

**IN RE: PETITION FOR SPECIAL HEARING *
AND VARIANCE**

E side of York Road, 20 feet
N of the c/l of Gerard Avenue
8th Election District
3rd Council District
(2119 York Road)

Dining Out LLC and
General Associates, LLC
Petitioner

* BEFORE THE
* OFFICE OF ADMINISTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
*
* **CASE NO. 2012-0143-SPHA**

* * * * *

**MOTIONS FOR RECONSIDERATION
ORDER AND OPINION**

This matter returns on two Motions for Reconsideration by letter of my Order and Opinion of February 7, 2012.

Eric Rockel's Motion is essentially a re-argument of that which had already been addressed extensively during the hearing of January 18, 2012. The timely filed Motion for Reconsideration is an opportunity to present new law or testimony that was not available at the time of the original hearing of the matter. Mr. Rockel's Motion presents no such new information.

Peter Max Zimmerman, People's Counsel for Baltimore County, (who had entered his appearance, but did not take part in the hearing of January 18, 2012), recites in his Motion the "failure" to include a 1996 zoning case for a different property than that which is the subject of the instant matter as grounds to reconsider my original determination. As Petitioner's Counsel points out in his Response, not only does People's Counsel's cited decision concern a different property, but there is an intervening 1999 zoning case which actually concerns the subject property and is the most recent treatment of the issues later addressed in the case before me.

For all of the above reasons, the Motions for Reconsideration filed by Mr. Rockel and People's Counsel, are denied.

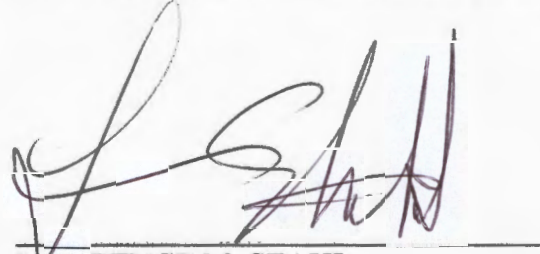
ORDER RECEIVED FOR FILING

Date 3-29-12

By PJ

THEREFORE, IT IS ORDERED, this 29th day of March, 2012 by the Administrative Law Judge for Baltimore County, that the Motions for Reconsideration filed by Mr. Rockel and People's Counsel, be and are hereby DENIED.

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:pz

ORDER RECEIVED FOR FILING

Date 3-29-12

By [Signature]



KEVIN KAMENETZ
County Executive

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

March 29, 2012

ERIC ROCKEL
1610 RIDERWOOD DRIVE
LUTHERVILLE MD 21093

PETER MAX ZIMMERMAN
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
105 WEST CHESAPEAKE AVENUE, SUITE 204
TOWSON MD 21204

Re: Petition for Special Hearing and Variance
Order on Motions for Reconsideration
Case No. 2012-0143-SPHA
Property: 2119 York Road

Dear Messrs Rockel and Zimmerman:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file with the Department of Permits, Approvals and Inspections an appeal within thirty (30) days from the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

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

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/pz

Enclosure

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

**IN RE: PETITION FOR SPECIAL HEARING *
AND VARIANCE**

E side of York Road, 20 feet
N of the c/l of Gerard Avenue
8th Election District
3rd Council District
(2119 York Road)

Dining Out LLC and
General Associates, LLC
Petitioner

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY

CASE NO. 2012-0143-SPHA

* * * * *

ORDER AND OPINION

This matter comes before the Administrative Law Judge as Petition for Special Hearing filed by the legal owner of the property, Michael Dellis, authorized representative of Dining Out, LLC and General Associates, LLC. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for an amendment to the previously approved site plan in Case No. 99-482-SPH to reflect the existing and proposed improvements/conditions as shown on the instant plan to accompany this petition.

Petitioner is also seeking Variance relief as follows:

- From Section 235.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a setback of 0 feet from the front property line in lieu of the minimum required setback of 15 feet from the front property line; and
- From Section 235.2 and 232.2.B of the "B.C.Z.R." to permit a 0 foot side yard setback on the street side of a corner lot in lieu of the required 10 feet.

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

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Date 2-7-12

By ps

Appearing at the requisite public hearing held for this case was Steve Dellis, authorized representative of Dining Out LLC and General Associates, LLC, James Wilson, Virginia Navid, Bernadette Moskunas of Site Rite Surveying, Inc., the professional land surveyor who prepared the site plan, and Lawrence E. Schmidt, Esquire, attorney for the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. Eric Rockel, a resident of the nearby community, was also present.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A comment was received from the Bureau of Development Plans Review dated December 19, 2011, which states:

The improvements proposed along Gerard Avenue should be set back at least 5 feet from the existing curb face and the Petitioner should be required to provide a sidewalk for pedestrians to travel from the existing sidewalk on the north side of Gerard Avenue to the one on York Road at the intersection."

There were no other comments received from any of the County reviewing agencies.

Petitioner's information was proffered by Mr. Schmidt. The subject site is located in Timonium, across from the Maryland State Fairgrounds and does business as "Michael's Café." The property is located at the corner of York Road and Gerard Avenue, is approximately 1.44 acres in size, and is zoned BM in the front of the property and RO to its rear. Michael's Café has done business on the BM portion of the site for more than 20 years. A mixed use service station is adjacent to the northern boundary of the site on York Road. In 1969, a special exception was granted for an office building in the rear RO portion of the site, which is known as the Gerard Building. At that time there remained a bar and an auto glass business on the front BM portion of the property. In 1986, permission was obtained to raze the auto glass business and construct a restaurant on the front portion of the lot. A parking variance was also granted, allowing 35 fewer spaces than required by the regulations. In 1995, a modified parking plan was approved for the

ORDER RECEIVED FOR FILING

2

Date 2-7-12

Rv PS

restaurant and additional parking for the restaurant was permitted in the RO (rear) portion of the lot. In 1999, a modification of the existing site plan was approved, permitting the restaurant to have an outdoor seating area.

Petitioner now requests that the existing site plan be amended and setback variances granted, to permit a total of approximately 2,600 square feet of additional and outdoor seating, both on the York Road as well as Gerard Avenue sides of the restaurant. There is presently an outdoor seating area of some 890 square feet on York Road, which Petitioner seeks to enlarge and enclose while establishing a new seating area and partially covered bar on the Gerard Avenue side. Petitioner intends to enclose the additional seating on the York Road side with brick and glass, connecting it to the roof covering. They also intend to plant buffers on the York Road side to further insulate the additional seating from noise generated by the traffic on York Road. Petitioner entered into the record a number of photographs so as to provide a "picture" of the subject site and its surrounding area, showing among other items, the present restaurant and existing outdoor seating, the Gerard Building, existing parking between Michael's Café and the Gerard Building, and the Kelly Building, located directly behind the Gerard Building on an adjacent lot. He noted that the parking to the rear of Michael's as well as that provided by the Gerard and Kelly Buildings are, in fact, physically interwoven.

Counsel then addressed the parking requirements for the additional seating being requested. He reiterated the 35 space reduction (which Petitioner wishes to retain) as well as the modified parking plan of 1995. As a result of Petitioner's newly requested construction, Counsel calculates the parking requirements as follows: 48 spaces, based on the square footage of the Gerard Building; 127 spaces for the existing Michael's restaurant; in an effort to "clean up" all prior plans, Petitioner is including 3 spaces for the existing two story building on the subject site which is used for

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Date 2-7-12 3

By [Signature]

Michael's corporate offices only, but has not previously been included in the parking calculations; and 43 spaces based upon the square footage of the proposed outdoor seating. The total "gross" parking is therefore 221 spaces.

Petitioner suggests that under Section 409.6 of the B.C.Z.R., if two uses exist on the same site, the "shared calculations table" would apply. In this situation, the Gerard Building is utilized during the day, but not at night; the reverse is true for the subject restaurant. Accordingly, the "shared table" applicable here is presented on the plan the accompany the instant Petition (Petitioner's Exhibit 1). The largest number under the table being utilized results in a "shared" parking requirement of 178 spaces. The previously granted variance reduction of 35 spaces reduces the number to 143 spaces as the actual parking requirement. In the 1990 plan, 109 spaces were allotted to the combined Michael's Gerard Building lot. Petitioner has more efficiently reorganized and remarked the lot to include 121 spaces, all of which, including driver aisles, complying with applicable size regulations. In addition, Petitioner presented a letter from the owner of the Kelly Building located behind the Gerard Building. They have entered into an arrangement with the owner of this building to utilize its parking spaces Friday and Saturday nights for use by Michael's patrons; vehicles to be parked under a new valet arrangement. A letter from Keith Rice on behalf of the building owners (Kelly Building LLC) to that effect was submitted as Petitioner's Exhibit 7. It was also noted that whereas prior to the 1995 case there was parking permitted on the south side of Gerard Avenue, but not on the north side; the opposite is true today. Finally, Petitioner noted that there is angle parking between the gas station just to the north of the restaurant site as well as marked parking spaces between the subject restaurant and the Timonium Shopping Center which shares its northern border. These spaces are utilized by both entities. The Petitioner has used these spaces for their patrons uninterruptedly for more than 20 years. Mr. Dellis confirmed that the "in

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Date 2-7-12 4

By pm

common parking spaces” have been openly used by the restaurant for those many years and are, in fact, maintained by the Petitioner.

Virginia Navid, the architectural designer of the proposed expansion, explained that the bar and additional seating to be located on the Gerard Avenue side of the restaurant, would only have a roof extending over the server bar and its patrons; the seating itself would be open. Machinery presently located there would be moved. On the York Road side, the proposed addition to the outdoor seating would be enclosed with a brick and glass wall, roof and landscaping buffer between it and York Road.

Finally, as to the Petitioner’s special hearing request, Counsel offered that, given the commercial nature of the site and its surroundings, conformance with Section 502.1 of the B.C.Z.R. was not addressed. However, Counsel did note that, pursuant to the comment of the Bureau of Development Plans Review, a sidewalk for pedestrians to travel from the existing sidewalk on the north side of Gerard Avenue to the existing sidewalk on York Road would be constructed by Petitioner with an appropriate curb cut out for ingress and egress to the restaurant’s parking area.

As to the requested variances, Counsel proffered that in granting previous variances as to this property, the then Zoning Commissioners as well as the County Board of Appeals, had found the property necessarily to be unique. Nevertheless, Petitioner offered that the combination of the shape and physical layout of the site, including the multiple buildings and shared relationships thereupon, as well as the constraints imposed upon the site by the plethora of surrounding commercial uses, supported a finding of uniqueness. The use of the site remains the same as it has over the years, and its continued use for its permitted purpose would face practical difficulty if the requested variances were not granted.

ORDER RECEIVED FOR FILING

Date 2-7-12 5

By pm

Mr. Rockel testified that he is concerned about the parking situation surrounding the subject site. Although he has no particular objection to the proposed new seating and common use parking arrangements arising therefrom, he believes that the off-site parking should be confirmed by more formal documents; and that the Rice letter is not, in his mind, sufficient to ensure the continued use of the Kelly Building parking spaces. He suggests as an alternative, utilizing the property on York Road and Gerard Avenue adjacent to the subject site to the south for parking. He notes that it is vacant and that Mr. Dellis is a member of its ownership LLC. Finally, he believes that Section 409.7.c should be utilized in this matter and formal documents executed.

In rebuttal, Mr. Dellis offered that he is looking for a long term tenant to the property referred to by Mr. Rockel. He stated that he plans no kitchen expansion for the restaurant, nor does he anticipate further improvements to increase the restaurant's capacity. He firmly believes that to continue to be competitive, the availability of outside seating is essential. Moreover, he stated that as far as Section 409.7.c was concerned, he is not requesting a building permit to construct an off-site facility; and that arrangements such as that set out by the letter from Mr. Rice represents the business practice for such matters as it exists today.

Based upon the evidence and testimony presented, I believe that Petitioner has met his burden as to the appropriateness of his sought for improvements, and the modification and confirmation of amending the previous site plan, as well as approving the necessary parking to support the site's present use and its proposed expansion. I also agree with Counsel that as far as the special hearing is concerned a recitation of responses to Section 502.1 of the B.C.Z.R. is unnecessary. Petitioner's requests are reasonable and clearly within the spirit and intent of the zoning regulations and in harmony with the already permitted use of the site. The proposed parking plan, though multi-faceted, was detailed, clearly appropriate, and in conformance with all applicable

ORDER RECEIVED FOR FILING

Date 2-7-12

6

By pm

County regulations.

Moreover, I find that special circumstances and conditions exist that are unique to the subject property; and that, due to these unique conditions, strict enforcement of the B.C.Z.R. would cause the Petitioner to suffer a practical difficulty. Finally, I find that the relief requested will not result in any adverse impact on the surrounding area; rather, the proposed improvement will be a positive addition to the subject property and the surrounding locale.

Finally, I find that the variances requested meet the requirements of Section 307 of the B.C.Z.R., as established in *Cromwell v. Ward*, 102 Md. App. 691 (1995).

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner's request for special hearing and variances should be granted.

THEREFORE, IT IS ORDERED, this 7th day of February, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief from Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") for an amendment to the previously approved site plan in Case No. 99-482-SPH to reflect the existing and proposed improvements/conditions as shown on the instant plan to accompany this Petition, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance as follows:

- From Section 235.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a setback of 0 feet from the front property line in lieu of the minimum required setback of 15 feet from the front property line; and

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Date 2-7-12

By PM

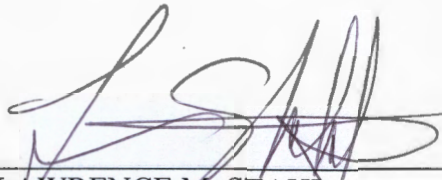
- From Section 235.2 and 232.2.B of the "B.C.Z.R." to permit a 0 foot side yard setback on the street side of a corner lot in lieu of the required 10 feet,

be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

1. The Petitioner may apply for their building permit and may be granted same upon receipt of this Order, however the Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioners will be required to return and be responsible for returning said property to its original condition.
2. Compliance with the ZAC comments made by the Bureau of Development Plans Review dated December 19, 2011, a copy of which is attached hereto and made a part hereof.

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

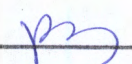


LAWRENCE M. STAHL
Managing Administrative Law Judge for
Baltimore County

LMS:pz

ORDER RECEIVED FOR FILING

Date 2-7-12

By 

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

DATE: December 19, 2011

Department of Permits, Approvals
And Inspections

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

SUBJECT: Zoning Advisory Committee Meeting
For December 26, 2011
Item No. 2012-0143

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

The improvements proposed along Gerard Avenue should be set back at least five feet from the existing curb face and the petitioner should be required to provide a sidewalk for pedestrians to travel from the existing sidewalk on the north side of Gerard Avenue to the one on York Road at the intersection.

DAK:CEN
cc:file
ZAC-ITEM NO 12-0141-12262011.doc

ORDER RECEIVED FOR FILING

Date 2-7-12

By [Signature]



KEVIN KAMENETZ
County Executive

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

February 7, 2012

LAWRENCE E. SCHMIDT, ESQUIRE
SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Special Hearing and Variance
Case No. 2012-0143-SPHA
Property: 2119 York Road

Dear Mr. Schmidt:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file with the Department of Permits, Applications and Inspections an appeal within thirty (30) days from the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", is written over the printed name of Lawrence M. Stahl.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/pz

Enclosure

c: Bernadette Moskunas, Site Rite Surveying, Inc., 200 East Joppa Road, Room 101,
Towson MD 21286
Eric Rockel, 1610 Riderwood Drive, Lutherville MD 21093



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

address 2119 York Road & 10 Gerard Avenue

which is presently zoned BM & RO

Deed Reference 21506/00684 and 10840/00639

10 Digit Tax Account # 0816076076 and 0805043206

Property Owner(s) Printed Name(s) Dining Out Realty, LLC and Gerard Associates, LLC

CASE NUMBER 2012-0143-SPHA Filing Date 12 / 2 / 2011 Estimated Posting Date / / Reviewer RD

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☒ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

PLEASE SEE ATTACHED

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a **Variance** from Section(s)

PLEASE SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
(Indicate below your hardship or practical difficulty or indicate below "To Be Presented At Hearing". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

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

I, or we, agree to pay expenses of above petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Jason T. Vettori, Smith, Gildea & Schmidt, LLC

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD 21204

Mailing Address City State

(410) 821-0070

Zip Code Telephone # Email Address

Legal Owners:

Michael Dellis, Authorized Representative of Dining Out, LLC and Gerard Associates, LLC

Michael Dellis /
Name #1 - Type or Print Name #2 - Type or Print

Signature #1 Signature #2

2119 York Road, Lutherville-Timonium, MD 21093

Mailing Address City State

(410) 252-2022

Zip Code Telephone # Email Address

Representative to be contacted:

Jason T. Vettori, Smith, Gildea & Schmidt, LLC

Name - Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD 21204

Mailing Address City State

(410) 821-0070

Zip Code Telephone # Email Address

REV. 2/23/11 ORDER RECEIVED FOR FILING

Date 2-7-12

ATTACHMENT TO PETITION FOR VARIANCE
2119 York Road

1. 235.1 of the BCZR to permit a setback of zero (0) feet from the front property line in lieu of the minimum required setback of fifteen (15) feet from the front property line; and
2. 235.2 and 232.2.B of the BCZR to permit a zero (0) foot side yard setback on the street side of a corner lot in lieu of the required ten (10) feet; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Item #0143

**ZONING DESCRIPTION FOR #10 GERARD AVENUE
"GERALD BUILDING:"**

BEGINNING at a point on the north side of Gerard Avenue, which is 40 feet wide at a distance of 186 feet, more or less, east of the center line of York Road, MD Route No. 45, which is 80 feet wide. Being Lot Nos. 8-16 and part of 17, of Section A in the subdivision of "Yorkshire" Part 1 as recorded in Baltimore County Plat Book No. 7, folio No. 21, containing 0.89 of an acre, located in the 8th Election District and 3rd Councilmanic District.



Michael V. Moskunas
Reg. No. 21175

Site Rite Surveying, Inc.
200 E. Joppa Road
Suite 101
Towson MD 21286
(410) 828-9060

**ZONING PROPERTY DESCRIPTION FOR #2119 YORK ROAD
MICHAEL'S CAFÉ**

BEGINNING AT A POINT ON THE EAST SIDE OF YORK ROAD, MARYLAND ROUTE NO. 45, WHICH IS 80 FEET WIDE AT A DISTANCE OF 20 FEET NORTH OF THE CENTERLINE OF GERARD AVENUE WHICH IS 40 FEET WIDE. MORE PARTICULARLY DESCRIBED AS THE NORTHEAST INTERSECTION OF YORK ROAD AND GERARD AVENUE. BEING LOT NOS. 1 - 7, SECTION "A" IN THE SUBDIVISION OF "YORKSHIRE" PART 1 AS RECORDED IN THE BALTIMORE COUNTY PLAT BOOK NO. 7, FOLIO NO. 21, CONTAINING 0.54 OF AN ACRE.

MORE PARTICULARLY DESCRIBED BY THE FOLLOWING COURSES AND DISTANCES: (1) BY A CURVE TO THE RIGHT HAVING A RADIUS OF 26.73 FEET AN ARC LENGTH OF 33.79 FEET, SAID ARC HAVING A BEARING OF N° 57 39' 02" W, 31.59 FEET, (2) N° 21 26' 02" W, 147.31 FEET, (3) N° 86 40' 50" E, 153.61 FEET, (4) S° 19 00' 36" E, 163.30 FEET AND (5) S° 86 07' 58" W, 126.31 FEET TO THE POINT OF BEGINNING AS RECORDED IN DEED LIBER 21506, FOLIO 684, CONTAINING 0.54 OF AN ACRE. LOCATED IN THE 8TH ELECTION DISTRICT AND 3RD COUNCILMANIC DISTRICT.

**MICHAEL V. MOSKUNAS
PROFESSIONAL LAND SURVEYOR
REG. NO. 21175
200 E. JOPPA ROAD, ROOM 101
TOWSON, MD 21286
(410)828-9060**



**(The metes and bounds is a compilation of deeds, state road commission plats and record plats.
The legal description in the title deed does not mathematically close)**

Item #0143

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

No. **74909**

Date: **12/2/**

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS Acct	Amount
				Source/	Rev/				
				Obj	Sub Obj				

Total: **770⁰⁰**

Rec
From:

For:

Donating to ... # 2412 ... SPHA

DISTRIBUTION

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

GOLD - ACCOUNTING

**CASHIER'S
 VALIDATION**

M E M O R A N D U M

DATE: May 1, 2012
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2012-0143-SPHA - Appeal Period Expired

The appeal period for the above-referenced case expired on April 30, 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

RECEIVED

MAR 01 2012

OFFICE OF ADMINISTRATIVE HEARINGS

Lawrence M. Stahl
Managing Administrative Law Judge
Office of Administrative Hearings
105 West Chesapeake Avenue, Ste. 103
Towson, Maryland 21204

Re: Petition for Special Hearing and Variance
Case No. 2012-0143 SPHA

Dear Mr. Stahl:

I am respectfully requesting a reconsideration of your ruling regarding the Special Hearing for the site plan amendment in Case No. 2012-0143-SPHA. Specifically, the site plan for the Petitioner detailed the parking used by Michael's Grill and Café and the Gerard Building for the combined properties "shared parking requirements". At the hearing I objected to the calculation based upon the following facts as detailed on the site plan. First, the Petitioner's plan shows parking spaces that are not on its property but rather on a property to the north that is part of the Timonium Shopping Center. Secondly, the site plan also details four parking spaces immediately north of the north end of Michael's Grill and Café that are substantially outside of the lot lines of this property. Those four parking spaces are situated largely within a "paper street", labeled on the site plan as "Road in Common" as shown on the subdivision plat of Yorkshire, recorded in Plat Book 7, folio 21 of the Baltimore County Plat Records. In addition, the site plan shows another 18 parking spaces that are located either wholly or partially within this paper road adjacent to the Gerard Building property. Research into the deed descriptions of both the Gerard Building and Michael's Café indicates that neither property's deed description calls to include this paper road as part of their property descriptions. As such, I believe it was an error on the part of the site plan to include the parking spaces that fell wholly or partially within that paper street as part of the requirement for parking on these two sites. Finally, as required under Baltimore County Zoning Regulations, Section 409.7.C., the Petitioner did not provide the requisite evidence that the parking spaces on the shopping center property, nor the paper road, were guaranteed for future continued use and maintenance as that section of the regulations require.

Page Two
Motion for Reconsideration
Case No. 2012-0143 SPHA

Based upon the information summarized above, I believe that it is appropriate to reconsider your order dated February 7, 2012. Thank you for taking this argument under review.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eric Rockel". The signature is fluid and cursive, with the first name "Eric" and last name "Rockel" clearly distinguishable.

Eric Rockel

CC: Lawrence E. Schmidt, Esq.
Peter Max Zimmerman, Esq.
Stephen Weber



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections
December 28, 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: 2012-0143-SPH

2119 York Road & 10 Gerard Avenue

E/side of York Road, 20 feet north of centerline of Gerard Avenue

8th Election District – 3rd Councilmanic District

Legal Owners: Dining Out, LLC, & Gerard Associates, LLC

Special Hearing to permit an amendment to the previously approved site plan in case 99-482-SPH to reflect the existing and proposed improvements/conditions as shown on the instant plan to accompany this petition; and for such other and further relief as may be determined by the Administrative Law Judge. Variance to permit a setback of 0 feet from the front property line in lieu of the minimum required setback of 15 feet from the property line and to permit a 0 foot side yard setback on the street side of a corner lot in lieu of the required 10 feet and for such other and further relief as may be deemed necessary by the Administrative Law Judge.

Hearing: Wednesday, January 18, 2012 at 1:30 p.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: Jason Vettori, 600 Washington Avenue, Ste. 200, Towson 21204
Michael Dellis, 2119 York Road, Lutherville 21093

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JANUARY 3, 2012.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 2, 2012 Issue - Jeffersonian

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 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 wherein as follows:

CASE NUMBER: 2012-0143-SPH

2119 York Road & 10 Gerard Avenue
E/side of York Road, 20 feet north of centerline of Gerard Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Dining Out, LLC, & Gerard Associates, LLC

Special Hearing to permit an amendment to the previously approved site plan in case 99-482-SPH to reflect the existing and proposed improvements/conditions as shown on the instant plan to accompany this petition; and for such other and further relief as may be determined by the Administrative Law Judge. Variance to permit a setback of 0 feet from the front property line in lieu of the minimum required setback of 15 feet from the property line and to permit a 0 foot side yard setback on the street side of a corner lot in lieu of the required 10 feet and for such other and further relief as may be deemed necessary by the Administrative Law Judge.

Hearing: Wednesday, January 18, 2012 at 1:30 p.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.

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: # 2012-0143-SPH

2119 York Road & Gerard Avenue

E/side of York Road, 20 feet north of centerline of Gerard Avenue

8th Election District - 3rd Councilmanic District

Legal Owner(s): Dining Out, LLC, & Gerard Associates, LLC

Special Hearing: to permit an amendment to the previously approved site plan in case 99-482-SPH to reflect the existing and proposed improvements/conditions as shown on the instant plan to accompany this petition; and for such other and further relief as may be determined by the Administrative Law Judge. **Variance:** to permit a setback of 0 feet from the front property line in lieu of the minimum required setback of 15 feet from the property line and to permit a 0 foot side yard setback on the street side of a corner lot in lieu of the required 10 feet and for such other and further relief as may be deemed necessary by the Administrative Law Judge.

Hearing: Wednesday, January 18, 2012 at 1:30 p.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/1/622 Jan. 3

294124

CERTIFICATE OF PUBLICATION

1/5/2012

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 1/3/2012.

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

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

2012-0143-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Dining Out, LLC. & Gerard Associates, LLC.

January 18, 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: _____

2119 York Road

January 3, 2012

The sign(s) were posted on

(Month, Day, Year)

Sincerely,

January 3, 2012

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

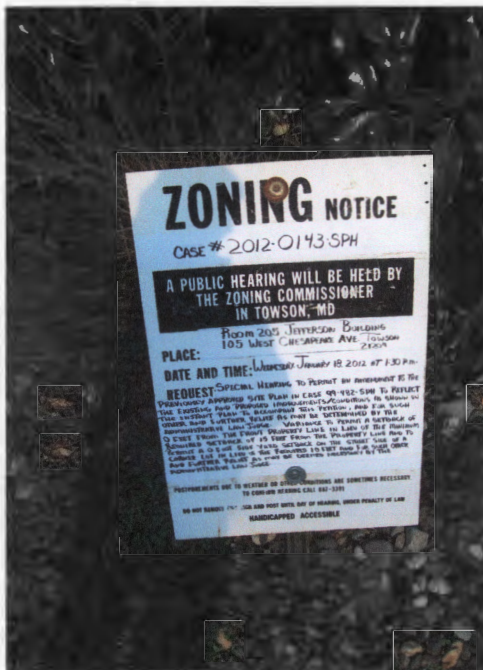
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
AND VARIANCE		
2119 York Road; E/S York Road, 20' N of	*	OF ADMINISTRATIVE
c/line of Gerard Avenue		
8 th Election & 3 rd Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Michael Dellis		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2012-143-SPHA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

RECEIVED

DEC 14 2011

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 2011, a copy of the foregoing Entry of Appearance was mailed to Jason Vettori, Esquire, 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

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: 2012-0143-SPHA
Petitioner: DINING OUT REALTY, LLC and GERARD ASSOCIATES, LLC
Address or Location: 2119 York Road and 10 Gerard Avenue

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI
Address: SMITH, GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, STE. 200
TOWSON, MD 21204
Telephone Number: (410) 821-0070

Revised 2/17/11 DT

CASE NAME Michael 15
CASE NUMBER 2012-143-
DATE 1/18/2012 SPHA

Let's over 15

[illegible]

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER 2012-0143-5PHA
DATE _____

CITIZEN'S SIGN-IN SHEET

[illegible]

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

12-19

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

comments

1-13

DEPS
(if not received, date e-mail sent _____)

nc

FIRE DEPARTMENT

PLANNING
(if not received, date e-mail sent _____)

12-13

STATE HIGHWAY ADMINISTRATION

nc

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 1-3-12

SIGN POSTING Date: 1-3-12

by Black

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

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

DATE: January 13, 2012

SUBJECT: DEPS Comment for Zoning Item # 12-0143-SPHA
Address 2119 York Road
(Dellis Property)

Zoning Advisory Committee Meeting of December 12, 2011.

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

Reviewer: *Jeff Livingston; Development Coordination*

RECEIVED

JAN 13 2011

OFFICE OF ADMINISTRATIVE HEARINGS

Debra Wiley - ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/12/11

From: Debra Wiley
To: Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...
Date: 12/9/2011 8:55 AM
Subject: ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/12/11

Good Morning,

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. Thanks.

2012-0138-XA - 3219 E. Joppa Rd.
(No hearing date in data base as of 12/9)

2012-0141-SPH - 341 Worton Road - (CBCA)
(No hearing date in data base as of 12/9)

2012-0142-SPH - 4508-4514 Painters Mills Road
(No hearing date in data base as of 12/9)

2012-0143-SPHA - 2119 York Road
(No hearing date in data base as of 12/9)

2012-0144-SPHX - 10729 Park Heights Avenue
(No hearing date in data base as of 12/9)

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



KEVIN KAMENETZ
County Executive

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

January 12, 2012

Michael Dellis
2119 York Road
Lutherville, MD 21093

RE: Case Number 2012-0143-SPHA, 2119 York Road

Dear Mr. Dellis,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 2, 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." The signature is stylized with a large, flowing "W" and a prominent "J" at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Jason Vettori, 600 Washington Avenue, Ste. 200, Towson, MD 21204

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 12-13-11

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

RE: Baltimore County
Item No. 2012-0143-SHA
Special Hearing Variance
Micheel Dellis
2119 York Road.
MD45

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 12-12-11. 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 2012-0143-SHA.

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,

A handwritten signature in blue ink, appearing to read "Steven D. Foster".

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

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 6, 2012

HAND DELIVERED

Lawrence M. Stahl, Managing Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED
MAR 06 2012
OFFICE OF ADMINISTRATIVE HEARINGS

Re: Dining Out LLC & General Associates, LLC, 2119 York Road
Case No: 2012-143-SPHA

Dear Mr. Stahl:

Please accept this letter as a Motion for Reconsideration under Rule 4K of the Opinion and Order dated February 7, 2012 in the above-referenced case.

Upon review of the record and Eric Rockel's Motion for Reconsideration, it appears to this office that Mr. Rockel's motion has merit.

In addition, there is a key omission in Petitioner's stated zoning history of the site. In 1996, there occurred the case entitled Glen Kendrick, et al. - Legal Owner; Dining Out Enterprises, Inc., Michael Dellis, Contract Purchaser, 96-340-SPH. While the petition for special hearing and residential transition area variances listed the address as 18 Timonium Road, the actual import was to extend the use permit for commercial parking for Michael's Restaurant at 2119 York Road, the restaurant involved in the current parking request. So, this case is properly part of the zoning history relating to parking issues involving the restaurant and should have been listed and reviewed as part of the history.

In the enclosed April 18, 1997 opinion, the County Board of Appeals denied the petition. While the present case is not a request to extend parking to 18 Timonium Road, the CBA opinion is nevertheless of interest because there are references to the parking problems associated with the increasingly successful restaurant operation and the evidence that there was a lack of compliance with conditions imposed by the previous 1995 zoning order. The CBA wrote,

"Initially the decision made in 1995 to approve the shared parking arrangement with the owners of the Gerard Office Building is quite material. There is no question but that this arrangement was to have solved the parking problems of the petitioner as to his future needs; and based on those representations, the community appeared satisfied as to the order issued by the Deputy Zoning Commissioner in the February, 1995 decision,

March 6, 2012

Page 2

subject to restrictions contained therein. There was also testimony produced by the protestants at the hearing that some of the conditions imposed by the Order have not been adhered to in good faith by the Petitioner." Page 10.

Petitioners did not appeal, so this became the final decision.

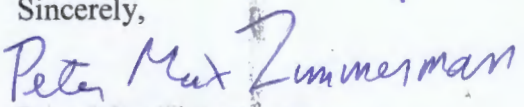
The gist of the CBA opinion is that even as of 1997, despite the shared parking arrangements with the Gerard Office Building, there were already parking problems and issues about compliance with the supposedly salutary conditions. Since then, Michael's Restaurant, also known as Michael's Café, has succeeded and has just increased in popularity. This is good for the restaurant owners, but has only magnified the parking issues. There remain concerns about overflow parking into nearby residential areas. To illustrate, Harnek Singh et al Case No. 08-363 SPHX, the CBA denied a special exception for an additional use on Petitioner's site, partly because of the existing parking deficiency generated by the existing use, and the concern with spillover parking by the patrons into the surrounding residential neighborhood. Judge Susan Souder in the Circuit Court affirmed in a decision dated July 27, 2010.

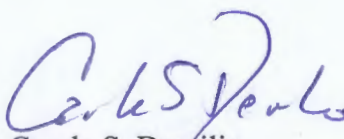
In light of this history, the request to expand the restaurant to include an enclosed and enlarged additional and outdoor seating area, covering 2600 square feet, spanning the York Road and Gerard Avenue sides, will undoubtedly add to the parking challenges. The supposed alleviation of such problems by various shared parking and other arrangements seems speculative at best.

The Petitioner also requests setback variances which must comply with standards under Chester Haven Beach Partnership v. County Board of Appeals for Queen Anne's County 103 Md. App. 324, 335-41 (1995) and Umerley v. People's Counsel 108 Md. App. 497, 509-11, cert. denied 342 Md. 584 (1996) as well as Cromwell and BCZR 307.1.

This history and these legal factors have not so far been considered. It may be that the proposed expansion would be palatable if adequate, solid parking arrangements are required and provided. It is respectfully submitted that the Managing Administrative Law Judge should reconsider his February 7, 2012 decision, hold a new hearing if necessary, and reexamine the decision in light of these considerations.

Sincerely,


Peter Max Zimmerman
People's Counsel for Baltimore County


Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: Lawrence Schmidt, Esquire
Eric Rockel
Stephen Weber, Chief of Traffic Engineering

IN THE MATTER OF * BEFORE THE
 THE APPLICATION OF *
GLEN I. KENDRICK, ET AL -LEGAL* COUNTY BOARD OF APPEALS
OWNER; DINING OUT ENTERPRISES, *
INC., MICHAEL DELLIS -C.P. * OF
 FOR SPECIAL HEARING AND *
 VARIANCES ON PROPERTY LOCATED * BALTIMORE COUNTY
 ON THE CORNER NW/8TH TIMONIUM *
 ROAD, SW/S GERARD AVENUE * CASE NO. 96-340-SPHA
 (18 TIMONIUM ROAD) *
 8TH ELECTION DISTRICT *
 4TH COUNCILMANIC DISTRICT *
 * * * * *

OPINION

This case comes before the Board of Appeals based on a denial by the Zoning Commissioner on June 3, 1996 of a special hearing to approve a commercial parking area in a residential area; accompanied by a variance request for a 10-foot setback and buffer in lieu of 75 feet and 50 feet, respectively, for a parking lot within the Residential Transition Area (RTA).

Prior to hearing the Appellants' case-in-chief, the Board members heard oral argument concerning a Motion to Dismiss filed by People's Counsel. This Motion requested dismissal of the case based on the specific requirements set forth under Section 409.8.B of the Baltimore County Zoning Regulations (BCZR), and a decision rendered by the Maryland Court of Appeals interpreting this regulation in the Bloede v. MacNabb case, 231 Md. 452 (1963). Following these arguments, the Board decided to reserve its decision on the Motion until the conclusion of the hearing.

Mr. Joseph Larson testified on behalf of the Appellants. He is a Professional Engineer with Spellman, Larson & Associates, having 24 years experience in the engineering and land surveying fields. He was acknowledged by both counsel to be an expert in his

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 2
 respective fields, and he stated that Spellman, Larson & Associates had prepared the plat and subject site plan admitted into evidence as Petitioner's Exhibit No. 2. He described the site as 18 Timonium Road at the corner of Gerard Avenue located approximately 460 feet from the entrance to Michael's Restaurant.

The site is currently zoned D.R. 5.5 and consists of 0.32 acre. He stated that he previously had been involved in Case No. 95-221-SPH, which was heard in 1995, and in which the Deputy Zoning Commissioner had granted commercial parking in a residential zone by way of a shared parking plan between Petitioner and the neighboring Gerard Building, subject to certain restrictions specified in the Order. Petitioner's Exhibit No. 3 was admitted into evidence reflecting an aerial composite of the general community surrounding the restaurant which was generally commented upon by Mr. Larson. A substantial number of photographs taken in April 1996 were submitted into evidence by Petitioner (Petitioner's Exhibit No. 1A through W). These were generally described by Mr. Larson as they were individually submitted; and, reflected various sites around the restaurant and proposed site. Mr. Larson opined that the existing structure on the proposed parking site would be razed if the special hearing were granted, and the site would be used to provide 28 parking spaces for valet parking and some employee parking. It would not be used for any general public parking. Mr. Larson stated that the site was well within the 500 foot requirement mandated by Section 409 of the Baltimore County Zoning Regulations (BCZR), and that his review of the existing

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 3

properties in the general neighborhood led him to the conclusion that the parking proposal would not be in conflict with the general nature and character of the surrounding neighborhood. Petitioner's Exhibit No. 4 was allowed into evidence. Mr. Larson stated that his firm had prepared the plat and that the subject site was peculiar in size, configuration, and location, and, while zoned D.R. 5.5, it was out of character with the residential properties in the area by reason of its exceptionally large frontage and peninsular shape. He also proceeded to state his reasons why the variances were being requested and that the current RTA requirements would not have permitted the Kelly and the Gerard buildings, which already exist, if they were built today. He also cited the presence of the gas station and Royal Farm Store in proximity to the subject site.

On cross-examination by Ms. Demilio, Mr. Larson testified that the property site was between Gerard Avenue and Timonium Road with residential dwellings fronting on Timonium Road. He also stated that he had testified in 1995 that the shared parking arrangement agreed to by the community and subsequently granted by the Deputy Zoning Commissioner would be sufficient to satisfy the needs of Michael's Restaurant. He additionally stated that between the subject site and York Road existed six residential properties, and, again, that the existing home on the subject site would be demolished. He also restated his belief that the site was not a typical corner lot because it did not have a front or rear yard, and further stated that the house in question had never been used

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 4

for any other purpose than a residential dwelling, and that the Office of Planning and Zoning for Baltimore County had issued an unfavorable opinion as to the request for the commercial parking permit.

Mr. William F. Kirwin also testified for Petitioner. He is a Landscape Architect in the fields of land planning and engineering design, and has previously served as Chairman of the Baltimore County Planning Board. He was accepted as an expert in these fields by both counsel. Mr. Kirwin testified that he had physically visited the site and that the property had an entrance on the east side rather than the front. He further stated that the property was situated on a lot not typically associated with a "T" intersection and described the recommendations that his firm had proposed to make the site acceptable for use as a commercial parking lot in accordance with those requirements that would be dictated by Baltimore County, if the parking lot were approved by the Board. These were quite adequately described by Mr. Kirwin to the Board members as per Petitioner's Exhibit No. 5, the landscaping plan as proposed by Mr. Kirwin. That concluded the Petitioner's case in chief.

Mr. Eric Rockel testified in opposition to the special hearing and variance requests. He is president of the Greater Timonium Community Council. Rule 8 papers were presented and accepted. He resides at 1610 Riderwood Drive, about 3/4 mile away from the proposed site. The Greater Timonium Community Council is an umbrella group representing 22 local community associations. He

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 5

stated that he had also lived in the area all of his life and the resolution passed by the community association requesting denial of the special hearing and variance request was passed by the Council in the firm belief that the parking site would be an intrusion into what was essentially a residential community, and that the Community Council was desirous of maintaining the residential integrity of the area, limiting commercial development to the York Road corridor. He further stated that the Master Plan for Baltimore County has specifically designated Timonium as a Community Conservation Area, which encourages residential usage in such areas and discourages any commercialization that would create any additional non-residential traffic and increased noise levels, along with light disturbances. He cited specifically the 1995 Michael's case in which the restaurant had represented to the community that the shared plan, if approved at that time, would satisfy the parking requirements of the restaurant, and, for that reason, the association had not strenuously objected to the proposal. Mr. Rockel expressed concern that the 1995 Deputy Zoning Commissioner's Order imposing conditions had not been adhered to, and that he had grave doubts that the proposed screening and landscaping on the property would not satisfy neighboring concerns dealing with the general health, safety and welfare issues called for in the zoning regulations.

Mr. Louis Miller, 44 E. Timonium Road, also testified in opposition. He stated that he has lived on this property for 40 years, and he is about 500 feet away from the proposed site. He

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 6

stated that while he was zoning chairman for the Yorkshire /Haverford community, he was at the hearing solely as an individual. He opined that the house at 18 E. Timonium Road was quite typical of others in the immediate neighborhood which are generally split foyers or ranchers in design. He stated that, as a long-time resident, he did not believe the subject site to be either unusual, unique, or different, and that it was similar to the other residences within the community. He also testified that the house at Timonium Road had been built in the late 1950s and that the same family had lived there until 1980, followed by another family until Mr. Dellis purchased the property and that it was currently being used as a residential dwelling. Mr. Miller related as to the other residential properties between Timonium Road and Gerard Avenue and what he believed to be severe problems relative to additional lighting and noise concerns if the commercial permit were granted. He also stated that, because of the topography, even the proposed screening would not be sufficient to shield the neighboring property. A number of exhibits (People's Counsel Nos. 6 through 11) were admitted into evidence and reviewed by Mr. Miller in depth. These included a letter from the Office of Planning & Zoning to the Zoning Commissioner recommending denial of the special hearing and variances as having a detrimental effect on the community, traffic violation records (People's Counsel Exhibits Nos. 8 and 9), and a number of photographs taken by Mr. Miller on April 15, 1996 (People's Counsel Exhibit No. 11). This series of photographs were each individually discussed by Mr. Miller. The

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 7
community, he stated, was developed between 1955 and 1956, with the gas station in proximity built in 1958, then the Timonium Shopping Center started in 1961.

Mr. Dennis Kundratic also spoke in opposition to the special hearing and variance request. He is president of the Yorkshire/Haverford Community Association. That association has about 200 members. Rule 8 papers were presented and accepted. He stated that the association opposed the parking lot essentially because the property was residential in nature and that the association viewed this parking lot as a commercial encroachment into what was an area residential in character. He further stated that no other residential sites in the area were used for parking; and that any approval would be inconsistent with the spirit and intent of the BCZR and goals of the community conservation plans. He stated that the subject site was not unique and that several other properties in the area had characteristics both in size and shape similar to the subject property and pointed these out on the 50 scale map when requested by Mr. Brooks.

Ms. Debra C. Watkins also testified in opposition to the proposal. She resides at 18808 Hillcrest in Parkton, Maryland, and owns the property located at 16 E. Timonium Road. She stated that the property was purchased in 1986; and, that her father had been the original owner since the early 1950s. While she currently rents out the property, she stated that it had always been used as a residence; and further that 18 E. Timonium Road had also always served as a private residence. She stated that if the request for

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 8
commercial parking was granted, her property front would face the parking lot, causing what she considered to be a loss in value; and that additional noise, light and trash problems would inevitably result. She questioned how any restrictions or conditions that might be imposed could be controlled if the proposed commercial lot were approved. She further testified as to the residential character of the neighborhood, admitting to two office buildings across on Gerard Avenue and that she had never requested any zoning change in her property. Ms. Diana Amrhein, 10 Edgemoor Road, also testified and essentially concurred with the testimony of the other protestants, that the house at 18 E. Timonium Road was in excellent condition, attractive, and that the proposed use was simply inappropriate in keeping with the residential nature of the surrounding community.

Mrs. Julia Weiss, 19 E. Timonium Road, testified and stated that she concurred with the previous statements made by the prior protestants testifying. Her porch faces the subject site, and her concerns centered around the additional noise, lighting, traffic, and automobile fume issues previously expressed.

Mr. Guy Kerns, 17 E. Timonium Road, testified that he had measured the distance from the restaurant to the subject site with a measuring tape, and found the distance factor to be 478 feet. In order to do this, he stated that he went along the sidewalk and then perpendicular across Gerard Avenue to the back door of the restaurant.

A number of other residents attending the hearing were also

prepared to testify against the special hearing and variance. In order to avoid duplication, Ms. Demilio proffered these residents as being opposed to the project; and, if allowed to testify, they would be in concurrence with the testimony of the prior protestants. Those present and in agreement with Ms. Demilio's statement so stated that position by raising their hands.

The burden in a special hearing rests upon the Petitioner to establish by the weight of the testimony and evidence produced at the hearing that the requirements of Section 502.1 (a) through (h) of the BCZR are satisfied. These provisions relate to the request, and whether or not the proposed use would be detrimental to the health, safety or general welfare of the locality involved; involve other issues related to traffic, fire, panic hazards, land overcrowding, adequate light and air issues, and any inconsistencies with the purpose of the property's zoning classification, and that it would not in any way be inconsistent with the spirit and intent of the zoning regulations.

The Board is charged with the responsibility of reviewing the testimony and evidence presented, along with statutory and case law, to reach its conclusions as to whether or not the proposed use should be granted. The Petitioner comes before the Board acknowledged as the owner of a successful and popular restaurant in the Timonium area. That popularity has dictated a heavy demand for additional parking in the immediate area. To accommodate his clientele, Petitioner purchased a residential property nearby and seeks to raze the existing dwelling, and replace it with a parking

lot for exclusive use in connection with valet and employee parking. Since the property exists in a D.R. 5.5 zone, a special exception is required in addition to a request for a variance to seek relief to the parking problem. Petitioner has produced two acknowledged expert witnesses in support of the special hearing and variance requests. A substantial number of community leaders and neighbors opposed the request.

In reaching its decision not to approve the commercial parking in a residential zone and request for variance, several salient factors must be considered. Initially the decision made in 1995 to approve the shared parking arrangement with the owners of the Gerard Office Building is quite material. There is no question but that this arrangement was to have solved the parking problems of the Petitioner as to his future needs; and based on those representations, the community appeared satisfied as to the order issued by the Deputy Zoning Commissioner in the February 15, 1995 decision, subject to restrictions contained therein. There was also testimony produced by the protestants at the hearing that some of the conditions imposed by the Order have not been adhered to in good faith by the Petitioner. The property in question is zoned D.R. 5.5 and has always existed as a residence. It exists on a favorable residential lot, located in an area designated by Baltimore County as both a Residential Transition Area (RTA) and Community Conservation Area by County officials. While it is bordered by heavily commercial businesses to the north, there are a substantial number of existing homes that are purely residential

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 11

in nature. The existing property is well kept, attractive, and other than for parking on the Kelly lot to the east, does serve as an anchor for other homes on the north side of Timonium Road. The County has established Community Conservation Areas in communities, such as this area, that are threatened by encroaching enterprises. In so doing, the County has recognized that communities within that designation have experienced stress in recent years due to a variety of reasons. Areas that were once primarily residential are now being threatened as newer commercial development evolves. Frequently the newer development is not compatible with existing surrounding communities. To preserve and enhance community conservation in the area, development or redevelopment must be very sensitive to issues of compatibility, traffic, noise and general neighborhood character. Essentially it should not be detrimental to the existing surrounding community's well-being.

The restaurant currently fronts the east side of York Road bordered on the north by Gerard Avenue, and is about 460 feet +/- from the subject lot, which is zoned D.R. 5.5 and contains 0.32 acre. Numerous photographs admitted into evidence clearly indicate that the surrounding neighborhood existing on the south side of Gerard Avenue consists of three single-family dwellings opposite the restaurant before coming to the subject property's site. On the same side of Gerard Avenue as the restaurant is a parking lot used by Petitioner for additional parking (the Gerard Office Building), and then the Kelly Building, which is at the end of Gerard Avenue, bordering Timonium Road. On Timonium Road heading

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 12

west are several single-family homes after the subject site; and on the south side of Timonium Road, a number of single-family dwellings. To the south of the intersection of Gerard Avenue and Timonium Road is a heavily predominant residential area, again of single-family homes. On the north side of Timonium Road near the Kelly Building, heading east, is a Citgo Service Station and Mini-Mart. Timonium Road is a heavily travelled east-west roadway. The distance from the restaurant to the proposed site, based on testimony, is roughly 460 feet, longer than the distance involved in a football playing field.

The Board, based on the testimony and evidence produced at the hearing, has reached the conclusion that the destruction of the property currently existing, which is well-kept, attractive and quite suitable for rent or sale as a residence, and conversion into a commercial parking lot would neither enhance the site nor assist the County in its efforts to stabilize the area. The Board concurs that to grant the request for commercial parking would be totally out of character for the immediate area, and, indeed, would only exacerbate a problem that the County is attempting to solve, that is the flight of its residents to other surrounding counties.

While the Petitioner has indicated limited use of the subject property for valet and employee parking, the objections raised by a substantial number of nearby residents and community activists cannot be overlooked as to the impact of such a parking lot in the community as it relates to additional noise, lighting, disturbances and possible devaluation of existing properties between the lot and

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 13
York Road. No matter how viewed, a parking lot, even if well-buffered and landscaped, is not as conducive to an existing residential area as an already existing single-family home. If the house were destroyed, the homes along Timonium Road on the same side of the street would indeed become an island surrounded by commercial properties; and less desirable for residential purposes. This Board concludes that Petitioner has not met the burden of proof required for any approval being granted by the Board, even with restrictions, that would enable this Board to approve the request. The request is simply inconsistent with the property's current zoning and the spirit and intent of the zoning regulations as they relate to community character issues in Section 502.1 of the BCZR.

As to the request for variance, the Board must be governed by Section 307.1 of the zoning regulations and court decisions that relate thereto. Conditions must be present that are peculiar to the land or structure; and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship that warrants consideration of a variance. Before getting into any issue of practical difficulty, the Petitioner must first establish that the property is "unique." The Court of Special Appeals has held that, in the zoning context, the unique aspect of a variance requirement does not relate to the extent of the improvements upon the property or neighboring properties but rather to the uniqueness of the land itself. Additionally, the "duties given to the Board are to judge whether the neighboring properties

Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 14
in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan." Schultz v. Pritts, 291 Md. 1 (1981) Petitioner produced two experts that look at the site and composite plat and see it as a unique and different land area as opposed to that which is viewed by a large number of local residents and community leaders, who simply see the subject site as no different or unusual than numerous other residential sites in the immediate area.

The Board has reviewed the site plan, aerial photographs and composite plat on several different occasions and different times in an unbiased light; and while there is a peninsular aspect to the property, the Board does not see it so uniquely different from other properties, many of which are corner properties, irregular in shape and size, that would justify the granting of the variances requested. For the reasons so stated, the requests for special hearing and variance are denied.

ORDER

THEREFORE, IT IS THIS 18th day of April, 1997

by the County Board of Appeals of Baltimore County

ORDERED that the request to allow a commercial parking area in a residential zone be and is hereby DENIED; and it is further

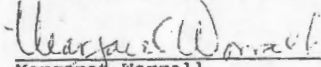
ORDERED that requested relief from Section 1B01.1.B.1 of the BCZR to permit a 10-foot setback and buffer in lieu of the required 75 feet and 50 feet for a parking lot within a residential

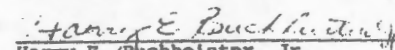
Case No. 96-340-SPHA Glen I. Kendrick, et al /Michael Dellis 15
transition area (RTA) be and the same is hereby DENIED.

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 of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Charles L. Marks, Acting Chairman


Margaret Worrall


Harry E. Buchheister, Jr.

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
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MICHAEL J. LIPPENHOLZ
CHARLES B. MAREK, III
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

JAMES T. SMITH, JR.

March 19, 2012

Honorable Lawrence M. Stahl
Managing Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

RECEIVED

MAR 19 2012

OFFICE OF ADMINISTRATIVE HEARINGS

Re: 2119 York Road & 10 Gerard Avenue
Case No.: 2012-0143-SPH

Dear Judge Stahl:

This is to acknowledge receipt of the letters from Peter Max Zimmerman, Esquire (People's Counsel for Baltimore County) and Eric Rockel filed with you in connection with the above matter. Mr. Zimmerman's letter (dated March 6, 2012) identifies itself as a Motion for Reconsideration filed pursuant to Rule 4K of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County (See BCZR Appendix G). Mr. Rockel's undated letter requests, "that it is appropriate to reconsider your order dated February 7, 2012." As both requests were submitted in letter form, I will respond in the same format.

I. People's Counsel's Letter and Motion for Reconsideration

A. The apparent thrust of Mr. Zimmerman's letter is that the Petitions filed improperly omitted certain, "zoning history of the *site*" (emphasis added). This assertion is simply erroneous, as a matter of fact and law, for the following reasons.

1. When Petitions for Special Hearing, Variance or Special Exception are filed, the applicant is required to comply with the published "Zoning Checklist" produced by the Zoning Review Division of the Department of Permits, Approvals and Inspections. That Checklist requires that the site plan identify zoning history, including prior zoning hearings, CRG, DRC, waivers and the like as they *relate to the subject property*. The Opinion and Order referenced by Mr. Zimmerman (Zoning Case No. 96-340-SPH) is not for the property at issue. The instant Petitions were filed for the property known as 2119 York Road. Case No. 96-340-SPH was filed for an entirely different property; namely 18 Timonium Road. Indeed, as noted

on pg. 12 of the Opinion, "the distance from the restaurant to the proposed site, based on testimony, is roughly 460-feet, longer than the distance involved in a football playing field." Case No. 96-340-SPH was not included or identified on the site plan because it involves a different property. It should also be observed that the Zoning Office reviewed and accepted the Petition filed thereby confirming that the plan was in compliance with the checklist.

2. Moreover, as indicated in the extensive testimony and evidence presented at the hearing (not attended by Mr. Zimmerman) the purpose of the current petitions was to update and revise the existing and proposed conditions at the subject property. Quite candidly, the decision rendered some 16 years ago by the Board of Appeals relating to another property has little relevance to the facts and circumstances as they exist at the subject property in 2012. Mr. Zimmerman, who has entered his appearance, had an opportunity to present his argument for your consideration at the hearing but did not avail himself of the opportunity.

3. Finally, even if Case No. 96-340-SPH had some relevance, it is to be noted that there was an intervening case regarding the subject property. As noted on the plan and discussed at the hearing, Special Hearing relief was granted in Zoning Case No. 99-482-SPH, three (3) years after the decision was rendered in Case No. 96-340-SPH. Thus, the decision to which Mr. Zimmerman references is not the most recent treatment of the issues related to the subject property by the Baltimore County zoning authorities. Therefore, in sum, the subject case has no relevance as it deals with a separate property located some distance away, did not grant any relief upon which a modification thereof was sought at the hearing and is not the most recent treatment of the subject property. Conspicuously absent from decision in Case No. 99-482-SPH is any mention of Case No. 96-340-SPH, despite the issue of parking being the principal issue in that case.

4. Finally, as to Mr. Zimmerman's brief comments as to the requested setback variances and legal requirements therefore, variance relief for setbacks has previously been granted for the subject property. Thus, the "law of this case" is that the property has been found to be unique and meets the other requirements of BCZR § 307.1.

II. Mr. Rockel's Letter and Motion for Reconsideration

A. Mr. Rockel complains that certain of the parking spaces utilized by Michael's Café and shown on the site plan are partially within a "road in common" as shown on the subdivision plat of Yorkshire, recorded in Plat Book 7, folio 21 of the Baltimore County Plat Records. The response to this concern is as follows. First, Mr. Rockel's Motion offers no new evidence or argument. In essence, it is the same complaint he voiced at the hearing for this matter. I have listened to the tape of his presentation made at the hearing and the complaint contained within his request for reconsideration is identical to his testimony. Generally, a

Motion for Reconsideration is available in order offer testimony or evidence which came to light after the hearing or is intended to clarify evidence or argument made at the hearing. The purpose is not to offer the identical argument because the litigant does not like the fact that the trial judge did not agree with his/her conclusion.

B. Secondly, Mr. Rockel questioned the Petitioner's expert witness Bernadette Moskunus, regarding this matter at the hearing. As Mr. Rockel stated in his questions, "if I lived in Yorkshire" and "if I wanted to utilize the road in common" wouldn't "I have the right to do so" and therefore wouldn't the shown parking spaces become unavailable. The simple fact of the matter is that Mr. Rockel does not live in Yorkshire (he lives in Lutherville, several miles away) and he, personally, has absolutely no arguable rights (assuming any exist, in the first instance) to use the road. Moreover, the umbrella organization which he reportedly represents (Greater Timonium Community Council) similarly has no rights. That organization (as an umbrella community group) has no rights under any of the title documents or at law to use the road. In sum, Mr. Rockel asserts rights that neither he nor his organization have.

C. Third, if any rights do exist (and the Petitioner denies that they do) then those claims would be most properly exercised by a party with standing in the Circuit Court of Maryland for Baltimore County. Respectfully, the Administrative Law Judge does not have the authority to decide questions of title or property rights. If a current resident of Yorkshire with standing believes that his/her property rights are violated, then the remedy is to file the appropriate action against the offending party in the Circuit Court of Maryland for Baltimore County. Simply stated, the forum in which Mr. Rockel wishes to raise his complaint is not proper.

D. Finally, and most importantly, the Petitioner avers that there is no violation of rights. As was noted and testified by Steve Dellis at the hearing, he and his family have obtained an opinion of counsel that they have rights to use the area as shown and that they have been maintaining and parking in those areas for a period well in excess of twenty (20) years. As Mr. Dellis also testified, he and his family have maintained the property, including paving, plowing, etc. As you indicated at the hearing, it is not the ruling of a Court in a Petition to Quiet Title that constitutes an adverse possession; it is the factual basis upon which the Court ratification is based.

III. Conclusion

A. In conclusion, the arguments offered in Mr. Zimmerman and Mr. Rockel's letters do not constitute a sufficient basis upon which your ruling should be overruled. The history of the subject property and the issues related to the use thereof have been the subject of multiple hearings over the years and the instant case is an effort to modernize the zoning

Honorable Lawrence M. Stahl

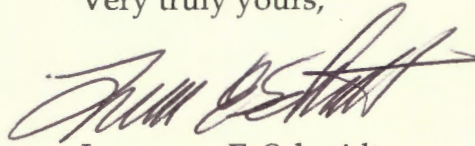
March 19, 2012

Page 4

approvals required in view of the ongoing evolution of the Michael's Café operation. I therefore respectfully urge you to deny the respective Motions.

Please contact me should you have any questions regarding this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", with a stylized, flowing script.

Lawrence E. Schmidt

LES: jkl

CC: Steve Dellis, Michael's Café
Bernadette L. Moskunas, Site Rite Surveying, Inc.
James L. Wilson, Wilson Builders, Inc.
Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County
Eric Rockel, Greater Timonium Community Council
Steve Weber, Chief of Traffic Engineering
Jason T. Vettori, Esquire

0026314 5249

RECORD AND RETURN TO:

70000 7364

THIS IS TO CERTIFY THAT THE
WITHIN INSTRUMENT HAS BEEN
PREPARED by, or under the supervision,
of the undersigned Maryland attorney, or
by a party to this instrument

By: *Don Fullerton*
Don Fullerton, Attorney-at-Law

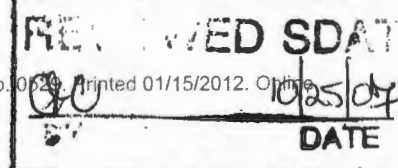
RETURN TO:
STEWART TITLE OF MARYLAND
409 WASHINGTON AVENUE - SUITE 920
TOWSON, MARYLAND 21204
410/286-6380 OPTION 2

SPECIAL WARRANTY DEED

THAT EXXON MOBIL CORPORATION a New Jersey corporation, having an office at 3225 Gallows Road, Fairfax, VA 22037-0001 ("Grantor") for and in consideration of the sum of Eight Hundred Seventy Thousand and 00/100 DOLLARS (\$870,000.00 U.S.), and other good and valuable consideration, cash to it in hand paid by 2111 YORK ROAD, LLC, a Maryland limited liability company, having an address of 2119 York Road, Lutherville-Timonium, Maryland, 21093 ("Grantee") the receipt of which is hereby acknowledged, does hereby GRANT, BARGAIN, SELL, and CONVEY unto Grantee, subject to the further provisions of this Deed, all that certain tract or parcel of land (the "Property") in the City of Timonium, County of Baltimore, State of Maryland, being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

1. This conveyance is made by Grantor and accepted by Grantee subject to Grantor's right to re-enter as described herein and all existing leases, easements, encumbrances, rights-of-way, covenants, conditions and/or restrictions, all the foregoing whether of record or not, reservations and exceptions of record, including all building and zoning ordinances, laws, regulations and restrictions by municipal or other governmental authority applicable to the Property and all matters apparent from an inspection of the Property, or which a current, accurate survey of the Property would disclose (including but not limited to encroachments, overlaps or boundary line disputes), collectively the "Permitted Encumbrances".

2. GRANTEE ACKNOWLEDGES THAT THE PROPERTY HAS BEEN USED AS AN AUTOMOBILE SERVICE STATION FOR THE STORAGE, SALE, TRANSFER AND DISTRIBUTION OF PRODUCTS, INCLUDING, WITHOUT LIMITATION, MOTOR VEHICLE FUEL AND PETROLEUM PRODUCTS OR DERIVATIVES CONTAINING PETROLEUM HYDROCARBONS, AND THAT SUCH FUEL, PRODUCTS OR DERIVATIVES OR OTHER HAZARDOUS MATERIALS MAY HAVE BEEN SPILLED, LEAKED, OR OTHERWISE DISCHARGED ONTO OR INTO THE PROPERTY.



Protestant 1

CAUSING CONTAMINATION TO THE SOIL AND/OR GROUNDWATER ON OR UNDER THE PROPERTY.

3. Deed Restriction and Covenant Against Residential Use.

a. This conveyance is made by Grantor and accepted by Grantee subject to the following restrictions and covenant and agreement by Grantee on its behalf and that of the Grantee-Related Parties that neither the Property herein conveyed nor any part thereof separately or in conjunction with other property shall at any time within a period of fifty (50) years be used for residential, hospital, nursing home facility, child care, playground/recreational area, school or any similar use which is intended to house, educate or provide care for children, the elderly, or the infirm, or agricultural uses nor shall the Property nor any portion thereof be used for the construction or installation of basements or any water wells for drinking, food processing or irrigation purposes or any other purposes; that this covenant shall survive delivery of this Deed; that this covenant and agreement shall run with the land herein conveyed and that a similar restrictive covenant shall be inserted in any other deed or lease or other instrument conveying or demising the Property herein conveyed or any part thereof (collectively, the "Sensitive Use Restrictions"). Except as expressly set forth above, the Sensitive Use Restrictions shall continue in full force and effect for a period of fifty (50) years from the date of this Deed; provided, however, if and to the extent that any of the reservations or covenants herein would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive the class of persons consisting of all of the lawful descendants of former U.S. President George W. Bush, living as of the date of this Deed.

b. The foregoing Sensitive Use Restrictions are referred to as the "Deed Restrictions".

c. This conveyance is made by Grantor and accepted by Grantee subject to the following covenant and agreement by Grantee on its behalf and that of the Grantee-Related Parties that if at the date of this Deed the applicable "as of right" zoning use of the Property does not include any residential use, that Grantee, nor any Grantee-Related Party, will not at any time hereafter seek to or cause any application to be made to the relevant local governing authorities to amend the zoning of the Property to a use which includes any residential use whether on an "as of right" basis or on any other basis whatsoever, nor seek to take advantage of any non-conforming user rights or exception to use including special use permits (collectively, the "Covenant Against Residential Use").

d. All of the covenants and agreements of Grantee set forth in the Deed Restrictions and the Covenant Against Residential Use shall be covenants running with the Land and binding upon the Property. Each of the foregoing covenants and agreements

of Grantee shall survive delivery and recordation of this Deed and shall be specifically enforceable against Grantee and the Grantee-Related Parties and any subsequent owner, user or occupier of the Property from time to time. If Grantee, the Grantee-Related Parties or any owner user or occupier of the Property breaches any of the provisions of the provisions of the foregoing Deed Restrictions or the Covenant Against Residential Use, in addition to Grantor's right to specifically enforce such provisions, Grantor shall have all rights and remedies available at law or in equity.

4. Engineering Controls.

a. Grantee agrees and acknowledges that the conveyance of the Property is subject to the following covenants of Grantee and that these covenants were a material inducement to Grantor's sale of the Property. As part of the consideration of Grantor's sale of the Property to Grantee, Grantee agrees that in developing the Property, Grantee shall, at its sole cost and expense, adopt and use all engineering and related technical assistance available and standard to the industry to protect the health and safety of persons and that depending upon the nature of Grantee's development of the Property Grantee may need to consider the use of engineering controls to prevent the migration of vapors and/or liquids containing Hazardous Materials into any buildings, underground utilities or storm water retention/detention ponds, including without limitation, vapor installation systems, vapor barriers, sealed sumps and storm pond liners. At a minimum, Grantee agrees that it will construct any buildings and develop the Property in accordance with the following requirements, which are collectively referred to as the "Engineering Controls".

(1) Grantee agrees that all buildings constructed on the Property shall be constructed slab on grade and shall have no living, working, storage or parking areas below grade, notwithstanding the foregoing, below grade utilities and foundations are permitted, provided that Grantee protects them from vapor or liquid intrusion by installing an appropriate vapor ventilation system and vapor/liquid barrier.

(2) Grantee agrees that it will never use the Property for the purpose of obtaining from beneath the surface of the Property any water for any reason whatsoever from any ground water table or similar water basin accessed from the Property.

(3) Grantee agrees that any existing bore-water or groundwater wells located on the Property used for the purposes of obtaining water from beneath the surface of the Property, will be capped, disabled, and sealed in accordance with all applicable Environmental Laws and industry standards and will not be re-opened and used at any time and must remain capped, disabled and sealed.

(4) Grantee agrees that if, at any time, the Property is used for below grade activities other than simple storage with no residential use that Grantee will install at its cost into any below ground areas of the development an appropriate vapor ventilation system. Such vapor ventilation system shall be installed by a licensed

contractor experienced in the installation of such systems. In addition, Grantee shall operate and maintain the vapor ventilation system to ensure that the system extracts appropriate levels of vapors so all applicable indoor air quality standards are met. In addition, Grantee shall annually test the air quality and the system to ensure the system is adequately extracting the appropriate levels of vapors to meet applicable indoor air quality standards. Such installation shall be performed in accordance with all applicable laws and in accordance with the highest industry standards to protect human health and safety.

(5) Grantee agrees that if, at any time after the Closing Date, a new building foundation is installed on the Property ("New Foundation") that prior to commencing any construction related to the New Foundation Grantee, at its sole cost, shall install an impervious liner under the New Foundation to act as an effective vapor barrier. Grantee shall not be required to retrofit or install an impervious liner under the existing building foundation supporting the existing building on the Property as of the Closing Date ("Existing Foundation"). However, if after Closing, the Existing Foundation is demolished and a New Foundation is installed to replace it, then Grantee will be responsible for installing an effective vapor barrier. Such liner shall be installed by a licensed contractor experience in the installation of such liners. In addition, Grantee shall maintain the liner so that it remains as an effective barrier. The liner shall be of the appropriate strength and quality and be resistant to hydrocarbons and shall be installed at an appropriate level beneath ground level. Such installation shall be performed in accordance with all applicable laws and in accordance with the highest industry standards to protect human health and safety.

(6) Grantee agrees that if, at any time, the use or development of the Property involves any common areas such as gardens, yards, recreation areas or open space areas, Grantee, at its sole cost and expense, shall excavate and remove all impacted soil to a depth of one (1) meter or pave or seal such areas to the maximum extent to protect human health and safety. It is acknowledged that the foregoing requirement shall not be deemed to permit any Sensitive Use, which is otherwise prohibited by this Agreement. The term "impacted" means any visual staining, detectable vapors (odor) or concentrations above the analytical method detection limit present in the soil. Not impacted soil is soil where no background concentrations exceed standard and remediation is not required by local regulations

b. Grantee's agreement to install the Engineering Controls is a material inducement to Grantor in the sale of the Property to Grantee.

c. Grantee's agreement to install any of the Engineering Controls shall be specifically enforceable against the applicable Grantee-Related Parties. If Grantee, or any applicable Grantee-Related Party breaches these provisions regarding Engineering Controls Grantor shall have the right to enforce every remedy, either public or private, available at law and in equity against the Grantee and the applicable Grantee-Related Parties, including but not limited to injunctive relief and specific performance. All remedies provided herein, including without limitation, those at law or in equity, shall be

cumulative and not exclusive. Any purchaser or successor owner of the Property shall take title to the Property subject to the terms of these Engineering Controls.

d. All of the covenants and agreements of Grantee set forth herein regarding the Engineering Controls shall be covenants running with the land and binding upon the Property, Grantee and the Grantee-Related Parties, as applicable and that Grantee agrees that Grantee shall not complete any sale, transfer or assignment of its interest in the Property or any part thereof or enter into any lease, license or right to occupy or use the Property or any part thereof without first obtaining from the purchaser, transferee, assignee, lessee, licensee, occupier or any other person or entity having the right to use the Property, the obligation to procure these Engineering Controls from any subsequent purchase, transferee, assignee, lessee, occupier or any other person or entity having the right to use the Property and these Engineering Controls shall be inserted in any other deed or lease or other instrument conveying or demising the Property herein conveyed or any part thereof.

7. Grantor's Reservation of Access.

a. This conveyance is made by Grantor and accepted by Grantee subject to the following reservation by Grantor for access to the Property after Closing. Grantor reserves the right of access to the Property after Closing, and Grantor on behalf of itself and the Grantee-Related Parties grants to Grantor access to the Property after Closing, at no cost to Grantor, for Grantor, Grantor's employees, agents, contractors and successors and assigns for the purpose of inspecting the Property and confirming Grantee's and the applicable Grantee-Related Parties' compliance with the terms and conditions of the Deed and the obligations of Grantee under the purchase and sale agreement between Grantor and Grantee that survived the closing and the delivery of this Deed, including without limitation Grantee's compliance with the Deed Restriction, the Covenant Against Residential Use, the Engineering Controls, and/or conducting investigation and remediation operations pursuant to Grantor's remediation obligations, if any, under this Deed. Grantor will not be liable to Grantee or the Grantee-Related Parties and Grantee hereby waives on its own behalf and on behalf of the Grantee-Related Parties all Claims arising from business disruption or any other Claims whatsoever resulting from such access or Losses (including, without limitation, lost business opportunity or income, reasonable attorneys' fees, court costs and settlement of claims) except that Grantor shall be liable to Grantee for actual damages (but not consequential or incidental or speculative damages) arising directly from the gross negligence or willful misconduct of Grantor on the Property.

b. Grantor's reservation of access shall be covenants running with the land and binding upon the Property, Grantee and applicable Grantee-Related Parties and any lessee, licensee, occupier, user or subsequent owner or transferee of the Property. Any transferee, assignee, or successor owner, lessee, licensee, occupier or user of the Property shall take title to the Property subject to Grantor's reservation of access. The rights and benefits of this reservation of access inure to the benefit of Grantor, its Affiliates, successors and assigns.

c. Grantee agrees that Grantor's reservation of access set forth in this Deed shall be a covenant that runs with the land herein conveyed and that Grantee agrees that Grantee shall not complete any sale, transfer or assignment of its interest in the Property or any part thereof or enter into any lease, license or right to occupy or use the Property or any part thereof without first obtaining from the purchaser, transferee, assignee, lessee, licensee, occupier or any other person or entity having the right to use the Property, the obligation to procure Grantor's reservation of access from any subsequent purchase, transferee, assignee, lessee, occupier or any other person or entity having the right to use the Property and Grantor's reservation of access shall be inserted in any other deed or lease or other instrument conveying or demising the Property herein conveyed or any part thereof.

8. Environmental. Grantor has caused to be conducted an environmental site assessment ("Assessment") to attempt to determine the existence, if any, of Hazardous Materials associated with Grantor's operation of a service station on the Property in the soil, water, or groundwater on and/or under the Property caused by the activities of Grantor. The written report(s) setting forth the results of such assessment has been provided to Grantee. The written report(s) setting forth the results of the Assessment will be used by Grantor to prepare and file reports, where applicable, with the appropriate federal, state or local governmental authority having and exercising jurisdiction over the matter or its designee (the "Governmental Authority"). Grantor shall remediate such Hazardous Materials if: (i) such Hazardous Materials result from the activities of Grantor before the date of this Deed and (ii) if the amount of such Hazardous Materials is required to be remediated by the Governmental Authority pursuant to laws in effect as of the date of this Deed ("Covered Contamination"). As used herein, the term "Baseline Condition" shall mean the level of such Hazardous Materials established in the written report(s) setting forth the results of the Assessment as such levels are reduced by Grantor's remediation of Covered Contamination, if any. If, following the date of this Deed, any Governmental Authority requires further testing or remediation of Covered Contamination; the Baseline Condition shall be modified as reasonably indicated by the results of such tests.

a. Grantee shall be solely responsible for investigation and/or remediation of (and any costs or expenses related to) any Hazardous Materials deposited, released or discharged on or into the Property from and after the date of this Deed or migrating onto or into the Property after the date of this Deed. If, after the date of this Deed but before Grantor has completed its remediation of the Covered Contamination, a deposit, release or discharge of any Hazardous Materials required to be reported by applicable Environmental Laws occurs on the Property, Grantee shall promptly notify Grantor and the Governmental Authority and provide Grantor a copy of any discharge report, notice of discharge or violation or similar notification issued to Grantee or required of Grantee to be completed or filed with respect to same. Grantee shall pay to Grantor its prorata share of Grantor's increased cost of remediation attributable to such deposit, release or discharge.

b. Grantee hereby assigns to Grantor any and all right, claim or interest, which the Grantee or the Property may have to payment or reimbursement by any third party or any Governmental Authority in connection with remediation of the Covered Contamination.

c. Grantor reserves the exclusive right to negotiate with any third party or Governmental Authority regarding any investigation or remedial work by Grantor pursuant to this Deed or which a third party or Governmental Authority may require.

d. During the period in which Grantor is performing remediation or monitoring activities on the Property, Grantor and Grantee will provide to each other copies of all reports, correspondence, notices and communications sent to or received from any Governmental Authority regarding the environmental condition of the Property and any remediation of the Property.

e. Grantor's remediation responsibilities shall inure to the benefit of the Grantee and the lending institution holding the first mortgage to finance Grantee's purchase of the Property, but not to subsequent purchasers, assigns, or successors of Grantee or its lender.

f. Grantor reserves the right of access to the Property, at no cost to Grantor, for Grantor, Grantor's employees, agents, and contractors for the purpose of conducting investigation and remediation operations. Grantor shall, to the extent practicable consistent with sound remediation practices, undertake such investigation and remediation actions in a manner that will not unreasonably disrupt any operations on the Property. Grantor will not be liable to Grantee or the Grantee-Related Parties for business disruption or any direct or consequential damage, injury, or loss whatsoever resulting from such access remediation; however, Grantor will not prevent Grantee or its tenants from using the Property unless such prevention results from complying with a requirement of any governmental authority. Grantee shall be responsible for any cost or expense of relocating, repairing and replacing Grantor's investigation and remediation equipment damaged by Grantee or by its contractors, invitees or employees and shall reimburse Grantor for such costs.

9. In consideration of this Deed, the conveyance of the Property to Grantee, and the obligation of Grantor to remediate the Covered Contamination as described above, Grantee agrees on behalf of itself and the Grantee-Related Parties, as applicable, to accept the conveyance of the Property in its present condition and to make no claim regarding the environmental condition of the Property. On the Closing Date Grantee, on behalf of itself and the Grantee-Related Parties, shall be solely responsible for the investigation and/or remediation of (and any costs or expenses related to) any Hazardous Materials existing on the Property or deposited, released or discharged on or into the Property or migrating onto or into the Property except for Grantor's obligations to remediate Covered Contamination, if any, set forth above. Grantee for itself and the Grantee-Related Parties releases and forever discharges Grantor and the Grantor-Related Parties of and from any and all, and all manner of, Claims and Losses of any kind or of

any nature whatsoever, including without limitation any claim made under any Environmental Law including without limitation CERCLA and RCRA and/or any registration requirements including compliance testing, any Claims asserted by any third party or Governmental Authority, known and unknown, foreseen and unforeseen, and the consequences thereof, which heretofore have been, and which hereafter may be sustained by Grantee or the Grantee-Related Parties, whether herein named or referred to or not arising out of, related to or connected with the environmental condition of the Property and the Improvements and the equipment on the Property, including without limitation, any contamination from Hazardous Materials or the presence or the existence of Hazardous Materials on, in, under or about the Property, or the migration of any Hazardous Materials onto or from the Property. Grantee expressly declares and agrees: (i) the foregoing release covers and includes all Claims and Losses several or otherwise, past, present or future, which can or may ever be asserted by any person or entity, or otherwise as the result of the environmental condition of the Property and the improvements and the equipment on the Property, including any contamination from Hazardous Materials or the presence or existence of Hazardous Materials onto, in, under or about the Property or the migration of any Hazardous Materials on or from the Property, (ii) the foregoing release covers and includes any and all future Claims and Losses not now known to any of the parties hereto but which may later develop or be discovered, including the effects or consequences thereof and including all Claims and Losses therefor, and (iii) Grantee on behalf of itself and the Grantee-Related Parties indemnifies and holds harmless the said parties released hereby, against Claims and Losses from any and every claim or demand of every kind and character, including claims or demands for contribution, which may be asserted by Grantee or the Grantee-Related Parties by reason of any Claims or Losses or effects or consequences thereof. The foregoing release does not release Grantor from its obligation to remediate Covered Contamination, if any, pursuant to this Deed.

10. Assumption and Release. In addition, on the Closing Date, Grantee shall be solely responsible for, and on behalf of itself and the Grantee-Related Parties shall indemnify, protect, defend (with counsel acceptable to Grantor) and hold each of the Grantor- Indemnified Parties harmless from and against, any and all Claims and Losses of any kind or of any nature whatsoever, known and unknown, foreseen and unforeseen, which may at any time be imposed upon, incurred by or asserted or awarded against the Grantor-Indemnified Parties arising from or by reason of or in relation to the environmental condition of the Property, including without limitation, the presence or existence of or contamination of Hazardous Materials on, in, under or about the Property or the migration of any Hazardous Materials onto or from the Property, except for Grantor's obligations to remediate Covered Contamination, if any, set forth in this Deed.

11. Indemnity. In addition, Grantee shall be responsible for, and defend (with counsel acceptable to Grantor) and indemnify Grantor and the Grantor-Indemnified Parties from and against any Claims or Losses, to include property damage and personal injury in any way arising out of the presence of asbestos or asbestos containing material located in or on the Property, asserted by any third party or public authority after the date of this Deed. Furthermore, Grantee, for itself and the Grantee-Related Parties, as

applicable, does hereby release, hold harmless and forever discharge Grantor and the Grantor Indemnified Parties, from any and all claims, demands, liabilities (including fines and civil penalties) or causes of action at law or in equity (including, without limitation, any causes of action under the Rules) for injury (including death), destruction, loss or damage of any kind or character to the person or property of Grantee and its employees, agents, servants, and representatives, arising out of or in relation to any presence of asbestos or asbestos containing material located in, or on the Property.

12. Covenants running with the Land. The conditions, covenants and other provisions set out in this Deed shall be covenants running with the land and shall be binding upon and (except as expressly provided otherwise) shall inure to the benefit of the parties, their subsidiaries, affiliates, legal representatives, heirs, successors and assigns, as applicable.

13. Pro-ration of Taxes. Ad valorem taxes and special assessments, if any, against the Property for the year in which the Effective Date occurs will be pro-rated between Grantor and Grantee as of the Effective Date, and Grantee hereby assumes and agrees to pay same.

14. Definitions. The following definitions are used in this Deed:

a. Environmental Laws (or individually, an Environmental Law). The term Environmental Laws or individually, an Environmental Law means any and all federal, state and local laws, statutes, regulations, ordinances, codes, rules and other governmental restrictions or requirements relating to health, industrial hygiene, environmental or ecological conditions or Hazardous Materials including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as amended ("CERCLA"); the Resource Conservation and Recovery Act as amended, 42 U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substance Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. Section 1857 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Federal Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; and the laws, rules, regulations and ordinances of the U. S. Environmental Protection Agency, the County and State in which the Property is located and of all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the Property or the use or operation thereof.

b. Hazardous Materials. The term Hazardous Materials means those substances, materials, and wastes, including but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable Environmental Law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "Hazardous

Substance" pursuant to Section 331 of the Clean Water Act, 33 U.S.C. Sec 1251, et. seq. (33 U.S.C. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec 1371), or (v) defined as a "hazardous waste" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec 9601, et. seq. (42 U.S.C. 9601).

c. Affiliate(s). The term Affiliate(s) means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities or by contract or otherwise. "Persons" means an individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, unincorporated association, nominee, joint venture or other entity.

d. Claims (or individually a Claim). The term Claims (or individually a Claim) means each and every action, right, loss, cost, claim, obligation, damage, liability, demand, payment, fine, penalty, cause of action at law or in equity, defense, proceeding, injury, judgment (including expert witness fees and attorneys' fees awarded as part of a judgment), lien, cost or expense, including, but not limited to, attorneys' fees and other litigation expenses.

e. Grantee-Related Parties. The term Grantee-Related Parties means Grantee, its parent, subsidiaries, Affiliates, and their respective owners, officers, employees, agents, representatives, contractors, invitees, servants, successors or assigns, its heirs and representatives and any lessee, licensee, occupier, user or subsequent owner of the Property.

f. Losses. The term Losses means any and all Claims, including without limitation losses or claims arising from business disruption, lost business opportunity or income, reasonable attorneys' fees, court costs and the costs of investigation and settlement of Claims.

g. Rules. The term Rules means the Occupational Safety and Health Administration Department of Labor, Rules relating to or regarding asbestos including 29 CFR Parts 1910 and particularly including Part 1926, 59 Fed. Reg. 40964 et. seq. (1994) as same may be amended.

h. Grantor-Indemnified Parties. The term Grantor-Indemnified Parties means Grantor, its parent, subsidiaries, and Affiliates and their respective owners, shareholders, members, partners, directors, officers, agents, servants, employees, representatives, contractors, successors and assigns.

TO HAVE AND TO HOLD the Property, together with the appurtenances, estate, title and interest thereto, unto Grantee, Grantee's successors, heirs and assigns, forever, subject to the provisions hereof, and in lieu of all other warranties, express or implied,

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Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend the title to the Property unto Grantee, Grantee's successors, heirs and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has signed this deed this 1 day of October, 2007, but EFFECTIVE as of this 16th day of October, 2007, ("Effective Date").

GRANTOR:

EXXON MOBIL CORPORATION,
a New Jersey corporation

WITNESS:

By: [Signature]
Name: FAIRYJA KAS

By: [Signature] [Signature]
Title: Agent and Attorney-in-Fact

WITNESS:

By: [Signature]
Name: Deepak Kirpalani

Date: 10/1/07

COMMONWEALTH OF VIRGINIA

§

§

COUNTY OF FAIRFAX

§

Before me the undersigned authority, this day personally appeared W.P. Crowe to me well known and known to me to be an Agent and Attorney-in-Fact of the aforesaid corporation, and he did acknowledged to and before me that he executed said instrument on behalf of and in the name of said corporation as such Real Estate Specialist and Agent and Attorney-in-Fact pursuant to that certain Power of Attorney dated February 12, 2004 and recorded March 8, 2004 with the Baltimore County on Instrument #0019703236; that he is duly authorized by said corporation to execute said instrument and that said instrument is the free act and deed of said corporation. He being personally known to me and did/did not take an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this the 1 day of October, 2007.

[Signature]
Print Name: William Cooper
Notary Public, Commonwealth of Virginia
My Commission Expires: 5/31/11



AFFIDAVIT

Commonwealth of Virginia
County of Fairfax

§
§

Before me, the undersigned authority on this day personally appeared **W.P. Crowe**, of EXXON MOBIL CORPORATION, a New Jersey corporation (the "Company"), who being by me first duly sworn and under oath deposed and stated as follows:

"My name is W.P. Crowe and I have been appointed as a true and lawful Agent and Attorney-in-Fact by the Company under Power of Attorney (the 'Power of Attorney') dated February 12, 2004 and recorded March 8, 2004 with the Baltimore County on Instrument #0019703236. The Power of Attorney was executed by authority of the Board of Directors of the Company under resolution adopted March 8, 2007. I certify under oath that the Power of Attorney has not been revoked or terminated by the Company and is still in full force and effect.

"This Affidavit is being given for the purpose of setting forth as a matter of record the authority of the undersigned to act on behalf of the Company with respect to the following described property:

(Insert Property Description)

SEE ATTACHED

"Further Affiant saith not."

Executed the 1 day of October, 2007.

W.P. Crowe

Commonwealth of Virginia §
§
County of Fairfax §

The above and foregoing instrument was sworn to and subscribed before me and acknowledged by W.P. Crowe, of EXXON MOBIL CORPORATION, a New Jersey corporation, on the 1 day of October, 2007, to which witness my hand and seal of office.

W.C. Cooper
Print Name: William Cooper
Notary Public, Commonwealth of Virginia
My Commission Expires: 5/31/11



Property Description

Subject to existing easements, rights of way, restrictions, covenants and conditions whether of record or not.

All the property situate in Baltimore County, Maryland, and described as follows:

All that property as described in Deed dated November 30, 1994 and recorded among the Land Records of Baltimore County, Maryland, in Liber SM 10857 folio 132 from Frances Mansfield and Michael C. Hodes, Successor Co-Trustees of the Edith L. Price Revocable Trust Agreement to Exxon Corporation, which said description recited therein is expressly incorporated by reference in this Commitment to the same extent as if the same were set forth herein verbatim.

GRANTEE:

2111 YORK ROAD, LLC,
a Maryland limited liability company

By: Name: Michael DellisTitle: MEMBERDate: OCTOBER 12, 2007

WITNESSES:

WITNESSES:

Print RICHARD E. LATONZIName: RudolfPrint: DANIEL R. WERNECKEName: Daniel R. W

State of Maryland :

County of Baltimore :

On this 12TH day of OCTOBER, 2007, before me personally came MICHAEL DELLIS, to me known, who being by me duly sworn, did depose and say that he/she resides in BALTIMORE, MD; that he/she is the MEMBER of 2111 YORK ROAD, LLC, a Maryland limited liability company described in and which executed the foregoing instrument; that he/she was authorized to execute the same under the operative governing documents of the company; and that he/she executed the same in the name of said limited liability company intending it to be so bound thereby.



Notary Public

My commission expires: 5-1-11

DANIEL R. WERNECKE
Notary Public
Baltimore Co., MD

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**Certification of Exemption from Withholding Upon Disposition of
Maryland Real Estate Affidavit of Residence or Principle Residence**

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article. Section 10-912 states that certain tax payments must be withheld when a deed or other instrument that affects a change in ownership of real property is recorded. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor:	
EXXON MOBIL CORPORATION a New Jersey corporation	

2. Reason for Exemption	
Resident Status	☐ I, Transferor, am a resident of the State of Maryland. ☐ Transferor is a resident entity under § 10-912(A) (4) of Maryland's Tax General Article, I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	☐ Although I am no longer a resident of the State of Maryland, the property is my principal residence as defined in IRC § 121.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct and complete.

3a. Individual Transferors

Name

Name

Signature

Signature

3b. Entity Transferors


 Witness/Attest

 Exxon Mobil Corporation
 Name of Entity

By:

Name:

 D.J. Fisher
 Real Estate Specialist
 Title:

EXHIBIT "A" TO SPECIAL WARRANTY DEED FROM

Subject to existing easements, rights of way, restrictions, covenants and conditions whether of record or not

All the property situate in Baltimore County, Maryland, and described as follows:

BEGINNING for the same at a pin and cap now set on the easterly right of way line of Maryland Route 45, York Road at the beginning of that tract or parcel of land described in a Memorandum of Lease by and between L. Franklin Price & Edith L. Price and Exxon Corporation executed June 23, 1982 and recorded among the Land Records of Baltimore County in Liber EHK, Jr. 6429, folio 801. Said point of beginning also lies South 71 degrees 12 minutes 54 seconds West 1.06 feet from an iron bar heretofore set and said point of beginning bears coordinates referenced to the Baltimore County Metropolitan District Datum of North 52428.6443 and West 3047.4348. Thence from the point of beginning and binding on the easterly right of way line of Maryland Route 45 as shown on State Highway Administration Plat No. 42189 and as conveyed to the State Highway Administration by L. Franklin Price by a Deed recorded among the aforesaid Land Records in Liber EHK, Jr. 5551, folio 175,

1) by a curve to the left in a northwesterly direction of radius 5775.70 feet an arc distance of 102.99 feet and subtended by a chord North 19 degrees 44 minutes 01 seconds West 102.99 feet to a pin and cap now set at a point of reverse curvature

2) by a fillet curve to the right in a northeasterly direction of radius 18.88 feet an arc distance of 35.13 feet and subtended by a chord North 33 degrees 03 minutes 56 seconds East 30.28 feet to an 'x' cut now set at a point of tangency. Thence leaving the right of way as outlined on the aforementioned State Highway Administration Plat, and binding on the southerly right of way line of Gerard Avenue, a 40 foot wide right of way heretofore laid out and shown on a Plat entitled, "YORKSHIRE", as recorded among the Land Records of Baltimore County in Plat Book WPC 7, Part 1-21 and as conveyed by L. Franklin Price to Baltimore County, Maryland by a Deed dated November 10, 1958 and recorded among the aforesaid Land Records in Liber WJR 3599, folio 619

3) North 86 degrees 22 minutes 32 seconds East 119.04 feet to an 'x' cut now set in the concrete sidewalk at the northwesternmost corner of Lot 1 in Block 'A' as shown on a Plat entitled, "Resubdivision Plat, Parts of Sections A-B & C, Yorkshire and Part of Haverford", as recorded among the aforesaid Land Records in Plat Book GLB 22, folio 25. Thence leaving Gerard Avenue and binding on the division line between the said Lot 1 in Block 'A' and Lots 2, 3, 4 and 5 of Section B as shown on the Plat of Yorkshire recorded in Plat Book WPC 7, Part 1-21

4) South 18 degrees 47 minutes 06 seconds East, passing over an iron bar heretofore set at 1.01 feet, a total distance of 90.55 feet to an iron bar heretofore set at the beginning of the fifth course of the parcel described in the aforementioned lease unto Exxon Corporation and at the beginning of the fifth course of that tract or parcel of land conveyed by Timonium Building, Inc. to Timonium Building Company by a Deed dated December 3, 1974, as recorded among the aforesaid Land Records in Liber EHK, Jr. 5507, folio 343. Thence leaving the said Lot 1 in Block 'A' and binding on the fifth course of the parcel described in the lease unto Exxon Corporation, on a part of the fifth course of the conveyance unto Timonium Building Company, said course also being the division line between Lots 5 and 6 of Section B as shown on the Plat of Yorkshire recorded in Plat Book WPC 7, Part 1-21

Legal Description Continued

5) South 71 degrees 12 minutes 54 seconds West, passing over an iron bar at 135.94 feet a total distance of 137.00 feet to the point of beginning hereof.

CONTAINING 14924 square feet (0.3426 acre) of land, more or less.

BEING the remainder of Lots 1, 2, 3, 4 and 5 of Section B as shown on a Plat entitled, "YORKSHIRE" as recorded among the Land Records of Baltimore County in Plat Book WPC 7, Part i-21.

BEING the same property as described in Deed dated November 30, 1994 and recorded among the Land Records of Baltimore County, Maryland, in Liber SM 10857 folio 132 from Frances Mansfield and Michael C. Hodes, Successor Co-Trustees of the Edith L. Price Revocable Trust Agreement to Exxon Corporation.

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EXHIBIT "A" TO SPECIAL WARRANTY DEED FROM

Subject to existing easements, rights of way, restrictions, covenants and conditions
whether of record or not

All the property situate in Baltimore County, Maryland, and described as follows:

All that property as described in Deed dated November 30, 1994 and recorded among the
Land Records of Baltimore County, Maryland, in Liber SM 10857 folio 132 from
Frances Mansfield and Michael C. Hodes, Successor Co-Trustees of the Edith L. Price
Revocable Trust Agreement to Exxon Corporation, which said description recited
therein is expressly incorporated by reference in this Commitment to the same extent as if
the same were set forth herein verbatim.

FILE # 07-0450

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State of Maryland Instrument Intake Sheet

☐ Baltimore City ☒ County: Baltimore County

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only — All Copies Must Be Legible)

1	Type(s) of Instruments	☒ Check Box if Addendum Intake Form is Attached.					
		1 Deed	Mortgage	3 Assignment of Rents and Leases	Other	IMP FD SURE \$	20.00
		2 Deed of Trust	Lease			RECORDING FEE	20.00
2	Conveyance Type Check Box	Improved Sale	Unimproved Sale	MultipleAccounts	Not an Arms-Length Sale [9]	TR TAX STATE	4,350.00
3	Tax Exemptions (if Applicable) Cite or Explain Authority	Arms-Length [1]	Arms-Length [2]	Arms-Length [3]		TOTAL	4,390.00
		Recordation				Res # B401	Rcpt # 1154
		State Transfer				SM TD	Bik # 2569
		County Transfer				Oct 25, 2007	12:57 PM
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only			
		Purchase Price/Consideration	\$870,000.00	Transfer and Recordation Tax Consideration			
		Any New Mortgage	\$1,000,000.00	Transfer Tax Consideration			
		Balance of Existing Mortgage	\$	X () % = \$			
		Other:	\$	Less Exemption Amount = \$			
		Other:	\$	Total Transfer Tax = \$			
		Full Cash Value	\$	Recordation Tax Consideration = \$			
				X () per \$500 = \$			
				TOTAL DUE			
5	Fees	Amount of Fees		Doc. 1	Doc. 2	Agent:	
		Recording Charge	\$20.00		\$75.00	Tax Bill:	
		Surcharge	\$20.00		\$20.00	C.B. Credit:	
		State Recordation Tax	\$4,350.00		\$650.00	Ag. Tax/Other	
		State Transfer Tax	\$4,350.00		\$		
		County Transfer Tax	\$13,050.00		\$		
		Other	\$		\$		
		Other	\$		\$		
6	Description of Property	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG (5)
		8 th	08-16-076077	10857/132			
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.
		Yorkshire		1			7/21
		Location/Address of Property Being Conveyed (2)					
		2111 York Road, Timonium, MD 21093					
		Other Property Identifiers (if applicable)					
		Water Meter Account No.					
		Residential ☐ or Non-Residential ☒		Fee Simple ☒ or Ground Rent ☐		Amount:	
		Partial Conveyance? ☐ Yes ☒ No		Description/Amt. of SqFt/Acreage Transferred:			
		If Partial Conveyance, List Improvements Conveyed:					
7	Transferred From	Doc. 1 - Grantor(s) Name(s)		Doc. 2 - Grantor(s) Name(s)			
		EXXON CORPORATION		2111 York Road, LLC			
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)		Doc. 2 - Owner(s) of Record, if Different from Grantor(s)			
8	Transferred To	Doc. 1 - Grantee(s) Name		Doc. 2 - Grantee(s) Name(s)			
		2111 York Road, LLC		William M. Loughran and/or David M. Meadows, trustees			
		New Owner's (Grantee) Mailing Address					
		2119 York Road, Lutherville-Timonium, Maryland 21093					
9	Other Names to Be Indexed	Doc. 1 - Additional Names to be Indexed (Optional)		Doc. 2 - Additional Names to be Indexed (Optional)			
				Baltimore County Savings Bank, P.S.B.			
10	Contact/Mail Information	Instrument Submitted By or Contact Person				☐ Return to Contact Person ☐ Hold for Pickup ☒ Return Address Provided	
		Name: Ruth Mitchell					
		Firm: Moore, Carney, & Associates, P.A.					
		Address: 4111 E. Joppa Road, Suite 200, Baltimore, MD 21206					
		Baltimore, MD 21206 Phone: 410-529-4600					
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER						
	Assessment Information	☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence? ☐ Yes ☒ No Does transfer include personal property? If yes, identify: _____ ☒ Yes ☐ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).					
	Assessment Use Only - Do Not Write Below This Line	☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification Transfer Number: _____ Date Received: _____ Deed Reference: _____ Assigned Property No.: _____ Year: 20 _____ Geo. Map: _____ Sub: _____ Block: _____ Lot: _____ Zoning: _____ Plat: _____ Lot: _____ Use: _____ Parcel: _____ Section: _____ Occ. Cd: _____ Town Cd. _____ Ex. St. _____ Ex. Cd. _____					

 RECEIVED
 10/25/2007 12:49:35
 BALTIMORE COUNTY
 11/05/2007

FILE # 07-0450

Addendum
State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County: Baltimore

*This addendum form should be used when one transaction involves more than two instruments.
Each instrument should be itemized in accordance with Section No. 1 of the Intake Sheet.*

(Type or Print in Black Ink Only — All Copies Must Be Legible)

5 (Continued) Fees	Amount of Fees	Doc. 3	Doc. 4	Doc. 5	Doc. 6
	Recording Charge	\$ 20.00	\$	\$	\$
	Surcharge	\$ 20.00	\$	\$	\$
	State Recordation Tax	\$	\$	\$	\$
	State Transfer Tax	\$	\$	\$	\$
	County Transfer Tax	\$	\$	\$	\$
	Other	\$	\$	\$	\$
	Other	\$	\$	\$	\$
7 (Continued) Transferred From	Doc. 3 - Grantor(s) Name(s)		Doc. 4 - Grantor(s) Name(s)		
	2111 York Road, LLC				
	Doc. 5 - Grantor(s) Name(s)		Doc. 6 - Grantor(s) Name(s)		
	Doc. 3 - Owner(s) of Record, if Different from Grantor(s)		Doc. 4 - Owner(s) of Record, if Different from Grantor(s)		
	Doc. 5 - Owner(s) of Record, if Different from Grantor(s)		Doc. 6 - Owner(s) of Record, if Different from Grantor(s)		
8 (Continued) Transferred To	Doc. 3 - Grantee(s) Name(s)		Doc. 4 - Grantee(s) Name(s)		
	Baltimore County Savings Bank, F.S.B.				
	Doc. 5 - Grantee(s) Name(s)		Doc. 5 - Grantee(s) Name(s)		
9 (Continued) Other Names to be Indexed	Doc. 3 - Additional Names to be Indexed (Optional)		Doc. 4 - Additional Names to be Indexed (Optional)		
	Doc. 5 - Additional Names to be Indexed (Optional)		Doc. 6 - Additional Names to be Indexed (Optional)		
Special Instructions					
Special Recording Instruction (if any)					

0816 076077

RECORDATION TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY, MARYLAND
T.P. ART 12-108

DOC # 2 4 5 6

Initial: _____

Date: _____

**ARTICLE 3
RIGHTS ON EVENT OF DEFAULT**

Section 3.1.	Foreclosure; Assent to Decree and Power of Sale.
Section 3.1.1.	Application of Proceeds.
Section 3.1.2.	Payment before Sale.
Section 3.1.3.	Lender May Bid.
Section 3.1.4.	Leases.
Section 3.1.5.	Rents.
Section 3.2.	Possession.
Section 3.3.	Right to Maintain Separate Action.
Section 3.4.	Waivers of Stay, Exemptions.
Section 3.5.	Uniform Commercial Code.
Section 3.6.	Automatic Acceleration.
Section 3.7.	Remedies Nonexclusive.
Section 3.8.	Indemnification.

**ARTICLE 4
MISCELLANEOUS**

Section 4.1.	Substitute or Successor Trustees.
Section 4.2.	Warranties.
Section 4.3.	Waivers.
Section 4.4.	No Third Party Beneficiary Rights.
Section 4.5.	Continuing Obligation of Grantor.
Section 4.6.	Binding Obligation.
Section 4.7.	Final Agreement.
Section 4.8.	Amendment.
Section 4.9.	Photocopies Sufficient.
Section 4.10.	Notices.
Section 4.11.	Incorporation by Reference.
Section 4.12.	Terminology.
Section 4.13.	Joint and Several Liability.
Section 4.14.	Invalidity.
Section 4.15.	Choice of Law.
Section 4.16.	Consent to Jurisdiction; Agreement as to Venue.
Section 4.17.	Time.

EXHIBITS

Exhibit "A" -- Real Property Description

KEITH RICE
20 Gerard Avenue
Timonium, MD 21093

January 18, 2012

Administrative Law Judge
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

Re: 2119 York Road & 10 Gerard Avenue
Case No.: 2012-0143-SPHA

Dear Administrative Law Judge:

I am the owner of the Kelly Building located to the rear of the subject property at 20 Gerard Avenue. I am writing this letter in support of the zoning petitions requested by the Michael's Café in Case No.: 2012-0143-SPHA. I have been made aware of the proposed improvements to the properties located at 2119 York Road and 10 Gerard Avenue and do not oppose these plans.

Presently, the patrons of Michael's Café and the Gerard Building periodically utilize available spaces at the Kelly Building property for parking. These spaces are utilized "after hours," when the Kelly Building is not occupied.

Respectfully submitted,

Keith Rice

Keith Rice
(Member/Kelly Building, LLC)
20 Gerard Avenue
Timonium, MD 21093

Petitioner's #7

Case No.: 2119 York Rd 2012-0143 SPHA

Exhibit Sheet

Petitioner/Developer

Protestant

No. 1	PLAN TO ACCOMPANY petition	Deed 10/24/07 (X) to to 2111 York Rd LLC
No. 2	PETITION FOR RECLASS 1-6-63	
No. 3	PETITION FOR SP. EX. 9-16-68	
No. 4	Board of Appeals Order 86-377-A 11-26-86	
No. 5	FINDINGS OF FACT & CONCLUSIONS OF LAW 95-221-SPH 2-13-95	
No. 6	FINDINGS OF FACT AND CONCLUSIONS OF LAW 99-482-SPH 8-3-99	
No. 7	LETTER DATED 1-18-12 TO THE EIC TO ADM. LAW JUDGE	
No. 8	PICTURES - A to FF GG	
No. 9	A & B ARCHITECTURAL DRAWINGS	
No. 10		
No. 11		
No. 12		

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, _____ legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-A zone; for the following reasons:

*Error in Zoning Map
Proximity to Commercial use make land
unsuitable for Residential Use*

See Attached Description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for _____

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract purchaser

Address _____

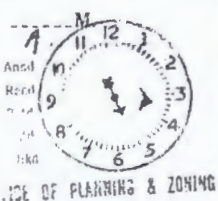
Address _____

STENGER E. ASKEW
Petitioner's Attorney

Protestant's Attorney

Address 208 W. Penna Ave
TOWSON - 4 - MD - VA 8-5404

ORDERED By The Zoning Commissioner of Baltimore County, this 7th day of November, 1963, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on 6th day of January, 1963, at 10:00 o'clock



(over)

MICROFILMED

Petitioner's #2

#64-1-R

MAP #8
SEC. 3-D
RA
12/17/63

64-1-R

64-1-R

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of location and numerous changes in the character of the neighborhood

the above Reclassification should be had; and it further appearing that by reason of

a Special Exception for

should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 6 day of January, 1964, that the herein described property or area should be and the same is hereby reclassified; from a R-6 zone to a R-4 zone, and/or Special Exception for a result based on the same is granted, from and after the date of this order, subject to approval of the site plan by the Bureau of Public Services and the Office of Planning and Zoning.

Edward D. Lardner
Deputy Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day of , 196 , that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a zone; and/or the Special Exception for be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

MICROFILMED

AUGUST
CLEAR

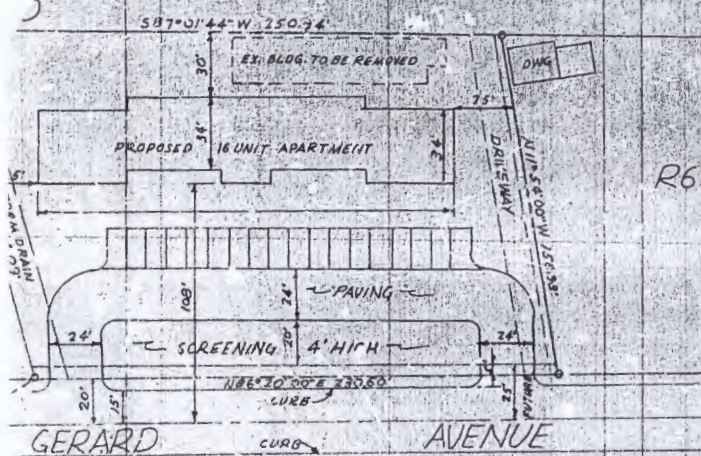
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PUB
County
Chesap
Maryla
The
Baltim

64-1-R



GROSS AREA = 102.46
 NET AREA = 0.8664
 PERMITTED DENSITY
 NET FAMILY UNITS PER ACRE = 18
 GROSS FAMILY UNITS PER ACRE = 16
 PROPOSED DENSITY
 NET FAMILY UNITS PER ACRE = 19
 GROSS FAMILY UNITS PER ACRE = 15
 TOTAL UNITS PROPOSED = 16

EXIST. USE OF PROP. - VACANT
 PROP. USE OF PROP. - APARTMENT BUILDING
 EXIST. ZONING OF PROP. - R6
 PROP. ZONING OF PROP. - RA
 ONE PARKING SPACE PER UNIT
 18 PARKING SPACES 7'x18' PROVIDED



MICROFILMED

PLAT TO ACCOMPANY ZONING PETITION
 8th ELECT. DIST. BALTO CO., MD.
 SCALE 1" = 50' NOV. 1, 1962

PETITION FOR ZONING RE-CLASSIFICATION
AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

~~we~~ Russell L. Elliott & Mary E. Elliott 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an _____ zone to an _____ zone; for the following reasons:

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Offices and Office Building.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Address _____
Contract purchaser _____

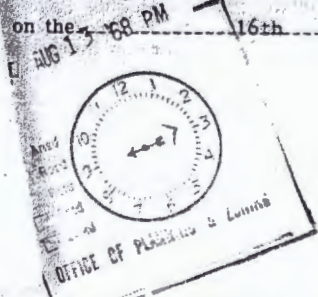
Russell L. Elliott
Mary E. Elliott
Legal Owner
Address 2203 Stryker Court
Timonium, Maryland 21063

BY Augusta M. Hill
Petitioner's Attorney

Protestant's Attorney

Address 2301 Fair Lane, Timonium, Md.
21093

ORDERED By The Zoning Commissioner of Baltimore County, this 13th day of August, 1968, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore on the 16th day of September, 1968, at 1:00 o'clock



[Signature]
Zoning Commissioner of Baltimore County

(over)

Petitioner's #3

#69-68-X

MAP
#8
SEC 3-D
NW-14A
"X"

RUSSELL L. ELLIOTT
N/S of Gerald Ave.
1351 E of York Rd.
Bm.

69-68-X

1:00 PM
9/16/68
1000

69-68-X

N/S Gerard Ave. 155' E of York Road

8th

8/13/68

Petition for Special Exception for Offices and Office Building for Russell Elliott \$103.00 cost paid.

8/31/68

Hearing date set for 1:00 P.M. 9/16/68

8/29/68

Certificate of posting filed.

8/29/68

Certificate of publication filed

9/30/68

Order for the special exception granted by the Deputy Zoning Commissioner.

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 86-377-A

O P I N I O N

(a) relief from Section 238.2 of the Baltimore County Zoning Regulations (BCZR) to allow an existing side yard setback of 2.94 feet in lieu of 30 feet;

(c) relief from BCZR 409.2.c(4) to permit a distance of 2 feet from the parking space to the street property line in lieu of 8 feet;

(e) relief from Section 238.1 to permit the distance to center line of side street of 42 feet in lieu of 50 feet.

Petitioner's # 4

IN RE: PETITION FOR SPECIAL HEARING
NE/S York Road at Gerard Avenue
(2119 York Road)
8th Election District
3rd Councilmanic District

Michael Dellis, et al
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

* Case No. 95-221-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Hearing for that property known as 2119 York Road, in the vicinity of Timonium. The Petition was filed by the owners of the property, Michael and Marcella Dellis, and the Contract Purchaser/Lessee, Dining Out Enterprises, Inc., by Michael Dellis, President, through their attorney, Charles E. Brooks, Esquire. The Petitioners request a special hearing to approve the following: 1) commercial parking in a residential zone, pursuant to Section 409.8.B of the Baltimore County Zoning Regulations (B.C.Z.R.); 2) an amendment to the previously approved site plans in Case No. 86-377-A, dated October 8, 1985, and in Case No. 69-68-X for the Gerard Building, dated July, 1968; and, 3) a modified parking plan, pursuant to Section 409.12 of the B.C.Z.R. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Michael Dellis, property owner, Joseph Larson, Professional Engineer, and Charles E. Brooks, Esquire, attorney for the Petitioners. Appearing as concerned citizens in the matter were several residents from the surrounding residential area, all of whom signed the Citizen's Sign-In Sheet.

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

Petitioner's # 5

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NE/Corner York Road and Gerard Avenue
(2119 York Road and 10 Gerard Avenue) * ZONING COMMISSIONER
8th Election District
4th Councilmanic District * OF BALTIMORE COUNTY

Michael S. Dellis, et ux * Case No. 99-482-SPH
Petitioners
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Michael S. and Marcella Dellis, through their attorney, F. Vernon Boozer, Esquire. The Petitioners seek approval of an amendment to the previously approved site plan in prior Case No. 95-221-SPH to reflect the proposed construction of an outdoor deck/seating area. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the request were Michael Dellis, owner of the property, Joseph Larson of Spellman, Larson & Associates, Inc., the engineering firm which prepared the site plan of this property, and F. Vernon Boozer, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

The subject property is located on the northeast corner of the intersection of York Road and Gerard Avenue in Timonium and is the site of Michael's Restaurant, which is well-known to this Zoning Commissioner and most residents of the Timonium area. The property is a rectangular shaped parcel which abuts both York Road and Gerard Avenue. The restaurant fronts York Road and bears the street address of 2119 York Road. It is situated on a parcel of land containing approximately .55 acres, zoned B.R.-A.S. The restaurant parcel is used in conjunction with another parcel located to the rear of the subject property, known as 10 Gerard Avenue. That parcel is improved with a three-story brick office building, known as the Gerard Building, and contains

Petitioner's #6

ZONING NOTICE

CASE # 2012-0143-SPH

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

PLACE:

PLACE: 105 WEST CHESTNUT AVE 10-5500
DATE AND TIME: 1-1-68 2:00 PM

DATE AND TIME:

DATE AND TIME: January 19, 2012 at 10:30 AM
REQUEST: CIVILIAN HEARING TO PRESENT

REQUEST

[illegible][illegible]

99. **Answer: A**—The passage states that the author is "not a fan of the 'new' science of the mind."

COMPUTATIONS ARE SOMEWHAT INCOMPLETE
A 200-000 READING CALL 800-2000
THE 200-000 READING CALL 800-2000
HANDICAPPED ACCESSIBLE

UNCLASSIFIED ACCESSIBLE

Gerard AVE

MICHAEL'S
Cafe
RAW BAR & GRILL













15

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN
MICHAEL G. DEHAVEN
RAY M. SHEPARD

LAUREN M. DODRILL
MICHAEL J. LIPPENHOLZ
CHARLES B. MAREK, III
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

JAMES T. SMITH, JR.

July 10, 2012

Sent via Regular Mail

Mr. Carl Richards
Department of Permits, Approvals, and Inspections
111 W. Chesapeake Avenue
Towson MD 21204

RECEIVED
JUL 11 2012
OFFICE OF ADMINISTRATIVE HEARINGS

Re: Michael's Café - 2119 York Road
Case No.: 2012-0143-SPHA

Dear Mr. Richards:

Herein enclosed please find an executed Agreement between the Greater Timonium Community Council ("GTCC") and Dinning Out ("Michael's Café") in regards to the above referenced case. Please insert this document in the case file for the above matter.

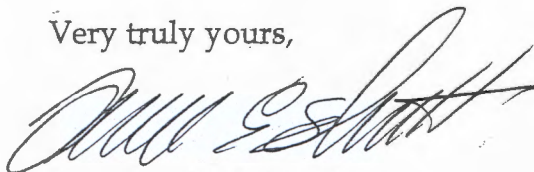
Within his written decision for this matter dated March 29, 2012, Administrative Law Judge Stahl imposed a condition/restriction based upon a ZAC comment made by Dennis Kennedy. That comment requested the elimination of certain existing parking spaces to accommodate an extension of a sidewalk. Subsequent to the issuance of that decision, Mr. Kennedy informed me that GTCC had contacted him to request that this condition be stricken. GTCC and Michael's Café mutually agreed that all existing parking should be preserved due to the traffic volumes in the area. Mr. Kennedy advised that because Administrative Law Judge Stahl's written decision was "final" and that the appeal period had expired, he could not change his comment. However he instructed that I obtain a written agreement by and between GTCC and Michael's Café for inclusion in the case file.

Therefore, I have enclosed the original Agreement executed by both parties. Please add this Agreement to the above referenced case file. I am providing a copy to Judge Stahl. I do not believe that Mr. Kennedy will seek enforcement of the condition in view of the agreement.

Mr. Carl Richards
July 10, 2012
Page 2

Thank you for your cooperation and please do not hesitate to contact me should have any questions regarding this matter.

Very truly yours,



Lawrence E. Schmidt

LES: arg
Enclosure

CC: Hon. Lawrence M. Stahl, Managing Administrative Law Judge
Dennis Kennedy, Baltimore County Development Plans Review
Steve Dellis
Michael Dellis
James Wilson, Wilson Builders, Inc.
Eric Rockel, Greater Timonium Community Council, Inc.
Jason T. Vettori, Esquire.

AGREEMENT

THIS AGREEMENT, made this 5th day of July, 2012, by and between the GREATER TIMONIUM COMMUNITY COUNCIL, a Maryland Corporation, (hereinafter "GTCC") and DINING OUT, a Maryland limited liability company, (hereinafter "**Michael's**"):

WHEREAS, by Petitions for Special Hearing and Variance filed with the Baltimore County Department of Permits, Approvals & Inspections, Michael's sought certain zoning approvals in relation to the property owned by it and located at 2119 York Road, Timonium, MD 21093 which is presently occupied by the restaurant business trading as Michael's Café; and

WHEREAS, the aforesaid petitions were assigned Case No. 2012-0143-SPHA and were considered at a public hearing on January 18, 2012 before Administrative Law Judge (hereinafter "**ALJ**") Lawrence M. Stahl ; and

WHEREAS, ALJ Stahl approved the relief requested in the aforesaid petitions by Opinion and Order dated February 2, 2012 and subsequently denying Motions for Reconsideration on March 19, 2012; and

WHEREAS, as a condition to the aforesaid approval, ALJ Stahl incorporated and adopted a Zoning Advisory Committee (ZAC) comment authored by Dennis A. Kennedy, a representative of the division of Development Plans Review within the Department of Permits, Approvals & Inspections (attached hereto as Exhibit A); and

WHEREAS, the aforesaid ZAC comment proposed that improvements to the Michael's building be set back five (5) feet from curb adjacent to Gerard Avenue and that a sidewalk on the south side of the property adjacent to Gerard Avenue be constructed; and

WHEREAS, compliance with the aforesaid ZAC comment would necessitate the elimination of certain parking spaces on Gerard Avenue, adjacent to the Michael's property; and

WHEREAS, the parties desire to retain those parking spaces; and

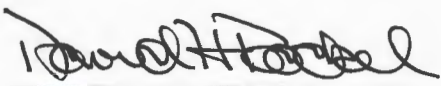
NOW WHEREFORE, the parties agree as follows;

That as the ALJ's written orders dated February 7, 2012 and March 29, 2012 have not been appealed and are therefore "final", the parties agree that the provisions of the aforesaid ZAC comment are not in their best interests AND that compliance would reduce available parking in the vicinity of Michael's and therefore neither party shall seek to enforce the aforesaid condition/comment and will so advise Dennis Kennedy AND request that the comment not be enforced.

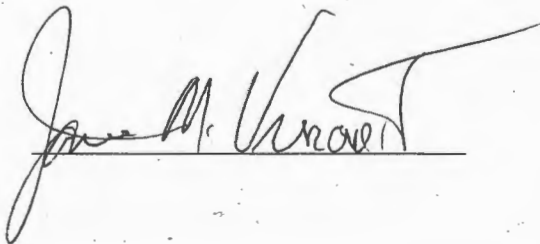
AS WITNESS the hands and seals of the parties hereto this 5th day of July, 2012.

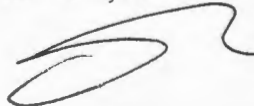
WITNESS:

GREATER TIMONIUM COMMUNITY
COUNCIL, INC.



 (SEAL)
By: Eric Rockel, President



DINING OUT, LLC
 (SEAL)
By: _____



KEVIN KAMENETZ
County Executive

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

July 12, 2012

Ingeborg and Domenico Occorso
20112 Gunpowder Road
Manchester, Maryland 21102

Re: Petition for Administrative Variance
Case No. 2012-0208-A
Property: 12519 Falls Road

Dear Mr. and Mrs. Occorso:

I am in receipt of your letter dated July 10, 2012, concerning the above-captioned case. You indicate that the variance granted in that case is insufficient, and that you need an additional 5' setback relief to accommodate the proposed dwelling.

Unfortunately, I am unable to amend the Order in that fashion. To obtain that relief, you must file with the County a petition for administrative variance. I believe that an administrative variance is appropriate in these circumstances, because you and your husband will live in the house when it is completed, and in that regard this is an "owner occupied" property. Assuming no one objects or files a request with the County, you would be able to obtain the variance without the necessity of another hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw

Ingeborg & Domenico Occorso

20112 Gunpowder Road
Manchester, MD 21102
Ph: (410) 239-2241 (Home)
Ph: (410) 527-6383 (Work)
Fx: (410) 239-8857

July 10, 2012

John E. Beverungen
Administrative Law Judge
For Baltimore County
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, MD 21204

RECEIVED
JUL 11 2012
OFFICE OF ADMINISTRATIVE HEARINGS

RE: **Case No. 2012-0208-A**

Dear Judge Beverungen:

On May 17th, 2012, I came before you regarding a variance request to permit a side yard setback of 23' in lieu of the required 50' for a garage which you granted. An administrative variance could not be used as we are unable to live there until construction is complete. In finalizing the blueprints to obtain the necessary building permits, an error has been discovered. The size of the garage remains the same, but the 5' addition to the main house was not included in the original calculations. So instead of a 23' setback, we are in need of an 18' setback. Would it be possible to amend the Opinion and Order to include the additional 5'?

I apologize for the inconvenience, and thank you for your consideration.

Sincerely,

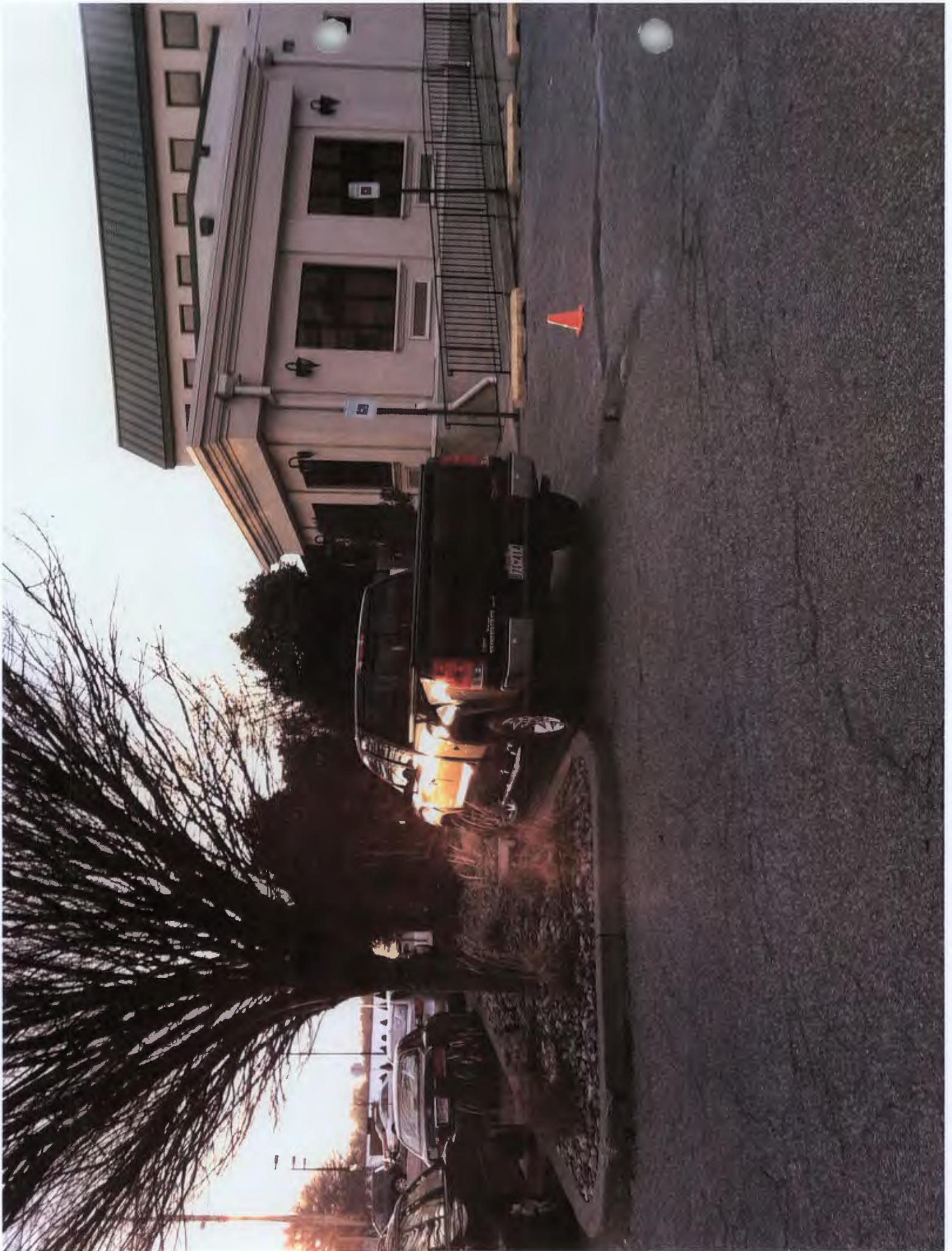


Ingeborg G. Occorso



















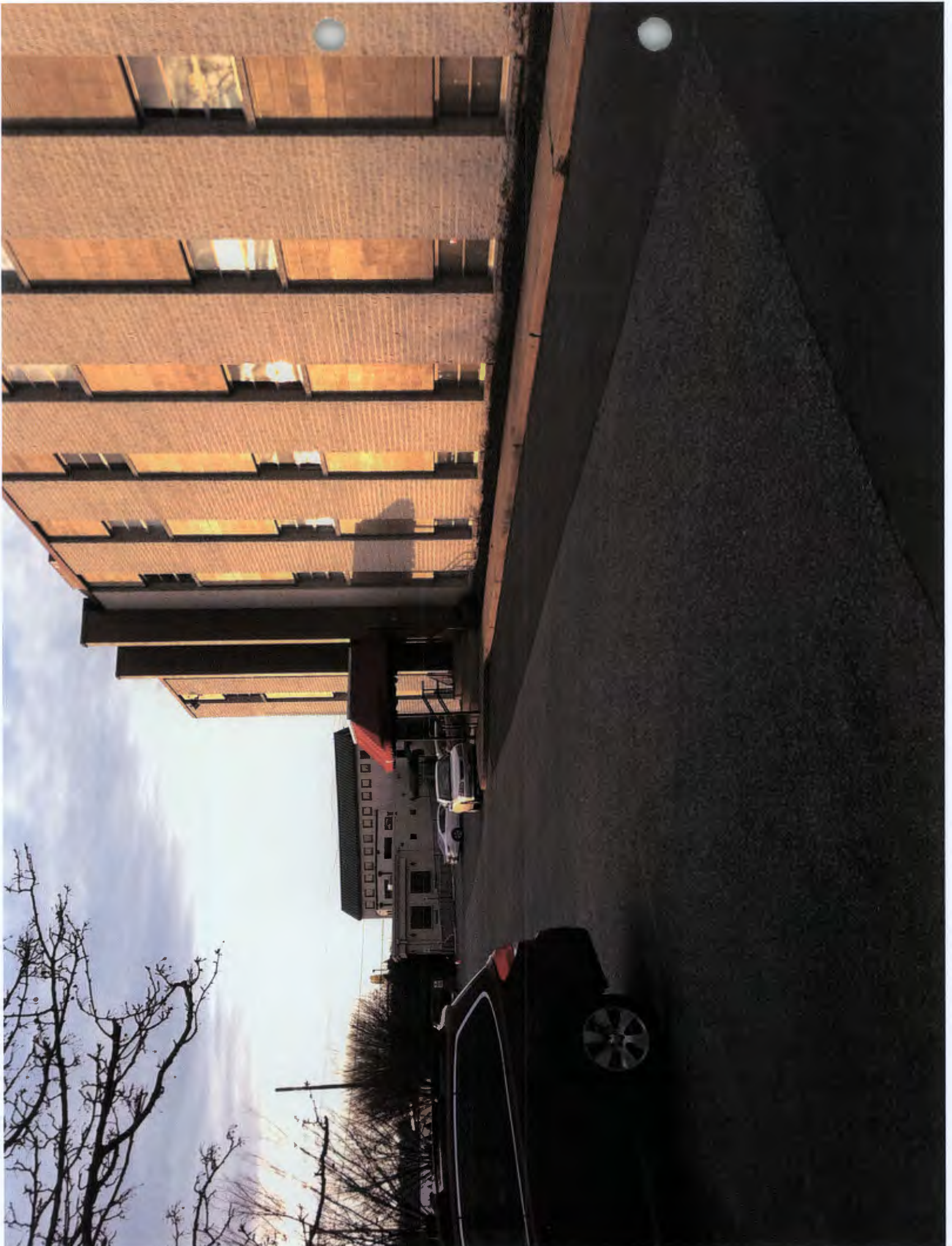




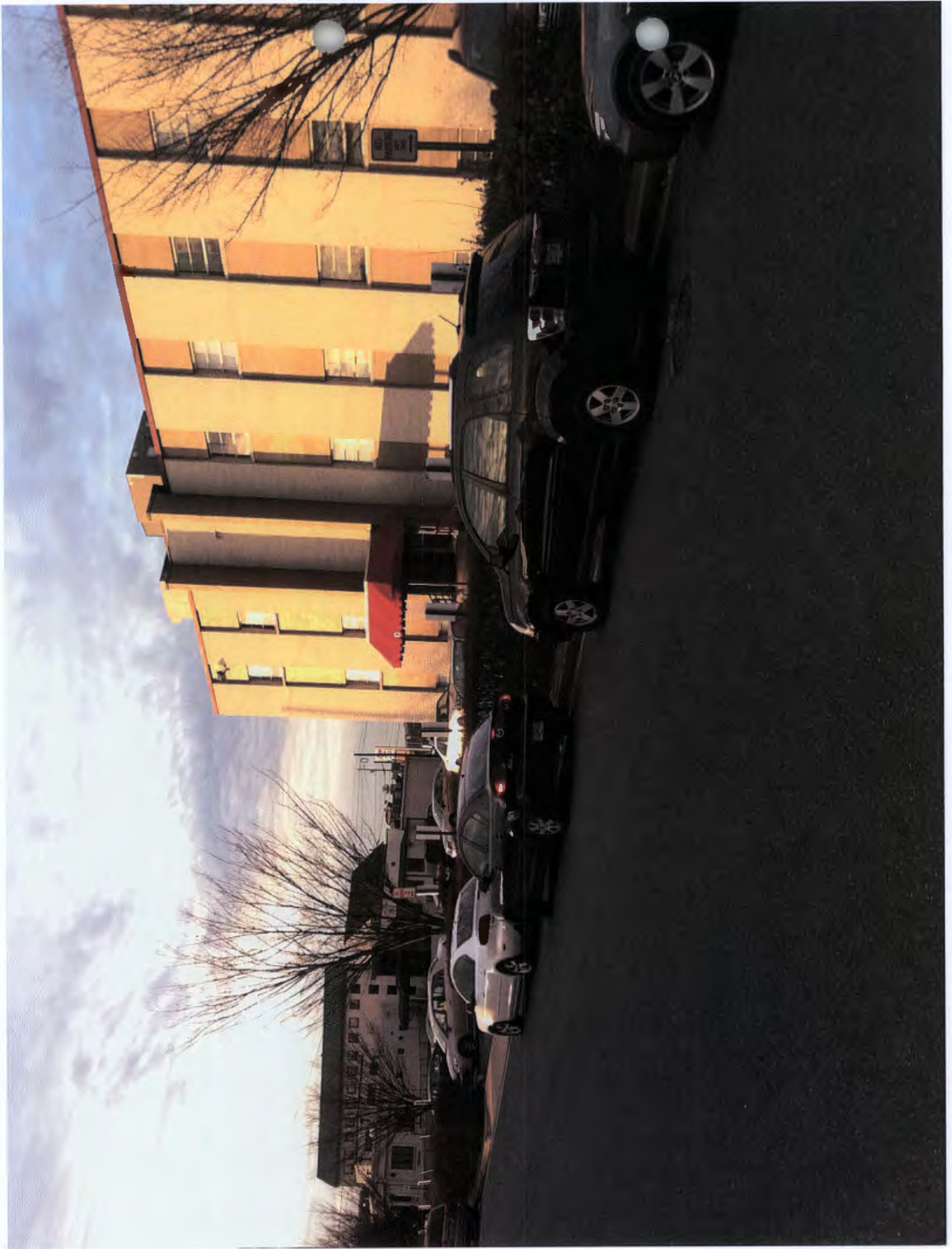


















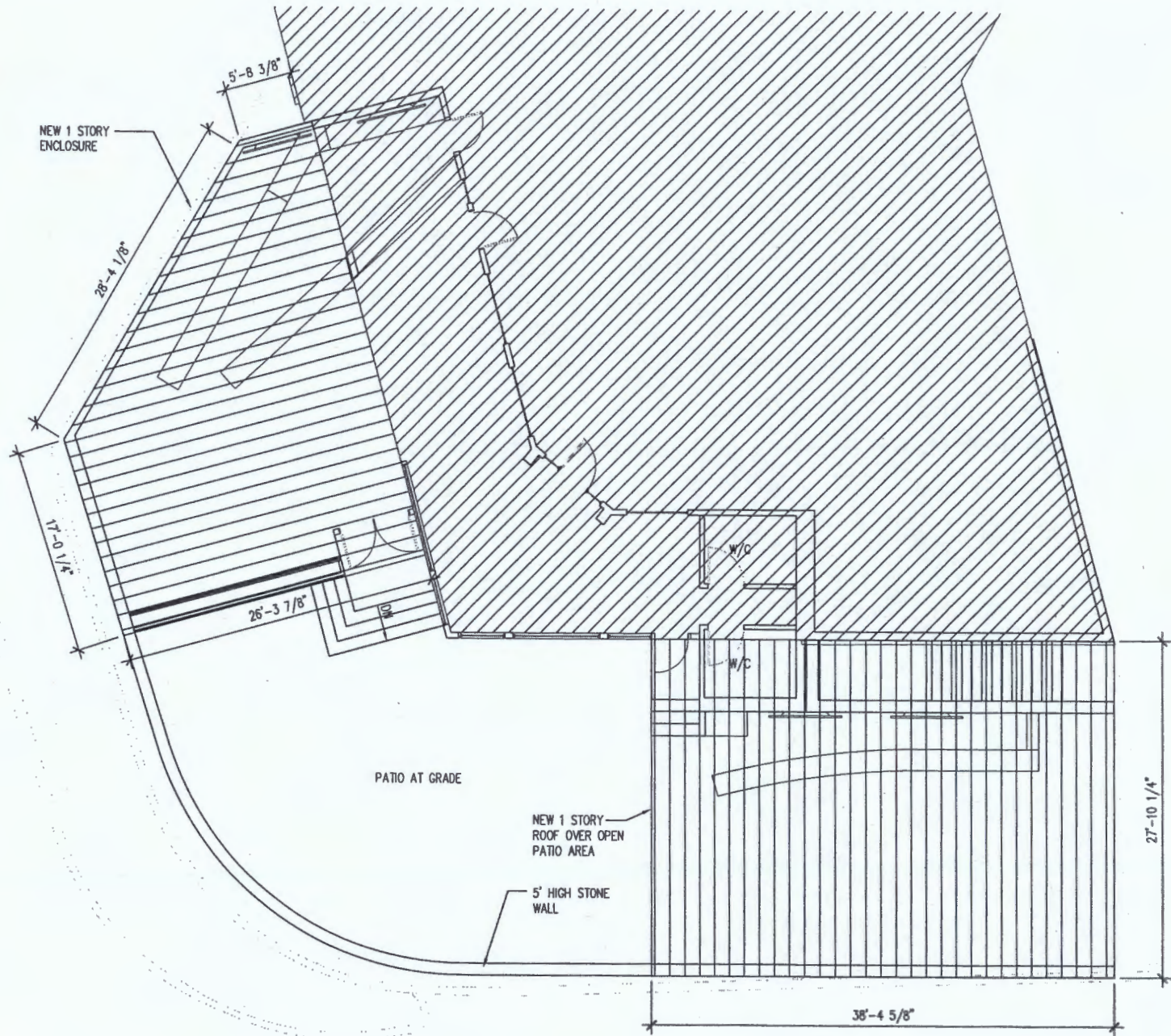


**GERARD
BUILDING**



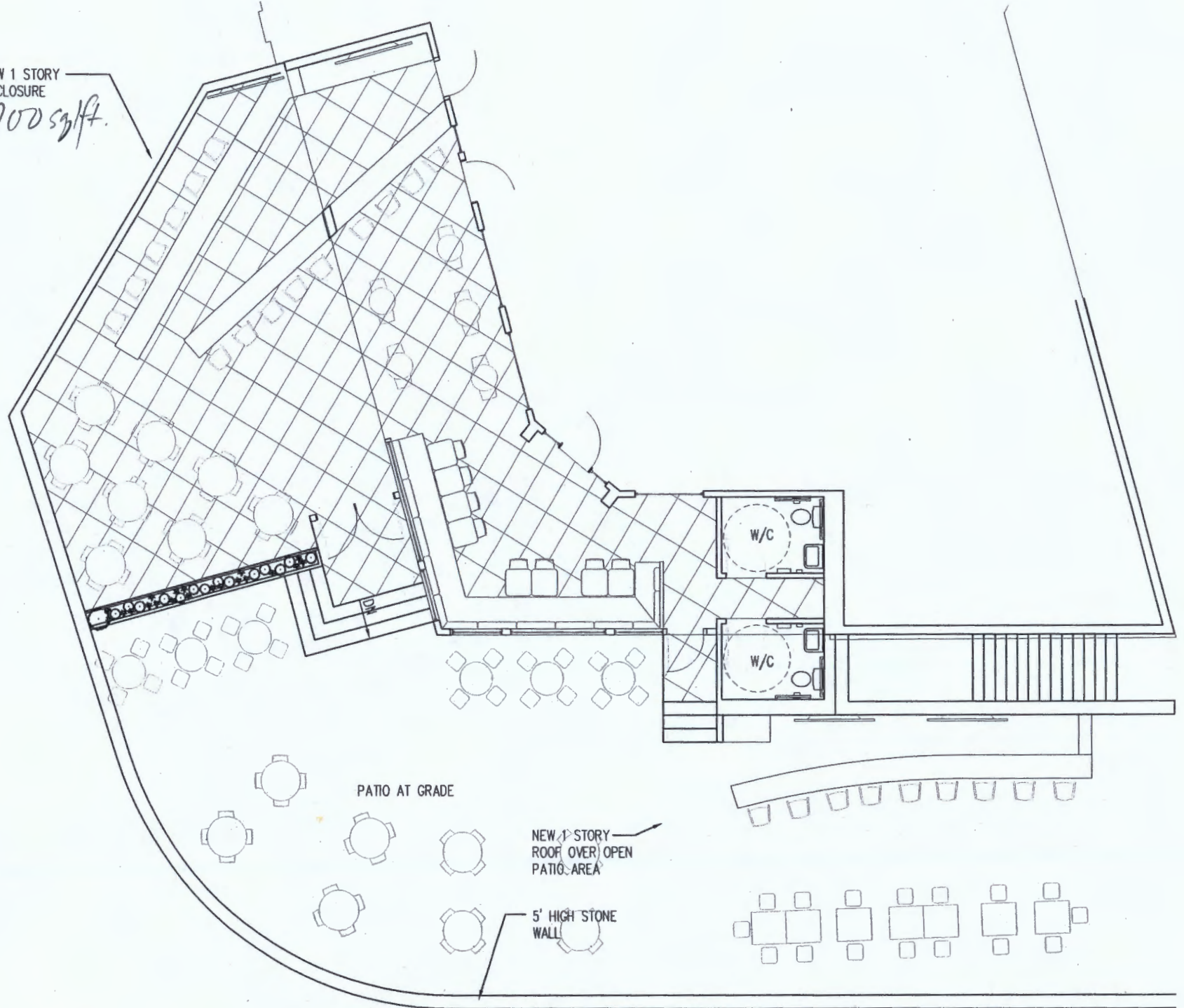






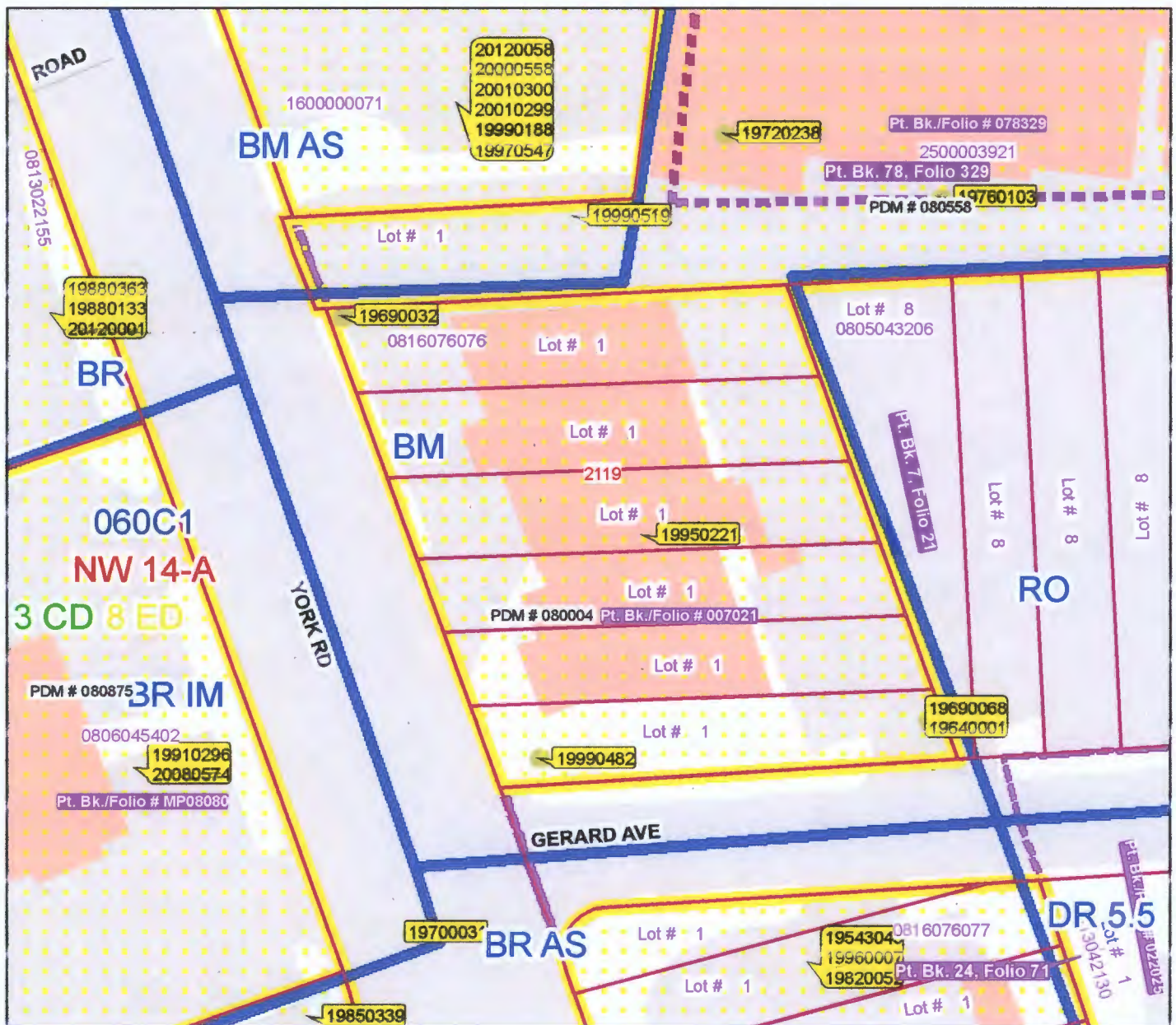
Petitioners #9A

NEW 1 STORY
ENCLOSURE
700 sq/ft.



Petitioner's #9B

2119 York Road



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



0 50 100
 Feet

1 inch = 50 feet

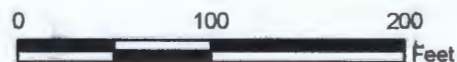
Item #0143

2119 York Road & 10 Gerard Road



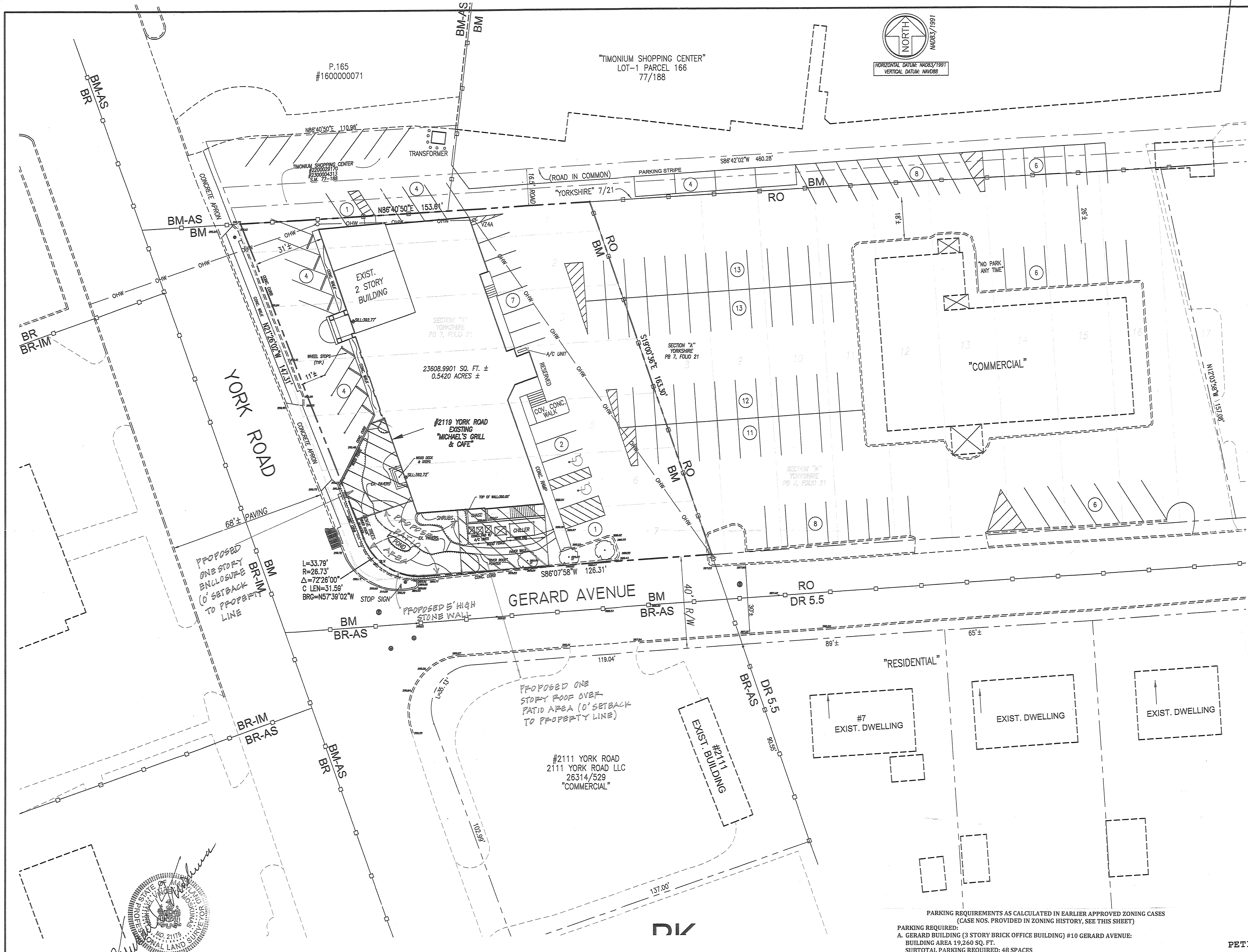
Publication Date: December 01, 2011
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot

DQ Map Notes



1 inch = 100 feet

Item #0143



- GENERAL NOTES - "MICHAEL'S CAFÉ"**
1. EXISTING ZONING: BM (060C1)
 2. LOT AREA: MICHAEL'S RESTAURANT 23,522.40 S.F. / 0.55 AC +/-
 3. LOT AREA: GERARD BUILDING 38,768.40 S.F. / 0.89 AC +/-
 4. EXISTING USE: RESTAURANT W/OUTDOOR SEATING
PROPOSED USE: RESTAURANT W/OUTDOOR SEATING PARTIALLY COVERED
EXISTING AND PROPOSED USE FOR THE GERARD BUILDING REMAINS OFFICE USE
 4. PROPERTY IS SERVICED WITH PUBLIC WATER AND SEWER
 5. THIS PROPERTY IS NOT LOCATED WITHIN AN HISTORIC DISTRICT
 6. THIS PROPERTY IS NOT LOCATED WITHIN 100 YEAR FLOOD PLAIN
 7. THIS PROPERTY IS NOT LOCATED IN CHESAPEAKE BAY CRITICAL AREA
 8. PRIOR ZONING HISTORY: SEE THIS SHEET
 9. THERE ARE NO SIGNS PROPOSED AT THIS TIME, ANY SUCH SIGN MUST COMPLY WITH SECTION 450, BCZR
 10. BASIC SERVICE MAPS: THERE ARE NO ISSUES OR AREAS OF CONCERN WITH REGARD TO THE SEWER, WATER AND TRANSPORTATION SERVICE MAPS DATED 2011
 11. THIS PLAN IS A COMPILATION OF PUBLIC RECORDS AND PREVIOUS SITE PLAN USED FOR ZONING RELIEF

- ZONING HISTORY**
- GERARD BUILDING**
#10 GERARD AVENUE
- CASE NO. 69-68-X SPECIAL EXCEPTION GRANTED FOR OFFICE BUILDING USE
- MICHAEL'S CAFÉ**
#2119 YORK ROAD
- CASE NO. 86-377-A VARIANCES GRANTED
 - TO PERMIT AN EXISTING SIDE YARD SETBACK OF 2.94 FEET IN LIEU OF THE REQUIRED 30 FEET
 - TO PERMIT 44 PARKING SPACES IN LIEU OF THE REQUIRED 79 SPACES
 - TO PERMIT A DISTANCE OF 2 FEET FROM THE PARKING SPACE TO THE STREET PROPERTY LINE IN LIEU OF THE REQUIRED 8 FEET
 - TO PERMIT A DISTANCE BETWEEN THE BUILDINGS OF 25 FEET IN LIEU OF THE REQUIRED 60 FEET
 - TO PERMIT A DISTANCE TO THE CENTERLINE OF THE SIDE STREET OF 42 FEET IN LIEU OF THE REQUIRED 50 FEET
 - BOARD OF APPEALS CASE NO. 86-377-A: RELIEF APPROVED BUT DISSATISFIED WITH IMPOSED RESTRICTIONS: ORIGINAL RELIEF GRANTED PER ZONING COMMISSIONER ORDER, AS STATED ABOVE
 - CASE NO. 950221-SPH SPECIAL HEARING GRANTED
 - TO PERMIT COMMERCIAL PARKING IN A RESIDENTIAL ZONING
 - AN AMENDMENT TO THE PREVIOUSLY APPROVED SITE PLAN IN CASE NO. 86-377-A AND THE SITE PLAN APPROVED FOR THE GERARD BUILDING IN CASE NO. 69-68-X AND A MODIFIED PARKING PLAN
 - CASE NO. 99-482-SPH SPECIAL HEARING GRANTED
 - APPROVED AN AMENDMENT TO THE PREVIOUSLY APPROVED SITE PLAN IN PRIOR CASE NO. 95-221-SPH (TO CONSTRUCT AN OUTDOOR DECK/SEATING AREA OF 733 SQ. FT.)

COMBINED SITE PLAN SHARED PARKING CALCULATIONS (CASE NO. 99-482-SPH)					
GERARD BLDG	WEEKDAY		WEEKEND		NIGHT TIME
	DAYTIME	EVENING	DAYTIME	EVENING	
GERARD BLDG	100% = 48	100% = 5	100% = 5	5% = 3	5% = 3
MICHAEL'S	50% = 87	100% = 173	100% = 173	100% = 173	100% = 18
	135	178	178	176	21

REQUIRED SHARED PARKING CALCULATIONS: 178 SPACES LESS 35 SPACES (PREVIOUSLY APPROVED RELIEF) = 143 SPACES
PARKING PROVIDED: ON-SITE EXISTING PARKING SPACES: 121 SPACES

PARKING REQUIREMENTS AS CALCULATED IN EARLIER APPROVED ZONING CASES (CASE NOS. PROVIDED IN ZONING HISTORY, SEE THIS SHEET)

PARKING REQUIRED:

A. GERARD BUILDING (3 STORY BRICK OFFICE BUILDING) #10 GERARD AVENUE:
BUILDING AREA 19,260 SQ. FT.
SUBTOTAL PARKING REQUIRED: 48 SPACES

B. MICHAEL'S RESTAURANT (EXISTING RESTAURANT/SECOND FLOOR OFFICE/GROUND FLOOR SEATING AREA) #2119 YORK ROAD
SUBTOTAL PARKING REQUIRED: 139 SPACES (INCLUDES 733 SQ. FT. PROPOSED ROOF DECK AS SHOWN ON PETITIONER'S EXHIBIT NO. 1 CASE NO. 99-482-SPH/USED BUILDING AREA OF 7925 SQ. FT. PLUS THE PROPOSED DECK TO CALCULATE PARKING REQUIRED)

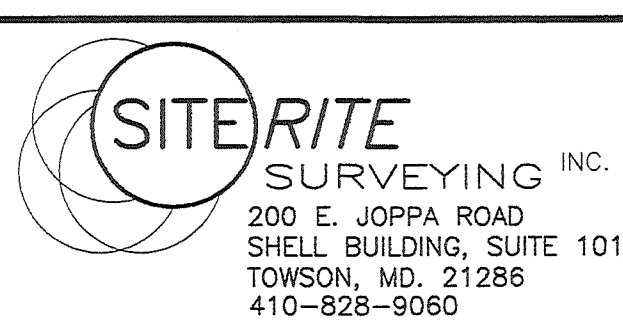
- EXISTING INTERIOR FLOOR AREA OF RESTAURANT: 7925 SQ. FT. = 127 SPACES
- ADDING EXISTING SECOND FLOOR OFFICE AREA: 784 SQ. FT. X 3.3/1000 = 3 SPACES
- ADDING PROPOSED GROUND FLOOR OUTDOOR SEATING AREA: 2,640 SQ. FT. = 43 SPACES

SUBTOTAL PARKING REQUIRED (EXISTING/PROPOSED CONDITIONS) = 173 SPACES

PARKING SPACES REQUIRED FOR BOTH PROPERTIES: 221 GROSS SPACES

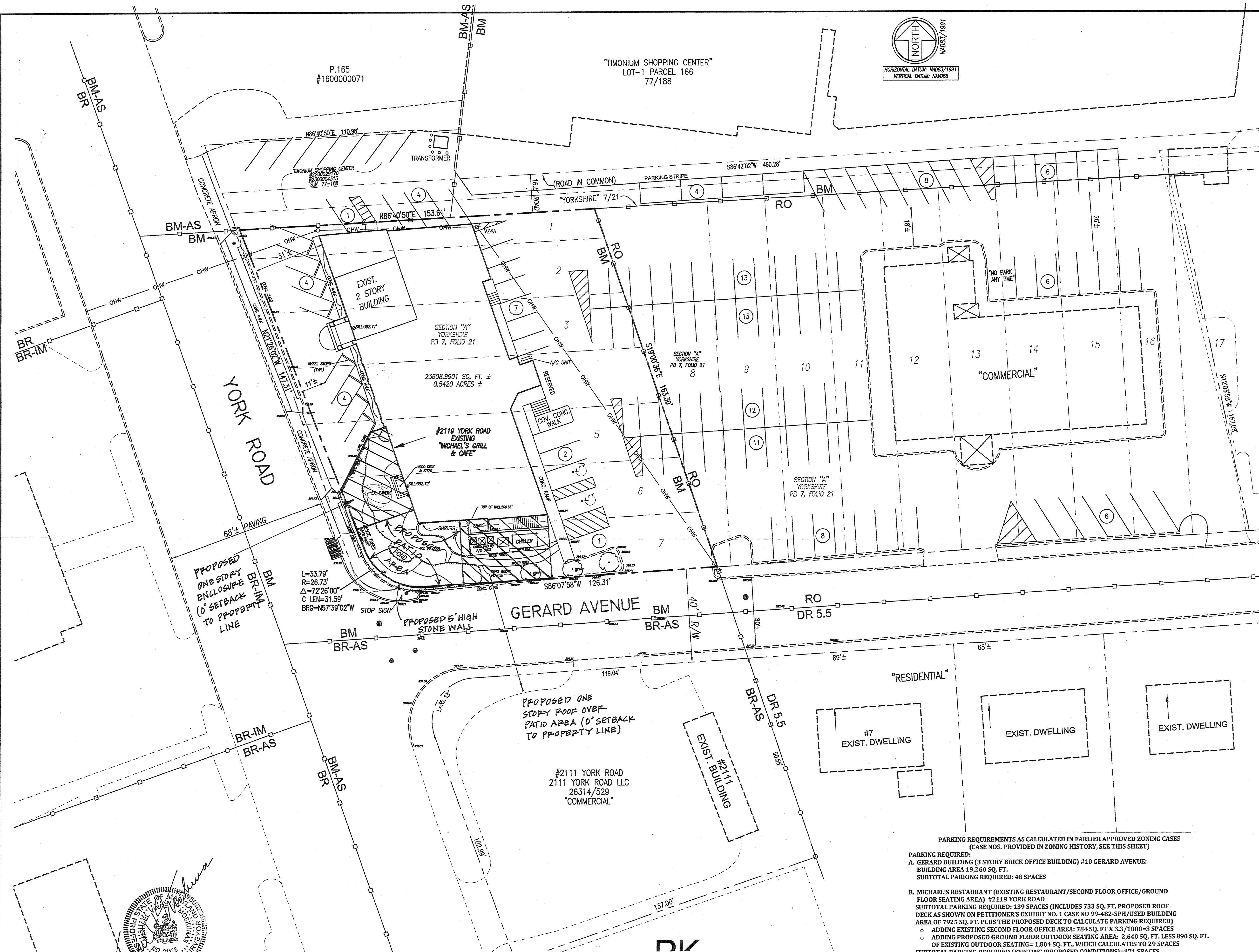
PETITIONER'S
EXHIBIT NO. NO1

PETITIONER'S EXHIBIT
CASE NO. 2012-0143-SPHA
PLAN TO ACCOMPANY
SPECIAL HEARING & VARIANCE PETITIONS
"MICHAEL'S CAFÉ"
#2119 YORK ROAD
TAX MAP: 60 GRID: 12 P-ARCEL: 579
LOTS 1-7 "YORKSHIRE" PLAT A 7/121
ELECTION DISTRICT NO. 8 C3
BALTIMORE COUNTY, MD
SCALE: 1" = 20'
NOVEMBER 28, 2011
REVISED JANUARY 12, 2012
JOB #9985



NOTE: THIS IS NOT A BOUNDARY SURVEY. IT IS A COMPILATION OF DEEDS AND STATE HIGHWAY PLATS AND RECORD PLATS. IT IS ONLY A MOSAIC FOR VARIANCE PLAN.

MICHAEL DELLIS, MANAGING MEMBER
2119 YORK ROAD
LUTHERVILLE MD 21093
PHONE:
TAX ACCT. 0816076076
DEED REF.: 21506 / 684



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 10. THIS PROPERTY IS NOT LOCATED IN CHESAPEAKE BAY CRITICAL AREA
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SUBTOTAL PARKING REQUIRED: 139 SPACES (INCLUDES 733 SQ. FT. PROPOSED ROOF DECK AS SHOWN ON PETITIONER'S EXHIBIT NO. 1 CASE NO 99-482-SPH/USED BUILDING AREA OF 7925 SQ. FT. PLUS THE PROPOSED DECK TO CALCULATE PARKING REQUIRED)

- ADDITIONAL EXISTING SECOND FLOOR OFFICE AREA: 784 SQ. FT. X 3.3/1000=3 SPACES
- ADDITIONAL PROPOSED GROUND FLOOR OUTDOOR SEATING AREA: 2,640 SQ. FT. LESS 890 SQ. FT. OF EXISTING OUTDOOR SEATING=1,804 SQ. FT. WHICH CALCULATES TO 29 SPACES

SUBTOTAL PARKING REQUIRED (EXISTING/PROPOSED CONDITIONS)=171 SPACES

TOTAL PARKING SPACES REQUIRED FOR BOTH PROPERTIES: 219 SPACES LESS 35 SPACES FROM EARLIER ZONING APPROVAL=184 SPACES

COMBINED SITE PLAN SHARED PARKING CALCULATIONS (CASE NO. 99-482-SPH)

WEEKDAY		WEEKEND		NIGHT TIME	
DAYTIME	EVENING	DAYTIME	EVENING	DAYTIME	EVENING
GERARD BLDG 100%=48	10%=5	100%=5	5%=3	5%=3	
MICHAEL'S 50%=110	100%=219	100%=219	100%=219	100%=22	25
158	224	224	222		

REQUIRED SHARED PARKING CALCULATIONS: 224 SPACES LESS 35 SPACES (PREVIOUSLY APPROVED RELIEF) = 189 SPACES
PARKING PROVIDED: ON-SITE EXISTING PARKING SPACES: 121 SPACES

OWNER: DINING OUT REALTY, LLC
MICHAEL DELLIS, MANAGING MEMBER
2119 YORK ROAD
LUTHERVILLE MD 21093
PHONE:
TAX ACCT. 30816076076
DEED REF.: 21506 / 684

SITERITE SURVEYING INC.
200 E. JOPPA ROAD
SHELL BUILDING, SUITE 101
TOWSON, MD. 21286
410-828-9060

NOTE: THIS IS NOT A BOUNDARY SURVEY. IT IS A COMPILATION OF DEEDS AND STATE HIGHWAY PLATS AND RECORD PLATS. IT IS ONLY A MOSAIC FOR VARIANCE PLAN.

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