

5/14/2013

IN THE MATTER OF  
THE APPLICATION OF  
1600 FREDERICK ROAD, LLC  
LEGAL OWNERS/PETITIONERS  
PETITION FOR SPECIAL HEARING  
1600 FREDERICK ROAD  
1<sup>ST</sup> ELECTION DISTRICT  
1<sup>ST</sup> COUNCILMANIC DISTRICT

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO. 13-071-SPH

\* \* \* \* \*

**ORDER OF DISMISSAL**

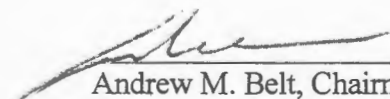
This matter comes to the Board of Appeals by way of an appeal filed by Thomas E. Neary from a decision of the Administrative Law Judge dated December 5, 2012, in which the requested zoning relief was denied and Order on Motion for Reconsideration dated January 30, 2013 wherein the Motion for Reconsideration was granted.

**WHEREAS**, the Board is in receipt of a Request to Withdraw the Petition filed by Jason T. Vettori, Esquire on behalf of 1600 Frederick Road, LLC, Petitioner (a copy of which is attached hereto and made a part hereof); and

**WHEREAS**, said Petitioner requests that the Petition for Special Hearing, that is the subject matter of this appeal be withdrawn and dismissed without prejudice,

**IT IS THEREFORE ORDERED** this 14<sup>th</sup> day of May, 2013 by the Board of Appeals of Baltimore County that the Petition for Special Hearing filed in Case No. 13-071-SPH be and the same is hereby **WITHDRAWN AND DISMISSED**, and that the Administrative Law Judge's Order dated December 5, 2012, including any and all relief granted therein or after, is hereby rendered **null and void**.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
\_\_\_\_\_  
Andrew M. Belt, Chairman



Board of Appeals of Baltimore County

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

May 14, 2013

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

Thomas Neary  
1 Montrose Avenue  
Catonsville, MD 21228

RE: *In the Matter of: 1600 Frederick Road, LLC – Legal Owner/Petitioner*  
Case No.: 13-071-SPH

Dear Messers Vettori and Neary:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

*Theresa Shelton/kc*

Theresa R. Shelton  
Administrator

TRS/klc  
Enclosure  
Duplicate Original Cover Letter

c: Allen Parsons, Representative/1600 Frederick Road, LLC  
Ronald Johnston  
Mike S. Iverman  
Jason Schiffman  
Lawrence M. Stahl, Managing Administrative Law Judge  
Arnold Jablon, Director/PAI  
Andrea Van Arsdale, Director/Department of Planning

Allen and Lori Parsons  
Kenneth Wells  
James Styer  
Office of People's Counsel  
John E. Beverungen, Administrative Law Judge  
Nancy West, Assistant County Attorney  
Michael Field, County Attorney, Office of Law

# **SMITH, GILDEA & SCHMIDT** LLC

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

LAUREN M. DODRILL  
CHARLES B. MAREK, III  
NATALIE MAYO  
ELYANA TARLOW  
REBECCA G. WYATT  
of counsel:  
JAMES T. SMITH, JR.

May 10, 2013

Sent Via Hand Delivery

Ms. Theresa R. Shelton  
County Board of Appeals of Baltimore County  
105 W. Chesapeake Avenue, Suite 203  
Towson, MD 21204

**RECEIVED**  
MAY 10 2013

BALTIMORE COUNTY  
BOARD OF APPEALS

**Re: Matthew's 1600 - 1600 Frederick Road  
IN RE: PETITION FOR SPECIAL HEARING  
(1600 Frederick Road)  
1st Election District  
1st Councilmanic District  
1600 Frederick Road, LLC, Petitioner  
Case No. 13-071-SPH**

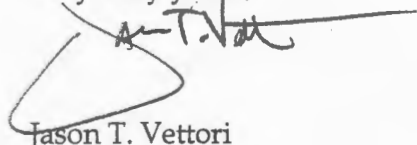
Dear Ms. Shelton:

On behalf of the Legal Owner/Petitioner in the above referenced Petition for Zoning Relief, 1600 Frederick Road, LLC, please accept this request for withdrawal of the petition for zoning relief in accordance with Rule 3.b.2 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals.

The Legal Owner/Petitioner wishes to have the petition withdrawn and dismissed without prejudice. As such, this withdrawal is being filed not less than 10 days before the scheduled hearing date, May 21, 2013. The Legal Owner/Petitioner understands and acknowledges that the withdrawal of the petition will render the Administrative Law Judge's January 30, 2013 decision moot.

Thank you for your time and consideration of this most important matter.

Very truly yours,

  
Jason T. Vettori

JTV:amf

cc: Alan Parsons  
David K. Gildea, Esquire  
Kenneth J. Wells, P.E.

IN RE: PETITION FOR SPECIAL HEARING \*  
(1600 Frederick Road)  
1<sup>st</sup> Election District \*  
1<sup>st</sup> Councilmanic District \*  
1600 Frederick Road, LLC \*  
*Petitioner* \*

Case No. 2013-0071-SPH \*

BEFORE THE  
BOARD OF  
APPEALS  
OF BALTIMORE COUNTY

\* \* \* \* \*

**ORDER OF DISMISSAL**

This matter comes to the Board of Appeals by way of an appeal filed by Thomas Neary, Appellant, under BCC § 32-3-401 (formerly BCC § 26-132) from the final decision of the Administrative Law Judge, an Order on Motion for Reconsideration dated January 30, 2013, in which the requested Petition for Zoning Relief was granted.

**WHEREAS**, the Board is in receipt of a voluntary letter of withdrawal of the Petition for Zoning Relief, filed May 11, 2013, which is not less than 10 days before the scheduled hearing date, May 21, 2013, and signed by Jason T. Vettori, Counsel for 1600 Frederick Road, LLC, Petitioner, a copy of which is attached hereto and made a part hereof; and

**WHEREAS**, said Counsel for Petitioner requests, in accordance with Rule 3.b.2 of the Rules of Practice and Procedure of the Baltimore County Board of Appeals, that the Petition for Zoning Relief taken in this matter be withdrawn and dismissed without prejudice as of May 11, 2013;

**IT IS THEREFORE ORDERED**, this \_\_\_\_\_ day of May, 2013 that the Petition for Zoning Relief in Case No. 2013-0071-SPH be and the same is hereby **DISMISSED without prejudice**, thereby rendering the final decision of the Administrative Law Judge, the January 30, 2013 Order, as **null and void** in this matter.

**BOARD OF APPEALS  
OF BALTIMORE COUNTY**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



# Board of Appeals of Baltimore County

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

March 18, 2013

## **NOTICE OF ASSIGNMENT**

**CASE #: 13-071-SPH**

**IN THE MATTER OF: 1600 Frederick Road, LLC**

**Legal Owner /Petitioner**

1600 Frederick Road / 1<sup>st</sup> Election District; 1<sup>st</sup> Councilmanic District

Re: Petition for Special Hearing to approve: 1) The extension of the existing restaurant no more than 25% of the ground floor area of the building pursuant to 104.3 of the BCZR; and 2) A modified parking plan pursuant to 409.12.B of the BCZR.

12/5/12 Opinion and Order of Administrative Law Judge Beverungen wherein the requested Petition for Special Hearing was DENIED.  
1/4/13 Motion for Reconsideration filed by Jason Vettori, Esquire on behalf of Petitioners, 1600 Frederick Road, LLC.  
1/25/13 Opposition to Motion for Reconsideration filed by Thomas Neary, Protestant.  
1/30/13 Order of Petitioner's Motion for Reconsideration issued by Administrative Law Judge Beverungen wherein the Motion was GRANTED.

**ASSIGNED FOR:**

**TUESDAY, MAY 21, 2013, AT 10:00 A.M.**

**LOCATION:**

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

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

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

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

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

Theresa R. Shelton, Administrator

c: Counsel for Legal Owner/Petitioner  
Legal Owner/Petitioner

: Jason Vettori, Esquire  
: Allen Parsons, Representative  
1600 Frederick Road, LLC

Appellant

: Thomas Neary

Allen and Lori Parsons Ronald Johnston Kenneth Wells Mike S. Iverman James Styer Jason Schiffman

Office of People's Counsel

Lawrence M. Stahl, Managing Administrative Law Judge

John E. Beverungen, Administrative Law Judge

Andrea Van Arsdale, Director/Department of Planning

Michael Field, County Attorney, Office of Law

Arnold Jablon, Director/PAI

Nancy West, Assistant County Attorney



KEVIN KAMENETZ  
County Executive

LAWRENCE M. STAHL  
Managing Administrative Law Judge  
JOHN E. BEVERUNGEN  
Administrative Law Judge

March 13, 2013

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

**RECEIVED**  
MAR 13 2013

BALTIMORE COUNTY  
BOARD OF APPEALS

**RE: APPEAL TO BOARD OF APPEALS**  
Case No. 2013-0071-SPH  
Location: 1600 Frederick Road

Dear Mr. Vettori:

Please be advised that an appeal of the above-referenced case was filed in this Office on March 1, 2013. 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/sln

c: ~~B~~altimore County Board of Appeals  
People's Counsel for Baltimore County  
Lori and Allen Parsons, 2737 Bevrige Drive, Marriottsville, Maryland 21104  
Mike Silverman, 2 Montrose Avenue, Catonsville, Maryland 21228  
James Styer, 1613 Frederick Road, Catonsville, Maryland 21228  
Thomas Neary, 1 Montrose Avenue, Catonsville, Maryland 21228  
Jason Schiffman, 1507 Frederick Road, Catonsville, Maryland 21228

APPEAL

Petition for Special Hearing  
(1600 Frederick Road)  
1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District  
Legal Owner: 1600 Frederick Road, LLC  
Case No. 2013-0071-SPH

- ✓ Petition for Special Hearing (September 20, 201<sup>2</sup>~~1~~)
- ✓ Zoning Description of Property.
- ✓ Notice of Zoning Hearing (October 12, 2012)
- ✓ Certificate of Publication (The Jeffersonian – October 25, 2012)
- ✓ Certificate of Posting (October 25, 2012) by Robert Black
- ✓ Entry of Appearance by People's Counsel (October 3, 2012)
- ✓ Petitioner(s) Sign-in Sheet – 1 Sheet
- ✓ Citizen(s) Sign-in Sheet – 1 Sheet
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioner(s) Exhibits
  - ✓ 1. Site Plan
  - ✓ 2. My Neighborhood Map
  - ✓ 3. 3A-3E Floorplans & Renderings
  - ✓ 4. Color Elevation drawings 4A-C
  - ✓ 5. Color Photos –Matthews' 1600 Gallery
  - ✓ 6. Neighborhood Petition of Support
  - ✓ 7. 11-11-2012 Letter to ALJ Stahl
  - ✓ 8. Map Catonsville Revitalization District
  - ✓ 9. Site Plan for case # 1960-5114-SPH
- ✓ Protestant(s) Exhibits – Photographs re: sign posting
- ✓ Miscellaneous (Not Marked as Exhibits) – Letters & E-mails
- ✓ Administrative Law Judge Order (DENIED – December 5, 2012)
- ✓ Request for Motion for Reconsideration – January 4, 2013 by Jason T. Vettori, Esq.
  - Petitioner(s) Sign-in Sheet – Hearing on Motion None
  - Citizen(s) Sign-in Sheet - Hearing on Motion None
- ✓ Opposition To Motion For Reconsideration Of Opinion And Order- January 24, 2013-by Thomas Neary
- ✓ Administrative Law Judge Order on Motion (Granted – January 30, 2013)
- ✓ Notice of Appeal on Motion – March 1, 2013 from Thomas E. Neary

RECEIVED

MAR 13 2013

JALTIMORE COUNTY  
BOARD OF APPEALS

Address List

Petitioner/Legal Owner

Allen Parsons, Representative  
1600 Frederick Road, LLC  
1600 Frederick Road  
Catonsville, MD 21228

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

Allen and Lori Parsons  
2737 Beveridge Drive  
Marriottsville, MD 21104

Ronald Johnston  
11407 Barley Field Way  
Marriottsville, MD 21104

Kenneth Wells  
7403 New Cut Road  
Kingsville, MD 21082

Appellant/Protestant

Thomas Neary  
1 Montrose Avenue  
Catonsville, MD 21228

Interested persons:

Mike S. Iverman  
2 Montrose Avenue  
Catonsville, MD 21228

James Styer  
1613 Frederick Road  
Catonsville, MD 21228

Jason Schiffman  
1507 Frederick Road  
Catonsville, MD 21228

Interoffice

Office of People's Counsel  
John E. Beverungen, Administrative Law Judge  
Andrea Van Arsdale, Director/Department of Planning  
Michael Field, County Attorney, Office of Law

Lawrence M. Stahl, Managing Administrative Law Judge  
Arnold Jablon, Director/PAI  
Nancy West, Assistant County Attorney

**APPEAL**

**Petition for Special Hearing  
(1600 Frederick Road)  
1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District  
Legal Owner: 1600 Frederick Road, LLC  
Case No. 2013-0071-SPH**

Petition for Special Hearing (September 20, 2013)

Zoning Description of Property

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6. Neighborhood Petition of Support
7. 11-11-2012 Letter to ALJ Stahl
8. Map Catonsville Revitalization District
9. Site Plan for case # 1960-5114-SPH

Protestant(s) Exhibits – Photographs re: sign posting

Miscellaneous (Not Marked as Exhibits) – Letters & E-mails

Administrative Law Judge Order (DENIED – December 5, 2012)

Request for Motion for Reconsideration – January 4, 2013 by Jason T. Vettori, Esq.

Petitioner(s) Sign-in Sheet – Hearing on Motion - None

Citizen(s) Sign-in Sheet - Hearing on Motion – None

Opposition To Motion For Reconsideration Of Opinion And Order- January 24, 2013-by Thomas Neary

Administrative Law Judge Order on Motion (Granted – January 30, 2013)

Notice of Appeal on Motion – March 1, 2013 from Thomas E. Neary

1/30/2013

IN RE: PETITION FOR SPECIAL HEARING \*

(1600 Frederick Road)

1<sup>st</sup> Election District \*

1<sup>st</sup> Councilmanic District \*

1600 Frederick Road, LLC \*

Petitioner \*

BEFORE THE

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2013-0071-SPH

\* \* \* \* \*

**ORDER ON PETITIONER'S MOTION FOR RECONSIDERATION**

Now pending is the Petitioner's Motion for Reconsideration filed in the above captioned matter on or about January 4, 2013. The Protestants have filed an opposition to that Motion on or about January 25, 2013, within the time allotted for doing so. After reviewing the submissions, I will grant the Petitioner's Motion, and I will briefly explain the reasons for that decision.

The Petitioner contends that the 1960 Order in case no.: 5114-SPH approved a 10% extension of the existing non-conforming use, which allegedly entitles Petitioner "to seek authorization for an additional 15% extension of the ground floor area which existed prior to the grant of approval for a 10% addition." Motion, ¶ 3. I have reviewed the site plan from the 1960 zoning case, which was attached as Exhibit 1 to Petitioner's Motion, and agree that the "extension" referred to by the deputy zoning commissioner concerned the additional area added to the restaurant at that time, not the enclosure of the large porch. According to the Petitioner, the enclosure of the porch "constituted an intensification of an existing lawful use...rather than an extension." Petitioner's Motion, ¶ 6. I agree, and have found a Maryland case which speaks to the issue.

In Helfrich v. Mongelli, 248 Md. 498 (1968), the court of appeals considered a zoning case for property located at Frederick and Overhill roads, immediately adjacent to the subject property.

ORDER RECEIVED FOR FILING

Date 1-30-13

By Sen

(See Google Map, attached hereto). In that case, the owner of the property at Frederick and Overhill Roads was seeking a zoning reclassification, based upon (among other things) a "change" in the neighborhood. In undertaking the "arduous task" of describing the "neighborhood," the court noted that the Ridgeway Inn (which is the subject property, now known as "Matthew's 1600"), Candlelight Lodge, and Five Oaks swimming pool were all existing non-conforming uses in 1960. Id. at 500. The trial court found that there was in fact a change in the character of the neighborhood, and granted a change in the zoning, based in part on certain "changes in the already nonconforming Ridgeway Inn." Id. at 503. The court of appeals reversed that finding, and held as follows:

"The changes in Ridgeway Inn, an already non-conforming use, consisted primarily of enclosing the porch. This amounts to no more than a permissible intensification of an existing non-conforming use." Id. at 504.

Under B.C.Z.R. § 104.3, Petitioner is entitled to enlarge ("extend") the restaurant by 25% of the ground floor area (GFA) of the building as it existed prior to the 1960 zoning case. According to Mr. Wells, the GFA of the building at that time was 6,228 square feet. As such, the building can be expanded by 1,557 square feet. Mr. Wells calculated that 308 square feet of improvements were made to the building at or about the time of the 1960 case. As such, the Petitioner is still entitled to expand the building by 1,249 square feet. But that is not the end of the matter.

The plan submitted in this case shows a proposed addition measuring 26.7' x 66', which is over 1,700 square feet. In light of the above, that plan cannot be approved. In addition, I believe that the permissible extension under BCZR section 104.3 considers all interior space of the

ORDER RECEIVED FOR FILING

Date 1-30-13

By Sen

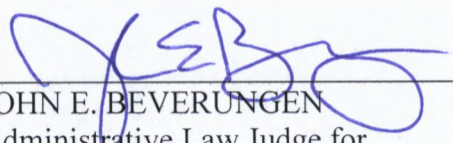
proposed addition, not just the GFA. Thus, Petitioner is entitled to enlarge/extend the restaurant by 1,249 square feet, determined by adding the square footage of both the first and second floors of the proposed addition, in accordance with the county regulations.

The Petitioner also sought approval of a modified parking plan, which I did not entertain at the initial hearing given that the special hearing relief was denied regarding the nonconforming use issue. While the testimony established that there are times when the demand for parking on site exceeds capacity (i.e., on Mother's Day and similar Holidays), those instances are the rare exception, not the rule. As such, I do not believe the modified parking plan would be detrimental to the safety, health and welfare of the community. The calculations on the site plan showed that 214 spaces were required, while 132 were provided. That was based upon the size of the addition depicted in the plan, which as noted earlier cannot be approved. As such, the relief needed will be more modest, given that the restaurant can only be enlarged by 1,249 square feet total, not the approximately 1,700 square feet (of the first floor footprint) originally proposed.

In light of the above, the Petitioner's Motion for Reconsideration shall be granted.

THEREFORE, IT IS ORDERED, this 30th day of January, 2013 by the Administrative Law Judge for Baltimore County, that the Petitioner's Motion for Reconsideration, be and is hereby GRANTED, subject to the restrictions noted above.

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

  
\_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 1-30-13

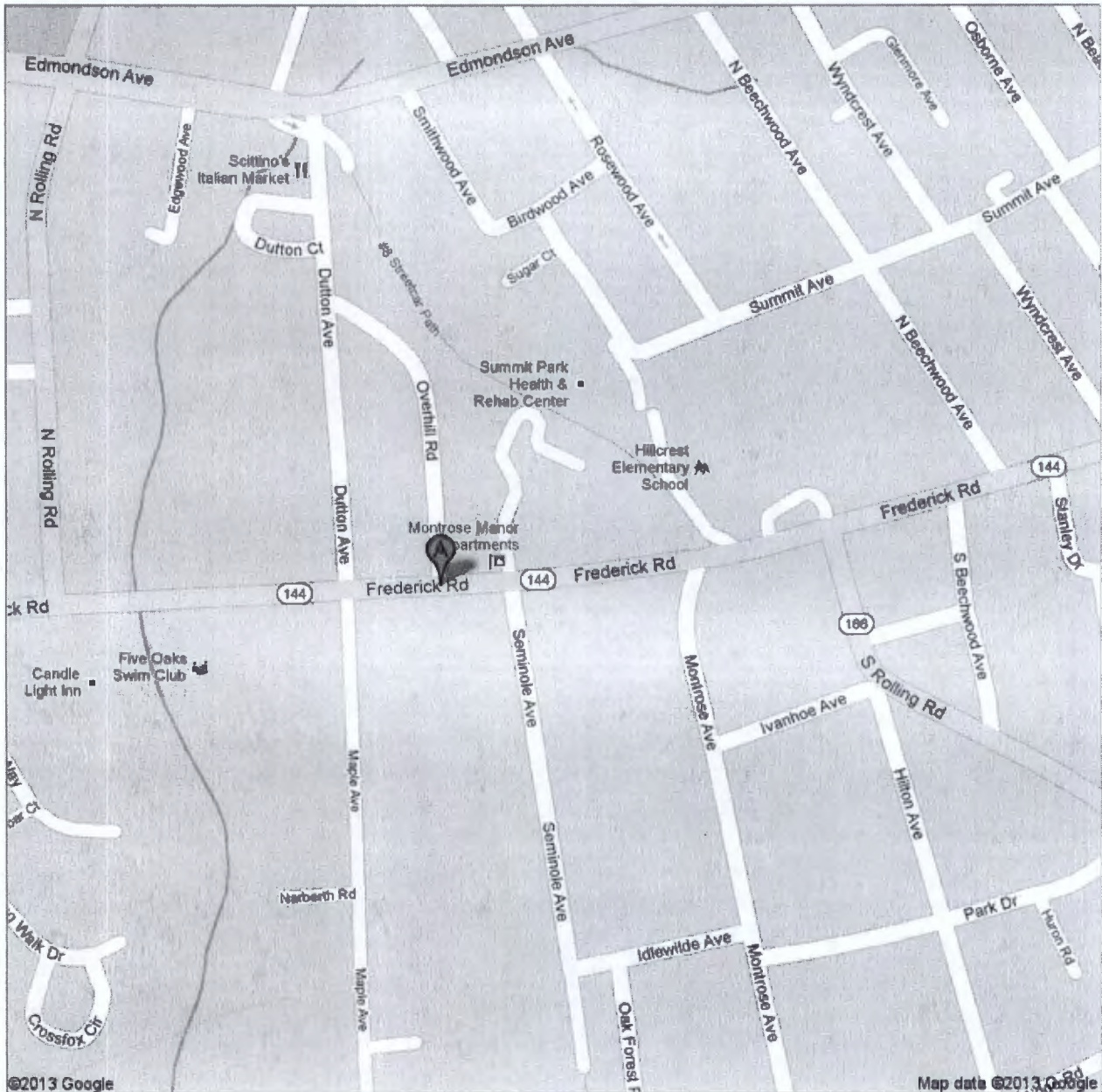
By slh



Address **Frederick Rd & Overhill Rd**  
**Catonsville, MD 21228**

Get Google Maps on your phone

Text the word "GMAPS" to 466453



ORDER RECEIVED FOR FILING

Date 1-30-13

By slr



KEVIN KAMENETZ  
*County Executive*

LAWRENCE M. STAHL  
*Managing Administrative Law Judge*  
JOHN E. BEVERUNGEN  
*Administrative Law Judge*

January 30, 2013

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

**MOTION FOR RECONSIDERATION**

RE: Petitions for Special Hearing  
Case No.: 2013-0071-SPH  
Property: 1600 Frederick Road

Dear Mr. Vettori:

Enclosed please find a copy of the decision rendered in the Motion for Reconsideration.

In the event any party finds the Motion for Reconsideration rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

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

JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln  
Enclosure

c: Lori and Allen Parsons, 2737 Bevridge Drive, Marriottsville, Maryland 21104  
Mike Silverman, 2 Montrose Avenue, Catonsville, Maryland 21228  
James Styer, 1613 Frederick Road, Catonsville, Maryland 21228  
Thomas Neary, 1 Montrose Avenue, Catonsville, Maryland 21228  
Jason Schiffman, 1507 Frederick Road, Catonsville, Maryland 21228

1/24/2013

RECEIVED

JAN 25 2013

IN RE: PETITION FOR SPECIAL  
HEARING  
(1600 Frederick Road)  
1<sup>st</sup> Election District  
1<sup>st</sup> Councilmanic District

\* BEFORE THE  
\* OFFICE OF  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* Case No. 2013-0071-SPH

OFFICE OF ADMINISTRATIVE HEARINGS

\* \* \* \* \*

**OPPOSITION TO MOTION FOR RECONSIDERATION OF OPINION AND ORDER**

Now comes, Protestants and hereby oppose the Motion for Reconsideration of Opinion and Order filed by the Petitioner in this matter and for reasons states as follows:

1. This case came before Administrative Law Judge Beverungen on Wednesday, November 14, 2012 for an extensive hearing dealing with Petitioner's Petition for Zoning Relief which requests, among other items, that the Petitioner be allowed to extend their existing structure located at 1600 Frederick Avenue that allegedly enjoys non-conforming use status no more than 25% of the ground floor area of the existing structure. During this hearing it was discovered, among other matters that the owner of property involved admitted that the structure in question had sat dormant for two years prior to her and her husband's purchase of the premises, had been used for a completely different purpose in the 80's (as a disco) for more than one year and had been subject to a previous order allowing "a lawful extension of a non-conforming use" following a "special hearing for the approval of an application for a building permit to enclose an existing porch at 1600 Frederick Avenue". **Order dated October 31, 1960 attached as Exhibit A.** This order was only revealed during this hearing as a result of questioning of the Petitioners expert witness regarding the lack of foundation for his opinions regarding the proposed extension of the premises and one that had been previously undertaken, both matters upon which the

Petitioners in this matter has the burden of proof. A simple review of the structure involved in this matter clearly shows that the original structure has been expanded on multiple occasions and it is the burden of one attempting to support continuation and extension of such a use to provide such evidence at a hearing. This evidence was and to date has not provided.

2. The Petitioner now comes, by way of a Motion for Reconsideration well after the hearing in question and attempts to submit completely new evidence, both documentary and expert testimonial in an attempt to disprove a small portion of the arguments submitted against approval of this Petition. The Petitioner provides no explanation why this evidence was not properly submitted at a hearing on this matter, particularly in light of the Order that was in their possession at the hearing but initially not disclosed to this Court. The Petitioner provides no explanation as to why this would be acceptable given the lack of opportunity afforded to the Protestants to respond or cross examine the witnesses involved. This would seem to be improper on the Petitioners part and should not be allowed provide an evidentiary basis for reconsideration and circumvent the hearing process. Petitioner's Motion should be denied in its entirety based upon this ground alone.

3. In the event that the evidence submitted after a properly held hearing is considered, Protestants would point out that the clear reading of the actual order as opposed to the Petitioner's interpretation of an ambiguous site plan language should be controlling in this matter. That is, the Deputy Zoning Commissioner wrote in the Order in question the following:

Upon hearing on the above petition for a special hearing for the approval of an application for a building permit to enclose an existing porch at 1600 Frederick Avenue ... that the request is for a lawful extension of a non-conforming use in accordance with Section 104 of the Baltimore County Zoning Regulations.

Thus, the Order is very clear in what it actually finds in regard to determining specifically 1) that the petition included enclosing the existing porch and 2) that the request was ruled to be "a lawful extension

of a non-conforming use" in accordance with the applicable zoning regulations. The parties may disagree with whether the extension was in fact lawful at the time, it clearly exceeded 25%, but one cannot credibly argue that the closing in of the existing porch was not found to be an extension of a non-conforming use. The Petitioner's may believe otherwise, but their belief does not overturn the prior Order. Thus, as the Order of Judge Beverungen in this matter clearly stated, since this property has been clearly subject to a previous extension of a non-conforming use that included the porch area and may in fact have been expanded more than the total of original floor space, the current Petition well exceeds the allowable 25% and should be denied.

4. In response, the Plaintiff argues that the site plane from 1960 submitted with their Motion somehow supports the assertion that the Order from that hearing somehow does not mean what it clearly states. This argument is clearly legally incorrect on its face, but it is also appears factually inaccurate. A review of the site plan involved shows that the existing porch is noted for all parties to see. The Order in that matter refers to an existing porch and the submission of a site plan noting an existing porch does not in any way therefore contradict that order as argued by the Petitioner. In other words, there is no surprise that the site plan states that there is an existing porch as that is what the Order directly dealt with. The site plan proposes that this existing porch be enclosed. The Order in this case specifically responds to this request and reads that the request for a building permit to enclose that porch was granted and that it was a lawful extension of the non-conforming use. The Zoning Commissioner involved had every opportunity to rule differently or even vaguely on the issue, but chose not to do so. The Petitioner cannot now come and change the prior clear finding simply because it does not work with their intentions in this matter.

5. Furthermore, a reading of the actual site plan is at best ambiguous and in actuality likely is best read as simply delineating the enclosing of the existing porch as one portion of the planned

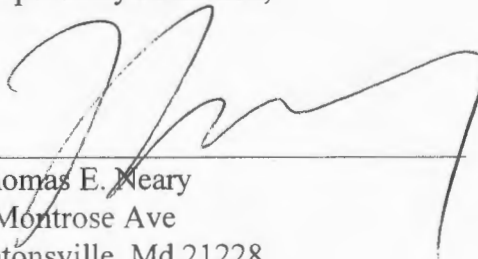
extension and adding a new space to the total area that was approximately 10% as an additional portion of extension. While agreeing with the Order issued by Judge Beverungen in this matter that the legality of such an extension is questionable, the resulting addition of a building to the original non-conforming structure that now encompasses about one half of that non-conforming current structure supports this reading. The Order of the Deputy Zoning Commissioner from 1960 finding that the enclosure was an extension establishes it as the law of the case.

6. Lastly, the Petitioner does not even mention the fact that even if the new documentary and testimonial evidence offered is accepted at this juncture, the tortured reading of the Order and site plan were accepted and the previous extensions were found to be limited to an amount less than the amount argued about at the prior hearing, the plans submitted in this matter would still be impermissible based upon the proposed extension exceeding the allowable space as written and submitted by the Petitioner. Petitioner's argument that only the ground floor of the addition involved be counted when determining whether extension amounted to more than 25% of the existing structure appears incorrect based upon the reading of the regulation involved, practice and common sense application. B.C.Z.R §104.3 states in pertinent part that "No building or structure and no non-conforming use of a building, structure or parcel of land shall hereinafter be extended...". The intent in this portion of the regulation is quite clear. Importantly it does not state that the ground floor of a building, structure or that the ground floor of building that is being used as a non-conforming use cannot be extended, but rather the building or structure or the non-conforming use of that structure shall not be extended. The measure of the extension of the building, structure or nonconforming use is then provided as no "more that 25% of the ground floor of the building so used." With the proposed two story addition in this matter, the building or structure involved would be extended more than 25% of the ground floor square footage of the existing structure if the entire addition to the building or structure is included.

There is nothing in the clear reading of the regulation that says it is only limited to a measure of the ground floor of the addition. Any reasonable definition of the extension of the building or structure involved logically must include the entire building or structure. Furthermore, this point is made crystal clear when dealing with the increase in the non-conforming use of the building or structure. That is, it is clear that the regulation deals with the measuring of the extension of a non-conforming use of a building. Petitioner would clearly be using the second floor of the addition as a commercial restaurant, a use that does not comply with the residential zoning of the property and would require a non-conforming use exception to the applicable zoning. Use of the second floor of the structure would clearly be therefore an increase of the non-conforming use of the structure. Finding otherwise, would allow a property owner to argue that using the second floor of a building for a use that violates zoning is somehow allowable and excused because its not done on the ground floor. It would also allow all existing non-conforming use structures to simply expand upwards without regard to the square footage involved or the inherent restrictions on non-conforming uses. This cannot be the intention of the regulation involved.

WHEREFORE, the Protestants in this matter respectfully request that the Petitioner's Motion for Reconsideration of Opinion and Order be denied in its entirety and for such other relief as deemed proper.

Respectfully submitted,



Thomas E. Neary  
1 Montrose Ave  
Catonsville, Md 21228  
410-869-4898

**NOTICE OF SERVICE**

I HEREBY CERTIFY that on this 24<sup>th</sup> day of January, 2013, a copy of the Protestants Opposition to Motion for Reconsideration, along with a copy of this Notice, were mailed first-class, postage prepaid, to:

Mike Silverman  
2 Montrose Ave  
Catonsville, MD 21228

James Styer  
1613 Frederick Rd  
Catonsville, Md 21228

Jason Schiffman  
1507 Frederick Ave  
Catonsville, MD 21228

Peter Max Zimmerman  
People's Counsel for Baltimore County  
The Jefferson Building  
105 West Chesapeake Ave  
Room 204  
Towson, Md 21204

Jason T. Vettori  
Smith, Gildea and Schmidt, LLC  
600 Washington Ave  
Suite 200  
Towson, Md 21204



---

THOMAS E. NEARY

5114-SH

Ex A

#5114-SH

MAP #1

SEC. 2-A

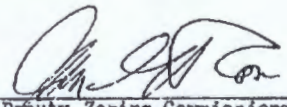
SH

10/11/60

ORDERED by the Zoning Commissioner of Baltimore County  
this 26th day of September, 19 60  
that the subject matter of this petition be advertised in two  
newspapers of general circulation throughout Baltimore County  
and that the property be posted, as required by the Zoning  
Regulations and Act of Assembly aforesaid, and that a public  
hearing thereon be had in the office of the Zoning Commissioner  
of Baltimore County, Maryland, on the 31st day of  
October, 19 60, at 9:30 o'clock  
A.M.

Zoning Commissioner  
of Baltimore County

Upon hearing on the above petition for a special  
hearing for the approval of an application for a building permit  
to enclose an existing porch at 1600 Frederick Avenue, in the  
1st District of Baltimore County, it is this 31st day of  
October, 1960, by the Deputy Zoning Commissioner of Baltimore  
County that the request is for a lawful extension of a non-  
conforming use in accordance with Section 104 of the Baltimore  
County Zoning Regulations.

  
Deputy Zoning Commissioner  
of Baltimore County

5114-SH

1/4/2013

JB 11-14-12

IN RE: PETITION FOR SPECIAL HEARING  
(1600 Frederick Road)  
1<sup>st</sup> Election District  
1<sup>st</sup> Councilmanic District  
1600 Frederick Road, LLC  
*Petitioner*

\* BEFORE THE  
\* OFFICE OF  
\* **OFFICE OF ADMINISTRATIVE HEARINGS**  
\* ADMINISTRATIVE HEARINGS  
\* FOR BALTIMORE COUNTY  
\* Case No. 2013-0071-SPH

RECEIVED

JAN 4 2013

\* \* \* \* \*

**PETITIONER'S MOTION FOR RECONSIDERATION OF**  
**OPINION AND ORDER**

1600 Frederick Road, LLC, Petitioner, by and through its attorneys, Jason T. Vettori and Smith, Gildea & Schmidt, LLC, files this Motion for Reconsideration of ALJ Beverungen's Opinion and Order dated December 5, 2012 pursuant to Rule K of the Rules of Practice and Procedure before the Hearing Officer, and respectfully states the following:

1. This matter came before ALJ Beverungen for a public hearing on Wednesday, November 14, 2012 to consider Petitioner's Petition for Zoning Relief requesting the following: Special Hearing to approve the extension of the existing restaurant no more than 25% of the ground floor area of the building; a modified parking plan; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County. The Petitioner requested the aforementioned relief in order to construct a two-story addition with open air dining on the second level. However, the Petition for Special Hearing requesting the extension of the existing restaurant no more than 25% of the ground floor area of the building was denied via ALJ Beverungen's written Opinion and Order dated October 29, 2012. As a result, ALJ Beverungen deemed it "unnecessary to address the modified parking plan sought in the petition as the second component of the special hearing relief."

2. ALJ Beverungen correctly found that “the subject property enjoys non-conforming use status, which was verified in a 1960 zoning case involving this property. See 1960-5114-SPH.” Op. 3. However, the ALJ incorrectly found that the enclosure of the existing open porch area was the extension of the non-conforming use. The subject matter of this motion involves a reconsideration of what constituted the “extension” of the non-conforming use in the 1960 case.

3. ALJ Beverungen found that the owner in the 1960 case “was granted permission to ‘enclose an existing porch’ which the Deputy Zoning Commissioner deemed a ‘lawful extension of the non-conforming use in accordance with Section 104 of the Baltimore County Zoning Regulations.” Op. 4. However, the Order in Case No. 1960-5114-SPH did not expressly state that the enclosure of the existing open porch area constituted the extension of the non-conforming use, nor was this the intention of the Deputy Zoning Commissioner. Instead, the Order said the request was for a lawful extension of the nonconforming use but did not clarify what exactly constituted that extension. In that case, the extension was a proposed 10% addition. As such, the Petitioners are entitled to seek authorization for an additional 15% extension of the ground floor area which existed prior to the grant of approval for a 10% addition.

4. ALJ Beverungen stated that the Court in Trip Associates v. Baltimore City, 392 Md. 562 (2006) found that an extension of a non-conforming use is prohibited. However, this is not the case in all jurisdictions. While, as indicated in Trip Associates, Baltimore City expressly prohibits an “extension”, Baltimore County does not. “Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment ordinarily is governed by the provisions of the applicable local ordinances and regulations.” County Council v. Gardner, Inc., 293 Md. 259, 268, 443 A.2d 114 (1982). Despite Euclidian

zoning principles generally frowning on extensions of non-conforming uses, the legislative intent of the Baltimore County Council is clear and unambiguous with respect to extensions. Baltimore County Zoning Regulations ("BCZR") § 104.3 provides in pertinent part that "[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used." Stated another way, Baltimore County does not prohibit extensions. Rather, the legislature has expressly limited non-conforming use extensions to 25% of the ground floor area of the building or structure so used. As previously argued, the ground floor area is the operative term. As indicated below, it is clear that the Petitioner and Deputy Zoning Commissioner focused on the concept of the ground floor area being extended in the 1960 case.

5. On account of the brevity of the Order and the "quality of the photocopy" of the accompanying site plan, the evidence regarding what constituted the "extension" of the non-conforming use in the 1960 decision was hard to ascertain, so it's no surprise that it was missed by the respective parties and the ALJ. ALJ Beverungen correctly acknowledged that the Order in Case No. 1960-5114-SPH was "extremely terse." It merely reads, "[u]pon hearing on the above petition for a special hearing for the approval of an application for a building permit to enclose an existing porch at 1600 Frederick Avenue, in the 1<sup>st</sup> District of Baltimore County it is this 3<sup>rd</sup> day of October, 1960, by the Deputy Zoning Commissioner of Baltimore County that the request is for a lawful extension of a non-conforming use in accordance with Section 104 of the Baltimore County Zoning Regulations." As a result of the conciseness of the Order, the ALJ correctly referred to the site plan from the 1960 case to attempt to quantify how much of the statutorily provided 25% extension had been utilized. While he correctly referred to the site plan, Petitioner's Exhibit No. 9, in order to explain the discrepancy between the relief requested

(a building permit to enclose the existing porch) and the relief granted (extension of a non-conforming use), the ALJ missed a critical notation on the site plan.

6. The 1960 site plan had a note on it which stated "proposed enclosure of exist. open porch plus approx. 10% of exist. total area." A copy of the site plan showing this note has been attached hereto as Petitioner's Exhibit to Motion for Reconsideration No. 1 (emphasis added). This note, coupled with the four arrows depicting the boundaries of the "exist. open porch area" on the illustration, is incontrovertible evidence of the fact that the Petitioner in that case alleged and the Deputy Zoning Commissioner found that the enclosure of the open porch was not part of the "extension" of the nonconforming use. Rather, the proposed 10% addition (i.e. the area outside the boundaries of the notation of the "exist. open porch area") constituted the extension which was approved by the Deputy Zoning Commissioner. The aforementioned explanation makes complete sense because obviously the Deputy Zoning Commissioner could not grant more relief than BCZR § 104.3 permits, a 25% extension of the ground floor area. It is evident that ALJ Beverungen grappled with the computation of the percentage by which the non-conforming use was extended in his Order when he found that the enclosure of the existing open porch area probably exceeded the 25% extension permitted under the BCZR. As Petitioner argued at the hearing on November 14, 2012, the "exist. open porch area" was part of the non-conforming use. BCZR § 104.1 of the 1955 Regulations, a copy of which is attached hereto as Petitioner's Motion for Reconsideration Exhibit No. 2, controlled non-conforming uses and was substantially similar to the current BCZR § 104.3. It is clear that in 1960, the building permit which was sought for the enclosure merely constituted an intensification of an existing lawful use (i.e. the open porch area which was a critical part of the restaurant) rather than an extension. On account of the brevity of the decision and the "quality of the photocopy" of the site plan, this is the only way to rationalize the law with the facts in that case.

7. "The question ... as to what is an extension or enlargement of a nonconforming use is ordinarily one of fact, and in determining it the question in each case must stand on its own facts." Phillips v. Zoning Commissioner, 225 Md. 102, 109-110, 169 A.2d 410 (1961). For the reasons stated herein, the Deputy Zoning Commissioner in 1960 clearly found that the existing open porch was a non-conforming use that could be enclosed with the approval of a building permit and the proposed 10% addition to the ground floor area was the "extension" of the non-conforming use. Petitioner's expert, Mr. Wells, has prepared an exhibit, a redlined copy of the Plan to Accompany (Petitioner's Exhibit 1 from the hearing) which is attached hereto as Petitioner's Exhibit to Motion for Reconsideration No. 3, that illustrates what was approved in Case No. 1960-5114-SPH, the existing building and the addition proposed in the instant request for relief. As indicated on Exhibit No. 3 to the Motion, the ground floor area of the "ex. porch area" (2,383 s.f.), the 1 story structure (1,150 s.f.), the 2 ½ story structure (2,000 s.f.) and the "existing porch" (695 s.f.<sup>1</sup>), all of which are shown on the 1960 site plan, totals 6,228 square feet. Mr. Wells expert calculations indicate that only a percentage of the *proposed* 10% extension was actually constructed. According to the attached redlined plan, 308 square feet of the 600 square feet<sup>2</sup> which was approved (or 51.33% thereof) was constructed. Therefore, the non-conforming use is still eligible for a 19.866% extension of the ground floor area calculated by the Deputy Zoning Commissioner in 1960 (or approximately 1,192 square feet<sup>3</sup>). I think it is worth reiterating that the front porch the Citizens argued was not part of the non-conforming

---

<sup>1</sup> While the redlined plan does not expressly show 695 s.f., it was calculated as such.

<sup>2</sup> As indicated above, Mr. Wells calculated the existing ground floor area of the non-conforming use as totaling 6,228 s.f. Therefore, a 10% extension would technically be 622.8 s.f. as opposed to the 600 s.f. he dimensioned off of the 1960 site plan.

<sup>3</sup> The 10% extension in the 1960 case was equivalent to 600 square feet. Therefore, an additional 15% would be another 900 square feet. By adding the 292 square feet which was not utilized, but was approved, the total square footage of the ground floor area available for an extension is 1,192 square feet.

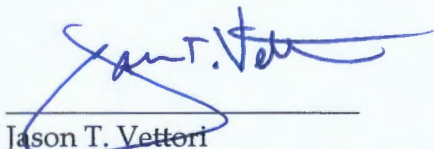
use was illustrated and therefore approved as part of the existing non-conforming use in the 1960 site plan.

8. No appeal having been filed regarding that decision, it has long since become final and the proposed addition has been constructed and therefore has vested. Therefore, the Citizens cannot challenge the fact that the ruling in that case is applicable to the instant decision under the either the "law of the case" doctrine<sup>4</sup> or the doctrine of *stare decisis*<sup>5</sup>.

9. In summary, while the basic premise underlying zoning regulations may be to restrict rather than expand non-conforming uses, the clear and unambiguous legislative intent of the Baltimore County Council refutes this proposition. BCZR § 104.3 expressly authorizes a 25% extension of the non-conforming use with no conditions such as those that are applicable to special exception relief and/or variance relief.

The Petitioner respectfully requests that the ALJ amend/revise the Order dated December 5, 2012 to approve no less than a 19.866% extension to the non-conforming use and approve the modified parking plan based upon the testimony and argument in support thereof.

Respectfully submitted,

  
\_\_\_\_\_  
Jason T. Vettori  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue  
Suite 200  
Towson, MD 21204

---

<sup>4</sup> Kearney v. Berger, 416 Md. 628, 641-43, 7 A.3d 593 (2010).

<sup>5</sup> DRD Pool Service, Inc. v. Freed, 416 Md. 46, 63, 5 A.3d 45 (2010).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4<sup>th</sup> day of **January, 2013**, a copy of the foregoing Motion for Reconsideration was mailed first-class, postage prepaid to:

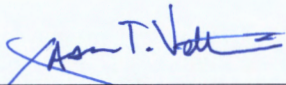
Mike Silverman  
2 Montrose Avenue  
Catonsville, MD 21228

James Styer  
1613 Frederick Road  
Catonsville, MD 21228

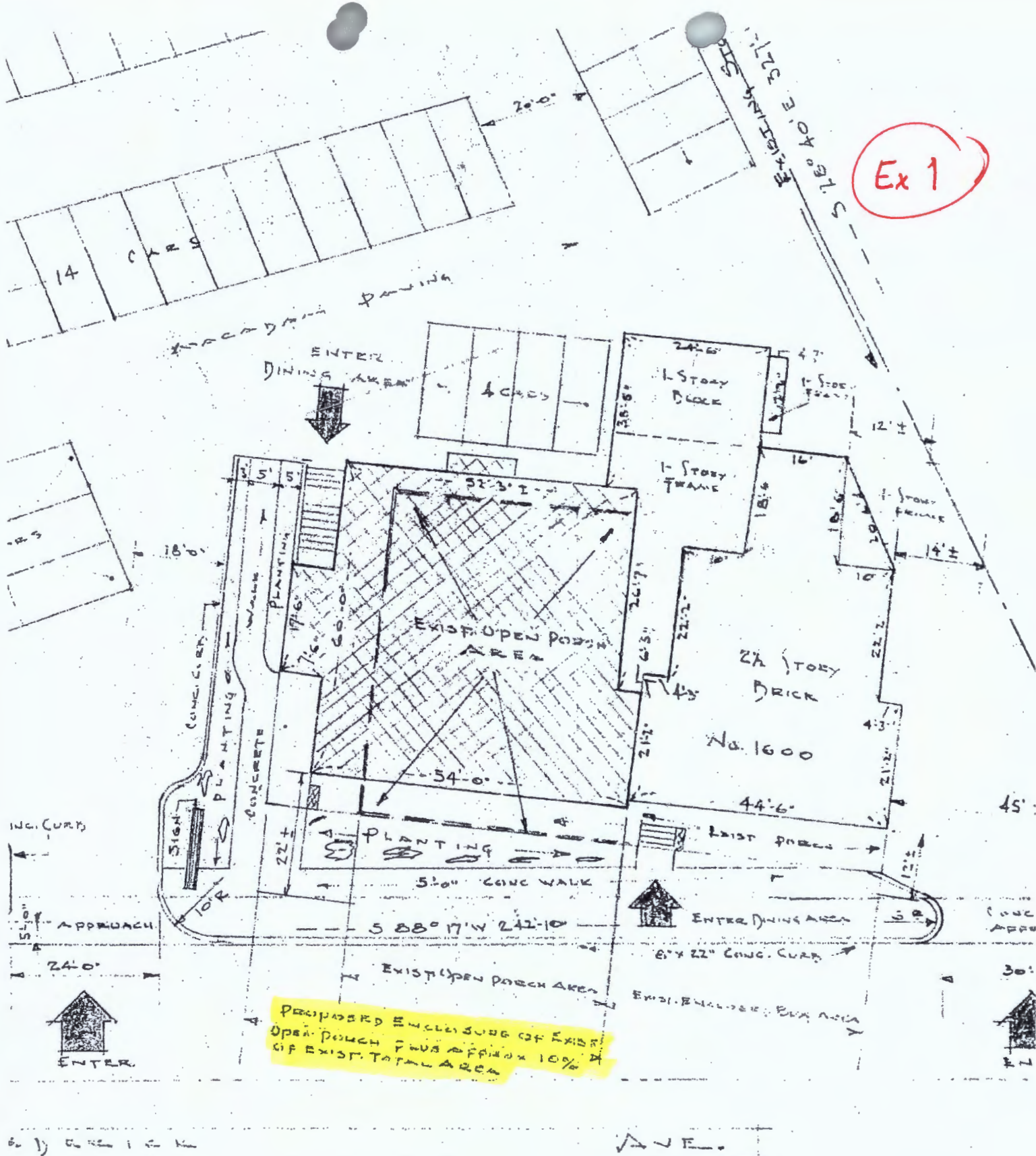
Thomas Neary  
1 Montrose Avenue  
Catonsville, MD 21228

Jason Schiffman  
1507 Frederick Road  
Catonsville, MD 21228

Peter Max Zimmerman  
People's Counsel for Baltimore County  
The Jefferson Building  
105 W. Chesapeake Avenue  
Room 204  
Towson, MD 21204

  
\_\_\_\_\_  
Jason T. Vettori

Ex 1



NOTE

CONCRETE CURBS, APPROACHES, ETC.  
ARE SHOWN IN ACCORDANCE WITH  
IND. STATE ROADS SPECIFICATIONS  
AND CHANNELIZATION REGULATIONS.

BALTIMORE COUNTY  
ZONING REGULATIONS

ADOPTED BY  
COUNTY COMMISSIONERS  
OF  
BALTIMORE COUNTY

March 30, 1955, in accordance with Title 30, Section  
532 (c) of the Code of Public Local Laws of Baltimore  
County (1955 Edition).

1955

Michael J. Birmingham  
President

Robert B. Hamill  
Augustine J. Muller  
County Commissioners of Baltimore County

Francis T. Peach  
County Solicitor

George M. Berry  
Deputy Solicitor

Wilsie H. Adams  
Zoning Commissioner

BALTIMORE COUNTY  
ZONING REGULATIONS

1955

BOOK No 1480

This is the property of:

Name

XXXXXXXXXXXXXXXXXXXXXXXXXX  
Lawrence E. Schmidt, Esq.  
Zoning Commissioner

Address

Phone

Ex 2



12/15/2012

IN RE: PETITION FOR SPECIAL HEARING \*  
(1600 Frederick Road)  
1<sup>st</sup> Election District \*  
1<sup>st</sup> Councilmanic District \*  
1600 Frederick Road, LLC \*  
Petitioner \*

BEFORE THE  
OFFICE OF ADMINISTRATIVE  
HEARINGS FOR  
BALTIMORE COUNTY  
CASE NO. 2013-0071-SPH

\* \* \* \* \*

**ORDER AND OPINION**

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Special Hearing filed by Jason T. Vettori, Esquire with Smith, Gildea & Schmidt, LLC, on behalf of Allen Parsons, authorized representative of 1600 Frederick Road, LLC. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to determine whether or not the Administrative Law Judge should approve:

- (1) The extension of the existing restaurant no more than 25% of the ground floor area of the building;
- (2) A modified parking plan; and
- (3) For such and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

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

Appearing at the public hearing held for this case was Lori and Allen Parsons, Ronald Johnston, and Kenneth J. Wells, Professional Line Surveyor with kj Wells, Inc., the consulting firm that prepared the site plan. Jason T. Vettori, Esquire appeared and represented the Petitioner. Citizens who attended were Mike Silverman, James Styer, Thomas Neary and Jason Schiffman.

**ORDER RECEIVED FOR FILING**

Date 12/15/12

By sn

The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. A ZAC comment was received from the Department of Environmental Protection and Sustainability (DEPS) on October 3, 2012, indicating development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code [B.C.C.]). A ZAC comment was also received from the Department of Planning (DOP) on October 22, 2012, indicating their support of the Petitioner's request. In addition, a ZAC comment was received from the Maryland Department of Transportation, State Highway Administration (SHA), indicating the applicant must contact SHA to obtain an entrance permit. Furthermore, a ZAC comment was received from the Bureau of Development Plans Review (DPR) on September 25, 2012, indicating that if the project was approved some landscaping would be required.

Testimony and evidence revealed that the subject property is 1.43 acres and is zoned DR 3.5. The property is improved with a restaurant known as "Matthew's 1600" and the Petitioner submitted a series of photos depicting the site and business. Petitioner's exhibits 5A-F. Lori Parsons, one of the property owners, testified as to the history of the site (which was constructed as a hotel in approximately 1862), and she stated that she has 35 plus years of experience in the restaurant business. In an effort to update the restaurant, the Petitioner proposed to construct a two-story addition with open air dining on the second level, as shown in the elevation drawings submitted. Petitioner's exhibits 4A-C.

ORDER RECEIVED FOR FILING

Date

12/5/12

By

sn

### NON- CONFORMING USE ISSUE

The subject property at 1600 Frederick Road has, since at least 1955, been residentially zoned. Even so, it is also the case that the property has since that time been used in a commercial fashion, whether as an Inn, Tavern and/or Restaurant business. As such, the subject property enjoys non- conforming use status, which was verified in a 1960 zoning case involving this property. See 1960-5114-SPH. Some of the neighbors in attendance argued that the current owners ceased operation of the restaurant for 2 +/- years when they acquired the property in 2004, which resulted in the abandonment of the non conforming use under Baltimore County Zoning Regulations (B.C.Z.R.) §104. I do not believe that is the case, given that while intent to abandon need not be shown in such matters, there must nonetheless be "active and actual" abandonment and discontinuance of that use. City of Baltimore v. Dembo, 123 Md. App. 527 (1998). Here, Ms. Parsons testified that the restaurant was completely renovated and upgraded in 2003-2004, and that was quite obviously done with an eye toward the resumption of the restaurant business, not its abandonment.

In many cases involving non- conforming uses, the parties dispute whether a development proposal under consideration would result in an extension or expansion of the use versus a "mere" intensification of the non -conforming use. Under Maryland law, the former is prohibited, while the latter is permitted. Trip Associates v. Baltimore City, 392 Md. 562 (2006). In this case, a "physical expansion" is proposed, and therefore it is obvious that an "extension" is at issue, as sought in the petition. Id. 582-83.

Whether a non -conforming use can be extended is governed by the applicable local zoning regulation, in this case B.C.Z.R. §104. Phillips v. Howard County, 225 Md. 102, 109 (1961). But such laws must be strictly construed, given that Maryland has a well established

ORDER RECEIVED FOR FILING

Date 12/5/12  
By sn

policy against non -conforming uses, which are of course antithetical to the zoning plan. County Council v. Gardner, 293 Md. 259, 268 (1982).

Under the B.C.Z.R., the "ground floor" area of a non- conforming structure may be extended no more than 25%, and that is exactly what is proposed here. Architect Ronald Johnston, who was accepted as an expert, testified that the ground floor area of the current building was 6018 feet, and the addition proposed was 1459 sq. ft, which is almost an exact 25% increase proposed. As such, the addition proposed in this case would only be permissible if the structure has not since 1955 (when it was zoned residential) been extended on a previous occasion. But according to the 1960 zoning case involving this property, cited at the outset of this section, the owner at that time was granted permission to "enclose an existing porch" which the Deputy Zoning Commissioner deemed a "lawful extension of a non-conforming use in accordance which Section 104 of The Baltimore County Zoning Regulations." See 1960-5114-SPH.

Although the Order in that case, as was common at the time, is extremely terse (one sentence in fact), the Petitioner submitted a site plan from that 1960 zoning case. See Petitioner's Exhibit No. 9. Though the measurements on the plan are hard to read given the quality of the photocopy, it certainly appears as if the area in question (which the Architect labeled "exist open porch area") was approximately 60 ft. by approximately 54 ft., which looks to be as large as the enclosed building to which it was appended. In fact, based on that site plan, dated September 30, 1960, it seems entirely possible that the extension permitted by the Deputy Zoning Commissioner at that time was in fact greater than the 25% permissible under the B.C.Z.R.

Be that as it may, it is clear that the non conforming use at this property, which has existed since at least 1955, has been extended on at least one previous occasion, which means that the

ORDER RECEIVED FOR FILING

Date

12/5/12

By

sn

current proposal for a 25% extension of the "floor area" of the structure cannot be permitted under the zoning regulations. Given this determination, it is unnecessary to address the modified parking plan sought in the petition as the second component of special hearing relief.

Pursuant to the advertisement, posting of the property, and public hearing, and after considering the testimony and evidence offered, I find that Petitioner's Special Hearing request should be denied.

THEREFORE, IT IS ORDERED, this 5th day of December, 2012 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve:

- (1) The extension of the existing restaurant no more than 25% of the ground floor area of the building;
- (3) A modified parking plan; and
- (3) For such and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County,

be and is hereby **DENIED**.

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

  
\_\_\_\_\_  
JOHN E. BEVERUNGEN  
Administrative Law Judge for  
Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING

Date 12/5/12

By sln



KEVIN KAMENETZ  
*County Executive*

LAWRENCE M. STAHL  
*Managing Administrative Law Judge*  
JOHN E. BEVERUNGEN  
*Administrative Law Judge*

December 5, 2012

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

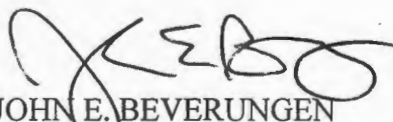
RE: Petition for Special Hearing  
Case No.: 2013-0071-SPH  
Property: 1600 Frederick Road

Dear Mr. Vettori:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln  
Enclosure

c: Lori and Allen Parsons, 2737 Bevrige Drive, Marriottsville, Maryland 21104  
Mike Silverman, 2 Montrose Avenue, Catonsville, Maryland 21228  
James Styer, 1613 Frederick Road, Catonsville, Maryland 21228  
Thomas Neary, 1 Montrose Avenue, Catonsville, Maryland 21228  
Jason Schiffman, 1507 Frederick Road, Catonsville, Maryland 21228



# 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 1600 Frederick Road

which is presently zoned DR 3.5

Deed Reference 24063/00427

10 Digit Tax Account # 0 1 0 2 6 5 2 4 3 0

Property Owner(s) Printed Name(s) 1600 Frederick Road, LLC

CASE NUMBER 2013-0071-SPH Filing Date 9/20/12 Estimated Posting Date 9/30/12 Reviewer JS

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

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

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

**See attached.**

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

3. ☐ a **Variance** from Section(s)

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

## TO BE PRESENTED AT HEARING

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

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

**Legal Owner(s) Affirmation:** I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

### Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

### Attorney for Petitioner:

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

Name- Type or Print

Signature

600 Washington Avenue, Suite 200, Towson, MD

Mailing Address

City

State

21204

(410) 821-0070

jvettori@sgs-law.com

Zip Code

Telephone #

Email Address

### Legal Owners:

Allen Parsons, Authorized Representative of 1600 Frederick Road, LLC

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1600 Frederick Road

Catonsville

MD

Mailing Address

City

State

21228

(410) 788-2500

allenparsons@verizon.net

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

Mailing Address

City

State

21204

(410) 821-0070

jvettori@sgs-law.com

Zip Code

Telephone #

Email Address

**ATTACHMENT TO PETITION FOR ZONING HEARING**  
**1600 Frederick Road**

**Special Hearing relief to approve:**

1. The extension of the existing restaurant no more than 25% of the ground floor area of the building pursuant to Section 104.3 of the BCZR; and
2. A modified parking plan pursuant to Section 409.12.B of the BCZR; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

# **kjWellsInc**

*Land Surveying, Geomatics and Site Planning*

Telephone: (410) 592-8800  
Email: [kwells@kjwellsinc.com](mailto:kwells@kjwellsinc.com)

7403 New Cut Road  
Kingsville, Md. 21087-1132

September 20, 2012

**Zoning Description  
of  
1600 Frederick Road**  
Baltimore County  
Maryland  
1<sup>st</sup> Election District  
1<sup>st</sup> Councilmanic District

***Beginning at a point*** on the northwest side of Frederick Road (Maryland Route 144) 66 feet wide and 250 feet southwest from the centerline of Montrose Avenue having a proposed width of 60 feet, thence 1) *North 31 degrees 27 minutes 33 seconds West 253.88 feet*; 2) *North 65 degrees 05 minutes 24 seconds East 204.21 feet*; 3) *South 34 degrees 55 minutes 40 seconds East 327.94 feet* and 4) *South 82 degrees 01 minutes 20 seconds West 242.83 feet* to the place of beginning as recorded in Liber 24063 folio 427.

***Containing*** 62,291 square feet or 1.43 acres of land more or less.



2013-0078-SP4

# DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

## ZONING REVIEW

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

---

---

#### For Newspaper Advertising:

Item Number or Case Number: 2013-0071-SPH

Petitioner: 1600 FREDERICK ROAD, LLC

Address or Location: 1600 FREDERICK ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI

Address: 600 WASHINGTON AVE., STE. 200

TOWSON, MD 21204

Telephone Number: (410) 821-0070

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

No. **90153**

Date: **7/24/12**

**PAID RECEIPT**

BUSINESS ACTUAL TIME DEPT  
 9/20/2012 9/20/2012 14:09:19 5  
 REG 0503 WALKIN ROOS LRG  
 >> RECEIPT # 613645 9/20/2012 OFLH  
 Dept 5 528 ZONING VERIFICATION  
 CR NO. 090153  
 Recpt Tot \$393.00  
 \$365.00 CK \$28.00 CA  
 Baltimore County, Maryland

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

Total: **385.00**

Rec From: **Smith Gilder & Schmidt**

For: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**DISTRIBUTION**

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

**CASHIER'S  
 VALIDATION**

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

No.

94891

Date:

3/1/13

PAID RECEIPT

BUSINESS ACTUAL TIME DAY

3/05/2013 3/01/2013 12:43:32 0

REC 1604 BALTIM SHIL 041

RECEIPT # 558748 3/01/2013 0FLM

S SCH 201105 VERIFICATION

0. 091501

Dept Tot \$205.00

\$1.00 CR \$270.00 CA

\$5.00-05

Baltimore County, Maryland

| Fund | Dept | Unit | Sub Unit | Rev Source/ Obj | Sub Rev/ Sub Obj | Dept Obj | BS Acct | Amount |
|------|------|------|----------|-----------------|------------------|----------|---------|--------|
| 001  | 806  | 0000 |          | 6150            |                  |          |         | 265.00 |
|      |      |      |          |                 |                  |          |         |        |
|      |      |      |          |                 |                  |          |         |        |
|      |      |      |          |                 |                  |          |         |        |
|      |      |      |          |                 |                  |          |         |        |

Total:

265.00

Rec

From:

Thomas Neary (Cash)

For:

Appeal

1600 Frederick Rd

Case No.: 2013-0011-SPH

**DISTRIBUTION**

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S  
 VALIDATION**

**NOTICE OF ZONING HEARING**

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

**Case: #2013-0071-SPH**

1600 Frederick Road  
NW/s of Frederick Road, 250 ft. SW from centerline of  
Montrose Avenue

1st Election District - 1st Councilmanic District

Legal Owner(s): 1600 Frederick Road, LLC, Allen Parsons,  
Authorized Rep

**Special hearing:** for the extension of the existing restaurant no more than 25% of the ground floor area of the building; a modified parking plan and for such other further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

**Hearing: Wednesday, November 14, 2012 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.**

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.  
10/29/2012 October 25 883275



501 N. Calvert Street, Baltimore, MD 21278

October 25, 2012

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on October 25, 2012.

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

PATUXENT PUBLISHING COMPANY

By: Susan Wilkinson

*Susan Wilkinson*

# CERTIFICATE OF POSTING

2013-0071-SPH

RE: Case No.: \_\_\_\_\_

Petitioner/Developer: \_\_\_\_\_

1600 Frederick Rd, LLC, Allen Parsons, Auth Rep

November 14, 2012

Date of Hearing/Closing: \_\_\_\_\_

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

Attn: Kristen Lewis:

Ladies and Gentlemen:

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

1600 Frederick Rd

October 25, 2012

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



Sincerely,

  
(Signature of Sign Poster)      October 25, 2012  
(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY  
Thursday, October 25, 2012 Issue - Jeffersonian

Please forward billing to:

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

410-821-0070

---

## NOTICE OF ZONING HEARING

The Administrative Law 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: 2013-0071-SPH**

1600 Frederick Road

NW/s of Frederick Road, 250 ft. SW from centerline of Montrose Avenue

1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owners: 1600 Frederick Road, LLC, Allen Parsons, Authorized Rep.

Special Hearing for the extension of the existing restaurant no more than 25% of the ground floor area of the building; a modified parking plan and for such other further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Wednesday, November 14, 2012 at 1:30 p.m. in Room 205, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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



KEVIN KAMENETZ  
County Executive

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

October 12, 2012

## NOTICE OF ZONING HEARING

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

**CASE NUMBER: 2013-0071-SPH**

1600 Frederick Road

NW/s of Frederick Road, 250 ft. SW from centerline of Montrose Avenue

1<sup>st</sup> Election District – 1<sup>st</sup> Councilmanic District

Legal Owners: 1600 Frederick Road, LLC, Allen Parsons, Authorized Rep.

Special Hearing for the extension of the existing restaurant no more than 25% of the ground floor area of the building; a modified parking plan and for such other further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Wednesday, November 14, 2012 at 1:30 p.m. in Room 205, Jefferson Building,  
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over a circular stamp that contains the word "Director".

Arnold Jablon  
Director

AJ:kl

C: Jason Vettori, Smith, Gildea & Schmidt, 600 Washington Avenue, Ste. 200, Towson 21204  
Allen Parsons, 1600 Frederick Road, Catonsville 21228

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, OCTOBER 25, 2012.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ  
County Executive

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

November 8, 2012

Allen Parsons  
1600 Frederick Road  
Catonsville MD 21228

RE: Case Number: 2013-0071 SPHA Address: 1600 Frederick Road, 21228

Dear Mr. Parsons:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on September 20, 2012. This letter is not an approval, but only a **NOTIFICATION**.

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

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

Very truly yours,

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

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR: jaf

Enclosures

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

**BALTIMORE COUNTY, MARYLAND**

**INTER-OFFICE CORRESPONDENCE**



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

**DATE:** October 15, 2012

**FROM:** Andrea Van Arsdale  
Director, Department of Planning

**SUBJECT:** 1600 Frederick Road

**INFORMATION:**

**Item Number:** 13-071

**Petitioner:** Allen Parsons

**Zoning:** DR 3.5

**Requested Action:** Special Hearing

**SUMMARY OF RECOMMENDATIONS:**

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The Department of Planning supports the petitioner's request to allow a covered deck addition to the existing Matthew's 1600 Restaurant and Bar. The existing building and proposed addition are located very close to the road which is a county and federally designated scenic byway: Maryland's Historic National Road. The architectural elevations, including building materials and design are consistent with the architectural character of the existing structure.

Planning also supports the modified parking plan for this restaurant which has previously been determined to be a non-conforming use. The property is zoned DR 3.5 and is located just outside of the Catonsville revitalization district. The required parking calculation is 16 spaces per 1,000 square feet instead of the district requirement of 5 parking spaces per 1,000 square feet. Matthew's restaurant has adequate parking for its patrons.

For further information concerning the matters stated here in, please contact Amy Mantay or Donnell Zeigler at 410-887-3480.

**Prepared by:**

**Division Chief:**

**AVA/LL: CM**

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



11-14  
1:30  
RECEIVED

OCT 03 2012

OFFICE OF ADMINISTRATIVE HEARINGS

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

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

DATE: October 3, 2012

SUBJECT: DEPS Comment for Zoning Item # 2013-0071-SPH  
Address 1600 Frederick Road  
(1600 Frederick Road, LLC Property)

Zoning Advisory Committee Meeting of September 24, 2012.

X The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

X Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Reviewer: John Russo – Environmental Impact Review

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



Darrell B. Mobley, Acting Secretary  
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 9-27-12

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

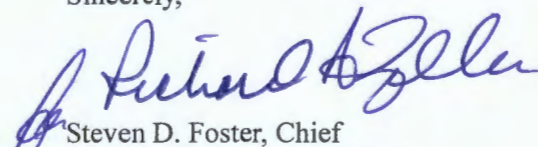
RE: Baltimore County  
Item No. 2013-0071-SPH  
Special Hearing  
Allen Parsons  
1600 Frederick Road  
MD 144

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 9-26-12. A field inspection and internal review reveals that an entrance onto MB144 consistent with current State Highway Administration guidelines is required. As a condition of approval for Special Hearing, Case Number 2013-0071-SPH the applicant must contact the State Highway Administration to obtain an entrance permit.

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 E-mail him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

  
Steven D. Foster, Chief  
Access Management Division

SDF/raz

\cc: Mr. Michael Pasquariello, Utility Engineer, SHA  
Mr. David Peake, District Engineer, SHA

\* A letter from the Access Management Division (AMD) will follow. The letter will provide further details regarding the access permit.

My telephone number/toll-free number is \_\_\_\_\_

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

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

**BALTIMORE COUNTY, MARYLAND**  
**INTEROFFICE CORRESPONDENCE**

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

**DATE:** September 25, 2012

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

**SUBJECT:** Zoning Advisory Committee Meeting  
For October 8, 2012  
Item No. 2013-0071

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

Some landscaping will be required with the building permit. Contact Jean Tansey at 410-887-3751 to discuss the extent.

DAK  
cc: File

|                                                                   |   |                   |
|-------------------------------------------------------------------|---|-------------------|
| RE: PETITION FOR SPECIAL HEARING                                  | * | BEFORE THE OFFICE |
| 1600 Frederick Road; NW/S Frederick Road,                         |   |                   |
| 250' SW c/line Montrose Avenue                                    | * | OF ADMINSTRATIVE  |
| 1 <sup>st</sup> Election & 1 <sup>st</sup> Councilmanic Districts |   |                   |
| Legal Owner(s): 1600 Frederick Road, LLC                          | * | HEARINGS FOR      |
| Petitioner(s)                                                     | * | BALTIMORE COUNTY  |
|                                                                   | * | 2013-071-SPH      |

\* \* \* \* \*

**ENTRY OF APPEARANCE**

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

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

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

RECEIVED

OCT 03 2012

.....

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3rd day of October, 2012, a copy of the foregoing Entry of Appearance was mailed to Jason Vettori, Esquire, Smith, Gildea & Schmidt, 600 Washington Avenue, Suite 200, Towson, Maryland 21204, Attorney for Petitioner(s).

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

## **Debra Wiley - ZAC Comments - Distribution Mtg. of 9/24**

---

**From:** Debra Wiley  
**To:** Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...  
**Subject:** ZAC Comments - Distribution Mtg. of 9/24

---

Good Afternoon,

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

2013-0064-A - 9535 Gunhill Circle  
Administrative Variance - Closing Date: 10/8

2013-0066-A - 10904 Liberty Road  
Administrative Variance - Closing Date: 10/8

2013-0067-A - 7312 Wenig Avenue  
No hearing date as of 9/24

2013-0068-A - 10515 Vincent Road  
Administrative Variance - Closing Date: 10/15

2013-0069-A - 11216 Bird River Grove Road  
No hearing date as of 9/24

2013-0070-A - 307 Lantana Drive  
Administrative Variance - Closing Date: 10/15

2013-0071-SPH - 1600 Frederick Road  
No hearing date as of 9/24

Thanks !

## Sherry Nuffer - RE: 2013-0071-SPH

---

**From:** Sherry Nuffer  
**To:** Vettori, Jason  
**Subject:** RE: 2013-0071-SPH

---

Jason,

I spoke with John in reference to the citation. He said that we will put your e-mail in the case file with the order.

Thank you,

>>> Jason Vettori <jvettori@sgs-law.com> 12/7/2012 11:03 AM >>>

The case cited on page 3 of the decision (Trip Associates v. Baltimore City) has the improper citation. It should be cited as 392 Md. 563, but instead it's cited as 392 Md. 562.

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

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---

**From:** Sherry Nuffer [mailto:snuffer@baltimorecountymd.gov]  
**Sent:** Thursday, December 06, 2012 12:01 PM  
**To:** Jason Vettori  
**Subject:** 2013-0071-SPH

Sherry Nuffer  
Legal Assistant  
Office of Administrative Hearings  
105 W. Chesapeake Avenue  
Room 103  
Towson, Maryland 21204  
410-887-3868  
Fax: 410-877-3468

**Sherry Nuffer - RE: 2013-0071-SPH**

---

**From:** Jason Vettori <jvettori@sgs-law.com>  
**To:** Sherry Nuffer <snuffer@baltimorecountymd.gov>  
**Date:** 12/7/2012 10:59 AM  
**Subject:** RE: 2013-0071-SPH

---

The case cited on page 3 of the decision (Trip Associates v. Baltimore City) has the improper citation. It should be cited as 392 Md. 563, but instead it's cited as 392 Md. 562.

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

This email contains information from the law firm of Smith, Gildea & Schmidt, LLC which may be confidential and/or privileged. The information is intended to be for the exclusive use of the individual or entity named above. If you are not the intended recipient, be advised that any disclosure, copying, distribution or other use of this information is strictly prohibited. If you have received this email in error, please notify Smith, Gildea & Schmidt, LLC by telephone immediately.

---

**From:** Sherry Nuffer [mailto:snuffer@baltimorecountymd.gov]  
**Sent:** Thursday, December 06, 2012 12:01 PM  
**To:** Jason Vettori  
**Subject:** 2013-0071-SPH

Sherry Nuffer  
Legal Assistant  
Office of Administrative Hearings  
105 W. Chesapeake Avenue  
Room 103  
Towson, Maryland 21204  
410-887-3868  
Fax: 410-877-3468

RECEIVED

MAR 01 2013

tneary@rsm.com

OFFICE OF ADMINISTRATIVE HEARINGS

March 1, 2013

Office of Administrative Hearings  
105 West Chesapeake, Suite 103  
Towson, Maryland

Re: Case No: 2013-0071-SPH  
In Re: Petitions for Special Hearing  
1600 Frederick Rd

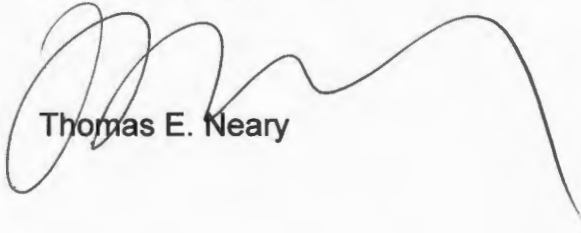
Dear Sir/Madam:

Please be advised that the Protestant's to the Petition submitted by the owners of the property located at 1600 Frederick Rd hereby Appeal the Decisions of Administrative Law Judge John E. Beverungen dated December 5, 2012 and January 30, 2013 and for reasons, among other states as follows:

1. That there was no legal basis for granting Petitioners Motion for Reconsideration and in doing so, the Administrative Law Judge improperly considered evidence, including expert testimony not subject to cross examination that was submitted outside of the hearing process.
2. That the calculations of the premises involved used in formulating the decision were incorrect and based upon improper evidence.
3. That the Administrative Law Judge erred as a matter of law in finding that the Petitioners met their burden of proof in showing that the non-permissive use had been continuous and had not been abandoned based upon the clear admissions of abandonment on two separate occasions made by Petitioners.
4. That the Opinion of January 30, 2013 erred in granting Petitioner's request for a modified parking plan in that it was not based upon the evidence submitted and is otherwise in error.
5. That the Administrative Law Judge improperly sought to provide evidence on the issue of non-conforming use, an issue that is clearly upon the Petitioner to provide the burden of proof and therefore was in error. The Petitioner clearly failed to sustain the burden of proof on this issue.
6. That the Administrative Law Judge failed to include additional structures clearly listed on Petitioner's site plan in reaching a calculation of allowable additional space and therefore was in error when setting forth the actual numbers. That the calculation is erroneous.
7. That the Administrative Law Judge erred in finding the previous extension of the non-conforming use at the premises that were ruled to be extensions by

- a prior Order were not in fact extensions.
8. That the Administrative Law Judge ruled that any expansion of the non-conforming was allowable.
  9. That the Administrative Law Judge improperly applied the Baltimore County Zoning Regulations and the applicable laws.
  10. That the Opinions dated December 5, 2012 and January 30, 2013 were otherwise in error and should be overturned.

Very truly yours,

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping tail that extends to the right.

Thomas E. Neary

# ROLLINS, SMALKIN, RICHARDS & MACKIE, L.L.C.

JAMES P. O'MEARA  
PAUL G. DONOGHUE  
JAMES R. ANDERSEN  
DENNIS C. WHELLEY\*  
ANDREW T. NICHOLS\*  
THOMAS E. NEARY#

Attorneys at Law  
401 North Charles Street  
Baltimore, Maryland 21201-4405

Phone: (410) 727-2443  
Fax: (410) 727-8390  
Web Address: [www.rsrm.com](http://www.rsrm.com)  
Email: [admin@rsrm.com](mailto:admin@rsrm.com)

[tneary@rsrm.com](mailto:tneary@rsrm.com)

May 15, 2013

ELAINE R. WILFORD+  
SCOTT E. MASSENGILL\*  
JAMES A. BUCK  
DERRICK H. DYE  
TARA A. BARNES  
DANIELLE A. WILLIAMSON

Of Counsel  
THOMAS C. GENTNER  
PATRICK G. CULLEN

\*ADMITTED TO THE D.C. BAR  
+ALSO ADMITTED IN PA.  
#ALSO ADMITTED IN N.Y.

Board of Appeals for Baltimore County  
Suite 203, Jefferson Building  
105 W. Chesapeake Avenue  
Towson, Maryland 21204  
ATTN: Theresa Shelton

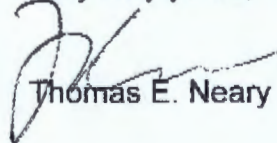
Re: Case No: 2013-0071-SPH  
In re 1600 Frederick Rd

Dear Ms. Shelton:

As you are aware, there is a hearing currently scheduled in this matter on May 21, 2013 at 10 am. Unfortunately, this date presents a conflict with previously scheduled work commitments, including a two day jury trial in Baltimore City that I have been unable to resolve. I would therefore request a continuance of this matter to a later date to allow me to appear and present the case on behalf of the residents of Catonsville, including myself who oppose the plans of property owner in this matter. This matter has not been previously postponed.

Thank you for your consideration in this matter.

Very truly yours,



Thomas E. Neary

cc: Jason Vettori

RECEIVED

MAY 15 2013

BALTIMORE COUNTY  
BOARD OF APPEALS



Home About Menu Gallery Events Contact

[www.Matthews1600.net](http://www.Matthews1600.net)

## A Brief History of 1600 Frederick Road Catonsville, Maryland



Matthew's 1600 Restaurant & Bar as it appears today is much larger than the original building, The Terminal Hotel. Built circa 1862, it was the waiting station at the end of the line for the newly formed Frederick Road horse-car line.

James Williams Stoddard (1866-1961) was one of the drivers for the horse-car line in 1883 and by the late 1880's he purchased The Terminal Hotel. In the 1890's, Mr. Stoddard added a frame structure adjoining the east side of the hotel which he named the "Palm Garden".

With the advent of electricity, the horse-car line was to yield to the electric streetcar in the 1890's.

In the 1920's The Terminal Hotel was purchased from Mr. Stoddard by Sidney Reinach and the name was changed to "Reinach's". Mr. Reinach added an elevated trellised porch on the west side of the building. Decorated with colored lights and an oom-pah band playing, it had the appearance in the summer months of an old-fashioned German Beer Garden.

From 1950 to 1975 the building was known as "The Ridgeway Inn". In 1976 the building was operating as "Snyder's West" followed by Jules Loverde's disco in 1980, Russell's Ltd. in 1984, and then "The Warfside Inn" in the 1990's.

In 2003 and the early part of 2004, the building was completely renovated and upgraded. Matthew's 1600 Restaurant & Bar opened July 06, 2004 and is owned and operated by Al & Lori Parsons and their three sons, Russell, Matthew, and Daniel.

1600 Frederick Road, Catonsville, MD 21228 - Telephone No: 410.788.2500

© Copyright Matthew's 1600 Restaurant & Bar 2006 - 2011 \* all rights reserved \* Part of the ExploreMD.us Network

Maryland Department of Assessments and Taxation  
Real Property Data Search (vw1.1A)  
BALTIMORE COUNTY

[Go Back](#)  
[View Map](#)  
[New Search](#)  
[GroundRent Redemption](#)  
[GroundRent Registration](#)

Account Identifier:

District - 01 Account Number - 0102652430

**Owner Information**

Owner Name: 1600 FREDERICK ROAD LLC Use: COMMERCIAL  
Mailing Address: 1600 FREDERICK RD Principal Residence: NO  
BALTIMORE MD 21043-4617 Deed Reference: 1) /24063/ 00427  
2)

**Location & Structure Information**

Premises Address Legal Description  
1600 FREDERICK RD 1.43 AC  
0-0000 1600 FREDERICK RD NS  
400 W SMITHWOOD AVE

| Map  | Grid | Parcel | Sub District | Subdivision | Section | Block | Lot | Assessment Area | Plat No:         |
|------|------|--------|--------------|-------------|---------|-------|-----|-----------------|------------------|
| 0100 | 0012 | 0260   |              | 0000        |         |       |     | 3               |                  |
|      |      |        |              |             |         |       |     |                 | <u>Plat Ref:</u> |

Special Tax Areas Town NONE  
Ad Valorem  
Tax Class

| Primary Structure Built | Enclosed Area | Property Land Area | County Use |
|-------------------------|---------------|--------------------|------------|
| 1903                    | 7930          | 62,290 SF          | 23         |

Stories Basement Type Exterior  
RESTAURANT

**Value Information**

|                           | Base Value | Value      | Phase-in Assessments |            |
|---------------------------|------------|------------|----------------------|------------|
|                           |            | As Of      | As Of                | As Of      |
|                           |            | 01/01/2012 | 07/01/2012           | 07/01/2013 |
| <u>Land</u>               | 664,500    | 664,500    |                      |            |
| <u>Improvements:</u>      | 746,200    | 787,800    |                      |            |
| <u>Total:</u>             | 1,410,700  | 1,452,300  | 1,424,567            | 1,438,433  |
| <u>Preferential Land:</u> | 0          |            |                      | 0          |

**Transfer Information**

|                                                   |                             |                         |
|---------------------------------------------------|-----------------------------|-------------------------|
| <u>Seller:</u> PARSONS ALLEN LEE                  | <u>Date:</u> 06/23/2006     | <u>Price:</u> \$0       |
| <u>Type:</u> NON-ARMS LENGTH OTHER                | <u>Deed1:</u> /24063/ 00427 | <u>Deed2:</u>           |
| <u>Seller:</u> CHESAPEAKE FEDER AL S&L ASSOCIATIO | <u>Date:</u> 03/08/1984     | <u>Price:</u> \$325,000 |
| <u>Type:</u> ARMS LENGTH IMPROVED                 | <u>Deed1:</u> /06677/ 00606 | <u>Deed2:</u>           |
| <u>Seller:</u>                                    | <u>Date:</u>                | <u>Price:</u>           |
| <u>Type:</u>                                      | <u>Deed1:</u>               | <u>Deed2:</u>           |

**Exemption Information**

| Partial Exempt Assessments | Class | 07/01/2012 | 07/01/2013 |
|----------------------------|-------|------------|------------|
| <u>County</u>              | 000   | 0.00       |            |
| <u>State</u>               | 000   | 0.00       |            |
| <u>Municipal</u>           | 000   | 0.00       | 0.00       |

Tax Exempt: Special Tax Recapture:  
Exempt Class: NONE

**Homestead Application Information**

Homestead Application Status: No Application

**From:** John Beverungen  
**To:** Carl Richards  
**Date:** 11/15/2012 12:29 PM  
**Subject:** request

*Dae,  
See Me - Cal*

Carl,

Hope you are doing well, and also was hoping that you or a member of your staff could assist with some information on a case I had yesterday.

The property address is 1600 Frederick Rd. 21228.

Can you get me the zoning history for the property going back to 1957? It is presently zoned DR 3.5.

Also, the site plan lists a case (special hearing) in 1960 (1960-5114-SPH). Is there a way I can get the petition and order in that case?

Thanks, John.

*John,  
We don't have any  
correspondence from 1979*



SW 3 G

RE: PETITION FOR RECLASSIFICATION,  
SPECIAL EXCEPTION AND VARIANCE  
TO ZONING REGULATIONS - N.S.  
Frederick Road opp. Montrose  
Ave., 1st District - Marie Combs,  
Samuel Hawkins and Marie Hawkins,  
Petitioners

BEFORE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

No. 4102-RX

: : : : : : : :

Upon hearing on the above petition (1) for reclassification from an "R-6" Zone to an "R-A" Zone; (2) for a Special Exception to use said property for Offices and (3) for a variance to the Zoning Regulations to permit a side yard setback of 4 feet instead of the required 25 feet, Section 217.3 of the Regulations, from the testimony and facts presented at the hearing it is the opinion of the Zoning Commissioner that the petition should be granted.

There were several neighbors present at the hearing who did not oppose the proposed use of this property. There was one protestant, Mr. Thomas H. McCarthy, 1606 Frederick Road, also present, who testified that he has no objection to the granting of the special exception at the above location, provided it were limited to office use only.

Under the Zoning Regulations the Zoning Commissioner having authority hereby grants the reclassification from an "R-6" Zone to an "R-A" Zone; a special exception to use said property for offices and the variance requested. The special exception limits the use of said property to offices only.

It is this 23rd. day of April, 1957 by the Zoning Commissioner of Baltimore County ORDERED that the aforesaid petition should be and the same is hereby granted; the first, for reclassifi-

✓  
2RXV

AP ✓  
1-A

RA-XV  
4/2/57

on

ED

6114-SH

#5114-SH

MAP  
#1

SEC. 2-A

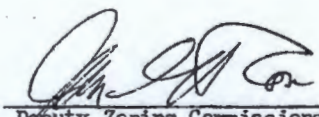
SH

10/11/60

ORDERED by the Zoning Commissioner of Baltimore County  
this 26th day of September, 19 60,  
that the subject matter of this petition be advertised in two  
newspapers of general circulation throughout Baltimore County  
and that the property be posted, as required by the Zoning  
Regulations and Act of Assembly aforesaid, and that a public  
hearing thereon be had in the office of the Zoning Commissioner  
of Baltimore County, Maryland, on the 31st day of  
October, 19 60, at 9:30 o'clock  
A.M.

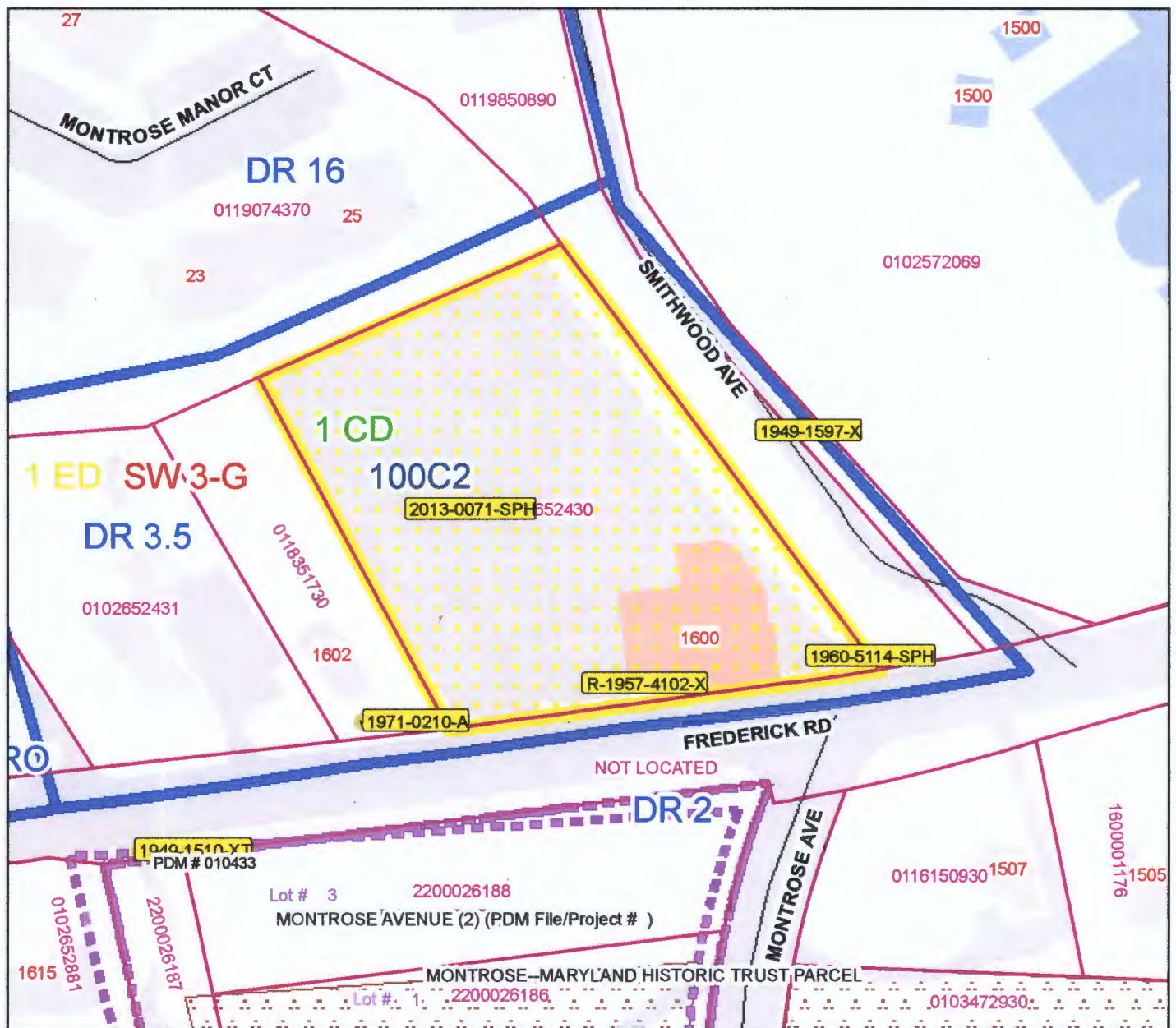
Zoning Commissioner  
of Baltimore County

Upon hearing on the above petition for a special  
hearing for the approval of an application for a building permit  
to enclose an existing porch at 1600 Frederick Avenue, in the  
1st District of Baltimore County, it is this 31st day of  
October, 1960, by the Deputy Zoning Commissioner of Baltimore  
County that the request is for a lawful extension of a non-  
conforming use in accordance with Section 104 of the Baltimore  
County Zoning Regulations.

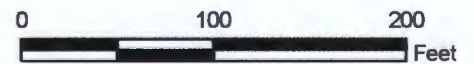
  
Deputy Zoning Commissioner  
of Baltimore County

6114-SH

# 1600 Frederick Road



Publication Date: November 15, 2012  
 Publication Agency: Permits, Approvals and Inspections  
 Projection/Datum: Maryland State Plane,  
 FIPS 1900, NAD 1983/91 HARN, US Foot



1 inch = 100 feet



2013-0071-SPH

CASE NAME 1600 Fredericks Rd  
CASE NUMBER 2013-0011-SFH  
DATE 11/14/2012

[illegible]

CASE NAME 1600 Frederick Rd.  
CASE NUMBER 2013-0071-SPH  
DATE 11-14-2012

## NAME \_\_\_\_\_

CITY, STATE, ZIP

**E - MAIL**

[illegible]

Case No.:

2013-0071-SPH

12/5/12  
An

## Exhibit Sheet

Petitioner/Developer

Protestant

|        |                                         |                              |
|--------|-----------------------------------------|------------------------------|
| No. 1  | Site Plan                               | Photographs re: sign posting |
| No. 2  | My Neighborhood Map                     |                              |
| No. 3  | 3A-3E Floorplans + Renderings           |                              |
| No. 4  | 4A-4C Color Elevation drawings          |                              |
| No. 5  | Color Photos - Matthews 1600 Gallery    |                              |
| No. 6  | Neighborhood Petition of Support        |                              |
| No. 7  | 11-11-2012 Letter to ALJ Stahl          |                              |
| No. 8  | Map Catonsville Revitalization District |                              |
| No. 9  | Site Plan for Case # 1960-5114-SPH      |                              |
| No. 10 |                                         |                              |
| No. 11 |                                         |                              |
| No. 12 |                                         |                              |



My Neighborhood Map

Created By  
Baltimore County  
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate. Baltimore County, Maryland does not warrant the accuracy or reliability of the data and including but not limited to, all warranties, express or implied, of merchantable County, Maryland disclaims all obligation and liability for damages, including consequential damages, attorneys' and experts' fees, and court costs incurred use of or reliance upon this data.

Printed 11/14/2012

PETITIONER'S

EXHIBIT NO.

2

# MATTHEW'S 1600

Restaurant & Bar



[Home](#) [About](#) [Menu](#) [Gallery](#) [Events](#) [Contact](#) [www.Matthews1600.net](http://www.Matthews1600.net)

## Matthews 1600 Gallery

[Previous](#) | [Home](#) | [Next](#)



1600 Frederick Road, Catonsville, MD 21228 - Telephone No: 410.788.2500

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PETITIONER'S

EXHIBIT NO.

5 A

# MATTHEW'S 1600

Restaurant & Bar

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PETITIONER'S

EXHIBIT NO.

5 B

# MATTHEW'S 1600

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PETITIONER'S

EXHIBIT NO.

5 **C**

# MATTHEW'S 1600

Restaurant & Bar

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[www.Matthews1600.net](http://www.Matthews1600.net)

## Matthews 1600 Gallery

[Previous](#) | [Home](#) | [Next](#)



1600 Frederick Road, Catonsville, MD 21228 - Telephone No: 410.788.2500

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PETITIONER'S

EXHIBIT NO.

57

Re: Matthews 1600  
1600 Frederick Road, Catonsville, MD  
Case No. 2013-0071-SPH

I have reviewed the request for zoning relief to permit an addition to the Matthews 1600 restaurant (extension of the legally non-conforming use (a restaurant in the DR 5.5 zone) and approval of a modified parking plan) on this 1.43 acre parcel and I support it. I urge you to approve the request for relief.

Mr. Parsons has owned this parcel since 1984 and the restaurant is an integral part of Catonsville. In my opinion, Matthews 1600 should be able to construct the addition, which will, among other things, provide much needed outdoor seating for its patrons. The property has clearly been used for a restaurant/bar for years and the relief necessitated should be granted.

Thank you for your favorable consideration of this request.

| Full Name                                                                | Address       |
|--------------------------------------------------------------------------|---------------|
| Todd CHAPMAN                                                             | 131 MAPLE AVE |
| City, State, Zip                                                         | Signature     |
| CATONSVILLE MD 21228                                                     | Todd Chapman  |
| Comments:                                                                |               |
| Fully Support this effort. Please call me if you want more info. Thanks. |               |

| Full Name        | Address               |
|------------------|-----------------------|
| RICHARD G. SMITH | 1 BRISTOL HILL CT B-4 |
| City, State, Zip | Signature             |
| BALTO. MD 21228  | Richard Smith         |
| Comments:        |                       |
|                  |                       |

| Full Name                                                                                        | Address               |
|--------------------------------------------------------------------------------------------------|-----------------------|
| Maureen Sweeney Smith                                                                            | 1 Bristol Hill Ct, B4 |
| City, State, Zip                                                                                 | Signature             |
| Balto., MD 21228                                                                                 | Maureen Sweeney Smith |
| Comments:                                                                                        |                       |
| Matthew's has been a great neighbor. They deserve the right to expand. They will do a great job. |                       |

PETITIONER'S

EXHIBIT NO.

6

Re: Matthews 1600  
1600 Frederick Road, Catonsville, MD  
Case No. 2013-0071-SPH

I have reviewed the request for zoning relief to permit an addition to the Matthews 1600 restaurant (extension of the legally non-conforming use (a restaurant in the DR 5.5 zone) and approval of a modified parking plan) on this 1.43 acre parcel and I support it. I urge you to approve the request for relief.

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Thank you for your favorable consideration of this request.

| Full Name                               | Address            |
|-----------------------------------------|--------------------|
| Kathleen Quinlan                        | 2007 Tadcaster Rd  |
| City, State, Zip                        | Signature          |
| Catonsville, MD 21228                   | Kathleen B Quinlan |
| Comments:                               |                    |
| Outdoor dining & events would be great! |                    |

| Full Name                                                                   | Address            |
|-----------------------------------------------------------------------------|--------------------|
| Mark Scott Miller                                                           | 207 WORTHMONT ROAD |
| City, State, Zip                                                            | Signature          |
| CATONSVILLE, MD. 21228                                                      | Mark Scott Miller  |
| Comments:                                                                   |                    |
| GOOD CORPORATE CITIZENS IN OUR COMMUNITY, THIS WOULD BE A WELCOME ADDITION! |                    |

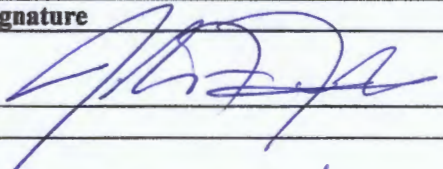
| Full Name                            | Address                  |
|--------------------------------------|--------------------------|
| CHRISTINE MARIE SIMPKINS             | 6601 RANNOCH DR.         |
| City, State, Zip                     | Signature                |
| CATONSVILLE, MD 21228                | Christine Marie Simpkins |
| Comments:                            |                          |
| OUT-DOOR SEATING WOULD BE VERY NICE. |                          |

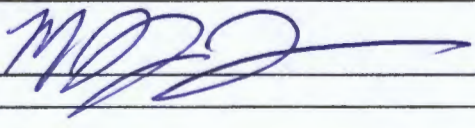
Re: Matthews 1600  
1600 Frederick Road, Catonsville, MD  
Case No. 2013-0071-SPH

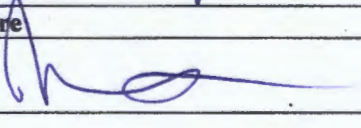
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Thank you for your favorable consideration of this request.

|                            |                                                                                    |
|----------------------------|------------------------------------------------------------------------------------|
| Full Name                  | Address                                                                            |
| John. Fabian               | 4 Coopers Run Ct                                                                   |
| City, State, Zip           | Signature                                                                          |
| Ellicott City MD 21043     |  |
| Comments:                  |                                                                                    |
| NEED MORE OUTDOOR SEATING! |                                                                                    |

|                                      |                                                                                      |
|--------------------------------------|--------------------------------------------------------------------------------------|
| Full Name                            | Address                                                                              |
| MARTIN S. FRANZ                      | 221 NEWBURG AVE                                                                      |
| City, State, Zip                     | Signature                                                                            |
| CATONSVILLE MD 21228                 |  |
| Comments:                            |                                                                                      |
| Matthew's has been a great neighbor. |                                                                                      |

|                                                                                       |                                                                                      |
|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| Full Name                                                                             | Address                                                                              |
| Joseph P. Skidmore Sr.                                                                | 29 Montrose Manor                                                                    |
| City, State, Zip                                                                      | Signature                                                                            |
| Catonsville MD 21228                                                                  |  |
| Comments:                                                                             |                                                                                      |
| Matthew's is a well run business. Live directly next to it and never had a complaint. |                                                                                      |

November 11, 2012

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

Re: 2013-0071-SPH  
1600 Frederick Road

Dear Judge Stahl,

I am a patron of Matthew's 1600 Restaurant and a resident of Catonsville for over 30 years. I have reviewed Matthew's plan for expansion and would like to register my approval.

I am a founding member and a current board member of Catonsville Rails To Trails (CRTT)\*. One of our trails, the #8 Streetcar Path, is adjacent to the restaurant on the east side of their establishment. Matthew's has been a wonderful neighbor and has been a partner in several CRTT projects.

On January 1, 2012, Matthew removed approximately 10 large dangerous trees along our property line at their own expense, saving our committee thousands of dollars. In the spring, Matthew's contributed \$200 to our "Free The Tree" project, which involves removing ivy from trees. The Parsons are always willing to lend a hand with making a meal for volunteers or allowing us to use their bathrooms, electricity and water hose reel. They are true supporters of this community project.

Matthew's has demonstrated time and time again, that they are good neighbors. It is my sincere hope that they are able to expand their restaurant and add the outdoor dining section. They have been considerate of the community and deserve the chance to make these additions.

Sincerely,

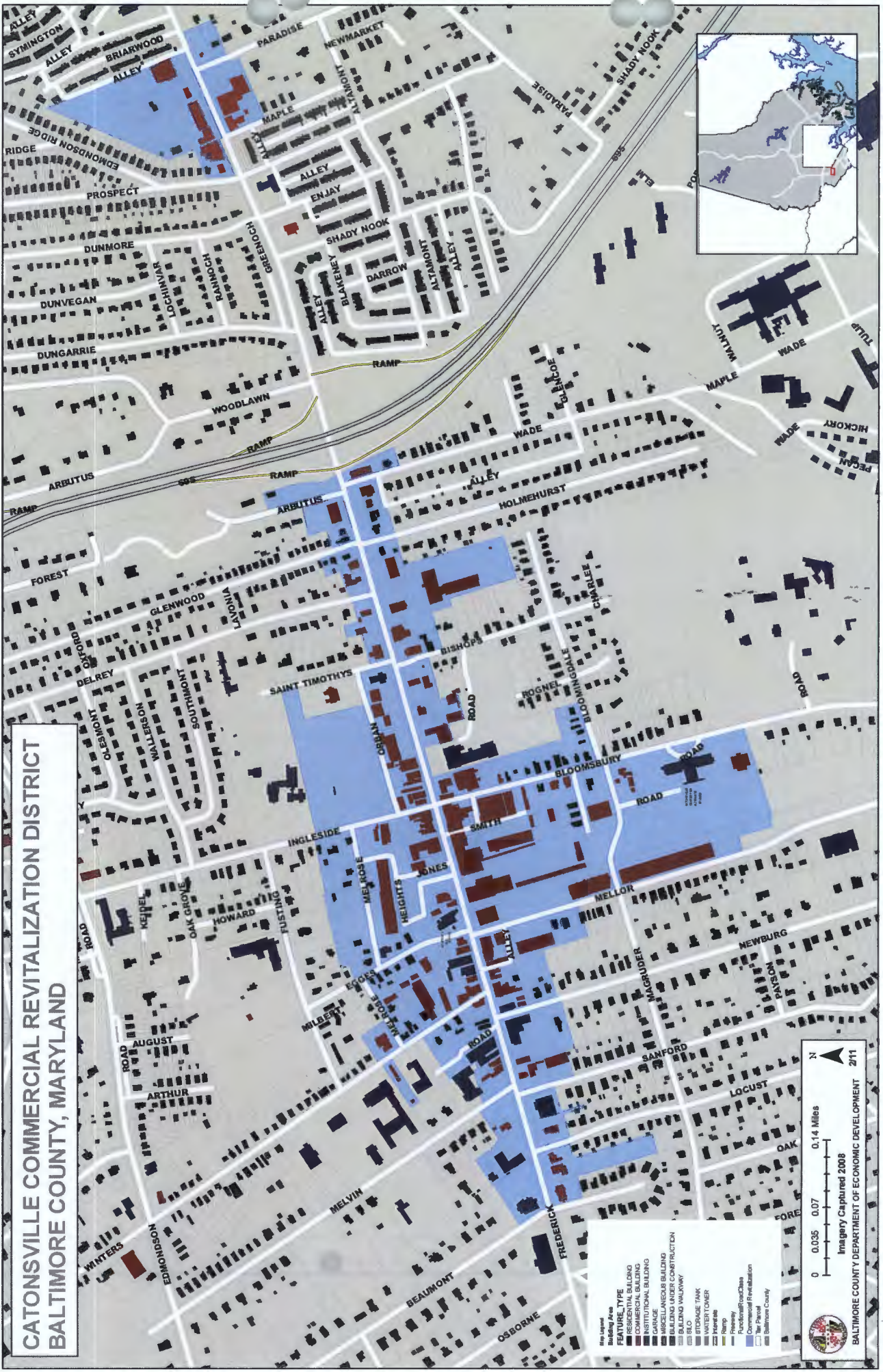


Maureen Sweeney Smith  
1 Bristol Hill Ct., B4  
Catonsville, MD 21228  
443-326-5474  
sweeneysmith@comcast.net

\* This letter is my personal endorsement of Matthew's 1600 Restaurant. This is not a letter of endorsement from the CRTT committee.

PETITIONER'S

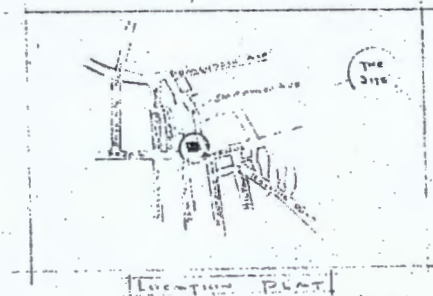
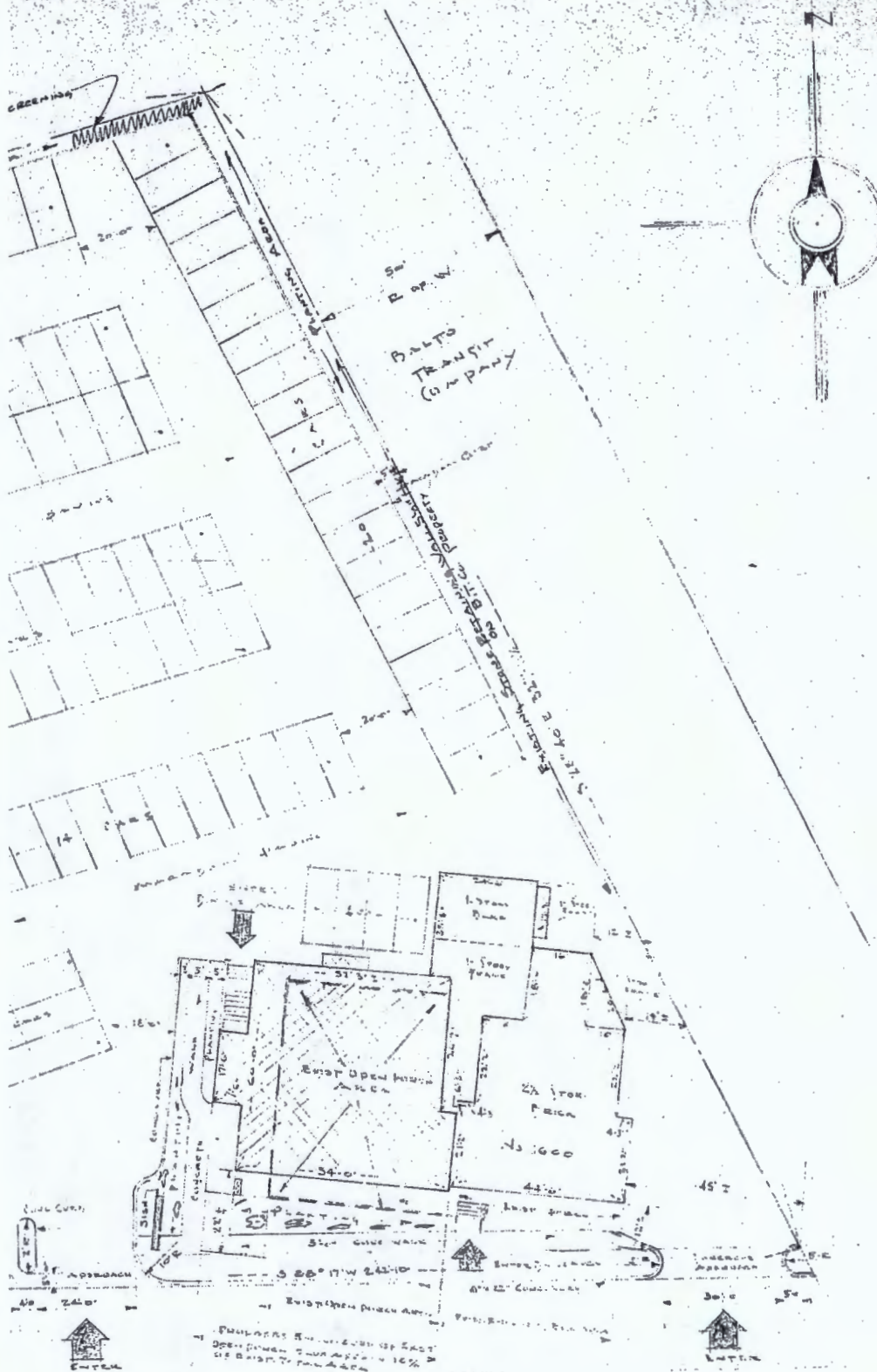
EXHIBIT NO. 7



#8  
PET.

# PETITIONER'S

EXHIBIT NO. 9



#5114-SH  
MAP  
#1  
SEC. 2-A

- EXISTING BUILDINGS
- PROPOSED ENCLOSURE AREA
- EXISTING OPEN PITCH AREA
- EXISTING OPEN PITCH AREA
- EXISTING OPEN PITCH AREA



PROPERTY DIMENSIONS, COURSES  
AND LOCATION OF EXISTING BUILDINGS  
TAKEN FROM PROPERTY SURVEY OF  
DORRAN & JESCHKE ENGINEERS  
AND LAND SURVEYORS - BALTO MD  
DATED SEPT. 29, 1958-FL4302

APPROVED FOR FILING  
Reviewed By [Signature]  
Date 9/3/60

PROPOSED ENCLOSURE OF EXISTING OPEN PITCH  
AT  
RIDGEWAY HILL  
1600 FREDERICK AVENUE  
CAPTIVILLE 25, MARYLAND

| DATE    | REVIEWED BY | DATE    | REVIEWED BY |
|---------|-------------|---------|-------------|
| 3-21-60 | JH          | 3-21-60 | JH          |

THEODORE DAVIS - JARA  
Architect  
1026 CATHEDRAL STREET  
BALTIMORE 1, MARYLAND  
Telephone PL 2-1799

Job No. 380  
Drawn A  
1

NOTE  
CONCRETE CURBS - 12" HIGH - 12" WIDE  
ALL SHOWN IN SECTION VIEW  
AND STATE ROAD SPECIFICATIONS  
AND STANDARDIZATION REQUIREMENTS

12/5/12  
JN

Case No.: 2013-0071-SPH

Exhibit Sheet

Petitioner/Developer

Protestant

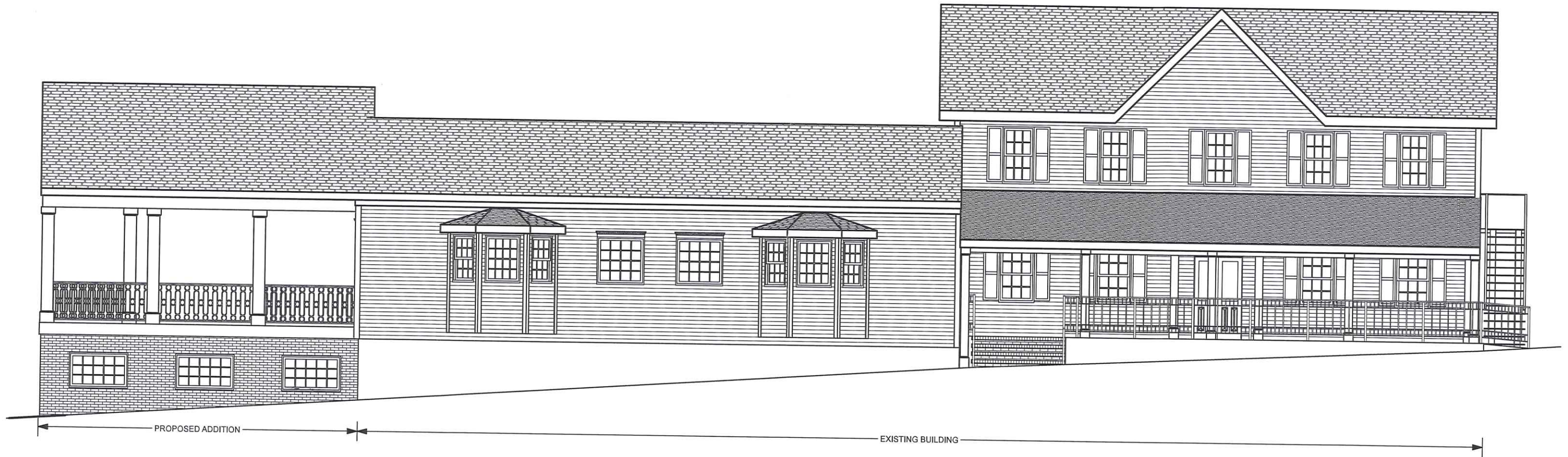
|        |                                         |                              |
|--------|-----------------------------------------|------------------------------|
| No. 1  | Site Plan                               | Photographs re: sign posting |
| No. 2  | My Neighborhood Map                     |                              |
| No. 3  | 3A-3E Floorplans + Renderings           |                              |
| No. 4  | 4A-4C Color Elevation drawings          |                              |
| No. 5  | Color Photos - Matthews 1600 Gallery    |                              |
| No. 6  | Neighborhood Petition of Support        |                              |
| No. 7  | 11-11-2012 Letter to ALJ Stahl          |                              |
| No. 8  | Map Catonsville Revitalization District |                              |
| No. 9  | Site Plan for Case # 1960-5114-SPH      |                              |
| No. 10 |                                         |                              |
| No. 11 |                                         |                              |
| No. 12 |                                         |                              |



PROTESTANT'S

EXHIBIT NO. 1





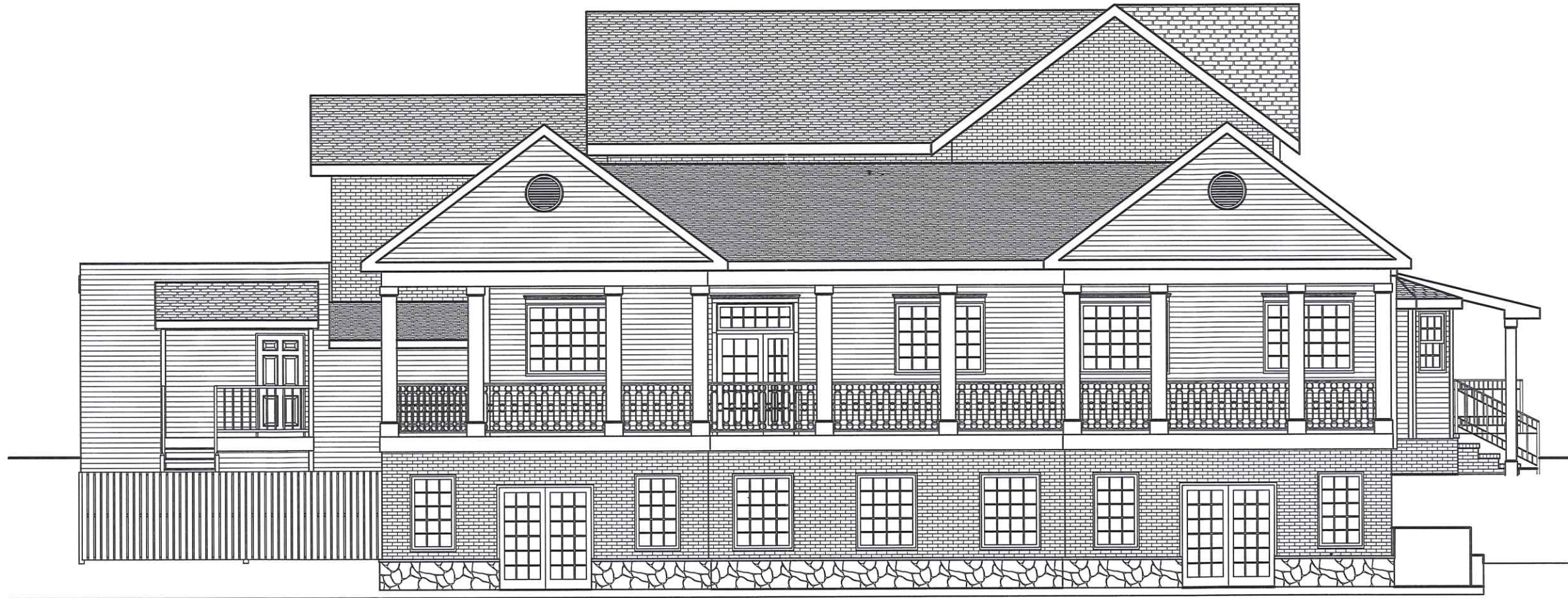
Front Elevation

1/8" = 1'-0"

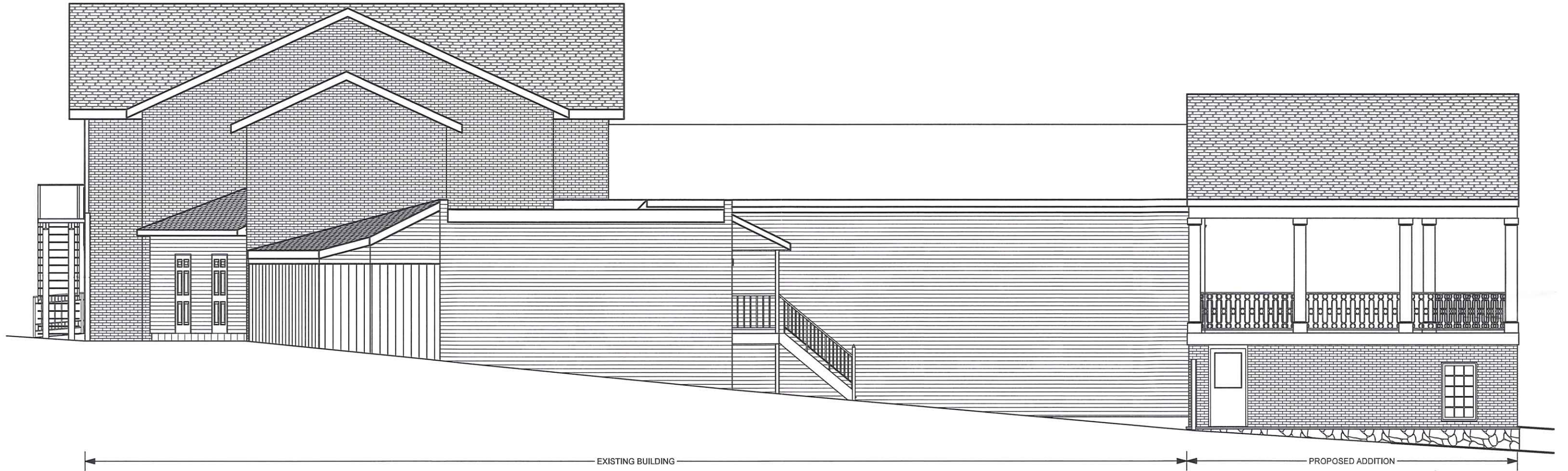
Matthews 1600

9/7/2012

PETITIONER'S  
EXHIBIT NO. 3C



Left Elevation  
1/8" = 1'-0"  
Matthews 1600  
9/7/2012



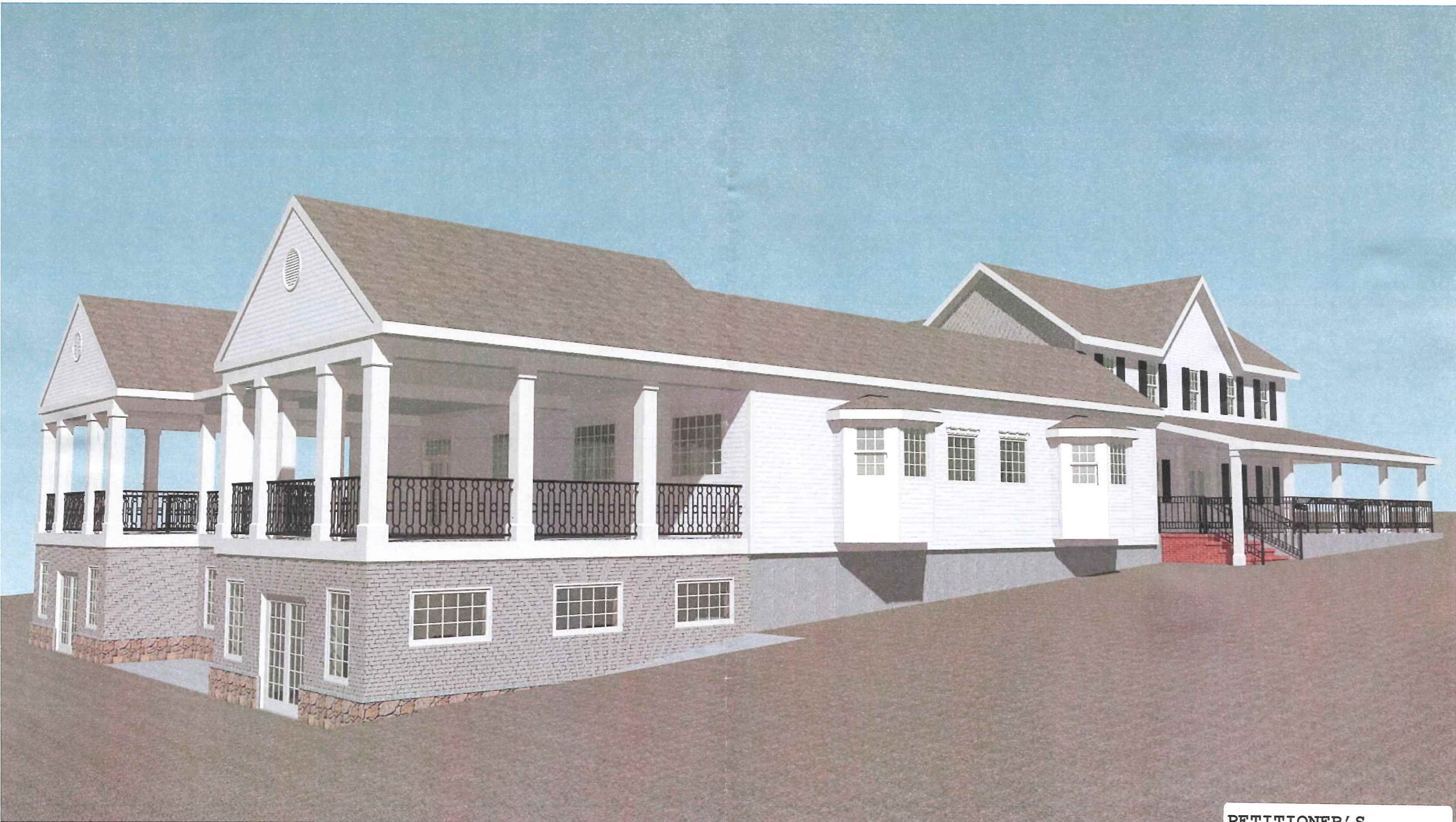
Rear Elevation  
 1/8" = 1'-0"  
 Matthews 1600  
 9/7/2012

PETITIONER'S  
 EXHIBIT NO. 3E



PETITIONER'S

EXHIBIT NO. 4A



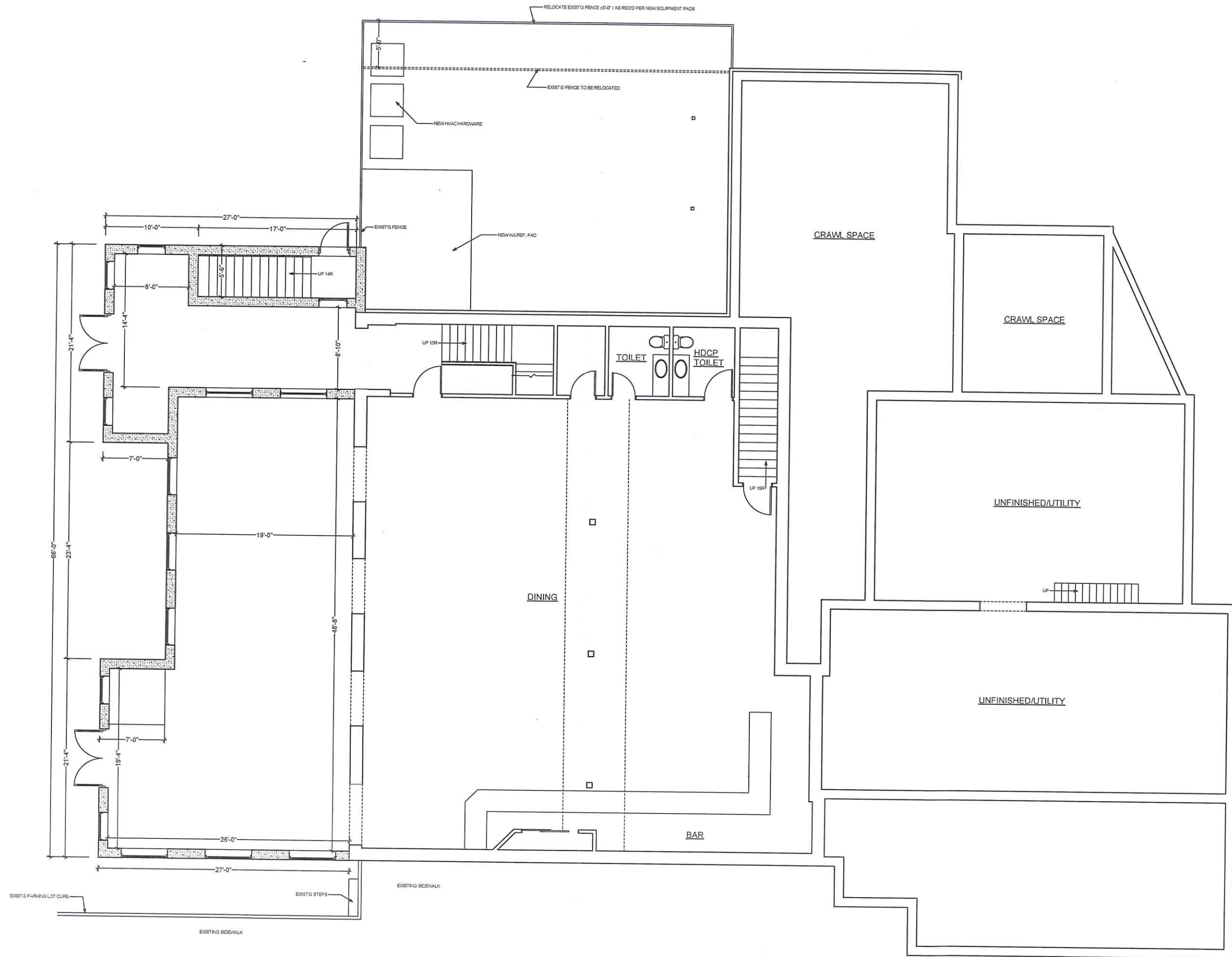
PETITIONER'S

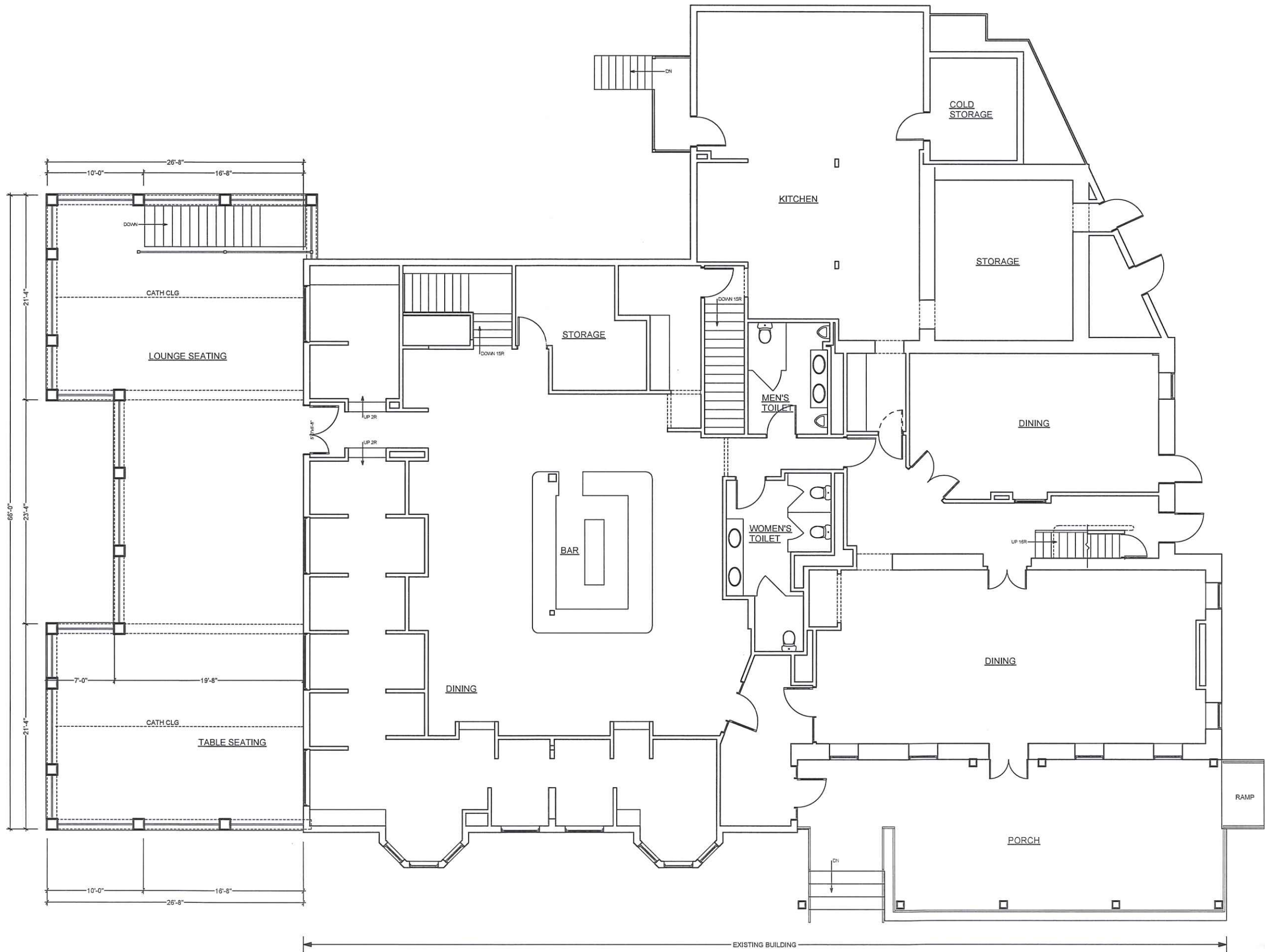
EXHIBIT NO. 4B

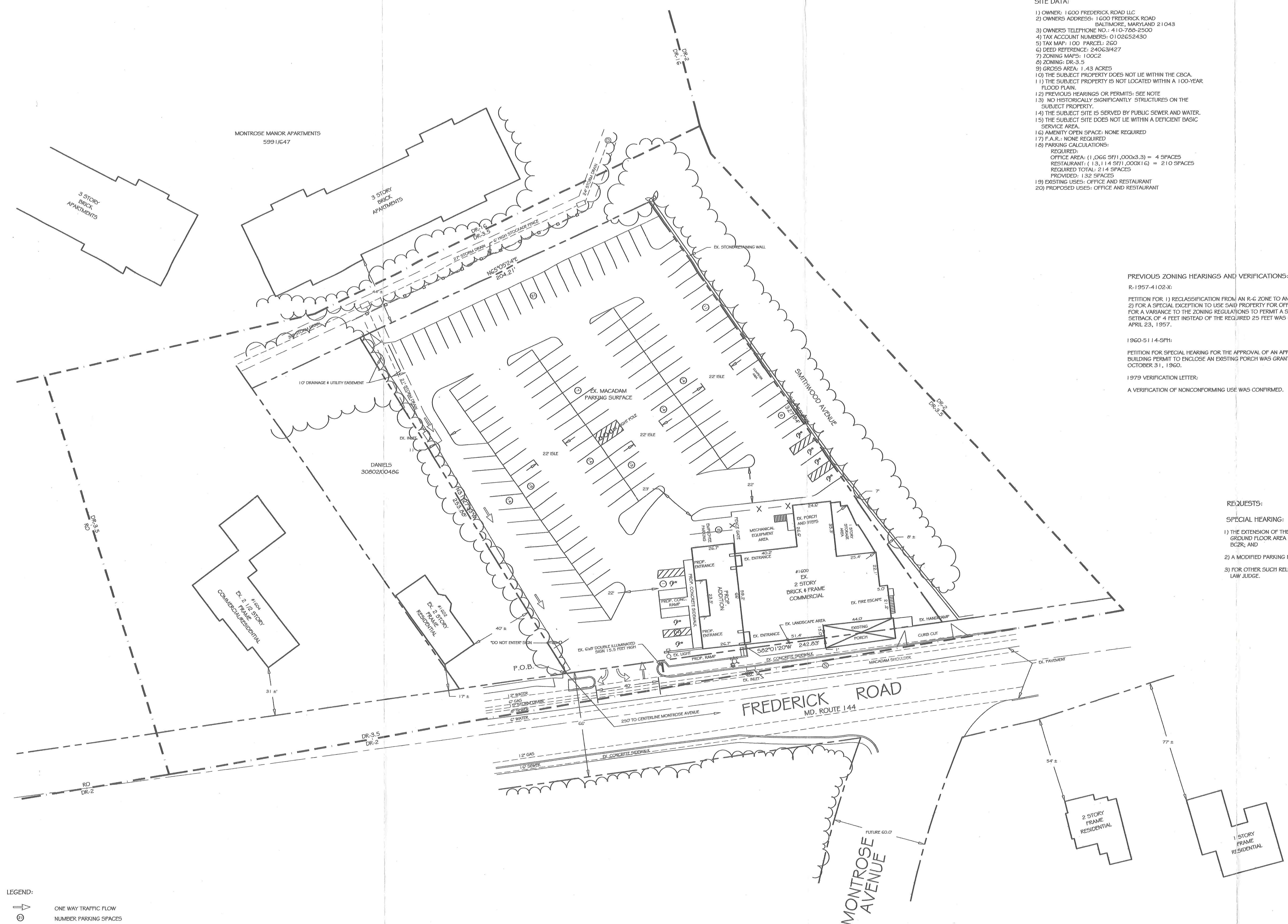


PETITIONER'S

EXHIBIT NO. 4C



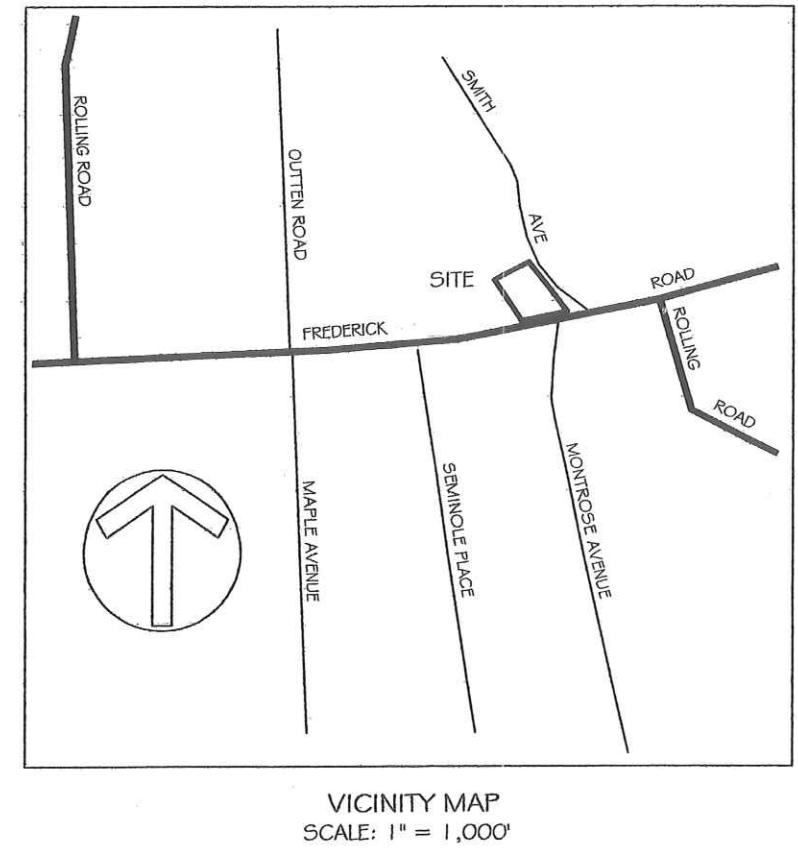




- LEGEND:
- ONE WAY TRAFFIC FLOW
  - NUMBER PARKING SPACES
  - FENCING
  - WOODS
  - STORM DRAIN MANHOLE
  - SANITARY SEWER MANHOLE
  - LIGHT POLE
  - WATER VALVE
  - FIRE HYDRANT
  - SIGN

SITE DATA:

- 1) OWNER: 1600 FREDERICK ROAD LLC
- 2) OWNER'S ADDRESS: 1600 FREDERICK ROAD BALTIMORE, MARYLAND 21043
- 3) OWNER'S TELEPHONE NO.: 410-788-2500
- 4) TAX ACCOUNT NUMBERS: 0102652430
- 5) TAX MAP: 100 PARCEL: 260
- 6) DEED REFERENCE: 24063427
- 7) ZONING MAPS: 100C2
- 8) ZONING: DR-3.5
- 9) GROSS AREA: 1.43 ACRES
- 10) THE SUBJECT PROPERTY DOES NOT LIE WITHIN THE CBCA.
- 11) THE SUBJECT PROPERTY IS NOT LOCATED WITHIN A 100-YEAR FLOOD PLAIN.
- 12) PREVIOUS HEARINGS OR PERMITS: SEE NOTE
- 13) NO HISTORICALLY SIGNIFICANT STRUCTURES ON THE SUBJECT PROPERTY.
- 14) THE SUBJECT SITE IS SERVED BY PUBLIC SEWER AND WATER.
- 15) THE SUBJECT SITE DOES NOT LIE WITHIN A DEFICIENT BASIC SERVICE AREA.
- 16) AMENITY OPEN SPACE: NONE REQUIRED
- 17) F.A.R.: NONE REQUIRED
- 18) PARKING CALCULATIONS:  
REQUIRED:  
OFFICE AREA: (1,066 SF/1,000x3.3) = 4 SPACES  
RESTAURANT: (13,114 SF/1,000x1.6) = 210 SPACES  
REQUIRED TOTAL: 214 SPACES  
PROVIDED: 132 SPACES
- 19) EXISTING USES: OFFICE AND RESTAURANT
- 20) PROPOSED USES: OFFICE AND RESTAURANT



PREVIOUS ZONING HEARINGS AND VERIFICATIONS:

R-1957-4102-X:

PETITION FOR 1) RECLASSIFICATION FROM AN R-G ZONE TO AN R-A ZONE, 2) FOR A SPECIAL EXCEPTION TO USE SAID PROPERTY FOR OFFICES AND 3) FOR A VARIANCE TO THE ZONING REGULATIONS TO PERMIT A SIDE YARD SETBACK OF 4 FEET INSTEAD OF THE REQUIRED 25 FEET WAS GRANTED ON APRIL 23, 1957.

1960-5114-SPH:

PETITION FOR SPECIAL HEARING FOR THE APPROVAL OF AN APPLICATION FOR A BUILDING PERMIT TO ENCLOSE AN EXISTING PORCH WAS GRANTED ON OCTOBER 31, 1960.

1979 VERIFICATION LETTER:

A VERIFICATION OF NONCONFORMING USE WAS CONFIRMED.

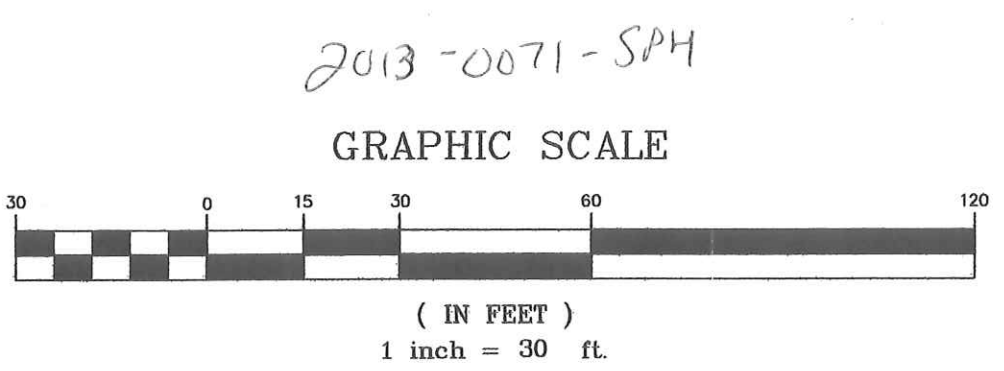
REQUESTS:

SPECIAL HEARING:

- 1) THE EXTENSION OF THE EXISTING RESTAURANT NO MORE THAN 25% OF THE GROUND FLOOR AREA OF THE BUILDING PURSUANT TO SECTION 104.3 OF THE BCZR; AND
- 2) A MODIFIED PARKING PLAN PURSUANT TO SECTION 409.12.B OF THE BCZR; AND
- 3) FOR OTHER SUCH RELIEF AS MAY BE DEEMED NECESSARY BY THE ADMINISTRATIVE LAW JUDGE.

SOURCE NOTE:

THE INFORMATION SHOWN HEREON WAS BASED IN PART ON SURVEY PREPARED BY KJWELLSON DATED JULY 2012. VARIOUS UTILITY DRAWINGS FROM BALTIMORE COUNTY, NEIGHBORHOOD MAP OFFERED BY BALTIMORE COUNTY, 200 SCALE ZONING MAP BY BALTIMORE COUNTY AND AERIAL IMAGING. THE INFORMATION SHOWN HEREON AND THE CONTENT OF THIS PLAN ARE NOT TO BE USED FOR ANY OTHER PURPOSE THEN TO ACCOMPANY A PETITION FOR A ZONING HEARING FOR THE SPECIFIED REQUESTS. USE OF THIS PLAN FOR OTHER PURPOSES WILL BE DONE AT USER'S OWN RISK.



**PETITIONER'S**  
**kjWellsInc**  
7403 NEW CUT ROAD  
KINGSVILLE, MARYLAND 21087  
(410) 592-6800

**EXHIBIT NO.**  
1

**Land Surveying & Site Planning**

LICENSE EXPIRATION DATE: 7/02/2014

**REVISIONS:**

| NO. | DATE |
|-----|------|
|     |      |

PLAN TO ACCOMPANY A PETITION  
for a  
SPECIAL EXCEPTION, SPECIAL HEARING  
and  
VARIANCE  
1600 FREDERICK ROAD  
BALTIMORE COUNTY, MARYLAND  
1ST ELECTION DISTRICT

DRAWN BY: CAV/KJW  
CHECKED BY: KJW  
DATE: 8/27/2012  
PROJECT NO.:  
2012-021  
SHEET 1 OF 1

2013-0071-SPH  
GRAPHIC SCALE

2013-071