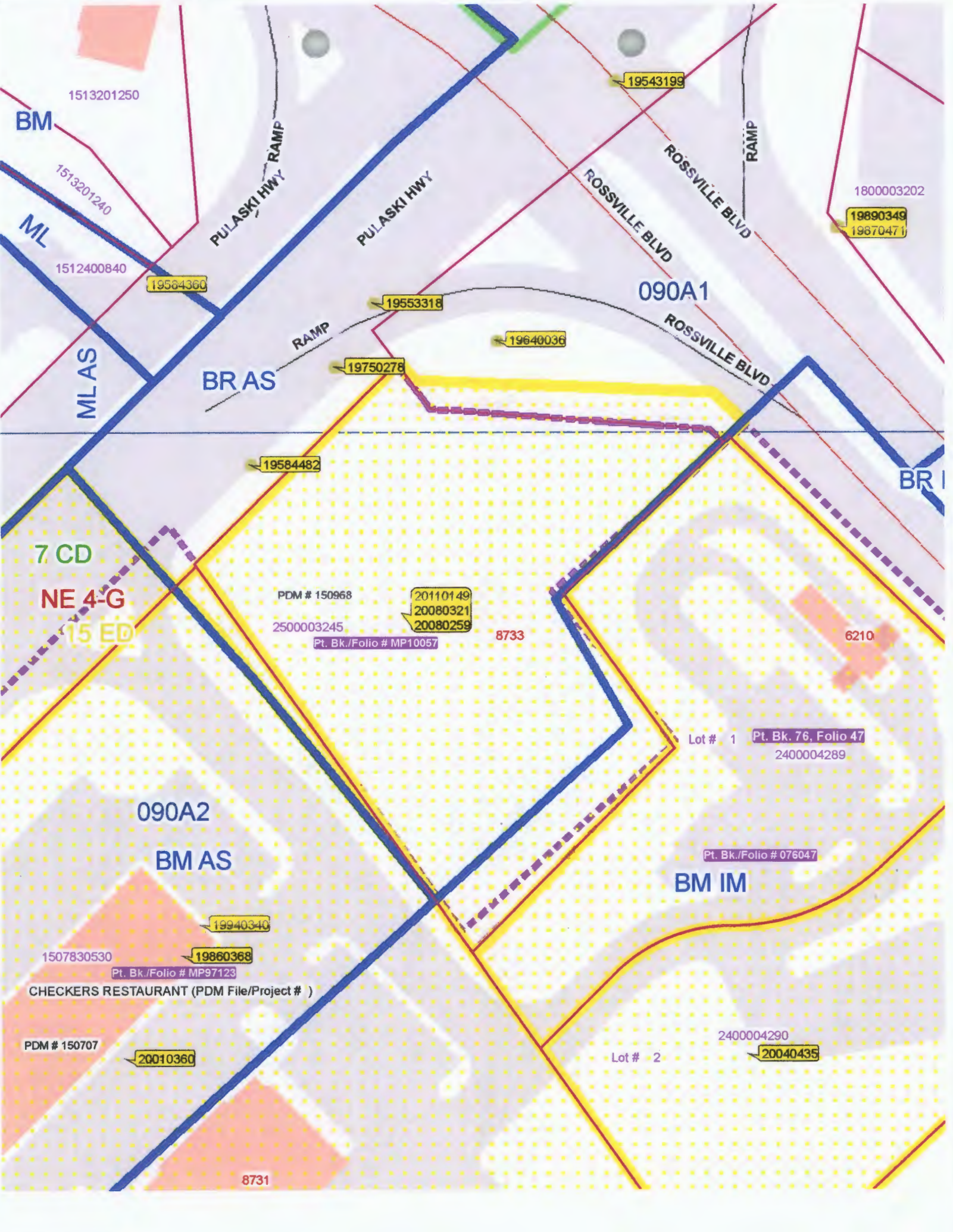
Tax Act. #
matches site
plan, lower,
SPRt reflects
Parcel 5 --
Site plan
reflects
Parcel 4 & 5.

CASE NAME 8733 Presiding Hwy.
CASE NUMBER 2011-149-X
DATE 12/6/10

[illegible]

CASE NAME 8733 Presidio Hwy.
CASE NUMBER 2011-0149-X
DATE 12-6-10

[illegible]



1513201250

BM

1513201240

ML

1512400840

ML AS

PULASKI HWY
RAMP

PULASKI HWY

ROSSVILLE BLVD

RAMP

1800003202

19890349
19870471

090A1

ROSSVILLE BLVD

BR AS

BR I

7 CD

NE 4-G

15 ED

PDM # 150968

2500003245

Pt. Bk./Folio # MP10057

20110149
20080321
20080259

8733

6210

Lot # 1 Pt. Bk. 76, Folio 47
2400004289

090A2

BM AS

Pt. Bk./Folio # 076047

BM IM

19940340

1507830530

Pt. Bk./Folio # MP97123

CHECKERS RESTAURANT (PDM File/Project #)

PDM # 150707

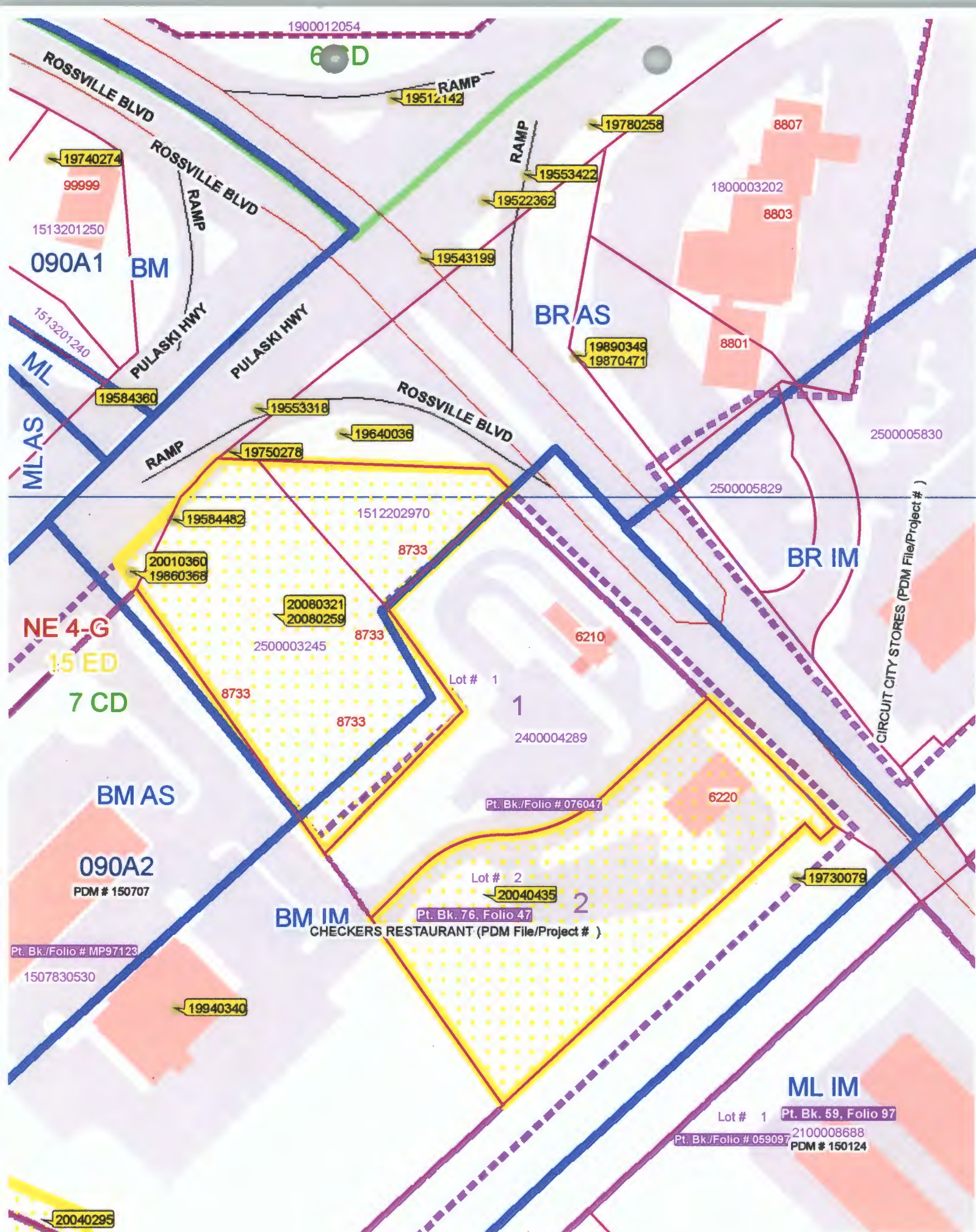
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2400004290

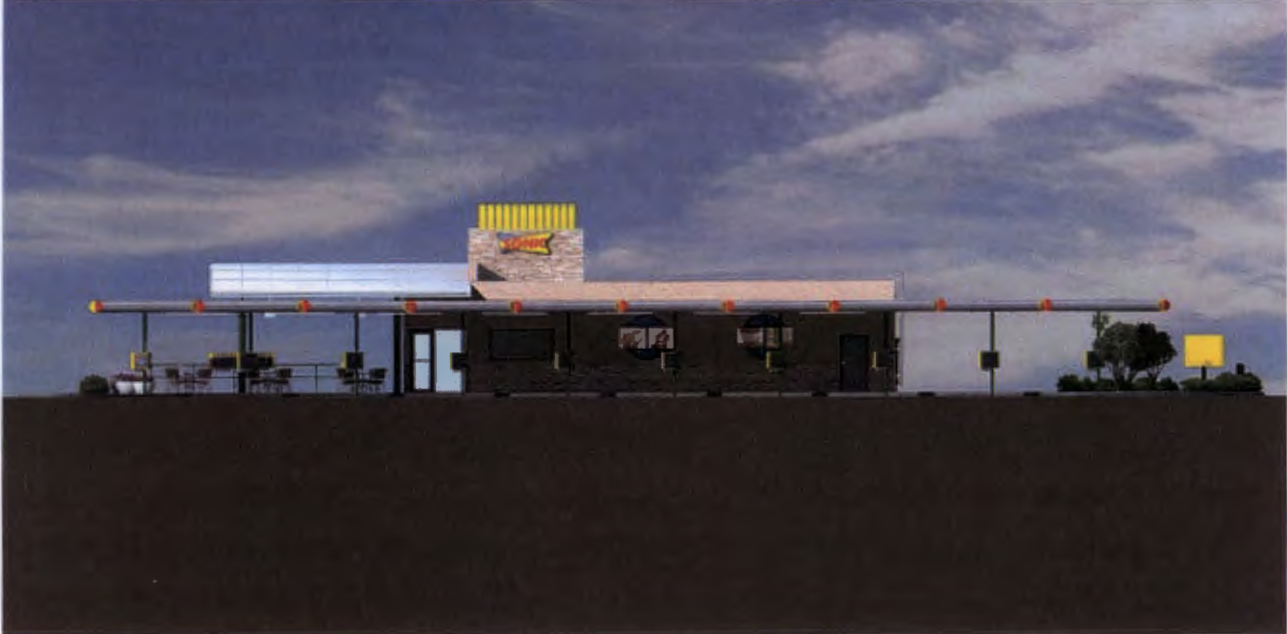
Lot # 2

20040435

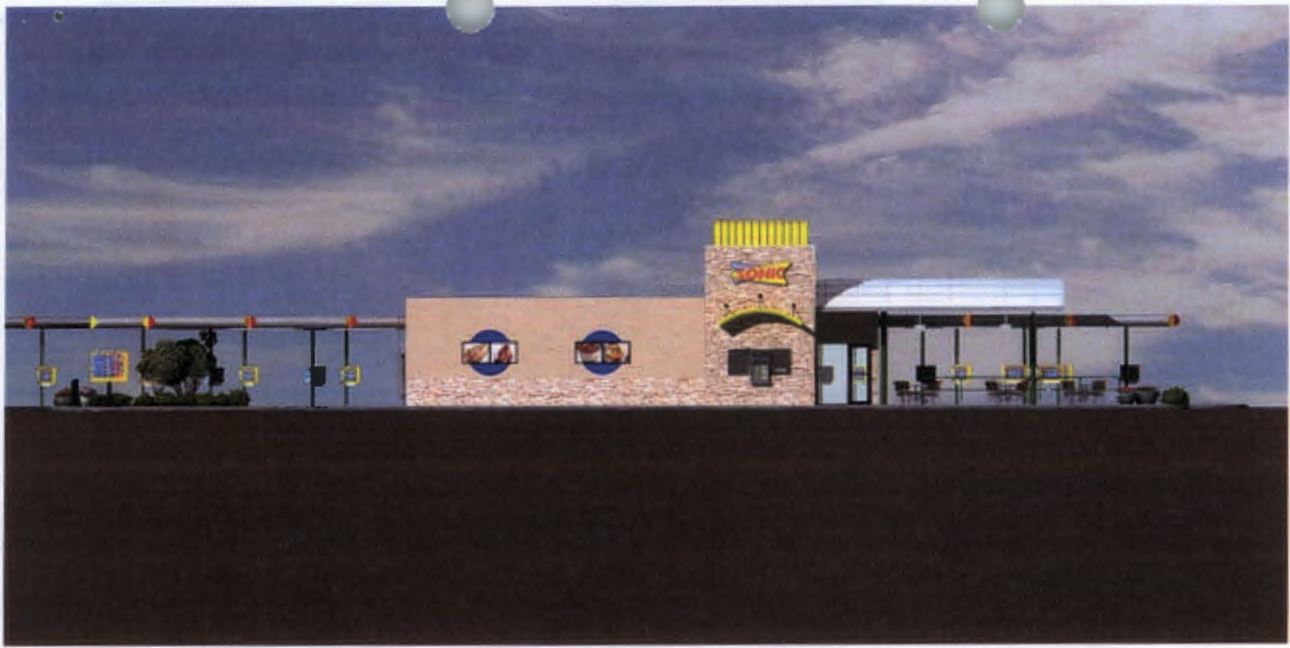
8731











Case No.: 2011-0149-X 8733 PULASKI HIGHWAY

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	SITE PLAN	
No. 2	COLORIZED SITE PLAN	
No. 3 A/B	BLDG ELEVATION DRAWINGS	
No. 4	ZONING OVERLAY BR-AS	
No. 5	COUNCIL BILL 1967-40 5/1/67	
No. 6	COUNCIL BILL (ACER 236.2) 1967-85 10/2/67	
No. 7	DEFINITION DRIVE-IN RESTAURANT	
No. 8	OFFICE OF PLANNING ZAC COMMENT 11/22/10 THIS EXHIBIT CONTAINED IN FILE	
No. 9	PRIOR ORDER CASE NO 08-321-SPH - Also in File	
No. 10	ECONOMIC DEVELOPMENT LETTER OF SUPPORT WITH REASONS	
No. 11	EDWARD ADAMS DEPT OF PUBLIC WORKS ZAC COMMENT 11-9-10	
No. 12	GOOD FAITH ATTEMPT TO OBTAIN ADDITIONAL ACCESS / EGRESS	

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1967, Legislative Day No. 6BILL NO. 40Mr. Tyrie, Councilman

(By Request of County Executive)

By the County Council, May 1, 1967

A BILL
ENTITLED

AN ACT, to amend the Baltimore County Zoning Regulations to permit the location of automotive-service stations (hereinafter also referred to as "service stations" or "stations") in certain zones and districts only in accordance with comprehensive planning goals; to relate automotive-service stations to neighborhood, community and town centers; to regulate motor vehicle access to such uses so as to cause minimum disruption to traffic, to regulate the appearance of such uses in a manner consistent with reasonable standards; to provide for certain limitations on signs and other advertising devices used in conjunction with such uses; to permit and regulate uses ancillary to service stations; to assign responsibility for conducting service-station operations in compliance with these regulations; to allow clusters of automotive-service station and certain other vehicle oriented uses only in appropriate areas and subject to specified site standards; to prevent such concentrations of automotive-service stations as would tend to create blight and congestion and, in consequence thereof, to establish standards in determining whether a new service station will be permitted by special exception; to provide regulations and definitions for certain developments in which service stations are allowed; to provide certain regulations for drive-in restaurants; to clarify the purposes of zones and to establish districts; and to modify or provide certain other regulations relative to the foregoing, by changing the name of the Title of Section 100 "Zones and Zone Boundaries" to "Zones and Districts, Boundaries", by repealing and re-enacting with amendments

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1967, Legislative Day No. 14

PETITIONER'S

BILL NO. 85

EXHIBIT NO. 6

Mr. Tyrie Councilman
(By Request of the County Executive)

By the County Council, October 2, 1967

A BILL
ENTITLED

AN ACT, to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for animal facilities, agricultural uses, antique shops, residential art salons, helicopter landing facilities, setbacks and permitted uses in industrial zones, and time limits on special-exception uses, by: amending Section 101, entitled "Definitions"; repealing Subsection 200.12 and enacting in lieu thereof new Subsections 200.12a and 200.12b; repealing and re-enacting, with amendments, Subsection 200.15, Sections 203 and 206, Subsections 209.1, 209.3, 212.1, 212.3, 215.1, 215.5, 230.1, and 230.9, Paragraph 230.12.a, Subsections 230.13, 233.2, 233.4, 236.2, 236.4, 241.1, 248.1 and 248.2, Paragraph 248.4.a, and Sections 253, 255, 256 and 258; amending Section 270; enacting new Sections 402B and 402C; repealing and re-enacting, with amendments, Section 404; enacting new Sections 420 and 421; and repealing and re-enacting, with amendments, Subsection 502.3; all being provisions of said Baltimore County Zoning Regulations, 1955, as amended.

WHEREAS, the amendments to the Zoning Regulations which are contained in this Bill have been formulated in accordance with the procedures specified in Sections 23-20 and 23-21 of the 1966 Cumulative Supplement to the Baltimore County Code, 1958, and the several public hearings required by said sections have been held in accordance therewith; now, therefore:

1. SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland,
2. That Section 101 of the Baltimore County Zoning Regulations, entitled "Definitions", be and it
3. is hereby amended by deleting therefrom the term, "Farming:", and the definition therefor,
4. "Commercial Agricultural uses in general, and specifically crop, dairy, stock and poultry farming;
5. commercial greenhouses on 3 acres or more.", and by adding thereto in alphabetical order the
6. following terms and definitions:
7. Animal Barding Place: Any building, other structure, or land, or any portion thereof,

BCZR § 101.1

DRIVE-IN RESTAURANT

A retail outlet where food or beverages are sold to a substantial extent for consumption by customers in parked motor vehicles.

[Bill No. 40-1967]

Prior zoning

IN RE: PETITION FOR SPECIAL HEARING *
Corner SE/S Pulaski Highway and *
SW/S Rossville Boulevard *
(8733 Pulaski Highway) *
15th Election District *
7th Council District *
Commerce Bank, N.A., *Owner* *
Petitioner *

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 08-321-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 legal owner of the subject property, Commerce Bank, N.A., by and through its attorney Arnold Jablon, Esquire with Venable LLP. The Petitioner requests a special hearing for a waiver pursuant to Section 500.6 of Baltimore County Zoning Regulations (B.C.Z.R.), Section 3112.2 of the Baltimore County Building Code, and Sections 32-4-414, 32-8-301 et seq., and 32-4-107 of the Baltimore County Code (B.C.C.) for a redevelopment site located in a riverine floodplain to allow grading, paving, curbing, guttering, signage, landscaping, utilities, and other site work and the construction of portions of a building, related parking, a stormwater management facility, and a retaining wall, within the floodplain. The subject property and requested relief are more particularly described on a two page site plan, which was submitted into evidence and marked as Petitioner's Exhibits 1A-1B.

Appearing at the requisite public hearing in support of the request were Michael Powell, construction manager for Commerce Bank, N.A.; John W. Clapsaddle, professional engineer, Scott R. Wolford, landscape architect, and Daniel M. Blevins, project manager, all with Patton Harris Rust & Associates, PC, the firm responsible for the preparation of the site plan. David H. Karceski, Esquire appeared on behalf of the Petitioner. Rick Cobert, Business Development Representative for the Baltimore County Department of Economic Development, and Sheldon

Petitioner's Exhibit 9

PETITIONER'S

EXHIBIT NO. 9



BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

DAVID S. IANNUCCI
Executive Director
Department of Economic Development

December 2, 2010

Mr. William J. Wiseman, III
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

Dear Mr. Wiseman:

Entourage Development LLC would like to construct a drive-in restaurant at 8733 Pulaski Highway in accordance with the Baltimore County Zoning Regulations (Case No. 11-149-X).

They are planning to invest \$2.6 million into the new facility and employ 120 people throughout the surrounding communities. This 1,720 square foot facility would be unique to eastern Baltimore County and would likely spur redevelopment of other underutilized commercial properties in the area.

Baltimore County Economic Development is in full support of Entourage Development's proposed project at 8733 Pulaski Highway. I recommend approval of the drive-in restaurant to accommodate the proposed project.

Sincerely,

A handwritten signature in black ink, appearing to read 'David S. Iannucci', is written over a horizontal line. The signature is fluid and cursive.

David S. Iannucci
Executive Director



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 4, 2008

Arnold Jablon, Esquire
David H. Karceski, Esquire
Venable, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: **PETITION FOR SPECIAL HEARING**
Corner SE/S Pulaski Highway and SW/S Rossville Boulevard
(8733 Pulaski Highway)
15th Election District - 7th Council District
Commerce Bank, N.A., Owner - Petitioner
Case No. 08-321-SPH

Dear Counsel:

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

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

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw
Enclosure

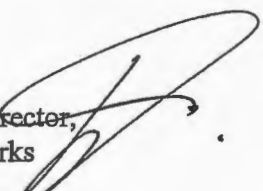
c: Scott R. Wolford, RLA, AICP, Vice President, Patton Harris Rust & Associates, PC,
8818 Centre Park Drive, Suite 200, Columbia, MD 21045
Michael Powell, Construction Manager, Commerce Bank, N.A., 9000 Atrium Way,
Mt. Laurel, NJ 20878
John W. Clapsaddle, PE, Director of Engineering, Patton Harris Rust & Associates, PC,
8818 Centre Park Drive, Suite 200, Columbia, MD 21045
Daniel M. Blevins, Senior Project Manager, Patton Harris Rust & Associates, PC,
8818 Centre Park Drive, Suite 200, Columbia, MD 21045
Rick Cobert, Business Development Representative, Baltimore County
Department of Economic Development
Sheldon Epstein, Chief of Sewer Design, Bureau of Engineering and Construction,
Department of Public Works
People's Counsel; DPW; File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

ATTN: Kristen Matthews
MS 1105

FROM: Edward C. Adams, Jr., Director,
Department of Public Works 

DATE: November 9, 2010

SUBJECT: Case No. 2011-0149-X
8733 Pulaski Highway
TD Bank, NA
Sonic Drive-In Restaurant

This is to confirm that my comments stated in the memo of February 19, 2008 are still valid and I concur that the Zoning Commissioner's order of March 4, 2008 (Case No. 08-321-SPH) concerning a waiver of floodplain regulations is applicable to the present development with respect to floodplain issues.

The condition involving payment of a \$15,000 nonrefundable fixed deposit has been met. The remaining conditions are still applicable.

ECA/DLT/s

Attachment: Memo of February 19, 2008

CC: Kevin Wagner, MDE; Bill Wiseman, Zoning Commissioner; Peter Zimmerman, Peoples Counsel; Dennis Kennedy, Chief, Development Plan Review Bureau; Sebastian Cross, Gildea & Schmidt, LLC; Joe Ucciferro, Bohler Engineering

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

RECEIVED

DEC 14 2010

ZONING COMMISSIONER

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

December 14, 2010

William J. Wiseman, III
Zoning Commissioner
Office of the Zoning Commissioner
Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

Re: Case No.: 2011-149-X
8733 Pulaski Highway
S/East side of Pulaski Highway, 150 feet S/West of the centerline of Rossville
Boulevard
15th Election District - 7th Councilmanic District
Legal Owners: TD Bank, NA, Richard Sahakia, V.P.
Contract Purchaser: Entourage Ventures, LLC, Tom Behrle, President

Dear Mr. Wiseman:

On Monday, December 6, 2010, at the hearing on the above referenced Petition for Special Exception, testimony and evidence was presented regarding the Office of Planning's Zoning Advisory Committee ("ZAC") comment, Petitioner's Exhibit No. 8. Planning's ZAC comment contained three (3) proposed conditions for approval. The Petitioner indicated that it had no objections to conditions 2 and 3. However, the Petitioner stated that condition 1 was not feasible. You requested that the Petitioner write a letter documenting the feasibility of Planning's condition 1.

Condition 1 of Planning's ZAC comment reads as follows:

The Petitioner shall provide the following:

1. Additional means of ingress/egress. Consider an entrance at the southern end of the property that does not cross the stream. It appears from the site plan this can be achieved.

....

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It should be noted that the development regulations do not require two means of access. In fact, Planning did not request that Commerce Bank provide a second means of access as a condition of approval in the recent zoning case, Case No. 08-321-SPH. The ZAC comment from Planning was conspicuously silent on this access issue.

The subject property is irregularly shaped. The front yard is the only boundary which fronts on a public street right-of-way. The uniqueness of the intersection of Pulaski Highway and Rossville Boulevard would impact any use of this site in a similar manner. There is nothing about this particular use which will tend to create congestion in roads, streets or alleys therein greater than those normally inherent with a drive-in restaurant in a similar zone, BR-AS. Planning acknowledged that there is a stream running along the southeastern boundary. It should further be noted that Checkers, another fast-food restaurant, has the property rights along the southeastern boundary. In addition, there is a retaining wall which runs along the border of the southwestern boundary.

Despite these practical difficulties, Petitioner attempted to acquire property rights from the adjoining property owner on the southwestern boundary, Bollino, LLC (who operates a Wawa), but was unsuccessful.

Entourage Ventures, LLC plans to operate a Sonic drive-in restaurant from the subject site. The corporate office for Sonic independently reviewed the impact of the single means of access to the site. After completion of their independent review, the corporate office for Sonic approved the site. In addition, a traffic impact study will be required as part of the Maryland State Highway Administration's ("SHA") development regulations. As such, further analysis will be performed.

For all the aforementioned reasons, we respectfully request that Planning's concerns regarding the ingress and egress to the subject property not be made into a condition of approval. Thank you for your time and consideration of this most important matter.

Very truly yours,

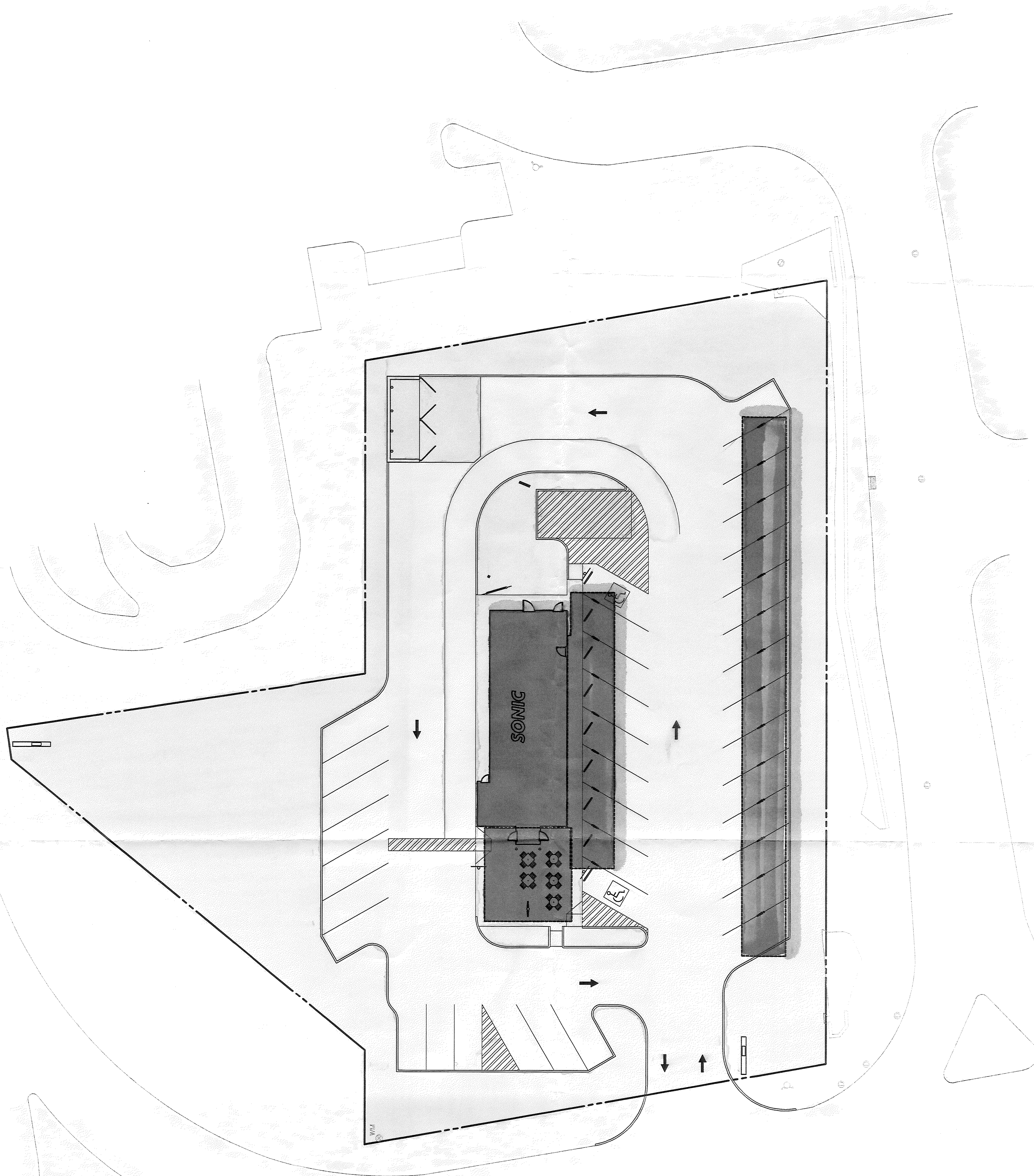


Jason T. Vettori

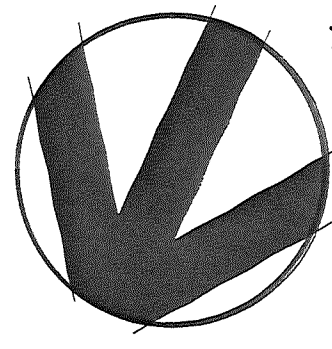
JTV: sf

CC: Tom Behrle, Entourage Development, LLC
Joseph J. Ucciferro, Bohler Engineering, P.C.
David K. Gildea, Esquire

ROSSVILLE BOULEVARD



PULASKI HIGHWAY - US ROUTE 40

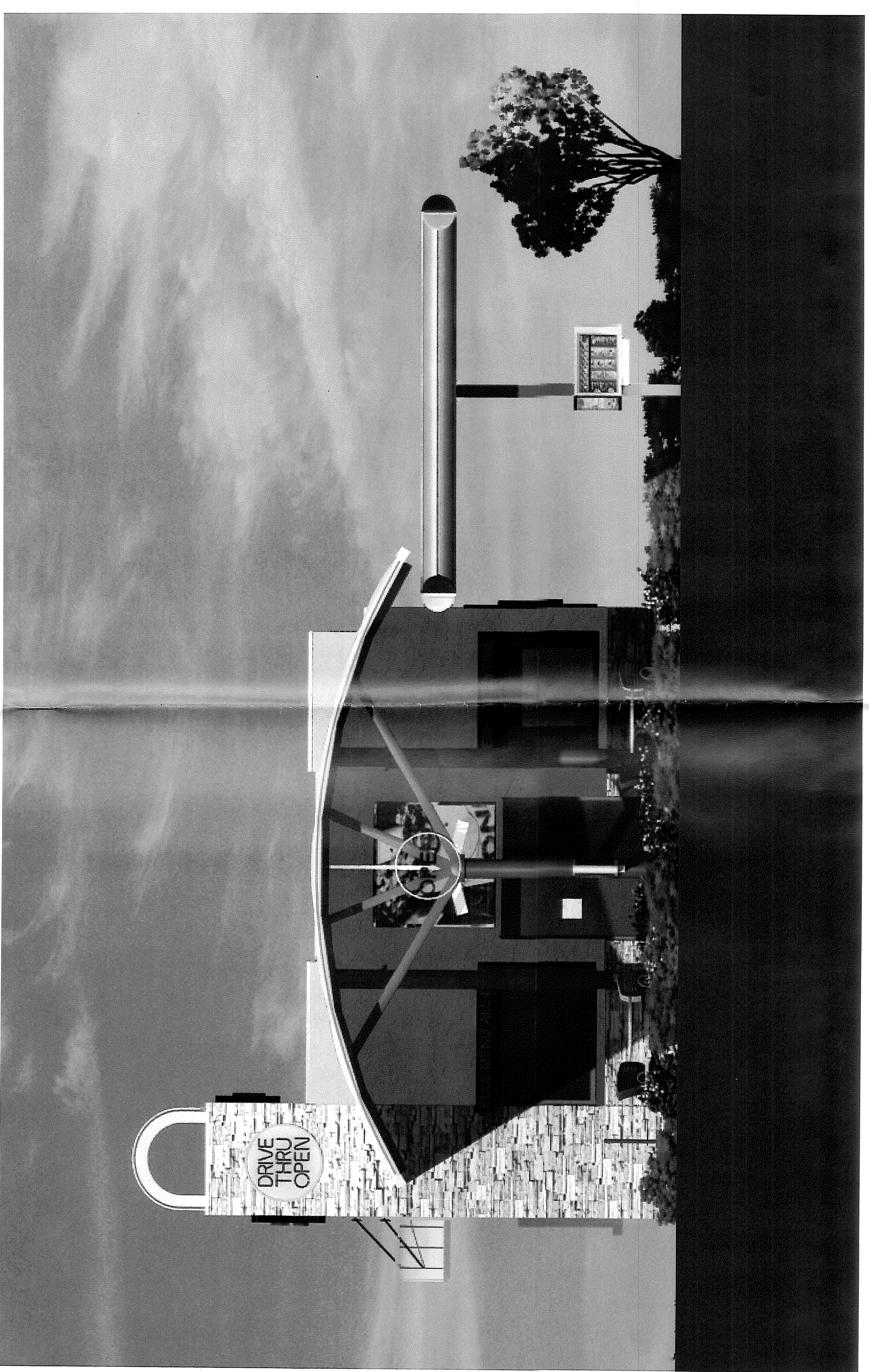
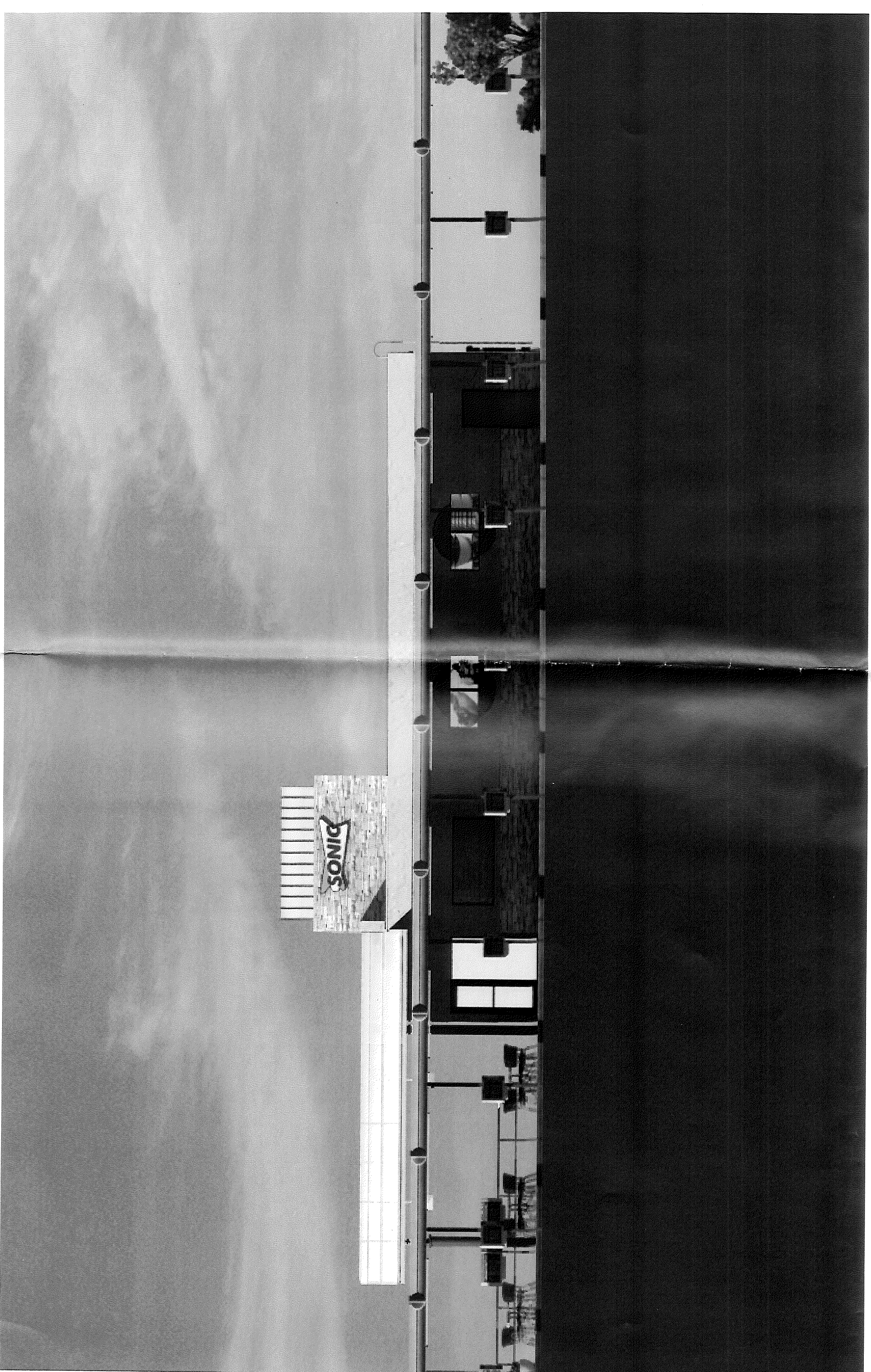
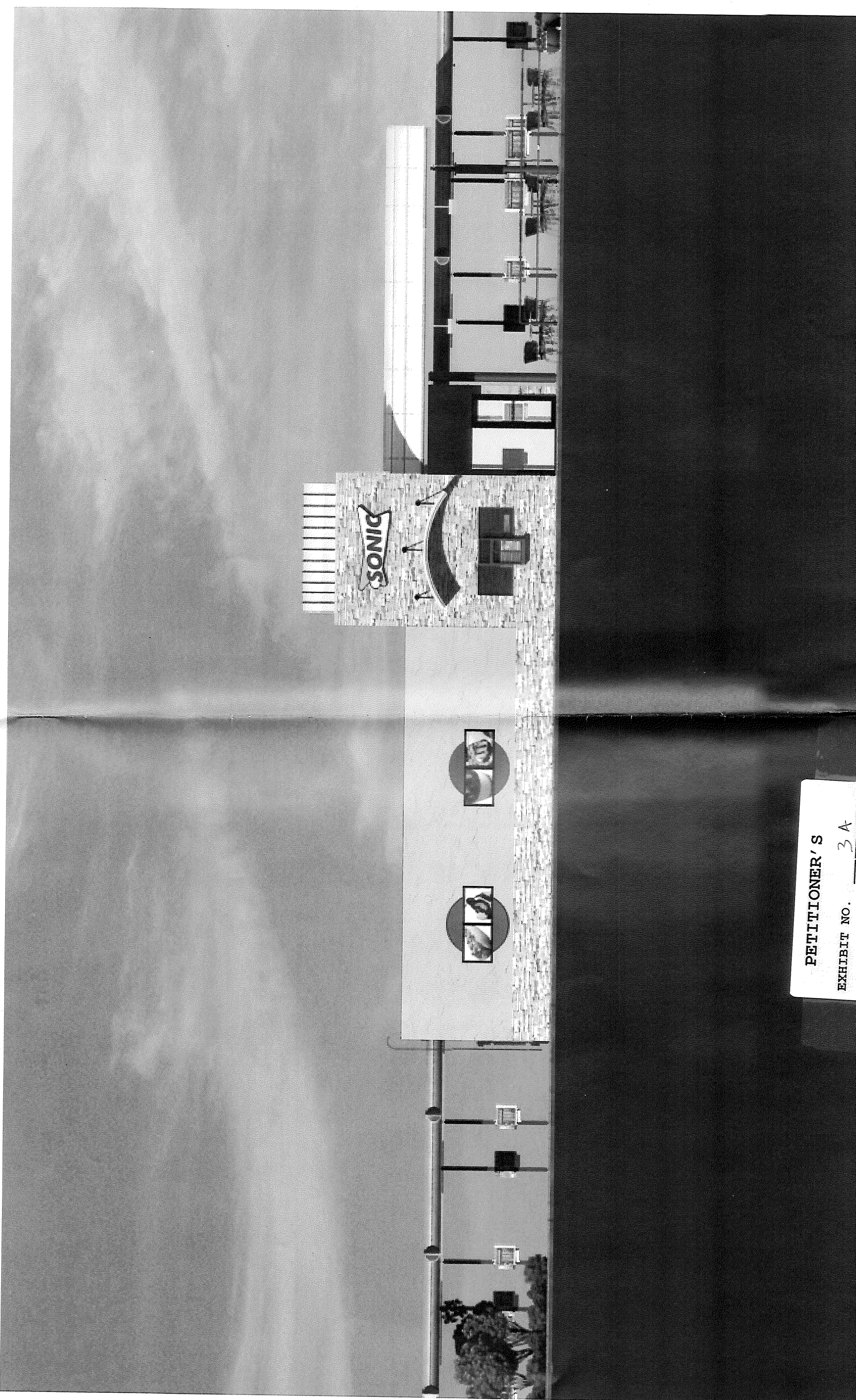


NORTH

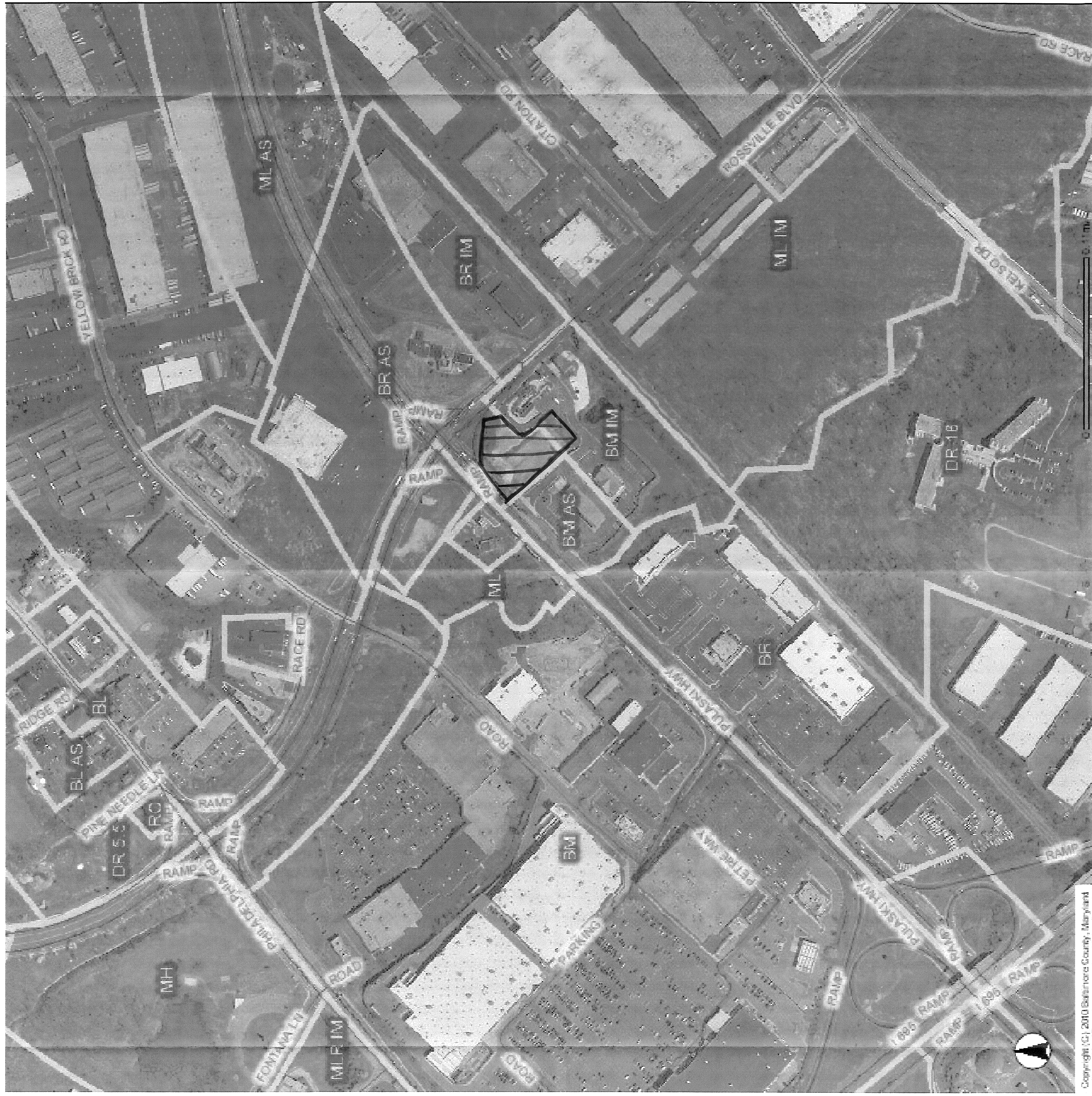
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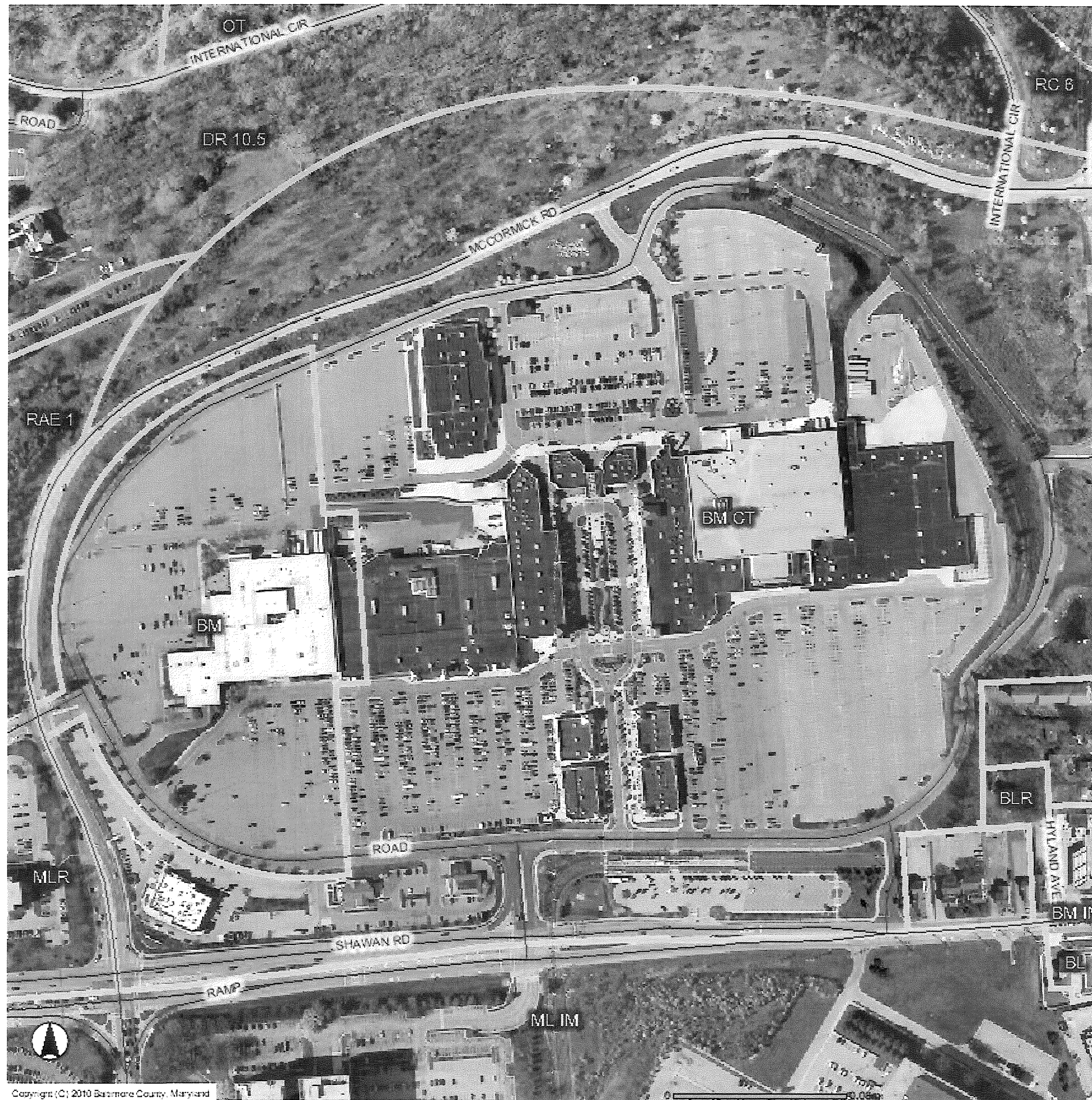
8733 PULASKI HIGHWAY
BALTIMORE, BALTIMORE COUNTY
BOHLER ENGINEERING
MD102010

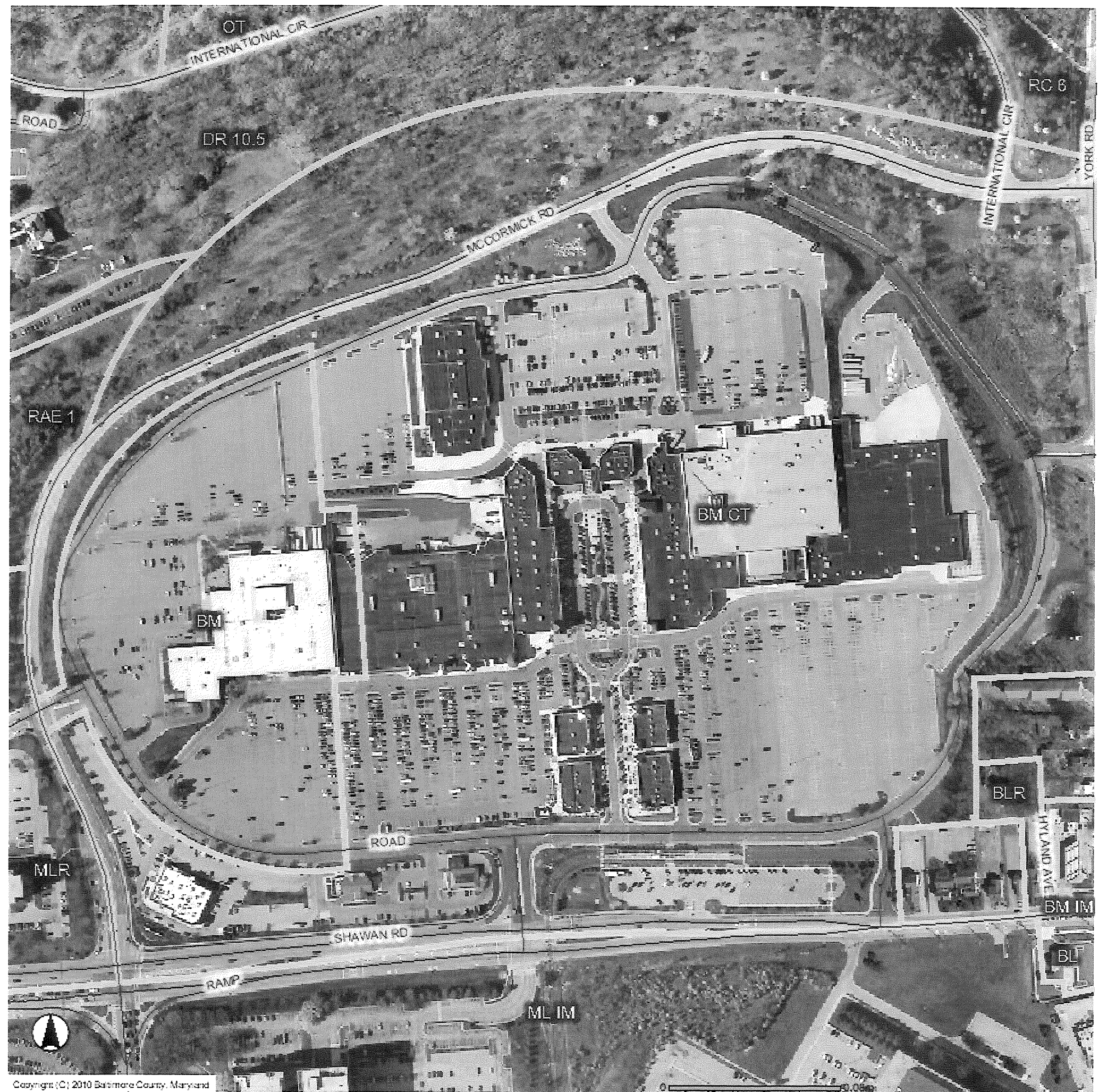
MARYLAND
12-06-2010
1" = 20'

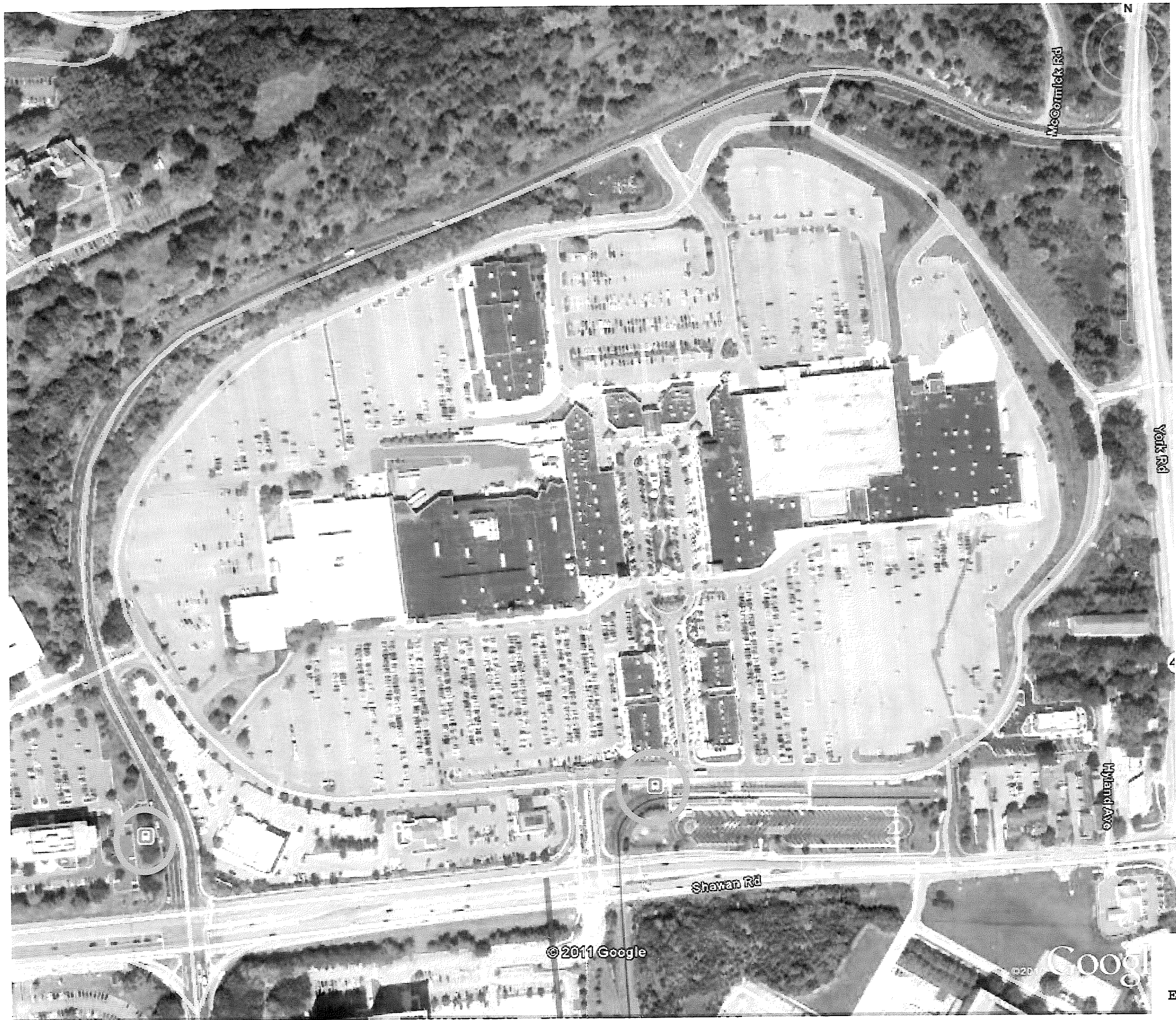












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