

**IN RE: PETITIONS FOR SPECIAL HEARING \*  
AND VARIANCE**

East Side of Falls Road; 98' N of the \*  
c/l of Hillside Avenue \*  
9<sup>th</sup> Election District \*  
2<sup>nd</sup> Councilmanic District \*  
**(10501 Falls Road)** \*

John Hatfield, Jr., *Legal Owner* \*  
TVI Properties, LLC, *Contract Purchaser* \*  
Petitioners \*

BEFORE THE  
OFFICE OF  
ADMINISTRATIVE HEARINGS  
FOR BALTIMORE COUNTY  
  
**CASE NO. 2011-0267-SPHA**

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Special Hearing and Variance filed by the contract purchaser of the property, TVI Properties, LLC, by and through its attorney, Robert A. Hoffman, Esquire, with Venable LLP. Petitioner requests a special hearing to amend the restrictions imposed in Case No. 04-006-SPHA, and to amend the approved site plan to adjust the associated restrictions and hours of operation. In addition, Petitioner requests a variance from Section 229.6 of the Baltimore County Zoning Regulations ("BCZR") to permit a building in the BLR (Business Local Restricted) zone to be set back 0 feet from the property line of a residentially zoned property. The subject site and the requested relief are more particularly described on the redlined site plan accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the petitions were Robert A. Hoffman, Esquire and Kedrick N. Whitmore, Esquire, with Venable LLP, attorneys for the Petitioner; Theodore W. Bauer, Managing Member of the Petitioner; Bruce E. Doak, with Gerhold Cross & Etzel, the engineer who prepared the redlined site plan; and Peter W. Ratcliffe, with Peter W. Ratcliffe Architects, P.A., Petitioner's architect. Lawrence E. Schmidt, Esquire, of Smith, Gildea & Schmidt, LLC, representative of the legal owners of the property, attended as an

**ORDER RECEIVED FOR FILING**

Date 7-21-11

observer. Peter Fenwick, President of the Valleys Planning Council ("VPC") also attended as an observer on behalf of the VPC, which was not in opposition to the requested relief.

Testimony and evidence revealed that the subject property is an irregular shaped parcel of approximately 1.66 acres, located on the east side of Falls Road, north of Hillside Road in the Lutherville-Timonium area of Baltimore County. The property is split-zoned BLR and DR1 (Density, Residential) and is improved by a two-story restaurant known as the Valley Inn, along with associated surface parking.

Petitioner plans to purchase and revitalize the Valley Inn, operating it as a first-class dining establishment that will provide a benefit to the surrounding area. To achieve this, Petitioner plans to rehabilitate the restaurant and add a 2-story addition to the rear of the building. Photographs accepted into evidence as Petitioner's Exhibit 2 depict the poor condition of the property and the need for Petitioner's planned renovations.

Petitioner's attorney proceeded to explain the history of the property. During Baltimore County's 2000 Comprehensive Zoning Map Process ("CZMP"), the County Council rezoned to BLR both the footprint of the restaurant and an area to the south of the restaurant that was planned for a building addition. At the same time, the legal owners entered into a Restrictive Covenant Agreement with the VPC ("2000 RCA"), which allowed for the planned building addition and imposed a number of restrictions on the use of the property. The legal owners and the VPC stated that they are attempting to negotiate an amended version of the 2000 RCA, to accommodate the current plans for the restaurant.

The legal owners subsequently applied for a special hearing and variance in connection with the operation of the restaurant, both of which were granted by the Zoning Commissioner in Case No. 04-006-SPHA. A copy of the order in this case was accepted into evidence as

ORDER RECEIVED FOR FILING

Date 7-21-11

2

By [Signature]

Petitioner's Exhibit 4. A number of restrictions, including the terms of the 2000 RCA, were incorporated into the order and approved site plan ("2004 Site Plan").

During the due diligence period prior to Petitioner's purchase of the restaurant, it was discovered that the actual location of the zone lines and property lines on the property did not match what was depicted in the CZMP, the 2000 RCA, and the 2004 Site Plan. The BLR area depicted on the official zoning maps included neither the entire footprint of the restaurant building nor the area of the proposed building addition. Beyond this, the neighboring property to the south, which is zoned DR1, was found to be much closer to the restaurant building than was originally believed, overlapping a portion of the area planned for the building addition.

The legal owners filed a petition for map correction with the Baltimore County Board of Appeals ("Board") to have the zoning corrected. The Board granted the petition though its order dated June 3, 2011, rezoning the property to BLR consistent with the zone lines shown on Petitioner's Exhibit 1 in this case.

Petitioner now seeks a special hearing to amend the 2004 Site Plan as shown on Petitioner's Exhibit 1. This redlined plan shows the correct location of zone and property lines, reflecting the recent zoning map correction, and amends certain notes on the plan, including revisions to language pertaining the hours of operation of the restaurant and a the insertion of language indicating that the 2000 RCA is "to be amended." Petitioner also requests that any zoning relief issued by way of this order be subject to the 2000 RCA, as may be amended by a document recorded in the Baltimore County Land Records.

Additionally, Petitioner has requested a variance to allow a 0 foot setback from the residential property line to the south. Petitioner explained that, based on the proximity of this

ORDER RECEIVED FOR FILING

Date 7-21-11

By [Signature]

neighboring property line to the restaurant, the variance is necessary to complete the building addition.

After considering the testimony and evidence presented, I am persuaded to grant the petition for special hearing. The 2004 Site Plan and the restrictions in Case No. 04-006-SPHA must be amended in order to accurately reflect the current condition of the property and the most current agreement between the legal owners and the VPC.

With regard to the variance petition, Petitioner has met its burden of proof. Clearly, the property is unique by virtue of the recently discovered property line encroaching from the south, which was not reflected in the CZMP, the 2000 RCA or Case No. 04-006-SPHA. This unique circumstance would cause practical difficulty for Petitioner if the BCZR were strictly enforced, because Petitioner would be unable to complete the building addition that has been contemplated for years, undermining its goal of rehabilitating the restaurant. The property south of the restaurant is vacant, so that no adverse impact will result from grant of the setback variance. Based on these factors, I also find that the variance is in harmony with the spirit and intent of the BCZR.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 21<sup>st</sup> day of July, 2011 that Petitioner's request for a special hearing to amend the restrictions imposed in Case No. 04-006-SPHA, and to amend the approved site plan to adjust the associated restrictions and hours of operation be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's request for a variance from Section 229.6 of the Baltimore County Zoning Regulations ("BCZR") to permit a building in the BLR (Business Local Restricted) zone to be set back 0 feet from the property line of a residentially zoned property be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date 7-21-11

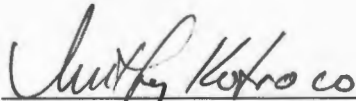
4

By [Signature]

The granting of the above relief shall be subject, however, to the following conditions:

1. Petitioner shall comply with the terms and conditions of the 2000 RCA, as may be amended from time-to-time by a subsequent document recorded in the Baltimore County Land Records;
2. Any future modifications to the exterior of the restaurant building must be reviewed and approved by the Baltimore County Landmarks Preservation Commission; and
3. Petitioner may apply for building permits and be granted same upon receipt of this Order; however, Petitioner is 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.

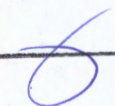
Any appeal of this decision must be made within thirty (30) days of the date of this Order.

  
TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz

ORDER RECEIVED FOR FILING

Date 7-21-11

By 



KEVIN KAMENETZ  
*County Executive*

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

July 21, 2011

ROBERT A. HOFFMAN, ESQUIRE  
VENABLE, LLP  
210 WEST PENNSYLVANIA AVENUE  
SUITE 500  
TOWSON, MD 21204

Re: Petition for Special Hearing and Variance  
Case No. 2011-0267-SPHA  
Property: 10501 Falls Road

Dear Mr. Hoffman:

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 with the Department of Permits, Approvals and Inspections an appeal within thirty (30) days from the date of this Order. 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 dark ink, appearing to read "Timothy Kotroco", is written over a light blue horizontal line.

TIMOTHY M. KOTROCO  
Administrative Law Judge  
for Baltimore County

TMK/pz

Enclosure

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

CASA Flood



# Petition for Variance

to the Zoning Commissioner of Baltimore County for the property

located at 10501 Falls Road

which is presently zoned BLR, DR1

Deed Reference: 06681 / 726 Tax Account # 0908003420

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

SEE ATTACHED

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

TO BE DISCUSSED AT HEARING

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

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

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

## Contract Purchaser/Lessee:

SEE ATTACHED

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Attorney For Petitioner:

Robert A. Hoffman

Name - Type or Print

Signature

Venable LLP

Company

210 W. Pennsylvania Avenue 410-494-6200

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

## Legal Owner(s):

SEE ATTACHED

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Representative to be Contacted:

Robert A. Hoffman

Name

210 W. Pennsylvania Avenue 410-494-6200

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

Case No. 2011-0267-SPHA

## Office Use Only

ORDER RECEIVED FOR FILING

REV 8/20/07

Estimated Length of Hearing  
Unavailable For Hearing

Reviewed by

Date 3/10/11

Date

By

**PETITION FOR VARIANCE  
ATTACHED SHEET**

**10501 Falls Road**

Variance from Section 229.6 of the Baltimore County Zoning Regulations to permit a building in the Business Local Restricted (BLR) zone to be set back 0 feet from the property line of a residentially zoned property in lieu of the required setback, if necessary.

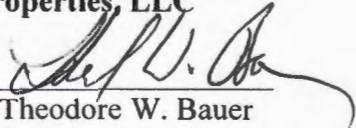
0267-SPHA

**PETITION FOR VARIANCE  
ATTACHED SHEET**

**10501 Falls Road**

**Contract Purchaser:**

**TVI Properties, LLC**

By: 

Name: Theodore W. Bauer

Title: Managing Member

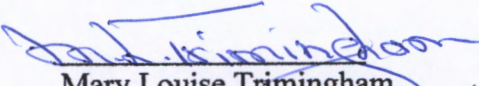
1201 Shawan Road  
Hunt Valley, MD 21030  
(410) 771-0505

0267-SPHA

**PETITION FOR VARIANCE  
ATTACHED SHEET**

**10501 Falls Road**

**Legal Owner:**

  
Mary Louise Trimmingham

Address: Palmetto Gardens 3D, Smith's FLOT, Bermuda

Telephone: 1-441-293-0123

PETITION FOR VARIANCE  
ATTACHED SHEET

10501 Falls Road

**Legal Owner:**

Elizabeth S. Proutt

Elizabeth S. Proutt

Address: 801 Duke of Suffolk Dr. Va. Beach, VA. 23454

Telephone: 757-481-9557

**PETITION FOR VARIANCE  
ATTACHED SHEET**

**10501 Falls Road**

**Legal Owner:**

John A. Hatfield, Jr.

John A. Hatfield, Jr.

Address: 10501 Falls Rd. Brentwood, Md 21022

Telephone: 410-828-8080



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 10501 Falls Road

which is presently zoned BLR, DR1

(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 SHEET

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:

SEE ATTACHED SHEET

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Attorney For Petitioner:

Robert A. Hoffman

Name - Type or Print

Signature

Venable LLP

Company

210 W. Pennsylvania Avenue

410-494-6200

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

## Legal Owner(s):

SEE ATTACHED SHEET

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

## Representative to be Contacted:

Robert A. Hoffman

Name

210 W. Pennsylvania Avenue

410-494-6200

Address

Telephone No.

Towson

MD

21204

City

State

Zip Code

## OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

Case No.

2011-0267-SPHA

REV 9/01

ORDER RECEIVED FOR FILING

UNAVAILABLE FOR HEARING

Reviewed By

Date

3/10/11

Date

By

**PETITION FOR SPECIAL HEARING  
ATTACHED SHEET**

**10501 Falls Road**

Special Hearing to amend the restrictions imposed in Case No. 04-006-SPHA, and to amend the approved site plan to adjust the associated restrictions and the hours of operation.

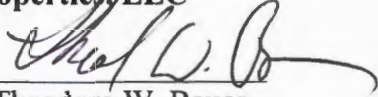
0267-SPHA

**PETITION FOR SPECIAL HEARING  
ATTACHED SHEET**

**10501 Falls Road**

**Contract Purchaser:**

**TVI Properties, LLC**

By: 

Name: Theodore W. Bauer

Title: Managing Member

1201 Shawan Road  
Hunt Valley, MD 21030  
(410) 771-0505

0267-SPHA

**PETITION FOR SPECIAL HEARING  
ATTACHED SHEET**

**10501 Falls Road**

**Legal Owners:**

*Mary Louise Trimingham*  
Mary Louise Trimingham

Address: Palmetto Gardens 3D, Smith's FLOT, Bermuda

Telephone: 1-441-293-~~000~~ 0123

**PETITION FOR SPECIAL HEARING  
ATTACHED SHEET**

**10501 Falls Road**

**Legal Owners:**

Elizabeth S. Proutt

Elizabeth S. Proutt

Address: 801 Duke of Suffolk Dr. Va. Beach, VA. 23454

Telephone: 757-481-9537

**PETITION FOR SPECIAL HEARING  
ATTACHED SHEET**

**10501 Falls Road**

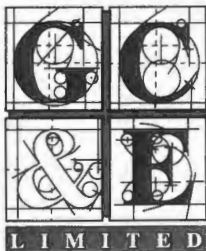
**Legal Owners:**

John A. Hatfield, Jr.

John A. Hatfield, Jr.

Address: 10501 Falls Rd. - Brinkley, Md. 21022

Telephone: 410-828-8080



## Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286  
Phone: (410) 823-4470 • Fax: (410) 823-4473 • [www.gcelimited.com](http://www.gcelimited.com)

March 10, 2010

### ZONING DESCRIPTION HATFIELD PROPERTY VALLEY INN RESTAURANT

Beginning for the same on the east side of Falls Road, 98'+/- north of the centerline of Hillside Avenue, thence leaving the east side of Falls Road and running, the seventeen following courses and distances, viz.

- 1) Line curving to the right with a radius of 1525.25' for an arc distance of 12'+-
- 2) South 89 degrees 51 minutes 47 seconds East 8'+-
- 3) South 00 degrees 10 minutes 48 seconds West 14'+-
- 4) Line curving to the right with a radius of 1525.25' for an arc distance of 7'+-
- 5) South 89 degrees 59 minutes 07 seconds East 59'+-
- 6) North 00 degrees 10 minutes 48 seconds East 38.84'
- 7) North 89 degrees 40 minutes 58 seconds East 25.06'
- 8) North 78 degrees 36 minutes 31 seconds East 111.94'
- 9) North 84 degrees 32 minutes 10 seconds East 61.72'
- 10) North 73 degrees 35 minutes 22 seconds East 28.60'
- 11) North 69 degrees 21 minutes 40 seconds East 40.36'
- 12) North 82 degrees 15 minutes 06 seconds East 41.33'
- 13) North 01 degree 52 minutes 58 seconds East 136.20'
- 14) North 87 degrees 18 minutes 09 seconds West 115.00'
- 15) North 84 degrees 22 minutes 19 seconds West 129.86'
- 16) North 84 degrees 04 minutes 03 seconds West 113.01' and
- 17) South 47 degrees 58 minutes 07 seconds West 24.90' to the east side of Falls Road, thence binding on the east side of Falls Road
- 18) South 02 degrees 09 minutes 50 seconds West 212'+- to the point of beginning.

Containing 1.6 acres, more or less.

Also known as #10501 Falls Road and located in the 9<sup>th</sup> Election District, 2nd Councilmanic District.

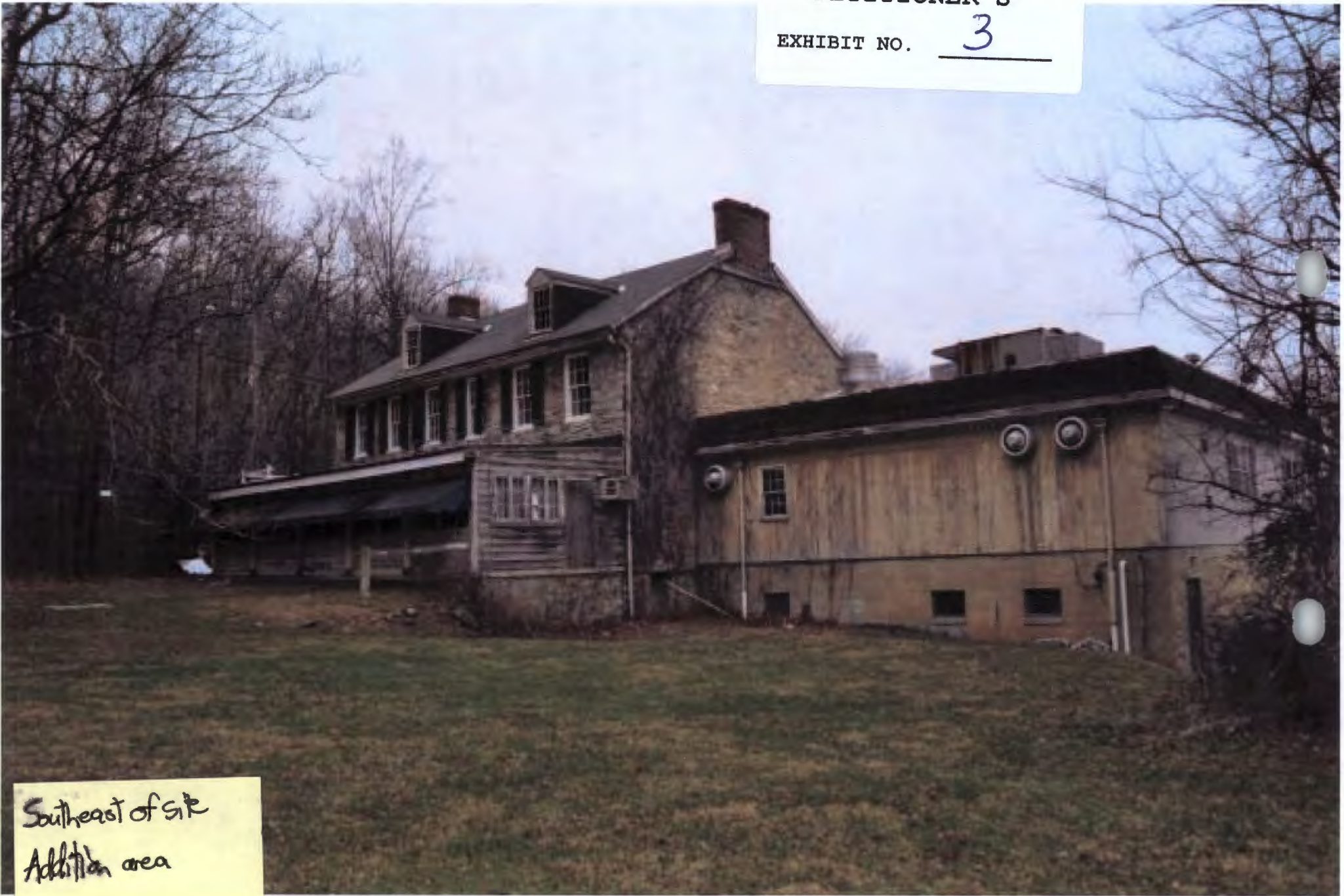
This description only satisfies the requirements of the Office of Zoning and should not be used for conveyance purposes.

2011-0267-SPHA

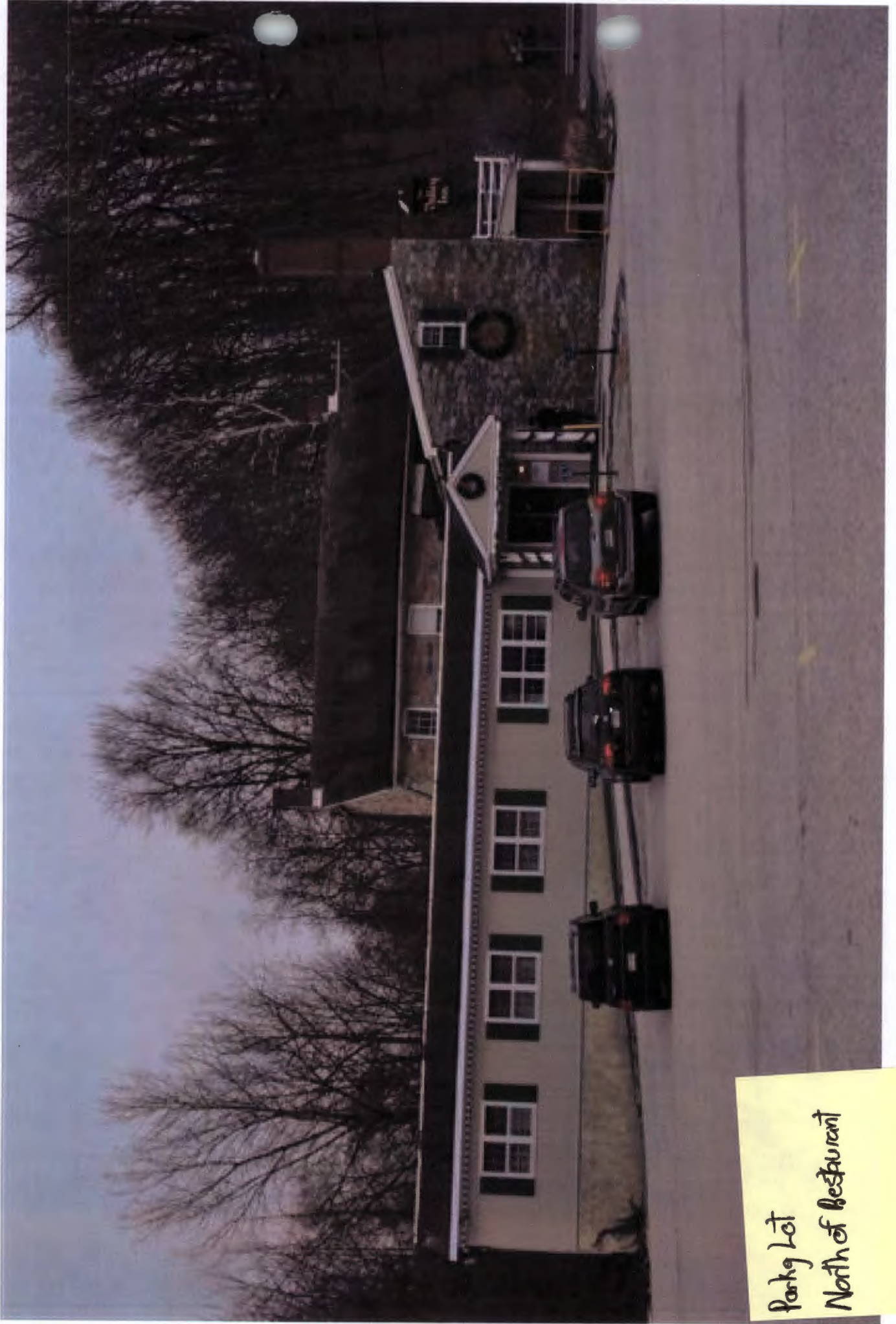


3/10/11

PETITIONER'S  
EXHIBIT NO. 3



Southeast of site  
Addition area



Parking Lot  
North of Restaurant



Parking Lot  
East of Restaurant



Fells Rd.  
North of site



Falls Rd  
South of site

5/27 10 AM

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: March 29, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-267-SPHA  
Address 10501 Falls Road  
(Hatfield Property)

Zoning Advisory Committee Meeting of March 21, 2011.

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

1. 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). – *John Russo; Environmental Impact Review*
2. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code). – *John Russo; Environmental Impact Review*
3. Since there is a restaurant, and it's on a well, Groundwater Mgmt. will need to review any proposed building permits. – *Dan Esser; Groundwater Management*

RECEIVED

MAR 29 2011 RECEIVED

OFFICE OF THE CLERK OF THE BALTIMORE COUNTY BOARD OF ZONING ADJUDICATORS  
MAR 29 2011

OFFICE OF THE CLERK OF THE BALTIMORE COUNTY BOARD OF ZONING ADJUDICATORS

**BALTIMORE COUNTY, MARYLAND**

**INTER-OFFICE CORRESPONDENCE**

**TO:** Arnold Jablon, Director  
Department of Permits,  
Approvals and Inspections

**DATE:** May 26, 2011

**FROM:** Andrea Van Arsdale  
Director, Office of Planning

**SUBJECT:** 10501 Falls Road

**RECEIVED**

**INFORMATION:**

**MAY 26 2011**

**Item Number:** 11-267

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Petitioner:** John A. Hatfield Jr. et al

**Zoning:** BLR and DR1

**Requested Action:** Special Hearing and Variance

The Valley Inn is located at 10501 Falls Road, a state and county scenic byway. It is on the final landmark list, known as the Brooklandville House, BA 218, # 197.

Office of Planning acknowledges a map error that resulted in the incorrect location of the BLR zoning during the 2000 CZMP. This property was the subject of a zoning map correction case before the Board of Appeals on May 26, 2011.

**SUMMARY OF RECOMMENDATIONS:**

The Office of Planning supports the requested relief subject to the following:

1. Any future modifications to the building must be reviewed and approved by the Baltimore County Landmarks Preservation Commission.
2. Prior to the issuance of any permits, the petitioner must provide a plan for review that details streetscape planting along Falls Road, where feasible, taking into account the physical constraints, utilities and rights of way on the Falls Road frontage.
3. Prior to the issuance of any permits, the petitioner must provide a lighting plan for the parking lot for review, using dark sky compliant light fixtures.

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

**Prepared by:**

**Division Chief:**  
JM/LL: CM

RE: PETITION FOR SPECIAL HEARING \* BEFORE THE  
AND VARIANCE \*  
10501 Falls Road; E/side of Falls Road; 98 ft. \* ZONING COMMISSIONER  
North of the center line of Hillsdale Avenue \*  
9<sup>th</sup> Election & 2<sup>nd</sup> Councilmanic Districts \* FOR  
Legal Owner(s): John Hatfield, Jr. \*  
Contract Purchaser: TVI/Theodore W. Bauer \* BALTIMORE COUNTY  
Petitioner(s) \*  
2011-0267-SPHA

\* \* \* \* \*

**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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16th day of March, 2011, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Venable LLP, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

IN THE MATTER OF  
BALTIMORE COUNTY, MARYLAND;  
JOHN A. HATFIELD; ELIZABETH PROUTT; and  
MARY LOUISE TRIMMINGHAM – Petitioners

E/S Falls Road, Opposite Hillside Road  
2<sup>ND</sup> COUNCILMANIC DISTRICT

RE: ZONING MAP CORRECTION

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO. M.C. 11-02

\* \* \* \* \*

### ORDER

The above entitled matter came on for hearing before this Board on May 26, 2011 on a Petition for Zoning Map Correction filed by Lawrence E. Schmidt, Esquire, on behalf of John A. Hatfield, Elizabeth S. Proutt, Mary Louise Trimmingham, Petitioners, and Baltimore County, Maryland, by Michael Field, County Attorney, and Nancy C. West, Assistant County Attorney, Petitioners.

A public hearing was held on May 26, 2011. Public Deliberation was held at the conclusion of the hearing.

Nancy C. West, Assistant County Attorney represented Baltimore County, Lawrence E. Schmidt, Esquire, represented John A. Hatfield, Elizabeth S. Proutt, and Mary Louise Trimmingham. Carole S. Demilio, Deputy People's Counsel for Baltimore County also participated.

The subject property is located E/S Falls Road, opposite Hillside Road in Baltimore County, Maryland in the Second Councilmanic District and is identified by Baltimore County Tax identification Number District 09 Account Number 0908003420. Such Parcel contains 6.66 acres of land.

The 2000 comprehensive zoning maps for CZMP Issue No. 4-034 as adopted by the County

**Map Correction / Case No.: M.C. 11-02 / E/S Falls Road, opposite Hillside Road**

Council rezoned .22 acres to BLR and left the remaining 6.44 acres of the property zoned DR 1.

The Petition represents that a technical drafting error was made by the Office of Planning in implementing the zoning change as adopted CZMP Issue No, 4-034. As a result, the County Council's duly enacted zoning classification of the .22 acres zoned BLR is not properly configured as reflected on the 2008 zoning maps.

The Petition represents that pursuant to § 32-3-231 of the *Baltimore County Code* the subject parcel should be reconfigured in accordance with the legislative intent of the County Council (part of Issue No. 4-034 / 2000 CZMP).

Petitioners have filed supporting documents with their Petition, including a Certification letter by the Baltimore County Office of Planning dated April 27, 2011.

The County also introduced maps showing the zoning change as previously configured and the proposed configuration to indicate the legislative intent.

The Board has given due consideration to the Petition, the Certification, exhibits presented at the time of the hearing, as well as the testimony presented in this case by Dianne Itter, of the Baltimore County Office of Planning.

The Board finds that the present configuration of the zoning designation of BLR for the .22 acres of land on the subject parcel of land is incorrect, and in error. The Petitioner is entitled to the relief requested since the error is a "technical drafting error" made by the Office of Planning in transferring the County Council's enacted zoning classification to the Comprehensive Zoning Map, as set out in § 32-3-231(b)(1) of the *Baltimore County Code*. The subject parcel's configuration should be corrected and changed to reflect the dimensions to include the existing building outline with a proposed addition area to the centerline of Falls Road. Total area with the proposed addition included is 6,768 square feet, and an additional 2,491 square feet between the centerline

of Falls Road and the building. Total area of 9,260 square feet, as shown in Exhibit "A" attached hereto in accordance with the legislative intent of the County Council.

IT IS THEREFORE, this 3rd day of June, 2011 by the Board of Appeals of Baltimore County

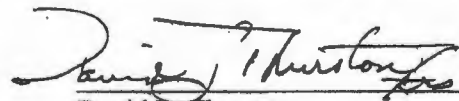
**ORDERED** that the present configuration of the .22 acres of land with a zoning designation of the subject property which is currently zoned BLR be changed to in accordance with the legislative intent of the County Council; (part of Issue No. 4-034 / 2000 CZMP); and it is further

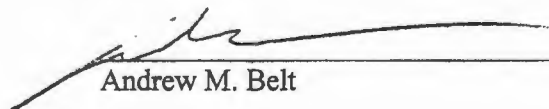
**ORDERED** that the Office of Planning make the necessary change and correction as set out herein, and in accordance with Exhibit "A" attached, on the latest Comprehensive Zoning Map for Baltimore County with regard to the subject property.

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

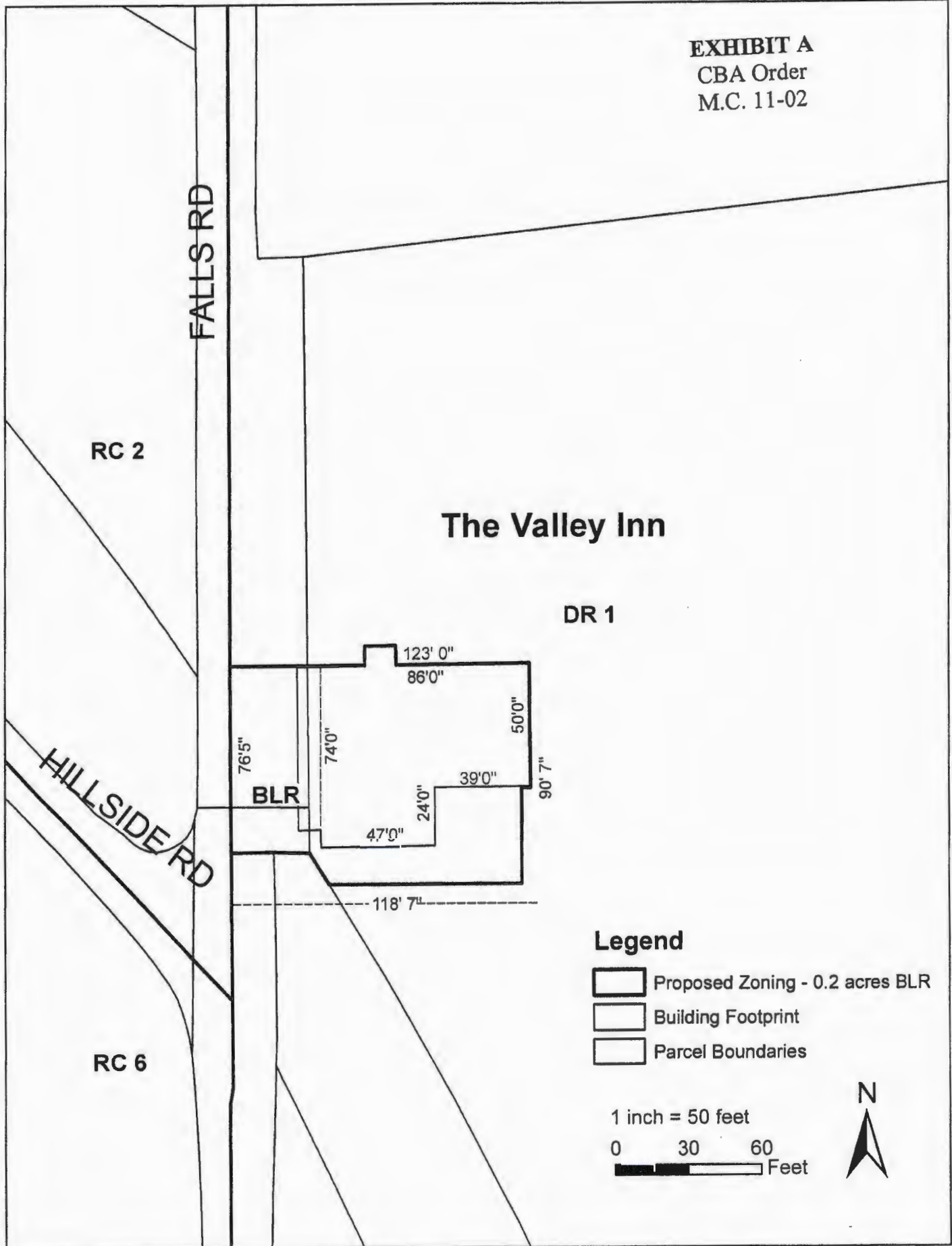
**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
Lawrence S. Wescott, Chairman

  
David L. Thurston

  
Andrew M. Belt

**EXHIBIT A**  
CBA Order  
M.C. 11-02



IN RE: PETITIONS FOR SPECIAL HEARING  
AND VARIANCE – E/S Falls Road, 88' N  
Of the c/l Hillside Avenue  
(10501 Falls Road)  
9<sup>th</sup> Election District  
2<sup>nd</sup> Council District

Valley Inn, Inc.  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 04-006-SPHA  
\*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, Valley Inn, Inc., through their attorney, C. William Clark, Esquire. The Petitioners request a special hearing seeking approval of commercial parking in a residential zone, pursuant to Section 409.8.B.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow service vehicles to use part of the parking lot and dumpster location. In addition, the Petitioners request approval of a waiver to allow construction of an addition to the Valley Inn Restaurant, a historic structure, pursuant to Section 26-278 of the Baltimore County Code, without being subject to the requirements of Section 229.6 of the B.C.Z.R. (bulk and area standards for the B.L.R. zone). In addition the Petitioners request variance relief from the Residential Transition Area requirements of Sections 1B01.1.B.1(1) and 1B01.1.B.3(2) of the B.C.Z.R. to permit a 0-foot setback and buffer in lieu of the required 75-foot setback and 50-foot buffer. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were John A. Hatfield, Jr., President/Treasurer of the Valley Inn, Inc.; Catherine Warfield, Professional Engineer who prepared the site plan for this property; and C. William Clark, Esquire attorney for the

PETITIONER'S

EXHIBIT NO.

4

ORDER RECEIVED FOR FILING

Date

By

10/9/03

*[Signature]*

Petitioners. Also appearing was Jack Dillon, Executive Director of the Valleys Planning Council. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is an irregular shaped parcel located on the east side of Falls Road, just north of Hillside Avenue in Brooklandville. The property contains a gross area of 9.66 acres, more or less, split zoned D.R.1 and B.L.R., and is improved with a two-story historic restaurant building, which has existed on the site for many years. The Petitioners' family has owned and operated the Valley Inn Restaurant within the building for over 50 years. In fact, a restaurant has operated on the property since approximately 1832. The Baltimore County Council listed the Valley Inn building on the County's Final Historical Landmarks List on October 15, 2001. The property is predominantly zoned D.R.1; however, in recognition of the longstanding restaurant use, the County Council rezoned a portion of the site to B.L.R. during the 2000 Comprehensive Zoning Map process ("CZMP"). That portion of the site now zoned B.L.R. essentially encompasses the footprint of the restaurant building. The area surrounding the restaurant, including a large parking field which has served patrons of the restaurant for many years, is zoned D.R.1.

The Petitioners are desirous of constructing an addition to the existing building, which has necessitated the instant Petitions. As shown on the site plan, a one-story addition is proposed along the south and east sides of the building. This L-shaped addition will provide more storage space and seating area within the restaurant.

It is also of note that Mr. Hatfield and his family own most of the property adjacent to the site. Immediately north of the property is a 1.5-acre parcel owned by Mr. Hatfield. Indeed, it is this parcel which generates the RTA requirements from which variance relief is requested. Mr. Hatfield also owns and resides on the property across Falls Road from the subject site.

A series of exhibits were offered at the hearing. Among those is a Restrictive Covenant Agreement (Petitioner's Exhibit 3) that was entered into between the Hatfield family and the Valleys Planning Council on October 10, 2000. That agreement was entered into as the result of negotiations during the CZMP and sets forth a series of understandings between the parties

CELESTINE T. BROWN  
10/9/03  
By: [Signature]

regarding existing and proposed use of the property and the proposed zoning change. Mr. Dillon, who appeared at the hearing, indicated that the Petitioners' plans for limited expansion were anticipated within that agreement. The Valleys Planning Council supports the instant Petitions for Special Hearing and Variance as being consistent with the Restrictive Covenant Agreement. The parties also request that the terms and conditions of that agreement be incorporated into any relief granted. A similar request was received from the Office of Planning in its Zoning Plans Advisory Committee (ZAC) comments.

The Petition for Special Hearing is necessitated by the D.R. zoning of the property. As noted above, the parking field is located within that part of the site zoned D.R.1. In addition to the parking area for customers, a portion of the parking area features a loading area for deliveries to the restaurant, as well as the dumpster. It was indicated that more than sufficient parking is available on site (172 spaces). Moreover, special hearing relief is requested to allow the proposed addition, due to the historic designation of the existing Valley Inn Restaurant building. As to the Petition for Variance, relief is requested from the RTA requirements. Again, these requirements are generated by this same owner's property that abuts this site to the north.

Based upon the testimony and evidence presented, I am easily persuaded to grant the requested relief. In my judgment, the proposed improvements and relief requested are consistent with the spirit and intent of the B.C.Z.R. and the agreement by and between the parties. As requested by the parties, the terms and conditions of the restrictive covenant agreement shall be incorporated as a condition to the grant of the relief. Additionally, the Baltimore County Landmarks Preservation Commission shall review and approve the details of the proposed addition prior to the issuance of a building permit.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

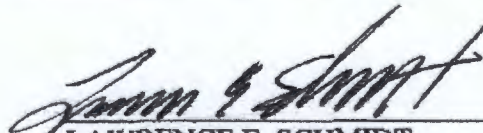
THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of October 2003 that the Petition for Special Hearing seeking approval of

commercial parking in a residential zone, pursuant to Section 409.8.B.2.c of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow service vehicles to use part of the parking lot and dumpster location, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing seeking approval of a waiver to allow construction of a building addition to the Valley Inn Restaurant, a historic structure, pursuant to Section 26-278 of the Baltimore County Code, without being subject to the requirements of Section 229.6 of the B.C.Z.R. (bulk and area standards for the B.L.R. zone), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Residential Transition Area requirements of Sections 1B01.1.B.1(1) and 1B01.1.B.3(2) of the B.C.Z.R. to permit a 0-foot setback and buffer in lieu of the required 75-foot setback and 50-foot buffer, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

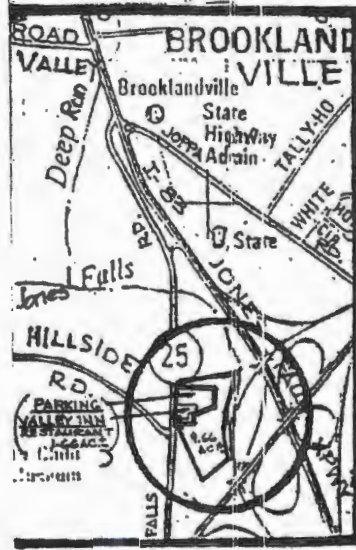
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioners shall comply with the terms and conditions of the Restrictive Covenant Agreement, which has been incorporated herein and made a part hereof.
- 3) Prior to the issuance of any permits, the Petitioners shall submit building elevation drawings of the proposed addition to the Landmarks Preservation Commission for review and approval.
- 4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.



LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

John A. Hatfield, Jr. 5596/344  
Acct. # 03-1700004876 2.669 ac.



VICINITY MAP  
Scale 1" = 1000'

**PARKING REQUIREMENTS**  
BCZR 409.88.2

- The land so used must adjoin or be across an alley or street from the business or industry involved. The land adjoins the business.
- Only passenger vehicles, excluding buses, may use the parking facility. Buses use spaces for parking purposes.
- No loading, service or any use other than parking shall be permitted. See variance.
- Lighting shall be regulated as to location, direction, hours of illumination, glare and intensity, as required. Existing lights are on BGE poles, directed entirely on the parking lot, and come on at all night. See Note # 9 on plan.
- A satisfactory plan showing parking arrangement and vehicular access must be provided. See this plan.
- Method and area of operation, provision for maintenance and permitted hours of use shall be specified and regulated as required. See Note # 8.
- Any conditions not listed above which, in the judgement of the Zoning Commissioner are necessary to ensure that the parking facility will not be detrimental to the adjacent properties. To be determined by the Zoning Commissioner.

**C. L. WARFIELD & ASSOC., INC.**  
Consulting Engineers  
4900 KEMP ROAD  
REISTERSTOWN, MD. 21136  
PHONE: 410.833.6233 FAX 410.833.8944  
email: clwarfield@prodigy.net

SURVEY and DESCRIPTION PREPARED BY  
**SURVEY SERVICES, LLC**  
752 Camberly Circle  
Towson, Maryland 21204



EXISTING SIGN  
DETAIL  
N.O. SCALE  
UNIT

T 410.494.6204  
F 410.821.0147  
knwhitmore@venable.com

March 10, 2011

Mr. Carl W. Richards, Jr., Supervisor  
Zoning Review Office  
Baltimore County Department of Permits,  
Approvals, and Inspections  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: The Valley Inn  
10501 Falls Road

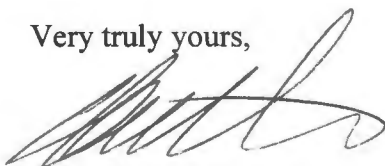
Dear Mr. Richards:

My client, TVI Properties, LLC, is the contract purchaser of the above-referenced property, and is seeking to file petitions for special hearing and variance on the property today. Representatives of the legal owner of the property are not currently available to have the petitions signed; however, these representatives have stated to me that the legal owner is in favor of the requested relief and will sign the petitions as soon as is practicable.

With this letter, I request that your office accept the enclosed petitions for special hearing and variance today, with the understanding that the legal owner will sign the petitions at a later date.

Please do not hesitate to contact me with any questions.

Very truly yours,



Kedrick N. Whitmore

cc: Lawrence E. Schmidt, Esq.



