

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W/Side of York Road, 160' N of c/line of		
Burke Avenue	*	OFFICE OF
9 th Election District		
5 th Councilmanic District	*	ADMINISTRATIVE HEARINGS
(40 York Road)		
	*	FOR BALTIMORE COUNTY
40 York Road U2, LLC, <i>Legal Owner</i>		
Anytime Fitness, <i>Contract Purchaser</i>	*	CASE NO. 2011-0242-SPH
Petitioners		

* * * * *

ORDER AND OPINION

This matter comes before the Office of Administrative Hearings for Baltimore County pursuant to a Petition for Special Hearing for the property located a 40 York Road in Towson. The Petition was filed by Ken Gelbard on behalf of Forty York Road Associates (Condominium Association) and Prabhakaran Raja, owner of Unit 2 within the building at that location. Special Hearing relief is requested to permit a modified parking plan pursuant to Section 409.12 of the Baltimore County Zoning Regulations ("BCZR") and for such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County. The subject property and requested relief are more particularly shown on the Plat to Accompany the Petition for Special Hearing, received into evidence as Petitioners' Exhibit 1.

Appearing at the requisite public hearing held for this case was Prabhakaran Raja, Co-Petitioner. The Petitioners were represented by Lawrence E. Schmidt, Esquire, of Smith, Gildea & Schmidt, LLC. Also present was Kenneth J. Wells, a licensed surveyor who prepared the site plan. There were no Protestants or other interested persons present.

Testimony and evidence presented was that the subject property known as 40 York Road is an irregularly shaped parcel, approximately 1.45 acres in area, zoned B.M. The property is

ORDER RECEIVED FOR FILING

3-28-11

23

Date

By

located within the Towson commercial core and is improved with an office building which is 51,069 square feet in area. Approximately 40,000 square feet of this area is leased and the remainder is dedicated to common areas, utilities and the like. The building is operated under a condominium regime. There are fourteen units, each owned by separate individuals. The building is generally used to accommodate offices; however, there is a restaurant (Seasons Pizza) on the first floor. The building contains five stories and abuts a multiple floor parking deck which contains 163 parking spaces.

Mr. Raja is the owner of Unit 2 of the condominium building. This unit is located on the ground floor and is 3,280 square feet in area. It was previously used as an office for a physical therapist. However, that user has vacated the building. Mr. Raja is also the franchisee of the Anytime Fitness chain and proposes that operation in Unit 2 of the building. Anytime Fitness is a national chain of fitness centers which is relatively new to the Maryland market. Unlike other health clubs, gyms and fitness centers, Anytime Fitness is open 24 hours per day. Access is provided to members via a computerized pass card. Anytime Fitness is for the individual who is committed to his/her particular workout regime. There are no aerobics classes or other organized activities. Rather, the facility features aerobic equipment (treadmills, stationary bikes, etc.) and weights and each member follows his/her own individualized fitness program. It was indicated that the typical client visits the center on the way to or from work, will conduct their individual workout and then leave the premises. There is no social club, juice bar, tennis/racket ball courts and similar amenities. Staffing is minimal in that no classes or group instruction is offered. A brochure entitled "Community Information Guide" fully describing the Anytime Fitness program was submitted into evidence as Exhibit No. 4. "Commercial recreation enterprises" and "community buildings" dedicated to recreational purposes are both permitted by right in the B.M. zone and this use as described, would generally qualify as either.

Insofar as zoning history to this site, a prior zoning case (Case No.: 76-56-ASPH) granted certain setback variance relief for a then proposed two-story retail building. Additionally, a 56-space parking space variance (99 parking spaces in lieu of the required 155) was also granted in that case. Later, in 1985, County Review Group ("CRG") approval was granted for the existing building and parking garage. The improvements were constructed shortly thereafter. The subject property and immediate neighborhood was depicted in a series of photographs (Petitioners' Exhibit 2) which were submitted at the hearing.

These photos demonstrated the commercial character of the area and showed the building and parking deck. The relief requested in this case is to allow a modified parking plan as permitted under BCZR Section 412.9. As shown on the site plan, 217 parking spaces would be required if parking were provided for each individual occupant of the building in accordance with the tabulation required under BCZR Section 409. The single biggest generators of parking under BCZR Section 409, as shown on the site plan, are Seasons Pizza (66 spaces required) and Anytime Fitness (33 spaces required). The balance of the spaces is needed for the office uses which occupy the upper floors of the building.

The uncontradicted testimony and evidence presented is that the 163 parking spaces which are provided are more than sufficient to accommodate the existing and proposed uses. It was indicated that the uses frequently have parking demands at different peak periods. That is, when the offices are frequently closed the restaurant is most busy. Moreover, the heavy volume of traffic to the fitness center in early morning/late evening hours will be after many of the offices and the restaurant are closed. Additionally, much of the restaurant business is delivery and take-out.

For all of these reasons, the Petitioners request a modified parking plan to allow the Anytime Fitness use without adding more parking spaces. In my judgment, the shared parking

arrangement as described in the hearing is dispositive of a finding that relief should be granted and that Anytime Fitness and existing uses can coexist without overwhelming the existing parking which is provided.

It is to be further noted that no Protestants appeared at the hearing and there were no adverse Zoning Advisory Committee (ZAC) comments. The Baltimore County Office of Planning requested that a chart showing the parking required be reflected on the Plan and that has been added. As to the assignment of specific spaces and/or at specific times; Mr. Raja confirmed that the members of the Condominium Association had met and reviewed the proposal. They do not object to the proposed use and also agree that the lot operates most efficiently when spaces are not reserved or assigned.

Pursuant to the advertisement, posting of the property, and public hearing on this matter held, and after considering the testimony and evidence offered, I find that Petition for Special Hearing shall be GRANTED.

THEREFORE, IT IS ORDERED by the undersigned Administrative Law Judge of Baltimore County, this 28th day of March, 2011, that the Petition for Special Hearing to allow the modified parking plan, be and is hereby GRANTED, as more particularly shown on Petitioners' Exhibit 1, The Plan to Accompany the Petition for Special Hearing.

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


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:dlw



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

March 28, 2011

Lawrence E. Schmidt, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204

Re: Petition for Special Hearing
Case No. 2011-0242-SPH
Property: 40 York 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,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/dlw
Enclosure

c: Kenneth J. Wells, kj Wells, Inc., 7403 New Cut Road, Kingsville, MD 21087



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 40 York Road

which is presently zoned BM

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

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

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 Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

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

Contract Purchaser/Lessee:

Prabhakaran Raja, Authorized
Name - Type or Print Representative,
Anytime Fitness
Signature [Signature]
9006 Sunni Shade Court
Address
Perry Hall Mb 2128
City State Zip Code

Attorney For Petitioner:

Jason T. Vettori
Name - Type or Print
Signature [Signature]
Smith, 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):

Ken Gelbard, Authorized Representative, Forty York Road
Name - Type or Print
Signature [Signature]
Ken Gelbard
Name - Type or Print
Signature
5820 Johnnycake Road, Suite C (410) 382-8100
Address Telephone No.
Baltimore MD 21207-4781
City State Zip Code

Representative to be Contacted:

Jason T. Vettori, Smith, 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 _____

Case No. 2011-0242-SPH

REV 9/15/98

UNAVAILABLE FOR HEARING

ORDER RECEIVED FOR FILING

Date

Date

3-28-11

By

[Signature]

ATTACHMENT TO PETITION FOR SPECIAL HEARING

40 York Road

Petition for Special Hearing relief in accordance with Sections 500.6 & 500.7 of the Baltimore County Zoning Regulations ("BCZR") to determine whether or not the Zoning Commissioner should approve:

1. A modified parking plan per Section 409.12 of the BCZR;
2. Such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Item #0242

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

January 28, 2011
Zoning Description
of the
40 York Road Condominium
Baltimore County
Maryland
9th Election District
5th Councilmanic District

Beginning at a point on the southeast side of York Road (width varies) at a distance of 160 feet northeast from the centerline of East Burke Avenue (width varies). Being that land shown on a Plat entitled "40 York Road Condominium Plat" as recorded in the Land Records of Baltimore County in Condominium Plat Book 30 folio 162 through 168 containing 1.45 acres or 63,162 square feet of land more or less. Also being known as 40 York Road.



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

No. **64760**
 Date: **2/15/11**

PAID RECEIPT

BUSINESS ACTUAL TIME DAY
 2/16/2011 2/15/2011 10:21:14 2

REF: 505 WALTON TOWN, MD
 RECEIPT # 565150 2/15/2011 OFLN

5 500 ZONING VERIFICATION

Dept 04760

Rspt Tot \$385.00

\$385.00 CR \$385.00

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount	Dept
001	806	0000		6150						\$385.00	04760

Total: **\$385.00**

Rec From:

For: **Zoning hearing - case # 2011-0242-SPH**

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
 VALIDATION**

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: # 2011-0242-SPH

40 York Road

W/side of York Road, 160' r/o of centerline of Burke Avenue

9th Election District — 5th Councilmanic District

Legal Owner(s): Ken Gelbard, Forty York Road

Contract Purchaser: Prabhakaran Raja, Anytime Fitness

Special Hearing: to permit a modified parking plan per Section 409.12 of the BCZR, and such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 17, 2011 at 10:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS 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 3/6/21 March 1

268280

CERTIFICATE OF PUBLICATION

3/3/, 2011

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 3/1/, 2011.

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

S. Wilkins

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2011-0242-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Prabhakaran Raja, Anytime Fitness

Mar 17, 2011

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: Kristen Matthews:

Ladies and Gentlemen:

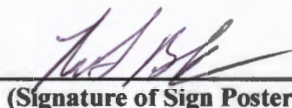
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

40 York Road

March 2, 2011

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

Sincerely,



March 2, 2011

(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 #2011-0242-SPH

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

PLACE: Room 104, Jefferson Building
105 West Chesapeake Ave Towson 21204

DATE AND TIME THURSDAY, MARCH 17, 2011 at 10:00^{a.m.}

REQUEST: SPECIAL HEARING TO PERMIT A MODIFIED
PARKING PLAN PER SECTION 409.12 OF THE BC2R, AND SUCH
OTHER AND FURTHER RELIEF AS MAY BE DETERMINED NECESSARY
BY THE ZONING COMMISSIONER OF BALTIMORE COUNTY

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3301

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

TO: PATUXENT PUBLISHING COMPANY
Tuesday, March 1, 2011 Issue - Jeffersonian

Please forward billing to:

Jason Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

410-821-0070

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2011-0242-SPH

40 York Road

W/side of York Road, 160' n/of centerline of Burke Avenue

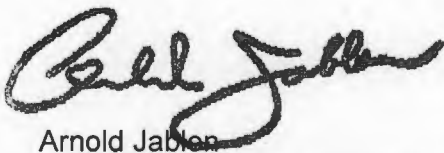
9th Election District – 5th Councilmanic District

Legal Owners: Ken Gelbard, Forty York Road

Contract Purchaser: Prabhakaran Raja, Anytime Fitness

Special Hearing to permit a modified parking plan per Section 409.12 of the BCZR, and such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 17, 2011 at 10:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

February 18, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges 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: 2011-0242-SPH

40 York Road
W/side of York Road, 160' n/of centerline of Burke Avenue
9th Election District – 5th Councilmanic District
Legal Owners: Ken Gelbard, Forty York Road
Contract Purchaser: Prabhakaran Raja, Anytime Fitness

Special Hearing to permit a modified parking plan per Section 409.12 of the BCZR, and such other and further relief as may be deemed necessary by the Zoning Commissioner for Baltimore County.

Hearing: Thursday, March 17, 2011 at 10:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, Smith, Gildea & Schmidt, 600 Washington Ave., Ste. 200, Towson 21204
Mr. Raja, Anytime Fitness, 9006 Sunni Shade Court, Perry Hall 21128
Ken Gelbard, 5820 Johnnycake Road, Ste. C, Baltimore 21207-4781

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, MARCH 2, 2011.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(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/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2011-0242-SPH

Petitioner: ANYTIME FITNESS

Address or Location: 40 YORK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI

Address: SMITH, GILDEA & SCHMIDT, LLC

600 WASHINGTON AVE., ~~FEDERAL~~ STE. 200

TOWSON, MD 21204

Telephone Number: (410) 821-0070



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

March 9, 2011

Mr. Ken Gelbard, Representative
5820 Johnnycake Road, Suite C
Baltimore, MD 21207-4781

Dear Mr. Ken Gelbard,

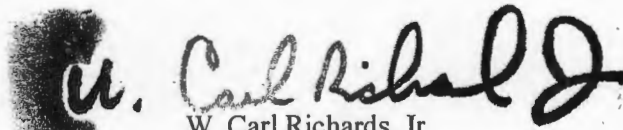
RE: Case Number 2011-0242 SPH, 40 York Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 15, 2011. 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:mcn

Enclosures

c: People's Counsel
Mr. Jason T. Vettori, Smith, Gildea, & Schmidt, LLC, 600 Washington Ave., Ste. 200,
Towson, MD 21204
Prabhakaran Raja, Anytime Fitness, 9006 Sunni Shade Court, Perry Hall, MD 21204



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

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

Maryland Department of Transportation

Date: March 1, 2011

Mr. David Duvall, Reviewer.
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2011-0242-SPH
MD 45 (York Road)
at East Burke Avenue
40 York Road
40 York Road Condominiums
Mile Post 1.66
Special Exception -

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for special exception on the subject of the above captioned, which was received on February 28, 2011. A field inspection and internal review reveals that the existing commercial entrance onto MD 45 (Falls RD) is consistent with current State Highway Administration guidelines. Therefore, the State Highway Administration (SHA) has no objection to approval for Case Number 2011-0242-SPH. Please include our remarks in your staff report to the Zoning Hearing Officer.

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 ¹ Steven D. Foster, Chief
Access Management Division

SDF/mb

Cc: Ms. Colleen M. Kelly, Development Manager, Baltimore County
Mr. Joseph Merrey, PDM, Baltimore County
Mr. David Peake, District Engineer, SHA
Mr. Michael Pasquariello, Utility Engineer, SHA
Mr. Kenneth J. Wells, Engineer, kjWellsInc
40 York Road U2, LLC, Owner

My telephone number/toll-free number is _____

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

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



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Dave Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: March 1, 2011

SUBJECT: DEPS Comment for Zoning Item: # 11-242-SPH
Address: 40 York Road
(Raja Property)

Zoning Advisory Committee Meeting of February 18, 2011.

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

Reviewer: JWL

3-17-11
TK



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

February 22, 2011

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

ATTENTION: Zoning Review

Distribution Meeting of: **February 22, 2011**

Item No.:

Administrative Variance: 2011-0236A, 2011-0239A – 0240A, 2011-0244A

Special Hearing: 2011-0237-SPH, 2011-0238-SPHA, 2011-0242-SPH

Variance: 2011-0238SPHA, 2011-0243A, 2011-0245A.

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: February 28, 2011

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

SUBJECT: Zoning Advisory Committee Meeting
For February 28, 2011
Item Nos. 2011- 218, 236, 237, 238,
239, 240, 242, 243, 244 and 245

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

DAK:CEN:cab

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-02282011 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: March 4, 2011

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

SUBJECT: 40 York Road

INFORMATION:

Item Number: 11-242

Petitioner: Ken Gelbard

Property Size: 1.45 ac.

Zoning: BM

Requested Action: Special Hearing

Hearing Date:

The petitioner is seeking relief from Section 500.6 & 500.7 of the BCZR for a modified parking plan per section 409.12 of the BCZR.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has the following comments:

1. The petitioner seeks to add a gym without adding additional on-site parking and keeping the parking plan as is. The parking garage shall show when gym parking is permitted. A portion of the existing parking should be reserved for office only parking during regular office hours (8 a.m. – 4 p.m.).
2. Show the amount of parking needed for a gym on the plan.

Prepared By: _____

Section Chief: _____
AFK/LL:DZ

RE: PETITION FOR ADMINISTRATIVE	*	BEFORE THE
SPECIAL HEARING		
40 York Road; W/side York Road	*	ZONING COMMISSIONER
160' N of Center Line Burke Avenue		
9 th Election & 5 th Councilmanic Districts	*	FOR
Legal Owner(s): Ken Gelbard/Forty York Rd.		
US, LLC	*	BALTIMORE COUNTY
Contract Purchaser: Prabhakaran Raja		
Petitioner(s)	*	2011-0242-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

FEB 18 2008

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carol S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

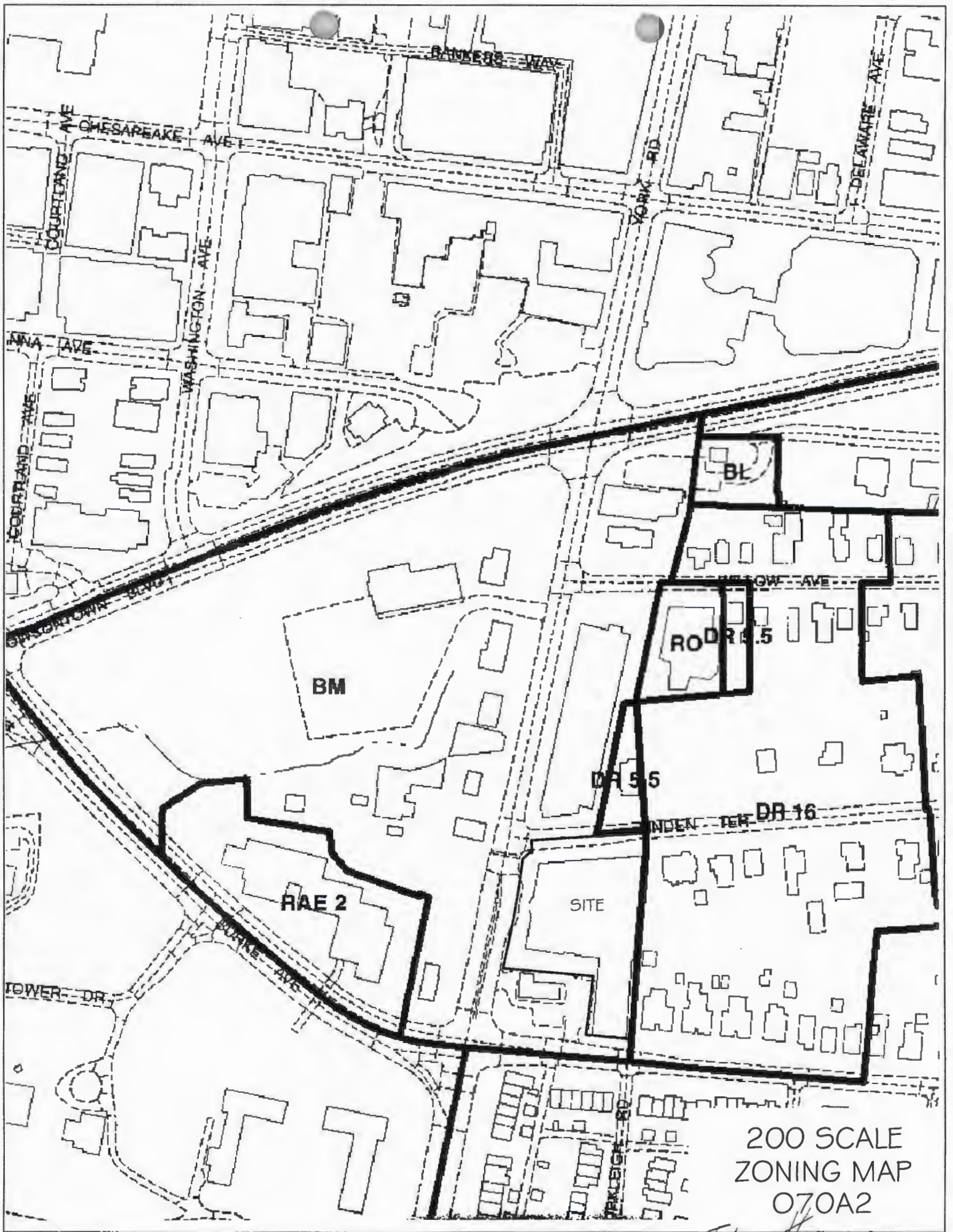
I HEREBY CERTIFY that on this 18th day of February, 2008, a copy of the foregoing Entry of Appearance was mailed to Ken Gelbard, 5820 Johnnycake Road, Suite C, Baltimore, Maryland 21207 and Jason T. Vettori, Smith, Gildea & Schmidt, LLC, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

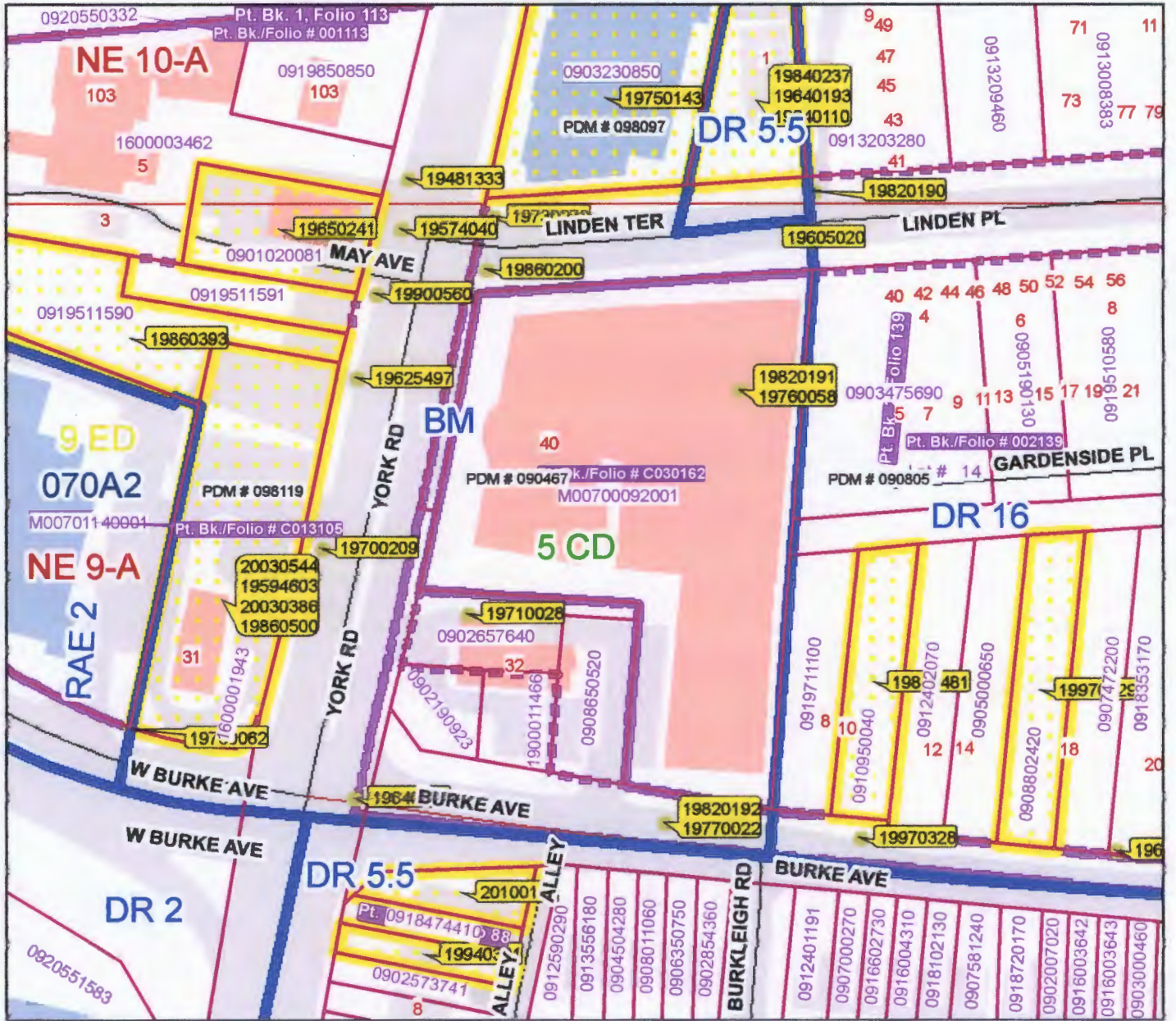
CASE NAME 2011-242-SPIK
CASE NUMBER 40 4072
DATE 3/17/11

CASE NUMBER 404072
DATE 3/17/11

[illegible]



40 York Road



Publication Date: February 15, 2011
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 100 200 Feet

1 inch = 100 feet

Item #0242

Case No.: 2011-0242 SPH

Exhibit Sheet

Petitioner/Developer

Protestant

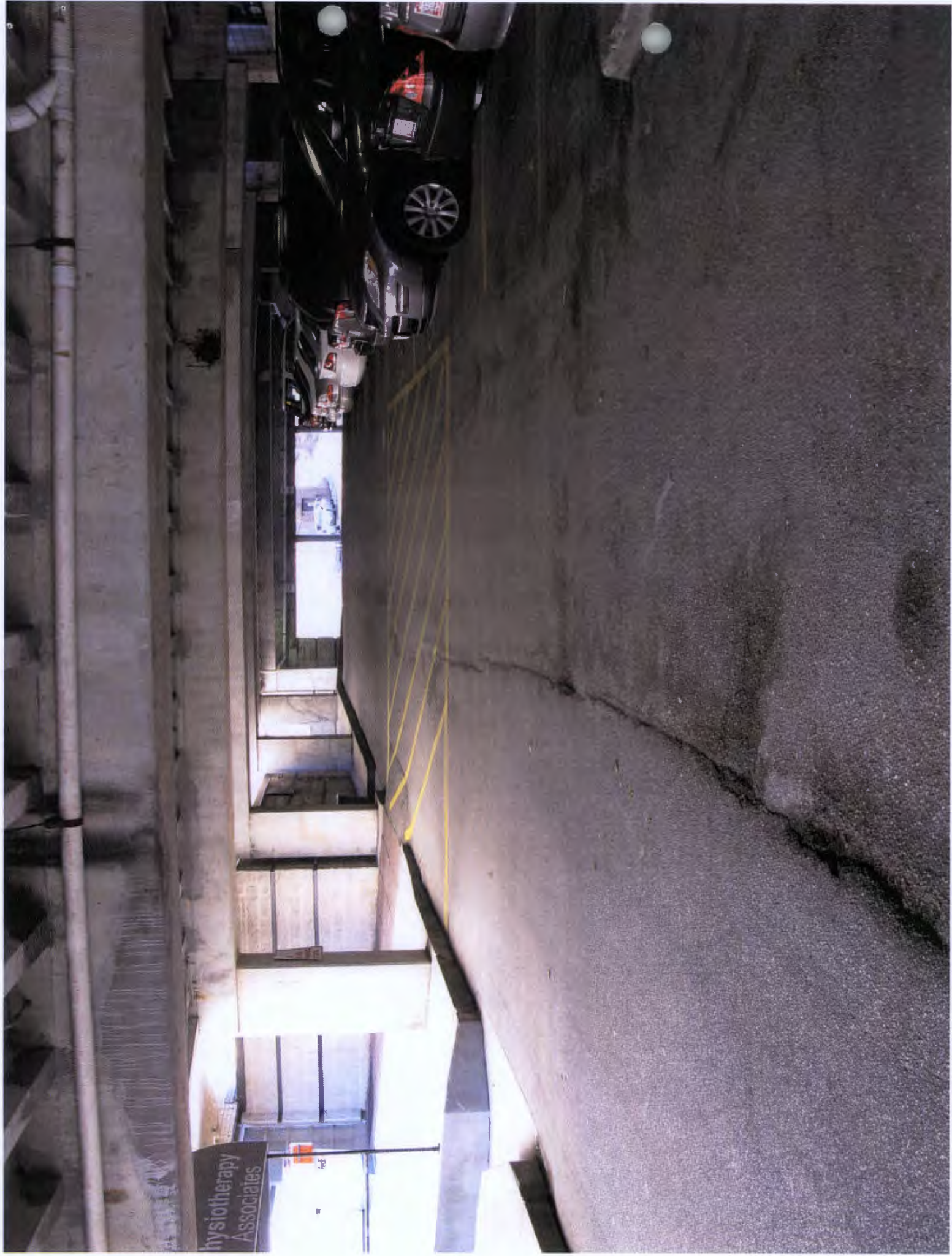
No. 1	Site Plan of property	
No. 2	Photo array of site	
No. 3	interior design of Building	
No. 4	Information Guide for Anytime Fitness	
No. 5	Prior zoning Hearing # 76-58-ASPH	
No. 6		
No. 7		
No. 8		/
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER' S

EXHIBIT NO. 2













PRECOR®

ANYTIME FITNESS

CARDIO

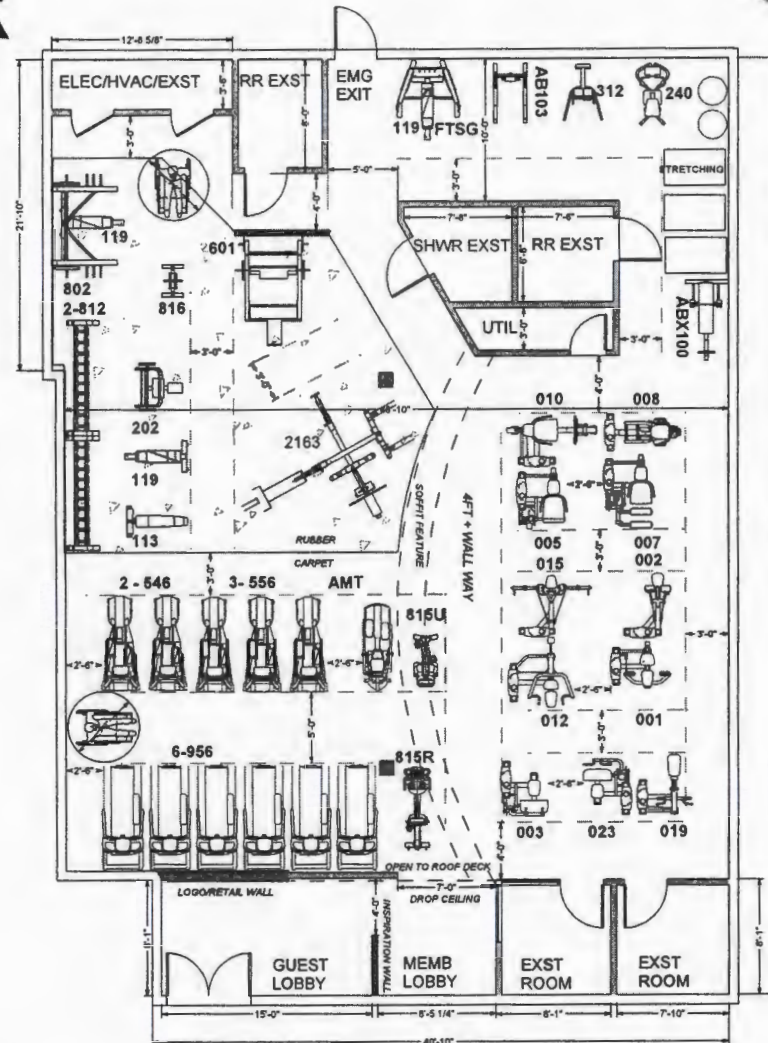
- 546 - ELLIPTICAL
- 556 - ELLIPTICAL
- 815 R - RECUMBENT BIKE
- 815 U - UPRIGHT BIKE
- 956 - TREADMILL
- AMT - ADAPTIVE MOTION TRAINER

FREE WEIGHT / STRETCHING

- AB103 - ABENCH V-CRUNCH
- 113 - ADJUSTABLE DECLINE BENCH
- 119 - SUPERBENCH
- 202 - SEATED PREACHER CURL
- 240 - COMMERCIAL STRETCH TRAINER
- 312 - BACK EXTENSION
- 601 - ANGLED LEGPRESS
- 802 - SMITH MACHINE
- 812 - DUMBBELL RACK DOUBLE
- 816 - VERTICAL PLATE TREE
- 2163 - 4 STACK MODULAR
- ABX100 - AB BENCH
- FTSG - FUNCTIONAL TRAINING GLIDE

S LINE STRENGTH

- 001 - CHEST PRESS
- 002 - PULLDOWN
- 003 - BICEP CURL
- 005 - LEG EXTENSION
- 007 - LEG CURL
- 008 - INNER / OUTER THIGH
- 010 - LEG PRESS
- 012 - SHOULDER PRESS
- 015 - REAR DELT / PEC FLY
- 019 - SEATED ROW
- 023 - TRICEP EXTENSION



PETITIONER'S

EXHIBIT NO. 3

CUSTOMER IS RESPONSIBLE FOR THE FOLLOWING:

IN US & CANADA: EACH TREADMILL REQUIRES - 120 VAC, 50/60 Hz, 16.5A, 1980W, DEDICATED 120V/20A CIRCUIT WITH 5-20R NEMA RECEPTACLE (PERSONAL VIEWING SCREENS REQUIRE SEPARATE OUTLET)

PERSONAL VIEWING SYSTEMS

- CABLE OR SATELLITE RECEPTION MUST BE OPERATIONAL
- THERE MUST BE AT LEAST ONE COAX OUTLET FOR EACH ROW OF EQUIPMENT NOT TO EXCEED 10 MACHINES
- ANY AUDIO / VIDEO CHANNELS (DMX, CLUB COM, CD DVD) BEING ADDED TO AN EXISTING CABLE, SATELLITE OR TV ANTENNA, REQUIRE MODULATORS. CONSULT CARDIO THEATER SALES DEPARTMENT
- YOU CAN POWER UP TO 10 SCREENS ON 1 20-AMP CIRCUIT
- EACH PERSONAL VIEWING SCREEN REQUIRES A 110V POWER OUTLET OR THE OPTIONAL INTERCONNECT CABLE AND POWER SPLITTER NEEDED TO DAISY CHAIN POWER

ALL 3D AND 2D DESIGNS AND LAYOUTS FOR THIS PROJECT ARE BASED ON INFORMATION PROVIDED BY THE FACILITY OWNER OR ITS REPRESENTATIVES TO ADDVANTAGE CREATIONS INC. ANY DIMENSION, CODE, SIZES, COLORS, OR TEXTURES USED TO CREATE THESE CONCEPTS (DRAWINGS) SHOULD BE VERIFIED BY THE OWNERS OF THE FACILITY, CONTRACTORS, AND/OR THEIR AGENTS. THESE CONCEPTS ARE NOT DESIGNED TO BUILD FROM AND SHALL NOT BE USED AS BUILDING DOCUMENTS BY ANY PARTIES. THESE DOCUMENTS MAY NOT BE ALTERED IN ANY WAY FROM THERE ORIGINAL PRESENTATION WITHOUT WRITTEN CONSENT BY ADDVANTAGE CREATIONS INC. REPRODUCTION IS ALLOWED FOR MARKETING PURPOSES BY PRECOR AND THE FACILITY OWNERS ONLY. HOWEVER CREDIT FOR DESIGNS AND 3D IMAGES MUST BE GIVEN TO ADDVANTAGE CREATIONS INC.



ADDVANTAGE CREATIONS INC.
10000 WOODBURN AVE
TOWSON, MD 21204
www.addvantage.com

EQUIPMENT LAYOUT

ANYTIME FITNESS

Towson, MD

3000
APPROX SF

CONSTRUCTION STRUCTURES INC.
10000 WOODBURN AVE
TOWSON, MD 21204

PLAN



NO.	DATE	REVISION
1	12-10-10	TRUCK DELIVERY
2	12-12-10	REVISIONS TO PRESENTATION

PRECOR KEY
ACCOUNT MANAGER

BILL SHOTWELL
610-297-5474

FILE #	NOTES

NOT FOR CONSTRUCTION



PETITIONER' S

EXHIBIT NO. 4

Community Information Guide



PETITIONER

EXHIBIT NO. 5

PETITION FOR ZONING VARIANCE
FROM AREA AND HEIGHT REGULATIONS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, ~~owner~~ Larry Kamner legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof,

herby petition for a Variance from Sections 409.2(6) to permit 99 offstreet parking spaces in lieu of the required 155 spaces and Sec. 238.2 to permit a corner side street setback of 0 ft. in lieu of the required 30 ft. and an interior side yard setback of 0 ft. in lieu of the required 30 ft. and Sec. 1B02.2B (504 V.B.2) to permit side yard setbacks of 0 ft. & 0 ft. in lieu of the required 25 ft. for a sub-grade parking structure, and also a rear yard setback of 8 ft. in lieu of the required 30 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

High pedestrian traffic in area (primarily from Towson State College);

Available public parking garages in Towson (within 5 min. walk);

Mixed times of peak hours for retail establishments intended to be placed in building;

All the above limit the need for parking.

See attached description

CON'T., SEE ATTACHED SHEET

MAP	30
NE 9-R	
ELECTION	
DISTRICT	9
D. T.	7-9-75
TYPE	
HEARING	✓
BY	144
FINAL	3-9-75
BY	144

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract purchaser

Larry Kamner
LARRY KAMNER

Legal Owner

Address 40 York Road

Towson, Md. 21204

JEROME WEINER Petitioner's Attorney

Protestant's Attorney

Address 4 E. Burke Ave.
Towson, Md. 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day

of August 197 5, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 24th day of September, 197 5, at 1:30 o'clock

P. M.

Henri De Kenna
Zoning Commissioner of Baltimore County.

(over)

ORDER RECEIVED FOR FILING

DATE January 13, 1976

ASSISTANT ATTORNEY GENERAL

JEROME WEINER

LARRY KAMNER
SE/OUT. of York Rd. and Linden
Terrace
9th

#76-58-ASPH
#8

TO THE
I,
situate
plat at
Hearing
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Pro
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to be bo
adopted

Address

JEROME WEINER
Address

ORDER

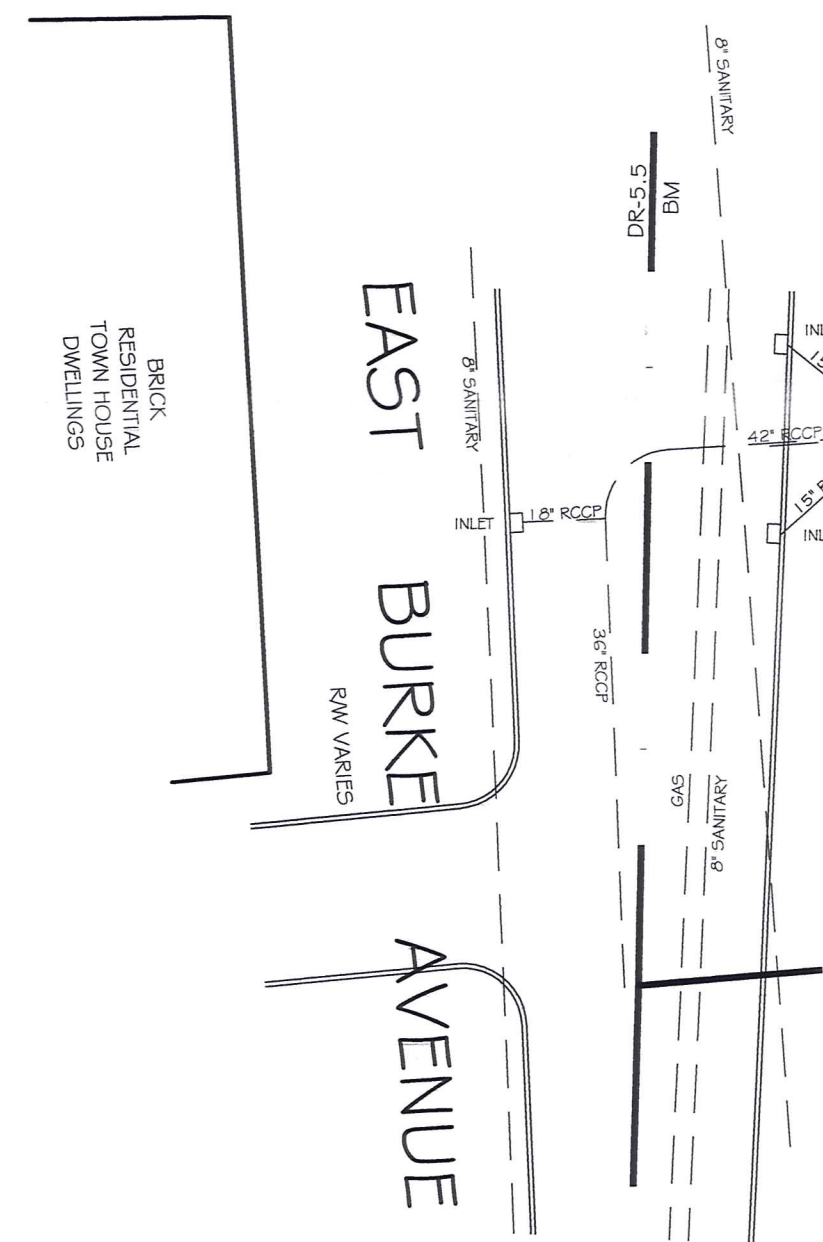
day of Aug
advertiser
newspaper
property
Commission
Towson, B
at 1:30 o

ALL

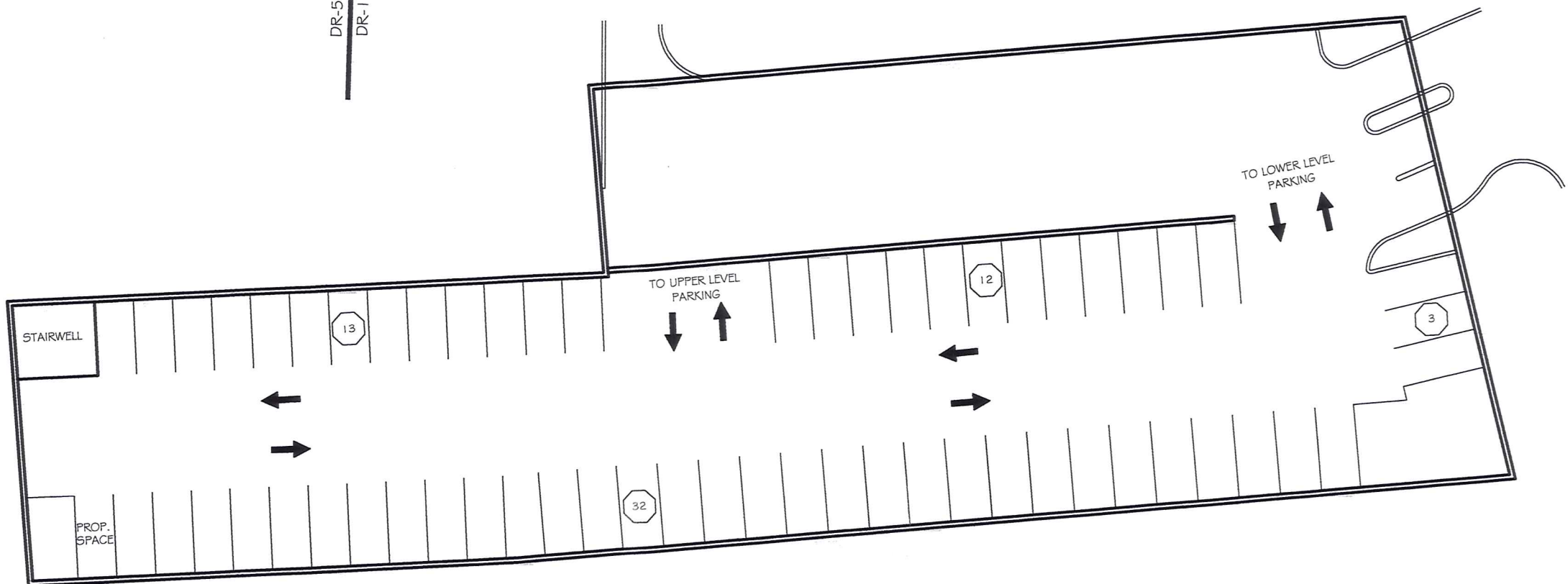
- LEGEND:
- TRAFFIC FLOW
 - HANDICAPPED PARKING SPACE
 - NUMBER PARKING SPACES

LINE TABLE		
LINE	BEARING	LENGTH
L1	S46°11'22"W	16.66
L2	S86°01'32"W	5.00
L3	S03°58'48"E	22.11

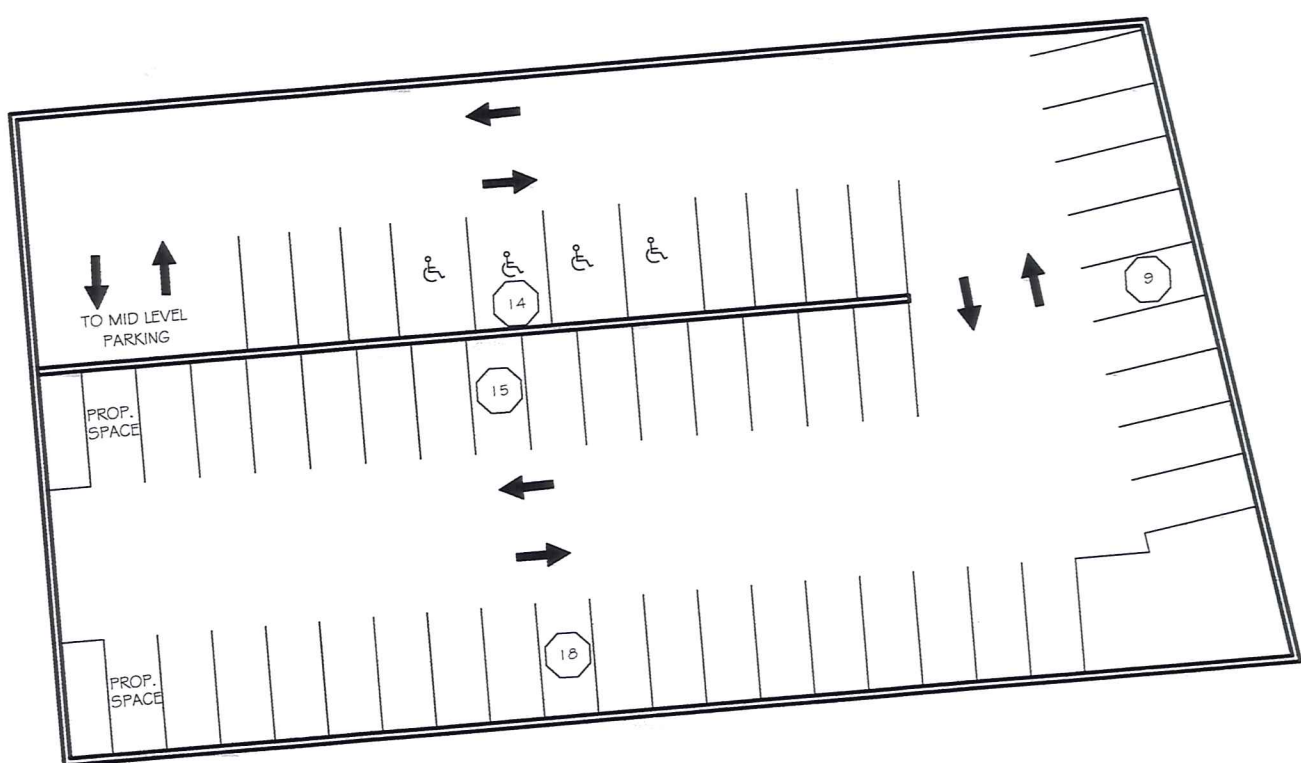
CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD BRG.	TANGENT	DELTA
C1	154.02	1445.50	N09°24'17"E	153.95	77.08
					6°06'18"



FIRST FLOOR AND LOWER LEVEL PARKING PLAN

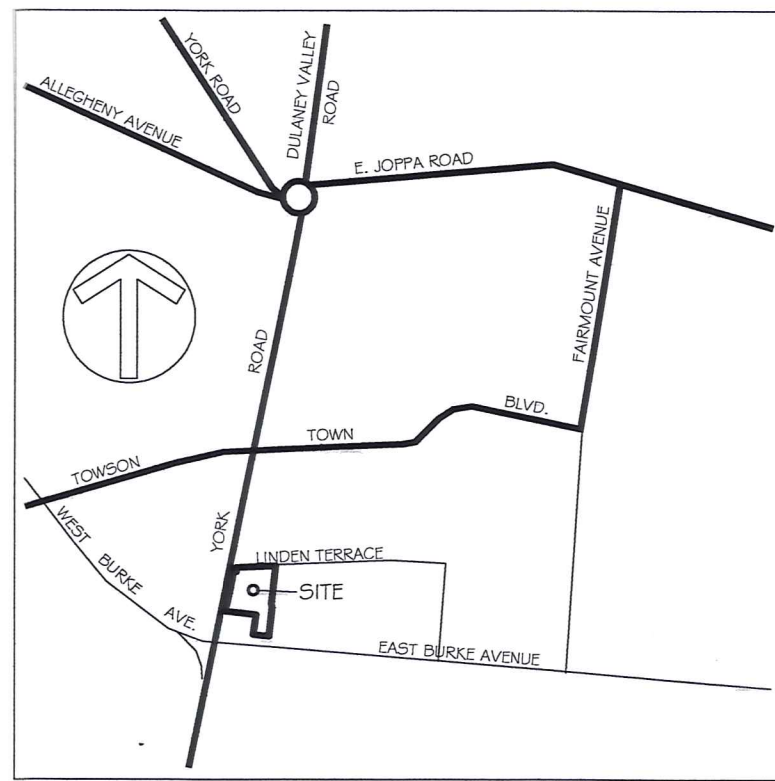


MID LEVEL PARKING PLAN



UPPER LEVEL PARKING PLAN

- SITE DATA:
- UNIT 2 OWNER: 40 YORK ROAD U2, LLC.
 - UNIT 2 OWNER ADDRESS: UNIT 2 40 YORK ROAD TOWSON, MARYLAND 21204
 - SITE ADDRESS: UNIT 2 40 YORK ROAD
 - OWNER'S TELEPHONE NO.: 410-382-8100
 - TAX ACCOUNT NUMBER: 2400012726
 - TAX MAP: 70 GRID: 14 PARCEL: 92 LOT 2
 - DEED REFERENCE: 25966470
 - PLAT REFERENCE: 40 YORK ROAD CONDOMINIUM SM30/1 62
 - GROSS AREA: 0.0752 ACRES
 - ZONING MAP: 070A2
 - ZONING: BM = 1.45 ACRES
 - THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
 - THE SUBJECT PROPERTY IS NOT WITHIN A 100-YEAR FLOODPLAIN PER FEMA.
 - NO PREVIOUS COMMERCIAL PERMITS.
 - CRG WAS APPROVED IN OCTOBER 1988.
 - NO HISTORICALLY SIGNIFICANT STRUCTURES ON THE SUBJECT PROPERTY.
 - AMENITY OPEN SPACE: NONE REQUIRED
 - PARKING: (SEE PARKING TABULATION TABLE)
REQUIRED: 217 SPACES
EXISTING: 158 SPACES
PROPOSED: 162 SPACES
 - SITE SERVED BY PUBLIC WATER AND SEWER
 - ALL PROPOSED SIGNAGE TO COMPLY WITH DCZR SECTION 450
 - THE BASIC SERVICE MAPS INDICATES THAT NO DEFICIENCIES EXIST THAT IMPACT THE SUBJECT SITE.
 - FAR: (ACCORDING TO CRG)
ALLOWED: 2 (63, 162, 126, 324)
PROPOSED: 39,905/63, 162 = 0.64



PARKING TABULATION TABLE

UNIT NO.	AREA	USE	PARKING REQ'D.	TOTAL REQ'D.
UNIT 1	3,931 SF	RESTAURANT	16/1,000 SF	63
UNIT 2	3,280 SF	RECREATIONAL USE	10/1,000 SF	33
UNIT 3	2,154 SF	MEDICAL OFFICE	4.5/1,000 SF	10
UNIT 4	2,253 SF	VACANT	3.3/1,000 SF	0
UNIT 5	1,021 SF	OFFICE	3.3/1,000 SF	4
UNIT 6	860 SF	OFFICE	3.3/1,000 SF	3
UNIT 7	1,727 SF	OFFICE	3.3/1,000 SF	6
UNIT 8	464 SF	OFFICE	3.3/1,000 SF	2
UNIT 9	102 SF	OFFICE	3.3/1,000 SF	1
UNIT 10	10,711 SF	OFFICE	3.3/1,000 SF	36
UNIT 11	7,258 SF	OFFICE	3.3/1,000 SF	24
UNIT 12	3,651 SF	MEDICAL OFFICE	4.5/1,000 SF	10
UNIT 13	952 SF	OFFICE	3.3/1,000 SF	4
UNIT 14	1,311 SF	OFFICE	3.3/1,000 SF	5
	39,915 SF			217

PREVIOUS ZONING HEARING:

CASE 76-58-ASPH:
A VARIANCE WAS GRANTED TO ALLOW 99 OFF-STREET PARKING SPACES IN LIEU OF THE REQUIRED 155 SPACES, TO PERMIT A CORNER SIDE YARD SETBACK OF 10 FEET IN LIEU OF THE REQUIRED 30 FEET, TO PERMIT AN INTERIOR SIDE YARD SETBACK OF 0 FEET IN LIEU OF THE REQUIRED 30 FEET, TO PERMIT A SIDE YARD SETBACK OF 0 FEET IN LIEU OF THE REQUIRED 25 FEET FOR A SUB-GRADE PARKING STRUCTURE AND A REAR YARD SETBACK OF 8 FEET IN LIEU OF THE REQUIRED 30 FEET.

A SPECIAL HEARING WAS GRANTED FOR OFF-STREET PARKING IN A RESIDENTIAL ZONE.

CASE 82-191:
A ZONING RECLASSIFICATION WAS GRANTED WHICH HAS SINCE CHANGED AND IS NOW MOOT.

SPECIAL HEARING REQUESTS:

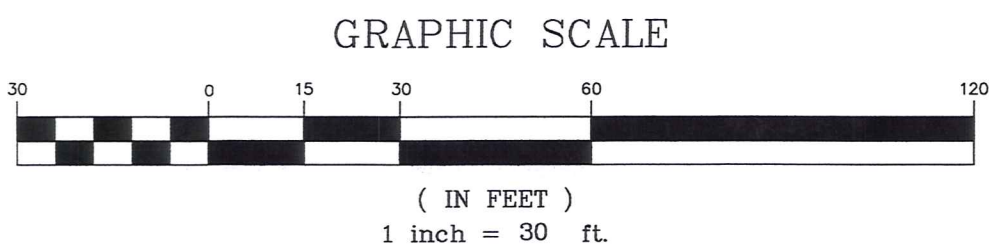
PETITION FOR SPECIAL HEARING RELIEF IN ACCORDANCE WITH SECTIONS 500.6 & 500.7 OF THE BALTIMORE COUNTY ZONING REGULATIONS ("BCZR") TO DETERMINE WHETHER OR NOT THE ADMINISTRATIVE LAW JUDGE SHOULD APPROVE:

- A MODIFIED PARKING PLAN PER SECTION 409.12 OF THE BCZR; AND
- SUCH OTHER AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE FOR BALTIMORE COUNTY.

NOTE:

THE INFORMATION SHOWN HEREON WAS BASED ON A CRG PLAN PREPARED BY KIDDE CONSULTANTS, INC. APPROVED IN OCTOBER 1988, THE CONDOMINIUM PLAT PREPARED BY COLBERT, MATZ, ROSENFELD, INC. RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT 30/1 62 AND 1 63, BALTIMORE COUNTY OFFICIAL ZONING MAP 070A2, UTILITY DRAWINGS PROVIDED BY BALTIMORE COUNTY, MD. AND AERIAL IMAGING FROM GOOGLE EARTH. THE INFORMATION SHOWN HEREON AND THE CONTENT OF THIS PLAN ARE NOT TO BE USED FOR OTHER PURPOSES THEN TO ACCOMPANY A PETITION FOR A SPECIAL HEARING FOR A MODIFIED PARKING PLAN. USE OF THIS PLAN FOR OTHER PURPOSES WILL BE DONE AT USER'S OWN RISK.

PETITIONER'S
EXHIBIT NO. 1



PLAN TO ACCOMPANY A PETITION

for a
SPECIAL HEARING

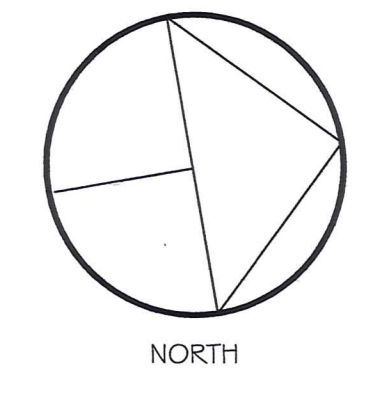
40 YORK ROAD CONDOMINIUM
UNIT 2
BALTIMORE COUNTY, MARYLAND
9th ELECTION DISTRICT 5th COUNCILMANIC DISTRICT

DRAWN BY: KJW
CHECKED BY: KJW
DATE: 1/13/2011

PROJECT NO.:

2011-001

SHEET 1 OF 1



REVISIONS:
NO. DATE

NO.	DATE

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

Land Surveying & Site Planning