

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

NE corner at Eastern Boulevard and
Berkshire Road
15th Election District
7th Councilmanic District
(300 Eastern Boulevard)

Brooks Muffler Center, Inc., *Legal Owner*
All Phase Auto Repair, Inc., *Contract Purchaser*
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
*
* **Case No. 2012-0149-SPHXA**

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing, Special Exception and Variance filed by Brooks Muffler Center, Inc., legal owner, and All Phase Auto Repair, Inc., contract purchaser ("Petitioners"). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a portion of the existing parking lot to be in a DR 10.5 zone. In addition, Petitioners request Special Exception relief pursuant to B.C.Z.R. Section 230.13 to permit the continued use of a service garage in a BL zone. Variance relief is also being sought pursuant to Section 409.8.A.1 of the B.C.Z.R. to permit a zero (0) feet wide landscape buffer in lieu of the required 10 feet along Eastern Avenue. The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Bruce Doak of Gerhold, Cross & Etzel, Ltd., the professional land surveyor who prepared the site plan and the owner of All Phase Auto Repair, Inc. the contract purchaser. Francis X. Borgerding, Jr., Esquire, appeared as counsel and represented the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There

ORDER RECEIVED FOR FILING

Date 2-7-12

By PJ

were no Protestants or other interested persons in attendance, and the file does not contain any letters of opposition or protest. Curtis Murray appeared from the Department of Planning, and at his request the Petitioner made some red-lined modifications to the site plan which was accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A comment was received from the Department of Planning, which indicated the following:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The Department of Planning does not oppose the petitioner's request for special exception.

However, because of the nature of the non-conforming use in the BL zone this office does not support parking in the DR 10.5 zone to support a use in the BL zone. The aforementioned DR 10.5 area should be utilized for fencing and landscape screening that would mitigate any negative impacts on the adjacent residential uses.

The property is located within the Essex Design Review Panel area. Every effort should be made to landscape the Eastern Boulevard frontage. A zero foot setback along Eastern Boulevard is not supported. A 10' wide landscape buffer shall be provided along Eastern Boulevard except at the driveway entrance.

Comments were received from the Department of Environmental Protection and Sustainability dated January 25, 2012, which states:

A portion of the subject property is located within the Chesapeake Bay Critical Area. According to B.C.Z.R. Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (DEPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
2. A portion of this lot is located within an Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area (CBCA). The zoning relief requested will not impact any of the Critical Area requirements for this lot. Any future development activities will need to address the 10% pollutant reduction requirements to minimize adverse impacts on water quality that result from development activities.

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Date 2-7-12

2

By [Signature]

3. The subject development can meet the requirement to conserve fish, wildlife, and plant habitat by complying with all Critical Area requirements including mitigation.
4. The zoning requests will not result in any impacts to forest, wetlands, or Critical Area buffers. Therefore, the subject zoning relief will conserve fish, wildlife, and plant habitat based on the existing conditions and location.
5. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The relief requested will be consistent with established land-use policies provided that the applicants meet all Critical Area requirements for any future development on the property.

Testimony and evidence revealed that the subject property is 18,255 square feet and zoned BL. The property is improved with a one story masonry building within which automotive repair takes place. The property is located on the northeast corner of the intersection of Eastern Blvd. and Berkshire Road in the Essex area of Baltimore County. As stated previously, Mr. Curtis Murray, a representative from the Department of Planning was in attendance at the hearing. As a result of discussions Mr. Murray had with Bruce Doak, the surveyor who prepared the site plan of the property, certain modifications were made to that plan. Those modifications are highlighted in red marker. Mr. Doak has indicated that the Applicant will provide a 10 foot landscape buffer along the Eastern Blvd. portion of the property. That variance request was somewhat modified as a result of Mr. Murray's request. However, the 0 foot landscape buffer is still being requested on the other three sides of the subject property. Natural vegetation already exists along Berkshire Road and is sufficient to buffer the subject use from that street. The rear of the property is actually an alley way that provides access to the subject business. The alley way which is used for ingress and egress is actually zoned DR 10.5 which required the Petitioners to seek relief by way of a special hearing to continue to use that portion of the property zoned DR 10.5 for ingress and egress. That was the purpose of the filing of the special hearing request.

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Date 2-7-12

The purchaser of the property, All Phase Auto Repair, Inc., wishes to continue to operate a service garage facility within the existing structure. They currently operate on Eastern Avenue near the intersection of Stemmers Run Road. At the present time this building is vacant and the contract purchaser is excited to begin renovations and modifications to the building and to move his business to this site. In order to proceed with moving his business to the subject property, the special hearing, special exception and variance requests are necessary.

It should be noted that the variance request was modified to add an additional variance to permit parking for a non-residential use closer than 10 feet to the right-of-way line for a public street pursuant to Section 409.8.A.4. This particular variance request involves one parking space located on the rear corner of the subject property. Those parking spaces have existed for many years at this property and it is appropriate to grant the variance for the parking to remain as is.

As to the special hearing request, the relief is to allow the Applicant to continue to use the alley behind the property for purposes of ingress and egress. No parking will occur within the 10.5 zone; however, a small area of Petitioners' property along the rear property line is zoned DR 10.5. This relief is necessary to allow his customers to continue to come and go from his business. That special hearing relief shall be approved.

In addition to the special hearing relief, Petitioners are also requesting a special exception to allow the service garage use on the property. This is unusual in that a service garage has been operating on this property for many years. However, for whatever reason, no special exception was previously approved to allow a service garage use to occur. The Petitioners filed the special exception at this time to bring the property into compliance and allow this Applicant to operate his automobile service garage on the property. The testimony produced by Mr. Doak at the hearing

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Date 2-7-12

By pm

demonstrated that the Applicant has satisfied all of the requirements of Section 502.1 and the special exception shall be granted.

Based upon the testimony and evidence presented, I am also persuaded to grant the request for variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED this 7th day of February, 2012, by this Administrative Law Judge, that Petitioners' request for Special Hearing filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to permit a portion of the existing parking lot to be in a DR 10.5 zone, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' Special Exception request pursuant to Section 230.13 of the B.C.Z.R., to permit the continued use of a service garage in a BL zone, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioners' Variance request pursuant to Section 409.8.A.1 of the B.C.Z.R. to permit a zero (0) foot wide landscape buffer in lieu of the required 10 feet along Eastern Avenue, and to permit parking for a non-residential use closer than 10 feet to the right-of-way of a public street per Section 409.8.A.4, be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

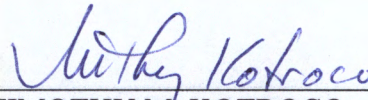
Date 2-7-12

By [Signature]

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the ZAC comments made by the Department of Planning dated January 9, 2012, and the Department of Environmental Protection and Sustainability dated January 25, 2012; copies of which are 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.


TIMOTHY M. KOTROCO
Administrative Law Judge for
Baltimore County

TMK:pz

ORDER RECEIVED FOR FILING

Date 2-7-12

By pz

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: January 9, 2012

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 300 Eastern Boulevard

INFORMATION:

Item Number: 12-149

Petitioner: Brooks Muffler Center, Inc.

Zoning: BL

Requested Action: Special Hearing, Special Exception and Variance

RECEIVED

JAN 11 2011

OFFICE OF ADMINISTRATIVE HEARINGS

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The Department of Planning does not oppose the petitioner's request for special exception.

However, because of the nature of the non-conforming use in the BL zone this office does not support parking in the DR 10.5 zone to support a use in the BL zone. The aforementioned DR 10.5 area should be utilized for fencing and landscape screening that would mitigate any negative impacts on the adjacent residential uses.

The property is located within the Essex Design Review Panel area. Every effort should be made to landscape the Eastern Boulevard frontage. A zero foot setback along Eastern Boulevard is not supported. A 10' wide landscape buffer shall be provided along Eastern Boulevard except at the driveway entrance.

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

Prepared by:

Division Chief:
AVA/LL: CM

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Date

2-7-12

By

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

JAN 25 2012

OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: January 25, 2012

SUBJECT: DEPS Comment for Zoning Item # 21012-149-SPHXA
Address 300 Eastern Boulevard
(Brooks Muffler Center, Inc. Property)

Zoning Advisory Committee Meeting of December 27, 2011.

A portion of the subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

A portion of this lot is located within an Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area (CBCA). The zoning relief requested will not impact any of the Critical Area requirements for this lot. Any future development activities will need to address the 10% pollutant reduction requirements to minimize adverse impacts on water quality that result from development activities.

2. The subject development can meet the requirement to conserve fish, wildlife, and plant habitat by complying with all Critical Area requirements including mitigation.

The zoning requests will not result in any impacts to forest, wetlands, or Critical Area buffers. Therefore, the subject zoning relief will conserve fish, wildlife, and plant habitat based on the existing conditions and location.

ORDER RECEIVED FOR FILING

Date 2-7-12

By [Signature]

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The relief requested will be consistent with established land-use policies provided that the applicants meet all Critical Area requirements for any future development on the property.

- Paul Dennis; Environmental Impact Review

S:\Devcoord ZAC-Zoning Petitions\ZAC 2012\ZAC 12-0149-SPHXA 300 Eastern Boulevard

ORDER RECEIVED FOR FILING

Date 2-1-12

By [Signature]



KEVIN KAMENETZ
County Executive

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

February 7, 2012

FRANCIS X. BORGERDING, JR., ESQUIRE
409 WASHINGTON AVENUE, SUITE 600
TOWSON, MD 21204

Re: Petition for Special Hearing, Special Exception and Variance
Case No. 2012-0149-SPHXA
Property: 300 Eastern Boulevard

Dear Mr. Borgerding:

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 "Timothy Kotroco", is written over the typed name.

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

Enclosure



CBCA

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 300 Eastern Blvd., Baltimore, MD 21221 which is presently zoned B.L.

Deed Reference 88741237 10 Digit Tax Account # L523002182

Property Owner(s) Printed Name(s) Brooks Muffler Center, Inc.

CASE NUMBER 2012-0149 Filing Date 12/19/11 Estimated Posting Date / / Reviewer BPR

SPHx4

(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

to permit a portion of the existing parking lot to be in a D.R. 10.5 zone.

2. ☒ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for to permit the continued use of a service garage in a BL zone per Section 230.13 of the B.C.Z.R.

3. ☒ a **Variance** from Section(s)

To permit a 0' wide landscape buffer in lieu of the required 10' per Section 409.8.A.1 of the B.C.Z.R. (along Eastern Avenue) and to permit parking for a non-residential use closer than 10 feet to the right of way line of a Public Street per 409.8.A.4

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)

YMK

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:

All Phase Auto Repair, Inc.

Name- Type or Print

Signature

1627 Eastern Blvd. Baltimore MD

Mailing Address City State

21221

Zip Code Telephone # Email Address

Attorney for Petitioner:

Francis X. Borgerding, Jr.

Name- Type or Print

Signature

409 Washington Ave., #600, Towson MD

Mailing Address City State

21204

Zip Code Telephone # Email Address

Legal Owners:

Brooks Muffler Center, Inc.

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

11345 Pulaski Hwy., White Marsh, MD

Mailing Address City State

21162

Zip Code Telephone # Email Address

Representative to be contacted:

Bruce E. Doak
GERHOLD, CROSS & ETZEL, LTD.

Name - Type or Print

Signature

320 E. Towson Town Blvd. Towson MD

Mailing Address City State

21286

Zip Code Telephone # Email Address



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

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

August 10, 2011

ZONING DESCRIPTION
Property of Brooks Muffler Center, Inc.
#300 Eastern Avenue

BOULEVARD

Beginning for the same at the intersection of the north side of Eastern Avenue and the east side of Berkshire Road, thence running and binding on the north side of Eastern Avenue and also running with and binding on the outlines of the subject property 1) North 60 degrees 47 minutes East 135 feet, thence leaving Eastern Avenue and running with and binding on the outlines of the subject property 2) North 29 degrees 13 minutes West 135 feet to a point in an alley, thence running in said alley and also running with and binding on the outlines of the subject property 3) South 60 degrees 47 minutes West 135 feet to the east side of Berkshire Road, thence running and binding on the east side of Berkshire Road and also running with and binding on the outlines of the subject property 4) South 29 degrees 13 minutes East 135 feet to the point of beginning.

Containing 18,225 square feet or 0.418 of an acre of land, more or less.

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



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

No. **78223**

Date: 12/18/11

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	006	0000		6150				\$ 950.00

Total: \$ 950.00

Rec
From:

For: Special Exemption, Special Hearing and
Variances

DISTRIBUTION

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

PAID RECEIPT

PAID TO THE ORDER OF
 BALTIMORE COUNTY, MARYLAND
 FOR THE PURPOSE OF
 SPECIAL EXEMPTION, SPECIAL HEARING AND
 VARIANCES
 \$ 950.00
 RECEIVED BY
 DATE
 BALTIMORE COUNTY, MARYLAND

**CASHIER'S
 VALIDATION**

John J. ...

11 East Saratoga Street
Baltimore, MD 21202-2199
(443)524-8100

Order #: 10043781

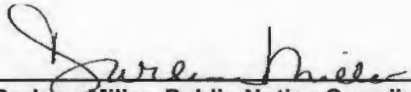
Description:

NOTICE OF ZONING HEARING - CASE NUMBER:
2012-0149-SPHXA 300 - Notice of Zoning Hearing to be held on
Monday, January 30, 2012 at 10:00 am

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

1/17/2012



Darlene Miller, Public Notice Coordinator
(Representative Signature)

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2012-0149-SPHXA

300 Eastern Boulevard

N/east corner of Eastern Boulevard and Berkshire Road

15th Election District - 7th Councilmanic District

Legal Owners: Brooks Muffler, Inc.

Contract Purchaser: All Phase Auto Repair, Inc.

Special Hearing to permit a portion of the existing parking lot to be in a D.R. 10.5 zone. Special Exception to permit the continued use of a service garage in a BL zone per Section 230.13 of the BCZR. Variance to permit a 0 feet wide landscape buffer in lieu of the required 10 feet per Section 409.8.A.1 of the BCZR (along Eastern Avenue).

Hearing: Monday, January 30, 2012 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

ARNOLD JABLON,

Director of Permits, Approvals and
Inspections for Baltimore County.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

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

ja17



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections
November 22, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2012-0149-SPHXA

300 Eastern Boulevard
N/east corner of Eastern Boulevard and Berkshire Road
15th Election District – 7th Councilmanic District
Legal Owners: Brooks Muffler, Inc.
Contract Purchaser: All Phase Auto Repair, Inc.

Special Hearing to permit a portion of the existing parking lot to be in a D.R. 10.5 zone. Special Exception to permit the continued use of a service garage in a BL zone per Section 230.13 of the BCZR. Variance to permit a 0 feet wide landscape buffer in lieu of the required 10 feet per Section 409.8.A.1 of the BCZR (along Eastern Avenue).

Hearing: Monday, January 30, 2012 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Francis Borgerding, Jr., 409 Washington Avenue, #600, Towson 21204
David Ramsey, Brooks Muffler Center, Inc., 11345 Pulaski Highway, White Marsh 21162
All Phase Auto Repair, Inc., 1627 Eastern Blvd., Baltimore 21221
Bruce Doak, 320 E. Towsontown Blvd., Towson 21286

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JANUARY 14, 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: DAILY RECORD PUBLISHING COMPANY
Friday, January 13, 2012 Issue - Jeffersonian

Please forward billing to:

All Phase Auto Repair, Inc.
1637 Eastern Blvd.
Baltimore, MD 21221

410-687-5032

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2012-0149-SPHXA

300 Eastern Boulevard

N/east corner of Eastern Boulevard and Berkshire Road

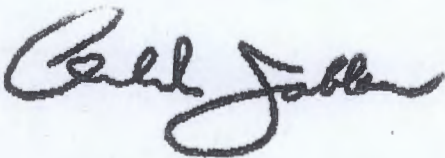
15th Election District – 7th Councilmanic District

Legal Owners: Brooks Muffler, Inc.

Contract Purchaser: All Phase Auto Repair, Inc.

Special Hearing to permit a portion of the existing parking lot to be in a D.R. 10.5 zone. Special Exception to permit the continued use of a service garage in a BL zone per Section 230.13 of the BCZR. Variance to permit a 0 feet wide landscape buffer in lieu of the required 10 feet per Section 409.8.A.1 of the BCZR (along Eastern Avenue).

Hearing: Monday, January 30, 2012 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
SPECIAL EXCEPTION AND VARIANCE *
300 Eastern Boulevard; N/E Corner of Eastern * OF ADMINISTRATIVE
Boulevard & Berkshire Road
15th Election & 7th Councilmanic Districts * HEARINGS FOR
Legal Owner(s): Brooks Muffler Center, Inc
Contract Purchasers: All Phase Auto Repair, Inc* BALTIMORE COUNTY
Petitioner(s) *
2012-149-SPHXA

* * * * *

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

JAN 05 2012

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2012, a copy of the foregoing Entry of Appearance was mailed to Bruce Doak, Gerhold, Cross & Etzel, 320 E Towsontowne Boulevard, Suite 100, Towson, Maryland 21286 and Francis Borgerding, Esquire, 409 Washington Avenue, Suite 600, 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/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:

Item Number or Case Number: 2012-0149-SPHXA

Petitioner: All Phase Auto Repair

Address or Location: 1627 Eastern Blvd

PLEASE FORWARD ADVERTISING BILL TO:

Name: SAMP

Address: _____

Telephone Number: (410) 687-5032

Revised 2/17/11 DT

M E M O R A N D U M

DATE: March 9, 2012
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2012-0149-SPHXA - Appeal Period Expired

The appeal period for the above-referenced case expired on March 8, 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

CASE NAME BROOKS MUFFLER
CASE NUMBER 2012-0149-SPN/A
DATE 1/30/12

[illegible]

4/30 @ 10am

CASE NO. 2011- 0149-SRXA

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>1-4</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>nc</u>
<u>1-25</u>	DEPS (if not received, date e-mail sent _____)	<u>Comments</u>
_____	FIRE DEPARTMENT	_____
<u>1-11</u>	PLANNING (if not received, date e-mail sent _____)	<u>Comment</u>
<u>12-28</u>	STATE HIGHWAY ADMINISTRATION	<u>nc</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 1939-0029, 1947-1003-SX
R-1957-4010, R-1960-5125X)

NEWSPAPER ADVERTISEMENT Date: 1-17

SIGN POSTING Date: _____ by _____

PEOPLE'S COUNSEL APPEARANCE	Yes	☒	No	☐
PEOPLE'S COUNSEL COMMENT LETTER	Yes	☐	No	☐

Comments, if any: _____

Debra Wiley - ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/26/11

From: Debra Wiley
To: Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...
Date: 12/27/2011 8:19 AM
Subject: ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/26/11

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.

2012-0145-A - 9020 Simms Avenue
(Administrative Variance - Closing Date: 1/9/12)

2012-0146-SPHA - 5210 Wilkens Avenue
(No hearing date in data base as of 12/27)

2012-0147-SPH - 12202 Worthington Road
(No hearing date in data base as of 12/27)

2012-0148-A - 3213 Woodvalley Drive
(Administrative Variance - Closing Date: 1/9/12)

2012-0149-SPHXA - 300 Eastern Blvd. - **Critical Area**
(No hearing date in data base as of 12/27)

2012-0150-SPH - 10111, 10126 & 10131 York Road
(No hearing date in data base as of 12/27)

2012-0151-A - 8207 Daren Ct.
(No hearing date in data base as of 12/27)

Thanks and have a great day !

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

From: Dennis Kennedy
To: dwiley@baltimorecountymd.gov
Date: 12/27/2011 8:19 AM
Subject: Re: ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/26/11 (next year)

I will be out of the office until Jan. 3, 2012. Contact Mike Viscara at mviscara@baltimorecountymd.gov or Geoff Rice at grice@baltimorecountymd.gov or call 410-887-3751 for assistance.

>>> Debra Wiley 12/27/11 08:19 >>>

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.

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(No hearing date in data base as of 12/27)

Thanks and have a great day !
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

Subject: Fwd: Re: ZAC Comments - ZAC Agenda - Distribution Mtg. of 12/26/11 (next year)
Created By: dwiley@baltimorecountymd.gov
Scheduled Date:
Creation Date: 12/27/2011 8:20 AM
From: Debra Wiley

Recipient	Action	Date & Time	Comment
To: Geoff Rice (grice@baltimorecountymd.gov)	Delivered	12/27/2011 8:20 AM	
To: Michael Viscarra (mviscarra@baltimorecountymd.gov)	Delivered	12/27/2011 8:20 AM	



KEVIN KAMENETZ
County Executive

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

January 18, 2012

Brooks Muffler Center, Inc.
David Ramsey
11345 Pulaski Highway
White Marsh, MD 21162

RE: Case Number 2012-0149SPHXA 300 Eastern Blvd.

Dear Mr. Ramsey,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 19, 2011. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
All Phase Auto Repair, Inc., 1627 Eastern Blvd., Baltimore, MD 21221
Bruce Doak, Gerhold, Cross & Etzel, Ltd, 320 E. Towson Town Blvd., Towson, MD 21286
Francis Borgerding, Jr., 409 Washington Avenue, Ste. 600, Towson, MD 21204

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: January 4, 2012

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

SUBJECT: Zoning Advisory Committee Meeting
For January 9, 2012
Item Nos. 2012-080, 145, 146, 147, 149,
150 and 151

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

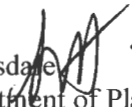
DAK:CEN
cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: January 9, 2012

FROM: Andrea Van Arsda 
Director, Department of Planning

SUBJECT: 300 Eastern Boulevard

INFORMATION:

Item Number: 12-149

Petitioner: Brooks Muffler Center, Inc.

Zoning: BL

Requested Action: Special Hearing, Special Exception and Variance

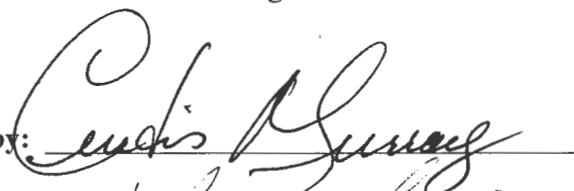
SUMMARY OF RECOMMENDATIONS:

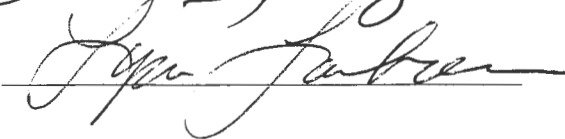
The Department of Planning has reviewed the petitioner's request and accompanying site plan. The Department of Planning does not oppose the petitioner's request for special exception.

However, because of the nature of the non-conforming use in the BL zone this office does not support parking in the DR 10.5 zone to support a use in the BL zone. The aforementioned DR 10.5 area should be utilized for fencing and landscape screening that would mitigate any negative impacts on the adjacent residential uses.

The property is located within the Essex Design Review Panel area. Every effort should be made to landscape the Eastern Boulevard frontage. A zero foot setback along Eastern Boulevard is not supported. A 10' wide landscape buffer shall be provided along Eastern Boulevard except at the driveway entrance.

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

Prepared by: 

Division Chief: 
AVA/LL: CM

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 12-28-2012

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

RE: Baltimore County
Item No. 2012-0149-SPHXA
300 EASTERN BLVD
BROOKS MUFFLER CENTER, INC.
SPECIAL HEATING -
SPECIAL EXCEPTION -
VARIANCE -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2012-0149-SPHXA.

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

Sincerely,

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

For 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

TK 1/30
10AM

Case No.: 2012-0149-SPHXA

Exhibit Sheet

2/1/12
R
3-9-12
DW

Petitioner/Developer

Protestants

No. 1	Site Plan	
No. 2	Photos of property A-T	
No. 3	Photo site Plan	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PETITIONER' S

EXHIBIT NO. 2A-T

3





MB&K AUTOMOTIVE
SALES • SERVICE • PARTS

Berkshire RD
Eastern Ave

NAI KLNB
www.klnb.com
FOR SALE
443-632-2066





12

























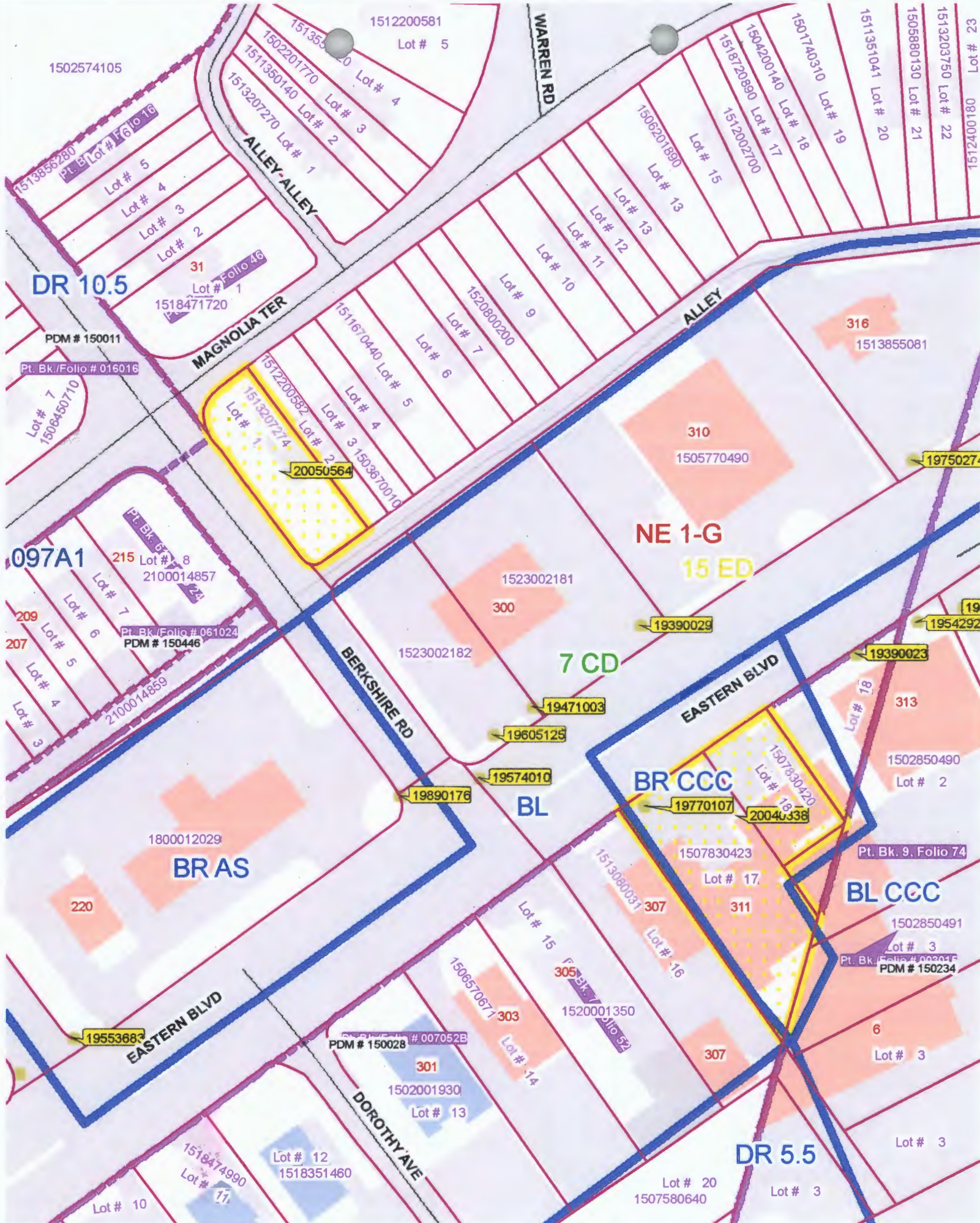


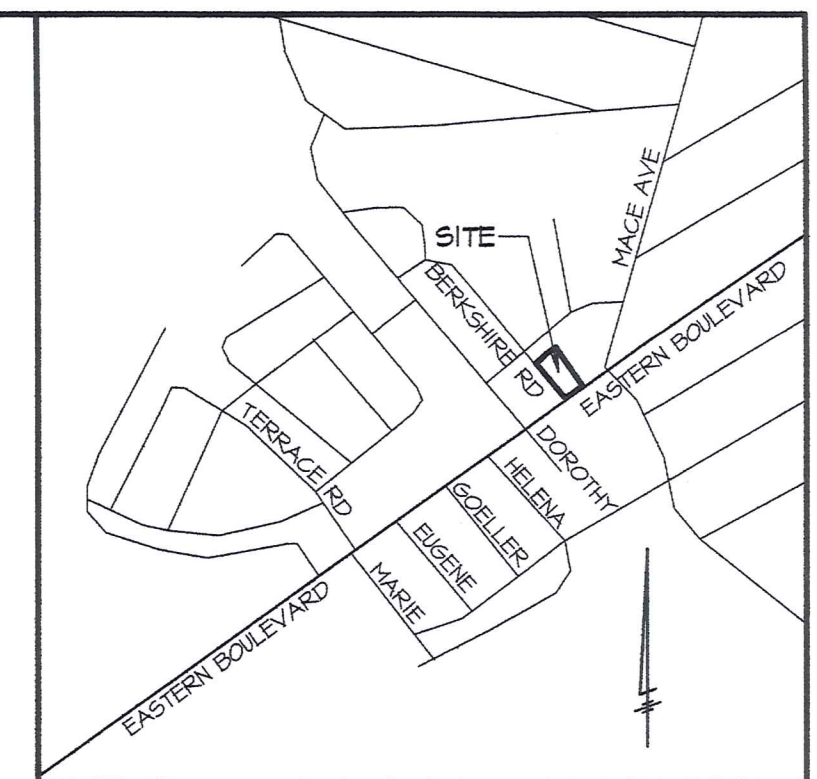
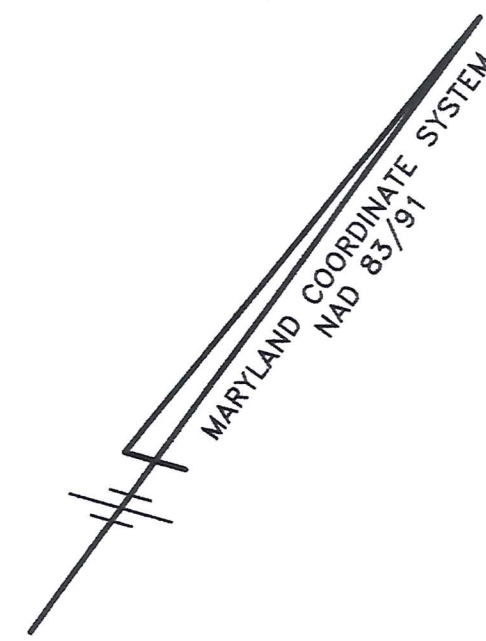
5



①







VICINITY MAP
1" = 1000'

SITE DATA

LOT SIZE

GROSS AREA 18,255 SQ. FT.

SITE USE

EXISTING 3 BAY SERVICE GARAGE

FLOOR AREA RATIO

ALLOWED IN BL ZONE IS 3.0
TOTAL SITE AREA 18,255 SQ. FT.
TOTAL FLOOR AREA 2,818 SQ. FT.
FAR = 0.154

PARKING CALCULATIONS

SERVICE GARAGE
PARKING SPACES REQUIRED PER SECTION 409.6.A.2 IS 3.3 PER 1,000 SQ. FT.
2.8 X 3.3 = 10

TOTAL PARKING SPACES REQUIRED = 10
BAYS IN BUILDING = 3
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ZONING HISTORY

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NO RECORD OF THE OUTCOME OF THIS CASE EXISTS IN THE OFFICE OF ZONING
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PERMITTED AN ADVERTISING SIGN ON EASTERN BOULEVARD
(SIGN NO LONGER EXISTS)
- CASE R-1957-4010
SPECIAL EXCEPTION FOR RECLASSIFICATION FROM BL TO BR ZONE
TO ALLOW A USED CAR LOT - APPROVED
(APPLIES TO A 35' WIDE LOT - USED CAR LOT NO LONGER EXISTS)
- CASE R-1960-5125X
SPECIAL EXCEPTION FOR RECLASSIFICATION FROM BL TO BR ZONE
TO ALLOW A USED CAR LOT - APPROVED
(APPLIES TO A 100' WIDE LOT - USED CAR LOT NO LONGER EXISTS)

GENERAL NOTES

1. THE BOUNDARY SHOWN HEREON IS BASED ON THE TITLE DEED, S.M. 8874 FOLIO 237. A BOUNDARY SURVEY HAS NOT BEEN PERFORMED BY GERHOLD, CROSS & ETZEL, LTD.
2. THE TOPOGRAPHY SHOWN HEREON WAS TAKEN FROM BALTIMORE COUNTY GIS TILE 091 A1
3. A.D.C. MAP & GRID 37 B10
4. CENSUS TRACT 450200 REGIONAL PLANNING DISTRICT 328
WATERSHED BACK RIVER SUBWATERSHED 38
SCHOOL DISTRICT: ELEMENTARY - ESSEX E.S., MIDDLE - STEPHEN'S RUN M.S., HIGH - KENWOOD H.S.
5. THERE ARE NO KNOWN PRIOR ZONING CASES ON THE SUBJECT PROPERTY.
6. THE SUBJECT PROPERTY IS NEITHER HISTORIC NOR WITHIN A HISTORIC DISTRICT.
7. THE SUBJECT PROPERTY IS LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
8. THE SUBJECT PROPERTY IS NOT WITHIN A 100 YEAR FLOOD PLAIN.
9. GERHOLD, CROSS & ETZEL, LTD. HAS NOT BEEN PROVIDED WITH A TITLE REPORT. OTHER INFORMATION PERTAINING TO THE RIGHT OF WAY OF EASTERN AVENUE MAY EXIST, AND IS NOT SHOWN HEREON.

OWNER

BROOKS MUFFLER
CENTER, INC
PROPERTY
11345 PULASKI HWY
WHITE MARSH, MD 21162-1520
410-687-5030

VARIANCE REQUESTED

TO PERMIT A 0' WIDE LANDSCAPE BUFFER IN LIEU OF THE REQUIRED 10' PER SECTION 409.6.A.1 OF THE B.C.Z. (ALONG EASTERN AVENUE).
OR, ALL SIDES EXCEPT THE EASTERN BOULEVARD SIDE.
TO PERMIT PARKING FOR A NON-RESIDENTIAL USE CLOSER THAN 10 FEET TO THE RIGHT-OF-WAY LINE OF A PUBLIC STREET PER SECTION 409.6.A.4 B.C.Z.

SPECIAL EXCEPTION REQUESTED

TO PERMIT THE CONTINUED USE OF A SERVICE GARAGE IN A BL ZONE PER SECTION 230.13 OF THE B.C.Z.R.

SPECIAL HEARING REQUESTED

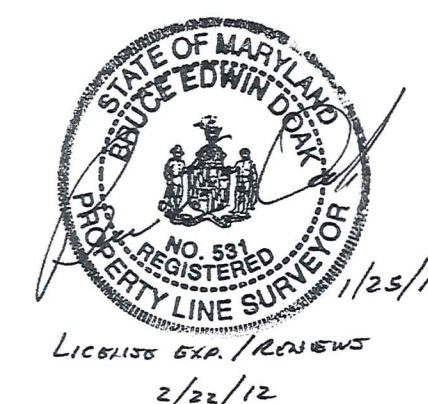
TO PERMIT A PORTION OF THE EXISTING PARKING LOT TO BE IN A D.R.-10.5 ZONE.

CASE # 2012-0149-SPHXA

PETITION TO ACCOMPANY A
SPECIAL EXCEPTION, SPECIAL HEARING
AND A VARIANCE ON THE

BROOKS MUFFLER
CENTER, INC
PROPERTY

300 EASTERN BOULEVARD
Deed Ref: S.M. No. 8874 Folio 237
Tax Account No.: 15-23-002182
Tax Map 97; Grid 8; Parcel 991
Tax Account No.: 15-23-002181
Tax Map 97; Grid 7; Parcel 993
Zoned BL; GIS Tile 091 A1
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND



Scale: 1"=20'

Date: DECEMBER 20, 2011

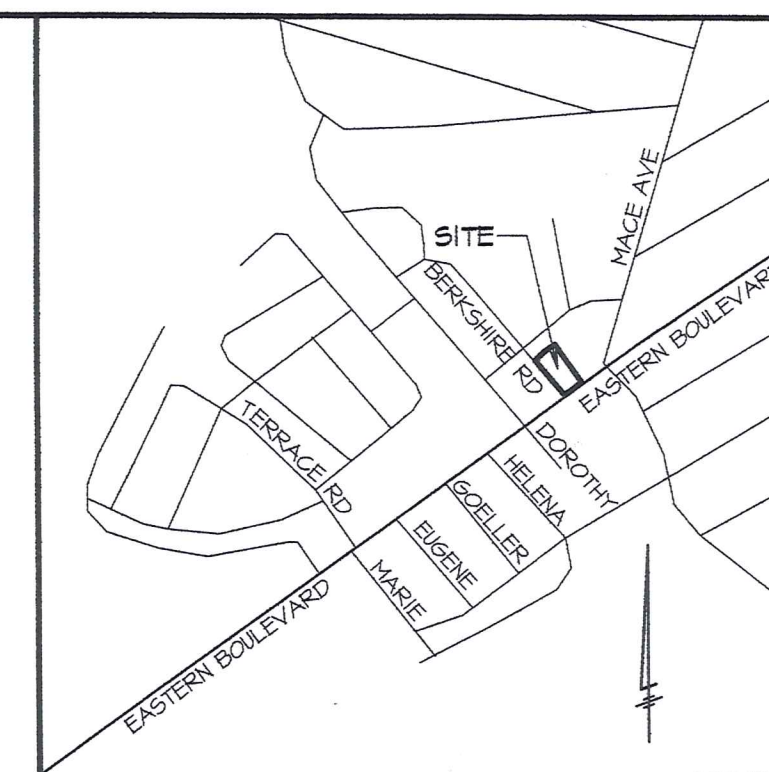
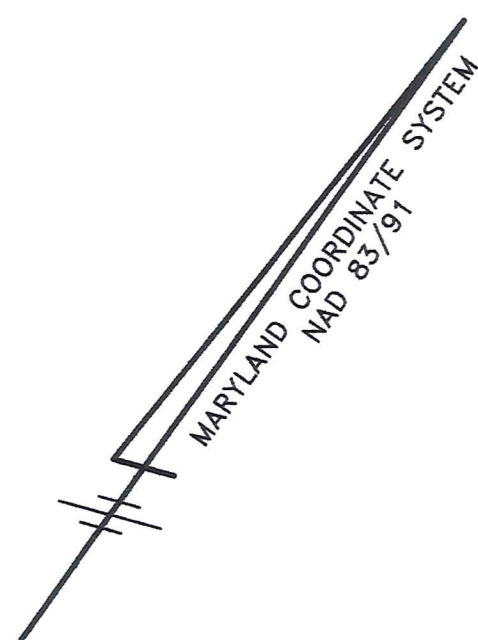
GERHOLD, CROSS & ETZEL, LTD.
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

ADDITIONAL NOTES ON CHANGES	1/30/12
PROPOSED LANDSCAPE SCREENING ADDED.	
NOTE DETAILING PROPOSED FENCE TYPE AND	01/25/12
NOTE PROHIBITING PARKING IN DR 10.5 ZONE ADDED	
REVISION	DATE

PETITIONER'S

EXHIBIT NO. 1



VICINITY MAP
1" = 1000'

SITE DATA

LOT SIZE

GROSS AREA 18,255 SQ. FT.

SITE USE

EXISTING 3 BAY SERVICE GARAGE

FLOOR AREA RATIO

ALLOWED IN BL ZONE IS 3.0
TOTAL SITE AREA 18,255 SQ. FT.
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FAR = 0.154

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(APPLIES TO A 100' WIDE LOT - USED CAR LOT NO LONGER EXISTS)

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3. A.D.C. MAP & GRID 31 BIO
4. CENSUS TRACT 450200 REGIONAL PLANNING DISTRICT 328
WATERSHED BACK RIVER SUBWATERSHED 38
SCHOOL DISTRICT: ELEMENTARY - ESSEX E.S.; MIDDLE - STEMMERS RUN M.S.; HIGH - KENWOOD H.S.
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OWNER

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TO PERMIT A PORTION OF THE EXISTING PARKING LOT TO BE IN A D.R.-10.5 ZONE.

Plan to Accompany Photographs

CASE # 2012-0149-SPHXA

PETITION TO ACCOMPANY A
SPECIAL EXCEPTION, SPECIAL HEARING
AND A VARIANCE ON THE

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300 EASTERN BOULEVARD
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Tax Account No.: 15-23-002182
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Tax Account No.: 15-23-002181
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Zoned BL; GIS Tile 091 AI
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND



License Exp./Renews
2/22/13

Scale: 1"=20'

Date: DECEMBER 20, 2011

GERHOLD, CROSS & ETZEL, LTD.

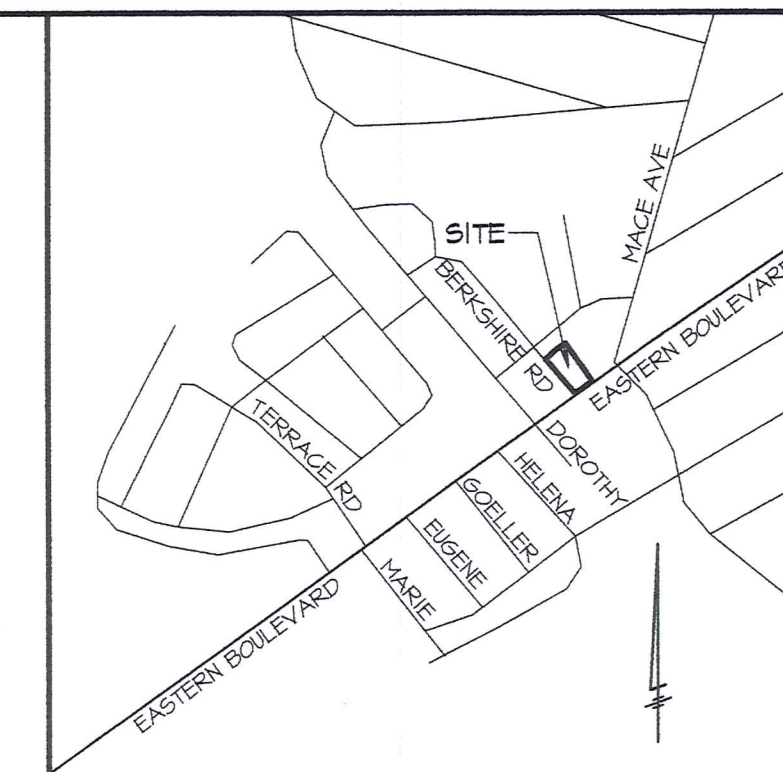
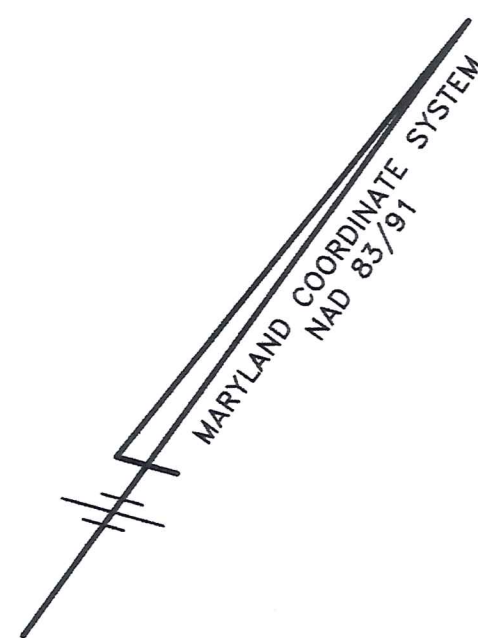
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

REVISION	DATE

COMPUTED:	DRAWN: RTD	CHECKED:	PETITIONER'S
-----------	------------	----------	--------------

EXHIBIT NO. 3



VICINITY MAP
1" = 1000'

GENERAL NOTES

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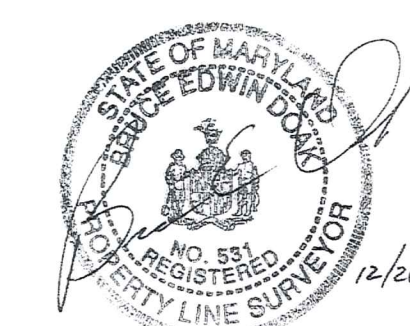
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Tax Map 97; Grid 7; Parcel 993
Zoned BL; GIS Tile 097 A1
15th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND



License exp. 12/20/11
2/22/13 Scale: 1"=20'

Date: DECEMBER 20, 2011

GERHOLD, CROSS & ETZEL, LTD.

REGISTERED PROFESSIONAL LAND SURVEYORS
Suite 100
320 East Townsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

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SPECIAL EXCEPTION FOR RECLASSIFICATION FROM BL TO BR ZONE
TO ALLOW A USED CAR LOT - APPROVED
(APPLIES TO A 35' WIDE LOT - USED CAR LOT NO LONGER EXISTS)

CASE R-1960-5125X
SPECIAL EXCEPTION FOR RECLASSIFICATION FROM BL TO BR ZONE
TO ALLOW A USED CAR LOT - APPROVED
(APPLIES TO A 100' WIDE LOT - USED CAR LOT NO LONGER EXISTS)

REVISION	DATE

COMPUTED: DRAWN: RTD CHECKED: