



KEVIN KAMENETZ
County Executive

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

February 20, 2013

Lawrence E. Schmidt, Esquire
Jason T. Vettori, Esquire
600 Washington Avenue
Suite 200
Towson, Maryland 21204

RE: Petition for Special Hearing
Case No.: 2013-0131-SPH
Property: 1100 E. Riverside Avenue

Dear Mr. Schmidt and 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,

A handwritten signature in black ink, appearing to read "JEB", is written over the printed name of John E. Beverungen.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

c:

IN RE: **PETITION FOR SPECIAL HEARING** *
(1100 E. Riverside Avenue)
15th Election District *
6th Councilmanic District *
Marina Holdings, LLC *
Petitioners *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2013-0131-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 Marina Holdings, LLC, legal owner. 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 continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a use permitted by right as a principal (combination of uses) or accessory use, or in an alternative, that the proposed use is a legally permitted non-conforming use, all as more particularly described on the plat to accompany the Special Hearing attached hereto;
- (2) To amend the Special Hearing relief for the "West Shore Yacht Center" approved in Case No. 07-421-SPHA as indicated above and on the attached 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 Richard Earl Matz, from Colbert, Matz, Rosenfelt, Inc. the firm that prepared the site plan, and Joseph M. and Lisa C. Taylor,

ORDER RECEIVED FOR FILING

Date

2-21-13

By

Aln

representatives of the legal owner. Lawrence Schmidt, Esquire and Jason T. Vettori, Esquire appeared and represented the Petitioners. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no interested citizens in attendance, and the file does not contain any letters of protest or opposition.

The Zoning Advisory Committee (ZAC) comments were received and made a part of the file. The Department of Environmental Protection and Sustainability noted that the Petitioner was obliged to comply with certain critical area regulations, as set forth at B.C.Z.R. §500.14. The Department of Planning also submitted a comment, requesting that architectural elevations be provided for review prior to permit issuance.

Testimony and evidence revealed that the subject property is approximately 3 acres and is zoned BMB and DR 3.5. This property has been the subject of prior zoning and development hearings, which approved the construction of 12 single-family semi-detached fee simple units (on approximately 2 acres), and the continued use of a portion of the property as a marina (approximately $\frac{3}{4}$ acre) with a one-story office building and 85 boat slips. See prior Orders, Exhibits 2 & 3. The Petitioner recently received permits from the County and began reconstructing the marina office building, as shown in the photos admitted as Exhibit 5. The Petitioner proposes to use the first floor of the structure for office and administrative functions associated with the marina, and will use the second floor as their personal residence. The County required the Petitioner to file a petition for Special Hearing to determine the propriety of this proposed use of the marina building.

The Marina building is situated in a BMB zone, which permits the operation of boatyards and marinas as of right. B.C.Z.R. §§221.C.1 & 2. That zone also permits "accessory uses or

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Date

2-21-13

By

den

2

structures which are normally and customarily incidental to any principal use,” and “combinations” of permitted uses. B.C.Z.R. §§216.1.C.8 & 10. The residence on the second floor of the marina, which will be occupied by Mr. and Mrs. Taylor (who own and operate the West Shore Yacht Center), qualifies as an accessory use to the marina (the principal use), as discussed below.

Though there is not an abundance of Maryland Law on the point, the Court of Special Appeals in Carroll County v. Zent, 86 Md. App. 745 (1991), reviewed cases from other states and held that a use would be permitted as an “accessory use” when it “pertains to the principal or main use,” and is truly incidental and subordinate to that use. A similar definition is provided in §101.1 of the B.C.Z.R. The Petitioner’s residence proposed for the second story of the marina building meets this definition.

Mr. Taylor testified that in his experience, many marina owners reside on site, and he listed several Baltimore County marinas where that was the case. The court in Pilot’s Point Marina v. Town of Westbrook, 988 A.2d. 897 (Conn. 2010) noted that “it was common for a marina operator to live at the site.” In Payne v. City of Miami, 53 So.3d 258, 294 (Fla. 2010) the court held that “residential development should be permitted as an accessory use to a marina.”

Thus, I believe there is ample support for the proposition that marina operators “customarily” live on site, and that such a residence and use “contributes to the comfort, convenience or necessity” of the marina patrons that will make frequent use of the first floor of the building and the swimming pool adjacent thereto. The second floor “apartment” will also be subordinate in extent and purpose to the principal marina use. As such, the second floor living quarters shall be deemed a lawful “accessory use” under B.C.Z.R. §216.1.C.8, and it and the marina are permitted as a “combination of uses” in the BMB zone. B.C.Z.R. §216.1.C.10.

ORDER RECEIVED FOR FILING

Date 2-21-13

By Den³

Counsel for Petitioner indicated that County zoning staff raised a question concerning whether the Development Plan approval had lapsed in this case. The plan was approved by Order dated October, 15, 2008. While at first blush it would appear as if the approval expired 4 years later in October 2012, per B.C.C. §32-4-261(a), counsel argued that Bill 58-09 liberalized the rules somewhat in light of the housing crisis which occurred at that time. Having reviewed that Bill, I agree with the Petitioner.

Section 6 of the Bill provides that an unexpired residential development plan approved prior to the Bill's effective date, August 17, 2009, (as this plan was) may acquire vested (i.e., protected) status within 4 years of the Bill's effective date, or by August 17, 2013. As such, the Petitioner must vest its Development Plan on or before that date, in accordance with B.C.C. §32-4-264.

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 GRANTED

THEREFORE, IT IS ORDERED, this 21st day of February, 2013 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 the continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a lawful accessory use, and to amend the Special Hearing relief for the "West Shore Yacht Center" approved in Case No. 07-421-SPHA, in accordance with the terms and conditions of this Order, be and is hereby **GRANTED** subject to the following conditions:

ORDER RECEIVED FOR FILING

Date

2-21-13

By

ALJ

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioner must provide for review and approval by the Department of Planning (prior to issuance of permits) architectural elevations of the proposed 2 story marina office.

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 2-21-13

By sln



CBCA

FLOOD PLAIN

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 1100 E. Riverside Avenue (Map 104: Parcel 226, Lot 80 (2) and Parcel 79) which is presently zoned BMB and DR 3.5
Deed Reference 30898/ 00325, 29755/ 00142 and 23465/ 00403 10 Digit Tax Account # 1518101980, 1511470130 and 1518351450
Property Owner(s) Printed Name(s) See attached.

CASE NUMBER 2013-0131-SPH Filing Date 12/6/12 Estimated Posting Date 1/1/13 Reviewer [Signature]

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

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

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

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:

ORDER RECEIVED FOR FILING 2-21-13
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]
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:

See attached.
Name #1- Type or Print [Signature] Name #2 - Type or Print [Signature]
Signature #1 _____ Signature #2 _____
1100 E. RIVERSIDE AVE - ESSEX 21221
Mailing Address _____ City _____ State _____
410-977-4296 JOET @ JMTAYLOR.COM
Zip Code _____ Telephone # _____ Email Address _____

Representative to be contacted:

Jason T. Vettori, Smith, Gildea & Schmidt, LLC
Name - Type or Print [Signature]
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

1100 East Riverside Avenue

SIGNATURES AND PROPERTY INFORMATION

Legal Owner(s):

Map 104, Parcel 226, Lot 80

(1100 E. Riverside Avenue)

Tax Acct. No: 1518101980

Map 104, Parcel 226, Lot 80

(Riverside Avenue)

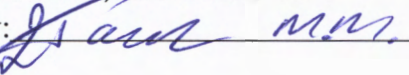
Tax Acct. No: 1511470130

Joseph Taylor, Authorized Signator

Marina Holdings, LLC

1100 E. Riverside Avenue

Baltimore, MD 21221-6315

By: 

Legal Owner(s):

Map 104, Parcel 79

(Riverside Avenue)

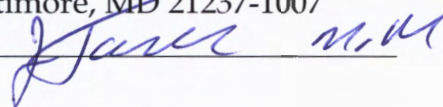
Tax Acct. No: 1518351450

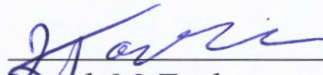
Joseph Taylor, Authorized Signator

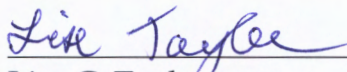
Marina Holdings, LLC

6500 Moravia Park Drive

Baltimore, MD 21237-1007

By: 


Joseph M. Taylor


Lisa C. Taylor

Item # 0131

ATTACHMENT TO PETITION FOR ZONING HEARING

1100 East Riverside Avenue

A Special Hearing to determine whether the ALJ should approve:

1. The continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a use permitted by right as a principal (combination of uses) or accessory use, or in the alternative, that the proposed use is a legally permitted non-conforming use, all as more particularly described on the plat to accompany the Special Hearing attached hereto; and
2. To amend the special hearing relief for the "West Shore Yacht Center" approved in Case No. 07-421-SPHA as indicated above and on the attached plan; and
3. For such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Item #0131

Colbert Matz Rosenfelt, Inc.

Civil Engineers • Surveyors • Planners



ZONING DESCRIPTION 1100 EAST RIVERSIDE AVENUE

Beginning at a point on the east side of East Riverside Avenue, which is 30 feet wide, at the distance of 1,310 feet to the centerline of Bay Avenue, which is of varying width. Thence the following courses and distances:

N 23° 11' 27" W 75.70 feet;
N 18° 08' 33" E 10.68 feet;
S 71° 51' 27" E 30.00 feet;
S 18° 08' 33" W 22.00 feet;
N 76° 37' 27" W 260.00 feet;
S 88° 16' 52" W 12.79 feet;
N 10° 38' 03" W 38.37 feet;
N 11° 21' 46" W 21.73 feet;
N 10° 04' 11" W 44.45 feet;
N 70° 23' 41" E 39.09 feet;
N 05° 04' 26" E 103.56 feet;
N 48° 00' 32" E 9.35 feet;
N 86° 02' 08" E 16.92 feet;
N 06° 06' 41" W 47.26 feet;
N 03° 24' 05" E 13.02 feet;
N 07° 04' 48" E 16.98 feet;
N 53° 18' 41" E 12.05 feet;
S 35° 30' 35" E 1.94 feet;
N 61° 24' 05" E 142.60 feet;
S 75° 45' 03" E 58.13 feet;
S 52° 59' 36" E 84.33 feet;
S 28° 05' 23" E 36.62 feet;
S 07° 06' 33" E 62.06 feet;
S 21° 18' 40" E 60.93 feet;
S 51° 36' 01" E 23.53 feet;
S 43° 08' 24" E 16.50 feet;
S 76° 43' 08" E 27.38 feet; thence
S 18° 08' 33" W 269.88 feet to the point of beginning.



Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.

License No. 13203, Expiration Date: 11/2/2014

As recorded in Deed Liber 30898, Folio 00325, Deed Liber 23465, Folio 00403, and Deed Liber 29755, Folio 142 and containing 130,185 square feet (2.99 acres) more or less. Also known as 1100 East Riverside Avenue and Parcel 226 (Lot 80) and Parcel 79 on Tax Map 104, and located in the 15th Election District and 6th Councilmanic District.

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: 2013-0131-SPH

Petitioner: MARINA HOLDINGS, LLC

Address or Location: 1100 E. RIVERSIDE AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: JASON T. VETTORI (SMITH, GILDER & SCHMIDT)

Address: 600 WASHINGTON AVENUE

SUITE 200

TOWSON, MD 21204

Telephone Number: (410) 821-0070

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

No. **90145**

Date: **Dec 6 2012**

PAID RECEIPT

BUSINESS MATHS TIME 12/07/2012 12:00:00 10:17:30 2

REC- 0502 BALTIMORE COUNTY
 >> RECEIPT # 90145 12/06/2012

Dept 5 520 ZONING VERIFICATION
 CR NO. 090145

Recpt tot 1385.00
 \$385.00 CR 1.00 CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/	Sub Rev/	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150						5385

Total: **5385**

Rec

From:

For:

zoning hearing - case # 2013-0131-SPH

CERTIFICATE OF POSTING

2013-0131-SPH

RE: Case No.: _____

Petitioner/Developer: _____

Joseph & Lisa Taylor

February 11, 2013

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: _____

1100 East Riverside Ave

January 22, 2013

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



Sincerely,

January 22, 2013

(Signature of Sign Poster)

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 22, 2013 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: 2013-0131-SPH

1100 E. Riverside Avenue

E/s of E. Riverside Avenue, 1310 ft. N/of centerline of Bay Avenue

15th Election District – 6th Councilmanic District

Legal Owners: Joseph & Lisa Taylor

Special Hearing to approve the continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a use permitted by right as a principal (combination of uses) or accessory use, or in an alternative, that the proposed use is a legally permitted non-conforming use, all as more particularly described on the plat to accompany the Special Hearing attached hereto; and to amend the Special Hearing relief for the "West Shore Yacht Center" approved in Case 07-421-SPHA as indicated above and on the attached plan; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, February 11, 2013 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

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



KEVIN KAMENETZ
County Executive

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

January 4, 2013

NOTICE OF ZONING HEARING

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CASE NUMBER: 2013-0131-SPH

1100 E. Riverside Avenue

E/s of E. Riverside Avenue, 1310 ft. N/of centerline of Bay Avenue

15th Election District – 6th Councilmanic District

Legal Owners: Joseph & Lisa Taylor

Special Hearing to approve the continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a use permitted by right as a principal (combination of uses) or accessory use, or in an alternative, that the proposed use is a legally permitted non-conforming use, all as more particularly described on the plat to accompany the Special Hearing attached hereto; and to amend the Special Hearing relief for the "West Shore Yacht Center" approved in Case 07-421-SPHA as indicated above and on the attached plan; and for such other and further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

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105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon", is written over a circular stamp.

Arnold Jablon
Director

AJ:kl

C: Jason Vettori, 600 Washington Ave., Ste. 200, Towson 21204
Mr. & Mrs. Taylor, 1100 E. Riverside Ave., Essex 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JANUARY 22, 2013.**
- (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.

NOTICE OF ZONING HEARING

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Case: #2013-0131-SPH

1100 E. Riverside Avenue

E/S of E. Riverside Avenue, 1310 ft. N/of centerline of Bay Avenue

15th Election District - 6th Councilmanic District

Legal Owner(s): Joseph & Lisa Taylor

Special Hearing to approve the continued office and residential use of an existing building utilized as part of a marina and a proposed second-story addition thereto as a use permitted by right as a principal (combination of uses) or accessory use, or in an alternative, that the proposed use is a legally permitted non-conforming use, all as more particularly described on the plat to accompany the Special Hearing attached hereto; and to amend the Special Hearing relief for the "West Shore Yacht Center" approved in Case 07-421-SPHA as indicated above and on the attached plan; and for such other further relief as may be deemed necessary by the Administrative Law Judge for Baltimore County.

Hearing: Monday, February 11, 2013 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

(2) For Information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
JT 01/695 January 22

899687



501 N. Calvert Street, Baltimore, MD 21278

January 24, 2013

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 January 22, 2013.

- ☒ 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



KEVIN KAMENETZ
County Executive

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

February 8, 2013

Joseph & Lisa Taylor
1100 E Riverside Avenue
Baltimore MD 21221

RE: Case Number: 2013-0131 SPH, Address: 1100 E. Riverside Avenue, 21221

Dear Mr. & Ms. Taylor:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on December 6, 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 that reads "W. Carl Richards, Jr." The signature is stylized with a large, looped "W" and a prominent "J" at the end.

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



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 12-13-12-

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No 2013-0131-SDH
Special Hearing
Joseph M. & Lisa C. Taylor
1100 E. Riverside Avenue

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2013-0131-SDH.

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

Sincerely,

Steven D. Foster, Chief
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 2, 2013

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 1100 E. Riverside Avenue

INFORMATION:

Item Number: 13-131

Petitioner: Jospeh Taylor, Authorized Signator

Zoning: BMB and DR 3.5

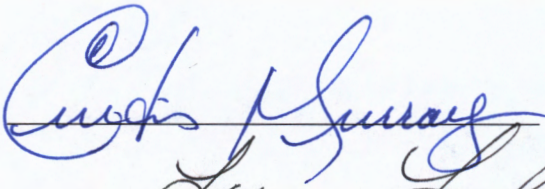
Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. Should the Administrative Law Judge deem the petitioner's request appropriate, the approved development plan shall be modified to show the proposed changes. Additionally, provide architectural elevations of the proposed marina office to this department for review and approval prior to the issuance of any building permits.

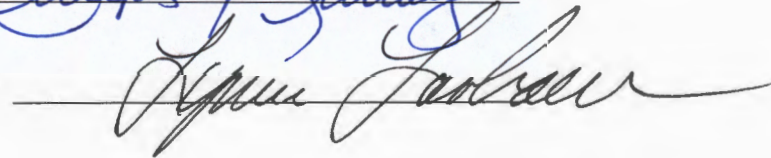
For further information concerning the matters stated here in, please contact Dennis Wertz at 410-887-3480.

Prepared by:



Division Chief:

AVA/LL: CM



RECEIVED

JAN 03 2013

OFFICE OF ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: December 17, 2012

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

SUBJECT: Zoning Advisory Committee Meeting
For December 24, 2012
Item Nos. 2013-0124, 0125, 0126, 0128, 0129, 0130 and 0131.

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

DAK:CEN
Cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: 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: February 11, 2013

SUBJECT: DEPS Comment for Zoning Item # 2013-0131-SPH
Address 1100 East Riverside Avenue
(Taylor Property)

Zoning Advisory Committee Meeting of December 10, 2012.

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

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

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. The applicant is proposing to construct a replacement marina office and residence in the same area as the former office/residence, and the lot coverage proposed has been approved based on the approved development plan. By meeting the lot coverage requirements for the entire property as outlined in the approved development and mitigation plans for this project, the relief requested by the applicant will result in minimal impacts to water quality. Lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17).

2. Conserve fish, wildlife, and plant habitat; and

The applicant's plan accompanying this zoning petition shows that the majority of the proposed reconstruction area is located within the 100-foot tidal buffer. Provided that all Critical Area requirements, including mitigation, are met for this activity, as outlined in the approved development and mitigation plans for this project, the existing buffer functions and fish habitat in Muddy Gut and Back River can be conserved.

Page 2

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

The applicant's proposal to construct the replacement marina office/residence is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

Reviewer: Paul Dennis – *Environmental Impact Review*

Sherry Nuffer - Re: 2013-0131-SPH

From: Sherry Nuffer
To: Livingston, Jeffrey
Date: 2/8/2013 3:29 PM
Subject: Re: 2013-0131-SPH

Yes, the hearing is on Monday at 11:00 am

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 2/8/2013 3:20 PM >>>
ok thank you....good luck

Sherry Nuffer
Legal Assistant
Office of Administrative Hearings
105 W. Chesapeake Avenue
Room 103
Towson, Maryland 21204
410-887-3868
Fax: 410-877-3468
>>> Jeffrey Livingston 2/8/2013 3:16 PM >>>
I'll see what I can do. I'm not quite unpacked as of yet.

Is the hearing on Monday?

>>> Sherry Nuffer 2/8/2013 2:57 PM >>>
Jeff,

In reviewing the case file it appears there is no ZAC comment from your department; CBCA area.

Thanks,

Sherry

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 - 2013-0131-SPH

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To: Livingston, Jeffrey
Date: 2/8/2013 2:57 PM
Subject: 2013-0131-SPH

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Thanks,

Sherry

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

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE OFFICE
AND VARIANCE		
1100 E. Riverside Avenue; E/S E. Riverside	*	OF ADMINISTRATIVE
Avenue, 1310' N of Bay Avenue		
15 th Election & 6 th Councilmanic Districts	*	HEARINGS FOR
Legal Owner(s): Joseph & Lisa Taylor		
Petitioner(s)	*	BALTIMORE COUNTY
	*	2013-131-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel 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/ 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
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

DEC 14 2012

.....

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 2012, a copy of the foregoing Entry of Appearance was mailed Jason Vettori, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

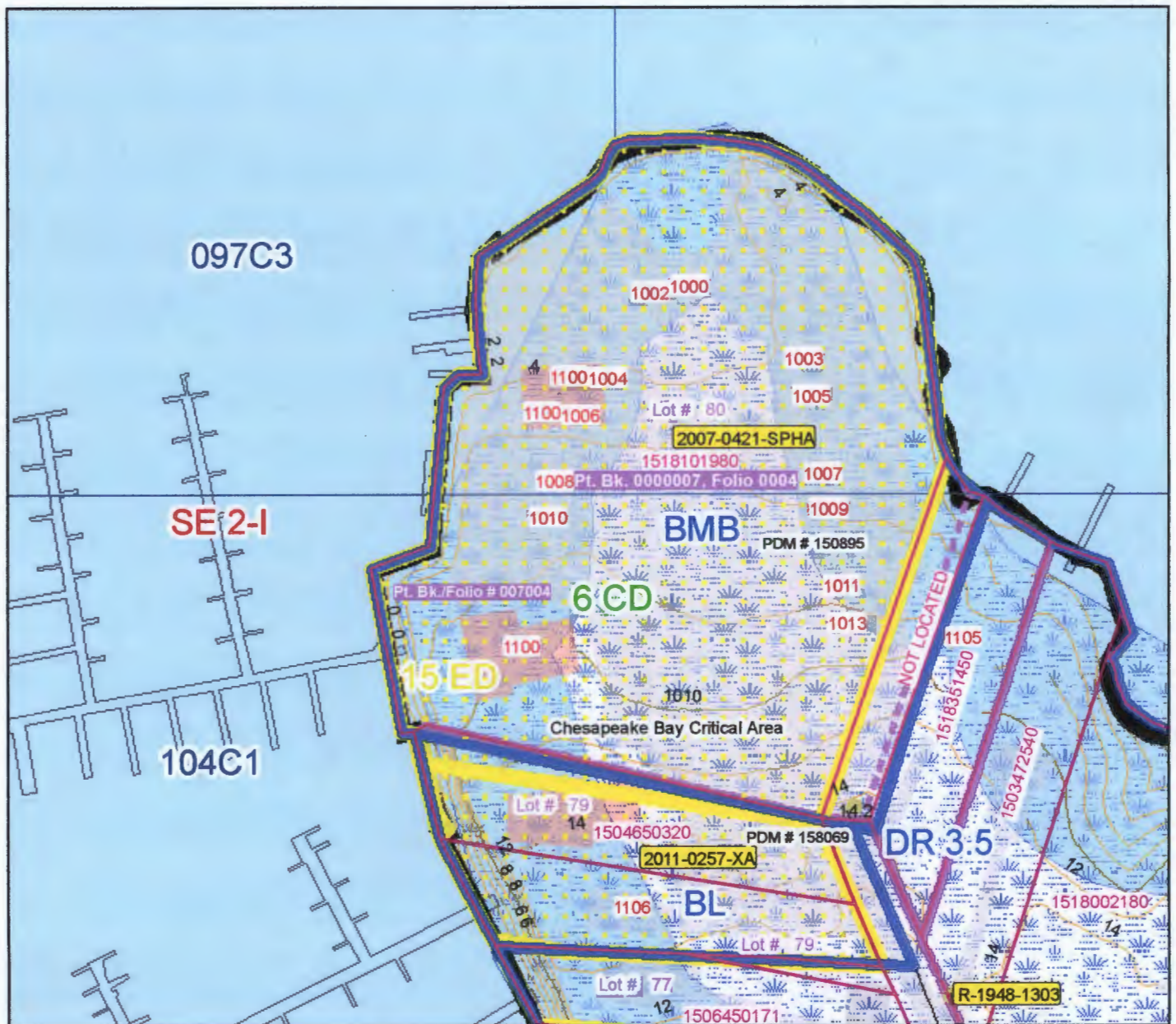
M E M O R A N D U M

DATE: March 27, 2013
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2013-0131-SPH - Appeal Period Expired

The appeal period for the above-referenced case expired on March 25, 2013. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

Elevations and Flood Hazards



Publication Date: December 06, 2012
 Publication Agency: Permits, Approvals and Inspections
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot

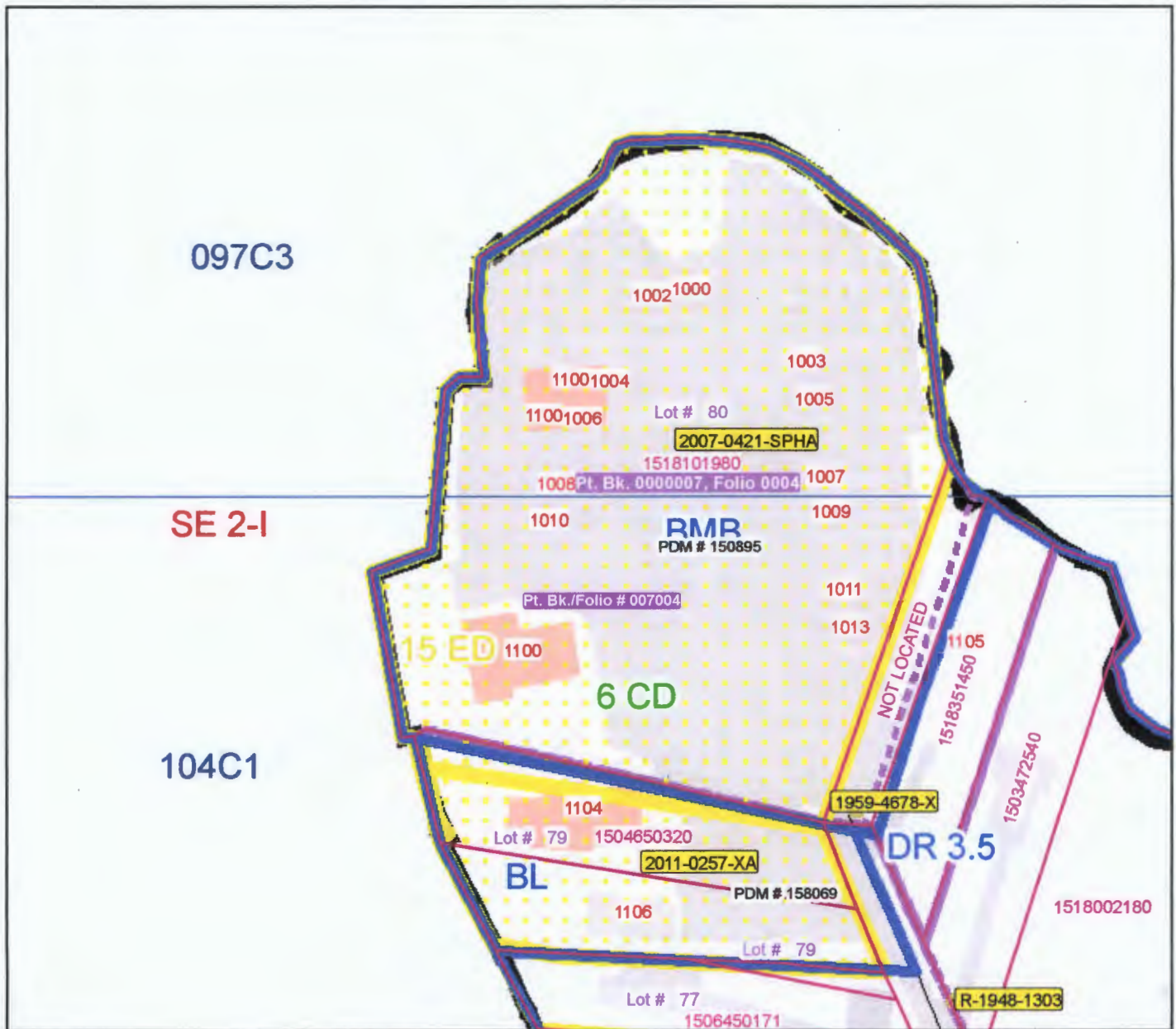


0 100 200
 Feet

1 inch = 100 feet

Item #0131

1100 East Riverside Avenue



Publication Date: December 06, 2012
Publication Agency: Permits, Approvals and Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 100 200
Feet

1 inch = 100 feet

Item #0131

CASE NO. 2013- 0131-SPH

CHECKLIST

**Comment
Received**

Department

**Support/Oppose/
Conditions/
Comments/
No Comment**

12/17/12

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

NO Comments

DEPS
(if not received, date e-mail sent 2/8/13)

1/2/13

FIRE DEPARTMENT

C

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

12/13/12

STATE HIGHWAY ADMINISTRATION

NO Obs

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 1/22/13

SIGN POSTING Date: 1/22/13 by BLACK

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Maryland Department of Assessments and Taxation
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BALTIMORE COUNTY

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Account Identifier: District - 15 Account Number - 1511470130

Owner Information

Owner Name: MARINA HOLDINGS LLC **Use:** RESIDENTIAL
Principal Residence: NO
Mailing Address: 1100 E RIVERSIDE AVE
BALTIMORE MD 21221-6315 **Deed Reference:** 1) /29755/ 00142
2)

Location & Structure Information

Premises Address **Legal Description**
RIVERSIDE AVE PT LT 80
0-0000 NWS RIVERSIDE AVE
Waterfront BACK RIVER NECK PARK

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0104	0006	0226		0000			80	3	Plat Ref: 0007/0004

Special Tax Areas **Town** NONE
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
		6,000 SF	34

Stories **Basement** **Type** **Exterior**

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	1,500	1,500		
Improvements:	0	0		
Total:	1,500	1,500	1,500	1,500
Preferential Land:	0			0

Transfer Information

Seller:	Date:	Price:
TMRT COUNTY LLC	08/10/2010	\$1,500
Type: ARMS LENGTH VACANT	Deed1: /29755/ 00142	Deed2:
Seller: MTR REVOCABLE LIVING TRUST AGREEMENT	Date: 06/04/2004	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /20181/ 00422	Deed2:
Seller: RAFAILIDES MARIA	Date: 05/13/1993	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /09759/ 00680	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: NONE

Homestead Application Information

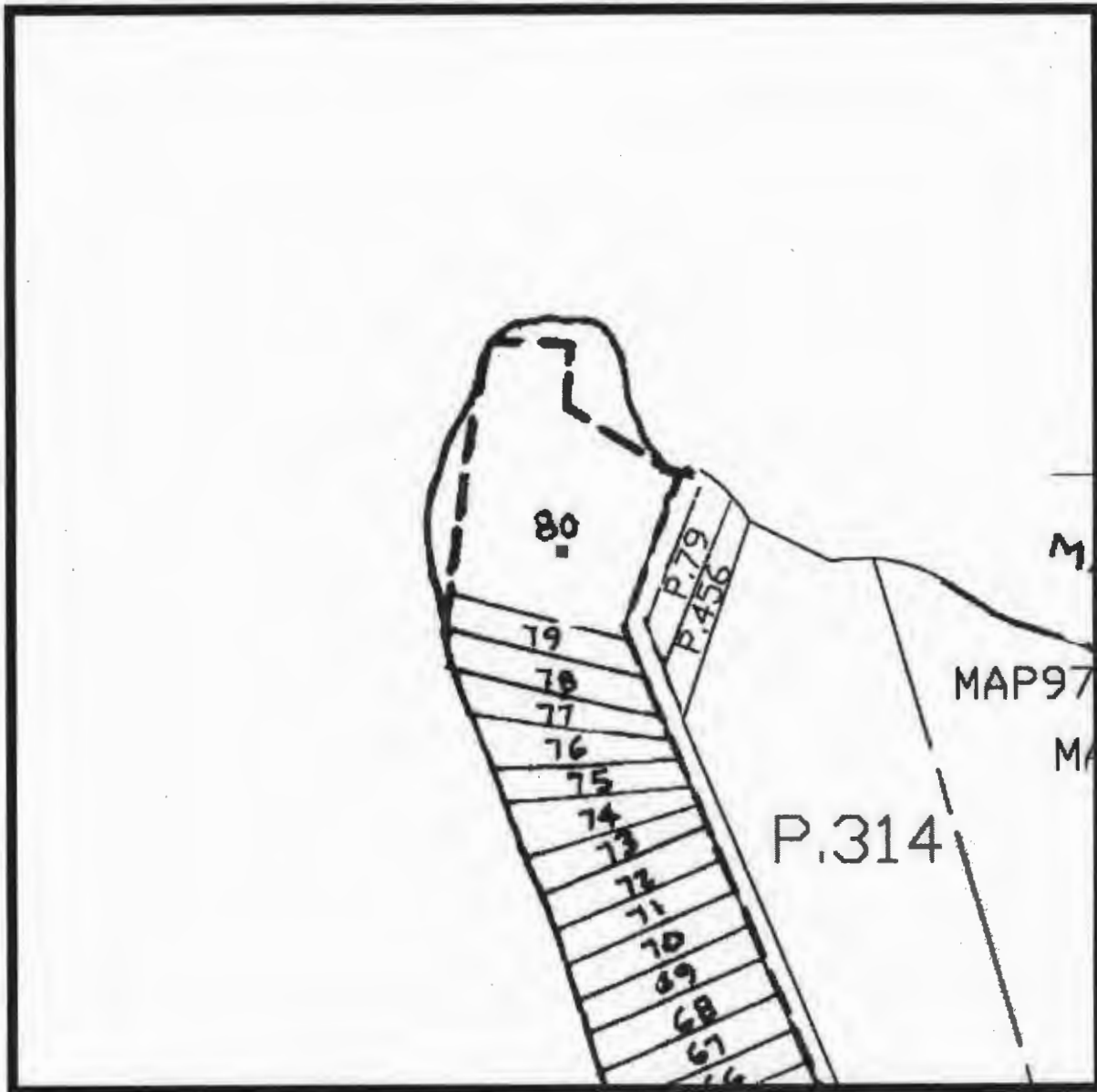
Homestead Application Status: No Application



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District - 15 Account Number - 1511470130



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If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net.

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Account Identifier:**District - 15 Account Number - 1518351450****Owner Information**

Owner Name:	MARINA HOLDING LLC TAYLOR JOSEPH M TAYLOR LISA C	Use:	RESIDENTIAL
Mailing Address:	6500 MORAVIA PARK DR BALTIMORE MD 21237-1007	Principal Residence:	NO
		Deed Reference:	1) /23465/ 00403 2)

Location & Structure Information

Premises Address	Legal Description
RIVERSIDE AVE 0-0000	LT ES RIVERSIDE AV
	Waterfront 1440 N BAY AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0104	0006	0079		0000				3	
									Plat Ref:

Special Tax Areas	Town	NONE
	Ad Valorem	
	Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
		14,040 SF	34

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	182,500	182,500		
Improvements:	2,800	2,300		
Total:	185,300	184,800	184,800	184,800
Preferential Land:	0			0

Transfer Information

Seller:	ONEAL JOHN L	Date:	03/01/2006	Price:	\$200,000
Type:	ARMS LENGTH IMPROVED	Deed1:	/23465/ 00403	Deed2:	
Seller:	RILEY ROBERT JAMES,SR	Date:	02/02/1978	Price:	\$18,000
Type:	ARMS LENGTH IMPROVED	Deed1:	/05852/ 00289	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

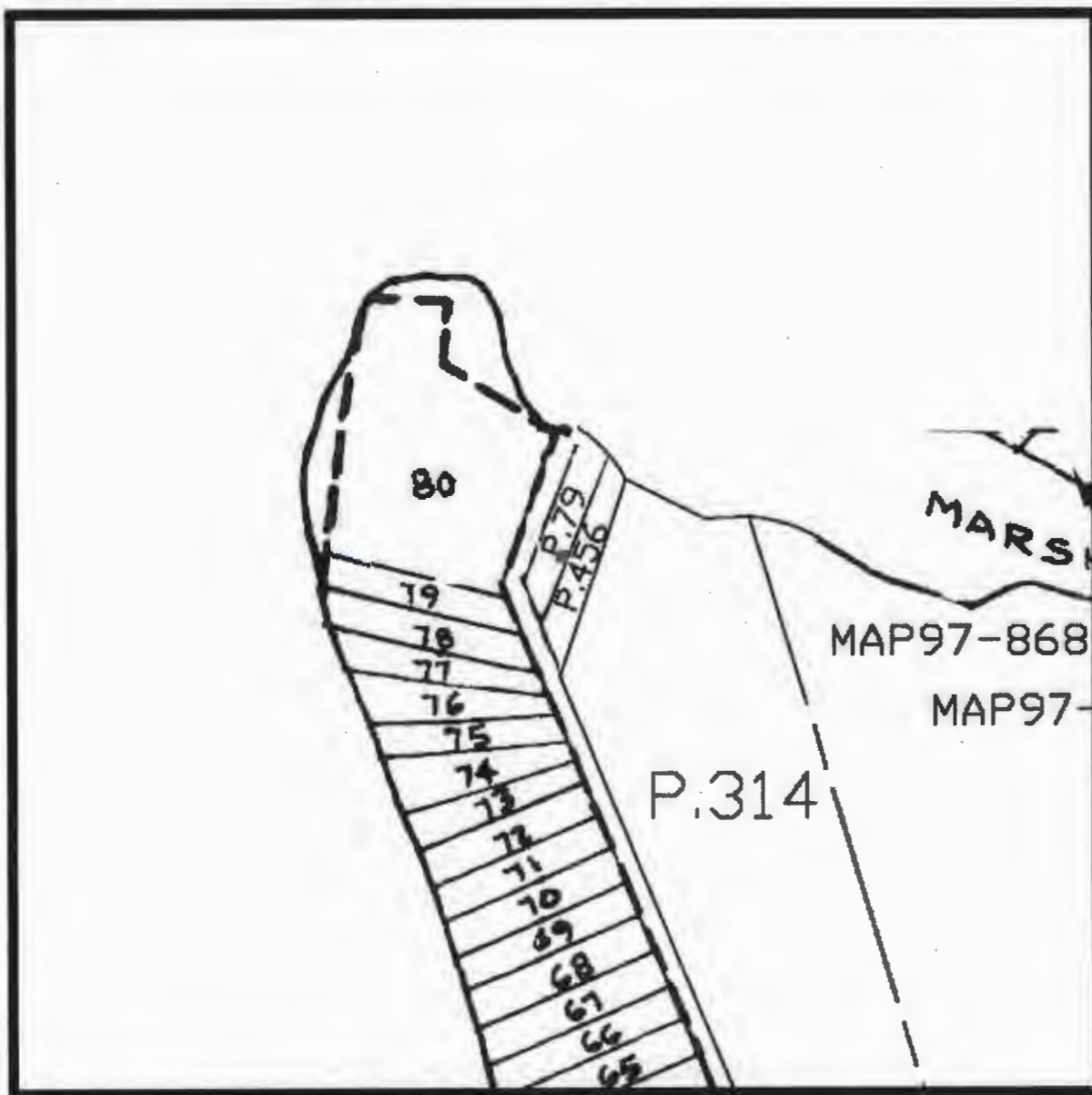
Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

Homestead Application Information

Homestead Application Status:	No Application
--------------------------------------	----------------

	Maryland Department of Assessments and Taxation BALTIMORE COUNTY Real Property Data Search	<u>Go Back</u> <u>View Map</u> <u>New</u> <u>Search</u>
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District - 15 Account Number - 1518351450



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Account Identifier:

District - 15 Account Number - 1518101980

Owner Information

<u>Owner Name:</u>	MARINA HOLDING LLC	<u>Use:</u>	COMMERCIAL
<u>Mailing Address:</u>	1100 E RIVERSIDE AVE BALTIMORE MD 21221-6315	<u>Principal Residence:</u>	NO
		<u>Deed Reference:</u>	1) /30898/ 00325 2)

Location & Structure Information

<u>Premises Address</u>	<u>Legal Description</u>
1100 E RIVERSIDE AVE	1.928 AC
BALTIMORE MD 21221-0000	1100 E RIVERSIDE AVE
	Waterfront BACK RIVER NECK PARK

<u>Map</u>	<u>Grid</u>	<u>Parcel</u>	<u>Sub District</u>	<u>Subdivision</u>	<u>Section</u>	<u>Block</u>	<u>Lot</u>	<u>Assessment Area</u>	<u>Plat No:</u>
0104	0006	0226		0000			80	3	
									<u>Plat Ref:</u> 0007/0004

<u>Special Tax Areas</u>	<u>Town</u>	NONE
	<u>Ad Valorem</u>	
	<u>Tax Class</u>	

<u>Primary Structure Built</u>	<u>Enclosed Area</u>	<u>Property Land Area</u>	<u>County Use</u>
	2000	83,954 SF	29

<u>Stories</u>	<u>Basement</u>	<u>Type</u>	<u>Exterior</u>
		HANGAR	

Value Information

	<u>Base Value</u>	<u>Value</u>	<u>Phase-in Assessments</u>	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
<u>Land</u>	671,400	671,400		
<u>Improvements:</u>	250,700	250,700		
<u>Total:</u>	922,100	922,100	922,100	922,100
<u>Preferential Land:</u>	0			0

Transfer Information

<u>Seller:</u>	MYERS CHARLES E,JR MYERS REGINA M	<u>Date:</u>	05/18/2001	<u>Price:</u>	\$475,000
<u>Type:</u>	NON-ARMS LENGTH OTHER	<u>Deed1:</u>	/30898/ 00325	<u>Deed2:</u>	
<u>Seller:</u>	REYNOLDS JAMES W	<u>Date:</u>	04/09/1987	<u>Price:</u>	\$470,000
<u>Type:</u>	ARMS LENGTH IMPROVED	<u>Deed1:</u>	/07480/ 00110	<u>Deed2:</u>	
<u>Seller:</u>		<u>Date:</u>		<u>Price:</u>	
<u>Type:</u>		<u>Deed1:</u>		<u>Deed2:</u>	

Exemption Information

<u>Partial Exempt Assessments</u>	<u>Class</u>	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

<u>Tax Exempt:</u>	<u>Special Tax Recapture:</u>
<u>Exempt Class:</u>	NONE

Homestead Application Information

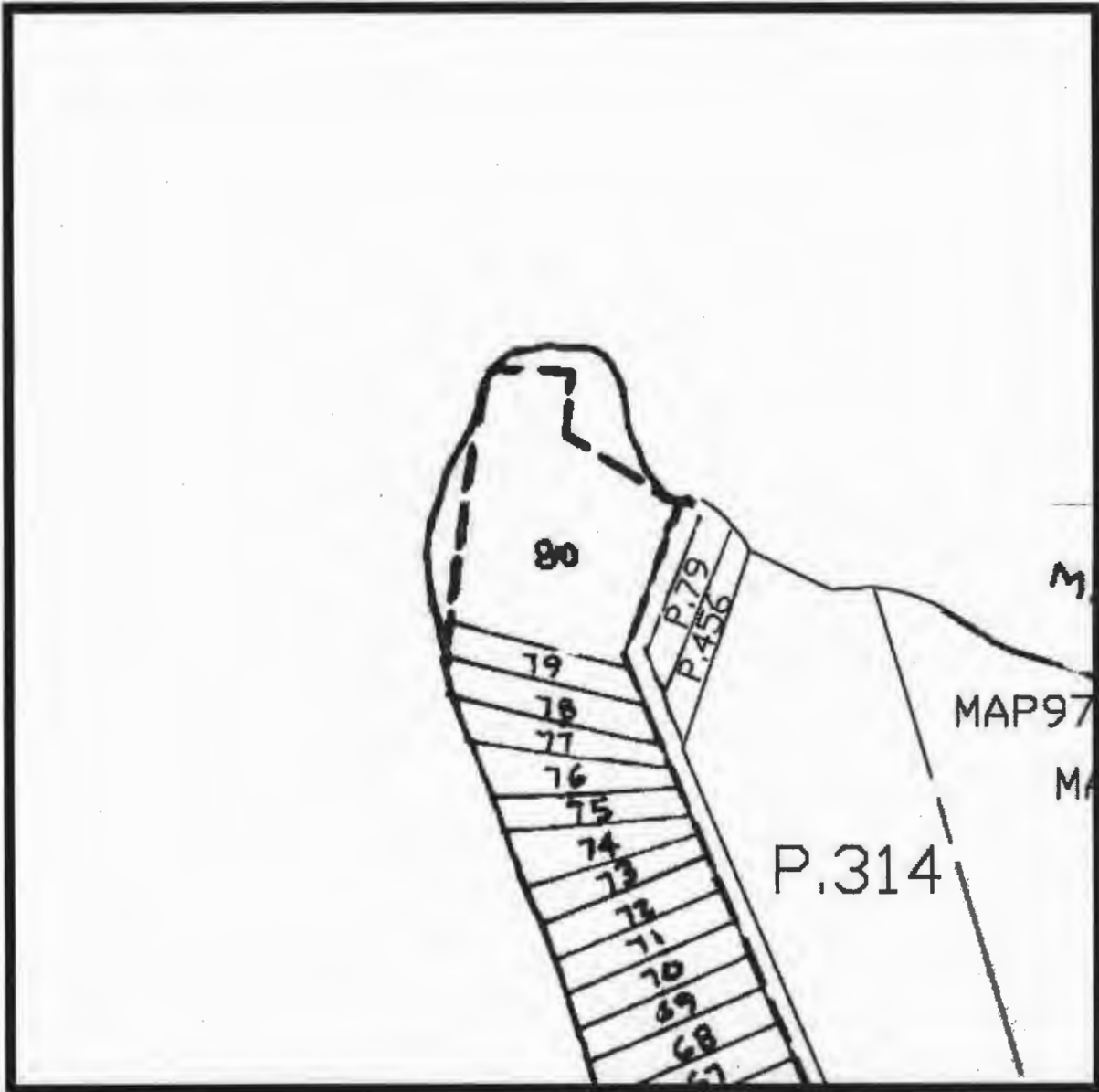
<u>Homestead Application Status:</u>	No Application
--------------------------------------	----------------



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District - 15 Account Number - 1518101980



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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 12

Bill No. 58-09

Councilmembers Kamenetz, Gardina, McIntire, Oliver & Olszewski

By the County Council, July 6, 2009

A BILL
ENTITLED

AN ACT concerning

Development

FOR the purpose of requiring adherence to all current laws and zoning classifications for certain residential development plans; providing for the expiration of development plan approval; providing for the manner and time of the vesting of development plans; defining terms; providing limits on the vesting of certain development plans; providing for the application of the Act; and generally relating to the development process and the expiration and vesting of development plans.

BY adding

Section 32-4-101(ccc) and (ddd)
Article 32 - Planning, Zoning and Subdivision Control
Title 4 - Development
Baltimore County Code 2003

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments

Sections 32-4-261 and 32-4-262

Article 32 - Planning, Zoning and Subdivision Control

Title 4 - Development

Baltimore County Code 2003

BY adding

Section 32-4-264

Article 32 - Planning, Zoning and Subdivision Control

Title 4 - Development

Baltimore County Code 2003

BY repealing

Section 32-4-273 and Subsections 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2)

Article 32 - Planning, Zoning and Subdivision Control

Title 4 - Development

Baltimore County Code 2003

BY repealing and re-enacting, with amendments

Sections 32-4-274

Article 32 - Planning, Zoning and Subdivision Control

Title 4 - Development

Baltimore County Code 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 32-4-101(ccc) and (ddd) be and ~~it is~~ they are hereby added
3 to Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore
4 County Code 2003, to read as follows:

5 32-4-101. Definitions.

6 (CCC) VESTED. THE TERM "VESTED" OR "VESTING" IS A PROTECTED STATUS
7 CONFERRED ON A DEVELOPMENT PLAN. A VESTED DEVELOPMENT PLAN SHALL
8 PROCEED IN ACCORDANCE WITH THE APPROVED PLAN AND THE LAWS IN EFFECT
9 AT THE TIME PLAN APPROVAL IS OBTAINED. A PROPERTY OWNER, DEVELOPER OR
10 APPLICANT OBTAINS VESTED RIGHTS FOR A DEVELOPMENT PLAN IN ACCORDANCE
11 WITH SECTION 32-4-264 OF THIS TITLE.

12 (DDD) "NON-RESIDENTIAL PLAN" MEANS A PLAN OF DEVELOPMENT IN WHICH THE
13 DOMINANT ELEMENT OF THE PLAN IS (1) A COMMERCIAL DEVELOPMENT, (2) AN

1 INDUSTRIAL DEVELOPMENT, OR (3) A SENIOR HOUSING, ASSISTED LIVING, LIFE
2 CARE, CONTINUING CARE OR ELDERLY HOUSING FACILITY, CHURCH, SCHOOL, OR
3 OTHER INSTITUTIONAL USE.

4 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 32-4-261 and 32-4-262 of
5 Article 32 - Planning, Zoning and Subdivision Control, Title 4 - Development, of the Baltimore
6 County Code 2003, be and it is hereby repealed and re-enacted, with amendments, to read as
7 follows:

8 **§ 32-4-261. EXPIRATION OF DEVELOPMENT PLAN APPROVAL.**

9 (a) *In general.* [Unless extended under subsection (b) or under §32-4-274(a) of this subtitle,]
10 Development Plan approval shall expire 4 years after the date a final, non-appealable approval was
11 granted, UNLESS THE PLAN WAS VESTED PURSUANT TO SECTION 32-4-264. AN
12 APPROVED DEVELOPMENT PLAN MAY BE EXTENDED UNDER SUBSECTION (B) OR
13 UNDER §32-4-274(A).

14 (b) *Request for extension.*

15 (1) An applicant may make a written request to the Hearing Officer for a one year extension of the
16 4 year Development Plan approval period provided under subsection (a) of this section upon a
17 showing that a county agency failed to properly process an essential request necessary to achieve
18 vesting in a timely fashion, causing a delay beyond the initial four years after the final, non-
19 appealable approval was granted.

20 (2) The request for extension shall be filed prior to the expiration of four years from the date of
21 approval of the Development Plan.

22 (3) The Hearing Officer shall act within 60 days of the filing of the request and may grant, in
23 writing, the request for an extension.

24 (4) The Hearing Officer may not act upon the request for an extension until comments from the
25 applicable agencies are received.

1 (5) Any appeal of the extension granted under subsection (b) shall be on the record. The standard
2 of review shall be based upon an abuse of discretion.

3 (c) *Expiration of reclamation plan.* Approval by the Hearing Officer of a Development Plan for
4 which there is an approved reclamation plan shall expire 15 years from approval of the reclamation
5 plan by the Planning Board under Subtitle 5 of this title, UNLESS THE PLAN WAS VESTED
6 PURSUANT TO SECTION 32-4-264.

7 **§32-4-262. AMENDMENTS TO DEVELOPMENT PLANS.**

8 (1) Any material amendment to an approved non-residential [Development Plan] PLAN;
9 ~~INCLUDING A LIFE CARE OR CONTINUING CARE FACILITY PLAN~~, shall be reviewed and
10 approved in the same manner as the original plan.

11 (2) Any material amendment to [than] AN approved residential Development Plan or plat
12 shall be reviewed in accordance with this title, and with respect to that portion of the original plan
13 or plat to which the amendment pertains, the amendment shall be reviewed for compliance with all
14 current law [and regulations, including the development regulations and the zoning regulations].
15 For purposes of this paragraph, any amendment to a plan or plat that results in an increase in density
16 or increase in the number of buildable lots is a material amendment.

17 SECTION 3. AND BE IT FURTHER ENACTED, that Section 32-4-264 be and it is hereby
18 added to Article 32-Planning, Zoning and Subdivision Control. Title 4 - Development, of the
19 Baltimore County Code 2003, to read as follows:

20 **§32-4-264. VESTING OF DEVELOPMENT PLANS.**

21 (A) IN GENERAL. A DEVELOPMENT PLAN VESTS IN ACCORDANCE WITH THE
22 PROVISIONS OF THIS SECTION.

23 (B) NON-RESIDENTIAL PLAN.

24 (1) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~
25 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS NOT RECORDED VESTS WHEN SUBSTANTIAL
26 CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE PLAN.

27 (2) A NON-RESIDENTIAL PLAN, ~~INCLUDING A LIFE CARE OR CONTINUING CARE~~
28 ~~FACILITY PLAN~~, FOR WHICH A PLAT IS RECORDED VESTS WHEN PLAT
29 RECORDATION OCCURS FOR ANY PORTION OF THE PLAN.

1 (C) RESIDENTIAL DEVELOPMENT PLAN.

2 (1) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS NOT RECORDED
3 VESTS WHEN SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY
4 PORTION OF THE PLAN.

5 (2) A RESIDENTIAL DEVELOPMENT PLAN FOR WHICH A PLAT IS RECORDED VESTS
6 WHEN PLAT RECORDATION OCCURS FOR ANY LOT, TRACT, SECTION OR PARCEL
7 THEREOF.

8 (D) LIMITATION ON VESTING. UNLESS AN EXTENSION HAS BEEN GRANTED UNDER
9 §32-4-274, CONSTRUCTION RELATING TO A VESTED RESIDENTIAL DEVELOPMENT
10 PLAN THAT OCCURS MORE THAN 9 YEARS AFTER THE PLAN WAS GRANTED FINAL,
11 NON-APPEALABLE APPROVAL SHALL COMPLY WITH ALL LAWS IN EFFECT AT THE
12 TIME PERMITS ARE ISSUED.

13 (E) RECLAMATION PLAN. AN APPROVED RECLAMATION PLAN VESTS WHEN
14 SUBSTANTIAL CONSTRUCTION OCCURS WITH RESPECT TO ANY PORTION OF THE
15 PLAN.

16 SECTION 4. AND BE IT FURTHER ENACTED, that Section 32-4-273 and Subsections
17 32-4-106(a)(1)(i)(2) and 32-4-271(f)(2) of Article 32-Planning, Zoning and Subdivision Control,
18 Title 4 - Development, of the Baltimore County Code 2003, be and it is they are hereby repealed.

19 SECTION 5. AND BE IT FURTHER ENACTED, that Section 32-4-274(a) of Article 32-
20 Planning, Zoning and Subdivision Control. Title 4 - Development, of the Baltimore County Code
21 2003, be and it is hereby repealed and re-enacted, with amendments, to read as follows:

22 **§ 32-4-274. EXTENSION OF TIME LIMIT FOR VALIDITY OF SUBDIVISION [PLATS**
23 **AND APPROVED] PLANS.**

24 (a) *In general.* The Department of Permits and Development Management shall extend [a
25 subdivision plat for an entire subdivision or any section or parcel of the subdivision or] an approved
26 Development Plan that would otherwise [lapse] EXPIRE and become invalid under the provisions
27 of § 32-4-261 [or § 32-4-273] of this subtitle if a deficiency in basic services for water, sewer, or
28 transportation[:

29 (1) Prevented the applicant from recording the plat ; or

30 (2) Prevented development] PREVENTED THE VESTING OF THE PLAN , in accordance with
31 § [32-4-273(d)] 32-4-264 of this subtitle[, of the recorded subdivision plat, the entire subdivision,
32 or a section or parcel of the subdivision].

1 (b) *Length of extension - Approved plans.* With respect to an approved Development Plan, the length
2 of time of any extension shall be equivalent to the lesser of:

3 (1) The period of time that the deficiency prevents a plat from being recorded; or

4 (2) The period of time remaining for plan validity at the time of the deficiency determination.

5 [(c) *Same - Recorded subdivision plat.*

6 (1) With respect to a recorded subdivision plat, the length of time of an extension shall be equivalent
7 to the lesser of:

8 (i) The period of time that the deficiency prohibits or prohibited development of the entire
9 subdivision or any section or parcel of the subdivision; or

10 (ii) The period of time remaining for plat validity at the time of deficiency.

11 (2) In the event a deficiency occurs in the last 18 months of the life of a plat, the length of time of
12 the extension allowed shall be 18 months.]

13 [(d)] (C) *Determination of deficiency.* For the purpose of determining the extension of the time
14 limit of the validity of a [plat or] Development Plan, the Department of Permits and Development
15 Management shall consider property that is the subject of the plan [or plat] to have a deficiency if:

16 (1) Subsequent to plan approval or plat recordation the property is shown to be or to have been
17 within a deficient service area on a basic service map adopted by the County Council; or

18 (2) The issuance of building permits or the construction of public improvements or private
19 improvements is or was prohibited by order of the state or county.

20 SECTION 6. AND BE IT FURTHER ENACTED, that this Act shall apply to any
21 development, subdivision, parcel of land, or plat which received any form of approval from
22 Baltimore County prior to the effective date of this Act as follows:

23 (A) An unexpired residential development plan that was approved prior to the effective date of this
24 Act, but not yet vested in accordance with the law in effect prior to the effective date of this Act,

1 may acquire vested status in accordance with the provisions of this Act. If the plan vests within four
2 years from the effective date of this Act, the vested status shall date from the effective date of this
3 Act for a period of nine years.

4 (B) A residential development plan for which ~~a plat was recorded and an unexpired plat was~~
5 recorded or vested prior to the effective date of this Act, ~~but not yet expired~~; shall be vested for a
6 period of nine years dating from the effective date of this Act.

7 (C) Any amendment to a residential plan, or any application for further development of an unexpired
8 residential development plan or plat that was approved prior to the effective date of this Act, or any
9 part thereof, whether vested or not, shall be processed by the County in accordance with the
10 provisions of Article 32, Title 4, ~~Subtitle 2~~ of the County Code. Any prior process for residential
11 development approval that was utilized under prior enactments of the development regulations or
12 the zoning regulations, or any administrative interpretation(s) thereof, including any written County
13 authorizations expressing such interpretations, is no longer valid. This subsection does not apply
14 to an amendment accepted for filing prior to July 6, 2009 or to an amendment to a planned unit
15 development if the development was approved prior to 1990.

16 SECTION 7. AND BE IT FURTHER ENACTED, that this Act is adopted independently
17 of Section 103 of the Baltimore County Zoning Regulations so that it supersedes and abrogates the
18 rights to the vesting or processing of a development that would otherwise accrue from any provision
19 of the zoning or development regulations or any other County laws or administrative interpretations
20 thereof.

21 SECTION 8. AND BE IT FURTHER ENACTED, that this Act, having been approved by
22 the affirmative vote of five members of the County Council, shall take effect on August 17, 2009.

CASE NAME WEST SHORE YACHT CENTER
CASE NUMBER 2013-0131-SPH
DATE FEBRUARY 11, 2013

[illegible]

2/11
11Am

Case No.: 2013-0131-SPH

Exhibit Sheet

Petitioner/Developer

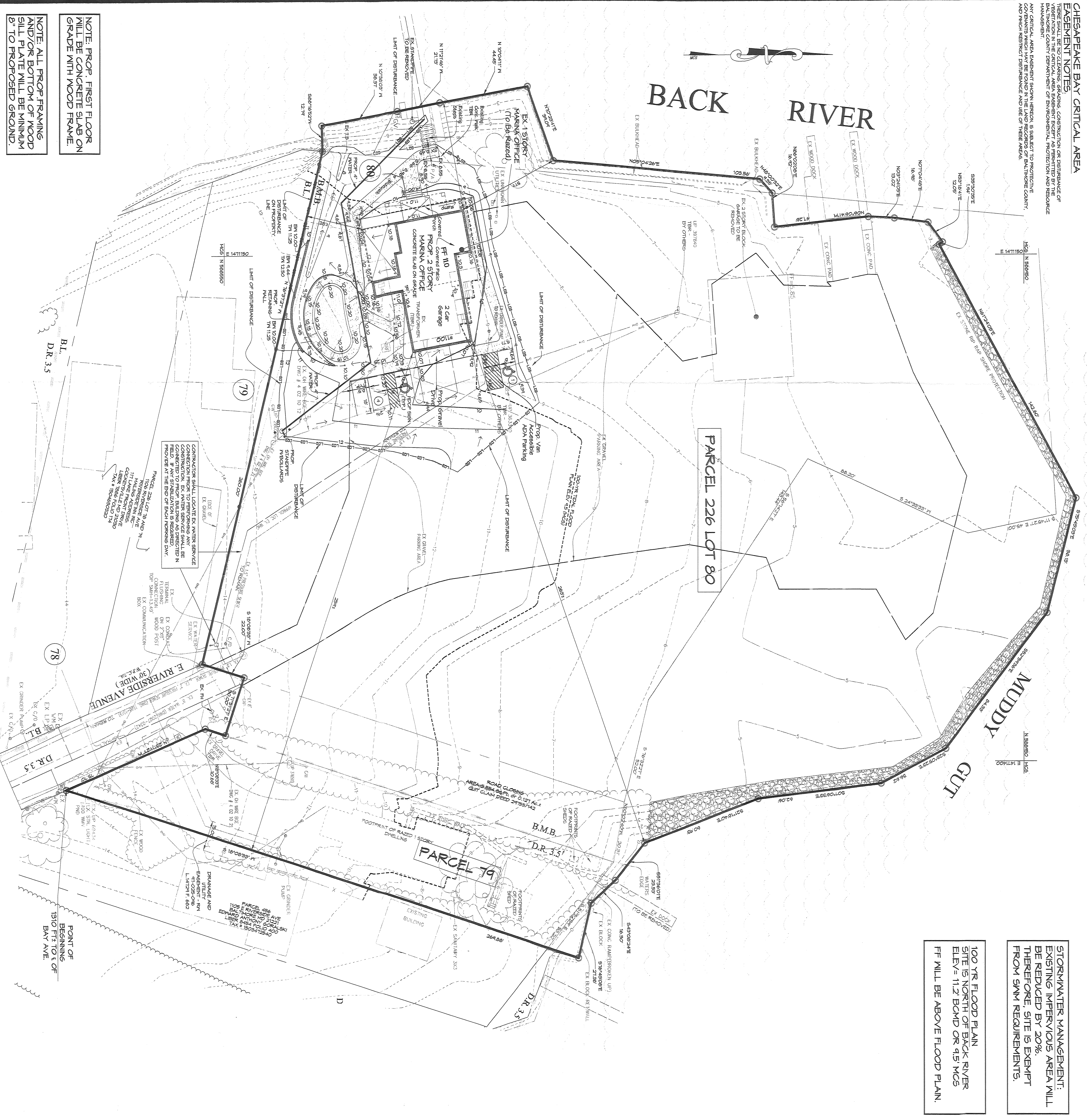
Protestant

DO
3-27-13

SN
2-22-13

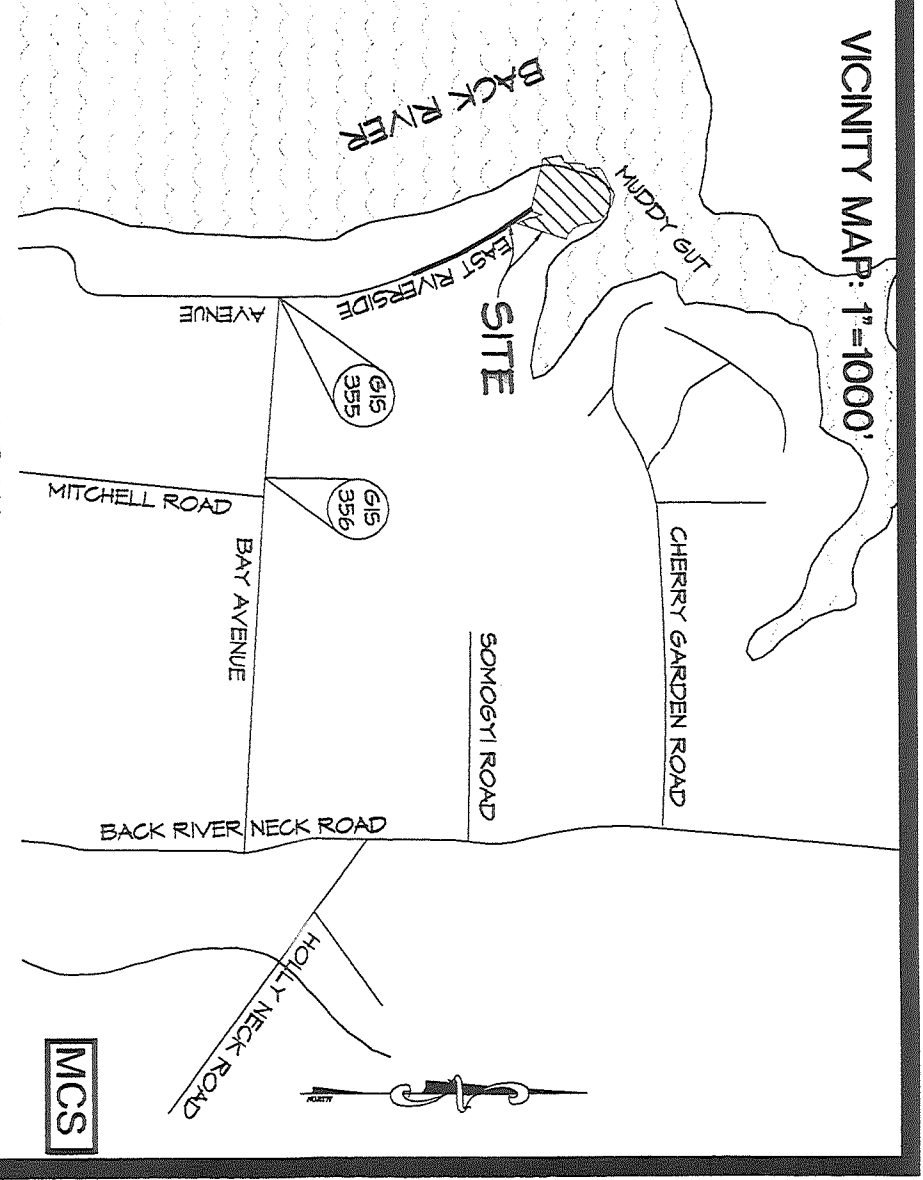
No. 1	Site Plan 1A, B+C	
No. 2	CBA Opinion 07-421	
No. 3	HCH Opinion XV-895	
No. 4	DAH Case# 2011-0257-XA	
No. 5	Photos	
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

CHESAPEAKE BAY CRITICAL AREA EASEMENT NOTES
THESE SHALL BE TO CLEARANCE, CONSTRUCTION OR DISTURBANCE OF THE CRITICAL AREA EASEMENT EXCEPT AS PERMITTED BY THE BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT.
ANY CRITICAL AREA EASEMENT SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY, AND FROM RESURVEY DISTANCE AND USE OF THESE RECORDS.



STORMWATER MANAGEMENT:
EXISTING IMPERVIOUS AREA WILL BE REDUCED BY 20%. THEREFORE, SITE IS EXEMPT FROM SWM REQUIREMENTS.

100 YR FLOOD PLAIN
SITE IS NORTH OF BACK RIVER ELEV= 11.2 BOUND OR 915 WCS FF WILL BE ABOVE FLOOD PLAIN.



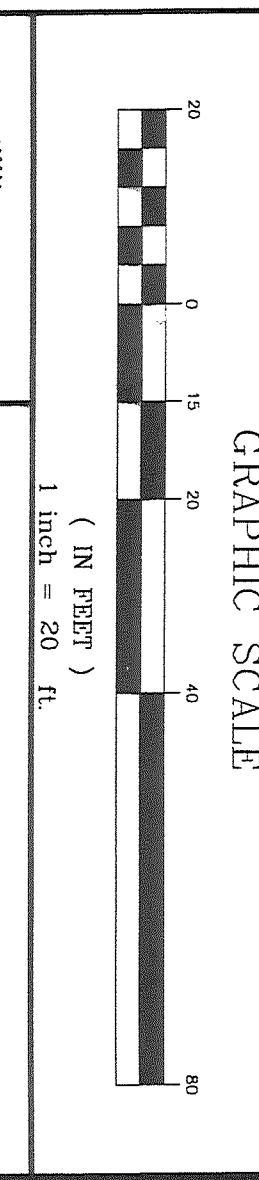
BENCHMARK INFORMATION

STATION	NORTHING	EASTING	ELEVATION	DESCRIPTION
BALTY CO 66 - 955	567207.62	147786.51	14.71	IRON BENCHMARK
BALTY CO 66 - 956	567197.44	147807.49	21.71	IRON BENCHMARK

FOR SITE DATA, SEE DEV-2

REASON FOR AMENDMENT
TO CREATE ADDITIONAL LOTS OF RECORD IN ACCORDANCE WITH THE BALTIMORE COUNTY ZONING CODE AND TO PAZE & RELOCATE THE MARINA OFFICES.

PLAN TO ACCOMPANY ZONING PETITION & 1ST AMENDED DEVELOPMENT PLAN
WEST SHORE YACHT CENTER
1100 E. RIVERSIDE AVENUE
PAI #15-895
MAP 14-1, GRID 6 - PARCEL 79 AND PARCEL 226 LOT 80
15th ELECTION DISTRICT - 6th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD



Colbert Matz Rosenfelt, Inc.
Engineers & Surveyors
2835 Smith Avenue, Suite 6
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

Professional Certification
I hereby certify that these documents were prepared or approved by me, and I am a duly licensed professional engineer under the laws of the State of Maryland.
Signature: [Signature]
Date: 11/20/12
Expiration Date: 11-02-14

NO.	DATE	REVISIONS:	BY	SHEET	1 OF 3

MCS

PETITIONER'S
EXHIBIT NO. 1A

[illegible]

Petitioners
No 2

IN RE: PETITIONS FOR SPECIAL HEARING

E side of E. River Avenue, 1310 feet +/- N
of Bay Avenue
15th Election District
6th Councilmanic District
(1100 E. Riverside Avenue and Tax Map,
104, Parcel 79)

* BEFORE THE

* COUNTY BOARD OF APPEALS

* OF

* BALTIMORE COUNTY

Joseph M. and Lisa C. Taylor and Marina Holding, *
LLC

Legal Owner

* Case No.: 07-421-SPHA

* * * * *

OPINION

This matter comes before the Board on a de novo appeal filed by the Office of People's Counsel on Petitions for Special Hearing and Variance filed by the legal owners of the subject property, Joseph M. and Lisa C. Taylor, and Marina Holding, LLC. The subject property is located at 1100 E. Riverside Avenue in the Back River community of eastern Baltimore County and is also known as the West Shore Yacht Center.

The original Special Hearing request was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations ("BCZR") and requests the following relief:

1. To approve the residential density calculations as shown on the accompanying site plan (for the uses shown thereon) in a split zone tract;
2. To confirm no waiver is required for grading and building in the tidal floodplain pursuant to Baltimore County Code ("BCC") §32-8-301; and
3. To confirm that the use of a portion of the tract for a marina and associated parking does not reduce the overall residential density.

The Petition for Variance seeks the following approvals:

1. A Variance from BCZR §1B01.2.C.1.c to permit setbacks as little as 20 feet from the side building face to side building face in lieu of the required 25 feet;
2. From BCZR §504.2, Comprehensive Manual of Development Policies ("CMDP"), page 27, to permit set backs between the rear building faces of condominium townhouses as little as 32 feet in lieu of the required 60 feet; and
3. From BCZR §504.2, CMDP, page 33, to permit as little as 0 square feet of contiguous private yard area per dwelling in lieu of the required 500 square feet.

This matter initially came before the then Deputy Zoning Commissioner (John V. Murphy) for public hearing. By Findings of Fact and Conclusions of Law issued by Deputy Commissioner Murphy on June 27, 2007, the Petitions were granted, in part, and denied, in part. A timely appeal was taken from Deputy Zoning Commissioner Murphy's decision by People's Counsel of Baltimore County.

The matter came in for public hearing before the Board on March 13, 2008. At that time, Joseph Taylor, property owner/Petitioner, appeared and was represented by Lawrence E. Schmidt, Esquire, of the law firm of Gildea & Schmidt, LLC. Also present on behalf of the Petitioner was Richard E. Matz, of Colbert Matz Rosenfelt, Inc., the engineer who prepared the site plan. Appearing on behalf of the Office of People's Counsel was Carole S. DeMilio, Esquire; also present was Carl Maynard on behalf of the Back River Neck Community Association.

At the initial hearing on March 13, 2008, limited testimony and evidence was offered. Instead, the parties requested a continuance and advised that settlement negotiations were under way which might resolve the matters of dispute between them. The parties further advised that as a result of these negotiations, the plan offered for consideration before Commissioner Murphy would be amended, as would the relief requested under the Petitions for Special Hearings and Variance. In order to provide the parties with an opportunity to resolve their differences, the case was continued.

A subsequent hearing was duly scheduled and conducted on June 3, 2008. Petitioners amended the Petition for Special Hearing and Variance and Richard E. Matz the engineer, testified in support of the relief requested. At that time, an amended plat to accompany to the Petitions for Special Hearing and Variance was submitted as Petitioners Exhibit No. 1. Additionally, a "Pattern Book," containing building elevation drawings of the proposed

dwelling and floor plans therefore was submitted as Petitioners Exhibit No. 2. Finally, written comments from the Department of Environmental Protection and Resource Management ("DEPRM") (Petitioners Exhibit No. 3A), the Office of Planning (Petitioners Exhibit No. 3B) and a letter of referral of the Petitioner's request for a variation of the Chesapeake Bay Critical Area Standards to the Baltimore County Planning Board (Petitioners Exhibit No. 3C) were submitted.

Through a proffer of counsel, the testimony of Mr. Matz and the exhibits described above, the following facts are found. The subject property under consideration is collectively 3.0037 acres in area, split zoned B.M.B. (Business Marine Boatyard) and D.R. 3.5 (Density Residential). The property is located at the end of a peninsula adjacent to Back River and Muddy Gut at the termination of Riverside Avenue. The property is actually composed of three parcels. The largest parcel, zone B.M.B., contains 2.57 acres and is improved by the West Shore Marina and Boatyard. This property contains a marina building, an 85 slip pier which extends into Back River and associated parking and boat storage areas. In fact, much of the land area of the property is used for the storage of boats and is a largely impervious surface. The second parcel, contains .299 acres, and is zoned D.R. 3.5. It is a separate lot known as parcel 79. It was previously improved with a single family dwelling and out buildings, however they have been razed. The third portion of the property contains a right-of-way for the extension of Riverside Avenue, which is approximately .17 acres in area.

The Petitioner originally proposed to replace the boatyard use on the property with 16 single family townhouse condominium units. The marina use and pier would remain. The townhouses would be sold and operated under a condominium regime with individual ownership of the dwellings units and common ownership of the remaining property, including the parking

lot, environmental buffer areas, etc. This was the plan for which zoning relief was requested under the Petitions before Commissioner Murphy. In addition to the zoning relief, the owners sought review and approval of this proposed subdivision under the County's development regulations.¹

Pursuant to the Development Review Regulations as contained in Article 32 of the BCC, the property owner submitted a concept plan for the proposed residential redevelopment of the property. Concept Plan Comments as required by the regulations were issued by reviewing County agencies regarding the plan, additionally, a community input meeting was conducted as required. However, prior to moving forward through the development process, the Petitioner elected to file the aforesaid Petitions in order to resolve certain zoning issues which arose during review of the concept plan. As more fully described in the Petitions above, and as amended, these issues generally relate to the density and development potential of the site, the requirement for certain variances for the proposed units and the applicability of the floodplain regulations.

At the continued hearing, counsel for Petitioners advised that the request for approval of a fifteen (15) unit townhouse condominium plan had been withdrawn. With the consent of the Office of People's Counsel and the interested community representatives, a new plan has been submitted for the Board's consideration. This plan shows a modified and reduced residential development. Specifically, in lieu of the previously shown fifteen (15) condominium townhouse development, a proposal for twelve (12) semi-detached units is offered. These are 6 side-by-side structures with a common wall between units. This change to the plan largely addresses the original objections of the Office of People's Counsel and the community. First, the amended plan resolves the density issues. In addition to reducing the number of units, the new plan

¹ Baltimore County Code §32-4-230 authorizes a property owner to request a single hearing for both zoning approvals and development plan approval; or, bifurcate the matters into separate proceedings, as was done here.

incorporates a zoning use division line which clearly designates the area of the property dedicated to the marina use from the area of the property associated with the residential development. As more particularly shown under Note No. 3 of the amended plan (Pet. Exh. 1), the marina use occupies .7346 acres of the property. Therefore, the remaining 2.0066 acres of the site zoned B.M.B., as well as .2999 acres zoned D.R. 3.5, is dedicated to the residential use. This acreage yields 12 density units to support the proposed residential portion of the project. Finally, pursuant to BCZR §1B01.2.A.2, the density unit attributable to parcel 79 (zoned D.R. 3.5) may be utilized on the B.M.B. portion of the site as shown on the plan. Pursuant to BCZR §221.B, the B.M.B. acreage can be residentially developed at a ratio of 5.5 units per acre. Based upon these regulations and the property's acreage, the density issues related to the overall property and proposed use thereof have been resolved and the Petition for Special Hearing can be granted, in part, and rendered moot, in part, accordingly.

Second, and equally significant, the community had expressed concerns about the type of units proposed. Specifically, the community objected to the townhouse scheme of the development and People's Counsel contended that BCZR §1B01.1A.1.c required a finding of compatibility for the townhouse development. The semi-detached scheme is acceptable to the community and does not require a finding of compatibility under that section of the BCZR.

Finally, People's Counsel had expressed a concern at the initial hearing regarding the requirements of BCZR §500.14, given the property's location within the Chesapeake Bay Critical Area. In this regard, Petitioner's Exhibit's 3A, 3B and 3C collectively demonstrate that DEPRM and the Office of Planning have reviewed and applied the appropriate Chesapeake Bay Critical Area requirements to this site. As required under the development regulations (see BCC §32-4-231), the developer has requested a Variation of Standards from the Chesapeake Bay

Critical Area buffer requirements. This Variation of Standards is subject to evaluation by the Department of Environmental Protection and Resource Management ("DEPRM") and can only be approved by the Baltimore County Planning Board after public hearing and vote. The Planning Board hearing is tentatively scheduled for September 4, 2008 and the recommendations of the Planning Board will be binding on the Hearing Officer when the development plan is reviewed by him. Based upon the information as contained in Petitioner's Exhibit's 3A, 3B and 3C, the Board finds that the requirements of BCZR §500.14 have been satisfied. The Office of People's Counsel and the Protestants do not dispute.

As a result of the revised plan, the Petitioner's requests under the Petition for Variance are significantly modified. Specifically, the two setback variance requests (i.e. 20 feet from the side building face to side building face in lieu of the required 25 feet and 32 feet between rear building faces in lieu of the required 60 feet) are no longer necessary and are moot. These Variances were required because of the townhouse style development and there setback requirements are not applicable to the semi-detached layout as shown on the revised plan.

However, the applications BCZR §504.2 and the requirements on pg. 33 of the CMDP requiring 500 square feet of contiguous private yard area per dwelling remains at issue. The CMDP imposes this requirement for all housing types. As noted above, the owners will own only their individual unit building and the association will own the balance of the property. As members of the condominium association, individual unit owners will enjoy the large common areas which are associated with this development. As shown on the plan, there is large common area for parking and large buffer areas which are required to be maintained pursuant to the Chesapeake Bay Critical Area requirements. Petitioner requested alternative relief in this matter, that is, Special Hearing relief that the requirement of 500 feet of contiguous private yard area per

dwelling does not apply in this case or in the alternative, a request for variance for 0 square feet in lieu of 500 square feet. People's Counsel contends a variance is required. Mr. Matz testified that the spirit and intent of the 500 square feet yard space requirement has been satisfied with the common areas, that the site is unique given the buffer area requirement under the Chesapeake Bay Critical Area requirements and that the Petitioners will suffer practical difficulty for the residential use of the site if the variance is not granted. The Board agrees that, based on the uncontradicted testimony of Mr. Matz and the evidence, a variance in this instance is warranted.

In addition, Petitioner amended its Petition for Variance for a new Variance based upon the revised plan. Counsel for the Petitioner amended the Petition for Variance in open hearing without objection of the Office of People's Counsel. The new Variance relates to the proposed unit shown as "Lot 12." As noted above, a right-of-way for a paper street extends into the property (the third parcel described hereinabove) and technically generates side and rear yard setbacks. The setbacks shown from the building on Lot 12 (1 foot to the side and 4 feet to the rear) are insufficient and thus Variance relief is required. It is to be observed that this regime will become a "legal fiction" when the Petitioner closes the road as is contemplated under the development plan. However, in that the road exists at the time of the Board's hearing, a Variance is required. Based on the uncontroverted testimony of Mr. Matz on uniqueness and practical difficulty, the Board finds a variance in this instance is warranted.

Turning to the Special Hearing relief, it is also modified as a result of the revised plan. The Board confirms that no waiver is required for grading and building in the tidal floodplain pursuant to BCC §32-8-301. A reading of that section is persuasive that the waivers are required in the event of construction in a riverine floodplain not a tidal floodplain. A written advisory comment from the Department of Public Works confirms this interpretation. Secondly, the

density issue is described above has been resolved. The zoning use division as shown on the amended plan appropriately designates that portion of the site dedicated to the marina use as well as the residential portion of the property. The Board is persuaded in this instance that sufficient density exists and that the mixed use is in compliance with the density and area requirements in the BCZR. Finally, the density available from the three (3) parcels at issue can be used throughout the tract. Thus, that relief will be granted. For the reasons stated above, the modified and amended Petitions for Variance and Petition for Special Hearing shall be granted in accordance with Petitioner's Exhibit No. 1.

ORDER

THEREFORE, IT IS 25th day of July 2008, by the County Board of Appeals of Baltimore County,

ORDERED, that the Petition for Special Hearing to confirm that no waiver is required for grading and building in the tidal floodplain pursuant to BCC §32-8-301 be and is hereby GRANTED; and,

IT IS FURTHER ORDERED, that the Petition for Special Hearing to confirm that the use of the portion of a property for a marina and associated parking does not reduce the overall residential density, is DISMISSED, as MOOT, and that the zoning use division line, which reflects the area of the overall property as shown dedicated to the marina, the area of the property dedicated to the proposed residential use and the concomitant density calculations for the residential zones and use thereof be and is hereby APPROVED; and,

IT IS FURTHER ORDERED, that the Petition for Special Hearing to permit the utilization of density attributable to specific parcels for use on the overall tract, pursuant to BCZR §1B01.2.A.2, be and is hereby GRANTED; and,

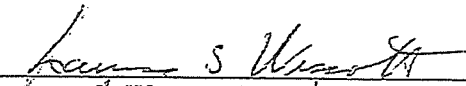
IT IS FURTHER ORDERED, that a Variance from BCZR §1B01.2.C.1.c to permit setbacks as little as 20 feet from the side building face to side building face in lieu of the required 25 feet; from BCZR §504.2, CMDP, pg. 27, to permit set backs between the rear building faces of condominium townhouses as little as 32 feet in lieu of the required 60 feet, are DISMISSED, as MOOT; and,

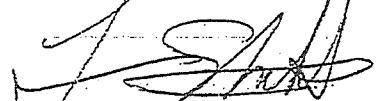
IT IS FURTHER ORDERED, that a variance from BCZR §504.2, CMDP, pg. 33, to permit as little as 0 square feet of contiguous private yard area per dwelling in lieu of the required 500 square feet, is hereby GRANTED; and;

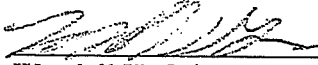
IT IS FURTHER ORDERED, that the special hearing seeking relief that the 500 square feet contiguous private yard area required for a private dwelling does not apply to a condominium development is DISMISSED AS MOOT; and

IT IS FURTHER ORDERED, that a Variance to allow front and side yard setbacks of 1 foot and 4 feet respectively for the proposed building on Lot 12 be and are hereby GRANTED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Lawrence S. Wescott, Panel Chairman


Lawrence M. Stahl


Wendell H. Grier

IN RE: DEVELOPMENT PLAN HEARING *

At end of East Riverside Avenue, N
Bay Avenue
15th Election District
6th Councilmanic District
(WEST SHORE YACHT CENTER)

BEFORE THE

HEARING OFFICER

FOR BALTIMORE COUNTY

Marina Holdings LLC
Developer/Petitioner

Case No. XV-895

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, for a public hearing on a Development Plan proposal submitted in accordance with the development review and approval process contained in Article 32, Title 4, of the Baltimore County Code (B.C.C.). The Developer of the property, Marina Holdings, LLC (Joseph Taylor and Lisa Taylor, members) submitted for approval a development plan prepared by Colbert Matz Rosenfelt, Inc., for the property known as "West Shore Yacht Center." The Developer is proposing the development of the subject property into 12 semi-detached single-family residential condominium units with the retention of an existing marina on 3.0412 acres, more or less. The overall tract is composed of three parcels as more particularly described on the plan. Much of the tract is zoned B.M.B., which allows residential density at a calculation based on a D.R.5.5 Zone. There is also a small area zoned D.R.3.5. The site is currently developed as a boat yard. The proposed development is more particularly described on the redlined Development Plan, which was marked and accepted into evidence as Developer's Exhibit 1, as well as an amended redlined Development Plan marked and accepted into evidence as Developer's Exhibit 3.

The property was posted with Notice of Hearing Officer's Hearing on May 19, 2008 for

*Petitioner's
No. 3*

Original

FILED FOR FILING
Date 10-15-08
By [Signature]

20 working days prior to the hearing in order to notify all interested citizens of the date and location of the hearing.

As to the history of the project, a concept plan of the proposed development was prepared and Concept Plan Conference (CPC) was held on February 5, 2007 at 9:00 AM in the County Office Building. As the name suggests, the concept plan is a schematic representation of the proposed subdivision and is initially reviewed by and between representatives of the Developer and the reviewing County Agencies at the CPC. Thereafter, as is also required in the development review process, notice of a Community Input Meeting (CIM) is posted and scheduled during evening hours at a location near the proposed subdivision to provide residents of the area an opportunity to review and comment firsthand on the plan. In this case, the CIM was held on April 18, 2007 at 7:00 PM at the White Marsh Public Library where representatives of the Developer and the County attended, as well as a number of interested persons from the community. Subsequently, a development plan is prepared, based upon the comments received at the CPC and the CIM, and the development plan is submitted for further review at a Development Plan Conference (DPC), which, again, is held between the Developer's consultants and County agency representatives to further review and scrutinize the plan. The DPC occurred on May 28, 2008. The Hearing Officer's Hearing for this proposed development was first held on June 20, 2008 in Room 106 of the County Office Building. At that time, testimony was received from Mr. Matz regarding the plan, as well as the representatives of those County agencies that reviewed the plan.

It should be noted that the role of each reviewing County agency in the development review and approval process is to independently and thoroughly review the development plan as it pertains to their specific area of concern and expertise. These agencies provide comments to

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Date 10-15-08
By [Signature]

the plan and make determinations where necessary as to whether the plan complies with applicable Federal, State, and/or County laws and regulations pertaining to development and related issues. In addition, these agencies carry out this role throughout the entire development plan and approval process.

Appearing at the requisite public hearing on June 20, 2008 in support of the Development Plan approval request was Joseph Taylor with the Developer, Marina Holdings, LLC, and Lawrence E. Schmidt, Esquire, attorney for the Developer. Also appearing on behalf of the Developer was Richard Matz, P.E. with Colbert Matz Rosenfelt, Inc., the engineering firm that prepared the plan. Appearing as interested persons at the June 20, 2008 hearing were Mark Hanley of 117 Lakefront Drive in Cockeysville, MD and John Roil of 9111 Satyr Hill Road in Baltimore, MD.

Also in attendance at the June 20, 2008 hearing were representatives of the various Baltimore County reviewing agencies, including the following individuals from the Department of Permits and Development Management: Colleen Kelly (Project Manager), Phil Martin (Development Plans Review), Joe Merrey (Zoning Review Office), and Bill Minor (Bureau of Land Acquisition). Also appearing on behalf of the County were Jeff Livingston from the Department of Environmental Protection and Resource Management (DEPRM); Jenifer German Nugent from the Office of Planning; and Bruce Gill from the Department of Recreation & Parks. In addition, written comments were received from Lt. Roland Bosley, Jr. of the Baltimore County Fire Marshal's Office and Steven D. Foster on behalf of the Maryland State Highway Administration. These and other agency remarks are contained within the case file.

Pursuant to B.C.C. Sections 32-4-227 and 32-4-228, which regulates the conduct of the Hearing Officer's Hearing, I am required first to identify any unresolved comments or issues as

DATE RECEIVED FOR FILING
Date 10-15-08
BY [Signature]

of the date of the hearing. Upon making inquiry to the Developer's attorney, Mr. Schmidt, he indicated that he was not aware of any unresolved issues with respect to the redlined Development Plan, but for a pending requested Variation of Standards. In this regard, the subject property is waterfront in character and subject to State and County regulations as it is within the Chesapeake Bay Critical Area (CBCA). The CBCA regulations mandate a 100-foot buffer from the shoreline to the footprint of area on the site proposed for development. Obviously, given the fact that this tract is a peninsula and its narrow width, the required buffer could not be provided. The Developer therefore requested a "Variation of Standards" from this requirement.

Pursuant to B.C.C. Section 32-4-231, the Hearing Officer is to refer any request for a Variation of Standards to the Baltimore County Planning Board for review in accordance with that Section of the B.C.C. By letter dated May 7, 2008, Zoning Commissioner William J. Wiseman, III referred the matter to the Planning Board and on the first hearing date (June 20, 2008) the Planning Board had not completed its review of this issue. Therefore, testimony and evidence was accepted on issues that were ripe for consideration at that time and then the hearing was continued for further proceedings after the Planning Board hearing and vote.

At the hearing on June 20, 2008, I inquired as to the particular County agencies and asked that they state whether there were any outstanding issues applicable to their particular agency. Their responses are summarized below:

Recreation and Parks: Bruce Gill appeared on behalf of the Department of Recreation and Parks and indicated that the required local open space for the 12 units is 12,000 square feet or 0.28 acres more or less; 7,800 square feet active and 4,200 square feet passive open space. Mr. Gill also indicated that a proposed development involving 20 units or less should be

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considered for a fee in lieu of open space if requested. He confirmed that pursuant to B.C.C. Section 32-6-108(c)(3)(ii) and (d), a waiver of local open space requirements was requested by the Developer to pay a fee in lieu of providing local open space. The Department granted that request as shown by the letter dated May 29, 2008, which was marked and accepted into evidence as Baltimore County Exhibit 1, and indicated that a fee of Seventy One Thousand Eight Hundred Twenty Dollars (\$71,820.00) is to be paid prior to the recordation of the Record Plat. Therefore, the Department of Recreation and Parks recommended approval of the amended redlined Development Plan.

Planning Office: Jenifer German Nugent appeared on behalf of the Office of Planning. Ms. Nugent indicated that a School Impact Analysis (SIA) was prepared by the Developer and reviewed by her office. The SIA was deemed acceptable by the Office of Planning. A copy of the SIA was marked and accepted into evidence as Baltimore County Exhibit 2. She also testified that the amended redlined Development Plan met all of her agency's standards and requirements and recommended approval of the plan.

Development Plans Review (Public Works): Phil Martin appeared on behalf of the Bureau of Development Plans Review. His agency reviews the plan for compliance with the requirements of the Department of Public Works. Mr. Martin confirmed that the Developer's amended redlined Development Plan met all of his department's requirements and comments and that his department recommended approval of the plan.

Department of Environmental Protection and Resource Management: Jeff Livingston appeared on behalf of DEPRM. Mr. Livingston confirmed that the Variation of Standards requirement was pending. Other than that issue, he advised that his department recommended approval of the amended redlined Development Plan. He noted that other divisions in DEPRM

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(e.g. Stormwater Management Review and Ground Water Management) had also reviewed and approved the plan.

Office of Zoning Review: Joe Merrey appeared on behalf of the Zoning Review Office. Mr. Merrey indicated that there were some minor changes that needed to be made on the redlined plan and that they had been addressed on the amended redlined plan. He then indicated that his department recommended approval of the amended redlined Development Plan.

Land Acquisition: Bill Minor appeared on behalf of the Bureau of Land Acquisition. Mr. Minor indicated that there were no outstanding issues from his agency and recommended approval of the amended redlined Development Plan.

I then inquired of the two citizens in attendance at the hearing and was advised that they had no objection to the approval of the plan.

After the informal phase of hearing, the case was continued in order to accommodate the Variation of Standards request before the Planning Board. The hearing was then resumed on September 25, 2008. On that date, Mr. Schmidt advised that the Planning Board had conducted a public hearing on September 4, 2008 and voted to approve the Variation of Standards on September 18, 2008. Ms. Nugent from the Office of Planning confirmed the Planning Board's hearing, vote, and approval. The minutes of the Planning Board hearing were not available at the continued Hearing Officer's Hearing but subsequently the Office of Planning submitted written verification of the Planning Board's approval. Specifically, Ms. Nugent of the Planning Office forwarded a letter dated September 24, 2008 with attachments from Planning Director Arnold F. "Pat" Keller, as Secretary to the Planning Board, indicating that the Developer's Application for Variation of Standards is in compliance with State-mandated criteria for granting variances in the CBCA and recommends approval in accordance with DEPRM conditions as listed in that letter.

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The letter, which was received in this Office on October 2, 2008, was marked and accepted into evidence as Developer's Exhibit 5.

Moving next to the more formal portion of the hearing, the Developer's engineer, Mr. Matz, presented the amended relined Development Plan. Mr. Matz testified that he is a professional engineer and a principle with the firm of Colbert Matz Rosenfelt, Inc. He also testified that he is very familiar with the laws and regulations pertaining to residential and commercial development and has been offered and accepted as an expert in numerous zoning and land development hearings. Mr. Matz was then offered and accepted as an expert in civil engineering, land development, and recognition and interpretation of the necessary zoning and land use regulations and policies in Baltimore County.

Mr. Matz testified that he was directly involved in the evaluation and preparation of the instant development plan. He attended the CIM, the CPC, the DPC, and met with representatives of the County reviewing agencies. He also prepared and sealed the amended redlined Development Plan marked and accepted into evidence as Developer's Exhibit 3. This plan shows the site constraints detailing the environmental areas and impacts, the development plan proposal itself, and the development plan notes.

Mr. Matz described the subject property, proposed development therein and surrounding locale in detail. He noted that the property is presently used as a boatyard and that there are boats stored on the property. The site is also improved with a pier that extends into Back River and contains 85 slips. There is also a marina building. The pier and slips and marina building will be retained. The land storage of boats will be discontinued and a 12 unit residential condominium development is proposed. Originally, fifteen units were proposed and laid out in a townhouse style. However, as the result of an agreement with the Office of People's Counsel

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and the community, the residential development has been converted into 12 side-by-side semi-detached dwellings.

This agreement with People's Counsel and members of the surrounding community came about during a companion zoning case that was instituted for this project. Specifically, Mr. Schmidt advised that the Developer had filed Petitions for Variance and Special Hearing to address certain zoning issues (i.e. the proposed mix use of the property, available density, setbacks, yard areas, etc.). This matter (Case No. 07-421-SPHA) was heard by the then-Deputy Zoning Commissioner John V. Murphy who granted the relief pursuant to an order dated June 27, 2007. This decision was appealed by certain opponents to the Baltimore County Board of Appeals and People's Counsel also intervened. Following extensive negotiations by the parties, an agreement was reached and an Order issued by the Board of Appeals on July 25, 2008. A copy of this order was marked and accepted into evidence as Developer's Exhibit 6. This order resolved the zoning issues that had been presented and established the zoning parameters upon which the Development Plan is based.

In conclusion, Mr. Matz testified that the amended redlined Development Plan had been presented to County agency representatives and had addressed all of those agencies' comments. Finally, he offered his opinion that based on his professional knowledge and experience, the amended redlined Development Plan marked and accepted into evidence as Developer's Exhibit 3 fully complies with the development regulations, rules and policies contained in the Baltimore County Zoning Regulations (B.C.Z.R.) and the Baltimore County Code (B.C.C.).

The B.C.C. clearly provides that the "Hearing Officer shall grant approval of a development plan that complies with these development regulations and applicable policies, rules and regulations." B.C.C. Section 32-4-229.

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After due consideration of the proffer of counsel and testimony presented by Mr. Matz concerning the development plan proposal, as well as the concurrence of the various County agencies, I find that the amended redlined Development Plan accepted into evidence as Developer's Exhibit 3 is in compliance with all applicable policies, rules, and regulations.

I am also persuaded by the evidence presented that the Development plan is in keeping with the spirit and intent of the development regulations and will not have a detrimental effect on the health, safety, and welfare of the public, or the surrounding locale. Therefore, having identified no remaining unresolved or outstanding issues that would prevent plan approval, the Developer has satisfied its burden of proof and, therefore, is entitled to approval of the redlined Development Plan. Further, pursuant to B.C.C. Section 32-4-231, I shall incorporate the conclusions and decision of the Planning Board (Developer's Exhibit 5) in approving the Variation of Standards that was granted pursuant to the Chesapeake Bay Critical Area regulations.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, the requirements of which are contained in Article 32, Title 4, of the Baltimore County Code, the amended redlined "West Shore Yacht Center" Development Plan, marked and accepted into evidence as Developer's Exhibit 3, shall be approved consistent with the comments contained herein.

THEREFORE, IT IS ORDERED by this Hearing Officer/Deputy Zoning Commissioner for Baltimore County, this 15th day of October, 2008, that the amended redlined "WEST SHORE YACHT CENTER" Development Plan, accepted into evidence as Developer's Exhibit 3 be and is hereby APPROVED; and,

It is further ORDERED, that pursuant to Section 32-4-231 of the Baltimore County Code

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that the approval of the Baltimore County Planning Board of the Variation of Standards from the applicable Chesapeake Bay Critical Area Standards in Title 33 of the Baltimore County Code be and are hereby incorporated herein.

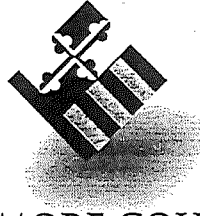
Any appeal of this decision must be taken in accordance with Section 32-4-281 of the Baltimore County Code.



THOMAS H. BOSTWICK
Hearing Officer/Deputy Zoning Commissioner
for Baltimore County

THB:pz

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Date 10-15-08
By [signature]



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

October 15, 2008

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

Lawrence E. Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Avenue, Ste. 200
Towson, MD 21204

Re: **DEVELOPMENT PLAN HEARING**
At end of East Riverside Avenue, N Bay Avenue
15th Election District - 6th Councilmanic District
(WEST SHORE YACHT CENTER)
Marina Holdings LLC - *Developer/Petitioner*
Case No. XV-895

Dear Mr. Schmidt:

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

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:dlw
Enclosure

c: Richard E. Matz, Colbert, Matz & Rosenfelt, 2835 Smith Avenue, Suite G,
Baltimore, MD 21209
Joe Taylor, 1100 East Riverside Avenue, Essex, MD 21221
Mark Hanley, 117 Lakefront Drive, Cockeysville, MD 21030
John Roil, 9111 Satyr Hill Road, Baltimore, MD 21234
People's Counsel; Colleen Kelly, Project Manager, DPDM
DEPRM; DPW; DPR; LA; OP; R&P; Case File

Protestant's y

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

SW side of East Riverside Ave; 1,311 feet
NW of Bay Avenue
15th Election District
6th Councilmanic District
(1104 and 1106 East Riverside Avenue)

Mark P. Hanley, Jr., Esquire
Legal Owner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY

* Case No. 2011-0257-XA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Exception and Variance filed by Mark P. Hanley, Jr., Esquire, the legal owner of the subject property. The Special Exception request is from Section 230.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow living quarters in a commercial building. The Variance requests are as follows:

1106 East Riverside Avenue as follows:

- From Section 402.1.B of the B.C.Z.R. to allow a width of the lot at the front building face of 65 feet in lieu of the required 90 feet; and
- From Section 232.2.B of the B.C.Z.R. to allow a side yard setback of 10 feet in lieu of the required 15 feet.

1104 and 1106 East Rivside Avenue as follows:

- From Section 409.6.A.2 of the B.C.Z.R. to allow 25 parking spaces in lieu of the required 42 spaces for tavern and apartment uses; and
- From Section 409.8.A.1 of the B.C.Z.R. not to be required to provide screening and landscaping for the existing parking area; and
- From Section 409.8.A.2 of the B.C.Z.R. not to be required to provide durable and dustless

surface for the existing gravel parking area; and

- From Section 409.8.A.4 of the B.C.Z.R. to allow the existing parking spaces to be 0 feet from the right-of-way line of a public street in lieu of the required 10 feet.

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

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code Inspections and Enforcement Correction Notice was issued to Petitioner on October 21, 2010, alleging building additions and alterations without the required permits. Hence, Petitioner filed for special exception and variance relief to "legitimize" the proposed construction activities at the site.

Appearing at the public hearing in support of the Special Exception and Variance requests were Petitioner Mark P. Hanley, Jr., Esquire, and Bruce Doak, the surveyor who prepared the site plan. Also in attendance were neighboring owners Joe and Lisa Taylor, who had significant concerns regarding the project.

The Zoning Advisory Committee (ZAC) comments were received and are contained within the case file. Comments were received from the Bureau of Development Plans Review dated March 22, 2011, which indicate that the property line for Lot 79 does not close. On 2010 Google Earth photographs, the parking lot is rutted with potholes and a dumpster lies within the residential use area. That Bureau advised the lot should be paved with a durable and dustless material with the dumpster located on it. Mr. Kennedy also offered the following comments: along the East Riverside Avenue frontage, a future 5 feet wide highway widening should be shown with parking spaces removed from it and be set back 10 feet from the future right-of-way line. This will reduce

¹ Case No: CO-0086016

the amount of parking spaces by 4, but will allow for landscape screening between the parking lot and the street. The parking lot entrance and parking spaces should be defined with striping. Parking space number 1 does not have an adequate area for backing out and should be removed. In total, the parking variance requested should be reduced to 20. Since there is space between the parking area and the adjacent property to the south, that Office sees no reason why screening should not be required.

Testimony and evidence revealed that the property is an irregular rectangle shape and consists of 1104 (Lot 79) and 1106 (Lot 78) East Riverside Avenue. 1104 East Riverside Avenue is improved with an existing one story wood frame and masonry building used as a tavern and an existing two story wood frame building which is partially razed and which Petitioner seeks to remodel to contain two apartments. 1106 East Riverside Avenue is improved with an existing one story stucco building containing two apartments. There is a gravel parking lot containing 25 parking spaces that spans both lots. The subject property adjoins the Back River and is in the Chesapeake Bay Critical Area (CBCA). The properties are zoned BL and BMR.

The evidence revealed that tenants lived for many years in the apartment which was partially razed, but that the building has been vacant for at least a year. Under Maryland law, special exception uses are presumptively valid, provided that they do not cause negative effects to the surrounding area and the health and welfare of the neighborhood in which they are situated. In this case, there was no evidence presented that the creation of two living quarters, with perhaps four or so residents, would have a deleterious effect on neighborhood conditions or would cause overcrowding or congestion on the roads or land in the area. As such, I will grant Petitioner's special exception request to allow living quarters in a commercial building, and of course the

Petitioner will need to satisfy all Baltimore County building code and other requirements prior to being issued permits for the construction.

With respect to the variances requested for 1106 East Riverside Avenue, I find that the property in question is unique, and that the Petitioner would face practical difficulties if forced to comply with the strict letter of the Zoning Code. Petitioner seeks variance relief to allow a lot width of 65 feet in lieu of the required 90 feet, and a side yard setback of 10 feet in lieu of the required 15 feet. As the Petitioner explained at the hearing, the structure at 1106 East Riverside Avenue has existed for many years and these are conditions that have existed "on the ground," and the variance relief will legitimize or validate the existing site conditions. As with many parcels in the Back River Neck area, 1106 East Riverside Avenue is of an irregular shape, and if zoning relief were not granted, the Petitioner would be forced to expend considerable sums of money to bring his property into compliance with the B.C.Z.R.

The next set of variance requests pertain to both 1104 and 1106 East Riverside Avenue, and concern the parking spaces provided on the northeast portion of the site. Initially, Petitioner sought under B.C.Z.R. §409.8.A.1 to be excused from the requirement of providing landscaping and screening for the existing parking area. As discussed at the hearing, neighboring owners are very much in favor of and desire landscaping and screening for this area, and Petitioner indicated that it was amenable to that request. As such, I will deny the variance under B.C.Z.R. 409.8.A.1, and Petitioner will be responsible for providing landscaping and screening satisfactory to Baltimore County and its landscape architect, Avery Harden.

The next variance sought by Petitioner is under B.C.Z.R. §409.6.A.2, to allow 25 parking spaces in lieu of the required 42 spaces for the tavern and apartment uses. At the hearing, neighboring owners Joe and Lisa Taylor, who operate a marina immediately adjacent to the

Petitioner, testified that the parking at this site is extremely problematic, and on busy evenings and weekends, cars are strewn about East Riverside Avenue, and on occasion block the entrance to their marina. In addition, Mrs. Taylor testified that they frequently find beer bottles and other debris thrown onto their property from the adjoining tavern. In these circumstances, I do not believe the grant of variance would be in the public interest, given that the Petitioner seeks an approximate 40% reduction in the number of required spaces, and it would certainly seem as if this would exacerbate an already bad parking situation on site. By the same token, I am inclined to grant the variance relief sought under B.C.Z.R. §409.8.A.4, to allow a zero feet setback from the public road for the parking spaces in lieu of the required 10 feet. As noted above, parking in this area is already at a premium, and to enforce the 10 foot setback requirement will eliminate 2 or more additional spaces, which will only serve to aggravate the problem. As mentioned earlier, this parcel is irregularly shaped and constrained by existing site conditions, and Petitioner would experience a practical difficulty if the variance relief were not granted for the parking setbacks, given that it would simply frustrate its ability to comply with the parking requirements under the B.C.Z.R.

That leaves only the request for variance relief under B.C.Z.R. §409.8.A.2, to be excused from providing a durable and dustless parking surface, allowing the existing gravel parking area to remain. On this point, Mr. and Mrs. Taylor submitted photographs which are part of the case file, which clearly demonstrate that the parking lot is rutted and filled with potholes, and also the apron where the lot adjoins East Riverside Avenue is heavily eroded and crisscrossed with vehicle tracks. While it is true that the site is in the Chesapeake Bay Critical Area, it is also true that the existing lot is deemed impervious, and no evidence was presented to suggest that a macadam surface with properly painted parking stalls would increase water runoff from the site, or in any way harm the Chesapeake Bay beyond the current impacts caused by the existing parking lot surface. As such, I

do not find that the Petitioner has satisfied the test for variance relief pertaining to the parking lot surface and will therefore deny that request. I will, however, invite the Petitioner to file a Motion for Reconsideration (under Rule 4K), and if he can present evidence from either State or County environmental authorities that the macadam parking lot would have a deleterious effect on the Chesapeake Bay beyond that caused by the existing parking lot conditions, then I will reconsider the request.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County, this 15 day of April, 2011, that Petitioner's request for Special Exception from Section 230.2 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to allow living quarters in a commercial building be and is hereby GRANTED; and

IT IS FURTHER ORDERED that Petitioner's Variance requests as follows:

1106 East Riverside Avenue as follows:

- From Section 402.1.B of the B.C.Z.R. to allow a width of the lot at the front building face of 65 feet in lieu of the required 90 feet; and
- From Section 232.2.B of the B.C.Z.R. to allow a side yard setback of 10 feet in lieu of the required 15 feet

be and hereby are GRANTED;

1104 and 1106 East Rivside Avenue as follows:

- From Section 409.6.A.2 of the B.C.Z.R. to allow 25 parking spaces in lieu of the required 42 spaces for tavern and apartment uses be and hereby is DENIED; and
- From Section 409.8.A.1 of the B.C.Z.R. not to be required to provide screening and landscaping for the existing parking area be and hereby is DENIED; and
- From Section 409.8.A.2 of the B.C.Z.R. not to be required to provide durable and dustless

surface for the existing gravel parking area be and is hereby DENIED, subject to the filing of a Motion for Reconsideration as discussed herein; and

- From Section 409.8.A.4 of the B.C.Z.R. to allow the existing parking spaces to be 0 feet from the right-of-way line of a public street in lieu of the required 10 feet, be and is hereby GRANTED.

The granting of the above relief shall be subject, however, to the following condition:

1. Petitioner may apply for any permits required and be granted same upon receipt this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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

Signed

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz

P1#5





















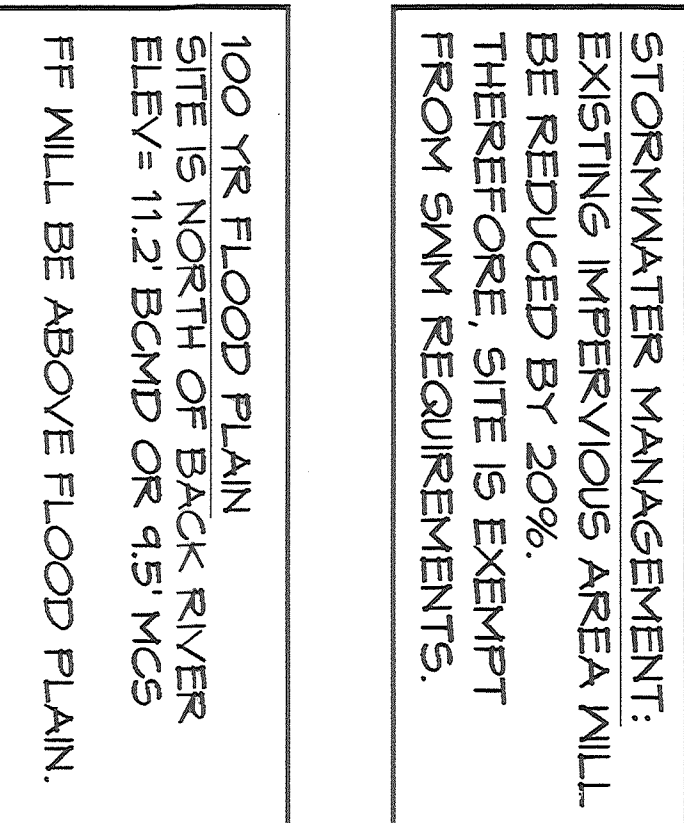






EASEMENT NOTES

COVERED WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

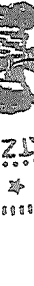


COUNTY ZONING CODE, AND TO MAKE & RELOCATE THE MARINA OFFICES.

12/27

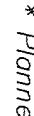
1100 E. RIVERSIDE AVENUE

15th ELECTION DISTRICT - 6th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MD



Richard J. Sweeney

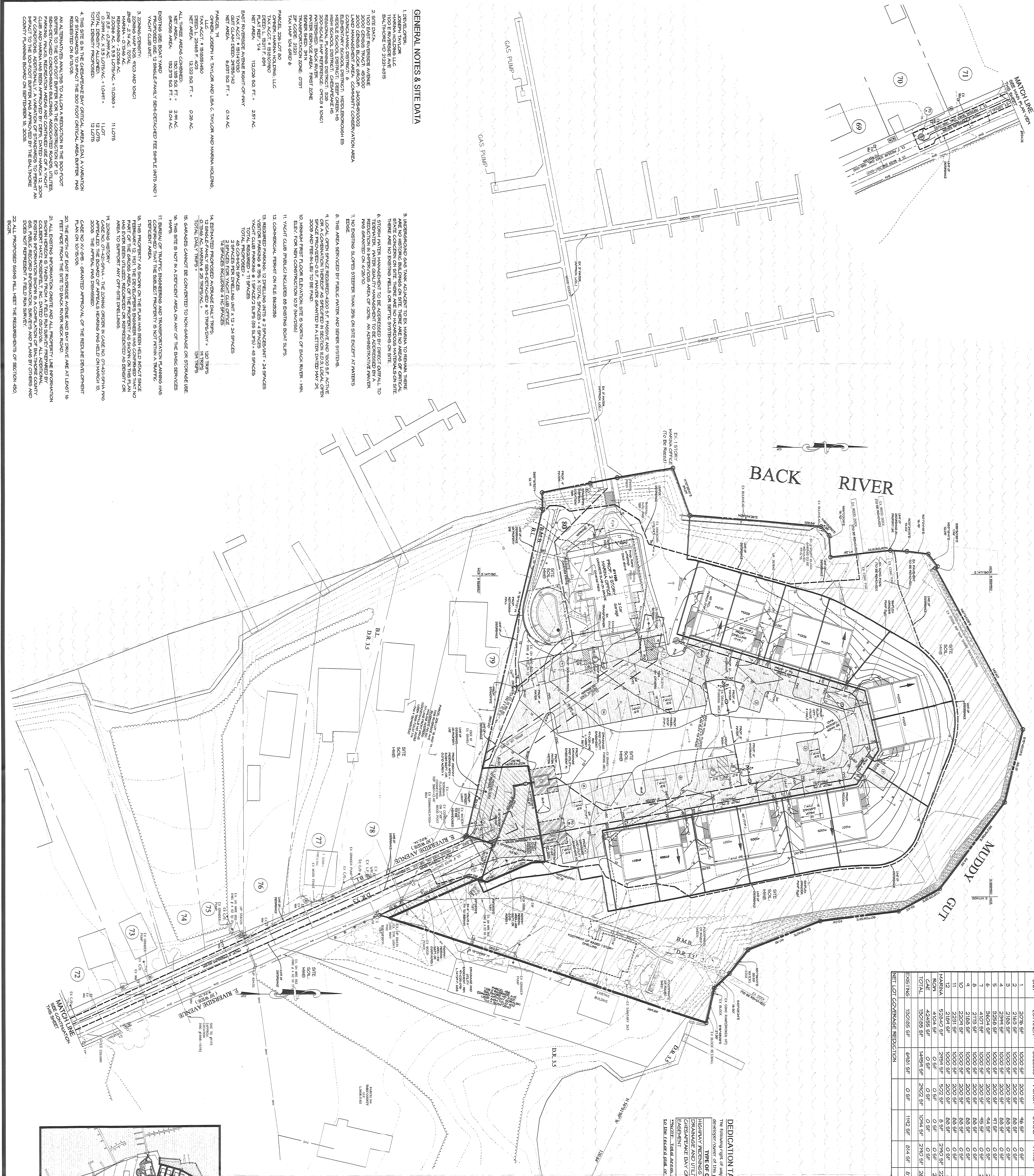
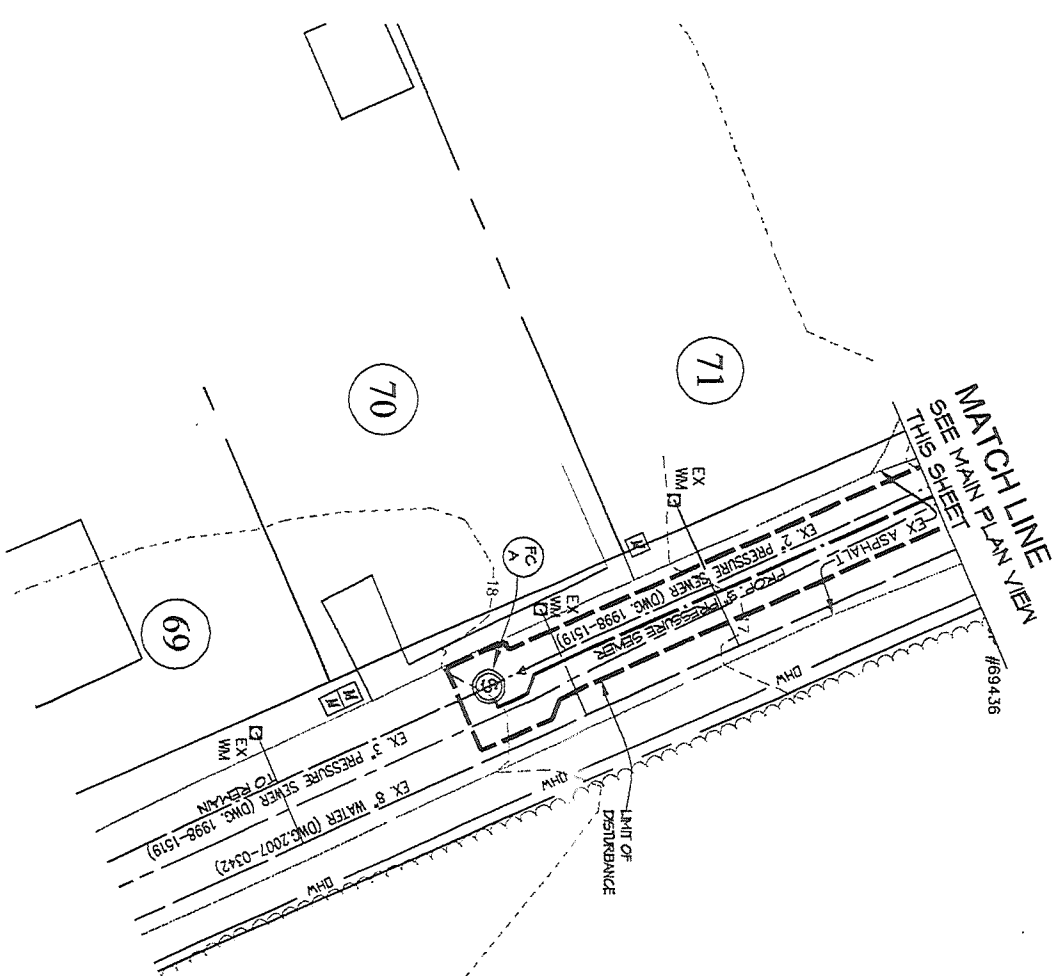
Engineers • Surveyors • Planners
 2835 Smith Avenue, Suite G
 Baltimore, Maryland 21209
 Telephone: (410) 653-3838
 Telex: 283538
 Facsimile: (410) 653-7953



DATE 11/30/12

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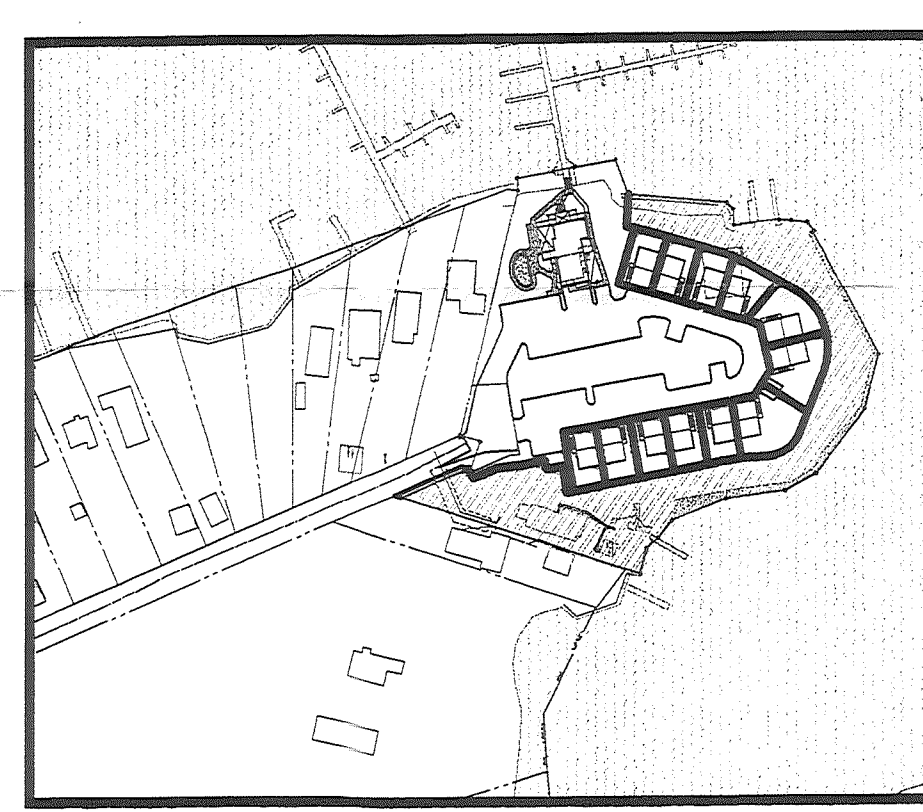
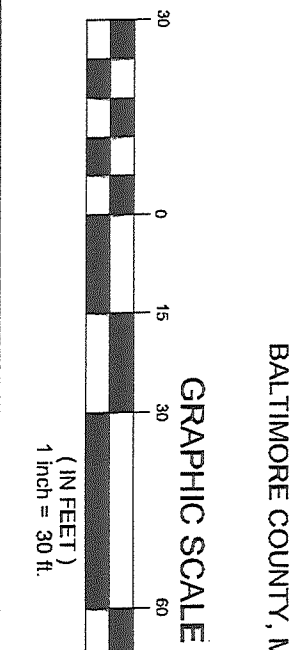
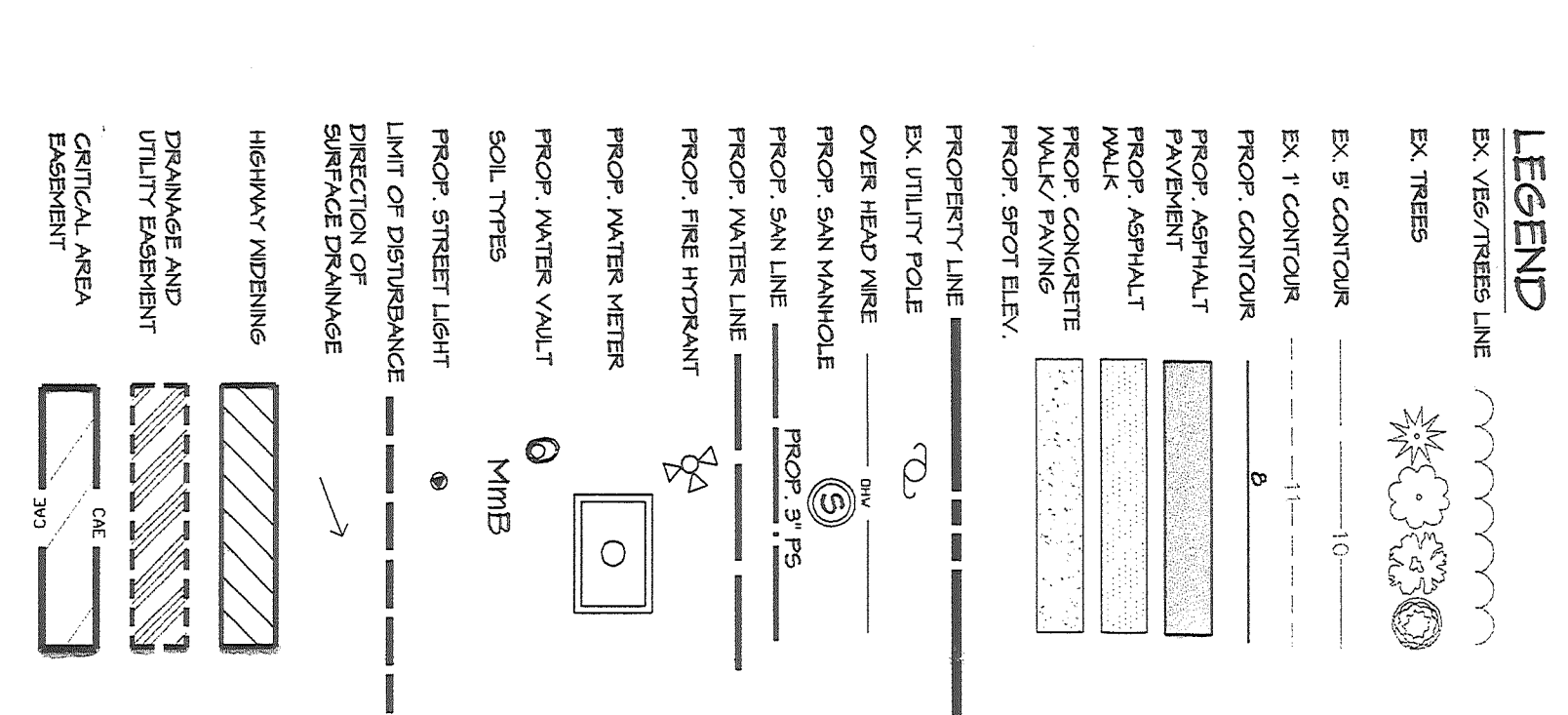
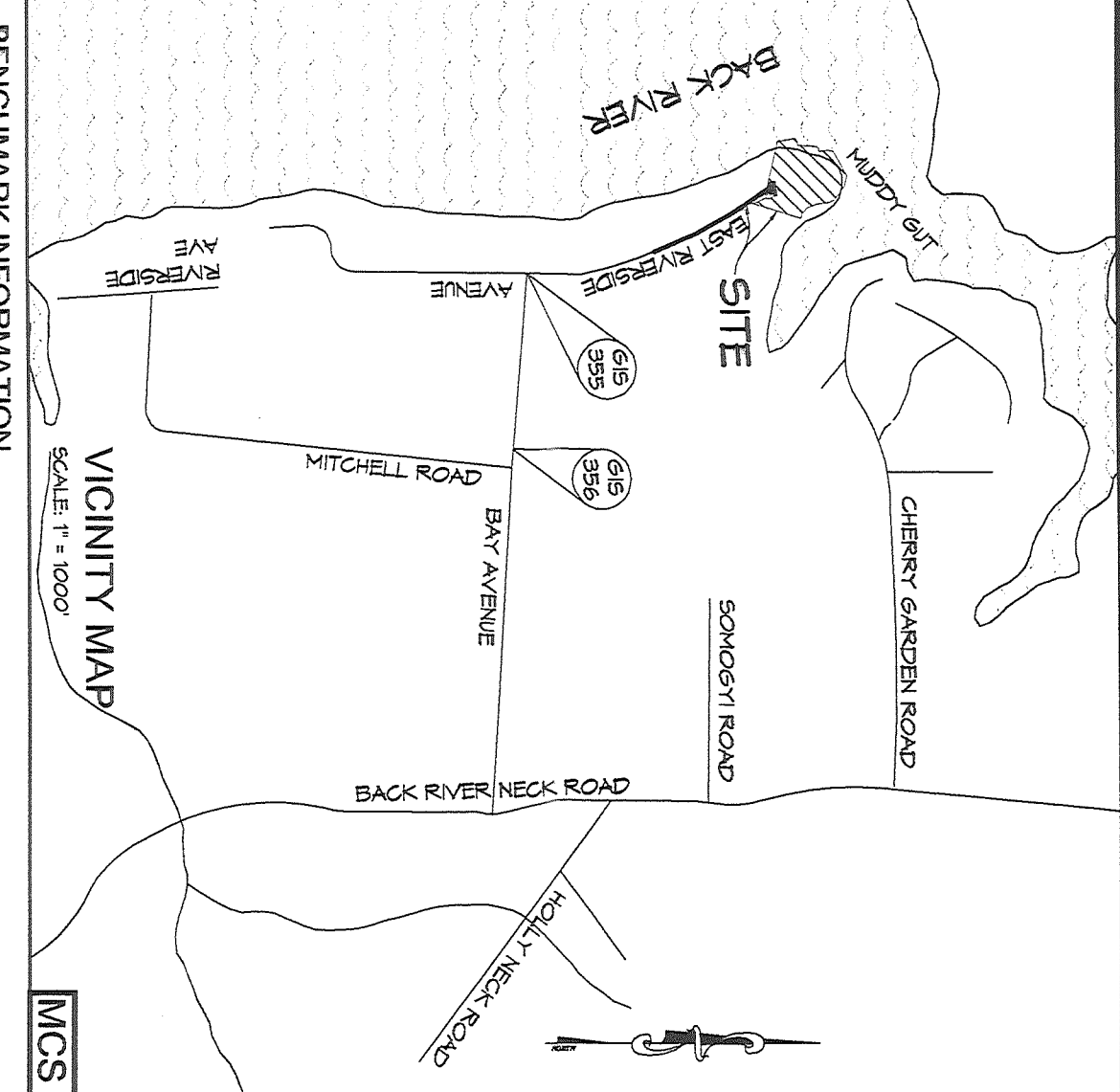
MCS

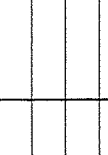


PROPOSED LOT COVERAGE						
UNIT	LOT AREA	BUILDING	PORCH	STAIRS	PATIO	PAVING
1	2105 SF	1000 SF	300 SF	46 SF	0 SF	1346 SF
2	1765 SF	1000 SF	200 SF	88 SF	0 SF	1365 SF
3	2185 SF	1000 SF	200 SF	88 SF	0 SF	1252 SF
4	2394 SF	1000 SF	200 SF	88 SF	0 SF	1365 SF
5	1804 SF	1000 SF	200 SF	88 SF	0 SF	1365 SF
6	3064 SF	1000 SF	200 SF	44 SF	0 SF	2355 SF
7	4101 SF	1000 SF	200 SF	44 SF	0 SF	2957 SF
8	2113 SF	1000 SF	200 SF	88 SF	0 SF	1552 SF
9	2185 SF	1000 SF	200 SF	88 SF	0 SF	1560 SF
10	2185 SF	1000 SF	200 SF	88 SF	0 SF	1560 SF
11	2251 SF	1000 SF	200 SF	88 SF	0 SF	1360 SF
12	2185 SF	1000 SF	200 SF	88 SF	0 SF	1348 SF
MANN	5250-0 SF	2993 SF	502 SF	8 SF	2100 SF	2201 SF
CAFE	4245-5 SF	0 SF	0 SF	0 SF	0 SF	0 SF
TOTAL	150185 SF	14515 SF	2402 SF	1044 SF	2140 SF	26646 SF
EXISTING	150185 SF	6480 SF	0 SF	1192 SF	814 SF	81512 SF
LOT COVERAGE REDUCTION						42556 SF
						100.00 %
						64.55 %

DEDICATION TABLE		
The following table of uses are to be conveyed to Madison County by the developer/owner of this property as a condition of approval of these plans.		
TYPE OF CONVEYANCE	NO.	TOTAL AREA*
HIGHWAY MEDIANES	3	0.044 AC.
DRAINAGE AND UTILITY EXHIBMENTS	2	0.018 AC.
CHESAPEAKE BAY CRITICAL AREA		
EXHIBMENT	1	0.946 AC.

*NOTE: Total Area shown in this table are approximately only. Refer to the dedication plat or chain of title defining the exact areas.

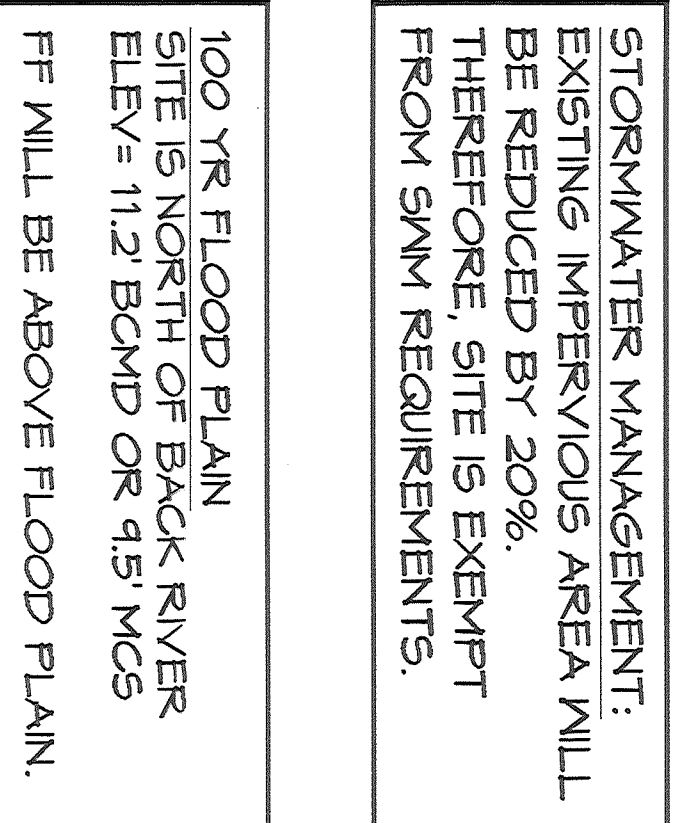


		Professional Certification The undersigned has been duly qualified and examined and is hereby certified to be a Professional Engineer in the State of Maryland.	
License No.	120615	Expiration Date	12/31/2016
I hereby certify that the above-named person has been duly qualified and examined and is hereby certified to be a Professional Engineer in the State of Maryland.		Signature of Engineer Robert M. Ziegler License No. 120615	
Name of Applicant Colbert Matz		Title Engineer - Supervisors - Managers	
Address 2835 Smith Avenue, Suite G Baltimore, Maryland 21209		Telephone (410) 653-3838 Facsimile (410) 653-7953	
Date of Exam 12/16/12		Date of License 12/16/12	
Registered Professional Engineer Robert M. Ziegler License No. 120615		State of Maryland Department of Transportation Office of Professional Engineering	

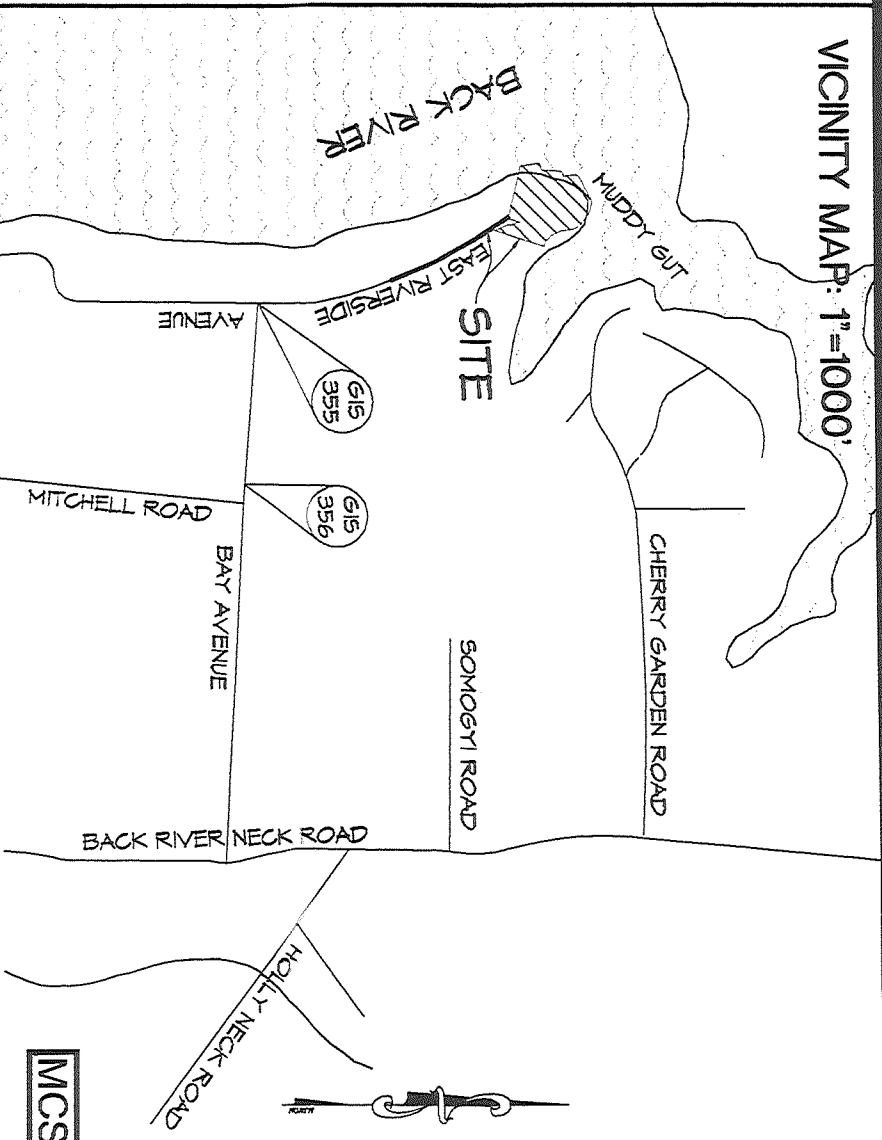
Item #0131

EASEMENT NOTES

ANY CRITICAL AREA EASEMENT SHOWN HEREON, IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS OF BALTIMORE COUNTY, AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.



100 YR FLOOD PLAIN
SITE IS NORTH OF BACK RIVER
ELEV= 11.2 BCMD OR 9.5' MGS
FF WILL BE ABOVE FLOOD PLAIN.



FOR SITE DATA, SEE DEV-2

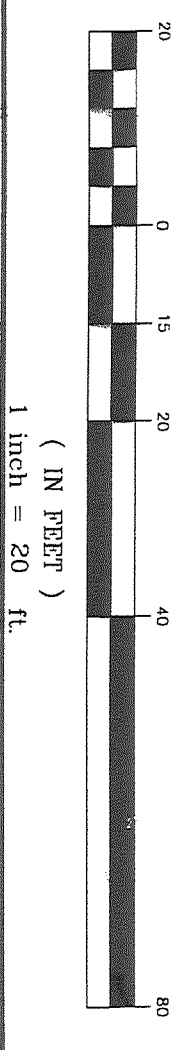
WV

MARINA OFFICES.

1100 E. RIVERSIDE AVENUE

15th ELECTION DISTRICT - 6th COUNCILMANIC DISTRICT

GRAPHIC SCALE



Colbert Matz Rosenfelt, Inc

Engineers * Surveyors * Planners
2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3838
Facsimile: (410) 653-7953

Professional Certification

License No. 13203 Expiration Date: 11-02-14

[illegible]

MCS

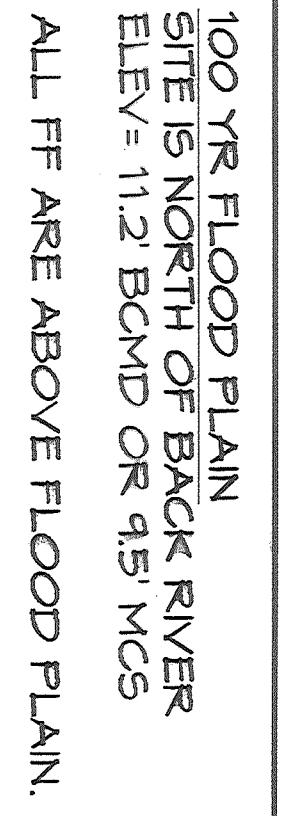
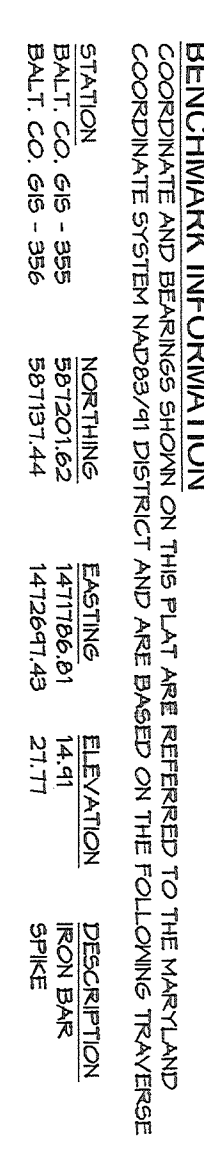


DEDICATION TABLE

The following group of tasks are to be completed to satisfaction jointly by the development group of this project, as a condition of approval of these plans.

TYPE OF CONVEYANCE	NO.	TOTAL AREA*
HIGHWAY MILEAGES	2	0.044 AC
DRAINAGE AND UTILITY EXPENDITURES	2	0.018 AC
CHISELPAKE BAY CRITICAL AREA EXPENDITURE	1	0.496 AC

*NOTE: Total Area, shown in this table, are approximate only. Refer to the record plat of the land, showing the exact areas.



**PLAN TO ACCOMPANY ZONING PETITION &
1ST AMENDED DEVELOPMENT PLAN
WEST SHORE YACHT CENTER**

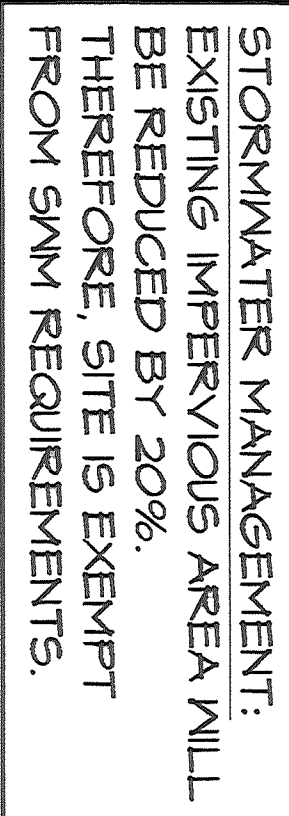
1100 E. RIVERSIDE AVENUE

PAL #15-895

MAD: 104 - GRID 6 - PARCEL 7/9 AND PARCEL 226 LOT 60
15TH ELECTION DISTRICT - PALM BEACH COUNTY DISTRICT
PALM BEACH COUNTY

Professional Certification I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.		SCALE: 1" = 30' DATE: 11/20/12 JOB NO.: 2005162 DESIGNED: SRJ/NW DRAWN: SRJ/NW CHECKED: SRJ/NW
License No.: 13203	Expiration Date: 11-02-14	

DRAWING NUMBER: DEV-2	
NO.	DATE
REVISIONS:	
BY	SHEET 2 OF 3



100 YR FLOOD PLAIN
SITE IS NORTH OF BACK RIVER
ELEV = 11.2' BCMD OR 9.5' MCS
FF WILL BE ABOVE FLOOD PLAIN.



2013-0131-SPH

RSP

REASON FOR AMENDMENT

TO CREATE INDIVIDUAL LOTS OF RECORD, IN ACCORDANCE WITH THE ANNE ARUNDEL COUNTY ZONING CODE, AND TO MAKE A RELOCALIZE THE MARINA OFFICES.

PLAN TO ACCOMPANY ZONING PETITION &
1st AMENDED DEVELOPMENT PLAN

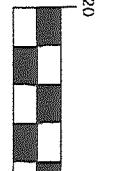
WEST SHORE YACHT CENTER

1100 E. RIVERSIDE AVENUE

PAI #15-896

MAP 104 - GRID 6 - PARCEL 79 AND PARCEL 228 LOT 80
15th ELECTION DISTRICT - 6th COUNCIAMANC DISTRICT
BALTIMORE COUNTY, MD.

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

Professional Certification

I hereby certify that these documents were prepared or supervised by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland. I am duly sworn professional engineer under the laws of the State of Maryland.

Professional Engineer No. 13203 Expiration Date 11-05-14

Colbert Matz Rosemeit, Inc.

Engineers & Surveyors & Planners

2835 Smith Avenue, Suite G
Baltimore, Maryland 21209
Telephone: (410) 653-3638
Facsimile: (410) 653-7953



SCALE: 1" = 20'

DATE: 11/29/12
BY: JDR
DRAWN: SP/NTW
CHECKED: SJD
DATE: 2009-02-24
SHEET 1 OF 3
DEV-1