

IN RE: PETITION FOR VARIANCE

W side of York Road, 30' S of SW
Corner of c/line of Industry Lane
8th Election District
3rd Council District
(10142 York Road)

The A. Berman Family, LLC,
Legal Owner
Chick-fil-A, Inc., *Contract Purchaser/Lessee*
Petitioners

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* **CASE NO. 2012-0123-A**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Variance filed by the legal owners of the subject property, The A. Berman Family, LLC, and Chick-fil-A, Inc., contract purchaser/lessee, ("Petitioners"), by and through their attorney, David H. Karceski, Esquire with Venable, LLP. Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") or Zoning Regulations ("Zoning Regulations") as follows:

- Section 409.6 to permit 228 off-street parking spaces in lieu of the required 250 parking spaces, and
- Section 409.10.B to allow drive-through lanes to cross pedestrian access from off-street parking spaces to the building.

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.

David Karceski, Esquire, appeared at the requisite public hearing as attorney for Petitioner. Also appearing in support of the requested relief were: Rex Powell and Mike Hutton, on behalf of Petitioner; Joseph Ucciferro, P.E., with Bohler Engineering, the engineer who prepared the site

ORDER RECEIVED FOR FILING

Date 2-1-12

By ow

plan; and Mark Keeley, a transportation planner with Traffic Concepts, Inc. The file reveals that the Petition was properly advertised and the property was properly posted as required by the Baltimore County Zoning Regulations. No Protestants or other parties were present, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the State Highway Administration (SHA), dated November 14, 2011, and from the Bureau of Development Plans Review (DPR), dated November 18, 2011, confirming that neither reviewing agency has an objection to the requested variances. No other ZAC comments were received in this case.

Testimony and evidence revealed that the subject property is comprised of 4.07± acres of land, located at the intersection of York Road and Industry Lane in the Cockeysville area of Baltimore County. The property is a single parcel of land, split-zoned M.L.-I.M. (Manufacturing, Light – Industrial, Major) and B.R.-I.M. (Business, Roadside – Industrial, Major), and is improved with two motel buildings, a one-story strip retail building, and a Chick-fil-A restaurant equipped with a single customer drive-through lane. The subject of the public hearing in this case is the existing Chick-fil-A restaurant and the request to add a second drive-through lane.

Petitioner's Exhibit 1 and a site photograph accepted into evidence as Petitioner's Exhibit 6 indicate the location of the existing drive-through lane and corresponding vehicle stacking spaces along the north side of the restaurant building. Petitioner's Exhibit 6 also shows the location of seven existing off-street parking spaces within the restaurant lease area to be eliminated for construction of the second drive-through lane. According to Mr. Hutton, franchisee for this restaurant, more than fifty percent (50%) of the restaurant's customers are now served by the existing drive-through lane. Due to the volume of customers served in this manner, customers

ORDER RECEIVED FOR FILING

Date 2-1-12

By 102

that would otherwise use drive-through service, are parking and entering the restaurant for over-the-counter service. Construction of the second-drive through lane would accomplish more efficient service to Mr. Hutton's patrons and lessen the demand for parking spaces. Petitioner's Exhibit 7 is a set of photographs that indicate the typical layout for a Chick-fil-A restaurant with dual drive-through lanes. According to Mr. Powell, Petitioner's Construction Manager, it is this typical layout that Petitioner plans for the subject site.

Due to existing site constraints, Petitioner is not able to construct the second drive-through lane and, at the same time, provide on the subject property the number of off-street parking spaces required by the parking regulations contained in B.C.Z.R. Section 409. Additionally, due to these same constraints, Petitioner is not able to construct the additional drive-through lane in a location that would otherwise comply with Section 409.10.B of the parking regulations without the need for a variance.

Petitioner's witnesses explained that the requested variances will allow the restaurant to better serve its customer base. At the same time, there will continue to be adequate off-street parking within the Chick-fil-A lease area alone as well as for the overall commercial center. Petitioner's transportation planner, Mr. Keeley, conducted a traffic analysis during the peak afternoon and evening hours for the Chick-fil-A restaurant on multiple days. His findings revealed that there would continue to be more than adequate off-street parking with the addition of a second drive-through lane. Mr. Ucciferro, Petitioner's professional engineer, also visited the site on multiple occasions and concurred with Mr. Keeley's findings.

Therefore, I find that the variance requested can be granted in strict harmony with the spirit and intent of the said regulations, and in such a manner as to grant relief without injury to the public, health, safety, and general welfare. In all manner and respect, the variance requested meet

ORDER RECEIVED FOR FILING

Date 2-1-12

By [Signature]

the requirements of Section 307 of the B.C.Z.R. as well as those requirements established in *Cromwell v. Ward*, 102 Md. App. 691 (1995) and *McLean v Soley*, 270 Md. 208 (1973).

Moreover, I find that, due to these unique conditions, strict enforcement of the B.C.Z.R.'s parking regulations and the B.C.Z.R. provision related to drive-through lane location (Section 409.10.B) would cause the Petitioner to suffer a practical difficulty as it would not be able to add a second drive-through lane. The purpose of Section 409 of the B.C.Z.R. is to provide for an adequate amount of off-street parking and to allow for proper on-site vehicular circulation. With the site improvements proposed by Petitioner, there will continue to be more than adequate parking within Petitioner's lease area to serve the Chick-fil-A restaurant and the larger commercial center as a whole. Additionally, the vehicle circulation patterns within Petitioner's lease area, with the second drive-through lane, will remain as they now exist on the site and will continue to function adequately.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Moreover, I find that strict enforcement of the B.C.Z.R. would cause the Petitioners to suffer practical difficulty and undue hardship.

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

THEREFORE, IT IS ORDERED this 1st day of February, 2012 by this Administrative Law Judge that Petitioner's Variance requests from the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows:

ORDER RECEIVED FOR FILING

Date 2-1-12

By 102

- Section 409.6 to permit 228 off-street parking spaces in lieu of the required 250 parking spaces, and
- Section 409.10.B to allow drive-through lanes to cross pedestrian access from off-street parking spaces to the building,

be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their permit and be granted same upon receipt of this Order; however, Petitioners are 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, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner shall submit a landscape plan for the lease area for the Chick-fil-A restaurant to Avery Harden, the County's landscape architect, for review and approval prior to issuance of building permit.

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



LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

ORDER RECEIVED FOR FILING

Date 2-1-12

By [Signature]



KEVIN KAMENETZ
County Executive

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

February 1, 2012

David H. Karceski, Esquire
Venable, LLP
210 West Pennsylvania Avenue
Suite 500
Towson, MD 21204

Re: Petition for Variance
Case No. 2012-0123-A
Property: 10142 York Road

Dear Mr. Karceski:

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

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over the typed name "LAWRENCE M. STAHL".

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/dlw
Enclosure



Petition for Variance

to the Zoning Commissioner of Baltimore County for the property

located at 10142 York Road

which is presently zoned ML-IM & BR-IM

Deed Reference: 10731 / 730 Tax Account # 1600005130

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)

409.6 of the Baltimore County Zoning Regulations (BCZR) to permit 228 off-street parking spaces in lieu of the required 250 parking spaces.

BCZR Section 409.10.B to allow drive-through lanes to cross pedestrian access from off-street parking spaces to the building.

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 determined 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 Sheet 1

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

David H. Karceski

Name - Type or Print

Signature

Venable LLP

Company

210 W. Pennsylvania Ave., #500 410-494-6285

Address Telephone No.

Towson MD 21204

City State Zip Code

Legal Owner(s):

See Attached Sheet 2

Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

David H. Karceski

Name

210 W. Pennsylvania Ave., #500 410-494-6285

Address Telephone No.

Towson MD 21204

City State Zip Code

Case No. 2012-0123-A

Office Use Only

Estimated Length of Hearing
Unavailable For Hearing

Reviewed by Date 4/4/11

REV 01/01 ORDER RECEIVED FOR FILING

Date 2-1-12

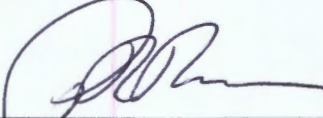
By [Signature]

Attached Sheet 1

**Petition for Variance
10142 York Road**

Lessee:

Chick-fil-A, Inc.



Signature

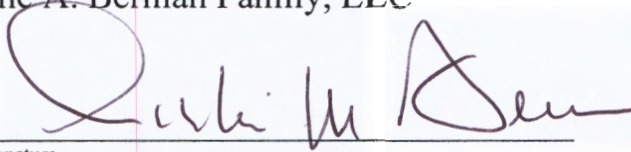
Perry Ragsdale
Vice President Real Estate, Design & Construction
5200 Buffington Road
Atlanta, GA 30349
(404) 765-8998

Attached Sheet 2

**Petition for Variance
10142 York Road**

Legal Owner:

The A. Berman Family, LLC



Signature

Leslie M. Berman, Managing Member
10749 Falls Road, Suite 202
Lutherville, MD 21093
(410) 583-5540

Item # 0123

PROPERTY DESCRIPTION

BEGINNING ON THE SOUTHWEST SIDE OF YORK ROAD, EXISTING 80 FEET RIGHT OF WAY, 30 FEET SOUTH FROM THE CENTERLINE OF INDUSTRY LANE AND RUNNING:

- 1) NORTH 18° 35' 45" WEST 561.64 FEET TO A POINT AT THE SOUTHEAST SIDE OF INDUSTRY LANE, AND;
- 2) NORTHWESTERLY BY A LINE CURVING TO THE LEFT WITH A RADIUS OF 20.00 FEET FOR A DISTANCE OF 47.12 FEET (THE ARC OF SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 63° 35' 32" WEST 42.42 FEET) TO THE END OF SAID CURVE, AND;
- 3) SOUTH 71° 24' 15" WEST 61.00 FEET TO A POINT, AND;
- 4) NORTH 18° 35' 45" WEST 5.04 FEET TO A POINT, AND;
- 5) SOUTH 71° 24' 15" WEST 255.34 FEET TO A POINT, AND;
- 6) SOUTH 18° 35' 45" EAST 431.49 FEET TO A POINT, AND;
- 7) SOUTH 83° 05' 45" EAST 383.73 FEET TO THE PLACE OF BEGINNING.

THE AREA OF LAND CONTAINED BY THE FOREGOING AMOUNTS TO 177,396 SQUARE FEET OR 4.0725 ACRES OF LAND, TOGETHER WITH AND SUBJECT TO APPURTENANCES AND ENCUMBRANCES OF RECORD OR USE.



8th Election District
3rd Councilmanic District

Item #0123

CERTIFICATE OF POSTING

12012-0123-A

RE: Case No.: _____

Petitioner/Developer: _____

Chick-fil-A, LLC

December 28, 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: _____

10142 York Road

December 13, 2011

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

Sincerely,

December 13, 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)



CERTIFICATE OF POSTING

2012-0123-A

RE: Case No.: _____

Petitioner/Developer: _____

Chick-fil-A, LLC

January 24, 2012

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:

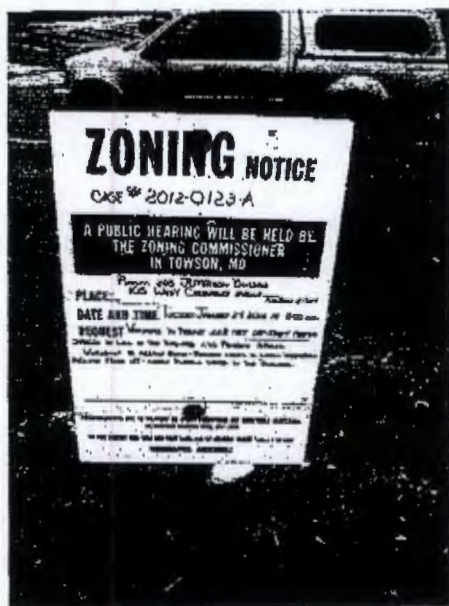
This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

10142 York Road

January 9, 2012

The sign(s) were posted on _____

(Month, Day, Year)



Sincerely,

January 9, 2012

(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 # 2012-0123-A

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

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

DATE AND TIME: TUESDAY, JANUARY 24, 2012 AT 11:00 A.M.

REQUEST: VARIANCE TO PERMIT 228 FEET OFF-STREET PARKING
SPACES IN LIEU OF THE REQUIRED 250 PARKING SPACES.

VARIANCE TO ALLOW DRIVE-THROUGH LANES TO CROSS PEDESTRIAN
ACCESS FROM OFF-STREET PARKING SPACES TO THE BUILDING.

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

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

NOTICE OF ZONING HEARING

The 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: # 2012-0123-A

10142 York Road

W/s of York Road, 30 feet south of s/west corner of centerline Industry Lane

8th Election District — 3rd Councilmanic District

Legal Owner(s): The A. Berman Family, LLC

Contract Purchaser: Chick-fil-A, LLC

Variance: to permit 228 off-street parking spaces in lieu of the required 250 parking spaces. Variance to allow drive-through lanes to cross pedestrian access from off-street parking spaces to the building.

Hearing: Tuesday, January 24, 2012 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 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.

JT 1/6/12 January 10

294449

Hearing 12/28/11

CERTIFICATE OF PUBLICATION

11/21, 2012

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/10, 2012.

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

J. Wilkinson

LEGAL ADVERTISING

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

No. **73614**

Date: **11/4/11**

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept Obj	BS Acct	Amount
000	806	0000		6150				385.00

Total: **\$ 385.00**

Rec From:

For:

Zoning hearing - case #2012-0123-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME INH
 11/04/2011 11/04/2011 14:18:19 5
 RECEIPT # 597209 11/04/2011 DELH
 5 501 ZONING VERIFICATION
 073614

Receipt Tot 1385.00
 1385.00 EL 1.00 CA
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

TO: PATUXENT PUBLISHING COMPANY
Tuesday, December 13, 2011 Issue - Jeffersonian

Please forward billing to:

David Karceski
Venable, LLP
210 W. Pennsylvania Avenue, Ste. 500
Towson, MD 21204

410-494-6285

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: 2012-0123-A

10142 York Road

W/s of York Road, 30 feet south of s/west corner of centerline Industry Lane

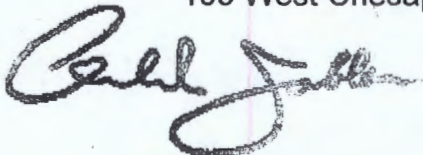
8th Election District – 3rd Councilmanic District

Legal Owners: The A. Berman Family, LLC

Contract Purchaser: Chick-fil-A, LLC

Variance to permit 228 feet off-street parking spaces in lieu of the required 250 parking spaces.

Hearing: Wednesday, December 28, 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.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections
November 22, 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: 2012-0123-A

10142 York Road

W/s of York Road, 30 feet south of s/west corner of centerline Industry Lane

8th Election District – 3rd Councilmanic District

Legal Owners: The A. Berman Family, LLC

Contract Purchaser: Chick-fil-A, LLC

Variance to permit 228 feet off-street parking spaces in lieu of the required 250 parking spaces.

Hearing: Wednesday, December 28, 2011 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: David Karceski, 210 W. Pennsylvania Avenue, #500, Towson 21204
Chick-fil-A, 5200 Buffington Road, Atlanta GA 30349
Leslie Berman, 10749 Falls Road, Ste. 202, Lutherville 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, DECEMBER 13, 2011.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, 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/neighbor 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:

Petitioner:

Address or Location:

2012-0123-A

Chick-fil-A, Inc.

10142 York Road

PLEASE FORWARD ADVERTISING BILL TO:

Name:

Address:

Telephone Number:

David Kancski

210 W. Pennsylvania Ave
Suite 500
Towson MD 21204

410 494 6285

Revised 2/17/11 DT



KEVIN KAMENETZ
County Executive

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

December 19, 2011

Chick-fil-A
Perry Ragsdale
5200 Buffington Road
Atlanta, GA 30349

RE: Case Number 2012-0123A, 10142 York Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 11, 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 that reads "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
David Karceski, 210 W. Pennsylvania Avenue., Ste. 500, Towson, MD 21204
Leslie Berman, 10749 Falls Road, Ste. 202, Lutherville, MD 21093

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



MARYLAND DEPARTMENT OF TRANSPORTATION

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

Date: 11-14-11

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

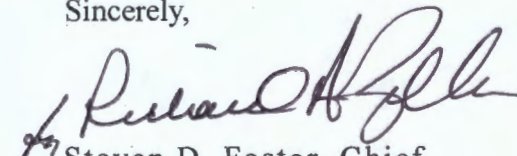
RE: Baltimore County
Item No. 2012-0123-A
Variance
L. MVA/Berman/Chick-Fil-A
10142 York Road.
MD ~~45~~ 45

Dear Ms. Matthews:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 11-14-11. A field inspection and internal review reveals that an entrance onto MD45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2012-0123-A.

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

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

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: November 18, 2011

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

SUBJECT: Zoning Advisory Committee Meeting
For November 28, 2011
Item Nos. 2012-120, 122, 123, 124
And 125

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-11282011 -NO COMMENTS.doc

RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
10142 York Road; W/S York Road, 30' S of	*	OF ADMINSTRATIVE
SW corner of c/line Industry Lane	*	HEARINGS FOR
8 th Election & 3 rd Councilmanic Districts	*	BALTIMORE COUNTY
Legal Owner(s): The A. Berman Family LLC	*	2012-123-A
Contract Purchaser(s): Chick-Fil-A, Lessee		
Petitioner(s)		

* * * * *

ENTRY OF APPEARANCE

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

RECEIVED

NOV 17 2011

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 17th day of November, 2011, a copy of the foregoing Entry of Appearance was mailed to David Karceski, Esquire, Venable, LLP, 210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204 , Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

425 - 1/24

11am

205

Patricia Zook - Case 2012-0123-A - hearing today at 11:00 am

From: Patricia Zook
To: Lewis, Kristen
Date: 12/28/2011 2:21 PM
Subject: Case 2012-0123-A - hearing today at 11:00 am
CC: Wiley, Debra

Hi Kristen -

Dave Karceski will be stopping by to see you to schedule this for (another) hearing. Evidently not all the relief they are seeking was posted and advertised.

Please let me know if you need the file returned to your office for obtaining the language for the posting and advertising.

This matter should be set in for Larry to hear.

Patti Zook
Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson MD 21204
410-887-3868
pzook@baltimorecountymd.gov

CONFIDENTIALITY NOTICE: The information contained in this ELECTRONIC MAIL transmission is legally privileged and confidential. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited.

M E M O R A N D U M

DATE: March 5, 2012
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2012-0123-A - Appeal Period Expired

The appeal period for the above-referenced case expired on March 2, 2012. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File
Office of Administrative Hearings

PLEASE PRINT CLEARLY

CASE NAME 10142 York Rd
CASE NUMBER 2012-123-A
DATE 1/24/12

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
David Karczeski	210 W. Penn. Ave	Towson MD 21204	dkarczeski@vermont.com
Joseph Ucciferro	Suite 500 901 Dulaney Valley Road Suite 801 Towson, MD 21204		jucciferro@bohlereng.com
Michael Hutton	10142 York Road, Cockeysville, MD 21030	Cockeysville, Md. 21030	York. Road. PSU@chick-fil-a.com



Hollis Cronan
Fronk & Gras, P.A.

Gordon D. Fronk

208 East Dover Street
Easton, Maryland 21601
Tel: 410.822.8822
Fax 410.822.0264

502 Washington Street
Towson, Maryland 21204
Tel: 410.823.7966
Fax 410.497.1039

gfronk@fronklaw.com

TRAFFIC CONCEPTS, INC.

Traffic Impact Studies • Feasibility
Traffic Signal Design • Expert Testimony

MARK KEELEY

325 Gambrills Road
Suite E
Gambrills, Maryland 21054

Phone: (410) 923-7101
Fax: (410) 923-6473



BOHLER
ENGINEERING

Joseph J. Ucciferro, PE

901 Dulaney Valley Rd., Suite 801, Towson, MD 21204
PHONE: 410.821.7900 FAX: 410.821.7987
CELL: 410.858.7484 EMAIL: jucciferro@bohlereng.com
www.BohlerEngineering.com

CIVIL AND CONSULTING ENGINEERS • SURVEYORS • PROJECT MANAGERS
ENVIRONMENTAL CONSULTANTS • LANDSCAPE ARCHITECTS

Rex Powell
Construction Manager

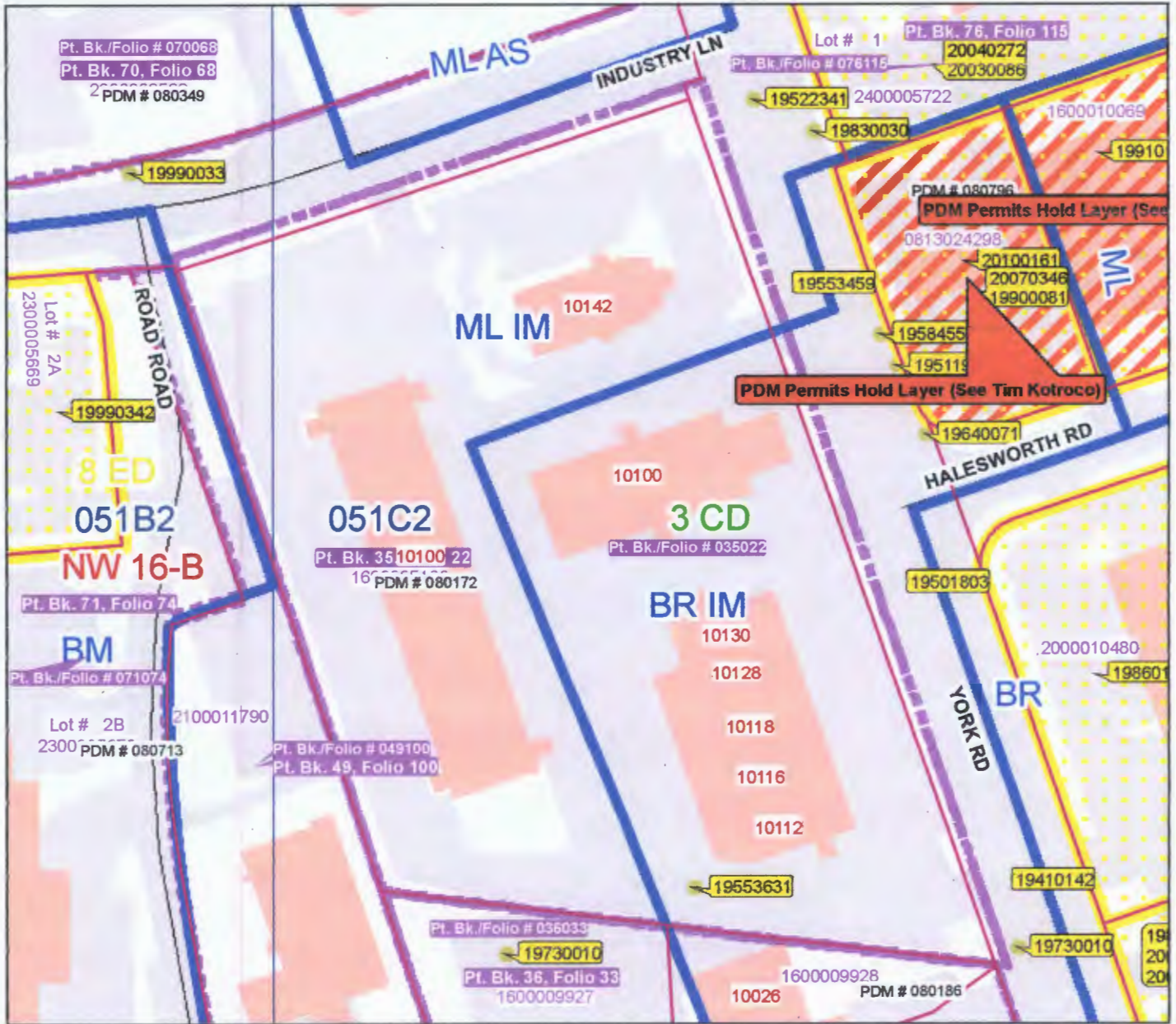


Chick-fil-A, Inc.
5200 Buffington Road
Atlanta, Georgia 30349-2998
Telephone 404 305-7623
Fax 404 765-8930
E-mail rex.powell@chick-fil-a.com
www.chick-fil-a.com

CASE NAME 10142 York Road
CASE NUMBER 2012-0123-A
DATE 12/28/11

[illegible]

Church Lane Square Shopping Center



Publication Date: November 01, 2011
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot

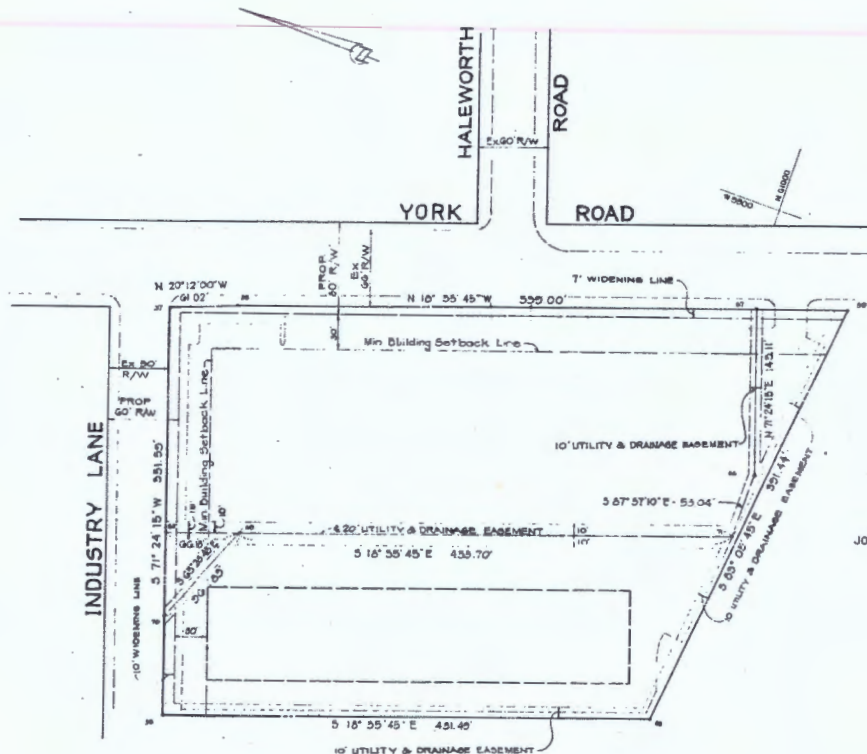
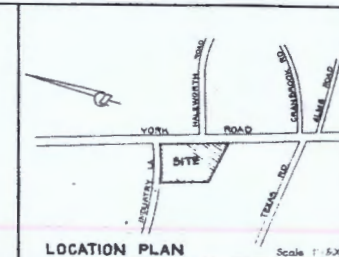


0 100 200
 Feet

1 inch = 100 feet

Item #0123

COORDINATES		
No.	NORTH	WEST
56	G1571.595	G427.322
57	G1465.467	G154.140
58	G1420.217	G155.078
59	G0818.357	G591.153
60	G0522.411	G349.768
61	G0544.216	G122.130
62	G0550.554	G566.489
63	G1421.115	G550.527
64	G1356.535	G515.472
65	G1550.574	G400.516
66	G0547.325	G160.115



JOSEPH D McMASTER
4250-1260

OTG 35 JUL0 22

THIS PHOTO TAKEN FROM THE
RECORDS OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY IS FOR OFFICIAL
USE ONLY AND NOT TO BE
DUPLICATED FOR SALE OR
GIFT.

CHURCH LANE SQUARE SHOPPING CENTER

ELECTION DISTRICT NO 8 BALTIMORE CO., MARYLAND
SCALE 1" = 50' AUGUST 4, 1971

DEVELOPER
ALLAN BERMAN
16 N. HOWARD STREET
BALTIMORE 21202, MD.

AREA = 4.1818 AC.

JOHN C. CHILDS, JR.
Professional Engineer
No. 12171
Baltimore, Md.

APPROVED:
DATE: 8/24/71
DEPUTY STATE & COUNTY HEALTH OFFICER

NOTE:
STREETS and/or ROADS shown herein and section thereof in detail are for purposes of description only and the same are not intended to be dedicated to public use. The fee simple title to the land shown is expressly reserved in the grant of the deed to which this plat is attached and shall remain in the hands of the grantor.

NOTE:
COORDINATES and BEARINGS shown on this plat are referred to the center of coordinates as published in The Baltimore County Commissioner's Manual and are based on the following traverse angles:
X-1026 N 61202.590 W 6050.610
X-1227 N 60393.571 W 6170.520

OWNERS CERTIFICATE:
The requirements of Section 718, Article 17 of the Annotated Code of Maryland (Book 947 Supplement) as far as they relate to the preparation of this plat have been complied with.

SURVEYORS CERTIFICATE:
I, JOHN C. CHILDS, JR., a Registered Land Surveyor of the State of Maryland, do hereby certify that the land shown herein has been laid out and the plat thereof prepared in accordance with the provisions of the law relating to the subdivision of land known as House Bill 459, Chapter 106 of the Acts of 1945 and subsequent amendments thereto.



MATZ, CHILDS & ASSOCIATES
1020 CROMWELL BRIDGE ROAD
BALTIMORE, MARYLAND 21204

APPROVED: BALTIMORE COUNTY PLANNING BOARD
DATE: 8/24/71
DIRECTOR

DATE: COUNTY BOARD CHIEF

OWNER DATE

REGISTERED LAND SURVEYOR No. 3822 DATE

COMPUTED: T. A. J. DRAWN: R. L. Y. CHECKED: J. B. FORD

Item #0123

Case No.:

2012-0123 A
~~0123 A~~

10/14/12 Yorkel

25

12/28
10 AM

Exhibit Sheet

Petitioner/Developer

Protestants

SA 3-5-12

PW 2/1/12

No. 1	PLAN TO ACCOMPANY PETITION FOR VARIANCE	
No. 2	JOS. UCCIFERRO P.E. C.V.	
No. 3	J. MARIC KEELEY PEP C.V.	
No. 4	A > ARIEL MAPS B >	
No. 5	SITE DRAWING	
No. 6	DRIVE THRU PHOTOGRAPH	
No. 7	A < EXISTING DRIVE THRU B < LOCATION	
No. 8	PARKING LOT PLAN	
No. 9		
No. 10		
No. 11		
No. 12		

RESUME

Joseph J. Ucciferro, P.E.
Project Manager

EDUCATION:

Bachelor of Civil Engineering, University of Delaware, Newark, DE

PROJECT TESTIMONY:

Testified on behalf of Bohler Engineering in numerous municipalities before Planning Commissions, Board of Supervisors, Board of Appeals, and related municipal entities in Maryland, Delaware, and Pennsylvania.

EXPERIENCE:

Currently serves as a Project Manager in Bohler Engineering's Towson, Maryland Office. Experience includes eight years of design and project management. Primarily responsible for client and project management for various commercial and industrial developments. Areas of experience include site feasibility analysis and budgeting, site layout and planning, zoning and subdivision ordinance review/interpretation, horizontal and vertical roadway design, site grading, earthwork balancing and analysis, soil erosion and sediment control measures and facilities, utility design, stormwater management and water quality system designs, environmental compliance/evaluations, pump/tank design and permitting, lighting photometric studies/design, signage compliance, landscaping design, vehicular circulation design, oversight of expediting and application approvals, and related services. Expertise includes supermarkets, service stations, maintenance facilities, restaurants, shopping centers, retail centers, car washes and other related projects in municipalities in Maryland, Delaware, and Pennsylvania.

Representative Projects to Note:

- 1) Chick-fil-A projects in Baltimore County (Catonsville, Carney, Essex, Hunt Valley, Middle River, Perry Hall)
- 2) Chick-fil-A projects in other Maryland jurisdictions (approx. 25 total)
- 3) Multiple Car Washes, Fuel Service Stations, Banks in Baltimore County that demonstrate knowledge of County Parking and Stacking Requirements

PROFESSIONAL AFFILIATIONS:

- Maryland Professional Engineer #36064
- Delaware Professional Engineer #15985
- Pennsylvania Professional Engineer #076279
- Urban Land Institute (ULI)
- National Association of Industrial & Office Properties (NAIOP)

PETITIONER'S

EXHIBIT NO.

2

J. MARK KEELEY, PTP
6533 Greenmount Drive • Elkridge, MD 21075
410-615-0067 (Cell) 410-923-7101 (Office)

PROFESSIONAL SKILLS

Thorough knowledge of transportation planning principals and practices, including the relationship between transportation, environmental, economic, and social factors that influence urban and rural land use patterns. Computer software Packages: Microsoft software packages, TP +, MINUTP, Highway Capacity Software (HCS), SIDRA, Critical Lane Volume Analysis

EDUCATION

TOWSON UNIVERSITY
8000 York Road
Towson, MD 21252
M.A. Degree - Geography and Planning, 1993

SALISBURY UNIVERSITY
1101 Camden Avenue
Salisbury, MD 21801
B.A. Degree 1987

MT. ST. JOSEPH HIGH SCHOOL
4403 Frederick Avenue
Baltimore, MD 21229
Graduated May 1983

PROFESSIONAL EXPERIENCE

TRAFFIC CONCEPTS, INC
325 Gambrills Road, Suite B Gambrills Maryland 21054

Project Manager/Transportation Planner, July 2005-Present

- Project Manager for Traffic Impact Studies and Planning/Traffic Engineering Services Division.
- Develop price proposals and budgets for the preparation of traffic engineering services.
- Develop business relationships to advance business products and services.
- Provide expert testimony at public hearings.
- Develop complex master planning studies, traffic impact analyses and parking studies for private and public sector clients.
- Address technical comments received from reviewing agencies and provide traffic mitigation strategies and solutions for clients.
- Represent clients at project Scoping Meetings, Planning Commission Meetings, Board of Appeals Hearings, and Community Input Meetings.
- Negotiate traffic mitigation solutions with county and state officials.

PETITIONER' S

EXHIBIT NO.

3



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data is on
or contain err
accuracy or re
data, includi
merchantabil
disclaims all o
special, indire
costs incurre
upon this data

PETITIONER'S

EXHIBIT NO.

4A

ie
e
land
ctual,
court
liance



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



PETITIONER'S

EXHIBIT NO.

4B

ta may be
aryland does
all warranties,
express
pose.
for damages,
quential
J as a result
of, arising from or in connection with the use of or reliance upon this data.



PETITIONER'S

EXHIBIT NO. 7A

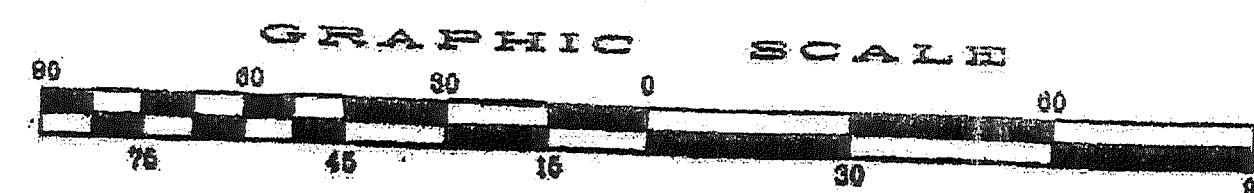


PETITIONER' S

EXHIBIT NO. 7B

ST198047.dgn

PETITIONER'S
EXHIBIT NO. 8



GENERAL NOTES:

ZONING: BR-IM AND ML-IM

PARKING REQUIREMENTS:
BUILDING 'A' (EXISTING)

USE	AREA	REQUIRED	SPACES
• Music Store	2,700	5/1,000	13.5 = 14
• Papa John's (carry-out)	1,800	5/1,000	9
• Carpet Store	3,600	2.5/1,000	9
• Liquor Store (retail)	4,050	5/1,000	20.25 = 21
• Flower Shop	2,100	5/1,000	10.50 = 11

BUILDING 'B' (EXISTING)

• Motel	120	1/Room	120
---------	-----	--------	-----

CHICK-FIL-A RESTAURANT (PROPOSED)	3,822	16/1,000	62
-----------------------------------	-------	----------	----

TOTAL PARKING REQUIRED			246
TOTAL PARKING PROVIDED			249

Series 97-100

5200 Buffington Road
Atlanta, Georgia 30349-2998
Telephone 404-765-8000

Chick-fil-A

10102 YORK ROAD AT
INDUSTRY LANE
BALTIMORE COUNTY, MARYLAND

Project Date: 10-9-96

Rev.
3-30-97
4-7-98

SHOPPING CENTER PLAN

WM JOB No. 98-047

PARKING LOT PLAN

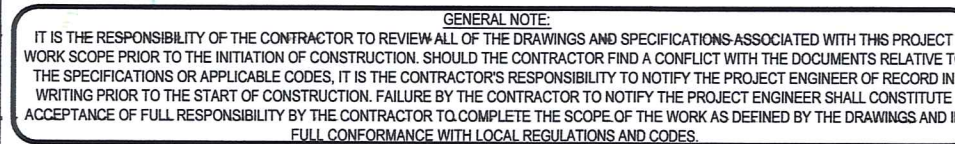
**10100 YORK
ROAD**

A.K.A. CHURCH LANE SQUARE
SHOPPING CENTER

BALTIMORE COUNTY, MARYLAND

William Monk, Inc.
ENGINEERS - PLANNERS

C2A



SHEET NUMBER:

1

OE 1

OF 1

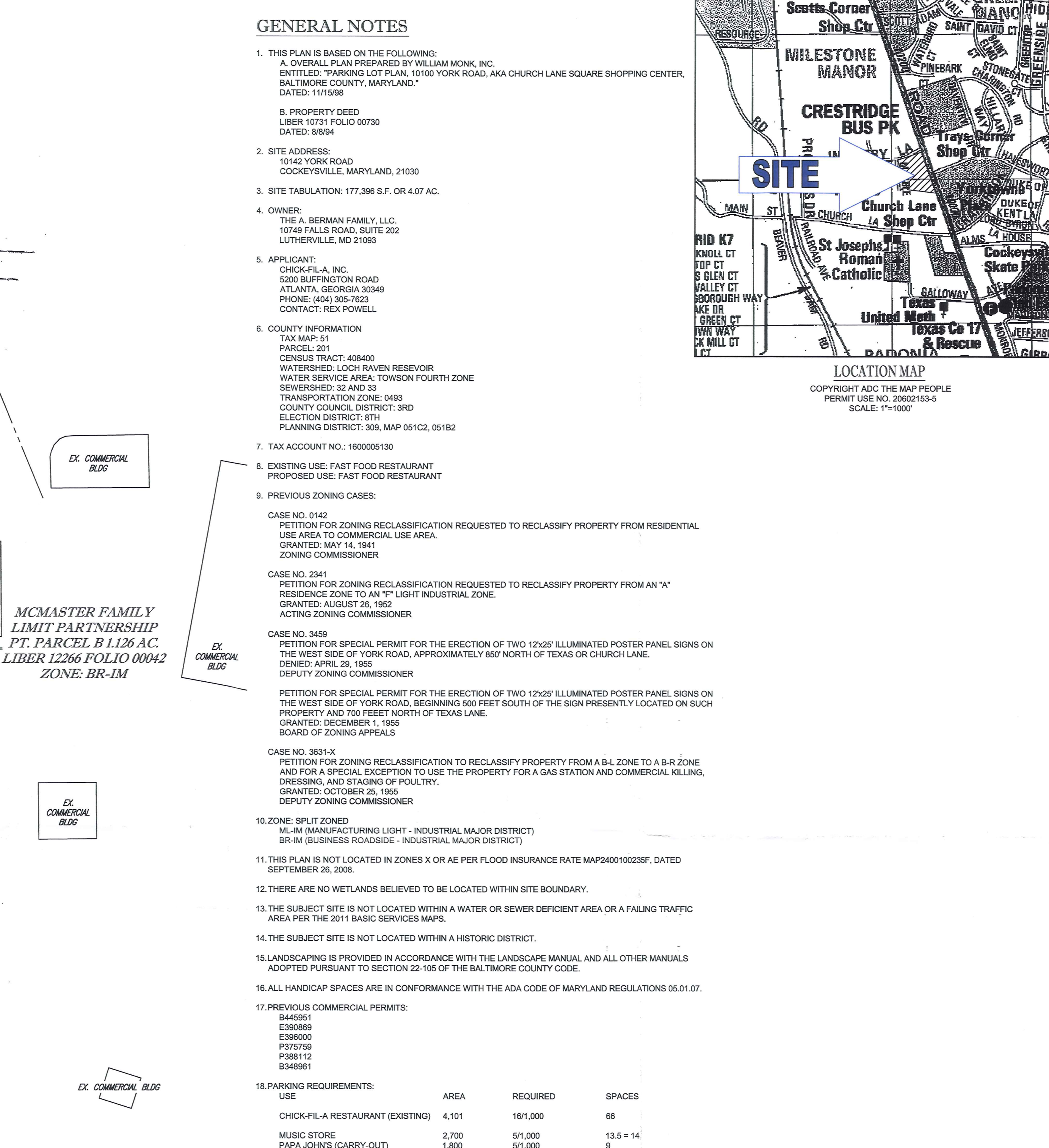


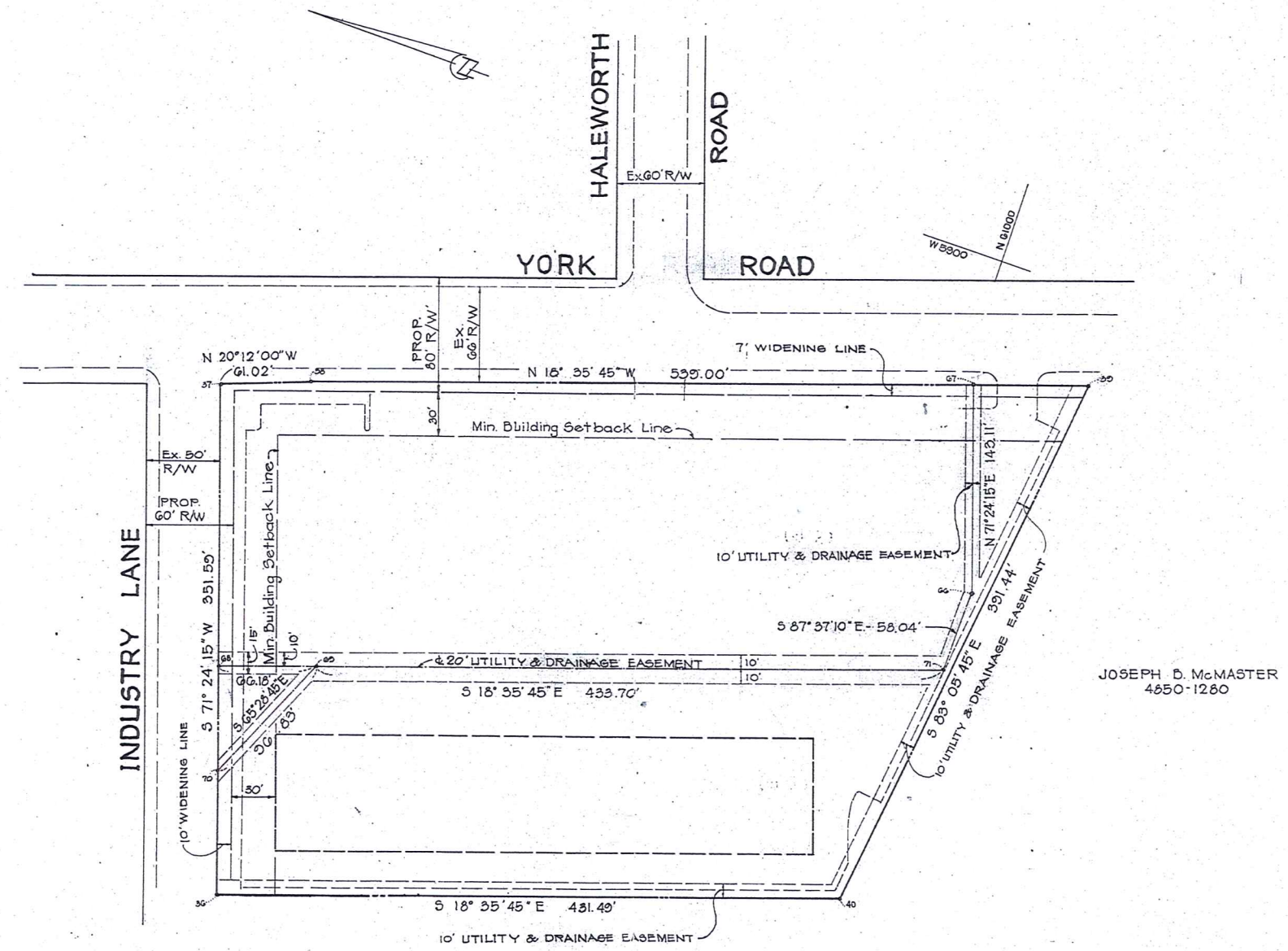
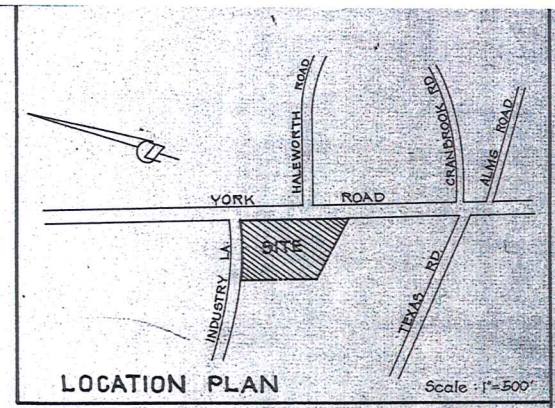
TABLE 6 (continued)

SHEET TITLE:
PLAN TO ACCOMPANY PETITION FOR VARIANCE
SHEET NUMBER:
1 OF 1

GENERAL NOTE

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO REVIEW ALL OF THE DRAWINGS AND SPECIFICATIONS ASSOCIATED WITH THIS PROJECT WORK SCOPE PRIOR TO THE INITIATION OF CONSTRUCTION. SHOULD THE CONTRACTOR FIND A CONFLICT WITH THE DOCUMENTS RELATIVE TO THE SPECIFICATIONS OR APPLICABLE CODES, IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE PROJECT ENGINEER OF RECORD IN WRITING PRIOR TO THE START OF CONSTRUCTION. FAILURE BY THE CONTRACTOR TO NOTIFY THE PROJECT ENGINEER SHALL CONSTITUTE ACCEPTANCE OF FULL RESPONSIBILITY BY THE CONTRACTOR TO COMPLETE THE SCOPE OF THE WORK AS DEFINED BY THE DRAWINGS AND IN FULL CONFORMANCE WITH LOCAL REGULATIONS AND CODES.

COORDINATES		
No.	NORTH	WEST
36	61571.368	6487.382
37	61483.467	6154.146
38	61426.217	6133.075
39	60915.257	5961.193
40	60962.411	6349.785
66	60944.918	6122.130
67	60920.554	5986.493
68	61421.115	6359.527
69	61358.386	6316.422
70	61398.574	6406.518
71	60947.329	6180.119



O.T.G. 35 FOLIO 22

RECORDED for Record
OCT 6 1971 at 11:00 AM
sa. 468 in 1161
O. 1010
One of the Records of
Baltimore County and ex-
ami. 4, 1971

Ch. H. T. Gould

CHURCH LANE SQUARE SHOPPING CENTER

ELECTION DISTRICT No. 8 BALTIMORE CO., MARYLAND
SCALE: 1"=50' AUGUST 4, 1971

DEVELOPER
ALLAN BERMAN
10 N. HOWARD STREET
BALTIMORE 21202, MD.

PETITIONER'S
EXHIBIT NO. 5

AREA = 4.1818 Ac.

APPROVED, BALTIMORE COUNTY PLANNING BOARD 9/28/71 <i>John E. Bowers</i> DATE DIRECTOR		APPROVED: <i>Donna J. Bowers</i> 10/1/71 DATE DEPUTY STATE & COUNTY HEALTH OFFICER	
APPROVED, BALTIMORE COUNTY PLANNING BOARD 9/28/71 <i>John E. Bowers</i> DATE DIRECTOR		APPROVED: <i>Donna J. Bowers</i> 10/1/71 DATE DEPUTY STATE & COUNTY HEALTH OFFICER	

NOTE:
STREETS and/or ROADS shown hereon and mention thereof in deeds are for purposes of description only, and the same are not intended to be dedicated to public use; the fee simple title to the beds thereof is expressly reserved in the grantors of the deed to which this plat is attached, their heirs and assigns.

NOTE:
COORDINATES and BEARINGS shown on this plat are referred to the system of coordinates established in The Baltimore County Metropolitan District and are based on the following traverse stations:
X-1026 N 61202.950 W 6095.610
X-1027 N 60923.970 W 5770.520

OWNERS CERTIFICATE:
The requirements of Section 72-8, Article 17 of the Annotated Code of Maryland, (Flack 1947 Supplement) as far as they relate to the preparation of this plat have been complied with.
Allan L. Berman
OWNER DATE 8-23-71

SURVEYORS CERTIFICATE:
I, JOHN C. CHILDS SR., a Registered Land Surveyor of the State of Maryland, do hereby certify that the land shown hereon has been laid out, and the plat thereof prepared in accordance with the provisions of the law relating to the subdivision of land known as House Bill #459, Chapter 1016 of the Acts of 1945 and subsequent amendatory acts.
John C. Childs Sr.
REGISTERED LAND SURVEYOR: No. 3622 DATE 8-23-71



MATZ, CHILDS & ASSOCIATES
1020 CROMWELL BRIDGE ROAD
BALTIMORE, MARYLAND 21204

COMPUTED: H.W.G. DRAWN: K.E.T. CHECKED: J.O. V.G. 9/10/71



PETITIONER'S
EXHIBIT NO. 6