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REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1533

September Term, 2013

LISA TOMLINSON, ET AL.

v.

BKL YORK, LLC, ET AL.

Woodward,
Wright,
Berger,

JJ.

Opinion by Wright, J.

Filed: October 7, 2014

On September 13, 2013, the Circuit Court for Baltimore County issued a memorandum opinion and order affirming the decision of the Baltimore County Board of Appeals (“Board of Appeals”), which affirmed the decision of the Office of Administrative Hearings of Baltimore County (“OAH”), which ruled that appellees, BKL York I LLC, BKL York III LLC, Logwood LLC, Wawa Inc., and Monterey Improvement Association (collectively, “Developers”), were not required to obtain a County Council Resolution (“Resolution”) authorizing the amendment of their Planned Unit Development (“PUD”) plan. On September 30, 2013, appellants, Lisa Tomlinson and Douglas Miller (collectively, “appellants”), timely noted this appeal, asking us to determine whether Developers were required to seek a Resolution by the County Council authorizing the material amendment of the commercial PUD plan.

For the reasons that follow, we affirm the circuit court’s judgment and the OAH’s decision.

Facts

This appeal concerns 10111 York Road, a vacant lot located at the northeast corner of York Road and Halesworth Road in Cockeysville, Baltimore County, Maryland. At one point, this lot was zoned as “BR-IM”¹ and was improved with a Shell Oil service

¹ “BR-IM” is a zoning designation used in Baltimore County. Section 100.1 of the Baltimore County Zoning Regulations separates zones from districts with a zone defined as a “broad regulation of the use and manner of use of land.” A “BR” zone is defined as “Business, Major.” The same section states that districts are superimposed on zones and are “intended to provide greater refinement in land-use regulation.” An “IM” district is one for “Industrial, Major” use.

station. In 1989, Shell Oil sought a special exception² to its zoning designation to add a food mart to the service station. On October 16, 1989, the Zoning Commissioner for Baltimore County (“Zoning Commissioner”) approved the special exception, allowing a food mart to be used with the then-existing service station.

Almost two decades later, the lot was purchased, and the fuel service station was razed in 2008 so that the purchaser could install a car dealership. On March 12, 2007, the Zoning Commissioner terminated the special exception, provided that the change would not occur until the Department of Permits and Development Management issued a permit granting a change in use for the property.

The lot is now a part of Anderson Hunt Valley, an automotive dealership that is located on the Anderson GM PUD (“GM PUD”). Developers now seek to amend the GM PUD to repurpose part of the site as a Wawa convenience store and gas station. All parties agree that this is a material amendment to the GM PUD.

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As noted in *Cadem v. Nanna*, 243 Md. 536, 543 (1966),

The words “special exception” are well known in zoning law. They refer to a grant by the zoning administrative body pursuant to the existing provisions of the zoning law and subject to certain guides and standards, of a special use permitted under the provisions of the existing zoning law. *See Heath v. Mayor and City Council of Baltimore*, 187 Md. 296, 49 A.2d 799 (1946), *see also Syosset Holding Corp. v. Schlimm*, 15 Misc.2d 10, 159 N.Y.S.2d 88 (1956), *modified* 4 A.D.2d 766, 164 N.Y.S.2d 890 (1957); *Tullo v. Millburn Township*, 54 N.J.Super. 483, 149 A.2d 620 (1959). *See* 2 Rathkopf, *The Law of Zoning and Planning*, ss 54-1 to 54-9. Rezoning or reclassification is, of course, a change in the existing zoning law itself, so far as the subject property is concerned. This type of change in the zoning law is governed by quite different provisions of law than those governing the granting of a special exception.

I. History of the GM PUD

Originally, the GM PUD consisted of two separate PUDs. The first piece of the GM PUD was approved by a Hearing Officer on October 31, 2003, for the purpose of developing 10125 York Road into an automotive showroom and demonstration area for Hummer vehicles ("Hummer PUD"). The Hummer PUD was approved pursuant to Bill No. 47-1994 as PUD-C No. VII-796.³ The second piece of the GM PUD was originally approved for development of 10111 York Road as a Honda dealership ("Honda PUD"). A Hearing Officer approved the Honda PUD as PUD-C No. VIII-848, pursuant to Bill Nos. 19-2004 and 130-2005 on February 20, 2007.⁴ The lot that is the subject of this appeal is located within the original Honda PUD.

A. Combination and Consolidation of the Hummer PUD and Honda PUD and its First Amendment

After a downturn in the economy, Anderson Automotive sought to swap the locations of its GM dealership (located north of the Hummer PUD and Honda PUD) and Honda dealerships, and close its Hummer dealership because of a decrease in sales of certain automotive models. Part of the planned changes included a new addition to the

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Approval of the Hummer PUD followed extensive review: a Concept Plan Conference was held on March 31, 2003; a Community Input Meeting was held on April 28, 2003; a Development Plan Conference was held on October 3, 2003; and an administering hearing was held on October 30, 2003.

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Like the Hummer PUD, the approval of the Honda PUD came after extensive review before the Hearing Officer's decision: the County Council approved Resolution 64-06, authorizing the review of the Honda PUD by county agencies, on August 7, 2006; a Concept Plan Conference and Community Input Meeting were held; a presentation was made to the Planning Board; and the Planning Board held a public hearing on January 18, 2007.

dealership's Hummer showroom, which would extend from the Hummer PUD into the Honda PUD. A portion of the Honda PUD would be reserved for "future development." Anderson Automotive wanted to amend the Hummer PUD and Honda PUD to reflect these plans.

Developers submitted these changes as a "refinement," or a non-material amendment, to the Hummer PUD and Honda PUD. The Director of Planning Development Management approved Anderson Automotive's request on May 22, 2009. Eric Rockel ("Rockel"), President of the Greater Timonium Coordinating Council, appealed the Director's decision to the Board of Appeals, challenging whether the refinement should be classified as a material amendment (and thus, subject to the procedure for material amendments). People's Counsel for Baltimore County intervened in the dispute.

Following People's Counsel's intervention, Developers, Rockel, and People's Counsel held informal discussions to resolve the dispute. As a result of the discussions, Developers agreed to re-term the refinement as a material amendment. The parties also agreed that Developers would file a Petition for Special Hearing regarding the amendment of both the Hummer PUD and Honda PUD.⁵

As a part of the now-material amendment, Developers wanted to combine and consolidate the Hummer PUD and Honda PUD. In order to pass the amendment, a

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It appears that the parties came to this resolution among themselves, without any review by an Administrative Law Judge ("ALJ") of whether this process was or was not legally sufficient. There is also no indication of what process would have governed review of the amendment had there been no agreement among the parties to this resolution.

Development Plan Conference and a joint Zoning Commissioner's Hearing/Hearing Officer's Hearing was held pursuant to the Petition for Special Hearing. The order granting the consolidation of (and first amendment to) the Hummer PUD and Honda PUD was issued on January 29, 2010.⁶

B. The Second Amendment to the GM PUD

Developers sought a second amendment to the GM PUD to place a Wawa convenience store and gas station at 10111 York Road. Developers and various Baltimore County agencies held a Development Plan Conference on January 25, 2012, to discuss the proposed amendment. Although a Development Plan Conference was held, there was no Community Input Meeting or Concept Plan Conference regarding the second amendment. Additionally, Developers did not seek a Resolution to authorize the second amendment. Developers, instead, petitioned for a special hearing regarding the amendment, just as they did with the first amendment. Developers' failure to seek a Resolution authorizing the second amendment to the GM PUD forms the basis of the present dispute.

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This order was later revised by an order dated March 3, 2010.

I. Administrative Appeal and Circuit Court Review

Appellees first submitted this matter to the OAH for review. After two days of proceedings on February 17 and April 10, 2012, an ALJ issued his findings on May 15, 2012.⁷ The ALJ found that Developers were not required to seek a Resolution to amend the GM PUD. The ALJ opined that Baltimore County could not insist that a new Resolution be obtained for the second amendment based on a theory of estoppel. In the alternative, the ALJ determined that the PUD is akin to a traditional development plan, and the County Code governing traditional development plans also governs PUDs. Under this theory, the amendment need only be reviewed and approved in the same manner as the original PUD. The ALJ found that because an administrative hearing⁸ was all that was required for the first amendment, then it is all that was needed for the second amendment.

Appellees appealed the ALJ's decisions to the Board of Appeals, which affirmed the ALJ's opinion on September 21, 2012. The Board of Appeals agreed that the procedure for appeals that governs traditional development plans also governs PUDs. As a result, the Board of Appeals found that Developers did not need to obtain a new

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Following the hearing, on May 7, 2012, the County enacted a procedure to amend PUDs through Bill 42-12. At the time of passage of Bill 42-12, Baltimore County had no specific procedure for amending PUDs. Discussion of Bill 42-12 will follow.

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In the ALJ's opinion, the administrative hearing was referred to as a "Hearing Officer's Hearing." We will refer to the hearing as an "administrative hearing" here for clarity.

Resolution. Finally, the Board of Appeals found that the ALJ had sufficient evidence to approve the material amendment to the PUD.

Following the Board of Appeals' decision, appellants sought judicial review before the circuit court. The trial court found that the Board of Appeals "engaged in a process of reasoned elaboration in making its determination that § 32-4-262(1) controlled the instant amendment." (Internal quotation marks omitted). Based on its review of the record below, the trial court agreed with the Board of Appeals' determination and found that the Board of Appeals' decision was not erroneous. Following the trial court's review, appellants filed this timely appeal.

Standard of Review

We will review the ALJ's decision as to both law and fact.

In general, [a] court's role is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.

Our review of the agency's factual findings entails only an appraisal and evaluation of the agency's fact finding and not an independent decision on the evidence. This examination seeks to find the substantiality of the evidence. That is to say, a reviewing court, be it a circuit court or an appellate court, shall apply the substantial evidence test to the final decisions of an administrative agency In this context, [s]ubstantial evidence, as the test for reviewing factual findings of administrative agencies, has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion[.]

We have said, reviewing courts are under no constraint to affirm an agency decision premised solely upon an erroneous conclusion of law. Accordingly, we may reverse an administrative decision premised on erroneous legal conclusions.

We are also obligated to review the agency's decision in the light most favorable to the agency, since their decisions are *prima facie* correct and carry with them the presumption of validity.

Catonsville Nursing Home, Inc. v. Loveman, 349 Md. 560, 568-69 (1998) (citations and internal quotation marks omitted). "A reviewing Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency."

E. Outdoor Advertising Co. v. Mayor and City Council of Balt., 128 Md. App. 494, 516 (1999) (emphasis omitted). A court should not substitute its judgment for that of the administrative agency. *Dep't of Human Res., Balt. City Dep't of Social Servs. v.*

Hayward, 426 Md. 638, 650 (2012).

Discussion

The outcome of this case depends upon which law governs material amendments to the GM PUD. In order to discern which local law controls in this case, we must review the statutes in question and determine the intent of the County Council in adopting the legislation.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of those who framed or adopted the statute. The intention of the legislature must be sought first in the actual language of the statute. A court, in determining legislative intent, must read the language of the statute in context and in relation to all of its provisions and its purpose. Furthermore, where the statutory language is plain and free from ambiguity and expresses a definite and simple meaning, courts do not normally look beyond the words of the statute itself.

Catonsville Nursing Home, Inc., 349 Md. at 570 (citations omitted). We will first review the legislative history of PUDs, which will inform our discussion of which local law and regulation govern the second amendment.

I. Legislative History

PUDs are a legislative creation in response “to changing patterns of land development and the demonstrated shortcomings of orthodox zoning regulations.” *Rouse-Fairwood Dev. Ltd. P’ship v. Supervisor of Assessments for Prince George’s Cnty.*, 138 Md. App. 589, 624 (2001) (citation omitted). As described in *Mayor and Council of Rockville v. Rylyns Enterprises, Inc.*, 372 Md. 514, 540 n.15 (2002), a PUD is a “floating” zone. This type of zoning category can be created by a petition of a property owner desiring to develop his specific tract for any special zoning purpose. *Id.* As explained in *Rouse-Fairwood Dev. Ltd. P’ship*, 138 Md. App. at 623-24:

Generally, it is a zoning technique that encompasses a variety of residential uses, and ancillary commercial, and . . . industrial uses Currently, the improvement of land is in control of developers who assemble large tracts and improve the land for resale or rental. Given this modern pattern of land development, planners and legislators conceived a technique of land-use control which was better adapted to the realities of the marketplace Planned unit developments make it possible to insure against conflicts in the use of land while permitting a mix of use in a single district The PUD concept has freed the developer from the inherent limitations of the lot-by-lot approach and thereby promoted the creation of well-planned communities.

(Citations and internal quotation marks omitted).

One of the ALJ’s findings was that the regulations in question were ambiguous, but, instead of examining the legislative history, the ALJ found that Baltimore County and its citizens should be estopped from insisting that a Resolution be obtained in the first instance. We disagree with this finding and, instead, agree with the ALJ’s alternate finding that the PUD is a “development plan” that should be analyzed under the PUD regulations that are a part of the Baltimore County Code. Accepting the above, we now

review the legislative history adopting PUDs as a zoning technique and amending the process of approving and amending PUDs.

A. Bill 47-94

We begin with Bill 47-94, which the County Council adopted on April 4, 1994, effective June 27, 1994. As a reference, we note that the Hummer PUD was approved pursuant to the local laws as changed by this Bill.

Bill 47-94 created PUD-Cs as an “optional planned unit development process for commercial projects” and, at the time, was added to the County’s Zoning Regulations at Section 440. As enacted under Section 440.5:

B. Change to a use indicated in the submittal, or permitted by right or by special exception in the underlying zone or district where the use will be located, is allowed without amending the original plan if conditions of the approved PUD-C are met.

C. Change to a use not included in the submittal and not permitted by the underlying zone or district shall constitute an amendment to the PUD-C and is subject to the approval procedures specified in Division 2 of the Development Regulations for the original submittal.

Additionally, under 440.6, “[a]pproval of the PUD-C by the Hearing Officer shall constitute approval of any indicated change from the regulations of the underlying zone.”

B. Bill 130-05⁹

Bill 130-05 revised and subsumed Bill 47-94. As a reference, the Honda PUD was approved pursuant to the procedure adopted by Bill 130-05. First, the Bill repealed Section 440 of the Zoning Regulations. Second, it added Section 430, addressing “Planned Unit Developments,” to the Zoning Regulations. No provision for a change in use was provided in the new Section 430. Third, it added Section 32-4-247 to the County Code, which allowed for a development plan review after approval of a concept plan.¹⁰ It also allowed that a PUD concept plan, accepted for filing prior to October 17, 2005, could use the regulations in effect at the time of filing the concept plan.

C. Bill 5-10

The County Council passed Bill 5-10 on January 19, 2010, effective 45 days after its enactment. Although Bill 5-10 did make changes to the application and approval process, more importantly, at Section 5, the Bill included that “any PUD proposal for

⁹ **The parties drew our attention to Bill 19-04 as well, but it is not relevant to our discussion. Bill 19-04 governs submissions of new PUDs, requiring a County Council resolution to approve County review of the PUD, an informational meeting, a concept plan (and review), and a public hearing before the Planning Board. It also allowed for a Hearing Officer’s review if the decision of the Planning Board was overruled by a Resolution. But, Bill 19-04 did not provide for amendments or changes in use of PUDs. Because the change requiring a resolution only concerns the application process and not the amendment, we will not examine it here.**

¹⁰ Appellees argue that the changes to the application process are also relevant: Bill 130-05 removed the requirement of a Community Input Meeting and added the requirements of an information meeting, a concept plan, a report from the Office of Planning, and review by the Planning Board. It also allowed a Hearing Officer to deny or approve the concept plan without any action taken by the County Council. Because these stages are part of the application process, and not the amendment process, we do not find these changes to be outcome determinative.

which the County Council passed a resolution, pursuant to Section 32-4-242, prior to the effective date of this Act, may proceed under the law and Master Plan recommendations in effect at the time the resolution was passed.”

D. Bill 42-12¹¹

On May 7, 2012, the County Council adopted Bill 42-12, effective on June 18, 2012. Section 1 of Bill 42-12 requires that an amendment to an approved PUD be submitted to the Director of Permits, Approvals, and Inspections, who shall determine whether the changes are material. If he determines that an amendment is material, and the Council does not disapprove his decision (as is the case here), the PUD will be processed pursuant to Section 32-4-245 of the County Code. Section 32-4-245 requires that a Hearing Officer conduct a hearing to review the decision of the Director and either approve or deny the Director’s decision.

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The parties also alerted us to Bill 36-11 as a part of the legislative history of PUDs. The Council passed Bill 36-11 on June 6, 2011, with an effective date of July 18, 2011. Bill 36-11 imposed a new requirement for amendments previously-approved PUDs that had not yet been adopted by Resolution. The PUDs at issue, here, are well beyond the stage of effect.

II. Governing Law

Now that the evolution of the relevant PUD regulations and laws of Baltimore County have been discussed, we must determine which of the laws controls the procedure for the second amendment. As noted by Judge Harrell in *McHale v. DCW Dutchship Island, LLC*, 415 Md. 145, 159, 161-62 (2010):

Whether the application of a newly enacted statutory provision may be applied in a retrospective manner to given situations has proven tricky business in the appellate reports over the years. The conundrum sometimes presented by this query becomes more complex when the given situation implicates a land use or zoning context. This is so because of a somewhat anachronistic line of cases that carve out a special rule for such contexts. . .

In deciding that question, we stated first that “Maryland has consistently followed the rule that ‘an appellate court is bound to decide a case according to existing laws, even though a judgment rightful when rendered by the court below should be reversed as a consequence.’” *Id.* (quoting *Woman’s Club v. State Tax Comm’n*, 195 Md. 16, 19, 72 A.2d 742, 743 (1950)). An appellate court will apply a change in the law “after a decision below . . . unless vested or accrued substantive rights would be disturbed or unless the legislature shows a contrary intent.” *Id.* We distinguished, however, a substantive change in the law versus a procedural one, for purposes of this application. Where the change in the law during the pendency of the zoning or land use litigation works only a procedural change to the law, we will not construe that law as applying retrospectively to the case before the Court. *Id.* at 126-27, 205 A.2d at 272.^[12]

The parties do not dispute that the issue is to determine what *procedure* controls a material amendment to a PUD. The ALJ found that the PUDs in this case should be treated as a typical development plan and analyzed under the laws that govern the

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For a detailed discussion of the retrospective application of statutes in the zoning context, see *McHale*, 415 Md. at 159-73.

amendment to them. After reviewing the legislative history, we find no error with the ALJ's findings and conclusions.

Although we realize that there is an extensive background of both local laws and regulations, and we understand that the ALJ may have wanted to avoid the messy entanglements of delving into the many different provisions of each, it is necessary to do so in order to elucidate the reasons for which we uphold the agency's order.

To proceed, we must discern which law was in effect at the time of the approval of each PUD. Just as with the legislative history above, we will review the laws chronologically, but unlike the legislative history, to make our discussion clearer, we will proceed in reverse order.

A. Bill 42-12

In reviewing the plain language of Bill 42-12 and local law, we determine that the second amendment is not governed by Bill 42-12. As noted in *Powell v. Calvert County*, 368 Md. 400, 413-14 (2002), changes in the law will apply to proceedings that take place after the change in the law becomes effective.

The second amendment was filed sometime before the Development Plan Conference on January 25, 2012,¹³ and the ALJ's decision was rendered on May 15, 2012. Bill 42-12 was passed on May 7, 2012, with an effective date 45 days later of June 26, 2012. In other words, the proceedings had been instituted and decided before Bill 42-12 became effective. Had the Council intended for Bill 42-12 to control the present

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There is no indication in the record of when the second amendment was first filed to trigger the Development Plan Conference.

action, they could have passed Bill 42-12 as an emergency measure, effective immediately.¹⁴ Bill 42-12, therefore, does not control the present appeal.

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The Baltimore County Charter, art. 3, sec. 308(f) allows for emergency measures:

Effective date of laws; emergency measures. No bill shall be passed before the tenth calendar day following its introduction, except by the consent of a majority plus one of the total number of county council members established by this Charter. All public local laws and ordinances enacted by the county council shall take effect forty-five days after enactment, unless by the affirmative vote of a majority plus one of the total number of county council members established by this Charter any such law or ordinance shall be declared to be effective on an earlier or later date, or declared an emergency measure affecting the public health, safety or welfare, in which latter event the same shall take effect from the date of enactment. The term "emergency measure" shall not include any measure creating or abolishing any office or changing the salary, term or duty of any officer, or granting any franchise or special privilege, or creating any vested right or interest.

B. Bill 5-10

Although a newly enacted statute would typically be applied to proceedings brought after its enactment, the County Council had the clear legislative intent to apply Bill 5-10 prospectively. Both the Hummer PUD and Honda PUD were passed prior to the enactment of Bill 5-10 on January 19, 2010.

Ordinarily we would apply any applicable provisions of Bill 5-10 to the proceedings before us. However, the County Council clearly intended a different result by stating that “any PUD proposal for which the County Council passed a resolution, pursuant to Section 32-4-242, prior to the effective date of this Act, may proceed under the law and Master Plan recommendations in effect at the time the resolution was passed.” Because both PUDs were approved prior to the enactment of Bill 5-10, they are allowed to proceed under the law at the time they were approved, which requires us to continue to work backwards to determine the appropriate procedure for this second amendment.

C. Bill 130-05

It is Bill 130-05 that governs the Honda PUD portion of the GM PUD. The Honda PUD was approved on February 20, 2007, over a year after the effective date of Bill 130-05 on December 5, 2005. The County Council’s intent, as reflected in Section 7 of Bill 130-05, provides that the County Council intended for this procedure to be the procedure for all concept plans accepted for filing after October 17, 2005. The Honda PUD was accepted well after and, thus, Bill 130-05 lays out the procedure that governs the Honda PUD and the appeal before us.

Although Bill 130-05 failed to specifically adopt provisions for amendments to PUDs,

it did adopt provisions for “Development Plan Review.” Under Bill 130-05, a PUD was to be reviewed by the Department of Permits and Development Management pursuant to the newly enacted County Code Section 32-4-247, which at the time was part of the PUD title. As provided under paragraph (c), “[t]he department shall approve the development plan if it materially conforms to the concept plan as approved by the hearing officer, subject to any non-marital modifications the department may require.”

We agree with the ALJ that the second amendment of the plan should “be reviewed and approved in the same manner as the original plan.” Even though the ALJ did not undertake the same examination of the legislative history as we have, the ALJ correctly found that “the very same PUD Development Plan at issue in this case was amended in 2010 without the necessity of a Council Resolution, and it therefore seems perfectly reasonable that the Petitioners would believe it could be amended in a similar fashion two years later.” We, now, return to the original Honda PUD’s approval to determine the proper procedure for the second amendment and examine appellants’ contention that the Developer needed to seek a resolution to approve the second amendment under this Bill.

Under the plain language of the PUD title at the time of the Honda PUD’s approval, no approval was required for a development plan so long as it materially conformed to the concept plan that was originally approved. At the time that the Honda PUD was approved, the special exception of 1989 for the Shell Oil station was still in place. That special exception allowed for a service station and a food mart at 10111 York Road. Thus, the second amendment materially conformed with the original Honda PUD

concept plan because the land underlying the Honda PUD included a special exception to its zoning for the same use contemplated by and approved in the second amendment.

The crux of this finding rests on the initial approval of the Honda PUD's concept plan, which included the special exception for a service station and convenience mart. As the ALJ noted, the result "would obviously be otherwise if the property shown on the amended Development Plan was not included within the boundaries of the original PUD resolution, which is not the case here." Because the second amendment (and related development plan) materially conformed to the approved Honda PUD concept plan, the department was able to approve the amendment without a resolution.

Even if Developers needed to take some action for approval of the second amendment, they did more than enough to allow for public input on the second amendment. Pursuant to the request for the second amendment, Developers and various Baltimore County agencies held a Development Plan conference on January 25, 2012, to discuss the proposed amendment. Developers then petitioned for a special hearing. The matter was submitted to the OAH for review. A two-day hearing was held where testimony was taken from a variety of witnesses including Developers, engineers, and residents from the community. This allowed for community input in at least two stages before approval of the second amendment, which is more than what was required of Developers. Appellants do not seriously contend that the record lacks substantial evidence to support the agency's findings and conclusion even with some community members' opposition.

For the reasons stated above, even though the ALJ did not review the local laws and regulations, his failing did not change his factual findings and legal conclusion that

because an administrative hearing was all that was required for the first amendment, it was all that was needed for the second amendment.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANTS.**

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BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF

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IN THE

LISA TOMLINSON, et al.

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CIRCUIT COURT

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FOR

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BALTIMORE COUNTY

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Case No.: C-12-10656

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MEMORANDUM OPINION AND ORDER

This is an appeal of the decision of the Board of Appeals of Baltimore County (hereinafter "Board"), in case nos. CBA-12-061 and 12-150-SPH. By way of a decision issued on September 21, 2012, the Board affirmed the Administrative Law Judge's (hereinafter "ALJ") opinion and order issued on May 15, 2012. A Petition for Judicial Review was filed by the Petitioners, Lisa Tomlinson and Douglas Miller, on October 17, 2012. The Respondents, BKL York I, LLC, BKL York III, LLC, Logwood, LLC, and lessee, Wawa, Inc. (hereinafter "Developers"), filed their Response to this Petition on November 13, 2012. On November 27, 2012, Respondent Monterey Improvement Association filed its Response to the Petition. After the Petitioners and Developers filed their respective Memorandums, the Parties appeared before this Court on July 8, 2013 for a hearing. For the reasons set forth herein, the decision of the Board is AFFIRMED.

I. Background

The Developers seek to sublease a vacant parcel of land of the Anderson of Hunt Valley site to Wawa, for use as a convenience store and gas station.¹ This site previously received Planned Unit Development (hereinafter "PUD") approval, but the Developers needed to amend the instant PUD development plan for this proposed use. All of the Parties agree that the

¹ The location of the Wawa would be 10111 York Road.

amendment to the instant PUD development plan was material, and the PUD law at the time did not contain a provision addressing how to amend a PUD development plan.

Previously, there were a series of PUD development plans. However, a Deputy Zoning Commissioner consolidated the plans and files to create a single development plan, which encompassed all of the prior approvals on this specific site. This was done through an opinion issued on January 29, 2010, which was later revised through another opinion issued on March 3, 2010.² In addition to consolidating the plans, both opinions granted an amendment to the PUD development plan.³ Importantly, the Developers and People's Counsel agreed upon the amendment process that was utilized.⁴ Specifically, a Development Plan Conference (hereinafter "DPC") was held, and a Hearing Officer subsequently reviewed the proposed amendment at a public hearing; this process did not include seeking a County Council resolution.⁵ Regarding the instant amendment, the Developers followed the same procedure that was utilized in 2010, and therefore, did not seek a County Council resolution.⁶

An ALJ issued an opinion in this case on May 15, 2012.⁷ In this opinion and order, the ALJ ultimately determined that the Developers were not required to seek a County Council resolution to obtain an amendment to the instant PUD development plan.⁸ This conclusion was based on two different theories. First, the ALJ determined that Baltimore County, including its citizenry and People's Counsel, were estopped from insisting that a new County Council

² Pet'rs' Post Hr'g Mem. & App., Ex. 13, Jan. 29, 2010; Pet'rs' Post Hr'g Mem. & App., Ex. 14, Mar. 3, 2010.

³ Pet'rs' Post Hr'g Mem. & App., Ex. 13, pp. 19-20; Pet'rs' Post Hr'g Mem. & App., pp. 21-22.

⁴ Pet'rs' Post Hr'g Mem. & App., Ex. 13, p. 6 n.6; Pet'rs' Post Hr'g Mem. & App., Ex. 14, p. 7 n.6.

⁵ Pet'rs' Post Hr'g Mem. & App., Ex. 13, p. 6 n.6; Pet'rs' Post Hr'g Mem. & App., Ex. 14, p. 7, n.6.

⁶ The procedure that the Developers utilized for the instant amendment was as follows. First, an amended PUD development plan was filed with the Department of Permits, Approvals, and Inspections ("PAI"), for the purposes of determining the plan's compliance with the development regulations. A Petition for Zoning Relief was also filed with the Zoning Review Bureau of the PAI, in order to amend the zoning component of the PUD approval. Next, the proposed PUD amendment plan and a PUD pattern book were filed. After a Development Plan Conference ("DPC"), a public hearing was held. This hearing was conducted on February 17, 2012 and April 10, 2012.

⁷ Administrative Law Judge's Op. & Order on Planned Unit Development (PUD) & Pet. for Special Hr'g, May 15, 2012 (hereinafter "ALJ Op.").

⁸ ALJ Op., pp. 8-10.

resolution be obtained.⁹ Alternatively, the ALJ determined that whether a project is processed through the PUD or traditional development plan provisions, the end result is a “development plan.”¹⁰ Because of the references to traditional development plan regulations in the PUD provisions, and the fact that PUD and traditional development plans have common attributes and procedures, a PUD development plan should be amended pursuant to § 32-4-262(1).¹¹ Hence, as stated in § 32-4-262(1), the amendment should be “reviewed and approved in the same manner as the original plan.”¹² As such, the Developers were not required to secure a new County Council resolution.¹³ After the ALJ reached this conclusion, he then approved the material amendment of the PUD.¹⁴

The ALJ’s decision was then appealed to the Board of Appeals.¹⁵ The Board issued an opinion on September 21, 2012, which affirmed the ALJ’s opinion and order.¹⁶ Like the ALJ, the Board found that the procedure for amending a PUD development plan is the same procedure for amending a traditional development plan.¹⁷ Hence, the Developers were not required to obtain a new County Council resolution.¹⁸ Finally, the Board determined that the ALJ had sufficient evidence to approve the material amendment to the PUD development plan.¹⁹

After the Board’s decision, the Petitioners filed their Petition for Judicial Review on October 17, 2012. A Response was filed by the Developers on November 13, 2012, and

⁹ ALJ Op., pp. 8-9. Specifically, the ALJ determined that it was reasonable and debatable to conclude that a County Council resolution was required prior to an amendment. ALJ Op., p. 9. However, it was also reasonable to conclude that a resolution is not required, provided that the community had notification, and a public hearing was conducted. ALJ Op., p. 9.

¹⁰ ALJ Op., pp. 9-10.

¹¹ ALJ Op., p. 10.

¹² ALJ Op., p. 10; *see* BCC § 32-4-262(1).

¹³ ALJ Op., p. 10.

¹⁴ ALJ Op., pp. 11-12.

¹⁵ Board of Appeals Op., Sept. 21, 2012.

¹⁶ Board of Appeals Op., p. 11.

¹⁷ Board of Appeals Op., pp. 4-6.

¹⁸ Board of Appeals Op., p. 6.

¹⁹ Board of Appeals Op., pp. 7-11.

Respondent Monterey Improvement Association filed its Response on November 27, 2012. The Petitioners filed their Memorandum on January 17, 2013, with the Developers filing their Answering Memorandum on February 20, 2013. The Court then held a hearing on July 8, 2013 to hear each Party's respective arguments.

II. Issue Presented

The sole issue presented for review is whether the Developers were required to seek a County Council resolution authorizing the material amendment of the instant non-residential PUD development plan.

III. Standard of Review

Judicial review of an administrative agency decision is limited to determining whether the agency's findings and conclusions are supported by substantial evidence, and whether the decision is based on an erroneous conclusion of law.²⁰ Regarding findings of fact, the scope of review is narrow, and the court will not substitute its judgment for the expertise of the administrative agency.²¹ Thus, these decisions will be upheld if they are reasonably supported by substantial evidence.²² In determining whether there is substantial evidence to support the agency's findings, the court decides whether a "reasoning mind reasonably could have reached the factual conclusion the agency reached."²³

In contrast, the court's review of a question of law is less deferential, and the court will not uphold a decision which is based solely on an erroneous conclusion of law.²⁴ However, if the agency's conclusion is based on a legal interpretation of its own statutes or regulations, the

²⁰ *Motor Vehicle Admin. v. Loane*, 420 Md. 211, 223 (2011) (quoting *Motor Vehicle Admin. v. Aiken*, 418 Md. 11, 26 (2011)).

²¹ *HNS Dev., LLC v. People's Counsel for Baltimore Cnty.*, 425 Md. 436, 449 (2012); *Frey v. Comptroller of Treasury*, 422 Md. 111, 137 (2011).

²² *HNS Dev., LLC*, 425 Md. at 449 (citing *People's Counsel for Baltimore Cnty. v. Surina*, 400 Md. 662, 681 (2007)).

²³ *Employees' Ret. Sys. of City of Baltimore v. Dorsey*, 430 Md. 100, 110 (2013).

²⁴ *Id.* at 111; see also *Para v. 1691 Ltd. P'ship*, 211 Md. App. 335, 356 (2013).

agency is entitled to a degree of deference.²⁵ When interpreting a statute, the court's task is "to ascertain and effectuate the intent of the legislative body and to avoid construction of a statute which is unreasonable, illogical, unjust, or inconsistent with common sense."²⁶ To complete this task, the court will first look at the words of the statute.²⁷ If the words of the statute are clear and unambiguous, the court will end its inquiry.²⁸ Moreover, particular provisions of a statute are interpreted in the context of the entire statutory scheme, and "read together and harmonized to the extent possible."²⁹

IV. Discussion

The Petitioners maintain that a County Council resolution was required before the Developers amended the instant PUD development plan. In contrast, the Developers argue that the Board correctly interpreted the PUD law to determine that a resolution was not required. The issue presented for this Court's review is unique, because while this case was pending before the Board, a provision was enacted that addressed the proper procedure for amending PUD development plans.³⁰ Specifically, § 32-4-245(e) now provides the applicable procedure for seeking amendments to PUD development plans.³¹

In support of their position that a County Council resolution is required for amendments, the Petitioners cite several cases that stand for the proposition that courts are bound to decide cases according to existing laws.³² The Petitioners then cite several Bills that existed at the time

²⁵ *Para*, 211 Md. App. at 356; *Fraternal Order of Police, Montgomery Cnty. Lodge 35 v. Montgomery Cnty. Exec.*, 210 Md. App. 117, 128 (2013).

²⁶ *HNS Dev., LLC*, 425 Md. at 450 (citing *Mayor & City Council of Rockville v. Rylyns Enters., Inc.*, 372 Md. 514, 550 (2002)).

²⁷ *Id.* (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

²⁸ *Id.* (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

²⁹ *Id.* (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

³⁰ BCC § 32-4-245(e).

³¹ BCC § 32-4-245(e).

³² *Grasslands Plantation, Inc. v. Frizz-King Enters., LLC*, 410 Md. 191 (2009); *Layton v. Howard Cnty. Bd. of Appeals*, 399 Md. 36 (2007); *Yorkdale Corp. v. Powell*, 237 Md. 121 (1964).

the Developers applied for their amendment, which the Petitioners assert are applicable to the instant case. Specifically, Bill 5-10 requires submission to the County Council for a resolution,³³ Bill 36-11 requires a post-submission community meeting,³⁴ and Bill 64-11 requires an additional consideration of public benefit.³⁵ However, as correctly pointed out by the Developers, these Bills do not pertain to how PUD development plans are amended. Instead, these Bills relate to the *application* for PUD approval.³⁶ Therefore, the fact remains that when the Developers sought to amend the instant PUD development plan, the PUD law did not contain a provision addressing the amendment process. As such, the Board was tasked with interpreting the PUD law to determine the appropriate procedure for amending PUD development plans. After review, the Court finds that the Board correctly concluded that § 32-4-262(1) controlled the amendment of the instant PUD development plan.

When the Board interpreted the PUD provisions, it appropriately considered the entire PUD statutory scheme.³⁷ Based on its review, the Board concurred with the ALJ's conclusion that whether the plan proceeded under the traditional development plan or PUD provisions, the end result is the approval of a "development plan."³⁸ To support this conclusion, the Board found specific references to traditional development plan regulations in the PUD provisions.³⁹ Specifically, the Board cited to § 32-4-243(a), § 32-4-243(c), § 32-4-243(d), § 32-4-243(e), and

³³ Pet'rs' Mem. & App. for Pet. for Judicial Review, App. F.

³⁴ Pet'rs' Mem. & App. for Pet. for Judicial Review, App. G.

³⁵ Pet'rs' Mem. & App. for Pet. for Judicial Review, App. H.

³⁶ More specifically, Bill 5-10 requires that a PUD application be submitted to the County Council for approval. See Pet'rs' Mem. & App. for Pet. for Judicial Review, App. F. Moreover, Bill 36-11 requires that a post-submission community hearing take place following the submission of a PUD application. See Pet'rs' Mem. & App. for Pet. for Judicial Review, App. G. Finally, Bill 64-11 revised the community benefit standard. See Pet'rs' Mem. & App. for Pet. for Judicial Review, App. H.

³⁷ Board of Appeals Op., pp. 5-6; see BCC §§ 32-4-241 – 32-4-245; *HNS Dev., LLC*, 425 Md. at 450 (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

³⁸ Board of Appeals Op., pp. 4-5.

³⁹ Board of Appeals Op., p. 5.

§ 32-4-245(b).⁴⁰ Additionally, this Court found another reference in § 32-4-242(c), which requires a post-submission community meeting subsequent to the submission of a PUD application.⁴¹ The Board's interpretation is further supported by the fact that it is logical.⁴² As stated by the Board, if the County Council wanted developers to secure a new resolution before obtaining an amendment, the Council would have enacted a provision.⁴³ Also, the interpretation is practical, because amendments to development plans are common.⁴⁴

Finally, the Board found it compelling that this instant PUD development plan was previously amended in 2010, without securing a County Council resolution.⁴⁵ The Court also finds this fact compelling. As noted previously, the Developers followed the same procedure that was utilized in 2010, which was primarily agreed upon in order for the public to be afforded an opportunity to consider the proposed use.⁴⁶ This process included a DPC and public hearing, but did not include a new County Council resolution.⁴⁷ Since there was no applicable PUD provision, and the fact that this procedure was previously agreed upon, it was reasonable for the Developers to follow this process. Although the Petitioners make it seem that the public did not have an opportunity to consider the proposed amendment, a public hearing was held, which is evidenced by the ALJ's description of the testimony that he heard at the hearing.⁴⁸ Hence, the

⁴⁰ Board of Appeals Op., p. 5.

⁴¹ Specifically, this provision requires that the post-submission hearing proceed in the same manner as § 32-4-217(b). See § 32-4-242(c). This procedure was enacted pursuant to Bill 36-11, which the Petitioners argue is applicable to the instant case. As noted above, this specific provision relates to the *application* of PUD development plans, rather than *amendments* to PUD development plans. See § 32-4-242.

⁴² See *HNS Dev., LLC*, 425 Md. at 420 (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

⁴³ Board of Appeals Op., p. 6.

⁴⁴ Board of Appeals Op., p. 6; see *HNS Dev., LLC*, 425 Md. at 420 (citing *Mayor & City Council of Rockville*, 372 Md. at 550).

⁴⁵ Board of Appeals Op., p. 6.

⁴⁶ Pet'rs' Post Hr'g Mem. & App., Ex. 13, p. 6 n.6; Pet'rs' Post Hr'g Mem. & App., Ex. 14, p. 7, n.6.

⁴⁷ Pet'rs' Post Hr'g Mem. & App., Ex. 13, p. 6 n.6; Pet'rs' Post Hr'g Mem. & App., Ex. 14, p. 7, n.6.

⁴⁸ In his opinion, the ALJ described the testimony of each witness, who either testified on behalf of the County or the Developers. ALJ Op., pp. 3-8.

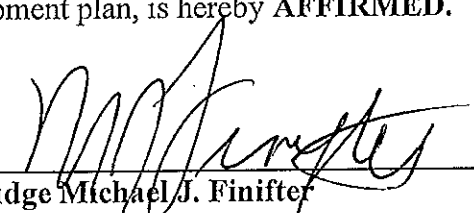
public did have an opportunity to consider this amendment, and the testimony seems to reflect that the public actually approved of the proposed use.⁴⁹

Based on the above analysis, it is clear that the Board engaged in a "process of reasoned elaboration" in making its determination that § 32-4-262(1) controlled the instant amendment.⁵⁰ Specifically, the Board analyzed the entire PUD statutory scheme, and found several references to traditional development plan regulations. The Board's conclusion is further supported by the fact that it is both practical and logical, and by the important fact that this PUD development plan was previously amended in 2010, without securing a new County Council resolution. Therefore, the Court concludes that the Board's decision was not based on an erroneous conclusion of law.

V. Final Order

WHEREFORE, it is this 4 day of September 2013, by the Circuit Court for Baltimore County,

ORDERED, that the decision of the Board of Appeals of Baltimore County, which determined that the Developers are not required to obtain a County Council resolution authorizing the amendment of the instant PUD development plan, is hereby **AFFIRMED**.



Judge Michael J. Finifter

⁴⁹ At the hearing before the ALJ, there was testimony from both the secretary and president of the Monterey Improvement Association. ALJ Op., p. 7. The Monterey Improvement Association comprises eighty-nine houses located to the east of the proposed Wawa. ALJ Op., p. 7. The secretary testified that the Association and Developers had many meetings and discussions about the proposed project, and that the Association approved of the project. ALJ Op., p. 7. Next, the president testified in a similar fashion, stating that his organization supported the proposed development plan. ALJ Op., p. 7.

⁵⁰ See *Baltimore Gas & Elec. Co. v. Pub. Serv. Comm'n of Maryland*, 305 Md. 145, 161-62 (1986) ("When an agency clearly demonstrates that it has focused its attention on the statutory provisions in question, thoroughly addressed the relevant issues, and reached its interpretation through a sound reasoning process, the agency's interpretation will be accorded the persuasiveness due a well-considered opinion of an expert body.").

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

*

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PETITION OF:
LISA TOMLINSON AND DOUGLAS MILLER

*

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

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CIVIL ACTION
NO. : 03-C-12-010656

IN THE MATTER OF:
ANDERSON GM – LEGAL OWNER/
PETITIONER FOR PUD AND SPECIAL
HEARING FOR PROPERTY LOCATED AT
E/SIDE OF YORK ROAD, N OF
HALESWORTH ROAD
(10111, 10125, 10131 YORK ROAD AND
10 HALESWORTH ROAD)

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8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

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BOARD OF APPEALS CASE NO.: CBA-12-061
AND 12-150-SPH

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**PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY**

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now comes the Board of Appeals of Baltimore County and, in answer to the Petition for Judicial Review directed against it in this case, herewith transmits the record of proceedings had in the above-entitled matter, consisting of the original papers on file in the Department of Permits, Approvals and Inspections (formerly known as the Department of Permits and Development Management) and the Board of Appeals of Baltimore County:

**ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS**

OF BALTIMORE COUNTY

No. CBA-12-061 (The following documents are located in File 3 of 3)

June 5, 2007	Development Review Committee Application Form Checklist
June 6, 2007	Letter from James Matis, P.E., MatisWarfield, enclosing the Application form.
June 6, 2007	Development Review Committee (DRC) Application
July 12, 2007	Letter from Timothy Kotroco, Director of Permits and Development Management adopting the recommendations of the Development Review Committee.
September 15, 2008	Letter from James Matis, P.E. of MatisWarfield requesting a refinement of the PUD authorization, with attachments.
September 16, 2008	Development Review Committee (DRC) Application
October 20, 2008	Letter from Timothy Kotroco, Director of Permits and Development Management adopting the recommendations of the Development Review Committee.
November 24, 2009	Letter from Joe Chmura, Development Management to MatisWarfield requesting documents regarding the 1 st material amendment with attached plans.
November 24, 2009	Letter from Joe Chmura, Development Management to MatisWarfield requesting documents regarding the 1 st material amendment with attached plans and hand-written notes dated 11/30/09.
November 27, 2009	Plans stamped received by Department of Permits and Development Management.
December 21, 2011	Transmittal from MatisWarfield with attached plans.
December 21, 2011	Development Plan Checklist with 3 sets of plans.

On Left Side of Green Folder:

January 20, 2012	Certificate of Posting
Undated	Map of area with lots highlighted.

Undated	General Information form (3 pages)
February 20, 2007	Hearing Officer's Review and Approval Order for Case No: VIII-848
October 31, 2003	Hearing Officer's Opinion and Development Plan Order in Case No: VIII-796 with attached Declaration of Covenants, Conditions and Restrictions dated October 22, 2003.

Under Yellow Divider Marked HOH:

December 1, 2009	Letter from James E. Matis, P.E. to Dellcrest Realty Company providing notification of the Development Plan Conference and Hearing Officer's Hearing.
December 2, 2009	Letter advising of Development Plan Conference and Hearing Officer's Hearing in PDM Case no. 08-796. Regarding the Anderson GM 1 st Material Amendment.
December 8, 2009	Transmittal from MatisWarfield forwarding a set of Notification letters and Certificates of Mailing. (30 pages)
December 15, 2009	Certificate of Posting
December 23, 2009	Inter-Office Correspondence from Colleen Kelly, Project Manager PDM Development Service to the Honorable T. Bryan McIntire, County Councilman, District 3, enclosing copies of the County agency comments provided at the development plan conference. (No copies attached)
March 3, 2010	Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinion and Order issued in PDM Case no 08-796 (formerly VIII-796 and VIII-848) and Zoning Case no 10-161-SPH, by then Deputy Zoning Commissioner, Thomas Bostwick wherein the redlined Anderson GM PUD Development Plan was approved; and the Special Hearing relief was granted as requested with conditions.
January 5, 2012	Letter advising of Development Plan Conference and Hearing Officer's Hearing.
January 10, 2012	Transmittal from MatisWarfield forwarding a set of Notification letters and Certificates of Mailing. (33 pages)

Under Green Divider Marked DPC:

Undated	Request for HOH form.
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January 25, 2012	Inter-office Correspondence from Colleen Kelly, Development Manager, PAI Development Services to the Honorable Todd Huff, County Councilman, District 3, enclosing copies of the County agency comments regarding Anderson GM PUD 2 nd Amended Material Amendment. Joseph C. Merrey, Planner II, PDM – Zoning Review, January 25, 2012 Ron Goodwin, PAI, Real Estate Compliance, January 25, 2012 Dennis Kennedy, Supervisor, Bureau of Plans Review, PAI, January 24, 2012 Andrea Van Arsdale, Director of Department of Planning, January 25, 2012 Steven D. Foster, Chief, Access Management Division, State Highway Administration, January 24, 2012 (2 copies) Department of Development Plans Review, January 25, 2012 Regina Esslinger, Department of Environmental Protection and Sustainability, January 25, 2012 Janice M. Kemp, House Numbers and Road Names Section, PAI, January 10, 2012 Don W. Muddiman, Inspector, Baltimore County Fire Marshal's Office, January 10, 2012
December 23, 2011	Inter-office correspondence from Colleen Kelly, Development Manager, PAI to Peggy Buckless, Manager, Office of Information Technology, Central Printing regarding plans to be scanned
December 22, 2011	Development Plan Submittal
January 4, 2010	Development Plan Comments from Steven D. Foster, Chief, Access Management Division, State Highway Administration
Undated	Request for HOH form for case number 10-161-SPH
December 28, 2009	Development Plan Conference comments from Janice M. Kemp, House Numbers and Road Names Section, PAI. (2 copies)
December 23, 2009	Development Plan comments from Regina Esslinger, Department of Environmental Protection and Sustainability.
December 23, 2009	Development Plan comments from Arnold F. "Pat" Keller, III, Director of Department of Planning.
December 23, 2009	Development Plan Conference Comments from Department of Recreation and Parks.

December 23, 2009 Development Plan Conference Comments from Joseph C. Merrey, Planner II, Zoning Review.

December 23, 2009 Development Plan Comments from Ronald Goodwin, Bureau of Land Acquisition.

December 20, 2009 Development Plan Comments from Dennis Kennedy, Supervisor, Bureau of Development Plans Review.

December 17, 2009 Development Plan Comments from Steven D. Foster, Chief, Access Management Division, State Highway Administration.

December 10, 2009 Development Plan Comments from Lt. Roland Bosley, Jr., Fire Marshal's Office.

December 3, 2009 Inter-office correspondence from Colleen Kelly, Development Manager, PAI to Peggy Buckless, Manager, Office of Information Technology, Central Printing regarding plans to be scanned

November 25, 2009 Transmittal from Matis Warfield enclosing the Development Plan, Development Plan Checklist, Schematic Landscape Plan, Environmental Effects Report and Hydro Geo Study, and Pattern Book.

Under Red Divider Marked BOA:

May 1, 2009 Letter from Colleen Kelly, Project Manager to David Gildea, Esquire regarding the consolidation of three related PDM files.

December 8, 2009 Certificate of Mailing (4 pages)

The following documents are located in File 1 of 3

No. 12-150-SPH

December 21, 2011 Petition for Special Hearing for the amendment of the Anderson GM PUD previously approved in Deputy Zoning Commissioner, Thomas H. Bostwick's Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinions and Order dated March 3, 2012 in Zoning Case No 10-161-SPH and for the material amendment of the Order and non-residential Development Plan for the Anderson GM PUD in PUD No. 08-796, filed by Jason Vettori, Esquire on behalf of Legal Owners/Petitioners.

January 5, 2012 Entry of Appearance filed by People's Counsel for Baltimore County.

February 2, 2012 Certificate of Posting.

February 6, 2012 ZAC Comments

No. 12-150-SPH and CBA-12-061

February 17, 2012 Hearing held before the Administrative Law Judge, Day 1.

April 10, 2012 Hearing held before the Administrative Law Judge, Day 2.

The following documents are located in File 2 of 3

Developer's Exhibits No.

- 1a – Cover Sheet for Anderson GM PUD Development PDM #08-796, 2nd Material Amendment and Plan to Accompany Petition for Special Hearing.
- 1b – Development Plan
- 1c – Details for Anderson GM
- 1d – Details for Wawa Fuel Service Station and Convenience Store
- 2 – James E. Matis, P.E., Curriculum Vitae
- 3 – Development Plan (colored)
- 4 – Photograph of site looking southeast
- 5a – Certificate of Posting dated 1/20/12 for the Hearing Officer's Hearing.
- 5b – Certificate of Posting dated 2/2/12 for the Administrative Law Judge's Hearing in Case No. 12-150-SPH
- 5c – Certificate of Publication dated 2/2/12
- 6 – Approved Sign Posters map
- 7 – Notice of Zoning Hearing dated 1/17/12 for case no. 12-150-SPH
- 8 – Notice of Hearing Officer's Hearing undated for PUD/PAI No 08-796.
- 9 – Corrected Notice of Zoning Hearing dated 1/20/12 for Case No 12-150-SPH
- 10 – Petition for Special Hearing
- 11 – Development Plan for 1st Material Amendment
- 12 – Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinion and Order issued 3/3/10 by Deputy Zoning Commissioner Thomas Bostwick in Case No: 10-161-SPH and 08-796
- 13 – ZAC Comments for Case No: 12-150-SPH
- 14 – Letter from R. Alexander Wirth, P.E., Manager of Stormwater Engineering, Department of Environmental Protection and Sustainability dated 1/17/12
- 15 – Stop the Wawa Flyer
- 16 – Vicinity Aerial Photograph
- 17 – Vicinity Aerial Photograph with site highlighted.
- 18 – Photographs of site

Protestant's Exhibits No.

- 1 – Packet of County Council Bills (5-10; 55-07; 130-05; 19-04; 47-94)
- 2 – County Council Bill 36-11
- 3 – County Council Bill 64-11
- 4 – County Council Resolution No 64-06

County Exhibit's No.

- 1 – Development Plan Conference Comments dated 1/25/12
- 2 – Supplemental Pattern Book

March 9, 2012	Transcript of hearing before Administrative Law Judge on February 17, 2012
April 10, 2012	Email from John Beverungen, Administrative Law Judge to Peter Zimmerman, Office of People's Counsel inquiring about whether it is necessary for a County Council Resolution for an amendment of a previous PUD approval.
April 12, 2012	Email from Peter Zimmerman, People's Counsel to John Beverungen, Administrative Law Judge.
April 19, 2012	Letter from Office of People's Counsel to John Beverungen, Administrative Law Judge regarding whether it is necessary for a County Council Resolution for an amendment of a previous PUD approval.
April 30, 2012	Protestant's Memorandum and Appendix filed before the Administrative Law Judge by J. Carroll Holzer, Esquire on behalf of Protestants.
May 1, 2012	Petitioner's Post-Hearing Memorandum and Appendix filed before the Administrative Law Judge by Jason T. Vettori, Esquire on behalf of Petitioners/Developer.

The following documents are located in File 1 of 3

CBA-12-061

May 15, 2012	Administrative Law Judge's Opinion and Order on Planned Unit Development (PUD) and Petition for Special Hearing wherein the redlined Development Plan was APPROVED and the relief requested in the Petition for Special Hearing was GRANTED.
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June 12, 2012 Notice of Appeal filed by J. Carroll Holzer, Esquire on behalf of Lisa Tomlinson and Douglas Miller, Protestants/Appellants.

June 12, 2012 Petition on Appeal filed by J. Carroll Holzer, Esquire on behalf of Lisa Tomlinson and Douglas Miller, Protestants/Appellants

August 9 Board convened for hearing.

Exhibits submitted at hearing before the Board of Appeals:

Developer's Exhibit No.

- 1 – Transcript of February 17, 2012 Hearing by Administrative Law Judge on PUD Appeal
- 2 – Post-Hearing Brief as submitted to Administrative Law Judge
- 3a – Footprint of PUD before amendment
- 3b – Note 39 from Development plan regarding future amendments

September 6, 2012 Board convened for public deliberation.

September 21, 2012 Final Opinion and Order issued by the Board in which the requested approval of an amendment to a previously approved Planned Unit Development ("PUD") and Petition for Special Hearing were GRANTED.

October 17, 2012 Petition for Judicial Review filed in the Circuit Court for Baltimore County by J. Carroll Holzer, Esquire on behalf of Lisa Tomlinson and Douglas Miller.

October 26, 2012 Copy of Petition for Judicial Review received from the Circuit Court for Baltimore County by the Board of Appeals.

October 31, 2012 Certificate of Compliance sent to all parties and interested persons.

November 7, 2012 Response to Petition for Judicial Review filed in the Circuit Court for Baltimore County by Jason Vettori, on behalf of BKL York I, LLC, BKL York III, LLC, Logwood, LLC and Wawa, Inc.

November 21, 2012 Response to Petition for Judicial Review filed in the Circuit Court for Baltimore County by Monterey Improvement Association, Chris Harvey, Secretary and Chris Harvey, Individually.

December 19, 2012 Transcript of testimony filed.

December 19, 2012 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Sunny Cannington

Sunny Cannington, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Ave.
Towson, Maryland 21204
410-887-3180

c: Jason Vettori, Esquire
BKL York I, LLC/Bruce Mortimer
BKL York III, LLC/Bruce Mortimer
J. Carroll Holzer, Esquire
Lisa Tomlinson
Douglas Miller
Bruce Rice
Theodore Iobst
Glenn Cook
James Matis, Matis Warfield
Eric Rockel
Jim Rogers, Sr.
John Sankonis
Chris Harvey
Haren Shah
Andrew Tawny
Rich Zeller, SHA/AMD
David Lykens, Department of Environmental Protection and Sustainability
Dennis Kennedy, Development Plans Review/PAI
Lloyd Moxley, Department of Planning
Ron Goodwin, Zoning Review/PAI
Colleen Kelly, Project Manager/PAI
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
John E. Beverungen, Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy C. West, Assistant County Attorney
Michael Field, County Attorney

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

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PETITION OF:
LISA TOMLINSON AND DOUGLAS MILLER

*

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

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CIVIL ACTION
NO. : 03-C-12-010656

IN THE MATTER OF:
ANDERSON GM – LEGAL OWNER/
PETITIONER FOR PUD AND SPECIAL
HEARING FOR PROPERTY LOCATED AT
E/SIDE OF YORK ROAD, N OF
HALESWORTH ROAD
(10111, 10125, 10131 YORK ROAD AND
10 HALESWORTH ROAD)

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8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

*

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BOARD OF APPEALS CASE NO.: CBA-12-061
AND 12-150-SPH

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CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

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

BKL York I, LLC
Bruce Mortimer
10131 York Road
Cockeysville, MD 21030

BKL York III, LLC
Bruce Mortimer
10125 York Road
Cockeysville, MD 21030

J. Carroll Holzer, Esquire
508 Fairmount Avenue
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Lisa Tomlinson
10118 Daventry Drive
Cockeysville, MD 21030

Douglas Miller
2114 York Road
Timonium, MD 21093

Bruce Rice
P.O. Box 448
Riderwood, MD 21139

Theodore Iobst
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James Matis
Matis Warfield
10540 York Road, Ste M
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Eric Rockel
1610 Riderwood Drive
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10102 Daventry Drive
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John Sankonis
10111 Daventry Drive
Cockeysville, MD 21030

Chris Harvey
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Rich Zeller
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David Lykins
Department of Environmental Protection
and Sustainability
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Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 31st day of October, 2012 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.


Sunny Cannington, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180



Board of Appeals of Baltimore County

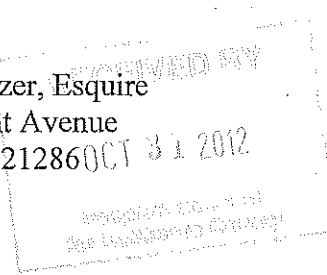
JEFFERSON BUILDING
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60 / PMZ

October 31, 2012

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

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



RE: Petition for Judicial Review
Circuit Court Case No.: 03-C-12-010656
In the Matter of: Anderson GM PUD
Board of Appeals Case No.: CBA-12-061 and 12-150-SPH

Dear Counsel:

Notice is hereby given, in accordance with the Maryland Rules that a Petition for Judicial Review was filed on October 17, 2012 by J. Carroll Holzer, Esquire, on behalf of Lisa Tomlinson and Douglas Miller, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response with the Circuit Court for Baltimore County within 30 days after the date of this letter, pursuant to the Maryland Rules.

In accordance with the Maryland Rules, the Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review within 60 days. J. Carroll Holzer, Esquire, on behalf of Lisa Tomlinson and Douglas Miller, having taken the appeal, is responsible for the cost of the transcript of the record and the transcript must be paid for in time to transmit the same to the Circuit Court within the 60 day timeframe as stated in the Maryland Rules.

Courtsmart was the official record of the hearings before the Board. The disk(s) will be copied by this office and provided for transcription. The transcriptionist must meet the requirements set forth in Maryland Rule 16-406d(B) which states: "*a stenographer, court reporter, or transcription service designated by the court for the purpose of preparing an official transcript from the recording.*" The Board of Appeals can assist in obtaining a qualified transcriptionist upon request.

Please be advised that the ORIGINAL transcripts must be provided to the Board of Appeals no later than DECEMBER 12, 2012 so that they may be transmitted to the Circuit Court with the record of proceedings, pursuant to the Maryland Rules.

A copy of the Certificate of Compliance has been enclosed for your convenience.

Very truly yours,



Sunny Cannington
Legal Secretary

Enclosure

cc: BKL York I, LLC, Bruce Mortimer
Lisa Tomlinson
Bruce Rice
Glenn Cook
Eric Rockel
John Sankonis
Haren Shah
Rich Zeller, SHA/AMD
David Lykens, Department of Environmental Protection and Sustainability
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BKL York III, LLC, Bruce Mortimer
Douglas Miller
Theodore Iobst
James Matis, Matis Warfield
Jim Rogers, Sr.
Chris Harvey
Andrew Tawny



Board of Appeals of Baltimore County

File

JEFFERSON BUILDING
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October 31, 2012

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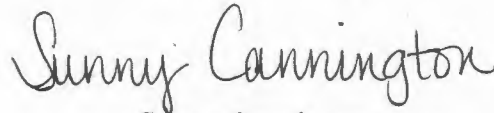
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Very truly yours,



Sunny Cannington
Legal Secretary

Enclosure

cc:	BKL York I, LLC, Bruce Mortimer	BKL York III, LLC, Bruce Mortimer
	Lisa Tomlinson	Douglas Miller
	Bruce Rice	Theodore Iobst
	Glenn Cook	James Matis, Matis Warfield
	Eric Rockel	Jim Rogers, Sr.
	John Sankonis	Chris Harvey
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	Arnold Jablon, Director/PAI	
	Andrea Van Arsdale, Director/Department of Planning	
	Nancy C. West, Assistant County Attorney	
	Michael Field, County Attorney	

IN RE: PLANNED UNIT DEVELOPMENT &
PETITION FOR SPECIAL HEARING

E. Side of York Road,

N of Halesworth Road

8th Election District

3rd Councilmanic District

(Anderson GM – 10111,10125, 10131

York Road & 10 Halesworth Road) -

2nd Material Amendment

Anderson Motors, LLC, Developer

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BEFORE THE

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BOARD OF APPEALS

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OF

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BALTIMORE COUNTY

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CASE NO.: CBA-12-061

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(PDM 08-796) AND

12-150-SPH

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OPINION

This case comes to the Board on appeal of the final decision of the Administrative Law Judge of Baltimore County in which Protestants' Motion to Dismiss was denied and the Petitioner's Request for approval of an amendment to an approved Planned Unit Development (a "PUD") and a Petition for Special Hearing relief was granted.

A public hearing was held before this Board on August 9, 2012 where the Protestants' Motion to Dismiss was heard on oral argument. The Petitioner was represented by Jason Vettori, Esquire, David K. Gildea, Esquire and the Law Offices of Smith, Gildea & Schmidt, LLC. The Protestants, Lisa Tomlinson and Douglas Miller, were represented by J. Carroll Holzer, Esquire. Public Deliberation was held on September 6, 2012.

FACTUAL BACKGROUND

The Petitioner is collectively BKL York, I, LLC, BKL York III, LLC, Logwood, LLC and lessee Wawa, Inc. (hereinafter the "Petitioner"). The Petitioner seeks to sublease a vacant parcel of land comprising approximately 1.6 acres of the Anderson of

Hunt Valley site to Wawa, for use as a convenience store and gas station (the "Property"). This same type of use existed at the site in Case No.: 90-81-X by way of special exception. However, this use was formally abandoned in 2007 (Case No.: 07-346-SPH). Under the Amendment, the Wawa would be located at 10111 York Road (proposed Lot 5) as reflected on the Petitioner's redlined Development Plan (ALJ Exh. 1A).

The Property is currently used as a GM car dealership. The proposed location for the Wawa is within the PUD authorization area as previously approved by then Deputy Zoning Commissioner Bostwick in his Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinion and Order dated March 3, 2010 (Zoning Case No.: 2010-0161-SPH). Commissioner Bostwick's Order contains an extensive zoning and development history. As the title of his Order suggests, it combined and amended two (2) previous PUD approvals. For the sake of brevity, this Board incorporates Commissioner Bostwick's Order herein.

STANDARD OF REVIEW

The law governing the Board's review of a PUD is found within Baltimore County Code ("BCC"), §32-4-245(d) and requires any appeal of a PUD to this Board to be reviewed in accordance with BCC §32-4-281 which reads as follows:

§ 32-4-281. APPEAL TO THE BOARD OF APPEALS.

* * * *

(e) *Actions by Board of Appeals.*

(1) In a proceeding under this section, the Board of Appeals may:

DECISION

I. Material Amendment of an Approved PUD.

The only issue raised by the Protestants was the argument that, because the proposed use was changing from an automobile dealership to a gas station/convenience store, it was a material amendment to a previously approved PUD, and therefore required the Petitioner to submit an application and obtain a new County Council resolution in accordance with BCC, §32-4-241 *et seq.*

The Protestant's issue is one of statutory construction. Under BCC§ 32-4-281(e), this Board must review the ALJ's interpretation of the PUD statute to determine whether there was an error of law. The ALJ held that an amendment to a PUD did not require a petitioner to start the PUD process over by filing an application or obtaining a new County Council Resolution. The ALJ found that whether the process used was for a traditional development plan under §32-4-221 *et seq.*, or under the PUD statute, the end result in both instances was the "approval of a development plan." He concluded that BCC §32-4-262(1) controls material amendments of both traditional development plans and PUDs, and permits such amendments to be reviewed and approved in the same manner that the original plan was approved.

We agree. First, it was undisputed between the Parties that the instant request concerned a material amendment. Second, it was also undisputed between the Parties that the PUD statute does not contain any provisions regarding how to amend a PUD.

Yet, in reviewing the PUD statute, we found several instances where the PUD statute refers to the traditional development plan regulations, namely:

- (1) §32-4-243(a) states that the informal meeting with County agencies for a PUD is conducted in the same way that a traditional concept plan is reviewed under §32-4-211.
- (2) §32-4-243(c) requires a PUD to have a Concept Plan conference in accordance with development regulation §32-4-216.
- (3) §32-4-243(d) provides that the Community Input Meeting for a PUD be held in accordance with development regulation §32-4-217.
- (4) §32-4-243(e) states that after community input meeting, an applicant for a PUD shall file a development plan in accordance with the development regulations.
- (5) §32-4-245(b), the ALJ must review the PUD to determine whether it is in compliance with the requirements of the development regulations;

These provisions in the PUD statute make it clear to this Board that the County Council drafted the PUD statute around the existing development plan regulations found in the other provisions of Part 4, Title 32. It follows that the referrals to traditional development plan regulations found throughout the PUD statute, as set forth above, solidifies the ALJ's decision that the procedure for amending a PUD, is the same procedure for amending a traditional development plan found in §32-4-262(1). Section 32-4-262(1) provides:

- (1) Any material amendment to an approved non-residential Plan shall be reviewed and approved in the same manner as the original Plan.

We add that if the County Council had intended for previously approved PUDs to be amended in the same manner that a PUD application is initially started (i.e. commencing with a PUD application followed by another County Council Resolution), then the Council would have drafted a specific provision in the PUD statute which required the same. Because amendments of development plans are commonplace, we believe that our analysis of the PUD statute also makes the most practical sense. We further recognize that the very same development plan at issue here was amended in 2010 without the necessity of a Council Resolution. This fact lends further support for our interpretation.

However, without overstating the obvious, we add that the property which is being amended must be included within the original PUD boundaries (also commonly referred to as the 'PUD Authorization Area'). If the property to be amended is located outside of the original PUD boundaries, the Protestants' argument would carry considerable weight because the property at issue was never considered by the Council as part of the original plan.

As a result, because BCC §32-4-262(1) contains the procedure for amending a non-residential previously approved PUD, we find that the Petitioner followed the appropriate procedure here and sought to have its amendment approved in the same manner that the original plan was approved. Accordingly, we agree with the ALJ's decision to deny the Protestants' Motion to Dismiss.

II. Did the ALJ have before him sufficient evidence to approve the material amendment to the PUD under the requirements set forth in BCC, §32-4-245(b)?

In regard to the merits of the Petitioner's PUD amendment, this Board is charged with reviewing the evidence presented to the ALJ and deciding whether each of the 5 factors set forth in BCC, §32-4-245(c) has been met. Notwithstanding that the Protestants did not present any evidence to contradict the Petitioner's case, the ALJ must independently find evidence on each factor. We find that the Petitioner has satisfied its burden of proof.

BCC § 32-4-245(c) permits the ALJ to approve a proposed PUD only upon finding that the PUD meets all of the following 5 factors:

- (1) The proposed development meets the intent, purpose, conditions and standards of this section;
- (2) The proposed development will conform with Section 502.1 A, B, C, D, E and F of the B.C.Z.R. and will constitute a good design, use and layout of the proposed site;
- (3) There is a reasonable expectation that the proposed development, including development schedules contained in the PUD development plan will be developed to the full extent of the plan;
- (4) Subject to the provisions of §32-4-242(c)(2), the development is in compliance with Section 430 of the Baltimore County Zoning Regulations; and
- (5) The PUD development plan is in conformance with the goals, objectives and recommendations of the Master Plan or area plans, or the Department of Planning.

In our review of the record concerning these 5 factors, we find as follows:

- (1) Proposed development meets the intent, purpose, conditions and standards of this section.

In regard to Subsection (1), while the ALJ did not provide a specific heading for this Subsection in his Opinion, he did address Subsection (1) indirectly by his detailed

discussion of the remaining 4 factors. Consistent with our prior PUD decision in *Galloway Creek, L.L.C.*, Case No., 08-136, this Board unanimously interprets Subsection (1) as a broad, catch-all provision which generally requires conformance with remaining Subsections. We refer to our rulings on each of the subsequent 4 factors.

- (2) The proposed development will conform with Section 502.1 A, B, C, D, E and F of the B.C.Z.R. and will constitute a good design, use and layout of the proposed site.

Subsection (2) of BCC §32-4-245(c) has 2 parts. In the first part, the ALJ must review the PUD for conformity with 6 of the 9 special exception factors listed in Baltimore County Zoning Regulations §502.1 ("BCZR") (the "Special Exception" factors). In the second part, he must make specific findings about whether the proposal constituted a good design, use and layout.

The ALJ heard testimony from James E. Matis, P.E., with Matis Warfield, the Developer's engineer, who testified as an expert in development and land use planning. Mr. Matis first explained that the zoning on the property is mixed with MLIM on the northern part of the Property as well as a strip of land zoned BMAS. The area which is the subject of this amendment is zoned BRIM and ML. He then described the improvements on the Property as well as its history and various uses.

Mr. Matis testified that in his opinion the proposed development would not only meet all of the 6 special exception factors but would also achieve a higher design standard. He explained that the special exception factors and design use and layout were more specifically described in the PUD Pattern Book which was admitted into evidence as County's Exhibit 2. Mr. Matis oversaw the work contained in the PUD pattern book.

Mr. Matis' testimony with regard to the special exception factors was supported by the testimony of a neighbor and two (2) community group leaders who testified in support of the PUD amendment.

On cross examination, Mr. Matis added that the Pattern Book at page 4 showed photographs of the front and side elevations of the proposed Wawa building. By way of example, he noted that the building would be designed with additional glazing and some stone banding at the canopy. He explained that Wawa provided the plans for the building and that, his opinion, the design standard was "pretty high." (T. p. 105). In addition, the Wawa building did not require any area or height variances.

The ALJ also heard from Lloyd Moxley with the Department of Planning who confirmed that there were no outstanding issues concerning the project and that any prior concerns from his Department were adequately addressed in the Development Plan (Petitioner's Exh. 1) and the Pattern Book (County Exh.2). Mr. Moxley also indicated that the compatibility requirements in BCC §32-4-402 were met.

Dennis Kennedy of Development Plans Review testified before the ALJ that he recommended certain traffic improvements along Halesworth Road which were addressed in the redlined Development Plan. Richard Zeller of State Highway Administration ("SHA") was in the process of reviewing the traffic study submitted by the Developer. It was for this reason that the ALJ conditioned approval of the relief upon the approval from SHA which is authorized under BCC, §32-4-245(b)(3).

Finally, Ted Iobst, a real estate engineer for Wawa, testified that the Wawa would be constructed to a high design standard and at a much greater cost than traditional retail properties. Based on this evidence, we find that Subsection (2) was satisfied.

(3) There is a reasonable expectation that the proposed development, including development schedules contained in the PUD development plan, will be developed to the full extent of the plan.

Mr. Matis testified that, based on his relationship with the prior owner of the Property Mr. Mortimer, and Wawa representatives, he believed that the project would be developed to the full extent of the plan. He pointed out that Wawa was financially solvent. Mr. Iobst also emphasized that Wawa had set aside funds to make certain that this project would be completed as designed. We find that the ALJ was presented with sufficient evidence to satisfy Subsection (3).

(4) Subject to the provisions of §32-4-242(c)(2), the development is in compliance with Section 430 of the Baltimore County Zoning Regulations.

The County witnesses who testified before the ALJ each stated that the Plan complied with the BCZR, that their respective agencies had no outstanding issues and that they recommended approval of the amendment to the Plan. Mr. Matis added that the Plan complied with §430.2.A.1 in that it was a “general development plan.”

(5) The PUD development plan is in conformance with the goals, objectives and recommendations of the Master Plan or area plans or the Department of Planning.

Mr. Matis testified that the PUD amendment was in conformity with the goals, objectives and recommendations of the Master Plan and that this analysis is contained within the PUD Pattern Book. Given the Department of Planning’s role in drafting the

Master Plan and any applicable area plan, if there had been any conflict between the proposal and these documents, the Department of Planning through Mr. Moxley, would have highlighted those conflicts and recommended disapproval of the amended Plan.

In review of the evidence presented, we find that the ALJ was correct in his analysis of the 5 factors in 32-4-245(c) to the facts here.

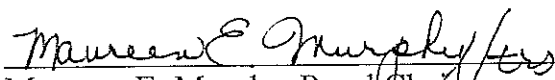
ORDER

THEREFORE, IT IS THIS 21st day of September, 2012 by
the Baltimore County Board of Appeals,

ORDERED that the Administrative Law Judge's Opinion and Order on Planned Unit Development (PUD) and Petition for Special Hearing dated May 15, 2012 is hereby **AFFIRMED**.

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

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chairman

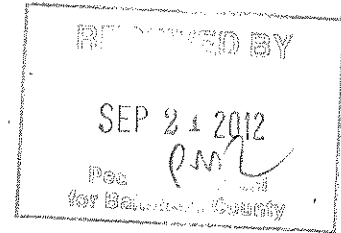

Edward W. Crizer, Jr.


Andrew M. Belt



Board of Appeals of Baltimore County

JEFFERSON BUILDING
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TOWSON, MARYLAND, 21204
410-887-3180
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September 21, 2012

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

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

RE: *In the Matter of: Anderson GM PUD*
Case No.: CBA-12-061 and 12-150-SPH

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa R. Shelton
Administrator

TRS/klc
Enclosure
Duplicate Original Cover Letter

c: BKL York I, LLC/Bruce Mortimer
Douglas Miller
Glenn Cook
Jim Rogers, Sr.
Haren Shah
David Lykens, Department of Environmental Protection and Sustainability
Dennis Kennedy, Development Plans Review/PAI
Ron Goodwin, Zoning Review/PAI
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Lloyd Moxley, Department of Planning
Colleen Kelly, Project Manager/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy C. West, Assistant County Attorney

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

*

*

PETITION OF:
LISA TOMLINSON AND DOUGLAS MILLER

*

FOR JUDICIAL REVIEW OF THE OPINION OF
THE BOARD OF APPEALS
OF BALTIMORE COUNTY
JEFFERSON BUILDING – ROOM 203
105 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204

*

*

*

*

CIVIL ACTION
NO. : 03-C-12-010656

IN THE MATTER OF:
ANDERSON GM – LEGAL OWNER/
PETITIONER FOR PUD AND SPECIAL
HEARING FOR PROPERTY LOCATED AT
E/SIDE OF YORK ROAD, N OF
HALESWORTH ROAD
(10111, 10125, 10131 YORK ROAD AND
10 HALESWORTH ROAD)

*

*

*

*

8TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

*

*

BOARD OF APPEALS CASE NO.: CBA-12-061
AND 12-150-SPH

*

* * * * *

CERTIFICATE OF COMPLIANCE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

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

BKL York I, LLC
Bruce Mortimer
10131 York Road
Cockeysville, MD 21030

BKL York III, LLC
Bruce Mortimer
10125 York Road
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J. Carroll Holzer, Esquire
508 Fairmount Avenue
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Lisa Tomlinson
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Douglas Miller
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Bruce Rice
P.O. Box 448
Riderwood, MD 21139

Theodore Iobst
260 W. Baltimore Pike
Wawa, PA 19063

Glenn Cook
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Baltimore, MD 21236

James Matis
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10540 York Road, Ste M
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Eric Rockel
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Jim Rogers, Sr.
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Chris Harvey
10105 Daventry Drive
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Andrew Tawny
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Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

I HEREBY CERTIFY that on this 31st day of October, 2012 a copy of the foregoing Certificate of Compliance has been mailed to the individuals listed above.

Sunny Cannington
Sunny Cannington, Legal Secretary
Board of Appeals for Baltimore County
The Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, Maryland 21204
410-887-3180



KEVIN KAMENETZ
County Executive

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

June 22, 2012

RECEIVED
JUN 22 2012

David K. Gildea, Esquire
Jaston T. Vettori, Esquire
Smith, Gildea & Schmidt, LLC
600 Washington Avenue, Suite 200
Towson, Maryland 21204

BALTIMORE COUNTY
BOARD OF APPEALS

RE: APPEAL TO BOARD OF APPEALS

Case Nos. 08-796 and 2012-0150-SPH
Anderson GM – 10111, 10125, 10131 York Road & Halesworth Road –
2nd Material Amendment

Dear Counsel:

Please be advised that an appeal of the above-referenced case was filed with the Department of Permits, Approvals and Inspections (PAI) on June 12, 2012 and then delivered to this Office on June 13, 2012. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals ("Board").

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

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

Sincerely,

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: Baltimore County Board of Appeals
People's Counsel for Baltimore County
✓ Arnold Jablon, Director, Department of Permits, Approvals, and Inspections
J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286
Deborah C. Dopkin, Esquire, 409 Washington Avenue, Towson, MD 21204
Eric G. Rockel, President, Greater Timonium Community Council (GTCC),
1610 Riderwood Drive, Lutherville, MD 21093
James R. Rogers, Sr., 10102 Daventry Drive, Cockeysville, MD 21030
John A. Sankonis, Jr., 10111 Daventry Drive, Cockeysville, MD 21030
Christian D. Harvey, 10105 Daventry Drive, Cockeysville, MD 21030
Colleen Kelly, Project Manager, Bureau of Development Processing, PAI

APPEAL

Petition for Special Hearing
10111, 10125, 10131 York Road & 10 Halesworth Road
E side of York Road, N of Halesworth Road
8th Election District – 3rd Councilmanic District
Legal Owners: Anderson Motors, LLC
Lessee: Wawa, Inc.
Case No.: 2012-0150-SPH

Petition for Administrative Variance (December 21, 2011) – (4 Pages)

Zoning Description of Property – (1 Page)

Notice of Zoning Hearing dated January 17, 2012 – (1 Page)

Certification of Publication – (SEE HOH Material)

Certification of Posting (Robert Black – February 2, 2012) – (1 Page)

Entry of Appearance by People's Counsel, dated January 5, 2012 – (1 Page)

Petitioner(s) / Citizen(s) Sign-In Sheet – (SEE HOH MATERIAL)

Letter to Logwood, LLC from W. Carl Richards, Jr., dated February 6, 2012 – ZAC comments – (1 Page)

Zoning Advisory Committee (ZAC) Comments:

- 1 - Bureau of Development Plans Review – January 4, 2012 – (1 Page)
- 2 - State Highway Administration – December 18, 2011 – (1 Page)

Petitioner's Exhibits – (SEE HOH MATERIAL)

Protestant's Exhibits – (SEE HOH MATERIAL)

Miscellaneous:

Items received from J. Carroll Holzer, Esq. (from PAI on June 12, 2012 & delivered to OAH on June 13, 2012):

- County Miscellaneous Cash Receipt – (1 Page)
- Notice of Appeal & Certificate of Service – (2 Pages)
- ALJ Opinion and Order, dated May 15, 2012 – (13 Pages)
- Petition on Appeal & Certificate of Service, dated June 12, 2012 – (2 Pages)
- Protestants' Memorandum and Appendix & Certificate of Service – (8 Pages)
- Transcript of Proceedings for April 10, 2012 – (68 Pages)
- Letter to ALJ Beverungen from Peter Max Zimmerman, dated April 19, 2012 – (4 Pages)
- Resolution 72-08 – (2 Pages)
- Resolution 33-10 – (2 Pages)
- Resolution 50-10 – (2 Pages)

Cover Letter and Administrative Law Judge's Opinion and Order, dated May 15, 2012 –
(14 Pages)

Order from Previous Zoning Commissioner Thomas H. Bostwick, dated January 29, 2010, for prior HOH Case No. 08-848 (formerly VIII-796 and VIII-848) and Zoning Case No 2010-0161-SPH

c: Baltimore County Board of Appeals
Peter Max Zimmerman, People's Counsel for Baltimore County
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director, Department of Permits, Approvals and Inspections

Date Sent: June 22, 2012



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 10111, 10125 & 10131 York Road & 10 Halesworth Road which is presently zoned BR-IM, ML & ML-IM

Deed Reference Please See Attachment #1 10 Digit Tax Account # Please See Attachment #1

Property Owner(s) Printed Name(s) Please See Attachment #1

CASE NUMBER 2012-0150-SPH Filing Date 12/21/11 Estimated Posting Date / / Reviewer

(SELECT THE HEARING(S) BY MARKING **X** 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 ATTCHMENT #2

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

3. ☐ a **Variance** from Section(s)

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:

Please See Attachment #3

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 jvettori@sgs-law.com

Zip Code Telephone # Email Address

Legal Owners:

Please See Attachment #3,

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address City State

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 jvettori@sgs-law.com

Zip Code Telephone # Email Address

ATTACHMENT #1
PETITION FOR SPECIAL HEARING

<u>Address</u>	<u>Owner</u>	<u>Deed Reference</u>	<u>Tax Account #</u>
10111 York Road	Logwood, LLC	29584/00392	0813024298
10125 York Road	BKL York III, LLC	n/a	2500006691
10131 York Road	BKL York I, LLC	n/a	2500006692
10 Halesworth Road	Logwood LLC	29584/00392	1600010069

ATTACHMENT #2
PETITION FOR SPECIAL HEARING

1. The amendment of the Anderson GM PUD previously approved in Deputy Zoning Commissioner Thomas H. Bostwick's Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinion and Order ("Order"), dated March 3, 2010 (Zoning Case No. 2010-0161-SPH), in accordance with BCZR § 430 and BCC § 32-4-241, et. seq.; and
2. The material amendment of the Order and non-residential Development Plan (HOH Case No. 08-796) for the Anderson GM PUD in accordance with BCC § 32-4-262(1); and
3. For such other and further relief as the Administrative Law Judge may require.

ATTACHMENT #2
PETITION FOR SPECIAL HEARING

1. The amendment of the Anderson GM PUD previously approved in Deputy Zoning Commissioner Thomas H. Bostwick's Revised Hearing Officer's Combined Zoning Relief and Development Plan Opinion and Order ("Order"), dated March 3, 2010 (Zoning Case No. 2010-0161-SPH), in accordance with BCZR § 430 and BCC § 32-4-241, et. seq.; and
2. The material amendment of the Order and non-residential Development Plan (HOH Case No. 08-796) for the Anderson GM PUD in accordance with BCC § 32-4-262(1); and
3. For such other and further relief as the Administrative Law Judge may require.

ATTACHMENT #3
PETITION FOR SPECIAL HEARING
SIGNATURE PAGE
(Legal Owners and Lessee)

Legal Owner(s):
10131 York Road

Renee Martin
BKL York I, LLC

By: Bruce Mortimer

Legal Owner(s):
10125 York Road

Renee Martin
BKL York, III, LLC

By: Bruce Mortimer

Legal Owner(s):
10 Halesworth Road

Brenda Weil Mandel
Logwood, LLC

By: Brenda Weil Mandel, Member

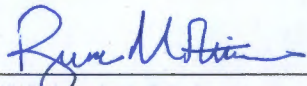
Legal Owner(s):
10111 York Road

Brenda Weil Mandel
Logwood, LLC

By: Brenda Weil Mandel, Member

ATTACHMENT # 3
PETITION FOR SPECIAL HEARING
SIGNATURE PAGE
(Legal Owners and Lessee)

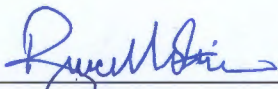
Legal Owner(s):
10131 York Road



BKL York I, LLC

By: Bruce Mortimer

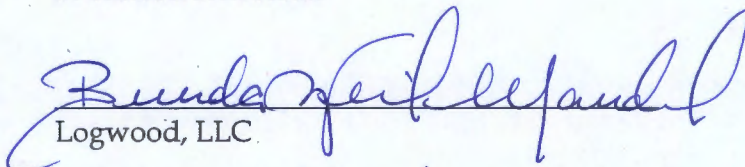
Legal Owner(s):
10125 York Road



BKL York, III, LLC

By: Bruce Mortimer

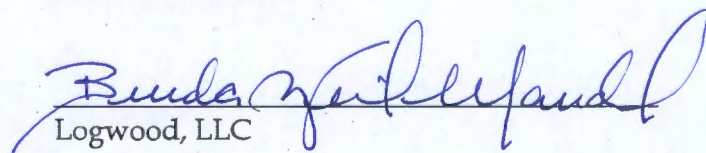
Legal Owner(s):
10 Halesworth Road



Logwood, LLC

By: Brenda Weil Mandel, Member

Legal Owner(s):
10111 York Road



Logwood, LLC

By: Brenda Weil Mandel, Member

December 19, 2011

**Description to Accompany Zoning Petition For Special Hearing
Nos. 10111, 10125 and 10131 York Road + No. 10 Halesworth Road**

Beginning for the same on the east side of York Road, State Route 45, at a point located at the end of the cutoff extending from Halesworth Road, said point distant North 24° 20" East 58 feet more or less from the point of intersection of the centerlines of York Road and Halesworth Road, running thence and binding on the east side of York Road



1. **North 18° 59' 30" West 176.85 feet** to a point, thence leaving said east side of York Road and running thence the three following courses viz:
2. **North 70° 54' 56" East 264.42 feet** to a point, and
3. **North 19° 05' 04" West 230.65 feet** to a point, and
4. **South 70° 54' 56" West 264.05 feet** to a point on the east side of York Road, running thence and binding on the east side of York Road the two following courses viz:
5. **North 18° 59' 30" West 40.46 feet** to a point, and
6. **North 18° 47' 31" West 264.09 feet** to a point, thence leaving said east side of York Road and running thence the four following courses viz:
7. **North 70° 54' 56" East 579.49 feet** to a point, and
8. **South 19° 05' 04" East 422.00 feet** to a point, and
9. **South 13° 20' 04" East 149.69 feet** to a point, and
10. **South 07° 35' 04" East 158.97 feet** to a point on the north side of Halesworth Road, running thence and binding along the north side of Halesworth Road the two following courses viz:
11. by a curve to the right having a **radius of 700.00 feet for an arc distance of 25.12 feet** to a point, thence
12. **South 71° 05' 46" West 495.19** to a point at the beginning of the cutoff leading to York Road, thence binding on said cutoff
13. **North 68° 16' 47" West 19.25 feet** to the place of beginning.

Containing 8.1370 acres more or less.

This description is intended for zoning purposes only and is not intended for use in conveyance of land.



TO: PATUXENT PUBLISHING COMPANY
Thursday, February 2, 2012 Issue - Jeffersonian

Please forward billing to:

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

410-821-0070

Corrected

NOTICE OF ZONING HEARING

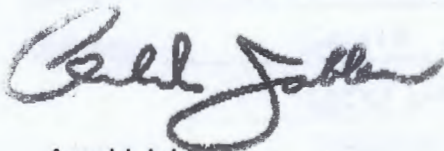
The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2012-0150-SPH

10111, 10125 & 10131 York Road & 10 Halesworth Road
E/side of York Road, 50 feet east of intersection of Industry Lane & York Road
8th Election District – 3rd Councilmanic District
Legal Owners: BKL York I, LLC, BKL York II, LLC & Logwood LLC

Special Hearing for the amendment of the Anderson GM PUD previously approved in Deputy Zoning Commissioner Thomas Bostwick's Revised Hearing Officer's Combined zoning relief and Development Plan Opinion and Order, dated March 3, 2010 (Zoning Case 2012-0161-SPH) in accordance with BCZR Sec. 430 and BCC Sec. 32-4-241, et. seq; for the material amendment of the Order and non-residential Development Plan (HOH Case 08-796) for the Anderson GM PUD in accordance with BCC Sec. 32-4-262(1). For such other and further relief as the Administrative Law Judge may require.

February 17, 2012
Hearing: Friday, February 23, 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.



KEVIN KAMENETZ
County Executive

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

February 6, 2012

Logwood, LLC
10111 York Road
Cockeysville MD 21030

RE: Case Number: 2012-0150-SPH, Address: 10111, 10125, 10131 York Road & Halesworth Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on December 21, 2011. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

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

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Jason T. Vittori, Smith, Gildea & Schmidt LLC, 600 Washington Avenue, Ste. 200, Towson MD 21204



KEVIN KAMENETZ
County Executive

10:5R
4/10/12
w
12-189

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

February 6, 2012

Logwood, LLC
10111 York Road
Cockeysville MD 21030

RE: Case Number: 2012-0150-SPH, Address: 10111, 10125, 10131 York Road & Halesworth Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on December 21, 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
Jason T. Vittori, Smith, Gildea & Schmidt LLC, 600 Washington Avenue, Ste. 200, Towson MD 21204.

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

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

DATE: January 4, 2012

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

DAK:CEN
cc: File

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 12-18-2011

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

RE: Baltimore County
Item No. 2012-0150-SPH
MD 45 (YORK RD)
BRUCE MORTIMER
SPECIAL HEARING

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 12-28-2011. A field inspection and internal review reveals that an entrance onto MD 45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for BRUCE MORTIMER PROPERTY Case Number 2012-0150-SPH.

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,

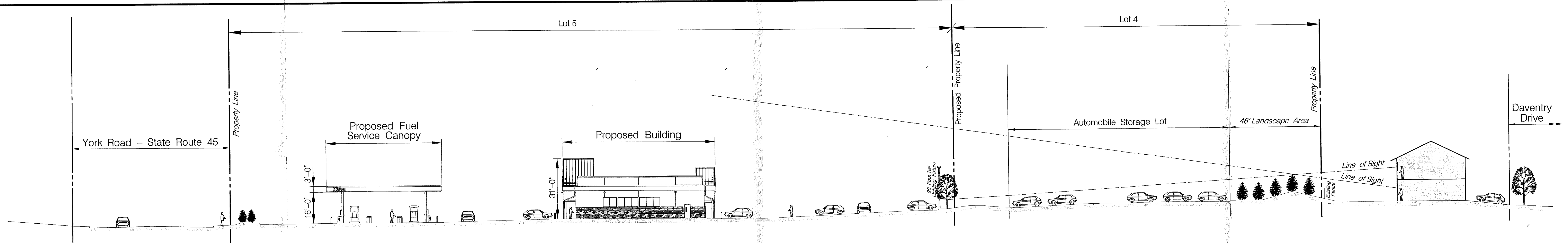

FOL Steven D. Foster, Chief
Access Management Division

SDF/rz

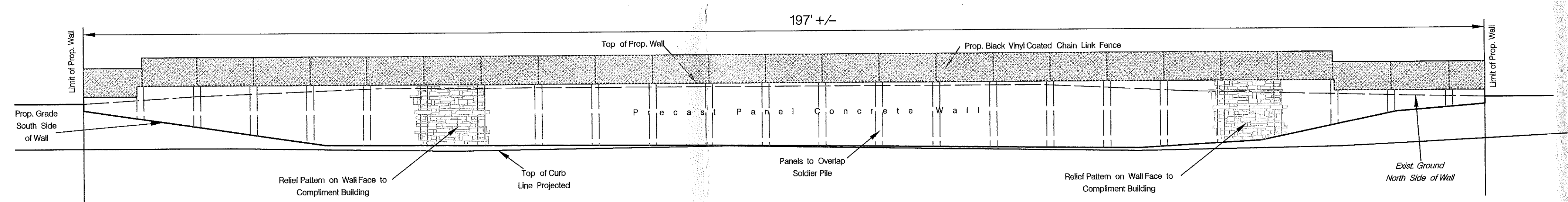
My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

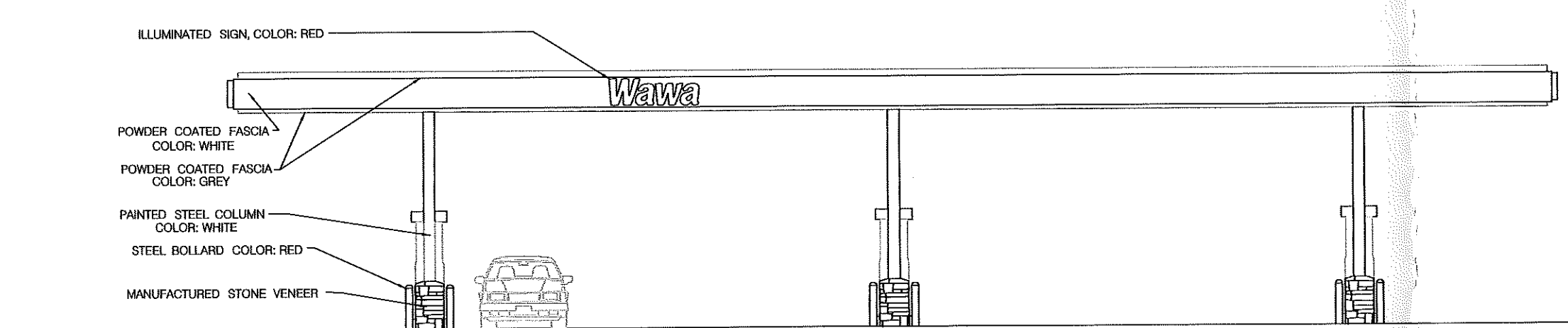
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov



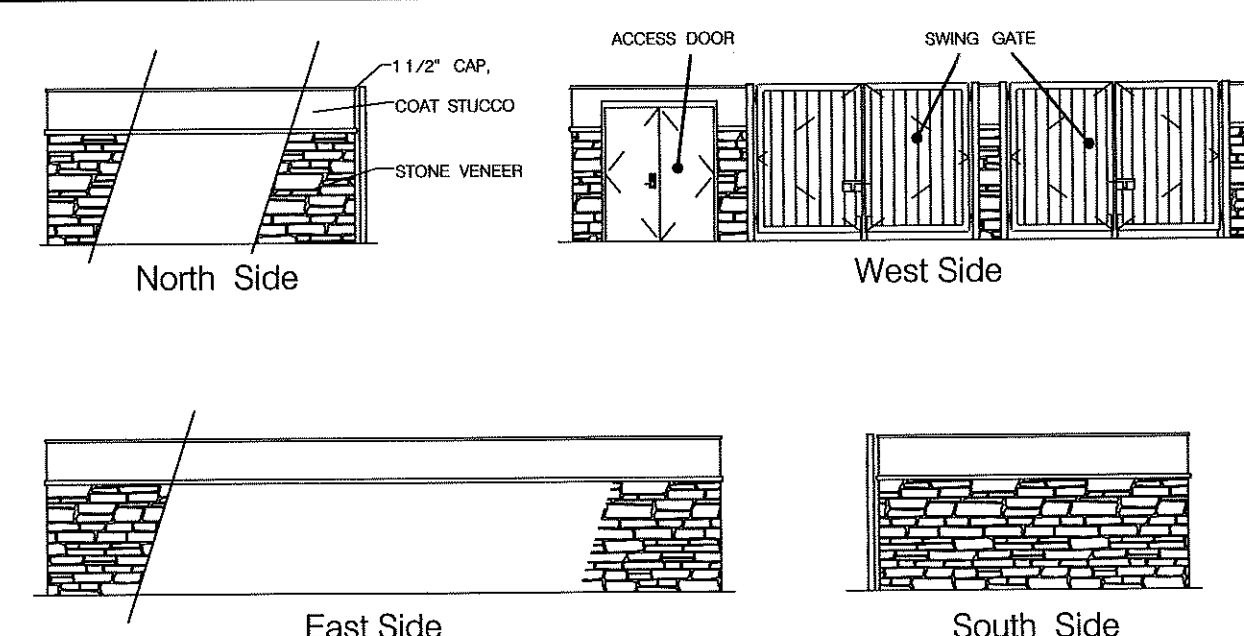
Section Through Proposed Lots 4 and 5 Looking Northward Scale: 1 inch = 20 feet (Horz. and Vert.)



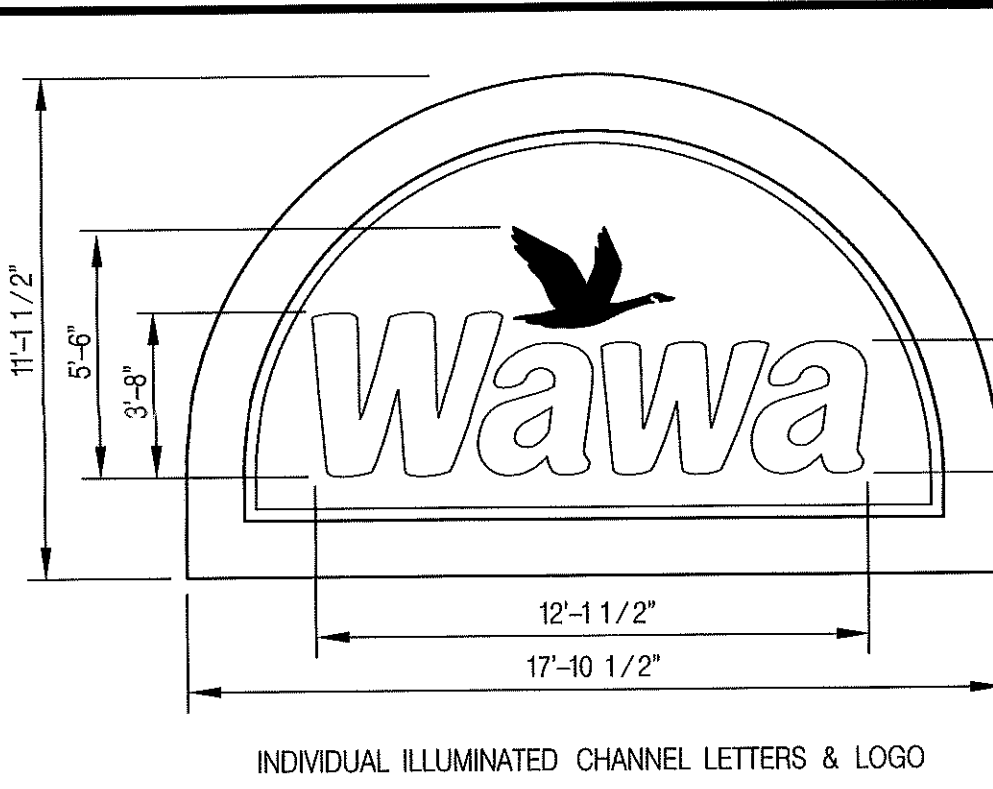
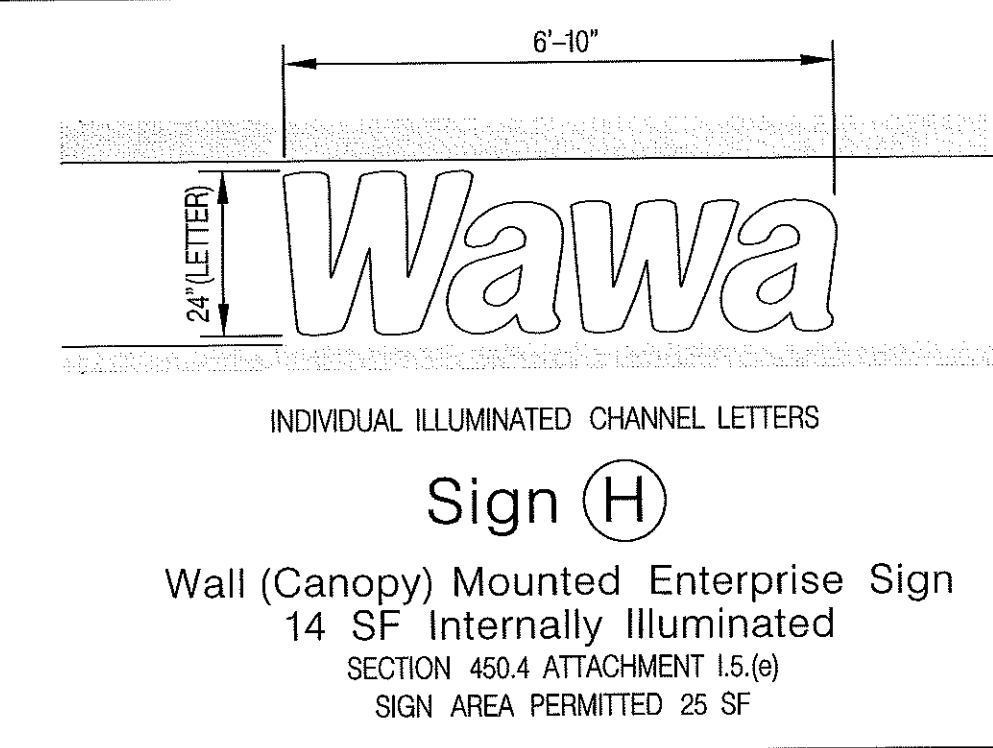
Elevation View Proposed Retaining Wall on North Side of Site
SCALE: 1" = 10'



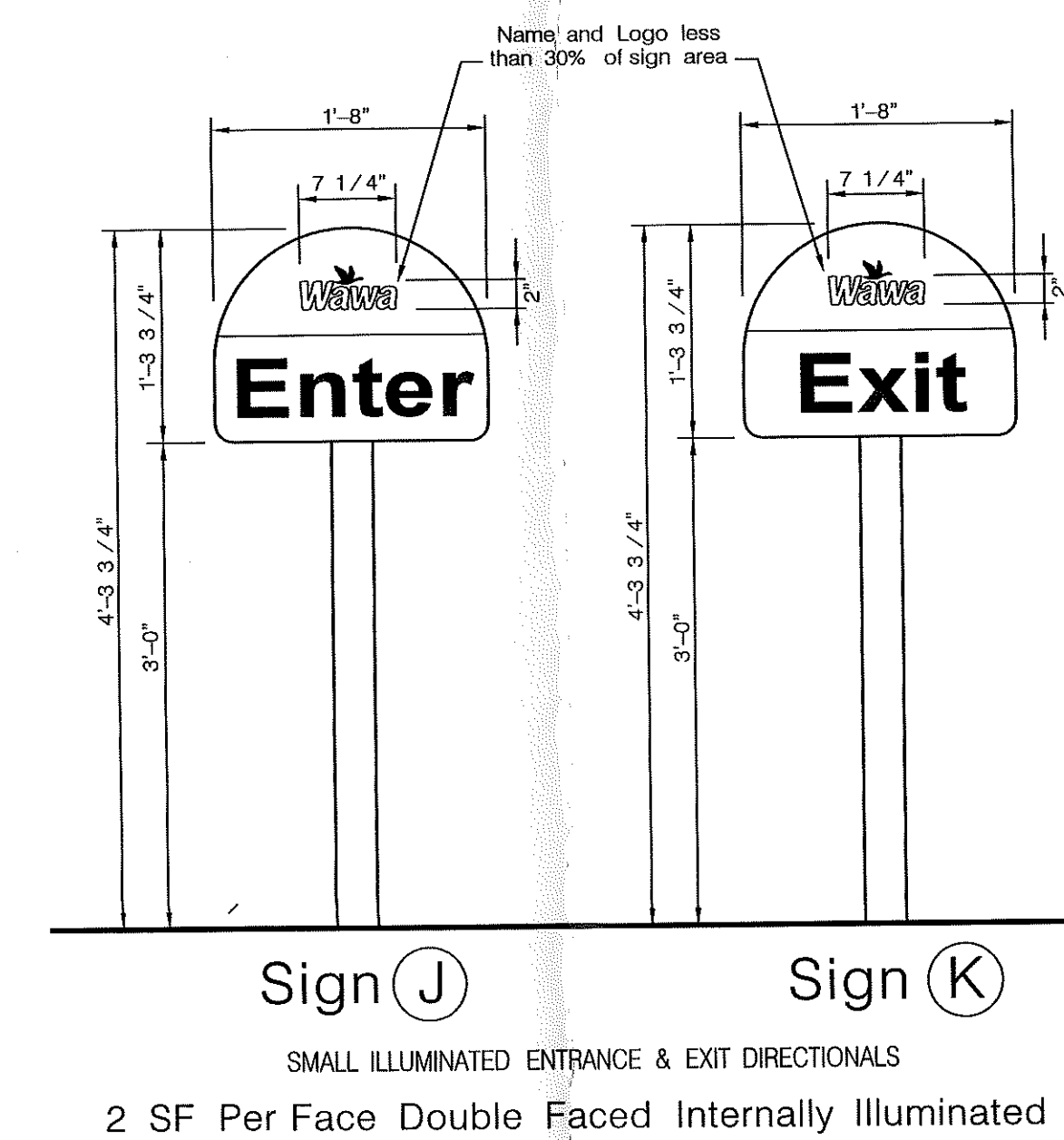
Front (York Road) Side of Canopy
SCALE: 1" = 10'



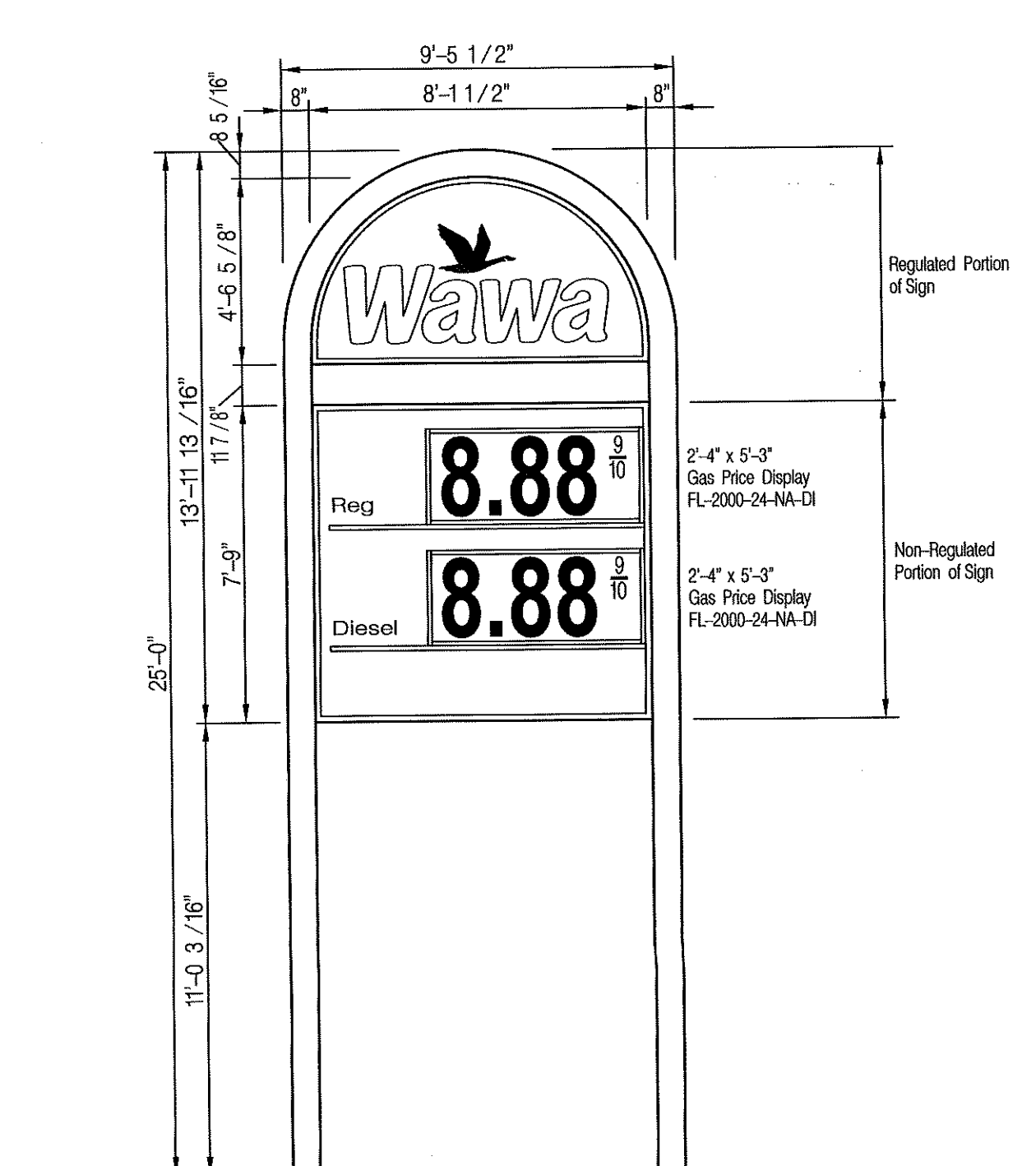
Trash Enclosure Elevation
SCALE: 1" = 10'



Sign (I)
Wall Mounted Enterprise Sign
164 sf +/- Internally Illuminated
Single Face
Enterprise Sign Details NTS
SECTION 450.4 ATTACHMENT 1.5.(a)
Sign area permitted 2 times the length of the wall to which it is attached or 170 sf

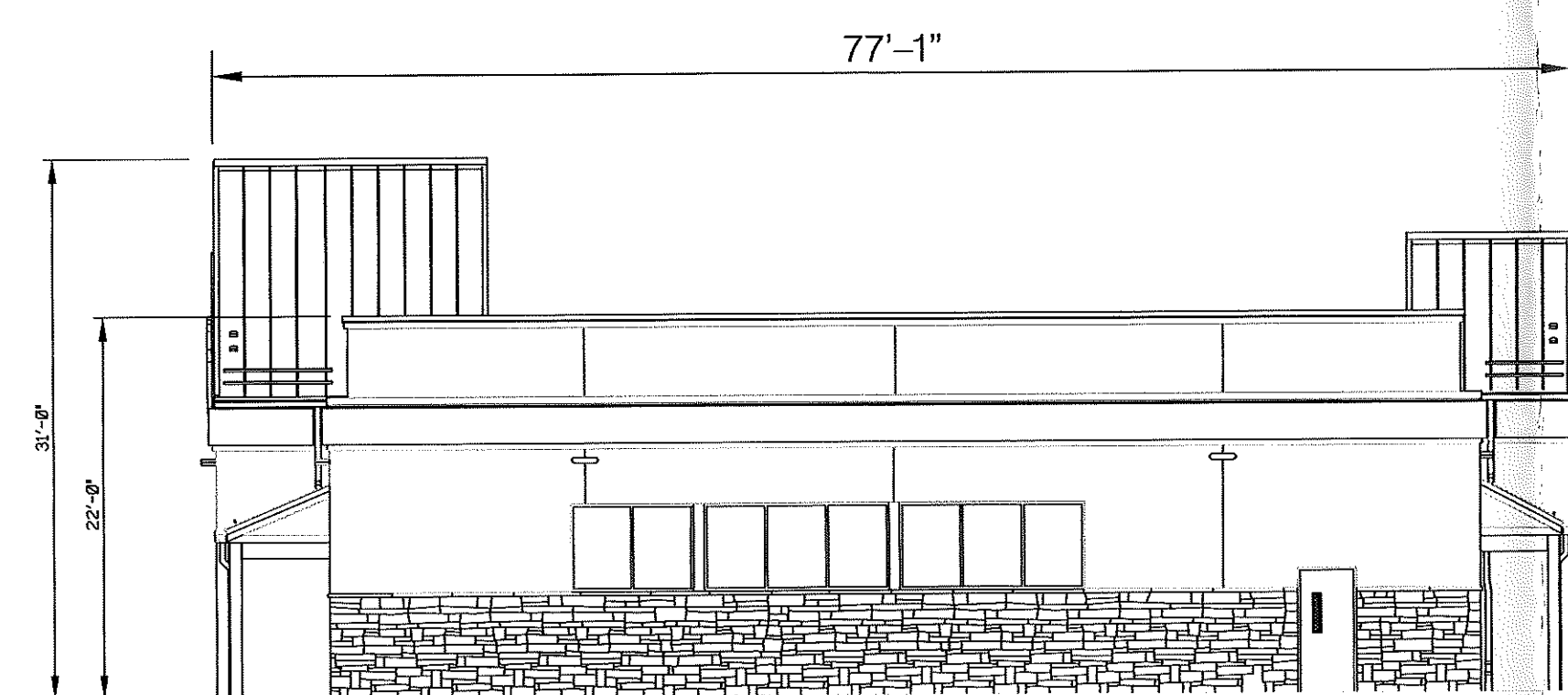


Directional Sign Details NTS
SECTION 450.4 ATTACHMENT 1.3.(a)



Freestanding Enterprise Sign (G)
37 SF Per Face (Wawa) Double Faced Internally Illuminated

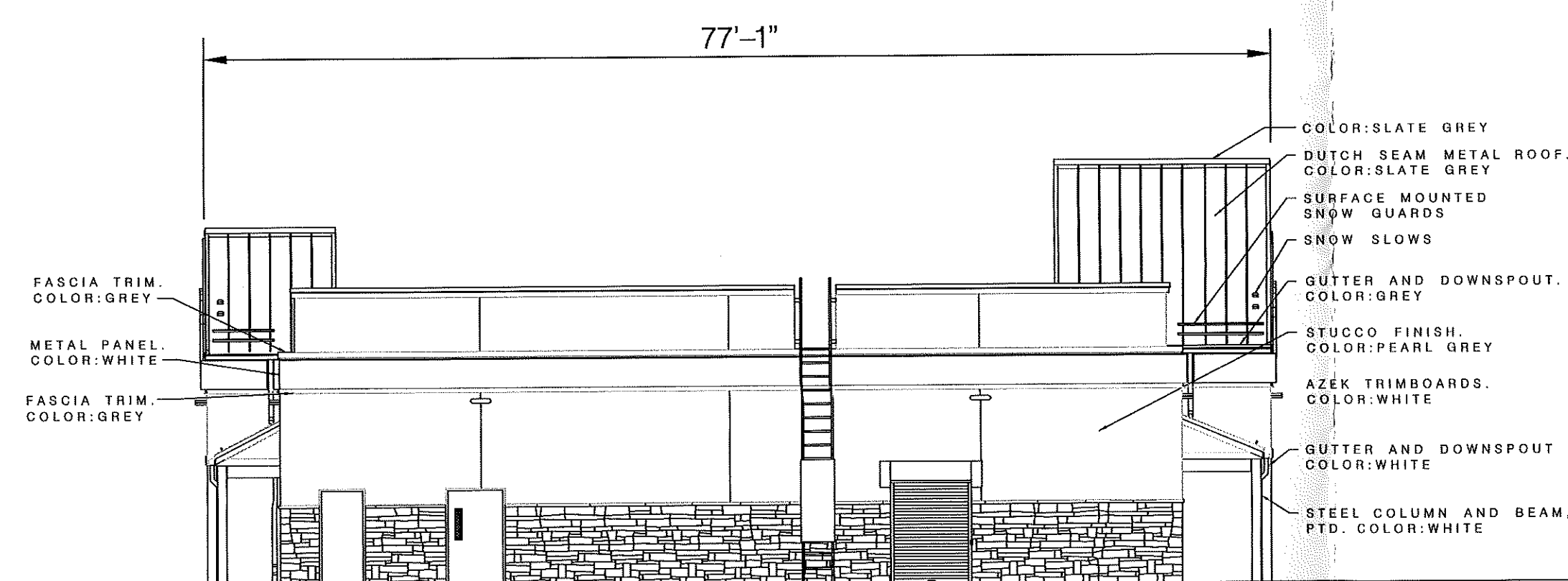
Enterprise Sign Details NTS
SECTION 450.4 ATTACHMENT 1.5.(b) Sign area permitted 75 sf



Right (Halesworth Road) Side or South Elevation
SCALE: 1" = 10'



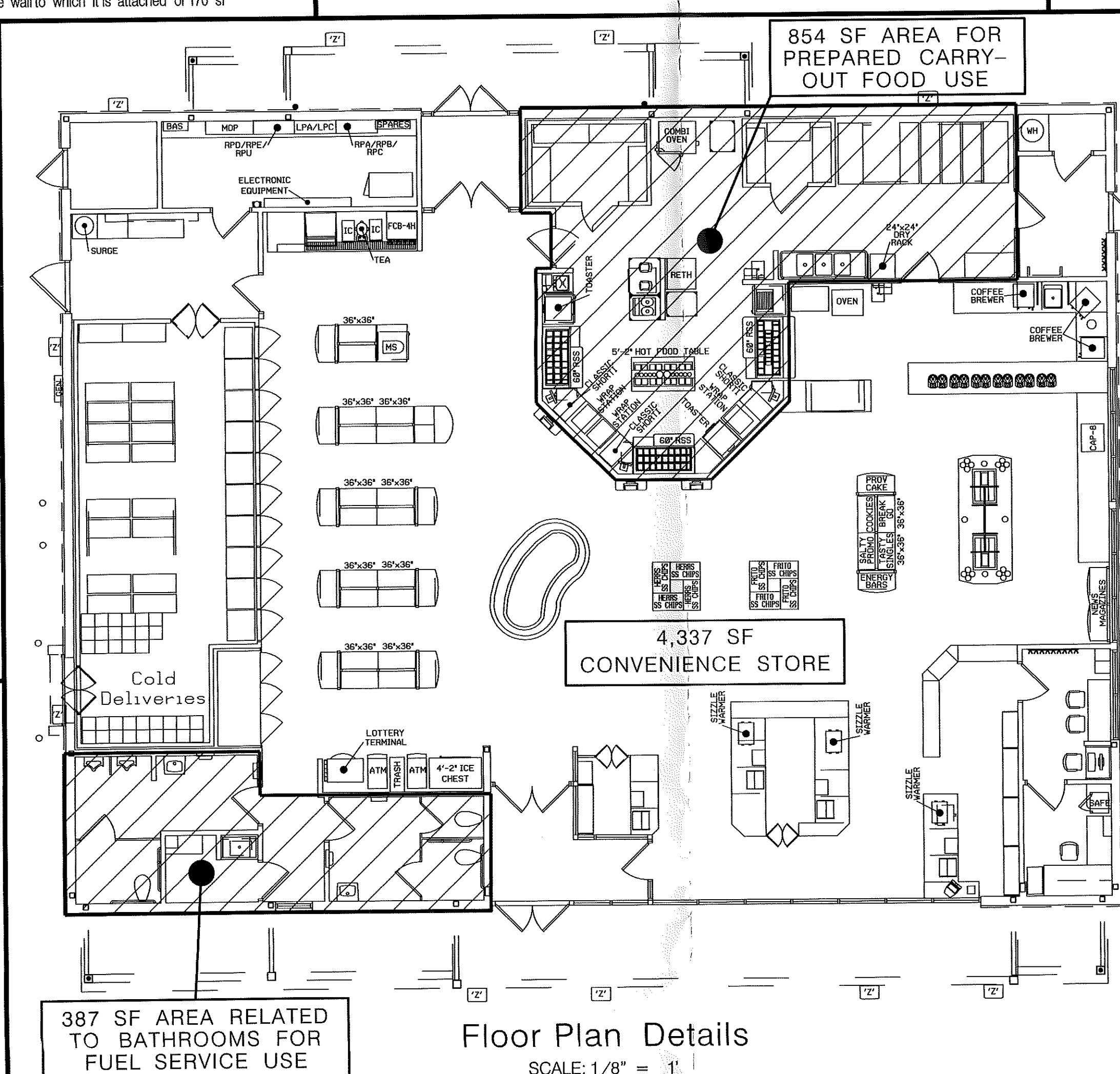
Rear or East Elevation
SCALE: 1" = 10'



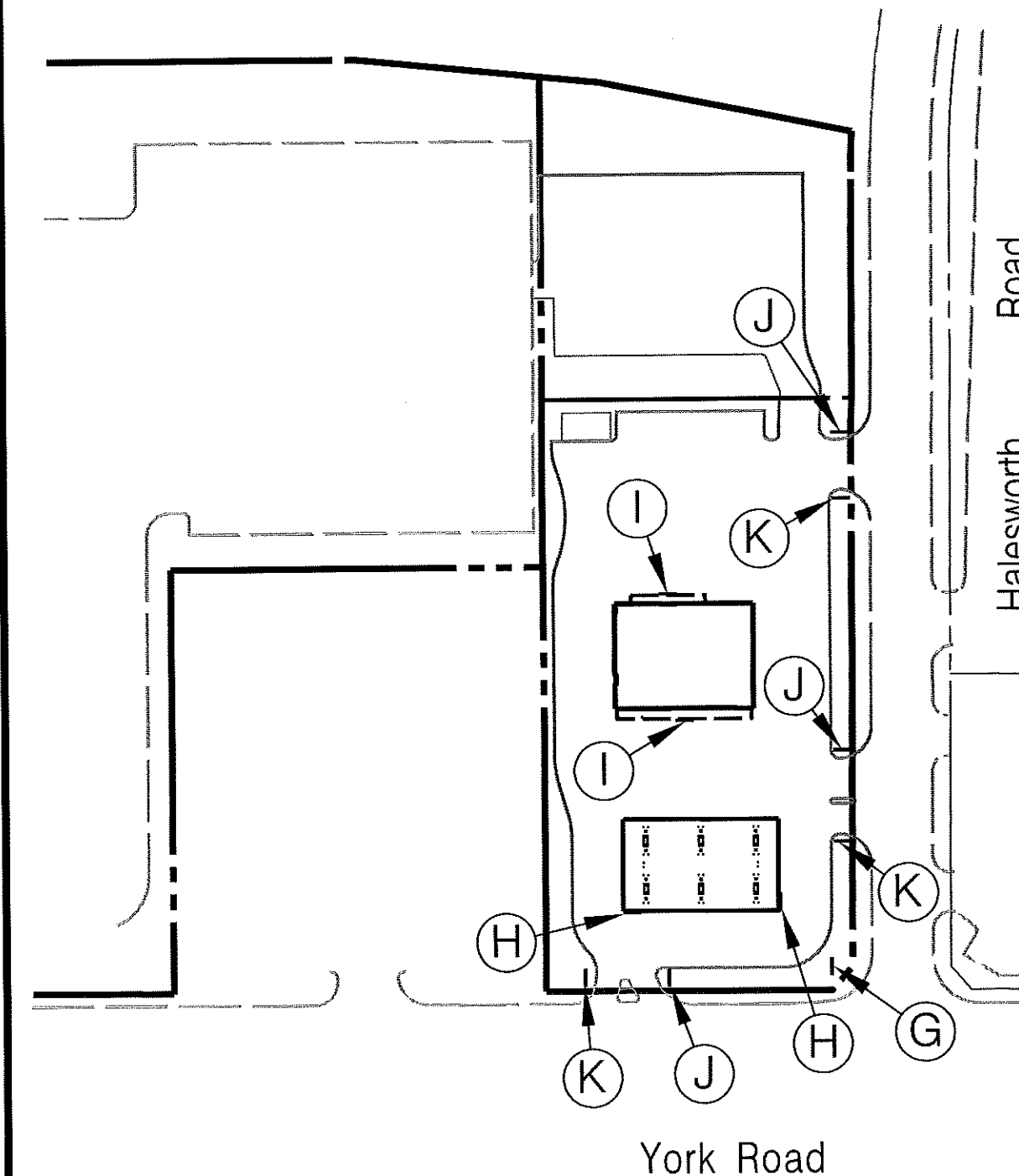
Left Side or North Elevation
SCALE: 1" = 10'



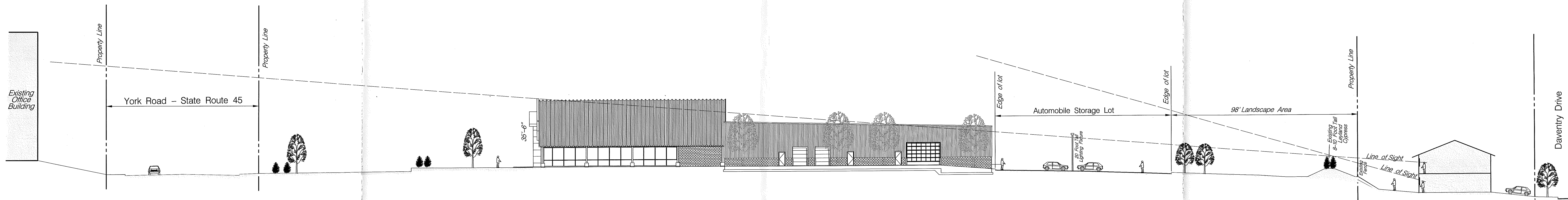
Front (York Road) Side or West Elevation
SCALE: 1" = 10'



Floor Plan Details
SCALE: 1/8" = 1'

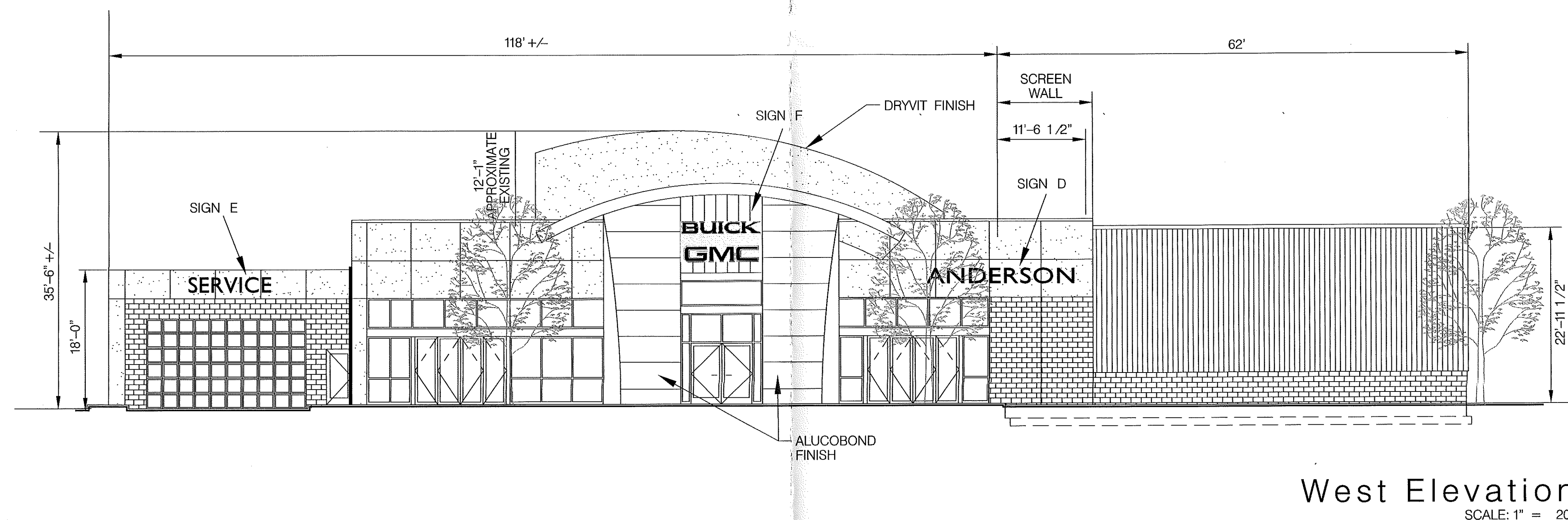


Wawa Signage Key Map NTS

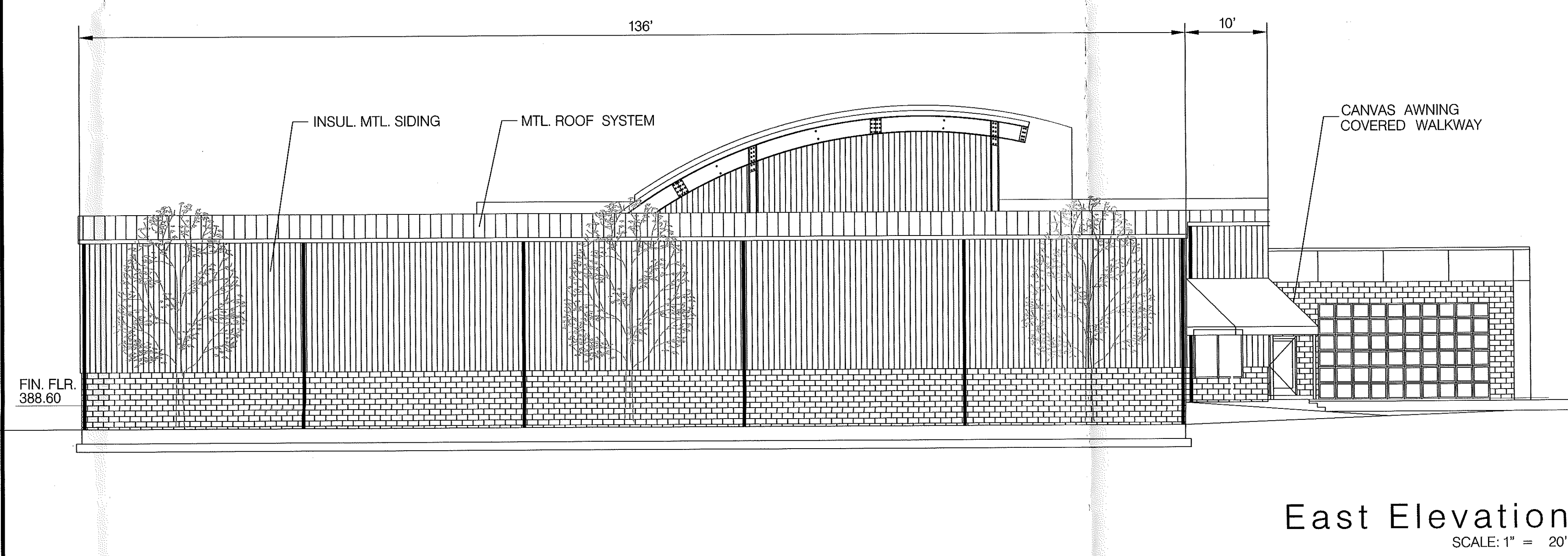


Section Through Property Looking Northward

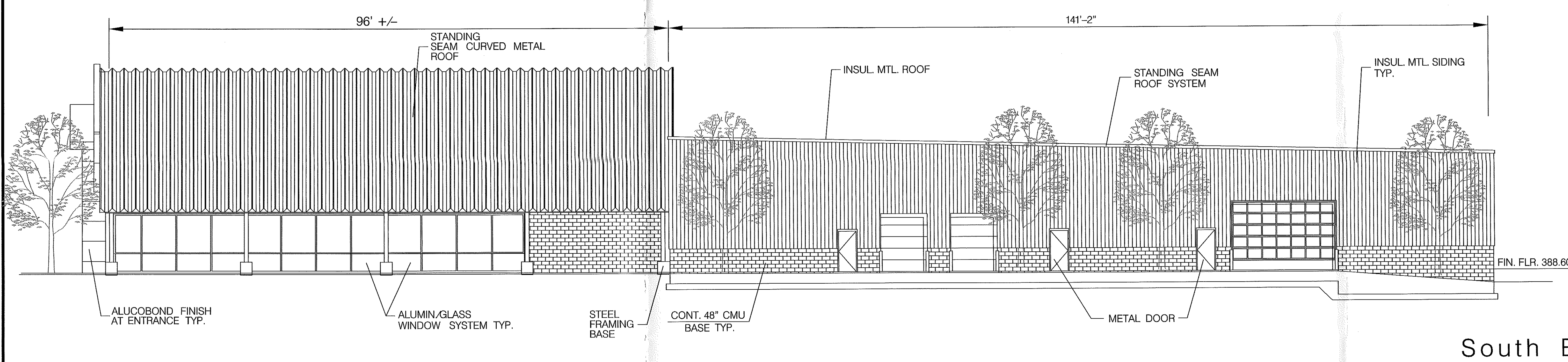
Scale 1 inch = 20 feet (Horz. and Vert.)



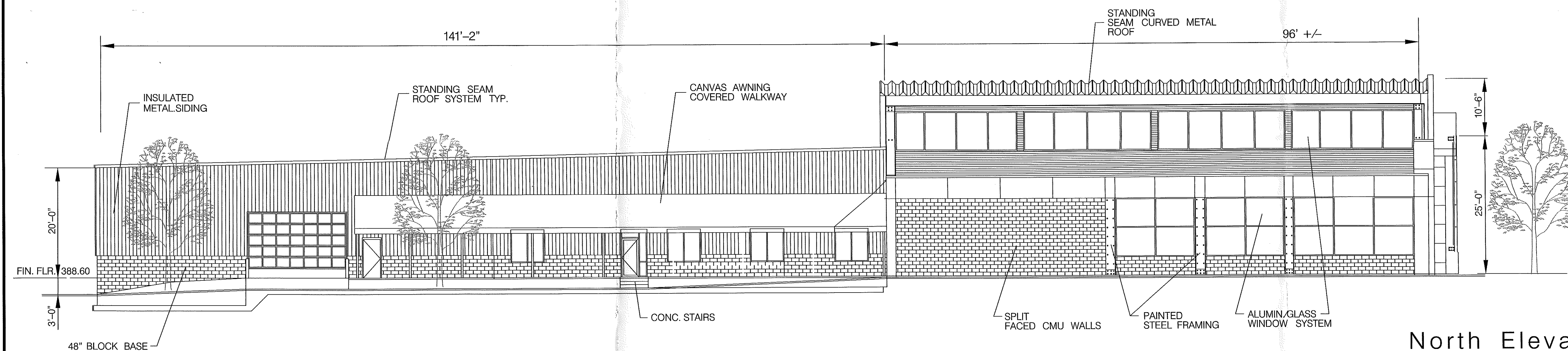
West Elevation
SCALE: 1" = 20'



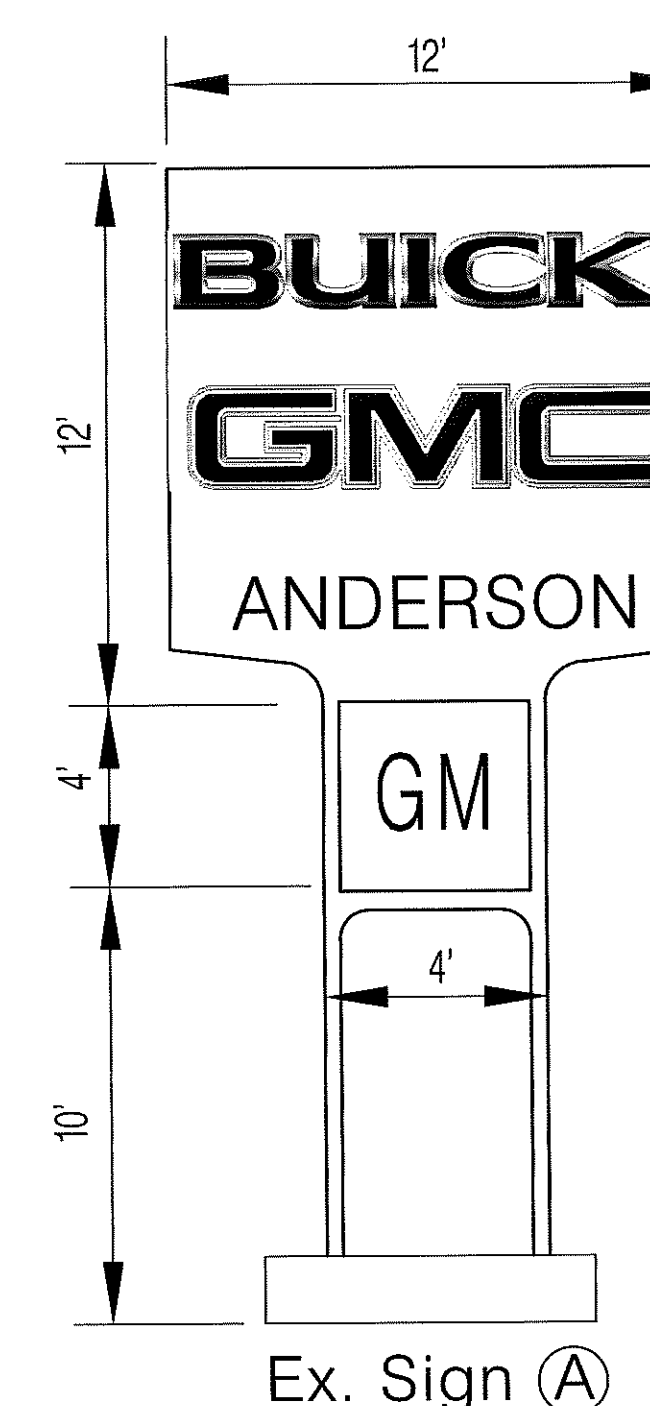
East Elevation
SCALE: 1" = 20'



South Elevation
SCALE: 1" = 20'

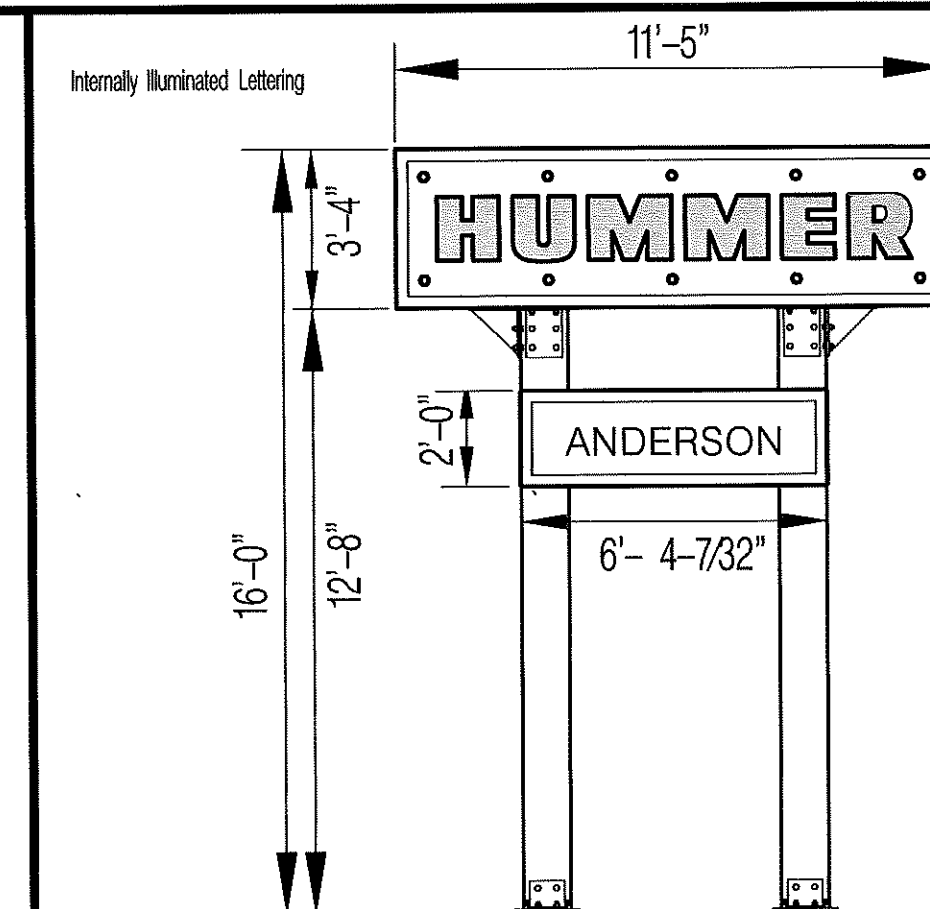


North Elevation
SCALE: 1" = 20'



263 sf Aggregate Total of Freestanding Enterprise counting one face /side of each sign

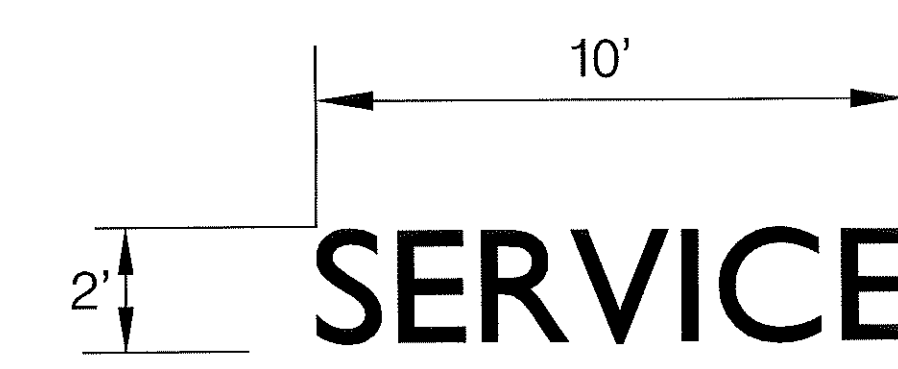
Freestanding Enterprise Sign Details NTS



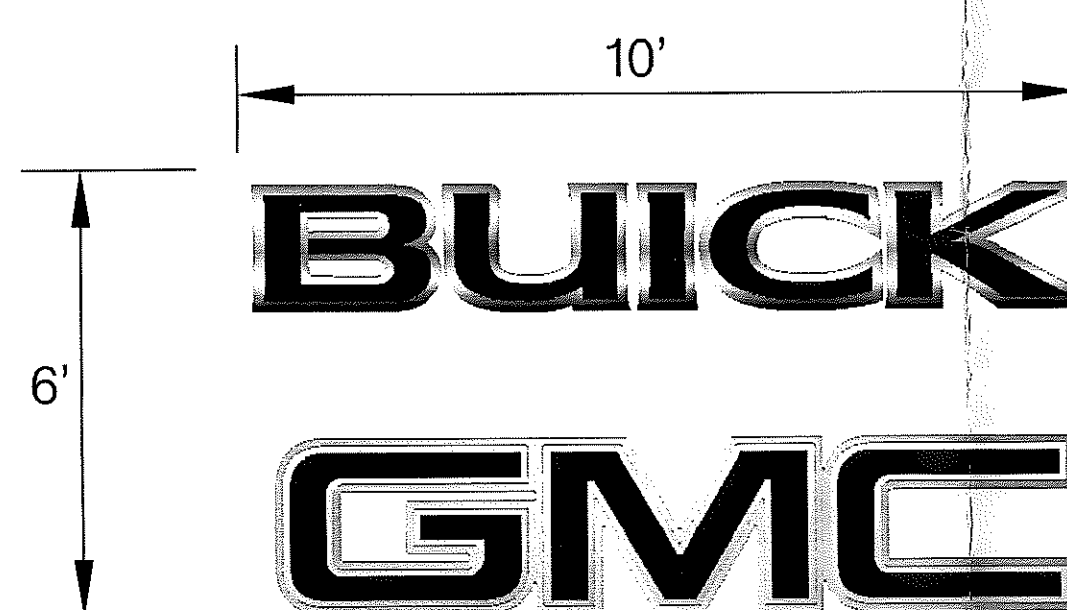
Ex. Sign (B) NTS
38.1 SF Per Face (Hummer)
12.7 SF Per Face (Anderson)
Double Faced
Internally Illuminated



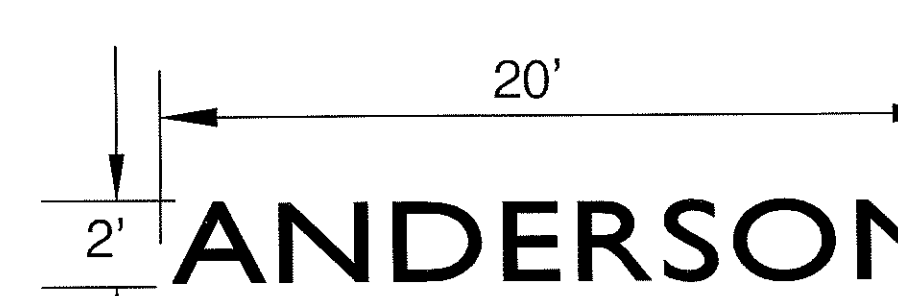
Ex. Sign (C) NTS
52 SF Per Face
Double Faced
Internally Illuminated



Ex. Wall Mounted Enterprise Sign (E)
20 sf Total Single Face
Internally Illuminated or Halo Letters



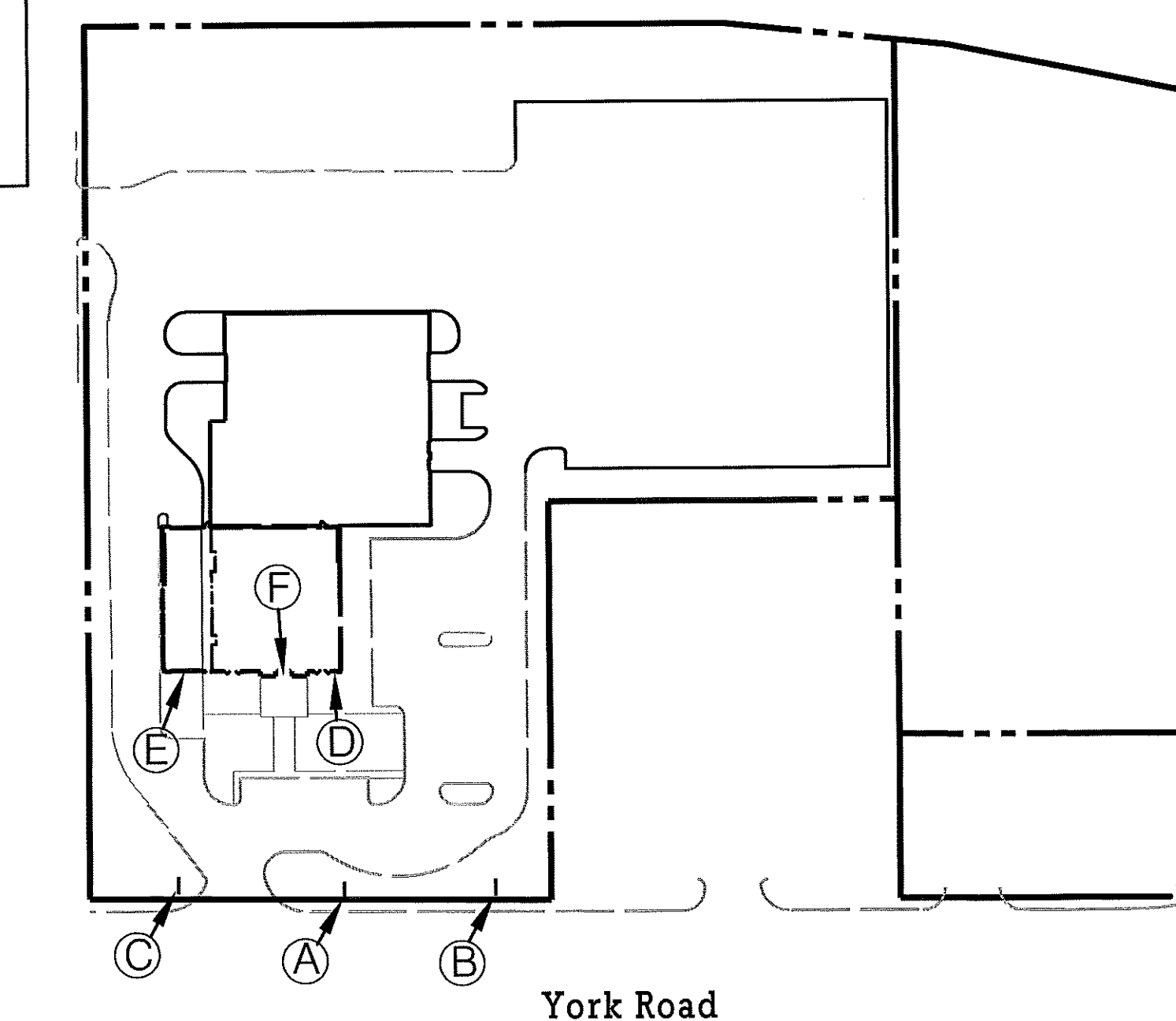
Ex. Wall Mounted Enterprise Sign (F)
60 sf Internally Illuminated or Halo Letters



Ex. Wall Mounted Enterprise Sign (D)
66 sf Internally Illuminated or Halo Letters

120 sf Total of Wall Mounted Enterprise Signage
258 sf permitted (2 x 129' length of facade)

Wall Mounted Enterprise Sign Details NTS



Anderson GM Signage Key Map NTS

Details for Anderson GM
Anderson GM PUD Development PDM #08-796
2nd Material Amendment
-and-
Plan to Accompany Petition for
Special Hearing
2nd Material Amendment
to amend Anderson GM PUD Development Plan
ANDERSON GM - 10125 AND 10131 YORK ROAD
PROPOSED LOT 4 (VEHICLE STORAGE) - 10 HALESWORTH ROAD
PROPOSED LOT 5 (WAWA) - 10111 YORK ROAD
Baltimore County, Maryland
Election District No. 8
Councilmanic District 3
Sheet 3 of 4

Site Data and Notes

- 1) PUD AUTHORIZATION AREA PER PDM VII-796 - 354,448 SF or 8.1370 ACRES/-
 2) EXISTING ZONING - ML, ML-M, BR-M, BM and BM-AS
 3) EXISTING USE - 10101 YORK RD - VACANT-FORMERLY FUEL SERVICE STATION
 101025 YORK ROAD - AUTOMOBILE SHOWROOM AND SALES LOT
 101031 YORK RD - AUTOMOBILE INVENTORY STORAGE AND DISPLAY LOT
 10 HALESWORTH ROAD - VACANT- FORMERLY TENNIS - INDOOR SPORTS BUILDING

4) PROPERTY DETAILS

ADDRESS	TAX MAP	PARCEL NUMBER	TAX ID NUMBER	DEED REFERENCE	PLAT REF.	ACREAGE	ZONING	LEGAL OWNER
10131 YORK ROAD	51	PART OF 287	2500006892	26848-374	79-56 (LOT 3a)	1.9906 ACS.	ML-M, BM & BM-AS	BKI YORK I, LLC
10125 YORK ROAD	51	PART OF 287	2500006891	26848-374	79-56 (LOT 2a)	3.7291 ACS.	ML & ML-M	BKI YORK II, LLC
10111 YORK ROAD	51	455	0813024298	29584-392	NA	0.4713 ACS	BR-M & ML	LOGWOOD, LLC
10 HALESWORTH ROAD	51	96	1600010069	29584-392	NA	1.9460 ACS.	ML	LOGWOOD, LLC

5) ZONING HISTORY

- *10131 York Road
 Zoning Case No. 4879-X (Order dated 1/14/02)
 SpecialException granted for a 50-foot double-faced advertising structure.
 Zoning Case No. 64-71 (Order dated 3/16/04)
 Rezoning of a portion of property reclassified from R6 to ML zoning granted.
 Zoning Case No. R83-30 (Order dated 2/24/03)
 Request for a rezoning from BR-5.5, ML, CS-2 to an ML - CS-2 zoning granted.
 Development Case No. VII-796 (Order dated 10/31/03)
 Approved granted for the development of 11,500 square foot Automotive Showroom and demonstration area for Hummer Vehicles as a PUD-C development granted subject to the following restrictions:
 1. That the terms of the Declaration of Covenants, Conditions & Restrictions ("Declaration") by BKI, York, I, LLC for the benefit of Monterey Improvement Association, as shown by their October 22, 2003 Declaration, attached hereto as Petitioner's Exhibit 4A and made a part hereof, is hereby incorporated into this order and shall be enforceable by Baltimore County.
 2. That the terms of the Declaration of Covenants, Conditions & Restrictions ("Declaration") by Anderson of Hunt Valley, LLC, Petitioner and BKI, York, I, LLC for the benefit of Monterey Improvement Association, as shown by their October 22, 2003 Declaration, attached hereto as Petitioner's Exhibit 4B and made a part hereof, is hereby incorporated into this order and shall be enforceable by Baltimore County.

*1011 York Road

- Zoning Case No. 64-71-R (Order dated 3/16/04)
 Petition for reclassification from R-6 to ML Granted.
 Zoning Case No. 90-81-X (Order dated 10/16/08)
 SpecialException for food mart use in combination with a fuelservice station Granted. Subject to restriction to comply with ZAC comments.

Zoning Case 07-346 SPH

- SpecialHearing to approve termination of SpecialException granted per Zoning Case No. 90-81-X
 Termination approved subject to the following:
 1. The Petitioner shall abide by all applicable Federal/State and County regulations regarding the remediation of the site including removal of underground fuel tanks.
 2. The SpecialException granted in Case 90-81-X shall terminate upon approval by the Department of Permits and Development Management of the permit granting change in use of the property from a fuelservice station, but said SpecialException shall not otherwise be terminated.

*10 Halesworth Road

- Zoning Case No. 65-96-R (Order dated 10/6/04)
 Reclassification from R6 to ML Granted.

Zoning Case 2010-0161-SPH - Granted by Zoning Commissioner per Revised Order dated March 3, 2010. See Note 6 for restrictions.

6) DEVELOPMENT HISTORY

- PDM VII-796 ANDERSON HUMMER PUD-C DEVELOPMENT PLAN WAS AUTHORIZED BY THE HEARING OFFICER PER ORDER DATED OCTOBER 31, 2003 SUBJECT TO THE FOLLOWING RESTRICTIONS:
 1. THAT THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS BY BKI YORK I, LLC FOR THE BENEFIT OF MONTEREY IMPROVEMENT ASSOCIATION AS SHOWN BY THEIR OCTOBER 22, 2003 DECLARATION, ATTACHED HERETO AS PETITIONERS EXHIBIT 4A AND MADE PART HEREOF, IS HEREBY INCORPORATED INTO THIS ORDER AND SHALL BE ENFORCEABLE BY BALTIMORE COUNTY.
 2. THAT THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS BY ANDERSON OF HUNT VALLEY, LLC, PETITIONER AND BKI YORK II, LLC FOR THE BENEFIT OF THE MONTEREY IMPROVEMENT ASSOCIATION AS SHOWN BY THEIR OCTOBER 22, 2003 DECLARATION ATTACHED HERETO AS PETITIONERS EXHIBIT 4B AND MADE A PART HEREOF IS HEREBY INCORPORATED INTO THIS ORDER AND SHALL BE ENFORCEABLE BY BALTIMORE COUNTY.

PDM VII-848 ANDERSON HONDA CONCEPT PLAN WAS AUTHORIZED BY THE HEARING OFFICER BY ORDER DATED FEBRUARY 20, 2007, WITH NO RESTRICTIONS.

DEVELOPMENT PLAN APPROVED ON AUGUST 7, 2007.

PDM VII-796 DEVELOPMENT PLAN AND ZONING CASE 2010 - 0161 SPH FOR ANDERSON GM APPROVED BY HEARING OFFICER BY ORDER DATED JANUARY 10, 2010 SUBJECT TO THE FOLLOWING CONDITIONS:

1. ANY APPEAL OF THIS DECISION MUST BE TAKEN WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS ORDER. IF AN APPEAL OF THIS DECISION IS NOT TAKEN WITHIN THE TIME PRESCRIBED, THEN THIS DECISION SHALL CONSTITUTE A FINAL ORDER AS TO THE ZONING RELIEF REQUESTED AND A FINAL DEVELOPMENT PLAN ORDER AS TO THE HEARING OFFICER'S HEARING, AND SHALL BE SUBJECT TO THE APPEAL PROVISIONS CONTAINED IN THE BALTIMORE COUNTY ZONING REGULATIONS AND SECTION 32-4-281 OF THE BALTIMORE COUNTY CODE.
 2. THE DEVELOPER SHALL COMPLY WITH THE TERMS OF THE "SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS" DATED APRIL 18, 2009 BY BKI YORK I, LLC FOR THE BENEFIT OF MONTEREY IMPROVEMENT ASSOCIATION, ATTACHED HERETO AS DEVELOPER'S EXHIBIT 4 AND INCORPORATED HEREIN, AND SAID AGREEMENT SHALL BE ENFORCEABLE BY BALTIMORE COUNTY.

DRC AUTHORIZATIONS:
 DRC 070207A WHICH AUTHORIZED A REFINEMENT TO THE ANDERSON HUMMER PUD-C (PDM VII-796) TO AMEND THE PUD AUTHORIZATION AREA

DRC 100608C WHICH AUTHORIZED A REFINEMENT TO THE ANDERSON HUMMER PUD-C (PDM VII-796) FOR SIGNAGE MODIFICATIONS

DRC 051010C WHICH AUTHORIZED A REFINEMENT TO THE ANDERSON HUMMER PUD-C (PDM VII-796) FOR MODIFICATIONS TO THE APPROVED PLAN

DRC 051080 WHICH AUTHORIZED A REFINEMENT TO THE ANDERSON HONDA PUD (PDM VII-848) FOR MODIFICATIONS TO THE APPROVED PLAN

BOARD OF APPEALS' CASES:
 CSA-09-022 RELATED TO DRC AUTHORIZATION 051080C FOR PDM VII-796 - DISMISSED-SEE AMENDED ORDER OF DISMISSAL DATED MAY 25, 2010

PDM 08-796 - MATERIAL AMENDMENT TO PUD PLANS PREVIOUSLY APPROVED AS PDM VII-796 AND VII-848 AND SPECIAL HEARING CASE 2010-0161-SPH-HEARING OFFICERS

COMBINED ZONING AND DEVELOPMENT PLAN CONSISTING OF THE FOLLOWING REQUESTS:

The amendment of the "Anderson Hummer PUD-C" Development Plan previously approved in Case No. VII-796 by Deputy Zoning Commissioner John V. Murphy's

Hearing Officer's Opinion and Development Plan Order dated October 31, 2003, and the "Anderson Honda PUD" C Concept Plan previously approved in

Case No. VII-848 by Deputy Zoning Commissioner John V. Murphy's Hearing Officer's Review and Approval Order date February 20, 2007 ("Prior PUD Approvals")

in accordance with Section 430 of the B.C.Z.R. and Section 32-4-241, et. seq. of the Baltimore County Code;

The consolidation of the prior PUD approvals for PDM Nos. VII-796 and VII-848 into PDM No. 08-796 in accordance with Section 430 of the B.C.Z.R.

and Section 32-4-241, et. seq. of the B.C.C. and

The material amendments to non-residential Development Plans (PDM Nos. VII-796 and VII-848) and

The consolidation of PDM files for PDM Nos. VII-796 and VII-848 into PDM No. 08-796.

REQUESTS WERE GRANTED BY THE HEARING OFFICER PER REVISED ORDER DATED MARCH 3, 2010, SUBJECT TO THE FOLLOWING RESTRICTIONS:

1. Any appeal of this decision must be taken within thirty (30) days from the date of this Order. If an appeal of this decision is not taken within the time prescribed, then this decision shall constitute a final order as to the zoning relief requested and a formal Development Plan Order as to the Hearing Officer's Hearing, and shall be subject to the appeal provisions contained in the Baltimore County Zoning Regulations and Section 32-4-281 of the Baltimore County Code

2. The Developer shall comply with the terms of the "Second Amendment to Declaration of Covenants, Conditions and Restrictions" dated April 18, 2009 by BKI York I, LLC for the benefit of Monterey Improvement Association, attached hereto as Developer's Exhibit 4 and incorporated herein, and said agreement shall be enforceable by Baltimore County.

3. In the event the sale of 10 Halesworth Road and 10111 York Road is not consummated between the Developer and the property owner, the property owner reserves the right to re-establish a commercial entrance allowing direct access to 10 Halesworth Road from Halesworth Road without the need for further public hearing, provided such a request to reopen access is in accordance with the procedures established by the Baltimore County Department of Permits and Development Management and requirements set forth by the Baltimore County Department of Public Works, Bureau of Highways.

7) PROPOSED PUD AUTHORIZED USES:

LOT 2A - 31,324 SF AUTOMOBILE DEALERSHIP BUILDING INCLUDING AUTOMOTIVE SHOWROOM, NEW AND USED AUTOMOTIVE SALES, SALES SUPPORT OFFICES, CUSTOMER AREAS, PARTS SALES, PARTS STORAGE, AUTOMOTIVE SERVICE GARAGE, CUSTOMER SERVICE RECEPTION AREA, AND GENERAL OFFICES, DISPLAY

AND INVENTORY OF MOTOR VEHICLES.

LOT 3A - DISPLAY AND INVENTORY STORAGE OF MOTOR VEHICLES.

LOT 4 - DISPLAY AND INVENTORY STORAGE OF MOTOR VEHICLES.

LOT 5 - FUEL SERVICE STATION AND 5,578 SF BUILDING INCLUDING 4,337 SF OF CONVENIENCE STORE

854 SF OF PREPARED CARRYOUT FOOD USE

387 SF OF FUEL SERVICE USE SUPPORT AREA

8) COUNCILMANIC DISTRICT- 3RD

9) ELECTION DISTRICT 8

10) WATERSHED 3

11) SUBSEWER SHED 32

12) CENSUS TRACT 4085.03

13) FLOOR AREA RATIO: LOT 2A 31,324 SF / 162,439 SF = 0.19

LOT 2B = 0

LOT 4 = 0

LOT 5 5,578 SF / 69,925 SF = 0.08

14) AMENITY OPEN SPACE - NONE REQUIRED

15) BUILDING HEIGHT - LOT 2A 24 FEET (EXISTING)

LOT 3A - NA

LOT 4 - NA

LOT 5 - 31 FEET TO PEAK OF FRONT ENTRY FEATURE (22 FEET TO MAIN ROOF)

16) THERE ARE NO EXISTING COUNTY REGULATED RESOURCES, INCLUDING WETLANDS, WETLAND BUFFERS, FOREST BUFFERS, OR FOREST WHICH ARE AFFECTED BY THE DEVELOPMENT SHOWN HEREON. SEE LETTER DATED AUGUST 18, 2006 FROM ECO SCIENCE PROFESSIONALS, INC. RELATED TO FIELD REVIEW OF JURISDICTIONAL

NON-TOTAL WETLANDS AND STREAMS CONDUCTED ON 8-17-06

17) FOREST CONSERVATION: THERE IS NO EXISTING FOREST ON ANY OF THE PARCELS OF LAND COMPRISING THIS SITE, THE NO. 10125 AND 10131 YORK ROAD PARCELS ARE PART OF THE "LANDS OF DELICIOUS REALTY" SUBDIVISION WHICH HAS PREVIOUSLY COMPLIED WITH THE FOREST CONSERVATION ORDINANCE (AFFORESTATION REQUIREMENT THROUGH THE PURCHASE IN AN APPROVED FOREST BANK, THE NO. 1011 YORK ROAD AND NO. 1011 HALESWORTH ROAD PARCELS WERE DETERMINED TO BE SUBJECT TO THE AFFORESTATION PROVISIONS OF THE FOREST CONSERVATION ACT, AN AFFORESTATION OBLIGATION OF 0.4 ACRES WAS APPROVED BY DEPS ER TO BE SATISFIED THROUGH THE PURCHASE OF FOREST RETENTION BANKING, ON JANUARY 23, 2007 THE 0.4 ACRE OBLIGATION WAS PURCHASED AT THE "LEONARD" PROPERTY.

18) A PUBLIC WORKS AGREEMENT WILL NOT BE REQUIRED, NO PUBLIC IMPROVEMENTS.

19) THE ENTRY ACCESS POINT AT 10111 YORK ROAD HAS BEEN AUTHORIZED BY THE SHA PER ACCESS PERMIT NO. 08-AP-BA-002-08

20) LIGHTING - ANY LIGHTING SHALL BE ERCTED AS TO MINIMIZE THE IMPACT ONTO ADJOINING RESIDENTIAL AREAS AND PUBLIC ROADWAYS. A LIGHTING LEVEL DISTRIBUTION PLAN SHALL BE SUBMITTED TO BALTIMORE COUNTY PA-DPR FOR REVIEW AS PART OF THE BUILDING-GRADING PERMIT PROCESS.

21) PRIOR COMMERCIAL PERMITS GRADING PERMIT 0733297

22) ESTIMATED AVERAGE DAILY TRIPS - 1200 ANDERSON GM / 3201 WAWA

23) STORMWATER MANAGEMENT - A STORM WATER MANAGEMENT COMPLIANCE REPORT CONFIRMING THAT 10125 AND 10131 YORK ROAD QUALIFIES AS A REDEVELOPMENT SITE AND ACHIEVED A 20% REDUCTION IN IMPERVIOUS COVERAGE WAS APPROVED BY DEPRM A PORTION OF THE PROPERTY KNOWN AS 10 HALESWORTH ROAD DRAINING WESTERLY COMPLIED WITH THE STORM WATER MANAGEMENT REDEVELOPMENT CRITERIA BY ACHIEVING A 20% REDUCTION IN IMPERVIOUS COVERAGE. PORTIONS OF 10111 YORK ROAD AND 10 HALESWORTH ROAD DRAINING WESTERLY WERE AUTHORIZED UNDER A VARIANCE PROCEDURE TO ACHIEVE A 4% REDUCTION IN IMPERVIOUS COVERAGE CONDITIONED ON THE PAYMENT OF \$11,200 INTO THE BALTIMORE COUNTY STORM WATER MANAGEMENT FUND. SEE LETTER FROM THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT DATED JUNE 28, 2007 REGARDING THE FORMER ANDERSON HONDA PROJECT. AN ADMINISTRATIVE WAIVER TO ALLOW THIS PROJECT TO BE COVERED BY STORMWATER MANAGEMENT REGULATIONS IN EFFECT AS OF MAY 4, 2009 WAS GRANTED BY THE BALTIMORE COUNTY DEPT. OF ENVIRONMENTAL PROTECTION AND SUSTAINABILITY - SEE LETTER DATED NOVEMBER 9, 2011. THE IMPERVIOUS COVERAGE SHOWN ON HEREON FOR THE PROPERTIES COMPRISING 10131, 10125, 10111 YORK ROAD AND 10 HALESWORTH ROAD IS CONSISTENT WITH THE AFFORESTATION COMPLIANCE REPORT.

24) FLOODPLAIN - THIS SITE DOES NOT LIE WITHIN THE 100 YEAR FLOODPLAIN

25) PROPOSED HOURS OF OPERATION - ANDERSON GM 7:00 AM TO 9:00 PM MONDAY THROUGH FRIDAY AND 9:00 AM TO 5:00 PM SATURDAY/ FUEL SERVICE STATION AND CONVENIENCE STORE - 24 HOURS A DAY - 7 DAYS A WEEK

26) THERE WILL BE NO DAMAGED VEHICLES STORED ON THIS PROPERTY.

27) PARKING - THERE WILL BE NO EXTERIOR AUDIO PAING SYSTEMS ON THIS PROPERTY.

28) PROPOSED AND EXISTING SIGNAGE - SEE DETAILS SHEETS 3 AND 4

29) THERE ARE NO EXISTING WATER SUPPLY WELLS.

30) THERE ARE NO EXISTING UNDERGROUND FUEL TANKS ON THE PROPERTY.

Site Data and Notes Cont.

- 31) THE ENTIRE PROPERTY SHOWN HEREON IS LOCATED WITHIN THE URBAN RURAL DEMARCATION LINE.
 32) THE PROPERTY SHOWN HEREON DOES NOT LIE WITHIN ANY AREA IDENTIFIED AS BEING DEFICIENT ON THE 2011 BASIC SERVICES MAPS ADOPTED BY THE BALTIMORE COUNTY COUNCIL.

33) NET AREA OF EXISTING LOT 2A - 3,729.1 ACRES/-

NET AREA OF EXISTING LOT 3A - 1,990.6 ACRES/-

NET AREA OF PROPOSED LOT 4 - 0.8120 ACRES/-

NET AREA OF PROPOSED LOT 5 - 1.6052 ACRES/-

34) GROSS AREA OF LOTS (INCLUDES UP TO 50% OF ADJOINING PUBLIC R/W)

GROSS AREA OF EXISTING LOT 2A - 3,939.8 ACRES/-

GROSS AREA OF EXISTING LOT 3A - 1,990.6 ACRES/-

GROSS AREA OF PROPOSED LOT 4 - 0.9264 ACRES/-

GROSS AREA OF PROPOSED LOT 5 - 1.6842 ACRES/-

35) MINIMUM LOT AREA OF LOT 5 REQUIRED: 4 X 4,337 = 17,348 SF

12 X 1,500 = 18,000 SF

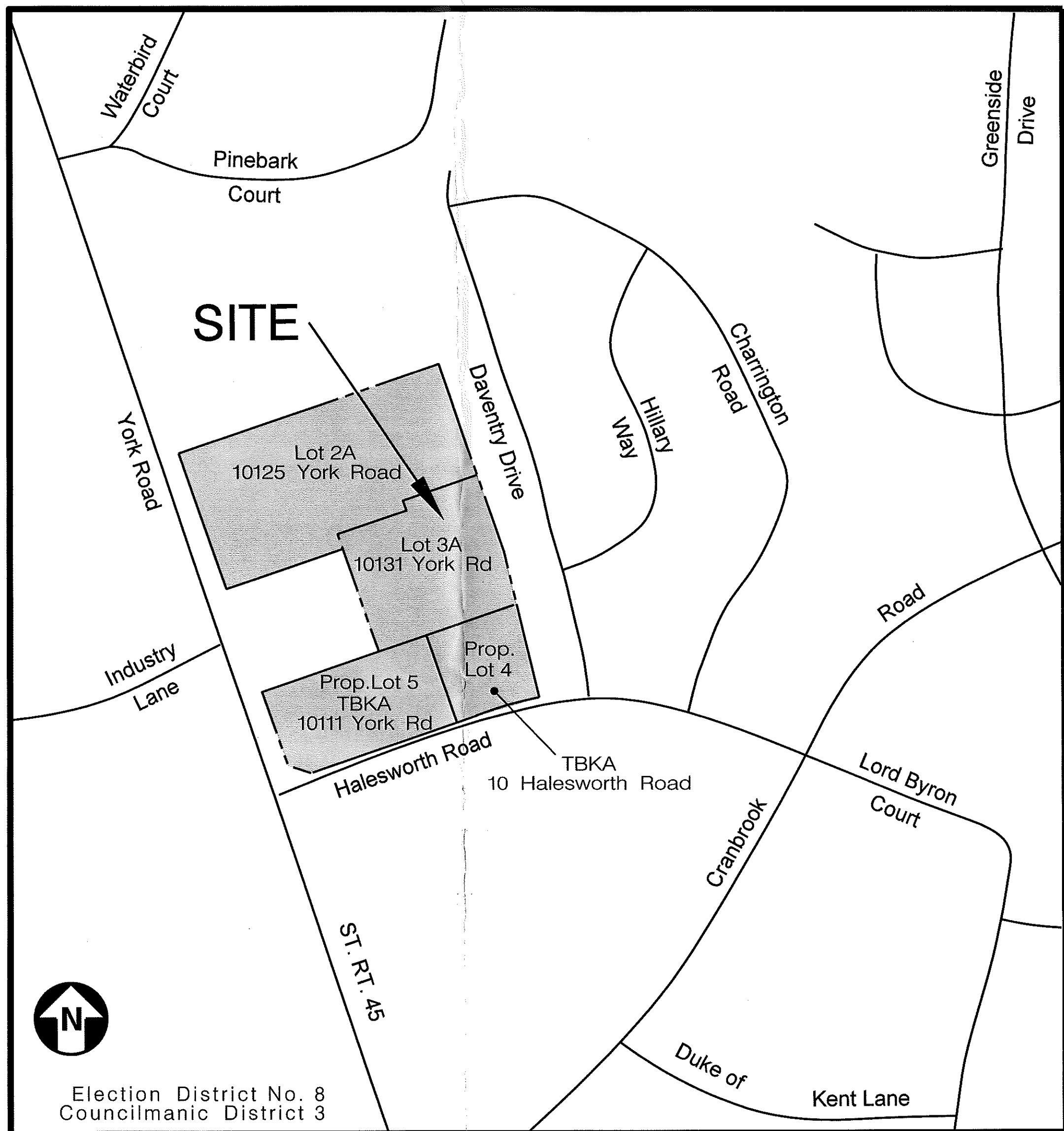
TOTAL = 35,348 SF (0.81 ADDRESS)

36) THERE ARE NO ABANDONED FUEL SERVICE STATIONS WITHIN A 1/2 MILE OF LOT 5 NOR ARE THERE TWO ABANDONED FUEL SERVICE STATIONS WITHIN 1 MILE OF LOT 5.

37) THERE IS NO SERVICE OR REPAIR OF VEHICLES RELATED TO THE FUEL SERVICE STATION USE PROPOSED ON LOT 5.

38) THERE IS NO AUTOMATED TELLER MACHINE OR VACUUM STATION PROPOSED IN CONJUNCTION WITH THE FUEL SERVICE STATION USE ON LOT 5.

39) THE AREA BETWEEN THE SIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED AND KEPT FREE OF ANY OBSTRUCTIONS.



Vicinity Map

Scale 1" = 200'

Applicant/Developer Lot 2A, 3A and 4

Anderson Motors, LLC
 Bruce Mortimer, Managing Member
 c/o Anderson of Hunt Valley
 10139 York Road
 Cockeysville, Maryland 21030
 410-403-1300

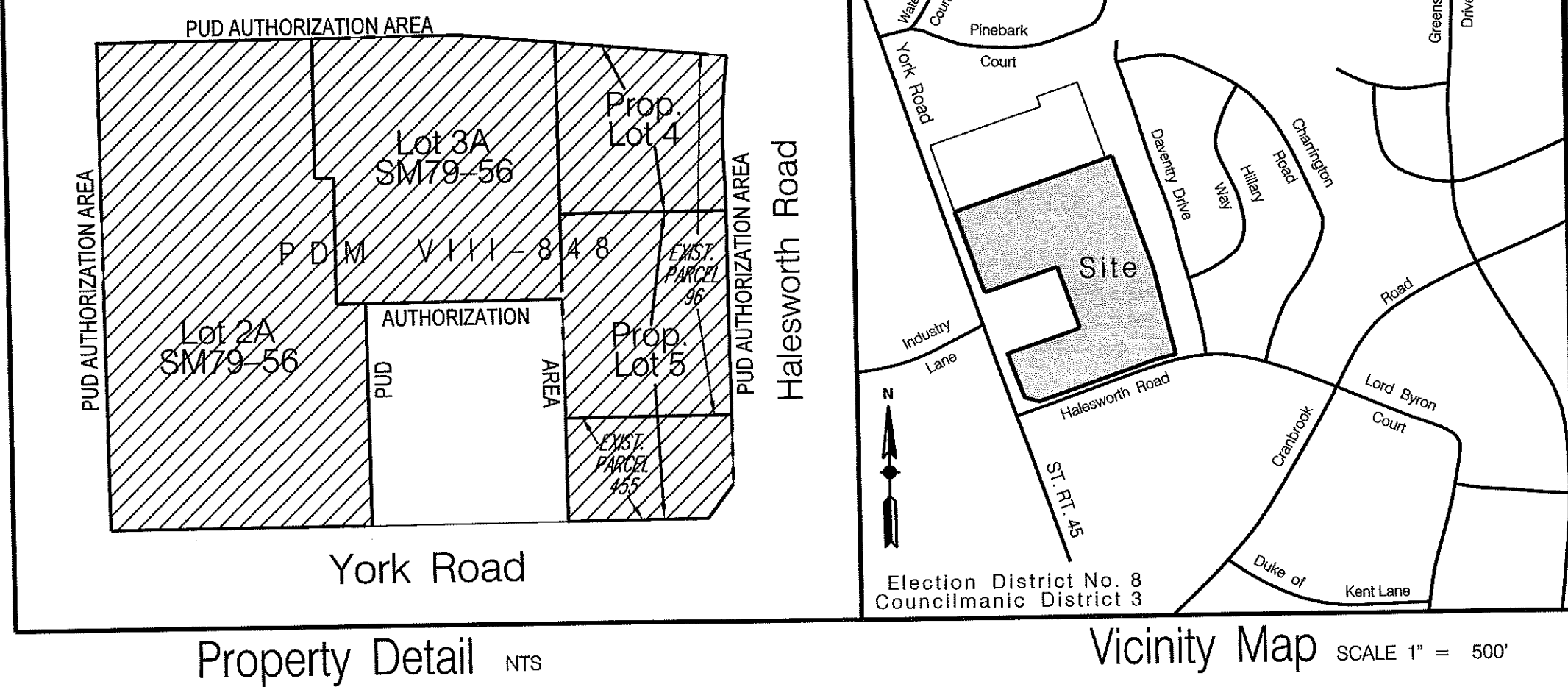
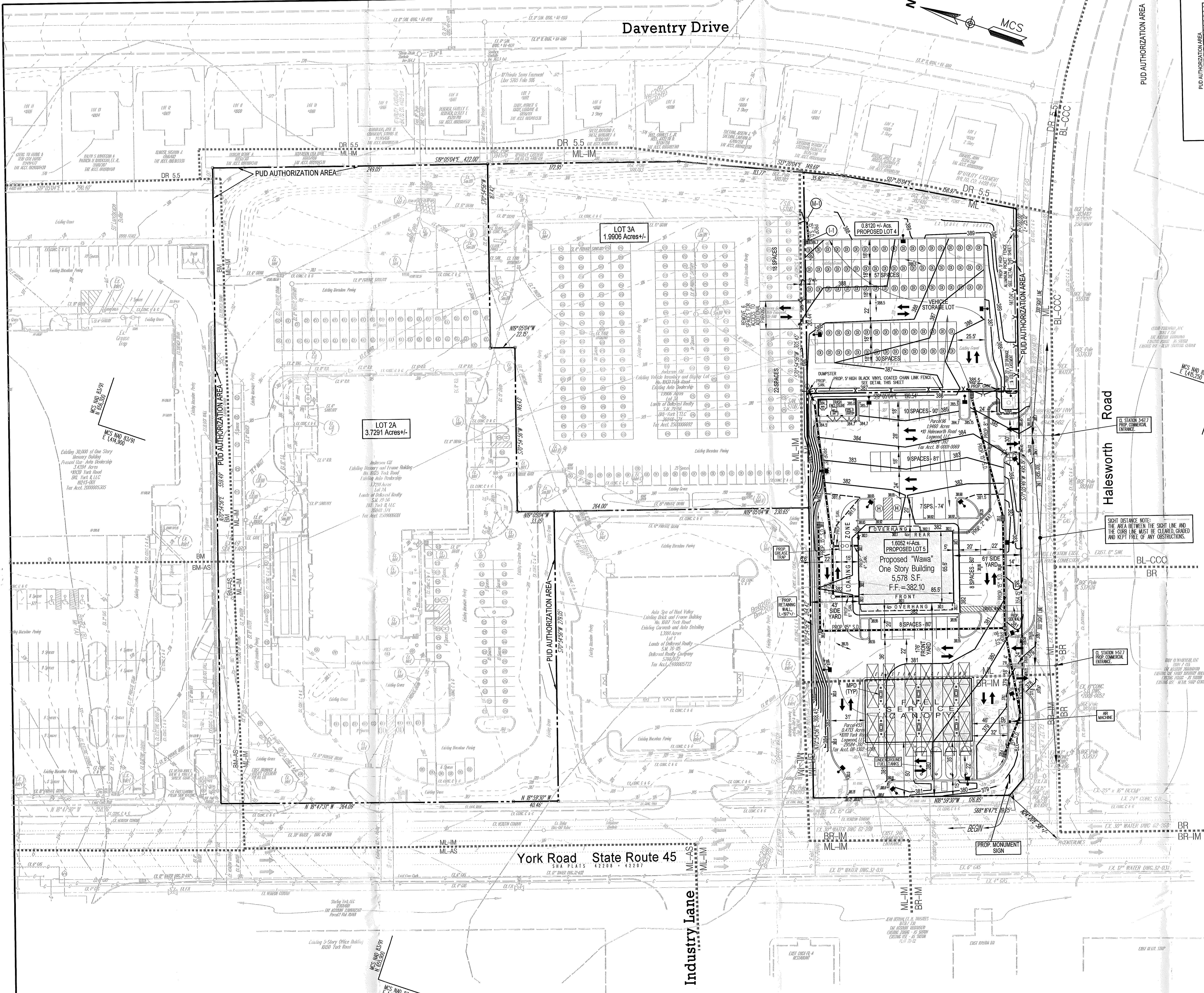
Lessee /Developer Lot 5

Wawa, Inc.
 260 W. Baltimore Pike
 Wawa, Pennsylvania 19063
 Attn: Ted Iobst

THE REASON FOR THIS MATERIAL AMENDMENT IS TO PROVIDE DETAILED SITE DEVELOPMENT INFORMATION FOR PARCELS 455 AND 96, (PROPOSED LOTS 4 AND 5). NO REVISIONS HAVE BEEN MADE TO THE DEVELOPMENT ON LOTS 2A & 3A AS PREVIOUSLY APPROVED UNDER THE 1ST MATERIAL AMENDMENT, WITH THE EXCEPTION OF CREATING A DRIVEWAY CONNECTION BETWEEN LOT 3A AND PROPOSED LOT 4.

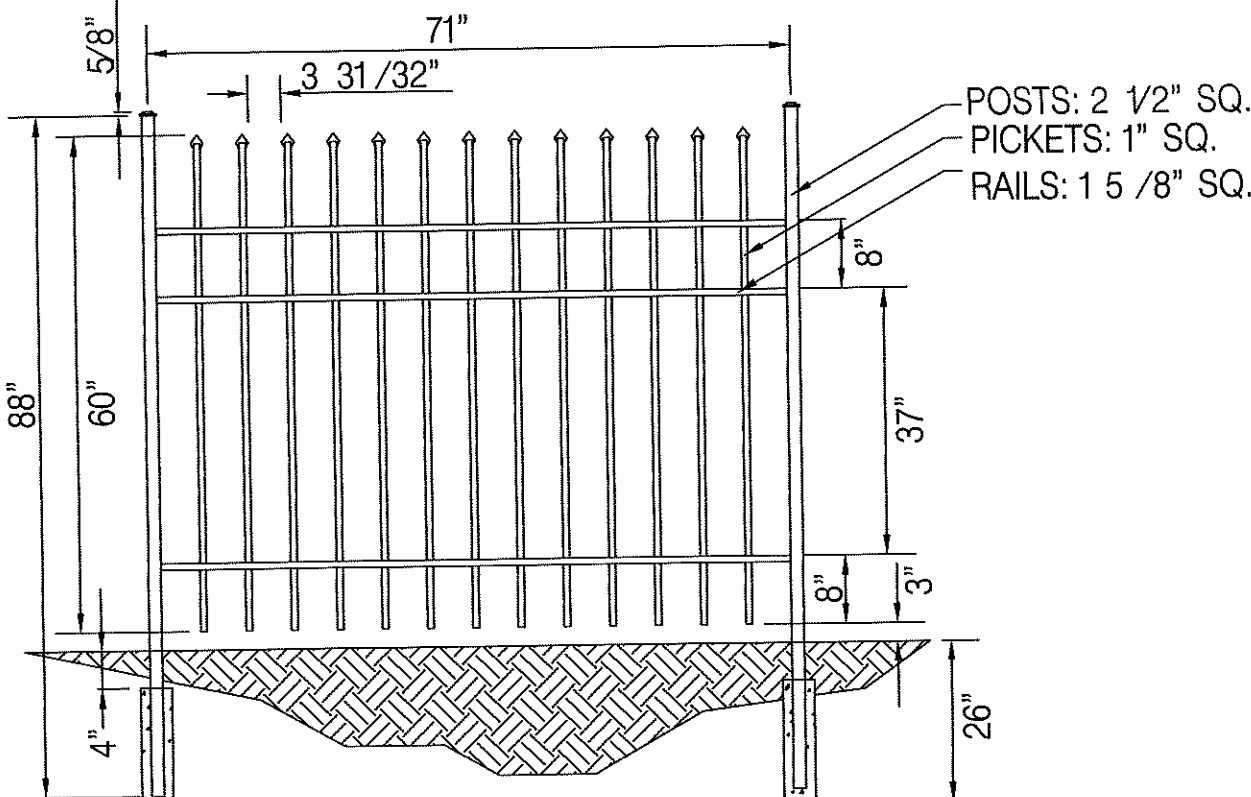
Zoning Regulations – PUD Standards

	CURRENT REGULATIONS PER ML ZONE	CURRENT REGULATIONS PER BR ZONE	PUD STANDARDS FOR LOTS 2A, 3A, 4 AND 5	MODIFICATION TO STANDARD
FLOOR FRONT YARD	20' MIN. EXCEPT FROM PUBLIC ROAD CENTERLINE (225.0) AND BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	20' MIN. EXCEPT FROM PUBLIC ROAD CENTERLINE (225.0)	20' MIN. EXCEPT FROM PUBLIC ROAD CENTERLINE (225.0)	NO
FLOOR SIDE YARD	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	NO
FLOOR REAR YARD	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	20' MIN. NO BUILDING WITHIN 10' OF RESIDENTIAL ZONE (225.0)	NO
BUILDING HEIGHT	ML - 40' MAX. WITHIN 10' OF BUSINESS ZONE, OTHERWISE UNLIMITED (225.0)	BASED ON HEIGHT TABLE (225.0)	40' MAXIMUM	NO
FLOOR AREA RATIO	2.0 (225.0)	2.0 (225.0)	2.0 MAXIMUM	NO
BUILDING SEPARATION	6' (102.2)	6' (102.2)	6' MIN	NO
AMENITY OPEN SPACE	N/A	N/A	N/A	NO
PARKING REQUIREMENTS	PER PROVISIONS OF SECTION 409 B.C.Z.R.	PER PROVISIONS OF SECTION 409 B.C.Z.R.	PER PROVISIONS OF SECTION 409 B.C.Z.R.	NO
SCENESCAPE	PERMITTED (225.0) (1) ENTERPRISE FREESTANDING SIGN 75' x 15' or 100' x 10' or 150' x 10' or 200' x 10' or 250' x 10' or 300' x 10' or 350' x 10' or 400' x 10' or 450' x 10' or 500' x 10' or 550' x 10' or 600' x 10' or 650' x 10' or 700' x 10' or 750' x 10' or 800' x 10' or 850' x 10' or 900' x 10' or 950' x 10' or 1000' x 10' or 1050' x 10' or 1100' x 10' or 1150' x 10' or 1200' x 10' or 1250' x 10' or 1300' x 10' or 1350' x 10' or 1400' x 10' or 1450' x 10' or 1500' x 10' or 1550' x 10' or 1600' x 10' or 1650' x 10' or 1700' x 10' or 1750' x 10' or 1800' x 10' or 1850' x 10' or 1900' x 10' or 1950' x 10' or 2000' x 10' or 2050' x 10' or 2100' x 10' or 2150' x 10' or 2200' x 10' or 2250' x 10' or 2300' x 10' or 2350' x 10' or 2400' x 10' or 2450' x 10' or 2500' x 10' or 2550' x 10' or 2600' x 10' or 2650' x 10' or 2700' x 10' or 2750' x 10' or 2800' x 10' or 2850' x 10' or 2900' x 10' or 2950' x 10' or 3000' x 10' or 3050' x 10' or 3100' x 10' or 3150' x 10' or 3200' x 10' or 3250' x 10' or 3300' x 10' or 3350' x 10' or 3400' x 10' or 3450' x 10' or 3500' x 10' or 3550' x 10' or 3600' x 10' or 3650' x 10' or 3700' x 10' or 3750' x 10' or 3800' x 10' or 3850' x 10' or 3900' x 10' or 3950' x 10' or 4000' x 10' or 4050' x 10' or 4100' x 10' or 4150' x 10' or 4200' x 10' or 4250' x 10' or 4300' x 10' or 4350' x 10' or 4400' x 10' or 4450' x 10' or 4500' x 10' or 4550' x 10' or 4600' x 10' or 4650' x 10' or 4700' x 10' or 4750' x 10' or 4800' x 10' or 4850' x 10' or 4900' x 10' or 4950' x 10' or 5000' x 10' or 5050' x 10' or 5100' x 10' or 5150' x 10' or 5200' x 10' or 5250' x 10' or 5300' x 10' or 5350' x 10' or 5400' x 10' or 5450' x 10' or 5500' x 10' or 5550' x 10' or 5600' x 10' or 5650' x 10' or 5700' x 10' or 5750' x 10' or 5800' x 10' or 5850' x 10' or 5900' x 10' or 5950' x 10' or 6000' x 10' or 6050' x 10' or 6100' x 10' or 6150' x 10' or 6200' x 10' or 6250' x 10' or 6300' x 10' or 6350' x 10' or 6400' x 10' or 6450' x 10' or 6500' x 10' or 6550' x 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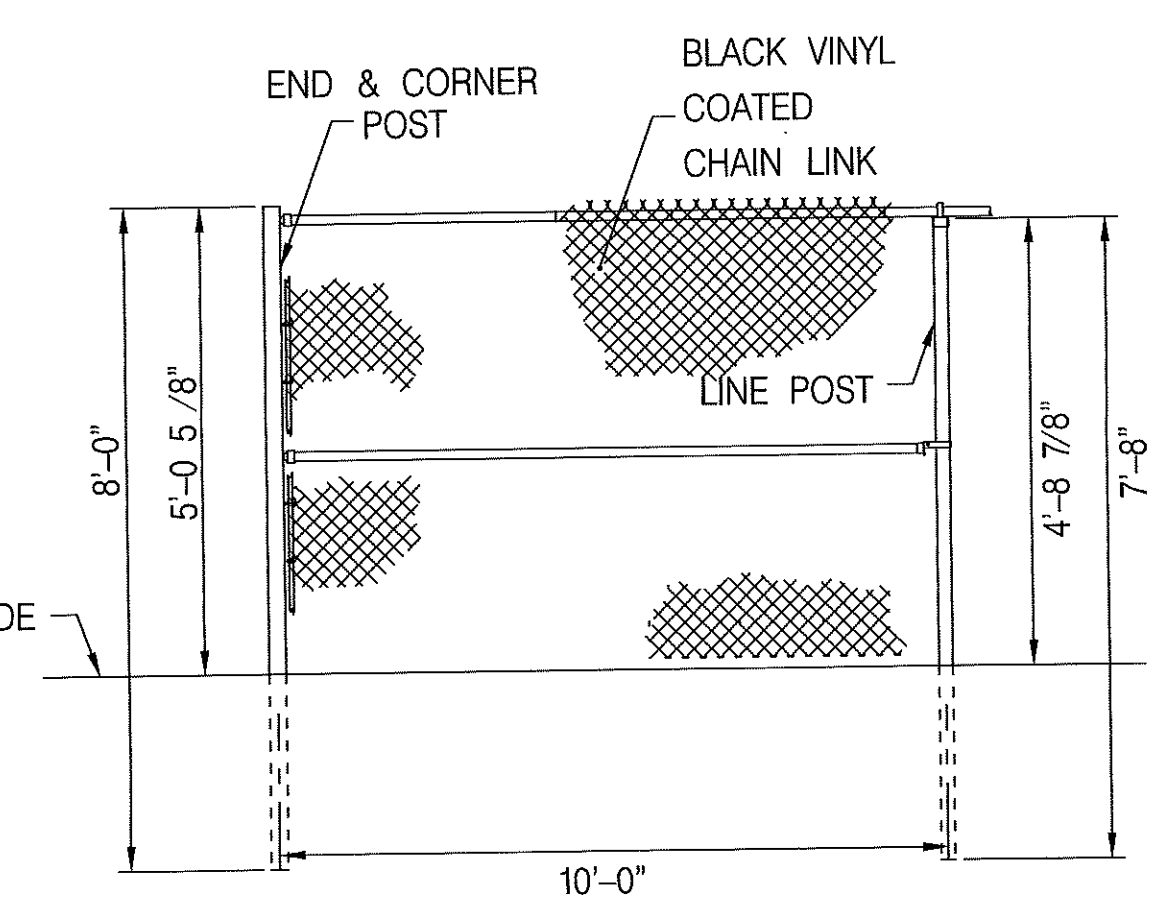


Legend

Existing Contours	---
Proposed Grades	---
Existing Storm Drain	---
Proposed Storm Drain	---
Existing Sanitary	---
Proposed Sanitary	---
Existing Water	---
Proposed Water	---
Existing Curb	---
Prop. Curb and Gutter	---
Existing Zoning Line	---
Property Line	---
Existing Light Pole	---
Existing Electric	---
Existing Telephone	---
Existing Gas	---
10' x 20' Stacking Space	---
Vehicle Inventory & Display Parking Space	---
Customer-Employee Parking Space	---
Handicap Parking Space	---
Proposed Area Pole Light	---



ALUMINUM PICKET FENCE DETAIL
ALONG LOT 4 HALESWORTH ROAD SIDE



CHAIN LINK FENCE DETAIL
ALONG PROPERTY LINE BETWEEN LOTS 4 AND 5

Dedication Table

TYPE OF CONVEYANCE	NO.	TOTAL AREA IN ACRES
DRAINAGE AND UTILITY EASEMENT	1	0.009

Soils Data

SYMBOL	HYDROLOGIC GROUP	NAME	BLOD. W/ USMT.	BLOD. W/O USMT.	STREETS AND PARKING LOTS
Bm2	B	Baltimore	Shrub	Moderate - Slope	
Bm2	B	Baltimore	Moderate - Slope	Moderate - Slope	
H202	B	Holldorf	Moderate - Slope	Moderate - Slope	

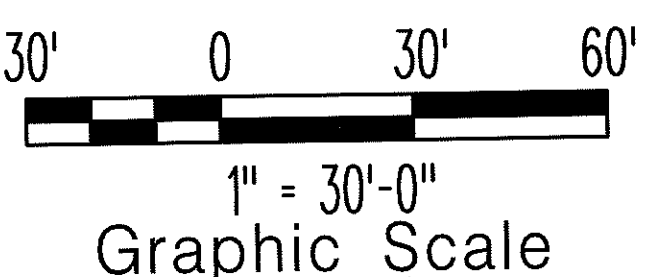
MATISWARFIELD
Consulting Engineers

10540 York Road Suite M Hunt Valley, Maryland 21030
410.683.7004 PHONE: 410.683.1798 FAX
www.matiswarfield.com



"Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the state of Maryland, License No. 18848, Expiration Date: 09-19-12."

This Plan is accurate and was prepared in accordance with the Development Regulations



Applicant/Developer Lot 2A, 3A and 4
Anderson Motors, LLC
Bruce Mortimer, Managing Member
c/o Anderson of Hunt Valley
10139 York Road
Cockeysville, Maryland 21030
410-403-1300

Lessee /Developer Lot 5
Wawa, Inc.
260 W. Baltimore Pike
Wawa, Pennsylvania 19063
Attn: Ted Iobst

DATE	ISSUE
11-28-11	CHECKPRINT SUBMISSION
12-16-11	DEVELOPMENT PLAN SUBMISSION

Development Plan
Anderson GM PUD Development PDM #08-796
2nd Material Amendment
-and-
Plan to Accompany Petition for
Special Hearing
2nd Material Amendment
to amend Anderson GM PUD Development Plan
ANDERSON GM - 10125 AND 10131 YORK ROAD
PROPOSED LOT 4 (VEHICLE STORAGE) - 10 HALESWORTH ROAD
PROPOSED LOT 5 (WAWA) - 10111 YORK ROAD

Baltimore County, Maryland
Election District No. 8
Councilmanic District 3
Sheet 2 of 4

DESIGN AND DRAWING BASED ON THE
MARYLAND COORDINATE SYSTEM (MCS)