

RE: PETITION FOR SPECIAL HEARING

SW/side of Putty Hill Avenue, 170' SE of
c/line of Old Harford Road
(2531 Putty Hill Avenue)
9th Election District
6th Councilmanic District

McAvoy Enterprises, LLC, *Lessee*
Petitioner

* BEFORE THE
* BOARD OF APPEALS
* FOR
* BALTIMORE COUNTY
*
Case No. 2012-0007-SPH
*

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County as an appeal of the Petitioner, McAvoy Enterprises, LLC's, request for special hearing relief that was granted on August 31, 2011 by Administrative Law Judge Timothy M. Kotroco. The Petition for special hearing relief was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve a modified parking plan pursuant to Section 409.12 of the B.C.Z.R.

Appearing before the Board in support of this Petition were Adam Bloom and Diane Schmittinger from McAvoy Enterprises, LLC, a Lessee of retail space in the Putty Hill Shopping Center, that operates as McAvoy's (a bar/restaurant) and Bernadette Moskunas with Site Rite Surveying, Inc. Jason T. Vettori, Esquire represented the Petitioners. Also attending in support of the Petitioner was Louis Denrich, the authorized representative of Putty Hill Investments, LLC, the owner of the shopping center in which the restaurant is located. Appearing as an interested party regarding the request was Ray Vogel, on behalf of Baltimore #45 Association, Inc., the ownership group which owns both the Tall Cedars Lodge and the parking lot. Mr. Vogel was represented by J. Carroll Holzer, Esquire.

The subject property is the site of the Putty Hill Shopping Center and is improved with several retail, restaurant and catering hall businesses. The property is located on the south side of

Putty Hill Avenue near its intersection with Old Harford Road. The property is unusual in that the parking lot area and the Tall Cedars Lodge building are owned by one entity and the small strip of retail businesses attached to the Tall Cedars Lodge is owned by another entity.

The Special Hearing request in this case involves McAvoy's Tavern, which is a restaurant and bar facility located on the eastern end of a strip shopping center, Putty Hill Shopping Center. At this time, McAvoy's is interested in creating an outdoor seating area for their customers. Testimony and evidence indicated that their customers had repeatedly implored them to provide an outdoor seating area like other similarly situated businesses in the area. By providing the outdoor seating area, which totals approximately 644 square feet of additional floor space, the Petitioners would be required to provide additional parking spaces. The testimony and evidence demonstrated that the shopping center is currently deficient in parking provided due to the fact that the tenant structure for the center has changed over time. Therefore, it is appropriate for the Petitioners to request a special hearing for a modified parking plan as opposed to a variance request.

The area immediately to the front of the space that they lease is already improved with a covered awning. McAvoy's is interested in placing some tables and chairs on the sidewalk area and will provide a small fence around that seating area to give it more of a patio look and feel. They do propose to provide openings which are approximated 48" in width in the area closest to the parking lot at both ends of the patio. The openings will have no gates and there will be no tables between them to allow pedestrians and customers of other businesses of the shopping center to pass freely through the area and not cause those customers to have to walk into the travel lanes of the parking lot. The layout of the patio is illustrated more fully in a sketch plan that was marked and accepted into evidence as Petitioner's Exhibit No. 1.

Section 409.12 of the B.C.Z.R. provides the Board of Appeals the authority to approve a modified parking plan. The Board of Appeals finds, based on the testimony and evidence presented at the hearing, that the requirements to provide parking for this shopping center would create an undue hardship upon the Applicants if they had to comply with the current standards applicable to this center. As stated previously, the shopping center was built many decades ago and at that time met all the parking requirements imposed by the B.Z.C.R. Therefore, it is appropriate to approve a modified parking plan to allow the center to continue to operate. We find that the additional 644 square feet outdoor seating area which is a seasonal use would not impact or adversely affect the existing parking arrangement.

Mr. Ray Vogel indicated that the owners of the parking lot take umbrage with McAvoy's prior practice of reserving spaces for its patrons by placing cones in the spaces in front of their establishment and request that McAvoy's discontinuing this practice be a condition for approval. The representatives of McAvoy Enterprises, LLC agreed that they would be amenable to a condition whereby they would no longer reserve or block off parking spaces for the exclusive use of their patrons. The Protestants requested that the Board impose as a condition of approval that no parking spaces are to be reserved or blocked off by McAvoy's Tavern for the exclusive use of its patrons. The Protestants further requested that the Board impose as a second condition of approval that the design of the outdoor seating shall be as proposed on Petitioner's Exhibit No. 1.

In conclusion, the Board finds the Petitioners request for special hearing is GRANTED.

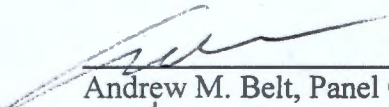
ORDER

THEREFORE, IT IS THIS 12th day of March, 2012 by the Board of Appeals for Baltimore County

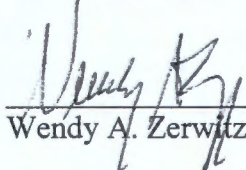
ORDERED, that the Petition for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for a modified parking plan per Section 409.12 of the B.C.Z.R., be and is hereby **GRANTED**, subject to the following condition:

1. No parking spaces in the subject parking lot are to be reserved or blocked off by McAvoy's Tavern for the exclusive use of its customers.
2. The design of the outdoor seating shall be as proposed in Petitioner's Exhibit No. 1 and as agreed to by the Protestants.

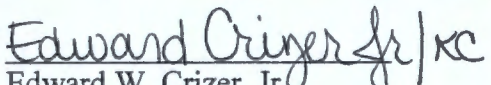
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Panel Chair



Wendy A. Zerwitz



Edward W. Crizer, Jr.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 12, 2012

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

J. Carroll Holzer, Esquire
508 Fairmont Avenue
Towson, MD 21286

RE: *In the Matter of: Putty Hill Investments, LLC – Petitioner*
McAvoy Enterprises, LLC – Lessee
Case No.: 12-007-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c: Putty Hill Investments, LLC/Louis Denrich, General Partner
McAvoy Enterprises, LLC/Diane Schmittinger, Owner
Site Rite Surveying, Inc.
Carl Briscoe, President/Baltimore #45 Association, Inc
Tom Green, Secretary/Baltimore #45 Association, Inc
Ray Hennighausen
Henry Chaudron
Lawrence M. Stahl, Managing Administrative Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Adam Bloom
Ray Vogel, Vice President/Baltimore #45 Association, Inc
Mike Tumminello
Willey Pugh
Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

IN RE: PETITION FOR	*	BEFORE THE
SPECIAL HEARING	*	
S/w side of Putty Hill Ave.	*	BALTIMORE COUNTY
170' SE of c/line of Old Harford Rd.	*	
(2531 Putty Hill Ave.)	*	OFFICE OF
9th Election District	*	
6th Councilmanic District	*	ADMINISTRATIVE HEARINGS
 Putty Hill Investments, LLC	 *	
<i>Legal Owner</i>		
McAvoy Enterprises, LLC	*	
<i>Lessee</i>		
<i>Petitioners</i>	*	Case No. 2012-0007-SPH

* * * * *

NOTICE OF APPEAL

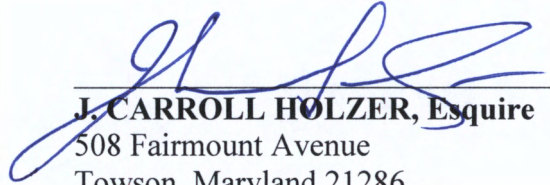
BALTIMORE #45 ASSOCIATION, INC., through Carl Briscoe, President, 72 E. Ellendale St., Bel Air, MD 21014; Ray Vogel, Vice President, 79 Crystal Ct., Bel Air, MD 21014; Tom Green, Secretary, 2207 Mayfield Ave., Baltimore, MD 21213; and individual Board Members Mike Tumminello, 8424 Coco Rd., Baltimore, MD 21237; Bill Winegrad, 8412 Hallmark Circle, Baltimore, MD 21234; Ray Hennighausen, 8408 Kings Ridge Rd., Baltimore, MD 21234; Willey Pugh, 8111 Dalesford Rd., Baltimore, MD 21234; and Henry Chaudron, 9432 Joppa Farm Rd., Baltimore, MD 21234, Protestants/Appellants, by their attorney, ***J. Carroll Holzer, Esquire***, feeling aggrieved by the Decision of the Administrative Law Judge's Opinion and Order in the above referenced matter, hereby file this appeal to the County Board of Appeals. (See attached Opinion and Order dated August 31, 2011).

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs. Appellants were parties below and fully participated in the proceedings.

RECEIVED

SEP 26 2011

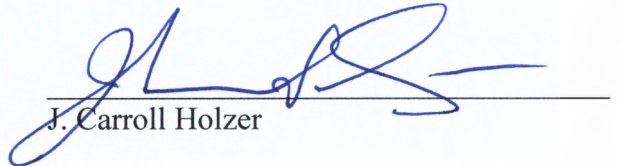
Respectfully submitted,



J. CARROLL HOLZER, Esquire
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 26th day of September, 2011 that a copy of the Notice of Appeal was mailed first class, postage prepaid, to: Jason Vettori, Esquire, Smith, Gildea & Schmidt, LLC, 600 Washington Ave., Suite 200, Towson, MD 21204; the County Board of Appeals, 105 West Chesapeake Avenue, Suite 203, Towson, MD 21204; and People's Counsel for Baltimore County, 105 West Chesapeake Ave., Room 204, Towson, MD 21204.



J. Carroll Holzer

IN RE: PETITION FOR SPECIAL HEARING
SW/side of Putty Hill Avenue, 170' SE of
c/line of Old Harford Road
(2531 Putty Hill Avenue)
9th Election District
6th Councilmanic District

Putty Hill Investments, LLC, *Legal Owner*
McAvoy Enterprises, LLC, *Lessee*
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
*
* **CASE NO. 2012-0007-SPH**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Special Hearing filed by Jason T. Vettori, Esquire with Smith, Gildea & Schmidt, LLC, on behalf of the legal property owner, Putty Hill Investments, LLC, and McAvoy Enterprises, LLC, the Lessee. The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

1. A modified parking plan per Section 409.12 of the B.C.Z.R., and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

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

Appearing at the requisite public hearing in support of the Special Hearing request were Adam Bloom and Diane Schmittinger from McAvoy Enterprises and Bernadette Moskunas with Site Rite Surveying, Inc. Jason T. Vettori, Esquire represented the Petitioners. Also attending on behalf of the Petitioner were Louis Denrich, owner of the restaurant building. Appearing in opposition to the request was Carl Briscoe, speaking on behalf of the ownership of the Tall Cedars

ORDER RECEIVED FOR FILING

Date

By

8-31-11

193

Club and the ownership group of the parking lot. Mr. Brisco was represented by J. Carroll Holzer, Esquire.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies.

Testimony and evidence indicated that the property which is the subject of this special hearing request consists of 4.69 acres, more or less, and is split zoned BL-AS, DR 5.5 and DR 16. The subject property is the site of the Putty Hill Shopping Center and is improved with several retail, restaurant and catering hall businesses. The property is located on the south side of Putty Hill Avenue near its intersection with Old Harford Road. The property does have access to both Putty Hill Avenue as well as Old Harford Road. The property is unusual in that the parking lot area and the Tall Cedars Lodge building are owned by one entity and the small strip of retail businesses attached to the Tall Cedars Lodge is owned by another entity.

The special hearing request in this case involves McAvoy's Tavern which is a restaurant and bar facility located on the eastern end of the strip shopping center. At this time McAvoy's is interested in creating an outdoor seating area for their customers. The area immediately to the front of the space that they lease is already improved with a covered awning. McAvoy's is interested in placing some tables and chairs out onto the sidewalk area and will provide a small fence around that seating area to give it more of a patio look and feel. They do propose to provide gated openings at either end of the patio to allow pedestrians and customers of other businesses of the shopping center to pass freely through the area and not cause those customers to have to walk into the travel lanes of the parking lot. By providing the outdoor seating area, which totals 644 square feet of additional floor space, the Petitioners would be required to provide additional parking spaces. However, when reviewing the site plan and surrounding property, there are no

ORDER RECEIVED FOR FILING

Date

8-31-11

By

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areas that additional parking can be provided at the center. In fact, the testimony and evidence offered demonstrated that the shopping center is deficient in parking due to the fact that the tenant structure for the center has changed over time. For example, the Tall Cedars Lodge which at this time is a catering facility at one time was a grocery store. The parking demands for a grocery store are much less than that for a catering hall. At the time the shopping center was constructed parking requirements were met. However, as a result of the change of tenant occupancy from retail to restaurant use, the parking requirements went up while the amount of parking provided on site remained the same. Therefore, it is appropriate for the Petitioners to request a special hearing for a modified parking plan as opposed to a variance request.

Section 409.12 of the B.C.Z.R. provides this Office the authority to approve a modified parking plan after a Petition is filed and a public hearing held thereon. I find based on the testimony and evidence presented at the hearing, that the requirements to provide parking for this shopping center would create an undue hardship upon the Applicants if they had to comply with current standards applicable to this center. As stated previously, the shopping center was built many decades ago, and at that time met all the parking requirements imposed by the B.C.Z.R. Therefore, it is appropriate to approve a modified plan to allow the center to continue to operate. I find that the additional 644 square feet outdoor seating area which is a seasonal use would not impact or adversely affect that parking arrangement.

As stated previously, the owners of the Tall Cedars Lodge did appear at the hearing. They were represented by J. Carroll Holzer, Esquire. They are the owners of the parking lot which serves the many retail and restaurant uses that occupy the small strip center adjacent to the Tall Cedars Lodge. Mr. Carl Briscoe appeared on behalf of that ownership entity and indicated that the owners of the parking lot are opposed to any reservation or blocking of parking spaces by the Applicants. The parking spaces in the center are for all to use and no one is to cordon off or mark

ORDER RECEIVED FOR FILING

Date

By

any spaces for any particular tenant. As a condition of approval of this special hearing request, I shall impose a restriction that no parking spaces are to be reserved or blocked off by McAvoy's Tavern.

The testimony offered demonstrated that the design and layout of the parking is appropriate and accordingly I shall approve this modified parking plan in accordance with Section 409.12 of the B.C.Z.R. To do otherwise would create an undue hardship upon the Applicants and approval is hereby granted.

THEREFORE, IT IS ORDERED this 31st day of August, 2011, by this Administrative Law Judge, that Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for a modified parking plan per Section 409.12 of the B.C.Z.R., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. No parking spaces in the subject parking lot are to be reserved or blocked off by McAvoy's Tavern.

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

ORDER RECEIVED FOR FILING

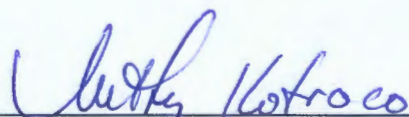
Date

8-31-11

By

TMK

TMK/pz


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County



KEVIN KAMENETZ
County Executive

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

August 31, 2011

JASON T. VETTORI, ESQUIRE
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 2012-0007-SPH
Property: 2531 Putty Hill Avenue

Dear Mr. Vettori:

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 the appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

Enclosure

c: J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 2531 Putty Hill Ave Parkville 21234
which is presently zoned BL-A5/DR 5.5/DR 16

(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 bound 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:

McAvoy Enterprises LLC
Name - Type or Print
Deane Schmittinger Owner
Signature
2531 Putty Hill Ave 443-307-1210
Address Telephone No.
Parkville Md 21234
City State Zip Code

Attorney For Petitioner:

Jason T. Vettori
Name - Type or Print
Jason T. Vettori
Signature
Smith, Gilda + Schmidt, LLC
Company
600 Washington Ave, Suite 200
Address Telephone No.
Towson MD 21204 410-821-0070
City State Zip Code

Legal Owner(s):

Putty Hill Investments LLC
Name - Type or Print
Louis Denech General Partner
Signature
Louis Denech General Partner
Name - Type or Print
Signature
1045 Taylor Ave #112 410 337 7444
Address Telephone No.
Towson MD 21286
City State Zip Code

Representative to be Contacted:

JASON T. VETTORI
Name
600 WASHINGTON AVE. (410) 821-0070
Address Telephone No.
TOWSON MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

Case No. 2012-0007-SPH UNAVAILABLE FOR HEARING
REV 9/15/08 ORDER RECEIVED FOR FILING Reviewed By JNP Date 7/12/2012

Date 8-3-11

By ow

ATTACHMENT TO PETITION FOR SPECIAL HEARING

2531 Putty Hill Avenue (Map 71, Parcel 706)

1. A modified parking plan per Section 409.12 of the Baltimore County Zoning Regulations (BCZR); and
2. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

**ZONING DESCRIPTION
PUTTY HILL SHOPPING CENTER
"MCAVOYS"
#2531 PUTTY HILL AVENUE**

SV
BEGINNING AT A POINT ON THE SOUTHWEST SIDE OF PUTTY HILL AVENUE WHICH IS 60 FEET WIDE AT THE DISTANCE OF 179 FEET ^{SOUTH} NORTHEAST OF THE CENTERLINE OF OLD HARFORD ROAD WHICH IS 60 FEET WIDE. THENCE THE FOLLOWING COURSES AND DISTANCES: RUNNING THENCE S 55° 03' 47" E, 323.31 FEET; THENCE CONTINUING ALONG THE SOUTHWEST SIDE OF PUTTY HILL AVENUE HAVING A CURVE RADIUS OF 970.00 FEET WITH A DISTANCE OF 226.69 FEET; THENCE LEAVING PUTTY HILL AVENUE AND RUNNING S 37° 55' 53" W, 320.00 FEET; THENCE N 57° 30' 07" W, 547.00 FEET TO THE NORTHEAST SIDE OF OLD HARFORD ROAD AND RUNNING ALONG SAID ROAD N 13° 40' 45" E, 200.00 FEET; THENCE LEAVING SAID ROAD AND RUNNING S 76° 19' 47" E, 102.12 FEET; THENCE N 34° 56' 13" E, 127.20 FEET TO THE POINT OF BEGINNING, CONTAINING 4.69 ACRES, MORE OR LESS.

ALSO KNOWN AS PUTTY HILL SHOPPING CENTER, MORE SPECIFICALLY, MCAVOYS #2531 PUTTY HILL AVENUE AND LOCATED IN THE 9TH ELECTION DISTRICT, 6TH COUNCILMANIC DISTRICT.



**MICHAEL V. MOSKUNAS
PROFESSIONAL LAND SURVEYOR
REG. NO. 21175**

**SITE RITE SURVEYING, INC.
200 E. JOPPA ROAD
ROOM 101
TOWSON, MD 21286
(410)828-9060**

2012-0007-SPH

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

No. **71622**

Date: 7/12/2011

PAID RECEIPT

BUSINESS ACTUAL TIME DAY
 7/13/2011 7/12/2011 14:41:52 2
 MOD2 WALKIN JENA JEE
 >> RECEIPT # 741002 7/12/2011 OFLN
 Dept 5 528 ZONING VERIFICATION
 CR NO. 071622

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

Total: 385.00

Rec From: Smith, Gildea & Schmidt, LLC
 For: Special Hiring - 2531 Pitty Hill Avenue
2012-0007-SPH (Pitt, Hill Investments, LLC)

DISTRIBUTION

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

Recpt Tot 385.00
 385.00 CN 1.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

THE DAILY RECORD

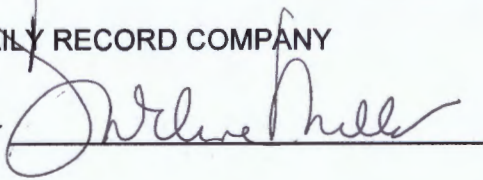
Baltimore, July 28, 2011

We hereby certify that the annexed advertisement of Case Number: 2012-0007-SPH - Notice of Zoning Hearing - 2531 Putty Hill Avenue was published in THE DAILY RECORD, a daily newspaper published in the State of Maryland on 07/28/2011.

First insertion July 28, 2011

THE DAILY RECORD COMPANY

Per



Case Number:
2012-0007-SPH - Notice of
Zoning Hearing - 2531 Putty
Hill Avenue

Inv:# 30467898

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2012-0007-SPH

2531 Putty Hill Avenue

S/west side of Putty Hill Avenue, 170 feet s/east of the centerline of Old Harford Road

9th Election District - 6th Councilmanic District

Legal Owners: Putty Hill Investments, LLC

Contract Purchaser: McAvoy Enterprises, LLC

Special Hearing for a modified parking plan per section 409.12 of the BCZR, and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, August 15, 2011 at 11:00 a.m. in Room 205, 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 OFFICE OF ADMINISTRATIVE HEARINGS AT 410-887-3868.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

jy28

CERTIFICATE OF POSTING

2012-0007-SPH

RE: Case No.: _____

Petitioner/Developer: _____

McAvoy Enterprises, LLC

August 15, 2011

Date of Hearing/Closing: _____

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

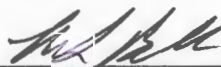
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

2531 Putty Hill Avenue

July 30, 2011

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

Sincerely,



August 1, 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 # 2012-0007-SPH

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

Room 205 JEFFERSON BUILDING
PLACE: 105 WEST CINCINNATI AVENUE TOWSON 21204

DATE AND TIME: MONDAY, AUGUST 15, 2011 AT 11:00 ^{A.M.}

REQUEST: SPECIAL HEARING FOR A MODIFIED PARKING
PLAN PER SECTION 409.12 OF THE BCZR. AND FOR SUCH OTHER
AND FURTHER RELIEF AS MAY BE DEEMED NECESSARY BY THE APPOINTED
JUDICIAL LAW JUDGE FOR BALTIMORE COUNTY.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING. CALL 887-3391

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



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Amended to
11A.M.

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

January 13, 2012

NOTICE OF ASSIGNMENT

CASE #: 12-007-SPH

IN THE MATTER OF: Putty Hill Investments, LLC / Petitioners
McAvoy Enterprises, LLC/Lessee
2531 Putty Hill Avenue
9th Election District; 6th Councilmanic District

Re: Petition for Special Hearing for modified parking plan.

8/31/11 Opinion and Order of the Administrative Law Judge GRANTING relief with conditions.

ASSIGNED FOR: **WEDNESDAY, FEBRUARY 15, 2012, AT 10:00 A.M.**

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c:	Counsel for Legal Owner/Petitioner/Lessee	: Jason T. Vettori, Esquire
		Smith, Gildea & Schmidt
	Legal Owner/Petitioner	: Putty Hill Investments, LLC
	Lessee/Petitioner	: McAvoy Enterprises, LLC
c:	Counsel for Appellant	: J. Carroll Holzer, Esquire
	Appellants	: See attached in opposition

Site Rite Surveying, Inc.

Adam Bloom

Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

January 19, 2012

AMENDED NOTICE OF ASSIGNMENT AS TO START TIME ONLY
HEARING TO COMMENCE AT 11:00

CASE #: 12-007-SPH IN THE MATTER OF: Putty Hill Investments, LLC / Petitioners
McAvoy Enterprises, LLC/Lessee
2531 Putty Hill Avenue
9th Election District; 6th Councilmanic District

Re: Petition for Special Hearing for modified parking plan.
8/31/11 Opinion and Order of the Administrative Law Judge GRANTING relief with conditions.

ASSIGNED FOR: **WEDNESDAY, FEBRUARY 15, 2012, AT 11:00 A.M.**

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If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton, Administrator

c:	Counsel for Legal Ower/Petitioner/Lessee	: Jason T. Vettori, Esquire Smith, Gildea & Schmidt
	Legal Owner/Petitioner	: Putty Hill Investments, LLC
	Lessee/Petitioner	: McAvoy Enterprises, LLC
c:	Counsel for Appellant	: J. Carroll Holzer, Esquire
	Appellants	: <i>See attached in opposition</i>

Site Rite Surveying, Inc. Adam Bloom

Office of People's Counsel
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney

Lawrence M. Stahl, Managing Administrative Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

PAGE 2

NOTICE OF ASSIGNMENT

CASE #: 12-007-SPH

**IN THE MATTER OF: Putty Hill Investments, LLC / Petitioners
McAvoy Enterprises, LLC/Lessee
2531 Putty Hill Avenue
9th Election District; 6th Councilmanic District**

in Opposition

Carl Briscoe, President
Baltimore #45 Association, Inc

Ray Vogel, Vice President
Baltimore #45 Association, Inc

Tom Green, Secretary
Baltimore #45 Association, Inc

Mike Tumminello

Bill Winegrad

Ray Hennighausen

Willey Pugh

Henry Chaudron

12-007-SPH

RE: *In the Matter of:* 2531 Putty Hill Avenue

10/27/11 Letter to Counsel with the following dates:

Wednesday, January 4, 2012 at 10:00;
Tuesday, January 17, 2012 at 10:00; and
Wednesday, January 18, 2012 at 10:00

11/28/11 Second Letter to Counsel with the following dates:

Tuesday, January 24, 2012 at 10:00; and
Wednesday, January 25, 2012 at 10:00

TRS HAS FILE.

Hold January

- call attorneys -
Holzer - when avail
Still waiting to hear

12/14/11 - LM - Holzer

12/14/11 1:51 - Neither Jan dates work for his client
- WK of 2/6 or 2/14 good -

2/29/11 ⑦ Jason - will check on
2/15 + 2/16 and
WCB

TO: DAILY RECORD PUBLISHING COMPANY
Thursday, July 28, 2011 Issue

Please forward billing to:

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

410-821-0070

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2012-0007-SPH

2531 Putty Hill Avenue

S/west side of Putty Hill Avenue, 170 feet s/east of the centerline of Old Harford Road

9th Election District – 6th Councilmanic District

Legal Owners: Putty Hill Investments, LLC

Contract Purchaser: McAvoy Enterprises, LLC

Special Hearing for a modified parking plan per section 409.12 of the BCZR, and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, August 15, 2011 at 11:00 a.m. in Room 205, 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.

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
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: 2012-0007-SPH
Petitioner: Potty Hill Investments, LLC
Address or Location: 2531 Potty Hill Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jason T. Vettori
Address: Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, MD 21204
Telephone Number: 410-821-0070

Revised 2/17/11 DT



KEVIN KAMENETZ
County Executive

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

July 26, 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: 2012-0007-SPH

2531 Putty Hill Avenue

S/west side of Putty Hill Avenue, 170 feet s/east of the centerline of Old Harford Road

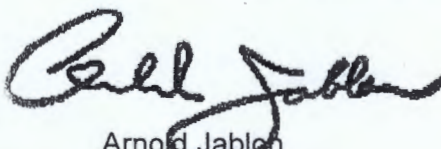
9th Election District – 6th Councilmanic District

Legal Owners: Putty Hill Investments, LLC

Contract Purchaser: McAvoy Enterprises, LLC

Special Hearing for a modified parking plan per section 409.12 of the BCZR, and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, August 15, 2011 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204


Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Diane Schmittinger, 2531 Putty Hill Avenue, Parkville 21234
Louis Denrich, 1045 Taylor Avenue, #12, Towson 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JULY 30, 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.



KEVIN KAMENETZ
County Executive

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

August 9, 2011

Putty Hill Investments, LLC
Louis Denrich
1045 Taylor Avenue, #112
Towson, MD 21286

RE: Case Number 2012-0007-SPH, 2531 Putty Hill Avenue

Dear Mr. Denrich,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on July 12, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Jason Vettori, Smith, Gildea, & Schmidt, 600 Washington Avenue, Ste. 200, Towson, MD 21204
McAvoy Enterprises, LLC, Diane Schmittinger, 2531 Putty Hill Avenue, Parkville, MD 21234

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



Beverley K. Swaim-Staley, Secretary
Darrell B. Mobley, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7-21-11

Ms. Kristen Matthews
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

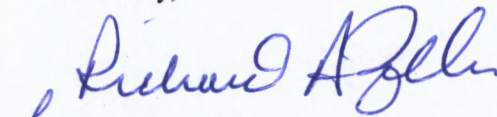
RE: Baltimore County
Item No. 2012-0007-SPH
Special Hearing
Patty Hill Investments, LLC
Louis Denrich
2531 Patty Hill Avenue

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2012-0007-SPH.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/rz

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.roads.maryland.gov

8/15 11 AM
205

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUL 29 2011

OFFICE OF ADMINISTRATIVE HEARINGS



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: July 29, 2011

SUBJECT: DEPS Comment for Zoning Item # 12-007-SPH
Address 2531 Putty Hill Avenue
(Putty Hill Investments, LLC Property)

Zoning Advisory Committee Meeting of July 18, 2011.

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

Reviewer: *Jeff Livingston; Development Coordination*

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: July 22, 2011

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

SUBJECT: Zoning Advisory Committee Meeting
For August 1, 2011
Item Nos. 2012-001, 002, 003, 004, 005, 006,
And 007.

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

DAK:CEN

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-08012011 -NO COMMENTS.doc

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
2531 Putty Hill Avenue; SW/S Putty Hill		
Avenue, 170' S/E c/line Old Harford Road	*	ADMINISTRATIVE LAW
9 th Election & 6 th Councilmanic Districts		
Legal Owner(s): Putty Hill Investments, LLC	*	JUDGE FOR
Contract Purchaser(s): McAvoy Enterprises, LLC		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2012-007-SPH

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

JUL 25 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July, 2011, a copy of the foregoing Entry of Appearance was mailed to Jason Vettori, Esquire, 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



KEVIN KAMENETZ
County Executive

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

October 26, 2011

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

Dear Mr. Vettori:

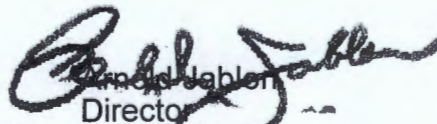
RE: Case: 2012-0007-SPH, 2531 Putty Hill Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on September 26, 2011 by J. Carroll Holzer. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,


Arnold Jablon
Director

AJ:kl

c: People's Counsel
J. Carroll Holzer, 508 Fairmount Avenue, Towson 21286
McAvoy Enterprises, 2531 Putty Hill Avenue, Parkville 21234
Putty Hill Investments, LLC, 1045 Taylor Avenue, Ste. 112, Towson 21286

RECEIVED
OCT 26 2011

BALTIMORE COUNTY
BOARD OF APPEALS

APPEAL

Petition for Special Hearing
2531 Putty Hill Avenue
S/w side of Putty Hill Avenue, 170' SE of c/line of Old Harford Road
9th Election District – 6th Councilmanic District
Legal Owners: Putty Hill Investments, LLC
Contract Purchasers: McAvoy Enterprises, LLC

Case No.: 2012-0007-SPH

- ✓ Petition for Special Hearing (July 12, 2011)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (July 26, 2011)
- ✓ Certification of Publication (The Daily Record – July 28, 2011)
- ✓ Certificate of Posting (July 30, 2011) by Robert Black
- ✓ Entry of Appearance by People's Counsel (July 25, 2011)
- ✓ Petitioner(s) Sign-In Sheet – One Sheet
- Protestant(s) Sign-In Sheet – None
- ✓ Citizen(s) Sign-In Sheet – One Sheet
- ✓ Zoning Advisory Committee Comments
- Petitioners' Exhibit
 - ✓ 1. Site Plan of property
 - ✓ 2. Fence Proposal
 - 3. Photos (A-B)
- Protestants' Exhibits – None
- Miscellaneous (Not Marked as Exhibit) – None
- ✓ Administrative Law Judges Order (GRANTED – August 31, 2011)
- ✓ Notice of Appeal received on September 26, 2011 by J. Carroll Holzer

RECEIVED
OCT 26 2011
BALTIMORE COUNTY
BOARD OF APPEALS

Address List

Petitioners:

Putty Hill Investments, LLC
Louis Denrich, General Partner
1045 Taylor Avenue, #112
Towson, MD 21286
(Legal Owner)

McAvoy Enterprises, LLC
Diane Schmittinger, Owner
2531 Putty Hill Avenue
Parkville, MD 21234
(Lessee)

Jason T. Vettori, Esquire
Smith, Gildea & Schmidt
600 Washington Ave, Ste 200
Towson, MD 21204

Site Rite Surveying, Inc.
200 E. Joppa Road, Rm 101
Towson, MD 21286

Adam Bloom
2531 Putty Hill Avenue
Parkville, MD 21234

Protestants:

J. Carroll Holzer, Esquire
508 Fairmont Avenue
Towson, MD 21286

Carl Briscoe, President
Baltimore #45 Association, Inc
72 E. Ellendale Street
Bel Air, MD 21014

Ray Vogel, Vice President
Baltimore #45 Association, Inc
79 Crystal Court
Bel Air, MD 21014

Tom Green, Secretary
Baltimore #45 Association, Inc
2207 Mayfield Avenue
Baltimore, MD 21213

Mike Tumminello
8424 Coco Road
Baltimore, MD 21237

Bill Winegrad
8412 Hallmark Circle
Baltimore, MD 21234

Ray Hennighausen
8408 Kings Ridge Road
Baltimore, MD 21234

Willey Pugh
8111 Dalesford Road
Baltimore, MD 21234

Henry Chaudron
9432 Joppa Farm Road
Baltimore, MD 21234

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Putty Hill Investments, LLC – Petitioners 12-007-SPH
McAvoy Enterprises, LLC - Lessee

DATE: February 15, 2012

BOARD/PANEL: Andrew M. Belt, Panel Chair
Wendy A. Zerwitz
Edward W. Crizer, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Special Hearing requesting a modified parking plan.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

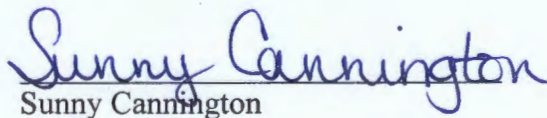
- The Board discussed that this matter had been previously approved with conditions by the Administrative Law Judge. The Board discussed that the Petitioner's request is to allow for outdoor seating to accompany their restaurant use. The proposed seating meant they would have to modify or add parking. Petitioners argued that would cause an undue hardship because they do not own the parking lot. The parties reached an agreement, proffered on the records by Counsel, which accommodates the request of the Petitioners without impacting the parking area. The parties agreed that a fence will be constructed around the outside seating area.
- The Board determined that within the meaning of the statute, the modification or addition to the parking area would cause an undue hardship on the Petitioners who do not own the parking area. The Board also determined that the accommodations would provide minimum intrusion to the parking area and would not have a hazardous impact on the parking or community.

DECISION BY BOARD MEMBERS: The Board determined that the agreement as proffered by Counsel is approved. Counsel shall present an Order for the Board's signature.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to approve the settlement proffered by Counsel.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington

Debra Wiley - ZAC Comments

From: Debra Wiley
To: Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...
Date: 7/21/2011 3:38 PM
Subject: ZAC Comments

Good Afternoon,

Please see the cases listed below and the hearing date, if assigned. If you wish to submit a ZAC comment, please be advised that you must do so before the hearing date. If it's not received by the hearing date, it will not be considered in our decision. Also, please disregard if you've submitted comments.

Thanks.

2012-0001-A - 2200 York Road

2012-0002-A - *Administrative Variance* - 3432 McShane Way (Closing Date 8/1)

2012-0003-SPHX - 6616 Baltimore National Pike

2012-0004-A - *Administrative Variance* - 104 E. Chestnut Hill Diane (Closing Date 8/1)

2012-0005-XA - 1763 E. Joppa Rd.

2012-0006-A - *Administrative Variance* - 9816 Dee Way (Closing Date 8/1)

2012-0007-SPH - 2531 Putty Hill Ave.

2012-0008-A - 1113 Cold Spring Road

2012-0009-SPHA - 2207 Sparrows Pt. Rd.

2012-0010-A - *Administrative Variance* - 300 Stablers Church Rd. (Closing Date 8/8)

Please note that no hearing dates have been assigned per the database as of today.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204

410-887-3180

FAX: 410-887-3182

January 19, 2012

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

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

RE: *In the Matter of: 2531 Putty Hill Avenue*

Case No. 12-007-SPH/ Amended Notice of Assignment

Dear Counsel:

Enclosed please find an Amended Notice of Assignment, as to the time only, on the above referenced matter. The hearing will commence at 11:00 a.m., in lieu of the originally scheduled 10:00 a.m. I remain,

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

Encl: Amended Notice of Assignment, as to time only

c(w/Encl.): Putty Hill Investments, LLC
Louis Denrich, General Partner
McAvoy Enterprises, LLC
Diane Schmittinger, Owner
Peter Max Zimmerman
People's Counsel for Baltimore County
Carl Briscoe, President
Baltimore #45 Association, Inc
Ray Vogel, Vice President
Baltimore #45 Association, Inc
Tom Green, Secretary
Baltimore #45 Association, Inc

Mike Tumminello

Bill Winegrad

Ray Hennighausen

Willey Pugh

Henry Chaudron

Board of Appeal Panel Members



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

November 28, 2011

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

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

RE: *In the Matter of: 2531 Putty Hill Avenue*
Case No. 12-007-SPH

Dear Counsel:

On October 27, 2011 this office sent correspondence with regard to proposed dates for a hearing before this Board on the above captioned matter. An agreeable date was not confirmed.

Again, in order to schedule a hearing before the Board of Appeals, without conflict; I am providing a second set of dates available on the Board's docket. The following dates open for assignment:

Tuesday, January 24, 2012 at 10:00; and
Wednesday, January 25, 2012 at 10:00

Please contact this office upon receipt of this letter to confirm availability. The Notice of Assignment will be issued to all parties at the time an agreeable date is established.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

c: Putty Hill Investments, LLC
Louis Denrich, General Partner
McAvoy Enterprises, LLC
Diane Schmittinger, Owner
Peter Max Zimmerman
People's Counsel for Baltimore County
Carl Briscoe, President
Baltimore #45 Association, Inc
Ray Vogel, Vice President
Baltimore #45 Association, Inc
Tom Green, Secretary
Baltimore #45 Association, Inc

Mike Tumminello.

Bill Winegrad

Ray Hennighausen

Wiley Pugh

Henry Chaudron



LAW OFFICES

J. CARROLL HOLZER, PA

J. HOWARD HOLZER

1907-1989

THOMAS J. LEE

OF COUNSEL

508 BUILDING

508 FAIRMOUNT AVE.

TOWSON, MD 21286

(410) 825-6961

FAX: (410) 825-4923

E-MAIL: JCHOLZER@CAVTEL.NET

November 17, 2011
#7996

Ms. Theresa R. Shelton, Administrator
Baltimore County Board of Appeals
Jefferson Building
105 West Chesapeake Avenue
Second Floor, Suite 203
Towson, Maryland 21204

RE: *In the Matter of: 2531 Putty Hill Avenue*
Case No.: 12-007-SPH

Dear Ms. Shelton:

Please be advised that I have contacted my clients in regard to the above-referenced Case Number, McAvoy, 2531 Putty Hill Avenue and they prefer Wednesday, January 4, 2012.

Very truly yours,

A handwritten signature in blue ink, appearing to be "JCH", written over the typed name "J. Carroll Holzer".

J. Carroll Holzer

JCH:mlg

cc: Jason Vettori, Esquire
Mr. Carl Briscoe

RECEIVED

NOV 21 2011

BALTIMORE COUNTY
BOARD OF APPEALS

Theresa Shelton - McAvoy's/2531 Putty Hill Ave. (Case No. 12-007-SPH)

From: Jason Vettori <jvettori@sgs-law.com>
To: "tshelton@baltimorecountymd.gov" <tshelton@baltimorecountymd.gov>
Date: 11/3/2011 3:14 PM
Subject: McAvoy's/2531 Putty Hill Ave. (Case No. 12-007-SPH)
CC: "jcholzer@cavtel.net" <jcholzer@cavtel.net>, Diane & Bill <schmittinger1...
Attachments: Jablon ltr re Appeal by Holzer 10.26.11.pdf; BOA ltr re possible hearing dates in January 10.27.11.pdf

Ms. Shelton,

Attached hereto is a letter from you regarding available hearing dates for the above referenced matter. Please be advised that Wednesday, January 18, 2012 at 10:00 a.m. is agreeable to my clients. Thanks.

Jason T. Vettori
Smith, Gildea & Schmidt, LLC
600 Washington Avenue
Suite 200
Towson, MD 21204
Phone: (410) 821-0070
Facsimile: (410) 821-0071
<http://sgs-law.com>

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Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 27, 2011

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

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

RE: *In the Matter of:* 2531 Putty Hill Avenue
Case No. 12-007-SPH

Dear Counsel:

The office has received the appeal and file on the above referenced property.

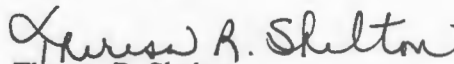
In order to schedule a hearing before the Board of Appeals, without conflict; I am providing dates available on the docket. The Board sits on Tuesday, Wednesday and Thursday of each week. The docket is currently scheduled through the end of December 2012. The following dates open for assignment:

Wednesday, January 4, 2012 at 10:00;
Tuesday, January 17, 2012 at 10:00; and
Wednesday, January 18, 2012 at 10:00

Please contact this office upon receipt of this letter to confirm availability. The Notice of Assignment will be issued to all parties at the time an agreeable date is established.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,


Theresa R. Shelton
Administrator

Duplicate Original

c: Putty Hill Investments, LLC
Louis Denrich, General Partner
McAvoy Enterprises, LLC
Diane Schmittinger, Owner
Peter Max Zimmerman
People's Counsel for Baltimore County
Carl Briscoe, President
Baltimore #45 Association, Inc
Ray Vogel, Vice President
Baltimore #45 Association, Inc
Tom Green, Secretary
Baltimore #45 Association, Inc

Mike Tumminello

Bill Winegrad

Ray Hennighausen

Wiley Pugh

Henry Chaudron

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: June 11, 2012

TO: Dave Duvall
Permits, Approvals & Inspections

FROM: Sunny Cannington, Legal Secretary
Board of Appeals

SUBJECT: CLOSED APPEAL CASE FILES/CASES DISMISSED

The following cases have been closed as of the above date and are being returned to your office for storage.

<u>Case No:</u>	<u>Case Name:</u>	<u>Note:</u>
11-258-SPHXA	Joann Garrity Aka Vehicles for Change	Appeal dismissed
12-007-SPH	Putty Hill Investments, LLC McAvoy Enterprises, LLC	Appeal dismissed

c: Arnold Jablon, Director
Michael Field, County Attorney
Nancy West, Assistant County Attorney

CASE NAME 2531 Pretty Hill Ave.
CASE NUMBER 2012-0007-SPH
DATE 8/15/11

CASE NAME 2531 Petty Hill Ave.
CASE NUMBER 2012-0007-SPH
DATE 8/15/11

[illegible]

PLEASE PRINT CLEARLY

CASE NAME 2531 Paddy Hill Ave.
CASE NUMBER 2012-0007-SPH
DATE 8-15-14

CITIZEN'S SIGN-IN SHEET

NAME

ADDRESS

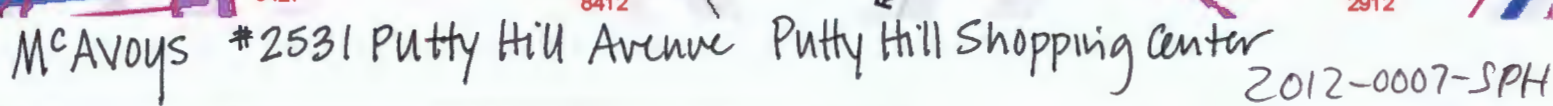
CITY, STATE, ZIP

E-MAIL

J. Carroll Holzer
Carl Briscoe

508 Fauntleroy Ave
72 E. ELLENDALE ST.

Towson MD 21286
BEL AIR, MD. 21014



Case No: 12-007-SPH.

Case Name: IN The Matter of Pitty Hill Investments, LLC
Exhibit List McAvoy Enterprises, LLC Petitioner
Lessee

Exhibit List

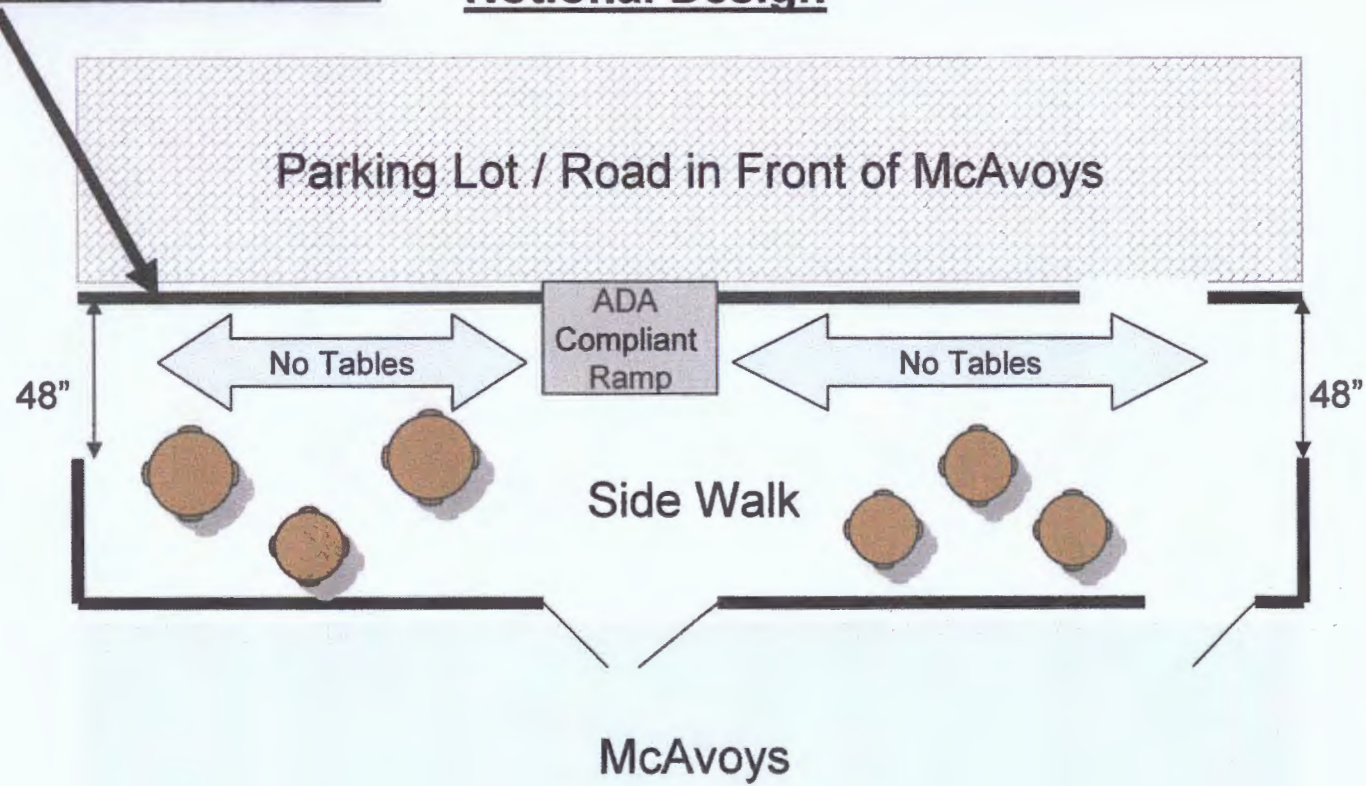
Party: Patricia Petty Hill Investments, LLC Date: 2/15/12

[illegible]

Dated: 2/11/12



Notional Design



8-15
11 AM

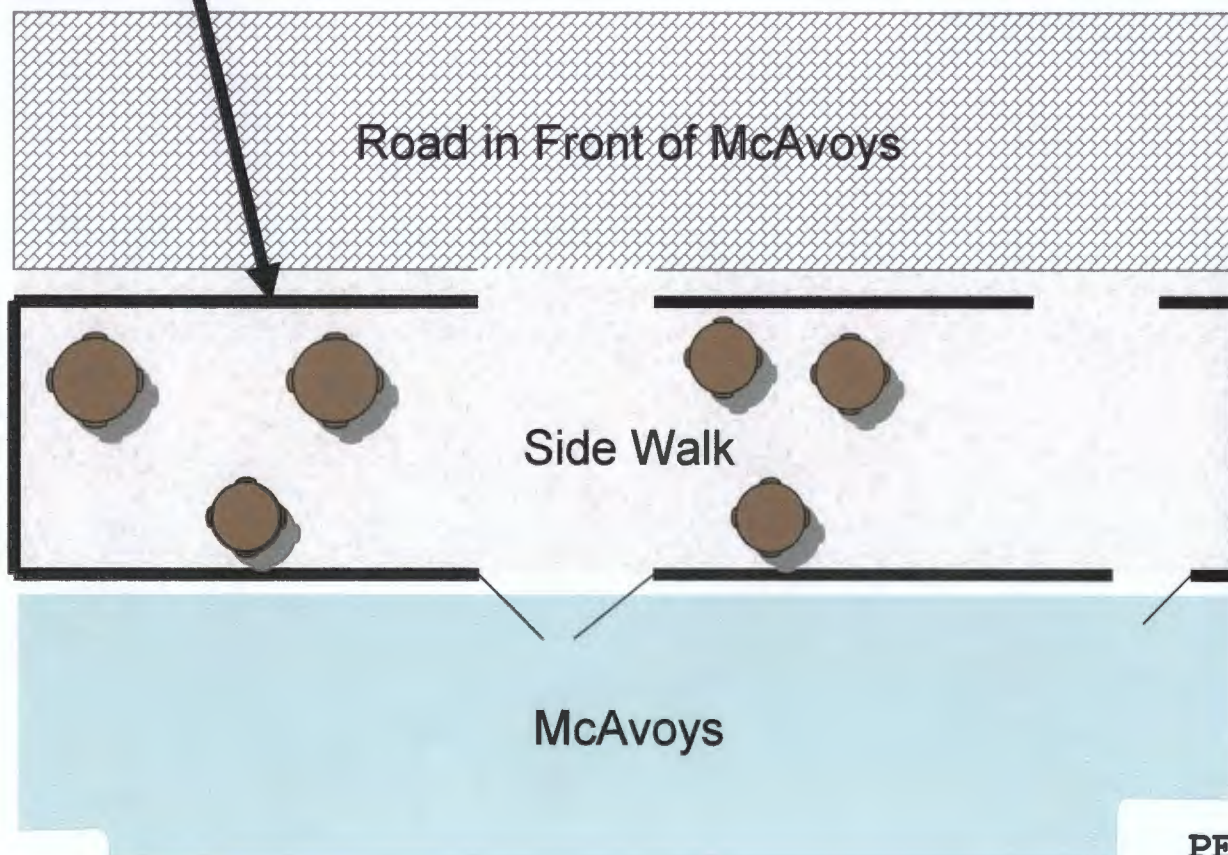
Case No.: 2012-0007-SPH-2531 Puddy Hill Ave.

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	Site Plan of the property	
No. 2	Fence proposed	
No. 3	Photos of parking lot	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER'S

EXHIBIT NO. _____

PETITIONER'S

EXHIBIT NO. 2



PETITIONER'S

EXHIBIT NO. 3A



PETITIONER' S

EXHIBIT NO. 33



PETITIONER' S

EXHIBIT NO. 3C



PETITIONER'S

EXHIBIT NO.

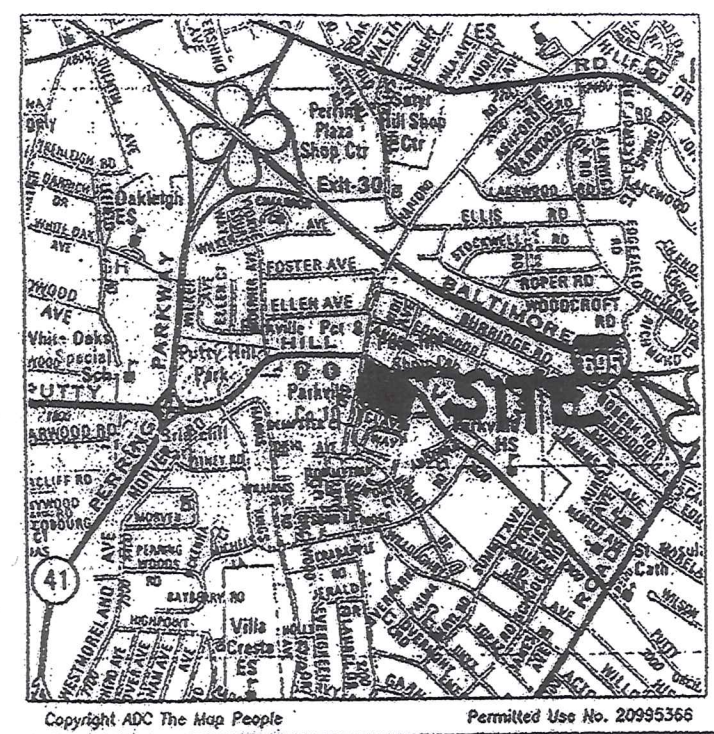
3D

PROPERTY INFORMATION

BALTIMORE #46 ASSOC. INC.
2501 PUTTY HILL AVE. (ON-SITE)
BALTO. MD 21234-4307
DEED REF.: 5359/904
TAX ACCT. NO.: 0901500750
TAX MAP 71 GRID 20. PARCEL 706

PUTTY HILL INVESTMENTS, LLC
C/O MR. LOUIS (OFF-SITE)
2407 VELVET VALLEY WAY
ONINGG MILLS, MD 21117-3035
DEED REF.: 16400/113
TAX ACCT. NO.: 0916300540
TAX MAP 71 GRID 14. PARCEL 1084
TENANTS ADDRESS: (ON-SITE)
#2517, 2519, 2521, 2523, 2525, 2527,
2531, AND 2537. (AS SHOWN ON HEREON.)

STEPHEN L. GOLWIEKE
E.H.K.J.R. 6977/104
#8536 OLD HARFORD ROAD
T/A 0902207520



VICINITY MAP

Scale: 1" = 2000'

Existing Individual Uses defined by Tenants and Required Parking Spaces:

Tall Cedars (catering hall) 16,744 sq. ft. x 20 sp/1000 = 335 spaces
Sports Card (retail) 1200 sq. ft. x 5 sp/1000 = 6 spaces
China Dragon (carryout restaurant) 1200 sq. ft. x 5 sp/1000 = 6 spaces
Classic Nails (personal service establishment) 1600 sq. ft. x 3.3 sp/1000 = 6 spaces
Mercado Latino (carryout restaurant) 1200 sq. ft. x 5 sp/1000 = 6 spaces
Pavinos Pizzeria (carryout restaurant) 1200 sq. ft. x 5 sp/1000 = 6 spaces
RediMedical (retail) 1200 sq. ft. x 5 sp/1000 = 6 spaces
Fast Break Sports (retail) 2700 sq. ft. x 5 sp/1000 = 14 spaces
McAvoy's (packaged goods/retail) 593 sq. ft. x 5 sp/1000 = 3 spaces
(restaurant) 2430 sq. ft. x 16 sp/1000 = 39 spaces
Snowball Stand (seasonal) requires 3 spaces
Required Parking Spaces: 494 spaces

Proposed Parking Required for the outdoor restaurant seating for McAvoy's (644 sq. ft.) = 11 spaces

Total Required Parking Spaces: 505 spaces

There are 325 existing parking spaces on site (8 of which are Handicap Spaces)

General Notes for Plan to accompany Petition for Special Hearing

- Existing Zoning: BL-AS/DR 5.5/DR16 (071A3)
- Gross Site Area: 4.69 Ac. +/- (p.1054-0.53 Ac. +/- & p. 706-4.16 Ac. +/-)
- Existing Uses: See chart this site
- Proposed Use: The only change to the individual use within the shopping center is the Proposed outdoor seating area (644 sq. ft.) for McAvoy's
- Required parking calculations have been provided based on the individual tenant use, parking calculations for Shared Parking Adjustment (Section 409.6.B.3, BC2R) have been calculated. Said adjustment requires only 500 parking spaces in lieu of the individual tenant spaces of 505. Said calculations will be provided at the time of hearing.
- Proposed parking spaces: existing 325 spaces of which 8 are handicap.
- There is no proposed signage for this property.
- The property is not located in an Historic District, Chesapeake Bay Critical Area or Flood Plain Area
- There is public water and sewer available.
- This property is located in Traffic Zone "D" per 2011 Basic Service Maps Transportation Zone and "Area of Concern" per 2011 Basic Service Maps Sewer Zone. There are no deficient areas per 2011 Basic Service Maps Water Zone.
- Prior Zoning History: Case No. 1973-293-X Granted Special Exception for Offices, Meetings and Activities (Community Building) for Tall Cedars Building. Required parking calculations met on site. Case No. 1989-0245-SPHA Granted Special Hearing to Amend Site Plan (Case 1973-293-X) to allow additional retail space (convenience food store) to be situated on the parking lot and to allow a front setback of 10 feet in lieu of the required front average of 82 feet. Board of Appeals Case dated August 2, 1989 for Case No. 1989-245-SPHA Special Hearing was denied and the Variance dismissed as moot.

Case No. 1989-007-SPH Granted Special Hearing to approve an amendment to the Ordinance and restrict to Case #2699-SPH in order to permit the transfer of the special permit to operate a full day care center for children to future purchase.

DMW
Daft · McCune · Walker, Inc.

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals
200 East Pennsylvania Avenue
Towson, Maryland 21286
410 256 3333
Fax 410 256 9705

EXISTING SITE CONDITIONS
DRAWING
**PUTTY HILL
SHOPPING CENTER**
NINTH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

PLAN TO ACCOMPANY SPECIAL HEARING "McAVOYS"

#2531 PUTTY HILL AVENUE
TAX MAP: 71 GRID: 14 PARCEL: 1054
ELECTION DISTRICT NO. 9 C6
BALTIMORE COUNTY, MD
SCALE: AS SHOWN
JULY 5, 2011
9986

RIDGE GARDEN APARTMENTS
SECTION 4
PLAT O.T.G. 31/43

THIS PLAN HAS BEEN MODIFIED BY SITE RITE SURVEYING, INC. RELATIVE TO GENERAL NOTES AND PARKING CALCULATIONS BASED ON THE PROPOSED OUTDOOR SEATING FOR McAVOYS ONLY.

site **rite** SURVEYING, INC.
200 E. JOPPA ROAD RM. 101
TOWSON, MARYLAND 21286
PHONE: 410-828-9060
FAX: 410-828-9066



DATE	BY	REVISIONS

Scale: 1" = 30'

Project No: 91054A

Date: March 4,
1997

Computed: bsd/ps Drawn: ps Checked:

File: 91054A D.L.: <PLAT>